

ORDINANCE NO. 22-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA22-0001 TO MODIFY AND ADD VARIOUS PROVISIONS TO THE ZONING ORDINANCE AND SUBMISSION AS PART OF LOCAL COASTAL PROGRAM AMENDMENT LCPA22-0002 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

Applicant: City of Dana Point
File No.: ZTA22-0001/LCPA22-0002

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

WHEREAS, in 1993, the City of Dana Point approved, and the California Coastal Commission certified, the Zoning Ordinance of the City of Dana Point; and

WHEREAS, the City seeks to update the Zoning Ordinance by amending or adding various sections regarding: clarifications, definitions, use classifications, development regulations, accessory structure regulations, landscaping requirements, and miscellaneous General Regulations and procedures; and

WHEREAS, the Zone Text Amendment (ZTA) and Local Coastal Program Amendment (LCPA) 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 April 25, 2022, to consider said LCPA and ZTA and recommended approval of the proposed amendments to City Council; and

WHEREAS, the City Council held a duly noticed public hearing as prescribed by law on May 17, 2022, to consider said Zone Text Amendment, and Local Coastal Program Amendment; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors relating to ZTA 22-0001, and LCPA 22-0002; and

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

- A. That the above recitations are true and correct and incorporated herein by reference;

- B. That the proposed action complies with all other applicable requirements of State law and local Ordinances;
- C. That the Zone Text Amendment under ZTA22-0001 is in the public interest;
- D. That the Local Coastal Program Amendment (LCPA22-0002) is consistent with, and will be implemented in full conformity with the Coastal Act;
- E. The City Council has reviewed the environmental analysis consistent with the California Environmental Quality Act (CEQA) and determined that the project is exempt from CEQA as follows: (1) pursuant to Section 15162 of the California Guidelines for Implementation of the California Environmental Quality Act (“CEQA Guidelines”), when a negative declaration has been adopted for a project no subsequent negative declaration shall be prepared for the project; and (2) pursuant to section 15061(b)(3) of the CEQA Guidelines, the proposed amendments to the DPZC will not result in any physical change to the environment, and thus the project has no possibility to have a significant effect on the environment; and (3) section 21065 as the proposal is not a project as there will be no forceable indirect physical change in the environment; and (4) and Categorical Exemptions Class 5 - Section 15305 – Minor Alterations to Land Use Limitations; and (5) Class 7 – Section 15307 – Actions by Regulatory Agencies for Protection of Natural Resources. The amendments were previously approved by the City Council and are clarifications, definitions, use classifications, development regulations, accessory structure regulations, and miscellaneous general regulations and procedures;
- F. The proposed amendment to the DPZC is consistent with the General Plan;
- G. That the City Council adopts 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. **The proper availability of draft amendment materials and noticing in accordance with the LCPA procedures has been followed. Notice of availability of review drafts of LCPA materials were; 1) mailed on April 19, 2022, to adjacent jurisdictions, agencies and districts, the California Coastal Commission’s Long Beach office and 2) made available to for public review at City Hall, and in local libraries, and posted on the City’s web site on April**

19, 2022. Public notice of the Planning Commission public hearing was; 1) published in the Dana Point Times on April 11, 2022, and posted at Dana Point City Hall, the Dana Point Post Office, the Capistrano Beach Post Office, the Dana Point Library. Posting of the Planning Commission draft was posted on City's web site on April 20, 2022, while public notice of the City Council Public Hearing were; 1) published in the Dana Point Times on April 29, 2022, and 2) posted at City Hall, the Dana Point Post Office, the Capistrano Beach Post Office, and the Dana Point Library on April 29, 2022.

2. That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act, including that the Land Use Plan is in conformance with and adequate to carry out the Chapter Three policies of the Coastal Act. **The amendments to the Zoning Code are consistent with the Coastal Act policies in that by updating the Zoning Code it keeps requirements current to meet the goals of Chapter three of the Coastal Act. All proposed amendments were previously approved by the City Council and are clarifications, definitions, use classifications, development regulations, accessory structure regulations, and miscellaneous general regulations and procedures.**
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. **The Local Coastal Plan Amendment and Zone Text Amendments do not impact any land use provisions associated with coastal resources, hazard areas, coastal access concerns, and land use priorities contained in the certified Local Coastal Plan and thereby continues to be consistent with Coastal Act policies.**
4. That the level and pattern of development proposed is reflected in the Zoning Code. **The level and pattern of development as approved in all of the document will remain, and the goal is to correct errors and clarify existing requirements to improve service to residents and people doing business in Dana Point.**
5. That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after certification of the LCPA. **Procedures and regulations in Chapter 9.61 "Administration of Zoning", constitute minimum standards for LCPAs and ZTAs within the**

City's Coastal Zone and applicable notification and process requirements would be applied to subsequent development requests as applicable if these amendments are approved.

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. **These amendments will correct errors and clarify existing requirements to better serve residents and people doing business in Dana Point and not impact any measures which implement the coastal policies of the Land Use Plan.**
- I. That the City Council includes the following findings submitting the LCPA to the Coastal Commission:
 1. The City certifies that with the adoption of these amendments, the City will carry out the Local Coastal Program in a manner fully in conformity with Division 20 of the Public Resources Code as amended, the California Coastal Act of 1976.
 2. The City include the proposed LCPA and ZTA for the Zoning Ordinance Cleanups in its submittal to the Coastal Commission and state that the amendment is to both the land use plan and to the implementing actions.
 3. The City certifies that the land use plan is in conformity with and adequate to carry out the Chapter Three policies of the Coastal Act.
 4. The City certifies the implementing actions as amended, are in conformity with and adequate to carry out the provisions of the certified Land Use Plan.
 5. The Ordinance of the City Council include the Zone Text Amendment, and Local Coastal Program Amendment numbers ZTA22-0001 and LCPA22-0002 when submitted to the Coastal Commission for certification and approval would be effective upon Coastal Commission approval.
 6. The City finds that the Ordinance is exempt from CEQA pursuant to per State Code Sections 15162, 15061(b)(3), 21065, and Categorical Exemptions Class 5 - Section 15305 – Minor Alterations to Land Use Limitations, Class 7 – Section 15307 – Actions by Regulatory Agencies for Protection of Natural Resources.

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

- J. That the City Council adopt ZTA22-0001, which would amend the Dana Point Local Coastal Program pursuant to LCPA22-0002, as shown in the attached Exhibit "A" and "B".

- K. That the City Council adopts Zone Text Amendment ZTA22-0001, which would amend the Dana Point Local Coastal Program pursuant to LCPA22-0002. The City Council approves the amendment for the reasons outlined herein and in the City Council Agenda Report, including but not limited to: updating the Zoning Ordinance as regular maintenance ensuring policy and requirements are relevant, accurate, and clear, thus the proposal is consistent with the General Plan, DPZC, and Coastal Act.

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

PASSED, APPROVED, AND ADOPTED this 7th day of June 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, California, do hereby certify that the foregoing Ordinance No. 22-03 was duly introduced at a regular meeting of the City Council on the 17th day of May 2022, and was duly adopted and passed at a regular meeting of the City Council on the 7th day of June 2022, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

SHAYNA SHARKE, CITY CLERK

ORDINANCE NO. 22-03

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

AFFIDAVIT OF POSTING
AND PUBLISHING

SHAYNA SHARKE, being first duly sworn, deposes, and says:

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

That in compliance with State Laws of the State of California, ORDINANCE NO. 22-03, being:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA22-0001 TO MODIFY AND ADD VARIOUS PROVISIONS TO THE ZONING ORDINANCE AND SUBMISSION AS PART OF LOCAL COASTAL PROGRAM AMENDMENT LCPA22-0002 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

was published in summary in the Dana Point News on the 27th day of May 2022 and the 17th day of June 2022, and in further compliance with City Resolution No. 91-10-08-01 on the 19th day of May 2022 and 9th day of June 2022, was caused to be posted in four (4) public places in the City of Dana Point, to wit:

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

SHAYNA SHARKE, CITY CLERK
Dana Point, California

Exhibit "A"

ZONE TEXT AMENDMENT ZTA22-0001

KEY:

ATTACHMENT 1

Normal Text=Existing unmodified language

~~**Bold Strikethrough Text**~~=Proposed language to be removed

Bold Underline Text=Proposed language to be added

CHAPTER 9.05

GENERAL DEVELOPMENT STANDARDS

Sections:

- 9.05.010 Intent and Purpose.
- 9.05.020 Maintenance of Properties.
- 9.05.030 Nuisances.
- 9.05.040 Identification of Front Lot Lines.
- 9.05.050 Adjustments for Front Yard Setbacks.
- 9.05.060 Yard Requirements Modified by Previous Regulations.
- 9.05.070 Required Lot Standards Reduced by Public Use.
- 9.05.080 Maximum Projections into Required Yard Areas.
- 9.05.090 Sight Visibility Area.
- 9.05.100 Right-of-Way Dedication.
- 9.05.110 Measurement of Building Height
- 9.05.120 Fences, Walls, and Hedges.
- 9.05.130 General Design Compatibility and Enhancement
- 9.05.140 Roof Mounted Appurtenances.
- 9.05.150 Wetland Buffer.
- 9.05.160 Cultural and Natural Resources.
- 9.05.170 Coastal Views from Public Areas.
- 9.05.180 Steep Hillside.
- 9.05.190 Building Setbacks on Shallow/Narrow Building Sites.
- 9.05.200 Increase in Maximum Stories.

- 9.05.210 Increase in Floor Area Ratio.**
- 9.05.220 Lighting.**
- 9.05.230 Roof Decks.**
- 9.05.240 “Art in Public Places” Program.**
- 9.05.250 Internal Access to Separate Living Quarters.**
- 9.05.260 Increased Height for Detached Garages.**
- 9.05.270 Decks Extension Over Slope Areas.**
- 9.05.280 Accessory Buildings and Structures**

9.05.010 Intent and Purpose.

The development standards included in this Code are general in nature and apply to all zoning districts unless otherwise indicated. The regulations in this Code are provided as minimum or maximum standards and may be modified by more stringent standards in particular districts, and/or due to specific site conditions. The primary intent of this Code, and this Chapter, is to establish generally acceptable standards for development in the City. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.05.020 Maintenance of Properties.

All properties within the City, shall be kept and maintained in a clean, neat, orderly, operable, and usable condition. This Section applies to buildings, paving, fences, walls, landscaping, water, earth, and any other structures or natural features. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.05.030 Nuisances.

Neither the provisions of this Code nor the granting of any permit provided for in this Code shall authorize or legalize the creation or maintenance of any public or private nuisance. (Added by Ord. 93-16, 11/23/93)

9.05.040 Identification of Front Lot Lines.

It is the intent of this section to promote compatibility and enhance relationships with respect to access to property, and to promote the safest access to properties based on roadway characteristics and any physical constraints to access. Occasionally, a lot is adjacent to more than one street. In such cases, the following requirements shall be observed in identifying the front lot line. The following figure provides graphic illustration to the following provisions.

- (a) When a lot exists between two developed lots which both abut the same street, the front lot line shall be on the same street as the existing developed lots on either side.
- (b) When a lot is adjacent to vacant lots or developed lots which abut either street, the following criteria shall apply:

- (1) Where one street is of a higher classification than the other, the lot line fronting the street with the lower classification shall be the front lot line.
 - (2) If the lot in question is a comer lot and both streets are of the same classification, the narrower of the two frontages shall be designated the front lot line.
 - (3) The Director of Community Development shall make the determination when the above criteria cannot be clearly applied to the particular situation as a result of topography or other factors.
- (c) The front lot line for a comer lot or a reverse comer lot is the lot line which fronts the street with the lower classification. If both streets are of the same classification, the narrower of the two frontages shall be designated the front lot line, except in those cases where the subdivision or parcel map specifies another line as the front lot line.

For example, as shown on the comer lot in Exhibit 9.05.040(c), line (a) is the proposed front lot line because line (a) fronts a street with a lower classification, and because line (a) is shorter than line (b).

- (d) The front lot line for a flag lot is the shorter of the two perpendicular lot lines that radiate from the end of the pole portion of the lot. For example, as shown on the flag lot in Exhibit 9.05.040(c)/(d), line (c) is the front lot line because it is shorter than line (d).

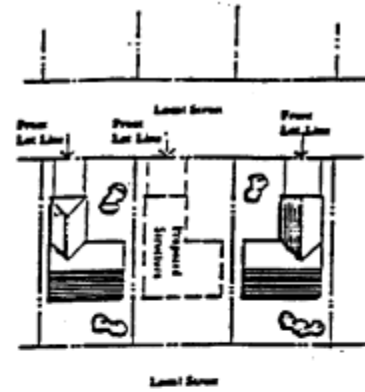
When the two lot lines radiating from the end of the pole portion of a flag lot are at an obtuse or acute angle, as shown in Exhibit 9.05.040(d), then the front lot line is a midpoint located at the end of the pole portion. The front yard for such a lot is formed by plotting an imaginary arch starting at the midpoint and extending for a distance equal to the minimum front yard setback for the zoning district in which the lot is located.

- (e) The front lot line for a cul-de-sac lot is that lot line which abuts the edge of the public right-of-way or private access easement way from which primary lot access occurs.

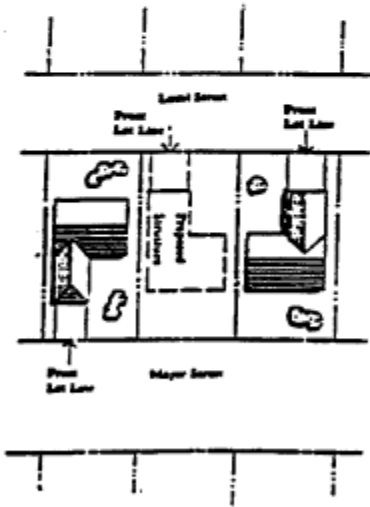
(Added by Ord. 93-16, 11/23/93; amended by Ord. 96-10, 8/13/96)

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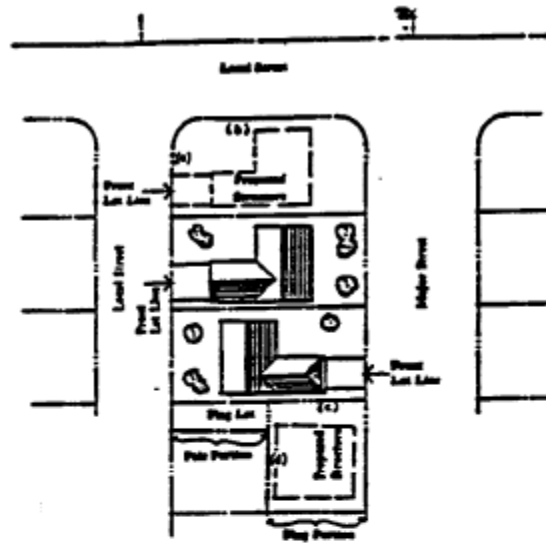
**SECTION 9.05.040
 IDENTIFICATION OF FRONT LOT LINES**



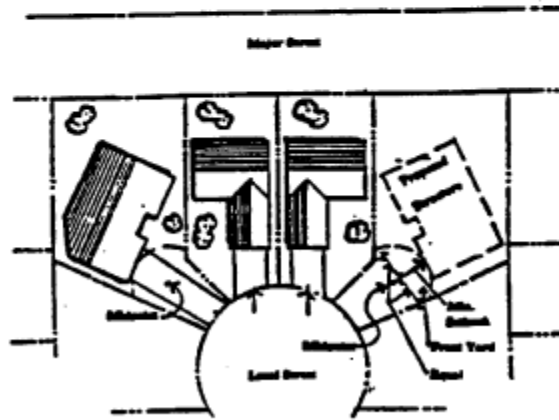
Section 9.05.040(a)



Section 9.05.040(b)



Section 9.05.040(c) and (d)



Section 9.05.040(e)

—> = Existing Front Lot Line
 - -> = Proposed Front Lot Line

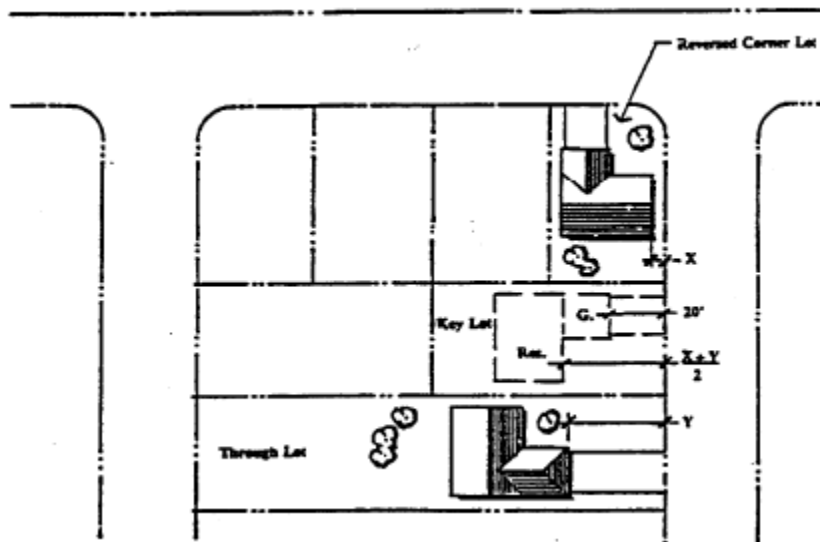
9.05.050 Adjustments for Front Yard Setbacks.

The depth of the required front yard setback shall be adjusted as indicated under the following conditions:

- (a) Through Lots. Both frontages of a through lot shall have a setback from both streets of twenty (20) feet minimum, unless the provisions of this Code allow for reduced non-garage and rear setbacks for shallow lots.
- (b) Key Lots. The depth of the required front yard of a key lot shall not be less than the average depth of the required street-abutting yards of the adjoining interior and reversed corner lots. The garage portion of the primary structure shall require a minimum front yard setback of not less than twenty (20) feet.

(Added by Ord. 93-16, 11/23/93)

**SECTION 9.05.050
ADJUSTMENTS FOR FRONT YEAR SETBACKS**



9.05.060 Yard Requirements Modified by Previous Regulations.

When the yard setbacks on a lot have been established by previous regulations and all existing development on the same block and street conform to those yard setbacks, new development may also use those previously established setback standards. (Added by Ord. 93-16, 11/23/93)

9.05.070 Required Lot Standards Reduced by Public Use.

- (a) Area. If a portion of a lot or parcel of land is acquired by any means including dedication, purchase, or condemnation, or for any public use including recreation, services, or utilities, that lot or parcel shall be considered conforming as long as the area is reduced to no less than ninety (90) percent of the minimum required area for the zoning district in which the lot or parcel is located.

The Planning Commission shall have the authority to reduce the lot size below the ninety (90) percent minimum pursuant to all the conditions and procedures relating to Variances found in Chapter 9.67 of this Code.

- (b) Width. If a portion of a lot or parcel is acquired by any means, including dedication, purchase, or condemnation, or for any public use which may include recreation, services, or utilities, that lot or parcel shall be considered conforming as long as the width is not reduced by more than thirty (30) percent. In no case, however, shall a lot reduced to less than thirty-five (35) feet in width be considered conforming unless a narrower lot is permitted by the base zoning district or a PRD.

(Added by Ord. 93-16, 11/23/93)

9.05.080 Maximum Projections into Required Yard Areas.

Except for the Residential Beach Road 12 (RBR 12), and the Residential Beach Road Duplex 18 (RBRD 18) zoning districts, the items indicated in the following Table may be placed in required yards or extend beyond maximum height limits subject to the conditions placed upon those items by the table, except that for blufftop lots in the Coastal Overlay District, the limitations on development in the blufftop setback described in the blufftop setback requirements of Chapter 9.27 (Coastal Overlay District) shall supersede the provisions of the following Table.

See Section 9.09.040(a) for the standards for maximum projection into yards for properties in the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex (RBRD 18) zoning districts.

**SECTION 9.05.080
 MAXIMUM PROJECTIONS INTO REQUIRED YARD AREAS**

Item	Front	Rear	Side	Minimum Distance From Property Lines (B)	Maximum Projection Above Height Limit	Other Limitations
	Maximum Projection Into Front Yard Area	Maximum Projection Into Rear Yard Area	Maximum Projection Into Side Yard Area (A)			
(a) Antennas	Not Permitted	8'0" height limit	Not Permitted	1'0"	Not Permitted (C)	2 max. (D)
(b) Arch.	2'6"	2'6"	2'6"	2'0"	Not	None

Projections: (i.e. Cornices, Eaves and Roof Overhangs)					permitted	
(c) Awnings	4'0" (no vertical supports)	3'0"	2'6"	2'0"	Not permitted	None

SECTION 9.05.080
MAXIMUM PROJECTIONS INTO REQUIRED YARD AREAS
(Continued)

Item	Front	Rear	Side	Minimum Distance From Property Lines (B)	Maximum Projection Above Height Limit	Other Limitations
	Maximum Projection Into Front Yard Area	Maximum Projection Into Rear Yard Area	Maximum Projection Into Side Yard Area (A)			
(d) Balconies	2' 6"	2' 6"	2' 6"	5' 0"	Not permitted	(E)
(e) Basement (Below Grade)	Not Permitted To PL (H)	Not Permitted 15'0"	Not Permitted To PL (H)	N/A	N/A	None(T)
(f) Bay Windows	2' 6"	2' 6"	2' 6"	3' 0"	N/A	(E)
(g) Chimneys (Maximum 7' Width)	2' 0"	2' 0"	2' 0"	3' 0"	3' 0"	(E)(F)(G)
(h) Decks/ <u>Patios</u> Less Than 30" Above Grade	To PL (H)	To PL (H)	To PL (H)	N/A	N/A	(I)
(i) Decks/ <u>Patios</u> 30" + Above Grade (Not To Exceed First Story Or 7'6" as measured from top of the railing)	Not Permitted	6' 0"	2' 6"	3' 0"	N/A	(I)(J)
(j) Detached Accessory Structures	Not Permitted	To PL (K)	To PL (K)	None (K)	Not Permitted	(L)(H)
(k) Fences, Walls and Hedges						
(1) 42" or less in height (solid or open, any retaining wall)	To PL	To PL	To PL	None	Not Permitted	(M)

(2) 48" or less in height (with wrought iron and pilasters)	To-PL	To-PL	To-PL	None	Not Permitted	(M)
(3) 42" – 72" in height (solid construction)	Not Permitted	To-PL	To-PL	Front: required setback	Not Permitted	(M)
				Side and Rear: None		
(4) Over 72" in height	None	To-PL	To-PL	None	Not Permitted (N)	Variance required (M)

**SECTION 9.05.080
 MAXIMUM PROJECTIONS INTO REQUIRED YARD AREAS
 (Continued)**

Item	Front	Rear	Side	Minimum Distance From Property Lines (B)	Maximum Projection Above Height Limit	Other Limitations
	Maximum Projection Into Front Yard Area	Maximum Projection Into Rear Yard Area	Maximum Projection Into Side Yard Area (A)			
(k) Flagpoles	15' 0"	5' 0"	2' 6"	5' 0"	15' 0"	(O) (M)
(m) HVAC/mech. equip. and window mounted air conditioners	Not permitted	3' 0"	2' 6"	2' 0"	Not permitted	(P) (N)
(am) Patio Covers/ <u>Porches</u>	6' 0"	15' 0"	2' 6"	Front – 15' 0" Side – 3' 0" Rear – 10' 0"	N/A Not permitted	(Q) (R)(P)(O)
(en) Planter Boxes	2' 0"	2' 0"	2' 6"	10' 0" 2' 0"	N/A Not permitted	(R) (S)(P)(Q)
(po) Pool Equipment	Not permitted	N/A	N/A	5' 0" (P) (N)	N/A Not permitted	(P) (N)
(q) <u>Porch</u>	6' 0"	3' 0"	2' 6"	3' 0"	Not permitted	(E) (R)
(sp) Porte Cochere	Permitted by <u>Minor</u> Site Development Permit only				Not permitted	None
(s) <u>Roof Deck</u>	Not permitted	2' 6"	Not permitted	3' 0"	Not permitted	(T)
(tg) Exterior Stairways, <u>ramps</u> , and Stairway Landings <u>30 inches or more above grade</u>	2' 6"	2' 6"	2' 6"	2' 6" (U) (R)	(V) Not Permitted	(E)
(ur) Swimming Pools and Spas	Not permitted	N/A	N/A	3' 0" (W) (S)	N/A	None

Footnotes for Section 9.05.080:

(A) On a corner lot, projections permitted in a front yard setback also apply to a street side yard.

- (B) In any instance where there is a conflict between the allowable maximum projection and the minimum distance from property line standard, the ~~minimum distance from property line~~ **more restrictive** standard shall rule.
- (C) This provision shall not apply to television and radio antennas used to receive UHF, VHF, FM and AM signals. Such antennas may exceed the district height limit by ten (10) feet. FCC licensed amateur ham radio operators may apply for a Conditional Use Permit for a radio antenna tower greater than the maximum height limit but not exceeding seventy (70) feet.
- (D) For radio antennas only, see Section 9.07.020 for satellite dish antennas.
- (E) The total horizontal length of all projections (marked by this footnote) on a given building elevation shall not exceed the maximum percentage of building elevation length as specified below (building elevation length is measured at the first floor and not adjusted for multiple storied buildings):

<u>BUILDING ELEVATION:</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
<u>MAXIMUM PERCENTAGE OF</u>			
<u>BUILDING ELEVATION LENGTH:</u>	60%	40%	80%

The above stated maximum percentages have been established as a measure to control the overuse or abuse of the projection provisions in this Table. The maximum percentages will help prevent aesthetically inappropriate architectural facades or features that would pose a detriment to adjacent properties. At the discretion of the Director of Community Development, the total length of all projections on a given elevation may be reduced to below the indicated maximums in order to implement this intent.

- (F) A maximum of two chimneys may project into required yards or above the height limit.
- (G) Maximum horizontal dimension of three (3) feet when above the height limit.
- (H) Provided **minimum** ~~district~~ landscape **coverage** requirements are met.
- (I) No deck may be constructed so as to extend beyond the top of slope with a grade of more than fifteen (15) percent, except as may be permitted through a minor Site Development Permit subject to the provisions of Section 9.05.270.
- (J) Including deck railings or deck structures.
- (K) Subject to the applicable provisions of the ~~Uniform Building Code~~ **California Building Code, and Uniform Fire Code, and provisions as provided in Footnote (L) below and Section 9.05.280 "Accessory Building and Structure"**.
- (L) The maximum height of detached accessory structures is twelve (12) feet except as otherwise permitted in Section 9.05.260. **Accessory structures shall be located in the**

rear half of the parcel, with the exception of entry features (i.e., arbors, porticos and trellises) and garages. Other exceptions for locating structures in the front half of the parcel require approval of a minor Site Development Permit.

~~(M) See Section 9.05.120.~~

~~(N) Fences, walls, and hedges are limited to a maximum of eight (8) feet in accordance with the provisions of Section 9.05.120.~~

~~(OM) Flagpoles may not exceed fifty (50) feet in height in non-residential districts and forty (40) feet in residential districts. Requests to exceed **these height** limits may be permitted by approval of a minor Conditional Use Permit.~~

~~(PN) **HVAC/mechanical equipment, window mounted air conditioners, and Ppool equipment may be placed adjacent to the rear or side property line subject to a minor Site Development Permit which shall include, but not be limited to, an acoustics report demonstrating compliance with the City’s Noise Ordinance. If the pool equipment is vaulted and an applicant can show compliance with the provisions of Chapter 11.10, Noise Control, than the equipment vault can encroach into the side and rear setbacks to the Property Line without going through the Minor Site Development Permit process.**~~

~~(OO) Maximum coverage: Thirty (30) percent of rear yard setback area.~~

~~(RP) Including vertical supports **and overhangs.**~~

~~(SQ) Only allowed on the 2nd floor as an extension of second floor framing; and may not exceed three (3) feet in height.~~

~~(T) See Section 9.05.230.~~

~~(UR) Only if the sideyard setback is **at a minimum 5 feet wide greater than 0 and only if the stairway is constructed of metal or heavy timber in accordance with the applicable provisions of the Uniform Building Code.**~~

~~(VS) As measured from the edge of the water within the swimming pool or spa.~~

~~(W) See Section 9.05.110(e).~~

~~(T) **Basement area must be fully subterranean, except for as provided in Section 9.75.020. Basement level may impact height calculation, see Section 9.05.110 for Building Height limitations.**~~

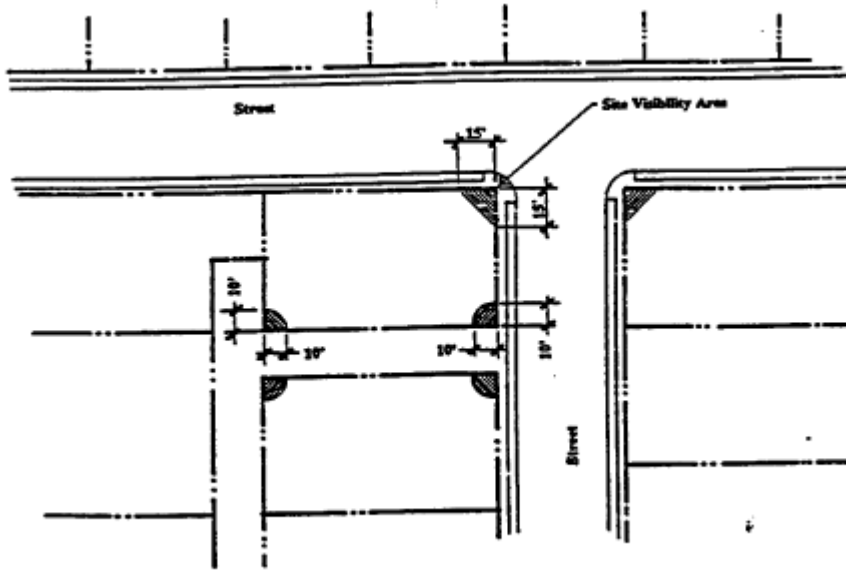
9.05.090 Sight Visibility Area.

- (a) In all zones, a sight visibility area shall be provided at the intersection of all streets, as shown in the Exhibit below. The sight visibility area shall be reserved for the purpose of maintaining adequate sight distance.
- (b) No vegetation shall be planted or allowed to grow, nor shall any structure be placed in the sight visibility area in a manner which obstructs visibility or threatens vehicular or pedestrian safety as determined by the Director of Public Works or the Director of Community Development.
- (c) Traffic control devices, traffic signs, utility poles, transformers, or pedestals or other traffic control devices or street furniture in excess of thirty (30) inches in height may be located within the sight visibility area.
- (d) Due to roadway geometries and traffic characteristics, a greater sight visibility area may be required to minimize visual obstruction to motorist and pedestrians as determined by the Director of Public Works or the Director of Community Development.
- (e) A line of sight shall be shown at intersections on all landscaping plans, grading plans and tentative tract maps where safe sight distance is questionable. In cases where an intersection is located on a vertical curve, a profile of the line of sight may be required.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

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SECTION 9.05.090(a)
SIGHT VISIBILITY AREA



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9.05.100 Right-of-Way Dedication.

(a) Dedication and Improvement

(1) No building permit shall be issued for any building or structure until all required dedications of public right-of-way have been made to the satisfaction of the Director of Public Works. A Certificate of Use and Occupancy shall not be issued for any site, building, or structure until all improvements abutting rights-of-way for said site, building, or structure have been made to the ultimate right-of-way shown in the General Plan and as determined by the Director of Public Works. Improvements include, but are not limited to curbs, gutters, sidewalks, paving, street trees, traffic improvements, undergrounding of existing and/or proposed utilities, and drainage. All improvements shall be constructed to the specifications and in a manner prescribed by the Director of Public Works.

(2) In lieu of dedication, the City Council may accept an irrevocable offer to dedicate and improve. Such agreement shall be signed by all persons having any right, title, interest, or lien in the property, or any portion thereof, to be dedicated. The signatures on such offer shall be acknowledged, and the agreement shall be recorded in the office of the Orange County Recorder prior to certificate of use and occupancy.

(b) Exceptions. In cases where the strict replication of this Code fails to meet community objectives as identified in the General Plan, modifications to right-of-way dedication and improvement requirements may be authorized by the City Council.

(c) Dedication Standards. Highways, streets, and alleys shall be dedicated to the standards established by the Director of Public Works.

(d) Agreement to Improve.

(1) In lieu of the required improvements and if in the best interest of the City, the City Council may accept from any responsible party an agreement to make the specified improvements within a specified time period.

(2) Such agreements shall be accompanied by surety deposits which may include cash, negotiable bonds, or savings and loan certificates. The surety deposit shall equal the cost of the agreed upon improvements. Where savings and loan certificates or deposits are deposited, the owners thereof shall assign the certificates to the City and administration adjusted for inflation as determined by the Director of Public Works. Such deposit and assignment shall be subject to and in compliance with the provisions and conditions of the Municipal Code of the City.

- (3) If the estimated cost of the improvements equals or exceeds one thousand dollars, the applicant may file a corporate surety bond with the City in lieu of the deposit. Such corporate surety bond shall guarantee the adequate completion of all of the improvements in an amount equal to the estimated cost of said improvements.
 - (4) In cases where the stipulated time within which improvements were to be made expires, the City Council may grant additional time as it considers appropriate. Granting of additional time shall include recalculation of improvement costs and security deposits.
 - (5) Should the responsible person fail to complete any improvement within the agreed upon time, the City Council may determine that the agreed upon improvement is incomplete and may cause a portion of the deposit or surety bond to be forfeited to the City. Such forfeiture shall not exceed the amount required to complete the agreed upon work and expenses incurred by the City as a result of the default. Not less than ten days prior to such a determination, the City shall serve the person with written notice. If the written notice is delivered by mail, it must be registered and shall be served not less than twenty days prior to the determination.
- (e) Adequate Rights-of-Way. The City Council may grant a modification to the provisions of this section, Right-of-Way Dedication, thereby relieving the applicant from compliance with all or a portion of the provisions thereof, subject to the following findings:
- (1) That relieving or partially relieving the applicant's development from providing the required dedications and improvements is consistent with the General Plan and the best interest of the City of Dana Point; and
 - (2) The required improvements are included in a budgeted City project which will be complete prior to the start of applicant's development or within an approved assessment district and the improvement can be more effectively provided by the City; or
 - (3) The required construction would create a temporary drainage or traffic problem that can be avoided by delaying the improvement to a later date as part of comprehensive improvements to the area; or
 - (4) The Director of Public Works determines current improvements to be satisfactory.

All requests for modifications shall be made in the form of a Variance application, as specified in Chapter 9.67, Variances.

(Added by Ord. 93-16, 11/23/93; amended by ord. 94-09, 5/24/94)

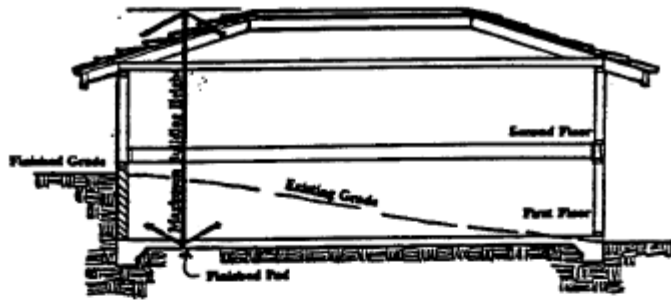
9.05.110 Measurement of Building Height.

(a) Residential Building Height.

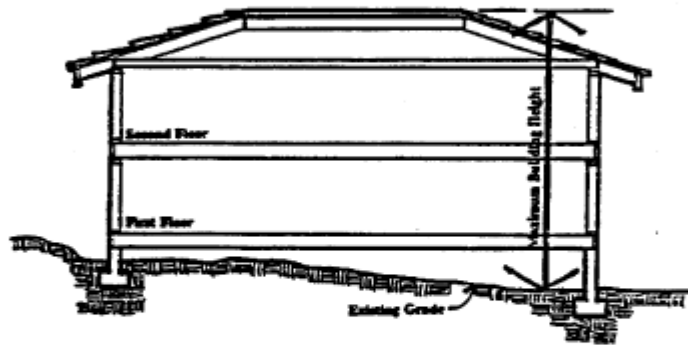
- (1) The maximum building height for residential buildings is described in Chapter 9.09 for each of the individual zoning districts.
- (2) For residential structures, building height is defined as the vertical distance, by which the uppermost portion of the roof of a structure extends above the existing grade, finished pad elevation, (excluding the basement finished pad elevation), ceiling of a maximum ten (10) foot, zero (0) inch high basement, or eighteen (18) inches above the flood protection level, whichever is lower, as measured from the lowest portion of the structure. In no case may this vertical distance exceed the maximum height limit specified in Section 9.05.110(a)(6). For residential structures on Beach Road, building heights shall be measured at eighteen (18) inches above the FP-3 elevation, or the elevation of Beach Road, whichever is higher. **For residential structures on lots with hillside conditions, in cases where the garage is the lowest floor level, the building height is measured from the garage floor or existing grade, whichever is lower.**

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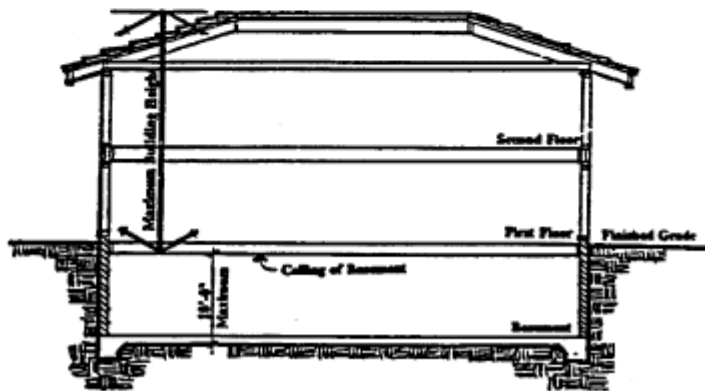
SECTION 9.05.110 (a)(2)
MEASUREMENT OF BUILDING HEIGHT



Building Height Measured from Finished Pad



Building Height Measured from Existing Grade



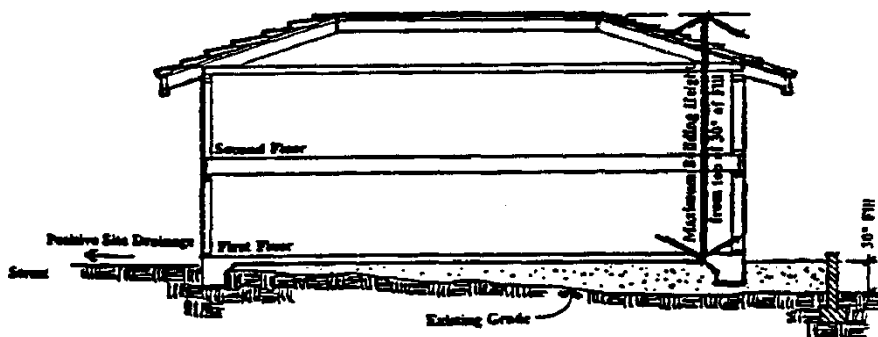
Building Height Measured from Ceiling of Basement

- (3) Subject to the approval of a minor Site Development Permit, non-residential or residential building height may be measured from the top of not more than thirty (30) inches of fill. Approval of such a minor Site Development Permit, by the Director of Community Development, may only be granted if the applicant can demonstrate compliance with the following criteria:
- (A) That the proposed fill is required only for the purpose of creating positive drainage flow (via gravity) to the street or to otherwise correct an existing drainage problem; and
 - (B) That the proposed fill is necessary to create a minimum percentage grade for drainage flow consistent with a gravity flow drainage pattern as verified by the Director of Public Works; and
 - (C) That the amount of fill proposed is the minimum amount necessary to create the desired drainage pattern; and

Should the proposed fill be deemed by the Director of Community Development to be proposed for any purpose other than providing the drainage pattern proposed by this Section, the application shall be denied. Structures shall only be granted credit for enough height to achieve positive (gravity) drainage flow.

Should additional (more than thirty (30) inches) fill be required to create the desired drainage pattern, it may be allowed through the approval of the minor Site Development Permit, but under no circumstances may however the height of the structure cannot be measured from any point higher than thirty (30) inches above existing grade.

SECTION 9.05.110(a)(3)
MEASUREMENT OF BUILDING HEIGHT
ATOP THIRTY (30) INCHES MAXIMUM FILL



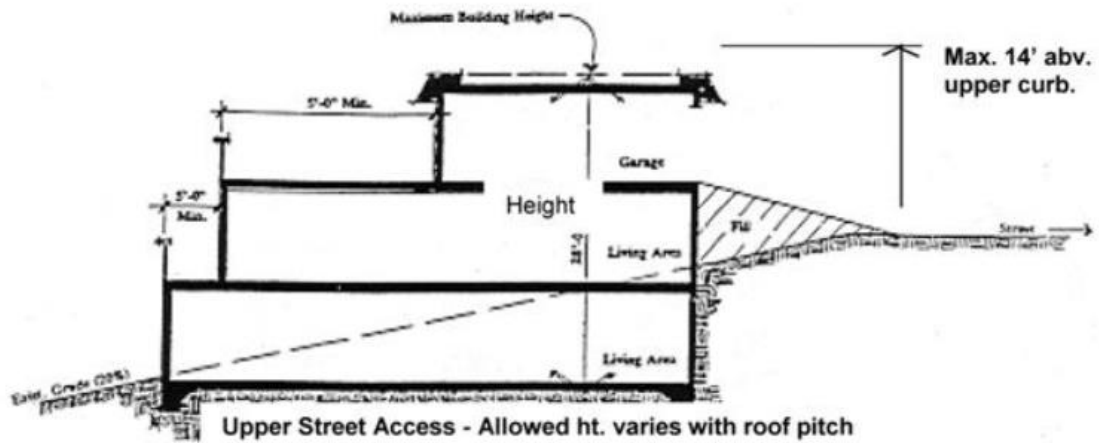
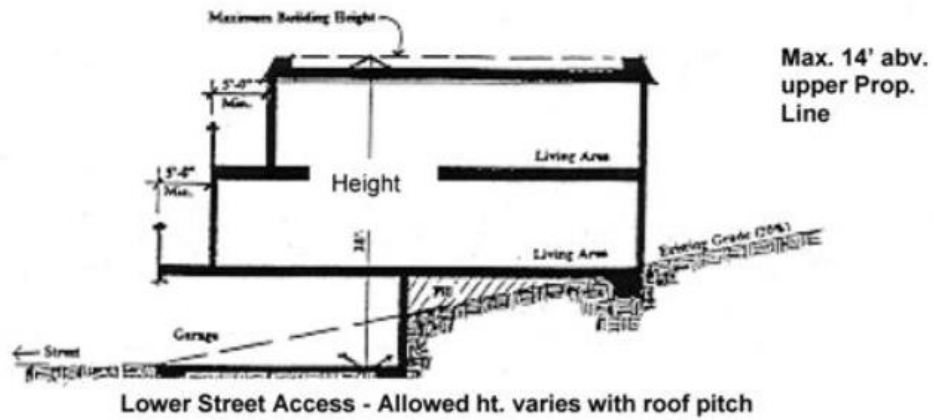
**Building Height Measured from Top
of Not More than Thirty (30) Inches of Fill**

- (4) Subject to the approval of a Site Development Permit, a residential structure proposed in a hillside condition may be allowed to have three (3) stories in accordance with the following

provisions:

- (A) For purposes of this Section, a hillside condition shall mean a lot with a topographic slope percentage, as defined in Section 9.75.190 of this Title, either front to rear or side to side, of twenty (20) percent or greater. The topographic slope percentage shall be calculated by determining the vertical differential between the highest elevation point of the property at the front or rear property line (whichever is higher) and the lowest elevation point along the opposing rear or front property line (whichever is lower) or between the highest elevation point along the higher side property line to the lowest elevation point along the opposing, lower side property line and dividing that vertical differential by the horizontal distance between the two (2) points.
- (B) Three (3) story structures shall be designed so that the second story has an average, additional yard setback area of five (5) feet times the total width of the structure at the street elevation and the third story, an average additional yard setback area of ten (10) feet times the total width of the structure at the street elevation. This additional setback area shall occur on the portions of the structure having three (3) stories exposed above grade. Maximum allowed projections into the additional setback areas are as specified in Section 9.05.080 (Projections into Required Yard Areas) of this Chapter.
- (C) Residential structures having three (3) stories shall be limited to a maximum Floor Area Ratio (FAR) of .75 the area of the lot, excluding garage area. The amount of garage area in excess of that required for minimum compliance with parking standards, as specified in Section 9.35.070 of this Title, shall be considered part of the floor area when calculating the FAR.
- (D) Building height shall be measured as specified in Subsection (a)(2) of this Section, and in no case may the overall height of the structure exceed thirty-three (33) feet or as specified in Subsection (a)(7) of this Section.
- (E) The applicant shall demonstrate that the proposed design will result in a reduction in grading and the disruption to existing topography that would be incurred with a standard two (2) story design on the subject site, pursuant to Subsection (a)(2) of this Section, to the satisfaction of the Director of Community Development.
- (F) The height of the third story shall not exceed a height of fourteen (14) feet above the upper property line or upper street curb elevation, as measured perpendicular to any point along said line or curb.
- (G) Applications for Site Development Permits to allow three (3) story developments on hillside properties shall include story pole staking as described in the City's application requirements for a Site Development Permit.

**SECTION 9.05.110(a)(4)
 MEASUREMENT OF BUILDING HEIGHT
 IN HILLSIDE CONDITIONS**



- (5) Building height **and height of fences and walls** for new residential subdivisions shall be measured from finished grade, subject to approval by the Planning Commission.
- (6) Additional criteria in determining maximum building height in residential districts are as follows:

Criteria	Height Limit
Roof pitch of 6/12 or greater	28 feet
Roof pitch of 3/12 or greater but less than 6/12	26 feet

Roof pitch of less than 3/12 or greater 24 feet

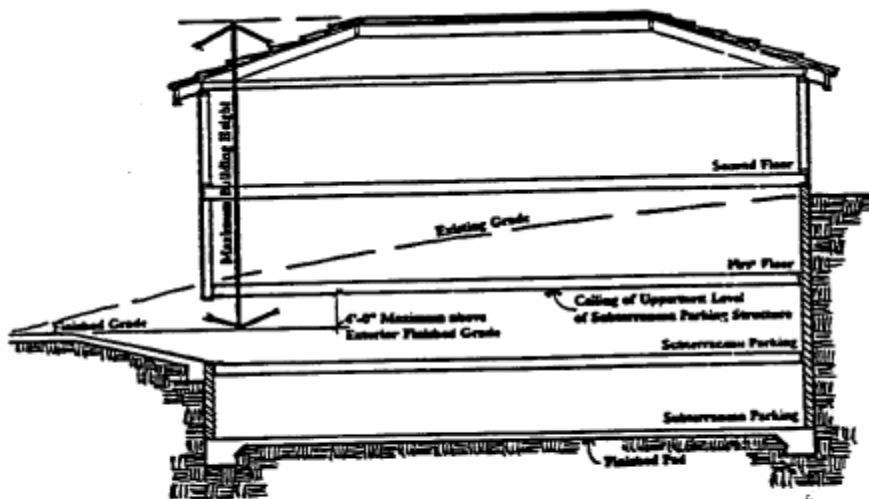
(7) Building height for hillside lots in residential districts is as follows:

Criteria (Lots with 20% or greater slope per Subsection (a)(4) of this Section)	Height Limit
Roof pitch of 6/12 or greater	33 feet
Roof pitch of 3/12 or greater but less than 6/12	31 feet
Roof pitch of less than 3/12	29 feet

(b) Non-Residential Building Height Criteria.

- (1) The maximum building height for non-residential buildings is described in Chapters 9.11 through 9.25 for each of the individual zoning districts.
- (2) For non-residential structures, building height is defined as the vertical distance, ~~measured from the interior of the building,~~ by which **the uppermost portion of** a building extends above the existing grade, finished grade, finished pad elevation (excluding subterranean parking structure finished pad elevation), ceiling of uppermost level of subterranean parking structure, or eighteen (18) inches above the flood protection level, whichever is lower, to the top of the roof.

SECTION 9.05.110(b)(2)
MEASUREMENT OF NON-RESIDENTIAL BUILDING HEIGHT



**Building Height Measured from Ceiling of
 Subterranean Parking Structure**

- (3) Subject to approval of a Site Development Permit, in order to correct existing site drainage problems, a provision to permit non-residential and residential building height to be measured from the top of not more than thirty (30) inches of fill, will be granted in all zones, provided that the fill will contribute to positive site drainage flow (via gravity) to the street, at a minimum percentage grade as verified by the Director of Public Works and Director of Community Development. (See (a)(3) for Exhibit).
- (4) Additional criteria in determining maximum building height in non-residential districts are as follows:

CRITERIA	HEIGHT LIMIT
Structures which have sloped roof elements (pitched at 4/12 or greater) that comprise a substantial proportion of the roof plan and which utilize high-quality, aesthetic roofing materials. (Examples include architectural grade shingles, various metals, wood, wood type, tile, slate, etc.)	35 feet
Structures which have sloped roof elements (pitched at less than 4/12) that comprise a substantial portion of the roof plan or any pitched roof with lower quality aesthetic materials than those specified above, or any other roof with a parapet of 18" or greater	33 feet

Structures which have sloped elements but with a roof plan that is predominantly flat or any roof not otherwise specified under the above standards	31 feet
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(c) Permitted Encroachments into the Required Height Limit

(1) Permitted Encroachments.

(A) Screened mechanical or electrical towers, chimneys, cupolas, weather vanes or other decorative architectural elements that are not used for sleeping or eating quarters, occupying no greater than five (5) percent of the horizontal roof area, may extend above the maximum building height by a maximum of three (3) feet.

(B) **In non-residential buildings, A**ccessways such as stairwells or elevators to roof decks occupying no greater than ten (10) percent of the horizontal roof area, may extend above the maximum building height up to a maximum of five (5) feet

(2) The Director of Community Development may choose to require the applicant to obtain approval of a Site Development Permit pursuant to Chapter 9.71, if the proposed encroachment creates conditions which may be incompatible, objectionable or detrimental to the surrounding land uses.

(8) Accessory Structures- Accessory Structures shall be limited to the same maximum height as the primary structure provided that the Accessory Structure conforms to all required setbacks. Detached Accessory Structure located in required setbacks shall be limited to twelve (12) feet in height, except as provided in Section 9.05.260. All accessory structure building heights shall be measured as specified in Section 9.05.110(a)(2).

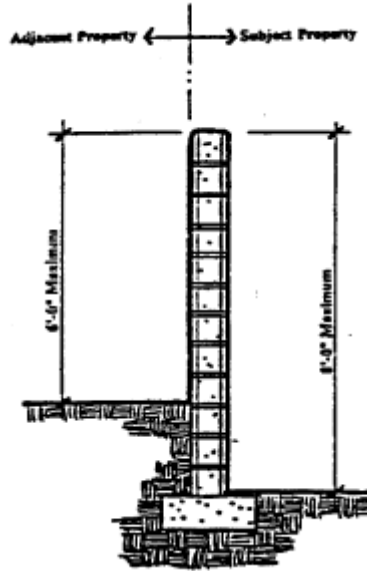
(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-13, 11/26/96, **Ord. 06-02, 4/12/06; Ord. 08-06, 6/3/08; Ord. 18-01, 1/16/18**)

9.05.120 Fences, Walls, and Hedges.

(a) Maximum Height Within the Required Side and Rear Yards.

(1) The maximum height of any fence, wall or hedge within the required side and rear yard which faces an adjacent property shall be six (6) feet as measured from the finished grade at the base of the fence, wall or hedge to the top of the fence, wall or hedge. The maximum height of any fence, wall or hedge within the required side or rear yard which faces the subject property shall be eight (8) feet as measured from the finished grade at the base of the fence, wall or hedge to the top of the fence, wall or hedge.

SECTION 9.05.120(a)
SPECIAL WALL HEIGHT REQUIREMENTS

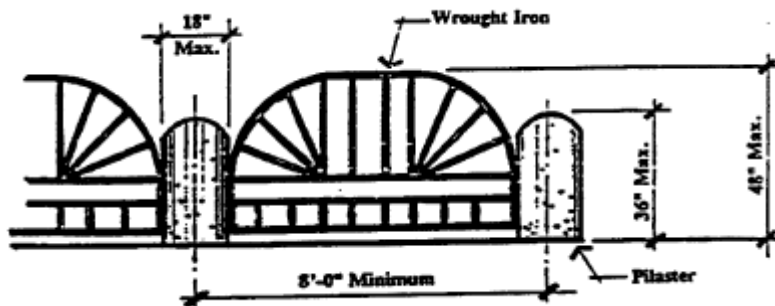


(2) For those uses or facilities that are required by the City to be screened, screen walls/hedges in excess of eight (8) feet may be permitted as necessary to provide adequate screening subject to determination by the Director of Community Development

(b) Maximum Height Within the Required Front Yards.

- (1) Fences, walls and hedges shall not exceed forty-two (42) inches in height except as provided in (2) below.
- (2) Pilaster and wrought iron fences may exceed forty-two (42) inches if designed to conform to the following requirements:
 - (A) Pilasters may not exceed eighteen (18) inches in width and may not exceed thirty-six (36) inches in height. Pilasters must be spaced at a minimum of eight (8) feet on center.
 - (B) Wrought iron inserts may be designed to a maximum height of forty-eight (48) inches as measured from finished grade.
- (3) Open face fence, material, whether wood, wrought iron, or other material shall not exceed two (2) inches in width nor be spaced less than six (6) inches apart, edge to edge.

SECTION 9.05.120(v)(2) AND (3)
WALLS AND FENCES IN THE FRONT YARD



- (4) The maximum height of retaining walls in the required front yard shall be thirty (30) inches. The total wall height, including the retaining wall shall not exceed forty-two (42) inches.
 - (5) The sight visibility area requirements in Section 9.05.090 shall apply to the placement and height of fences, walls, and hedges.
 - (6) Reasonable temporary security fencing for vacant lots or construction sites shall be exempt from this Section and may be placed in the required front yard to a maximum height of six (6) feet subject to determination by the Director of Community Development
- (c) Alternatives to the height limits for fences, walls and hedges specified in sections (a) and (b) above, or (g) below, and provisions for the placement of arbors, porticos, trellises or other entry features within required yards may be granted subject to the approval of a ~~minor Conditional Use Permit~~ Minor Site Development Permit pursuant to the provisions of Chapter 9.65.
- (d) Retaining Walls. The height of any portion of a wall ~~or fence~~ which retains earth or water, in all locations except the required front yard, shall be as follows:
- (1) Retaining Walls/Fences Under Thirty (30) Inches in height. Retaining walls that are less than thirty (30) inches in height from top of retaining wall to finished grade on either side are permitted.
 - (2) ~~Walls/Fences at Thirty (30) Inches. Retaining walls that are thirty (30) inches in height from top of retaining wall to finished grade on either side are permitted and are may be required to have a minimum forty-two (42) inch guardrail or fence on top for safety purposes as determine by the Director of Community Development. (Addition of 03-07 removed with 08-04)~~

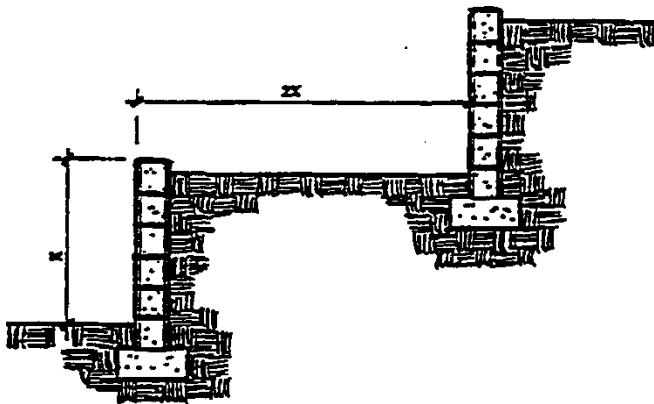
(32) Retaining Walls/Fences Greater Than Thirty (30) Inches or Greater in height.

Except where the subject wall was shown on an approved preliminary or precise grading plan, retaining walls that are greater than thirty (30) inches from the top of the wall to finished grade may be permitted subject to the approval of **a Minor Site Development Permit**, as described in Chapter 9.71. Approval of retaining walls higher than thirty (30) inches in height shall be considered when the wall is landscaped and does not create conditions or situations that may be detrimental or incompatible with other permitted uses **or improvements** in the vicinity.

(3) Retaining Walls Greater Than Thirty (30) Inches but less than Seventy-two (72) Inches in height which will not result in a grading fill condition and will not be visible from a public right-of-way, are permitted without a Site Development Permit, provided that the wall does not create conditions or situations that may be detrimental or incompatible with other permitted uses or improvements in the vicinity as determined by the Director of Community Development.

(4) Alternative to Height Limit of Retaining Walls. Stepping of retaining walls is **also** permitted **for a maximum height of seventy-two (72) inches, provided the height of any individual wall does not exceed thirty (30) inches, subject to approval of a Site Development Permit, as described in Chapter 9.71.** Stepping is allowed provided that the minimum horizontal distance between the top of the downslope retaining wall, ~~fence and/or landscaping~~, and the bottom of the up slope retaining wall, ~~fence, and/or landscaping~~, shall be greater than 2 times the vertical distance of the downslope retaining wall, ~~fence, and/or landscaping~~. Approval shall be considered when the **retaining** wall is landscaped and does not create conditions or situations that may be detrimental, or incompatible with other permitted uses **or improvements** in the vicinity. The top of walls ~~will~~ **may** require guardrails as necessary for safety purposes as determined by the Director of Community Development.

**SECTION 9.05.120(c)(4)
HEIGHT LIMIT FOR RETAINING WALLS**



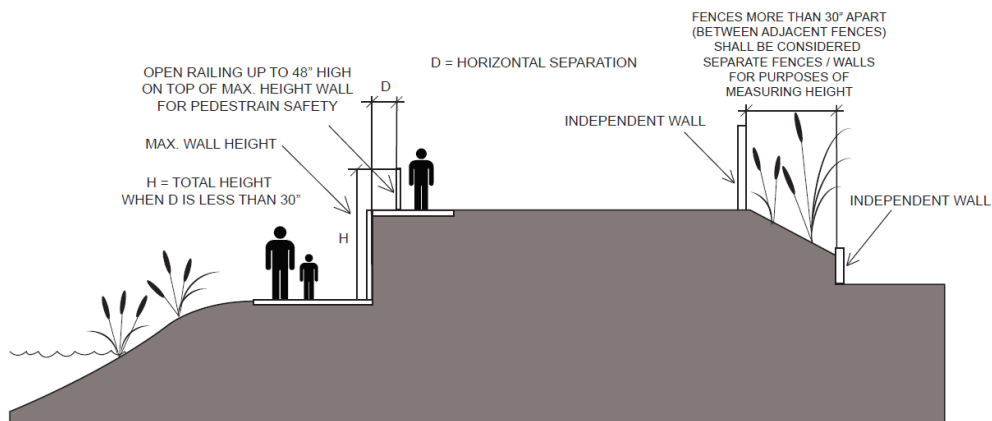
- (5) Retaining walls greater than thirty (30) inches in height which face a public street or other public area shall be provided with a landscaped strip along the base of the wall which is of an adequate width (two (2) foot minimum) to accommodate plants which will mature to visually screen the wall.
- (e) Fences or walls shall include a gate or other suitable opening no less than thirty (30) inches in width to provide access to primary or accessory structures.
- (f) Fences constructed under permit, but made nonconforming as a result of the adoption of the Zoning Code are exempt from amortization.

(g) Height measurements for retaining walls requiring guardrails and for multiple fences/walls.

1. **Retaining walls requiring guardrails as mandated by the California Building Code (CBC) shall be considered one wall for the purposes of measuring overall height when the guardrail is separated horizontally by less than 30 inches (as measured between their closest above grade surfaces). The overall height shall be measured from the finished grade at the base of the retaining wall to the top of the required guardrail and shall not exceed the maximum heights identified in (a), (b), and (d) above.**
2. **Fences/walls and required guardrails separated horizontally by 30 inches or more (as measured between their closest above grade surfaces) shall be considered separate fences/walls and their heights shall be measured independently. Freestanding fences/walls less than 30 inches apart shall be considered one fence/wall and overall fence/wall height shall be measured from the finished grade at the base of the lower fence/wall to the top of the higher fence/wall. This provision applies to conditions where a retaining wall is the lower wall with a freestanding fence/wall above. When both walls are retaining walls, the requirements of Section 9.05.120(d) shall apply. The space between the two fences/walls shall be landscaped and maintained to provide screening to avoid negative massing impacts.**

SECTION 9.05.120(g)(1) & (2)

MEASUREMENT OF HEIGHT LIMIT FOR MULTIPLE FENCES/WALLS



(h) Any freestanding walls, fences, or hedges located outside of a required setback shall be limited to a maximum height of seventy-two (72) inches, unless otherwise approved with a Minor Site Development Permit, as described in Chapter 9.71. Any retaining walls outside of a required setback shall comply with subsection (d) above.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 96-10, 8/13/96;)

9.05.130 General Design Compatibility and Enhancement

Any new building or structure, any addition to an existing building or structure, and the installation or construction of any site improvements shall be designed to create a unified functional and comprehensive site plan with an integrated architectural theme that is compatible with and will compliment and enhance the subject and surrounding properties, as determined by the Director of Community Development

The factors used to evaluate design compatibility and enhancement shall include, but not be limited to:

- (a) Architectural style and detailing;
- (b) Massing and bulk;
- (c) Color and materials; and
- (d) Scale and proportion.

The design of all development projects including, but not limited to, architecture, and landscaping should consider the applicable direction provided by the Urban Design Guidelines. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94)

9.05.140 Roof Mounted Appurtenances.

All roof mounted appurtenances including, but not limited to air conditioning units, and mechanical equipment shall be shielded and architecturally screened from view from on-site

parking areas, adjacent public streets and adjacent residentially zoned property. The screening material must be compatible with and integrated into the architectural design of the structure. (Added by Ord. 93-16, 11/23/93)

9.05.150 Wetland Buffer.

To protect and maintain the City's wetlands resources, a 100-foot buffer area around all identified wetlands located outside the coastal zone shall be provided, unless consultation with the California Department of Fish and Game and the U.S. Fish and Wildlife Service indicates that a lesser buffer will provided adequate protection. The standards for wetland buffers around wetlands within the coastal zone are contained in Section 9.27.030(b)(3). (Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.05.160 Cultural and Natural Resources.

For those projects where the City's environmental review process indicates the potential for significant impacts to cultural and natural resources (such as archaeological, paleontological, or historical resources and biological resources), site-specific studies shall be performed to identify the significance of such resources, and identified mitigation measures designed to reduce those impacts will be incorporated into project design. (Added by Ord. 93-16, 11/23/93)

9.05.170 Coastal Views from Public Areas.

To protect the coastal scenic overlooks from public lands identified in the General Plan Urban Design and Conservation/Open Space Elements, a detailed view impact study which includes recommendations to avoid impacts to coastal views from public lands shall be prepared and incorporated into projects where the proposed development impacts such views. (Added by Ord. 93-16,11/23/93)

9.05.180 Steep Hillsides.

A detailed geotechnical report which includes recommendations to avoid geologic impacts of the proposed development shall be prepared and incorporated into all projects or development proposals on slopes exceeding twenty-five (25) percent or 4:1. Proposed development shall take into consideration the provisions of the Urban Design Guidelines for hillside development, subject to the satisfaction of the Director of Community Development. (Added by Ord. 93-16, 11/23/93)

9.05.190 Building Setbacks on Shallow/Narrow Building Sites.

The following provisions for shallow and narrow lots will maintain consistency in **older** areas **such as Marina Shores of the community**, by allowing new construction of single family or multiple family projects to develop with reduced setbacks **only if the said parcel is not consistent with the width and depth standards of the underlying zoning district as required in Section 9.09.030 as follows:**

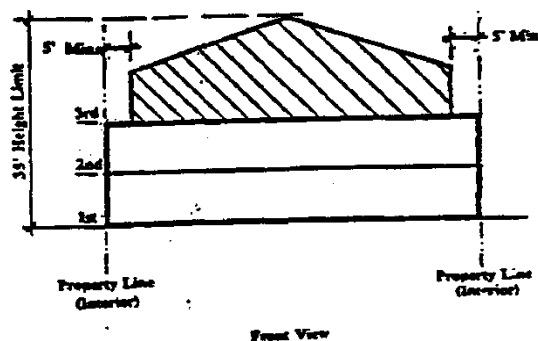
- (a) When a building site has an average depth of one hundred (100) feet or less but more than seventy-five (75) feet, any required front and rear building setbacks need not be more than twenty (20) percent of such average depth; and when a building site has an average depth of seventy-five (75) feet or less, any required front and rear building line setbacks need not be more than fifteen (15) percent of such average depth, but in no event shall any required front or rear building line setback be less than five (5) feet
- (b) When a building site has an average width of less than fifty (50) feet any required building setback from the interior side property lines need not be more than ten (10) percent of such average width but in no event less than three (3) feet.

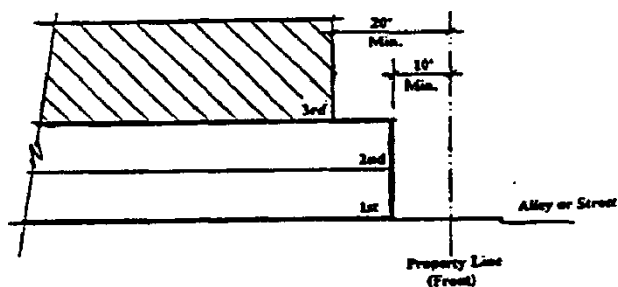
(Added by Ord. 93-16, 11/23/93)

9.05.200 Increase in Maximum Stories.

- (a) In non-residential districts, primary structures shall not exceed two stories. A third story, in accordance with the height limitations specified in Section 9.05.110(b)(4), may be permitted in the commercial, mixed use, professional/administrative, industrial/business and community facilities districts subject to the approval of a Site Development Permit pursuant to Chapter 9.71.
- (b) In no circumstance may the third story of a building be setback less than: (1) twenty (20) feet from the minimum required yard adjacent to a street or alley; (2) twenty (20) feet from the minimum yard adjacent to a residential district; and (3) five (5) feet from the interior side yard. A third story must be set back from a street or alley at least ten (10) feet greater than both the first and second stories as shown in the following diagram.

**SECTION 9.05.200(b)
THIRD STORY SETBACK REQUIREMENTS**





- (c) In order to approve a request for an increase in maximum stories, the Planning Commission must make the following findings:
- (1) That the proposed third story has been designed in accordance with the provisions of Section 9.05.200(b); and
 - (2) That the proposed third story demonstrates exceptional design quality; and
 - (3) That the proposed third story allows the project to incorporate public spaces at the ground level.

Benefits, amenities or design qualities used to warrant an increase in maximum stories may not be used to justify any increase in floor area ratio as provided in Section 9.05.210. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94)

9.05.210 Increase in Floor Area Ratio.

- (a) The standard floor area ratio (FAR) for commercial, mixed use, professional/administrative, industrial/business, community facilities, recreation/open space/conservation, and transportation corridor zoning districts is specified in Chapters 9.11 through 9.23. An increase in the standard FAR may be permitted subject to the approval of a Site Development Permit pursuant to Chapter 9.71. In no event shall the increased FAR approved by the Planning Commission exceed the maximum floor area ratios as specified below:

District	Maximum FAR
Neighborhood Commercial	1.75:1
Community Commercial/Pedestrian	1.75:1
Community Commercial/Vehicular	1.75:1
Visitor/Recreation Commercial	1.75:1
Commercial/Residential	1.50:1
Professional/Residential	1.50:1
Professional/Administrative	1.10:1
Industrial/Business	.75:1
Community Facilities	1.00:1

Recreation/Open Space/Construction	.20:1
Transportation Corridor	.20:1

- (b) In order to approve a request for an increase in floor area ratio above the standard floor area ratio, the Planning Commission must make the following findings:
- (1) That the requested increase will not significantly contribute to the temporary or cumulative demand for public facilities or services; and
 - (2) That the proposed project warrants increased intensity because it demonstrates exceptional design quality exceeding minimum City standards; and
 - (3) That the proposed project provides significant or exceptional public amenities, improvements or benefits, in excess of the minimum standards applicable to the project, which promote the goals and objectives of the General Plan.

The benefits, amenities or design qualities used to warrant an increase in floor area ratio may not be used to justify any increase in maximum stories as provided in Section 9.05.200. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96)

9.05.220 Lighting.

Exterior lighting shall be energy-efficient and shielded or recessed so that direct glare and reflections are contained within the boundaries of the parcel, and shall be directed downward and away from adjoining properties and public rights-of-way. No lighting shall blink, flash, or be of unusually high intensity or brightness. All lighting fixtures shall be appropriate in scale, intensity, and height to the use it is serving. Security lighting shall be provided at all entrances/exits. (Added by Ord. 93-16, 11/23/93)9.05.230

9.05.230 Roof Decks.

Roof decks are permitted, subject to approval of a Minor Site Development Permit, in any zoning district provided that they meet the following development standards:

- (a) In residential districts, the permitted area of all roof decks per dwelling unit may not exceed twenty-five (25) percent of the roof area of the story directly below the deck or three hundred (300) square feet, whichever is less.
- (b) In residential districts, the guardrail and other objects, whether permanent or temporary, which rest upon the roof deck such as patio furniture, landscaping, and storage, may not exceed the district's required height limit as specified in Section 9.05.110(a) of this Chapter.

- (c) The roof deck shall be architecturally compatible with the existing exterior materials and colors of the existing structure, and appear as an integral part of the roof system.
- (d) The roof deck area shall be appropriately designed so as not to be visible from all sides of the structure or from the grade below. Appropriate screening shall be architecturally compatible with and integrated into the existing structure as determined by the Director of Community Development. The solid screening may include roofing, solid parapet walls, or other methods architecturally compatible with the design of the structure.
- (e) The deck shall be compatible with the color of the existing roof material or structure, yet it shall not be of a color that would reflect glare onto surrounding properties at a higher elevation.
- (f) In residential districts, exterior stairways and other access features such as stairwells or elevators for access to roof decks shall not exceed the residential zoning district's height limit and shall be architecturally integrated into the design of the structure.
- (g) All furniture and accessories located on a roof deck shall be secured as necessary to prevent wind damage or dislocation.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 96-10, 8/13/96, Ord. 06-02, 4/12/06.)

9.05.240 "Art in Public Places" Program.

- (a) Purpose. The purpose of this Section is to enhance the cultural and aesthetic environment of the City of Dana Point, and to encourage creativity, education, and an appreciation of the arts and our cultural heritage. The program also serves to implement a number of goals and policies of the Dana Point General Plan Urban Design Element and the Dana Point Community Cultural Plan.
- (b) Definitions. The following definitions shall apply to the language contained in this Section:
 - (1) "Art in Public Places" shall mean public art installed, either on- or off-site, as a part of a new development project in conformance with the standards set forth in this Chapter.
 - (2) **"Arts and Culture Commission" shall mean the Dana Point Arts and Culture Commission as established by City Council Resolution No. 11-07-25-01; and any successor commission, agency, board, committee or other body empowered by the City Council with the same duties and responsibilities.** ~~"Community Services Commission" shall mean the Dana Point Community Services Commission as established by City Council Resolution No. 94-07-26-4 on July 26, 1994; and any successor commission, agency, board, committee or other body empowered by the City Council with the same duties and responsibilities.~~

- (3) “New Development” shall mean the construction of new residential, commercial, mixed use, office, industrial, institutional and recreational projects, and the remodeling or renovation of such projects in excess of fifty (50) percent of the value of the entire development project.
- (4) “Other discretionary review” shall mean any coastal development permit, site development permit, conditional use permit, variance, tentative map, zone change, zone text amendment, general plan amendment or local coastal program amendment as reviewed by the Dana Point Planning Commission, Dana Point City Council or California Coastal Commission.
- (5) “Public art” shall include, but not be limited to, sculpture, paintings, graphic arts, mosaics, photographs, fountains, decorative arts, film and video, and preservation of features or resources of historical, archaeological or paleontological significance, located in or on a site open and accessible to the public. Public art may be either representational or non-representational (i.e., abstract).
- (6) “Public art component” shall mean the piece of public art and any accompanying landscape, hardscape, lighting, public performance space, public art display space, and plaques, signs or narrative materials.
- (7) “Total construction costs” shall mean the valuation of the proposed structures or improvements, as calculated based on the most recent building valuation data from the Uniform Building Code (UBC).

(c) General Requirements.

- (1) Applicability. The provisions of this Section shall apply to all new development within the residential (Chapter 9.09), commercial (Chapter 9.11), mixed use (Chapter 9.13), office (Chapter 9.15), industrial (Chapter 9.17), institutional (Chapter 9.19) and recreational (Chapter 9.21) districts as defined in the Dana Point Zoning Code.

The “Art-in-Public-Places” Program described in this section is a mandatory program and the standards specified are minimum standards for compliance. Participation in the program by itself does not qualify project applicants for consideration of increased project density/intensity as discussed in the Land Use Plan of the Dana Point General Plan.

- (2) General Guidelines/Content and Appropriateness. There are no mandated themes for the public art component of a project Both representational and non-representational artworks are encouraged. Possible thematic content areas for public art may include, but should not be limited to:

(A) The coastal/marine lifestyle;

- (B) The history of the City of Dana Point;
- (C) The archaeology and paleontology of the natural environment of the area; or
- (D) The cultures of indigenous peoples of the area.

These themes are listed for general guidance only and are not intended to mandate a particular theme type or style of artwork.

- (3) **Media.** The media used in the public art component of a new development project may include any of the features or element described in subsection (b)(5) above. The media employed should be appropriate to the artwork and the immediate physical surroundings. The media chosen should also incorporate non-visual elements (i.e., texture, sound, etc.) wherever possible for the benefit of the visually impaired.
- (4) **Location.** The public art component should be prominently placed within the development project and oriented toward the pedestrian experience of the site. Particular consideration should be given to making the public art accessible to the physically handicapped. Site design should “showcase” the public art and provide viewing opportunities from many angles. Site landscaping and lighting design should complement and enhance the work.

If there is no appropriate on-site location for the public art component, the applicant may propose an alternate location off-site.

- (5) **Cost.** The minimum value requirement for the public art component of a development project is one-half (0.50) percent of the total construction costs of the subject project. The provisions of this Section may be satisfied by either:
 - (A) The on- or off-site placement of public art as a component of the development project.
 - (B) A contribution to a public art in-lieu fund in an amount equal to the minimum value for the public art component.

(d) **Exemptions.** The following types of development projects shall be exempt from the provisions of this Section:

- (1) Individual single family residences and individual multiple family structures of four (4) or fewer units on existing, legal building sites (Chapter 9.09);
- (2) Projects subject to regulation under the Dana Point Harbor Planned Community Development Plan (Chapter 9.25); or

- (3) Projects with total construction costs of less than one million dollars (\$1,000,000.00) as defined under subsection (b)(7) above.

(e) Review Procedures.

- (1) Projects Requiring Other Discretionary Review. The review of the public art component of development projects shall be carried out by the **Planning Commission and shall be completed and installed and/or in-lieu fees paid prior to issuance of a certificate of use and occupancy for any project that meets the requirements in Sections 9.05.240(c)(1) and 9.05.240(d).** ~~Dana Point Community Services Commission concurrent with the initial discretionary review of the entire new development project by the Dana Point Planning Commission or the Dana Point City Council.~~

- (2) Application Processing.

- (A) Placement of Public Art. The public art component of a development project ~~shall~~ **may** be submitted as a part of the application for the entire project, **but must be installed prior to issuance of certificate of occupancy.** The project plans, including the public art component will be provided to the ~~Community Services Arts and Culture~~ Commission for their review, ~~during the initial thirty (30) day review Period for the project. During the thirty (30) day review period,~~ **the Community Services Arts and Culture** Commission will evaluate the public art component of the project, seeking, as necessary, responsible voluntary public and professional opinions and input in its deliberations, and submit ~~recommendations~~ **feedback** for approval ~~of~~ **or** denial to the ~~Planning Department Commission.~~

If ~~deemed~~ **necessary** ~~by staff,~~ the **public art component of a** project may be ~~resubmitted to the reviewed multiple times by the Arts and Culture Community Services Commission for review during subsequent resubmittals of the project.~~ Comments from the ~~Community Services Arts and Culture~~ Commission will be compiled by the Planning Department along with the comments of other departments, agencies and/or interested parties. These comments will be forwarded to the applicant **and Planning Commission as appropriate and used to determine the completeness of the project as a whole.** If, however, the ~~Community Services Arts and Culture~~ Commission cannot provide ~~a recommendation~~ **feedback** before the **public art is considered by the Planning Commission project is deemed complete,** the review of the ~~project public art~~ will proceed and be undertaken **solely** by the Planning Commission.

Once the application has been deemed complete (pursuant with State law), the environmental review for the **entire public art component of the** project will be

completed and the project will be scheduled for public hearing before the Planning Commission. A public hearing notice will be provided to the ~~Community Services Arts and Culture~~ Commission and the ~~Community Services Arts and Culture~~ Commission's ~~Planning Department Liaison~~ will have the opportunity to attend the public hearing and provide additional input on the project.

If the ~~Community Services Arts and Culture~~ Commission is not able to provide a ~~recommendation feedback~~ on the public art component prior to the Planning Commission hearing ~~on the entire project~~, the Planning Commission shall have authority to review and give final approval for the public art component. ~~The project may be granted a preliminary review and approval and be conditioned to permit the issuance of ministerial permits (i.e., building, grading) while the public art component is being reviewed. The public art component shall receive final approval from the Planning Commission, and shall be in place prior to issuance of Certificates of Use and Occupancy for the project.~~

- (3) Projects Not Requiring Other Discretionary Review. The review process for projects which do not require other discretionary review is similar to that described under subsection (e)(2) above, with the exception that the recommendation of the ~~Community Services Arts and Culture~~ Commission will be made to the Director of Community Development. Final approval of the public art component of a development project will ~~still~~ be made by the Planning Commission, except in cases where the in-lieu contribution is chosen.
- (4) Public Art Component Application Requirements. The application for the public art component of a development project shall include the following:
 - (A) A rendering or model of the proposed work;
 - (B) A colors and materials board;
 - (C) Site, landscaping and lighting plans;
 - (D) A statement from the artist applicant, detailing how the proposed work fulfills the purpose of this Section as described in subsection (a) above;
 - (E) A copy of the text of any plaque(s) or narrative material(s) accompanying the proposed work;
 - (F) An estimate of the total construction cost of the development project as defined under subsection (b)(7) above and the value of the proposed public art; and
 - (G) Any other materials or information necessary to determine compliance with this Section as required by the Director of Community Development.

- (5) Findings. In approving the public art component of a development project, the Planning Commission must make the following findings in the form of an adopted resolution:
- (A) That the work fulfills the purpose of this Section; and
 - (B) That the work is an enhancement to the site, surrounding neighborhood, and the City as a whole.
- (6) Conditions of Approval. The following standard conditions of approval shall apply to all development projects participating in the “Art-In Public-Places” program:
- (A) Prior to the issuance of Certificates of Use and Occupancy, the applicant must obtain approval of the public art component of the project from the Dana Point Planning Commission.
 - (B) Prior to the issuance of Certificates of Use and Occupancy, the public art component of the project shall be installed in accordance with the approved plans and in a manner meeting with the approval of the Director of Community Development. If the public art component cannot be installed prior to the issuance of Certificates of Use and Occupancy, the applicant shall deposit surety with the City in an amount equal to the value of the required public art component to ensure installation within thirty (30) days of the issuance of Certificates of Use and Occupancy.
 - (C) On-Site Placement. The maintenance of the public art component for the project shall be the responsibility of the applicant and the applicant’s assigns and successors-in-interest.

OR

Off-Site Placement. The maintenance of the public art component for the project shall be the responsibility of the applicant and the applicant’s assigns and successors- in-interest. The applicant shall provide evidence, to the satisfaction of the Director of Community Development, that the public art component will be placed off-site with the approval of the owner of the property upon which the artwork will be located.

- (D) In-Lieu Contribution. Prior to the issuance of Certificates of Use and Occupancy, the applicant shall deposit an amount equal to the required value of the public art component into a public art in-lieu fund.

(Added by Ord. 94-13, 8/23/94)

9.05.250 Internal Access to Separate Living Quarters.

Single-family residences with living quarters having no internal access to the primary residence may be permitted subject to review and approval by the Director of Community Development. In such cases, the Director may require the property owner to record a document against the title of the subject property that indicates that said living quarters cannot be used as a second dwelling unit (Added by Ord. 94-09, 5/24/94)

9.05.260 Increased Height for Detached Garages.

The standard maximum height of detached accessory structures is twelve (12) feet **when located in the setback area** pursuant to Section 9.05.080(**jL**). The maximum height of a detached garage may be increased up to a maximum of eighteen (18) feet subject to the following standards:

- (a) The added height provides nonhabitable space for storage uses only;
- (b) No stairway access is permitted and the storage space may only be entered by an internal ladder access; and
- (c) The roof of the detached garage is fully sloped in either a hip or gable configuration. (Added by Ord. 94-21, 12/13/94;)

9.05.270 Decks Extension Over Slope Areas.

Where a deck is proposed to extend over a slope area, the following regulations shall apply, except that for slope areas on blufftop lots in the Coastal Overlay District, decks shall not project past the bluff edge, and the limitations on development in the blufftop setback described in the blufftop setback requirements of Chapter 9.27 (Coastal Overlay District) shall supersede the following regulations.

- (a) For purposes of this section only, areas with less than a five (5) percent grade shall not be considered a slope area and decks may be extended pursuant to the applicable setback requirements.
- (b) If the slope has a grade of more than five (5) percent but less than fifteen (15) percent, the deck may be extended to a maximum of eight (8) feet beyond the top of the slope.
- (c) If the slope has a grade of fifteen (15) percent or greater, at-grade or above-grade decks are not permitted to extend beyond the top of any slope, except as may be permitted by a minor Site Development Permit subject to the approval of the Director of Community Development and pursuant to the applicable provisions of Chapter 9.71. Such extension shall be subject to the required yard setbacks and to the following requirements:
 - (1) The applicant shall submit a site plan detailing the location of the top of the subject slope.

- (2) The applicant shall submit evidence which details the gradient of the slope.
- (3) The applicant shall submit a soils report substantiating the ability of the slope geology to support the proposed deck extension.
- (4) The applicant shall provide a letter detailing how the proposed deck extension would not pose any detrimental aesthetic impact to any surrounding properties or to any public views or vistas.
- (5) In no case may the minor Site Development Permit allow an extension of the deck beyond four (4) feet from the top of the slope.

(Added by Ord. 96-13, 11/26/96; amended by Ord. 99-05, 4/27/99)

9.05.280 Accessory Buildings and Structures

Accessory Buildings and Structures are permitted, in any zoning district provided that they meet the following development standards:

3. **An Accessory Building or Structure meets the definition of an Accessory Building or Structure as specified in Section 9.75.010.**
4. **In residential districts, attached accessory structures shall conform to the development standards of the primary structure, and be less than 50% of the existing living area.**
5. **In all zones, the cumulative total of all attached and/or detached accessory structures shall be less than 50% of existing occupiable area (non-residential) or existing living area (residential).**
6. **In residential districts, no detached accessory structure can exceed 500 square feet, unless a Minor Site Development Permit is approved pursuant to Chapter 9.71. Required garages associated with a single family residence are permitted to exceed this requirement.**
7. **In residential districts, detached accessory structures shall be located in the rear ½ of the parcel, with the exception of entry features (i.e., arbors, porticos and trellises) and garages, unless a Minor Site Development Permit is approved pursuant to Chapter 9.71.**
8. **In residential districts, a detached accessory structure less than 500 square feet, and located wholly in the rear ½ of a parcel shall be allowed to encroach into the side and rear yard setbacks as allowed in Section 9.05.080, provided they meet the building separation requirements.**
9. **In residential districts, detached accessory structures 500 square feet or greater shall meet all applicable setback requirements.**
10. **In all zones, the minimum accessory structure to accessory structure setback shall comply with minimum California Building Code separation requirements.**
11. **All accessory structures count towards lot coverage requirements.**

12. Barbeque structures, fire pits, and outdoor fire places, and other structures that do not require a building, electrical, plumbing, mechanical, or grading permit, are not subject to the building separation and setback requirements, but must be located outside of the front and exterior side yard setbacks, unless a Minor Site Development Permit is approved pursuant to Chapter 9.71.
13. Height limitations and measurements shall be in compliance with Section 9.05.110(a)(8).

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**CHAPTER 9.07
SPECIAL USE STANDARDS**

Sections:

- 9.07.010 Intent and Purpose.**
- 9.07.020 Antennas.**
- 9.07.030 Home Occupations.**
- 9.07.040 Alcoholic Beverage Outlets.**
- 9.07.045 Alcoholic Beverage Manufacturing**
- 9.07.050 Utility Substations.**
- 9.07.060 Entertainment Establishments Providing Dancing, Music, and Similar Activities.**
- 9.07.070 Churches.**
- 9.07.080 Motor Vehicle Sales.**
- 9.07.090 Adult Businesses.**
- 9.07.100 Fortune-Telling.**
- 9.07.110 Recycling Facilities.**
- 9.07.120 Outdoor Display, Sales or Storage.**
- 9.07.130 Service Stations.**
- 9.07.140 Solid Waste Disposal Facilities.**
- 9.07.150 Trash and Recycling Storage Areas.**
- 9.07.160 Single Room Occupancy.**
- 9.07.170 Demolition of Structures.**
- 9.07.180 Timeshare Development and Operations Standards.**
- 9.07.190 Keeping of Animals in Residential Districts.**
- 9.07.200 Tattoo Parlors.**
- 9.07.210 Second Dwelling Units.**
- 9.07.220 Mobilehomes.**
- 9.07.230 Massage Establishments.**
- 9.07.240 Drive Through Uses.**
- 9.07.250 Historic Resources.**

9.07.010 Intent and Purpose.

Certain uses, although permitted in specific districts, require additional development standards beyond those specified for the applicable zone. Additional standards are required to ensure that such uses are operated in a manner that do not adversely impact surrounding uses. The purpose of this Chapter is to provide additional development standards and conditions for certain uses to ensure their compatibility with surrounding uses. (Added by Ord. 93-16, 11/23/93)

9.07.020 Antennas.

(a) Exempt Antennas. The following types of antennas are exempt from the requirements of this Section, unless otherwise noted:(1) Common skeletal residential type radio and television antennas used to receive UHF, VHF, AM, and FM signals of off-air broadcasts from radio and television stations.

(b) Commercial Wireless Telecommunication Antenna Facilities.

(1) Purpose. The purpose of these requirements is to regulate the location and design of “Commercial Wireless Telecommunication Antenna Facilities** as defined herein to protect the scenic ocean and coastal public views; public safety; and the quality of residential neighborhoods in the City of Dana Point. The Dana Point City Council has determined that these requirements are intended to create reasonable regulations in conformance with the provisions of the Telecommunication Act of 1996. These requirements also apply to non-commercial wireless telecommunication antenna facilities that are associated with local businesses, public agencies, utility services and emergency services. These requirements do not apply to “exempt antennas*” under Section 9.07.020(a) or “antennas and satellite dish antennas in residential districts” under Section 9.07.020(c).

(2) Antenna Use Permits.

(A) All commercial wireless telecommunication service antenna facilities and public/private local telecommunication system antenna facilities shall require an Antenna Use Permit. A proposed antenna facility may require either a Major or Minor Antenna Use Permit (AUP) depending upon the proposed location with respect to residential districts, classrooms and scenic highways, as well as the type and design of the proposed antenna facility, as described herein. Appeals of a decision on an AUP are subject to the provisions contained in Section 9.61.110.

(B) Under certain location and design conditions as described herein, a proposed antenna facility may be subject to the Exceptional Case Approval procedure in addition to a Major AUP. Exceptional Case Approvals shall be reviewed at a public hearing by both the Planning Commission and the City Council. In addition to the required submittal material for a Major Antenna Use Permit, the applicant must submit documents which would conclusively demonstrate that the carrier is technically unable to satisfy system coverage objectives by any other means that would be consistent with the regulations contained herein. Said documents shall be submitted to the City for review by a third party wireless telecommunication consultant. Any and all costs associated with the third party consultant review shall be paid by the applicant through a deposit fee set by the City Council. If the Exceptional Case Approval proposes to deviate from the established setbacks contained herein, a Variance application shall also be included with the submittal.

(C) Antenna Use Permit Procedure.

1. Prior to the formal submittal for any Antenna Use Permit, the Community Development Department staff shall determine if a Minor Antenna Use Permit, Major Antenna Use Permit and, if applicable, Exceptional Case Approval would be needed for a given antenna facility proposal.

2. Once a determination has been made by Community Development Department staff as to which permitting procedure is appropriate, the following application materials shall be submitted to the City for consideration of the proposed antenna facility:

- a. Application form for Minor Antenna Use Permit, Major Antenna Use Permit and, if applicable, Exceptional Case Approval.
- b. Site Plans and Elevations drawn to scale in compliance with the City's accepted format.
- c. A radiofrequency (RF) report prepared by a qualified RF engineer acceptable to the City to demonstrate that the proposed facility, as well as any co-located facilities, complies with current Federal RF emission standards.
- d. Computerized Visual Assessments showing the before and after visual effects of the proposed facility.
- e. Technical report with signal strength exhibits stating the need for the proposed antenna facility (for commercial wireless telecommunication antenna facilities only; not required of non-commercial wireless telecommunication antenna facilities).
- f. For Minor AUP applications, a written statement must be submitted which discusses how the proposed antenna facility complies with the stealth design criteria set forth in these regulations.
- g. For Major AUP applications, a written statement must be submitted which discusses why the proposed antenna facility cannot comply with all of the stealth design criteria set forth in these regulations.
- h. For Exceptional Case Approval applications, a written statement must be submitted which discusses among other things why the proposed antenna facility cannot comply with all of the stealth design criteria and, if a Variance for setbacks is required, as to why the antenna facility setbacks set forth in these regulations can not be met.

3. After the Antenna Use Permit application is deemed complete by the Community Development Department, it shall be considered at a meeting of the Planning Commission. Minor Antenna Use Permits would be scheduled for the consent calendar and Major Antenna Use Permits would be scheduled for public hearing in accordance with Chapter 9.61 of the Zoning Code. The decision of the Planning Commission may be appealed to the City Council within 15 days of the decision.
 4. Exceptional Case Approval application materials shall first be reviewed by a third party wireless telecommunication consultant chosen by the City, paid for by the applicant through a deposit fee set by the City Council. After the review is completed and the application is deemed complete by City Staff, the Exceptional Case Approval in conjunction with the Major AUP would be scheduled for public hearing in accordance with Chapter 9.61 of the Zoning Code before the Planning Commission. The Planning Commission shall render a recommendation that shall be considered by the City Council at a public hearing held in accordance with Chapter 9.61 of the Zoning Code. The City Council shall render a final decision on the matter. If the Exceptional Case Approval also includes another discretionary action, that action shall also be considered by the City Council.
 5. Antenna Use Permits are subject to review by the City's Planning Commission every two (2) years to determine if technology has changed to the point where an installation can be reduced in size or redesigned in a "stealth" manner and to evaluate RF emissions. A technology upgrade report and RF emissions testing report would be required to be submitted by the applicant. The City's third party consultant would review the reports and any changes would be incorporated into the approval of the review by the Commission.
 6. An RF (radio-frequency) testing report shall be required of all proposed facilities after the initial installation and once the site is operable to demonstrate that they are in compliance with government safety standards prior to final sign off of permits.
 7. The City may require modification or removal of wireless antenna facilities for various reasons such as, but not limited to, changes in technology, safety hazards, and new environmental concerns, etc. All costs of installation, modification to and removal of wireless antenna facilities and related equipment shall be borne by the Carrier, as defined herein, whether required by the City or otherwise.
- (4) Location Criteria. The following applies to both commercial wireless telecommunication antenna facilities and private/public local wireless telecommunication antenna facilities:
- (A) Antenna facilities under these regulations are prohibited in residential districts. With the exception of the criteria set forth in these regulations.

- (B) Antenna facilities are encouraged to be located on and/or inside of existing structures, such as buildings, light standards, traffic control standards or existing freestanding telecommunication facilities.
- (C) Antenna facilities are encouraged to be located where existing topography, vegetation, buildings or other structures provide the greatest amount of visual screening.
- (D) Antenna facilities shall be co-located with other antenna facilities in accordance with this subsection wherever possible and technically feasible.
- (E) Freestanding antenna facilities shall not be located within five hundred (500) feet from another freestanding antenna facility, unless co-located on the same supporting structure.
- (F) Roof-mounted antennas, wall-mounted antennas and other antenna facilities on private property shall not be allowed within one hundred (100) feet of residential districts, even as an Exceptional Case Approval.
- (G) Antenna facilities under these regulations are prohibited in the Conservation District.
- (H) Stealth antenna facilities in the Community Facilities District shall require the approval of a Major AUP, and non-stealth or water tank mounts require the approval of an Exceptional Case Approval.
- (I) Wireless antenna facilities shall not be located so as to create a hazard to persons or property within the “Fall Zone” as defined herein.
- (J) Setbacks from Residential ~~Districts~~ **property line** and classrooms shall be subject to the procedures set forth for each of the applicable permit types shown in the table below:

Setback from Residential <u>Districts</u> <u>Property Line</u> & Classrooms	Light Standard ROW Installation	Stealth & Non-Freestanding	Non-Stealth and Non-Freestanding	Freestanding Installation
0 to 100 Feet	Major AUP	Prohibited	Prohibited	Prohibited
100 to 150 Feet	Minor AUP	Major AUP	Prohibited	Major AUP (Stealth Only)
150 to 300 Feet	Minor AUP	Minor AUP	Major AUP	Major AUP (Stealth Only)
Over 300 Feet	Minor AUP	Minor AUP	Major AUP	Major AUP (Stealth Only) Major AUP & ECA (Non-Stealth)

AUP = Antenna Use Permit
ECA = Exceptional Case Approval

(K) Setbacks from centerline of scenic highways shall be subject to the procedures set forth for each of the applicable permit types shown in the table below:

Setback from Centerline	Light Standard ROW Installation	Stealth & Non-Freestanding	Non-Stealth and Non-Freestanding	Freestanding Installation
0 to 150 Feet	Major AUP	Major AUP	Major AUP and ECA	Major AUP (Stealth Only)
150 to 300 Feet	N/A	Minor AUP	Major AUP	Major AUP (Stealth Only)
Over 300 Feet	N/A	Minor AUP	Major AUP	Major AUP (Stealth Only) Major AUP & ECA (Non-Stealth)

AUP = Antenna Use Permit
 ECA = Exceptional Case Approval

(L) The provisions of Section 9.07.020 (d)(6) do not apply to Commercial Wireless Telecommunication Antenna Facilities.

(5) Design Criteria. The following stealth criteria apply to both commercial wireless telecommunication antenna facilities and public/private local telecommunication antenna facilities:

(A) Light standard-mounted or traffic control standard-mounted antenna facilities shall be designed to be unobtrusive, in the opinion of the City, and shall locate equipment cables within the light standard or traffic control standard; place related electronic equipment in underground vaults (except for environmental air conditioning units needing above-ground access); and paint or finish the antennas to match the supporting standard.

(B) Roof-mounted, wall-mounted and other non-freestanding antenna facilities are acceptable if they are screened or designed in such a way to be unobtrusive, in the opinion of the City, and does not block significant public or residential views.

(C) Roof-mounted antenna facilities (except for omni-directional whip antennas) shall be completely screened from public view in a manner that is consistent with the building's existing architectural style, color and materials, including, if necessary, screening to avoid adverse impacts to public views from higher elevations.

- (D) Wall-mounted antenna facilities shall utilize flush-mounted antennas painted or finish to match the building with concealed cables.
 - (E) The height of antenna facilities shall not exceed the maximum building height allowed for the subject property's zoning district, unless exceeding the height limit is approved under a Major Antenna Use Permit and a Variance as per Chapter 9.67 of the Dana Point Zoning Code.
 - (F) Rooftop-mounted antenna facilities placed on existing non-conforming buildings that exceed a given height limit shall not exceed the building's height
 - (G) Co-location of commercial antenna facilities is desirable, however, there shall be no more than three commercial providers per co-location facility unless it can be shown to be aesthetically feasible, in the opinion of the City, and within current government safety standards.
 - (H) If a building of suitable height is not available, commercial antennas could be hidden in a new architectural feature that matches an existing building's design (clock tower, cupola, etc.) or a freestanding architectural feature (entry monument, etc.). Any such improvements shall be appropriate for and compatible with the site and surrounding area and shall not exceed the site's height limit except in association with a Variance as per Chapter 9.67 of the Dana Point Zoning Code.
 - (I) Colors and designs for freestanding antenna facilities shall be integrated with the surrounding visual background including buildings, landscape and/or uses in the area or those likely to exist in the area, and should prevent the facility from visually dominating the surrounding area.
 - (J) Freestanding antenna facilities shall avoid being a visually dominant intrusion into a given viewshed by locating the facilities near other vertical elements such as existing structures or trees.
 - (K) Freestanding antenna facilities shall be architecturally compatible with the surrounding land uses, buildings, structures, landscaping and other improvements by blending with the existing characteristics to the greatest extent possible.
- (6) Antenna Use Permit Required Findings. The following are the required findings for every Antenna Use Permit:
- (A) That the proposed antenna facility will not create any significant or meaningful blockage to public views; and,
 - (B) That the proposed antenna facility will be an enhancement to the City due to its ability to provide additional communication capabilities; and,

- (C) That the proposed antenna facility will be aesthetically integrated into its surrounding environment; and,
 - (D) That the proposed antenna facility will not interfere with the reception or transmission of other wireless telecommunication signals within the surrounding community; and,
 - (E) That the proposed antenna facility will operate in compliance with all applicable Federal safety regulations for such facilities; and,
 - (F) That the public need for the use of the antenna facility has been documented.
- (7) Exceptional Case Approval Required Findings. In addition to the above findings, the following findings are also required when relevant for Exceptional Case Approvals.
- (A) That the proposed antenna facility cannot be implemented without the use of a freestanding antenna facility; and/or,
 - (B) That the proposed antenna facility cannot reasonably operate without being located within the setbacks from residential uses, classrooms and scenic highways as established in this ordinance; and/or
 - (C) That the Carrier acknowledges that they shall be responsible for any damage or injuries that result from hazards within Fall Zones or otherwise from such freestanding facility.
- (8) Fees. The fees and deposits for Antenna Use Permits and Exceptional Case Approvals shall be established by the City Council by resolution.
- (c) Antennas and Satellite Dish Antennas in Residential Districts.

Antennas and satellite dish antennas located in the residential districts of the City shall conform to the following standards:

- (1) All ground-mounted antennas and satellite dish antennas shall be required to maintain their supporting structures at least five (5) feet from any property line and ten (10) feet from any other structure.
- (2) All ground-mounted antennas and satellite dish antennas shall be screened by walls, fences or landscaping at least six (6) feet in height obscuring visibility of the antenna or satellite dish antenna. Landscaping shall be of a type and variety capable of growing within one (1) year to provide a landscape screen which obscures the visibility of the antenna and supporting structure(s).
- (3) All antennas and satellite dish antennas and their supporting structures shall be located in the rear yard or any side yard, except a street side yard.

- (4) No antenna, satellite dish antenna, or its supporting structure shall be located in the area between the front property line and the dwelling.

(5) The following height limit shall apply to all antennas:

Antenna Type	Maximum Above Grade	Height
Satellite Dish Antennas	15 feet	
Other Permitted Antennas	Maximum height of base zoning district	

Antennas, as defined in Section 9.75.010, may be permitted to exceed the maximum height of the base zoning district subject to the approval of a minor Conditional Use Permit. Such a permit may only be granted under the following circumstances:

- (A) The subject antenna is retractable, the height of the antenna when retracted is thirty-five (35) feet or less, the height of the antenna when extended is fifty (50) feet or less, and the applicant executes an agreement which stipulates that the antenna may only be extended during actual use of said antenna; or
- (B) The subject antenna is used solely for transmission and reception of ham radio signals, the operator is a FCC licensed amateur ham radio operator and the antenna is retractable with a maximum height of seventy (70) feet when extended and no higher than the maximum height limit of the base zoning district when retracted.

(6) A maximum of two antennas, including satellite dish antennas or exempt antennas, shall be allowed per lot

(7) Antennas and satellite dish antennas shall not be mounted on the roof.

(d) Antennas and Satellite Dish Antennas Located in Non-Residential Districts. Antennas and satellite dish antennas located in the non-residential zones of the City shall conform to the following standards:

- (1) All ground-mounted antennas and satellite dish antennas shall be required to maintain their supporting structures at least five (5) feet from any property line and ten (10) feet from any other structure.
- (2) All ground-mounted antennas and satellite dish antennas shall be screened by walls, fences or landscaping at least six (6) feet in height obscuring visibility of the antenna. Landscaping shall be of a type and variety capable of growing within one (1) year to provide a landscape screen which obscures the visibility of the antenna and supporting structure.

- (3) All antennas, satellite dish antennas, and their supporting structures shall be located in the rear yard or any side yard, except a street side yard.
 - (4) No antenna, satellite dish antenna, or its supporting structure shall be located in the area between the front property line and the main structure or building.
 - (5) No antenna or satellite dish antenna shall be higher than the maximum height permitted in the zone measured from grade level.
 - (6) A maximum of two antennas, including satellite dish antennas or exempt antennas, shall be allowed per lot
 - (7) No antenna or satellite dish antenna shall be roof-mounted except on a flat portion of the roof structure with architecturally integrated parapets or screening elements.
- (e) Required Criteria and Performance Standards.
- (1) Antennas, commercial antennas, and satellite dish antennas shall be installed and maintained in compliance with the requirements of the Building Code. Antenna installers shall obtain a building permit prior to installation.
 - (2) No advertising material shall be allowed on any antenna, commercial antenna, or satellite dish antenna.
 - (3) All electrical wiring associated with any non-exempt antenna shall be buried underground or hidden in a manner acceptable to the Building Official.
 - (4) No portion of an antenna or satellite dish antenna array shall extend beyond the property lines or into any front yard area. Guy wires shall not be anchored within any front yard area but may be attached to the building.
 - (5) The antenna, commercial antenna, or satellite dish antenna, including guy wires, supporting structures and accessory equipment, shall be located and designed so as to minimize the visual impact on surrounding properties and from public streets. The materials used in constructing the antenna or satellite dish antenna shall not be unnecessarily bright, shiny, garish, or reflective.
 - (6) Every antenna, commercial antenna, or satellite dish antenna must be adequately grounded, for protection against a direct strike of lightning, with an adequate ground wire. Ground wires shall be of the type approved by the latest edition of the Electrical Code for grounding masts and lightning arrestors and shall be installed in a mechanical manner, with as few bands as possible, maintaining a clearance of at least two (2) inches from combustible materials, lightning arrestors shall be used that are approved as safe by the Underwriters Laboratories, Inc., and both sides of the line must be adequately protected with proper arrestors to remove static charges accumulated on the line. When lead-in conductors of the polyethylene ribbon-type are used, lightning

arrestors must be installed in each conductor. When coaxial cable or shielded twin lead is used for lead-in, suitable protection may be provided without lightning arrestors by grounding the exterior metal sheath.

- (7) A wind velocity test may be required for any non-exempt antenna, as deemed necessary by the Building Official.
- (f) Variances. Pursuant to the procedures of Chapter 9.67 of the Zoning Code, any person may seek a variance from the provisions of this Section. Any variance so granted is revocable for failure by the applicant or property owner to comply with the conditions imposed. A variance may be issued for an antenna or satellite dish antenna if it meets the following standards:
- (1) Locating the antenna or satellite dish antenna in conformance with the specifications of this section would obstruct the antenna's reception window or otherwise excessively interfere with reception, and such obstruction or interference involves factors beyond the applicant's control; or, the cost of meeting the specifications of this section is excessive given the cost of the proposed antenna.
 - (2) The variance application includes a certification that the proposed installation is in conformance with applicable City Building regulations. Furthermore, the application must contain written documentation of such conformance, including load distributions within the building's support structure and certified by a registered engineer.
 - (3) If it is proposed that the antenna or satellite dish antenna will be located on the roof, where possible, the antenna shall be located on the rear portion of the roof and be consistent with neighboring improvements, uses and architectural character.
- (g) Non-Conforming Antennas and Satellite Dish Antennas. Antennas and satellite dish antenna, in any zone, which were lawfully constructed and erected prior to the effective date of this Code, which do not conform to the requirements of this Section for the particular zoning district in which they are located, shall be accepted as non-conforming uses for a period of one (1) year from the date of adoption of this Code. Thereafter, the antennas shall be subject to abatement as set forth below via removal, modification, or relocation to comply with the standards of this Code. Any antenna or satellite dish antenna constructed, or erected in violation of this Code or any prior law, ordinance or regulation shall be subject to immediate abatement.
- (h) Notice of Non-Conforming Antennas or Satellite Dish Antennas.
- (1) Upon the determination of the Director of Community Development that the provisions of this Chapter apply to a given parcel of land on which an antenna or satellite dish antenna is located, the Director or his/her designee shall send a notice thereof by certified mail, return receipt requested, to the owner thereof as shown on the last equalized assessment roll and shall cause such property to be posted with a similar notice.

- (2) The notice provided for in this Section shall state that the property and antenna in question is a non-conformity, shall state the date of abatement established in accordance with Section 9.63.050, shall state that an administrative hearing will be held before the Director of Community Development, and shall state the date of such hearing.

(i) Hearing.

- (1) Within sixty (60) days after the issuance of the notice prescribed in Section 9.63.050, the Director of Community Development shall hold an administrative hearing to determine whether the nonconformity should be abated or whether a time extension should be granted as provided in Section 9.63.070.
- (2) The Director of Community Development shall receive written and oral testimony at such hearing in regard to abatement.
- (3) At the close of the hearing, the Director of Community Development shall find and determine whether the nonconformity should be abated and all facts in support thereof, whether the owner of the property can amortize his/her investment in the term for abatement provided in accordance with Chapter 9.63.
- (4) The Director of Community Development shall also find and determine whether the structure encompassing the nonconforming use can economically be used in its present condition or can successfully be modified for a purpose permitted in the zone in which it is located.

- (j) Decision and Order. The decision of the Director of Community Development and the findings in support thereof shall be in the form of a written order and shall be served upon the property owner personally or by United States certified mail, return receipt requested, within ten (10) days after the decision is rendered.

- (k) Right of Appeal. The decision of the Director of Community Development may be appealed to the Planning Commission within fifteen (15) days of the order, provided, however, that the appeal period shall not commence until service of the order. The decision of the Planning Commission may be appealed to the City Council in the same manner.

- (l) Recordation of Order. After the conclusion of all appeals, notice of the decision and order of the Director of Community Development, or the Planning Commission, or City Council in the case of an appeal, shall be recorded with the County Recorder of the County of Orange.

(m) Extension of Time.

- (1) The Director of Community Development and the City Council on appeal, shall grant an extension of the time for abatement of nonconformity where it finds that an unreasonable hardship would otherwise be imposed on the property owner.

- (2) The Director of Community Development and the Planning Commission, or City Council on appeal, shall consider the following factors, among others, in determining whether to grant an extension of time and the length of the term:
 - (A) The nature of the use.
 - (B) The amount of the owner's investment in improvements.
 - (C) The convertibility of improvements to permitted uses.
 - (D) The character of the neighborhood.
 - (E) The detriment, if any, caused to the neighborhood by continuance of the nonconforming use.
 - (F) The amount of time needed to amortize the investment.
- (n) Proof of Amortization. The Director of Community Development and the Planning Commission or City Council on appeal shall base its decision as to the length of the permitted amortization period on any competent evidence presented, including but not limited to the depreciation schedule attached to the owner's latest federal income tax return.
- (o) Relocation. Where the Director of Community Development finds that a nonconforming antenna or satellite dish antenna, either in its present condition or as modified, can be used in compliance with the standards set forth in this Code for the zone in which it is located, the nonconforming antenna or satellite dish antenna may be granted an extension sufficient to permit it to be relocated on the site wherein such use is permitted and which has substantially equivalent utility for the use. In no event shall such extension be more than two (2) years.
- (p) Antennas Used for Transmission Purposes.
 - (1) Except as provided in subsection (2) below, prior to the approval by the City for the installation of any non-exempt antenna, the applicant must submit a written statement that the antenna will not be used for transmission purposes; or, that the use of the antennas for transmission purposes will not exceed Effective Instantaneous Radiated Power (EIRP) levels of 80 decibel watts (DBW).
 - (2) Antennas used for transmission purposes which exceed EIRP levels of 80 DBW may be approved by the Director, subject to the imposition of reasonable conditions to protect the applicant and the public health and safety. Reasonable conditions shall include, but not be limited to, fencing, screening, warning signs, partial submersion below ground level, and other like conditions.

- (3) Any applicant aggrieved by a decision of or condition imposed by the Director of Community Development, may appeal that decision or condition pursuant to Section 9.61.110 of this Code.

(Added by Ord. 93-16, 11/23/93); amended by Ord. 94-09 5/24/94; Ord. 94-21, 12/13/94; Ord. 98-06, 9/22/98;)

9.07.030 Home Occupations.

- (a) The residence in which a home occupation is conducted shall not display any indication of a business.
- (b) Only persons residing in the residence shall be involved in the business; no outside employees shall be permitted.
- (c) No more than one room of the residence shall be used for business purposes. Required garages shall not be used for the business in any manner, including storage of materials, and no portion of the business shall be conducted out of doors.
- (d) The business shall generate no more than 10 vehicle trips per day.
- (e) Permitted business equipment shall be limited to that normally associated with a residential use.
- (f) The business shall not produce any noise, heat, vibration, glare, dust, or odor effects other than those ordinarily associated with a residential use.
- (g) No actual retail sales shall be conducted on the premises other than sales by phone, ~~or~~ mail, or internet. (Added by Ord. 93-16, 11/23/93; amended by Ord. 18-01; 1/14/19;)

9.07.040 Alcoholic Beverage Outlets.

The following regulations shall apply to alcoholic beverage outlets established after February 11, 1993. The establishment, operation, and maintenance of any alcoholic beverage outlet shall be subject to the following regulations:

- (a) Establishment. The establishment of an alcoholic beverage outlet includes the opening of such a business, the relocation of such a business to a new location, the conversion of an existing use or premises to an alcoholic beverage outlet use, and/or the expansion or change of the type of alcoholic beverages to be sold at an existing alcoholic beverage outlet (i.e., a change in the type of retail liquor license within a license classification). For purposes of this Section, establishment shall not mean the transfer of an existing license from one operator to another at a location which is occupied by an existing alcoholic beverage outlet, unless there is a proposed change in the type of license.

(b) **Minor** Conditional Use Permit. A **Minor** Conditional Use Permit, ~~subject to approval by the Planning Commission~~, shall be required for the establishment of **an alcohol beverage outlet in the following situations:**

~~(1) Any alcoholic beverage outlet where such use is designated as a conditional use in the underlying zoning district~~

~~(2) Any off-sale Sale of~~ alcoholic beverage **for off-site consumption outlet where such use is designated as a permitted use in the underlying zoning district and** when **a site is** located within:

(A) Five hundred (500) feet of any area zoned or used for any church, park, or educational institution utilized by minors; or

(B) Five hundred (500) feet of any hospital or public beach; or

(C) One hundred (100) feet of any area zoned or used for residential purposes.

~~(3) Any on-sale Sale of~~ alcoholic beverages **for on-site consumption outlet, except a bona fide eating establishment, where such use is designated as a permitted use in the underlying zoning district and** when **a site is** located within:

(A) Five hundred (500) feet of any area zoned or used for any church, park, or educational institution utilized by minors; or

(B) One hundred (100) feet of any area zoned or used for residential purposes.

~~(4) Any establishment conducting concurrent sale of off-sale~~ alcoholic beverages **outlet involving the concurrent sale of and** motor vehicle fuels. **and alcoholic beverage.**

(c) Findings. An application for a **Minor** Conditional Use Permit shall not be approved unless the ~~planning Commission can make the following findings~~ **can be made in addition to the** required ~~for a findings for the approval of a~~ Conditional Use Permit contained in Chapter 9.65 **and additional findings as follows:**

(1) That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this Section will be observed;

(2) That the proposed use will not enlarge or encourage the development of a “skid row” area;

(3) That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any other city program; and,

(4) That all applicable regulations of the zoning district in which the use is permitted will be observed.

(d) General Provisions.

~~(1)~~—Where the alcoholic beverage outlet is proposed on a site which abuts the property line of any property zoned or used for residential purposes, a six (6) foot high solid masonry wall shall be constructed between the parking area of the proposed use and the adjacent residential property. Said wall shall be designed and constructed in compliance with all other applicable provisions of this Code including, but not limited to. Section 9.05.090, Sight Visibility Area and Section 9.05.120, Fences, Walls and Hedges.

~~(2) **Consumption of alcoholic beverages shall be prohibited in the parking lot of the subject business.**~~

(e) ~~**Off-Sale Requirements. Sale of alcoholic beverages for off-site consumption.**~~ The sale of alcoholic beverages for consumption on the premises **including parking lots** shall be prohibited. There shall be appropriate and conspicuous posting of a notice inside the premises indicating that consumption of alcohol, either inside or outside of the building on the premises is prohibited by law. The notice shall be at least one and one-half (1½) square feet in size.

(f) ~~**On-Sale Requirements. Sale of alcoholic beverages for on-site consumption.**~~ The sale of alcoholic beverages for consumption off the premises shall be prohibited, there shall be appropriate and conspicuous posting of a notice inside the premises, indicating that consumption of alcohol outside the building on the premises **including parking lots** is prohibited by law, except as may be permitted in any designated outdoor eating or drinking area, such as an on-site patio. The notice shall be at least one and one-half (1½) square feet in size.

(g) Concurrent Sale Requirements. Any use engaged in the concurrent sale of the motor vehicle fuels and alcoholic beverages shall meet the following requirements:

(1) An establishment engaged in the sale of motor vehicle fuels may offer beer and wine, and not distilled spirits, for sale for off-site consumption.

(2) Beer and wine products shall not be displayed within five (5) feet of the cash register or the front door unless such display occurs within a permanently affixed cooler which existed as of January 1, 1988.

(3) Advertisement of beer and wine products shall not be displayed at motor vehicle fuel islands, on fuel pumps, on the canopy supports or the canopy structure covering said motor vehicle fuels islands.

(4) The sale of beer or wine shall not be made from a drive-through window.

- (5) Display or sale of beer or wine products shall not be made from an ice tub.
- (6) Self-illuminating advertising for beer or wine products shall not be located on buildings or in the windows.
- (7) Employees on duty between the hours of 10:00 p.m. and 2:00 a.m. shall be at least 21 years of age to sell beer or wine.
- (8) A notice shall be posted within three (3) feet of the cash register bearing the following message: "Don't Drink and Drive." The notice shall be at least one and one-half square feet in size.
- (9) Additional requirements on the establishment and operation of facilities engaged in the concurrent sale of motor vehicle fuels and beer and wine which are not inconsistent with this Section, may be imposed by the Planning Commission, or the City Council on appeal, where a Conditional Use Permit is required to establish such a use.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-02, 1/11/94;)

9.07.045 Alcoholic Beverage Manufacturing

The following regulations shall apply to Alcoholic Beverage Manufacturing establishment, operation, and maintenance subject to the following regulations:

14. **Applicability. Shall be for any Alcoholic Beverage Manufacturing use as defined in 9.75.270, including all tasting/tap room facilities within the City of Dana Point.**
15. **Minor Conditional Use Permit. A Minor Conditional Use Permit pursuant to Section 9.65.040 shall be required for the establishment of any Alcoholic Beverage Manufacturing and/or associated tasting/tap room, except for the Industrial/Business (I/B) District where it is permitted subject to all applicable development standards.**
16. **General Provisions. The following shall apply to all Alcoholic Beverage Manufacturing and/or tasting/tap rooms:**
 17. **The Director of Community Development may establish or modify hours of operation for tasting or tap rooms and/or outdoor patios associated with Alcohol Beverage Manufacturing business. Any decision of the Director of Community Development regarding the hours of operation may be appealed to the Planning Commission pursuant to Section 9.61.110.**
 18. **All Alcohol Beverage Manufacturing owners and employees working in a tasting/tap room shall successfully complete the LEAD (License Education on Alcohol and Drugs) program through the Department of**

Alcoholic Beverage Control and/or other responsible beverage service program as approved by the Orange County Sheriff Department. Certification from the LEAD or equivalent program shall be completed prior to commencement of the tasting/tap room business. Proof of certification of LEAD or equivalent program shall be made available to the City of Dana Point upon request.

19. **Outdoor Storage/Grain Silo/Outdoor Equipment shall be screened.**
20. **The real property upon which an Alcohol Beverage Manufacturing use is operated shall be permanently maintained in an orderly fashion by the provision of regular landscape maintenance, removal of trash and debris, and removal of graffiti within 48 hours from the time of occurrence.**
21. **There shall be no admission fee, cover charge, nor minimum purchase required.**
22. **Signs shall be posted inside the business/enclosed outdoor patio stating: "No alcohol allowed past this point."**
23. **The number of persons shall not exceed the maximum occupancy load as determined by the Building Official or their designee.**
24. **There shall be no live entertainment, amplified music, or dancing permitted at any time without issuance of applicable permits as required by the City of Dana Point Zoning Ordinance.**
25. **Food preparation and service shall be allowed.**

(10)The alcohol beverages served shall be limited to the products that are authorized to be sold by the alcoholic beverage manufacturer under its license issued by the California Department of Alcoholic Beverage Control.

9.07.050 Utility Substations.

- (a) Approval of a Site Development Permit pursuant to the provisions of Chapter 9.71, shall be required for all utility substations, including electrical distribution and transmission substations, sewage and potable water system pump stations, and similar facilities.
- (b) Utility substations and similar facilities shall be established only on lots that conform to the minimum lot size requirements of the zoning district in which they are located.
- (c) All buildings, structures, and landscaping shall be visually compatible with surrounding development

(Added by Ord. 93-16, 11/23/93)

9.07.060 Entertainment Establishments Providing Dancing, Music, and Similar Activities.

- (a) Any live entertainment use, as defined in Section 9.75.270, which is located within two hundred (200) feet of any residential structure, shall require a minor Conditional Use Permit. The minor Conditional Use Permit shall be processed pursuant to Chapter 9.65 and shall be subject to consent approval by the Planning Commission.
- (b) Noise levels shall not exceed the standards set forth in the City Noise Ordinance when measured from the nearest property line.
- (c) All live entertainment uses requiring a minor Conditional Use Permit shall be operated in compliance with the following conditions:
 - (1) Sound controls appropriate to the proposed use shall be provided. This may require modifications to the subject structure including, but not limited to, vestibule entries and soundproof windows.
 - (2) Dancing, music, and similar entertainment uses shall not be permitted between the hours of 2:00 a.m. and 10:00 a.m. Greater restrictions on permitted hours of operation may be applied as warranted to maintain compatibility with adjacent uses.
 - (3) The parking lot of the subject use shall be designed and lighted to provide adequate security for patrons of the establishment and vehicles in the lot as determined by the Chief of Police. Supplemental security measures, such as video monitoring or security guards, may be required as conditions of approval.
 - (4) Any other condition which, in the determination of the Planning Commission, is necessary to ensure compatibility with, and enhancement to the subject and surrounding properties, and which is required as a condition of approval.
- (d) Exemptions. Subject to a review by the Director of Community Development, the following uses shall be exempt from the requirement for a minor Conditional Use Permit:
 - (1) Any live entertainment use consisting of three (3) or less performers and/or involving amplification of 150 watts or less; or
 - (2) The use of any stereo system, music recording machine, karaoke machine, or jukebox associated with a live entertainment use; or
 - (3) Any similar live entertainment use with no impact outside the structure where the live entertainment is performed, as determined by the Director of Community Development. This exemption may only be granted when it can be demonstrated to the satisfaction of the Director of Community Development that such uses can be conducted without resulting in an undue impact to the surrounding area.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.07.070 Churches.

- (a) Churches and church facilities shall require the approval of a Conditional Use Permit pursuant to Chapter 9.65.
- (b) All buildings, structures, and landscaping shall be developed in a manner harmonious and compatible with development on surrounding properties.
- (c) Establishment of a church does not automatically permit any school, day nursery, kindergarten, or any congregation of persons for purposes other than religious instruction, worship, or guidance. Any such additional uses shall be subject to the use requirements of the zoning district in which they are located.
- (d) Churches in residential districts may not be established in structures designed to function as dwelling units.
- (e) Establishment of Emergency Shelters for up to a maximum of 10 beds/persons is allowed by right as an accessory use, subject to development and management standards contained in Section 9.19.040(b).**

(Added by Ord. 93-16, 11/23/93,)

9.07.080 Motor Vehicle Sales.

- (a) Motor vehicles sales uses shall require the approval of a Conditional Use Permit pursuant to Chapter 9.65.
- (b) The minimum lot width of any site supporting a motor vehicle sales business shall be one hundred (100) feet
- (c) The minimum lot area shall be ten thousand (10,000) square feet.
- (d) Proper walls or fencing and landscaping shall be required to ensure compatibility with, and enhancement to surrounding land uses.
- (e) A permanent sales building two hundred (200) square feet or larger shall utilized to conduct the business. Portable buildings or mobile homes are not permitted.

(Added by Ord. 93-16, 11/23/93)

9.07.090 Adult Businesses.

No person shall be permitted to establish, operate or maintain an Adult Oriented Businesses as that term is defined in Section 5.32.110 of this Code unless:

(a) The property on which the proposed business is to be located is:

- 1. Located in the City's Community Commercial/Vehicle (CCV), Visitor/Recreation Commercial (V/RC), and Industrial/Business (I/B) zoning districts;**
- 2. Located in excess of three hundred (300) feet away from of any residentially zoned property or any residential use properly approved by the City;**
- 3. Located in excess of three hundred (300) feet away from any lot upon which there is properly located a religious institution, public park or school;***
- 4. Located in excess of three hundred (200) feet away from any lot upon which there is located another adult oriented business; and**

(b) There is obtained and maintained in full force and effect a properly issued Dana Point Adult Oriented Business Permit pursuant to Chapter 5.32 of this Code.

*** All measurements referenced in Section 9.07.090, subsections (a)(1)—(4) inclusive, shall be measured in a straight line without regard to intervening objects or structures from the nearest point on the property line of residential structure, religious institution, public park or school to the closest point of the building or unit within the building proposed to house the adult-oriented business.**

~~Notwithstanding any provision to the contrary in this Code, no adult business shall be established, expanded, or conducted except in conformance with the regulations contained in this Section.~~

~~(a) Operational Criteria. In addition to the base zone requirements governing use pursuant to Chapters 9.11 and 9.17, the following additional requirements shall be satisfied by adult businesses.~~

~~(1) Locational Standards.~~

~~(A) No adult business shall be located within three hundred (300) feet of:~~

- ~~1. Any residential use, whether inside or outside of the Dana Point City limits;~~
- ~~2. Any church, chapel, or similar regular place of worship, whether inside or outside of the Dana Point City limits;~~
- ~~3. Any school or day care establishment, public or private, park or playground, whether inside or outside of the Dana Point City limits;~~

- ~~(B) An adult business may not be operated within two hundred (200) feet of another adult business, whether inside or outside of the Dana Point City limits.~~
- ~~(C) An adult business may not be operated in the same building, structure, or portion thereof, containing another adult business.~~
- ~~(D) For purposes of this Section, all distance shall be measured in a straight line, without regard for intervening structures, from the nearest property line for which the adult business will be located to the nearest property line of a use or district listed above.~~
- ~~(E) For purposes of subsection (B) of this Section, the distance between any two adult businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.~~
- ~~(2) A person may not operate an adult business without a valid permit, issued by the City for the particular type of business.~~
- ~~(3) Said use shall have a separate business entrance adjacent to the required parking area. Additional off-street parking facilities may be required if deemed necessary by the City.~~
- ~~(4) The Planning Commission shall review and approve all signing and architectural graphics.~~
- ~~(5) Maximum occupancy load, fire exits, aisles, and fire equipment shall be regulated, designed, and provided in accordance with the Fire Department and building regulations and standards adopted by the City of Dana Point.~~
- ~~(6) No adult business shall be operated in any manner that permits the observation of any material depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" from any public way or from any location outside the building or area of such establishment. This provision shall apply to any display, decoration, sign, show window, or other opening.~~
- ~~(7) Lighting in Parking Lots. Lighting shall be required which is designed to illuminate all off-street parking areas serving such use for the purpose of increasing the personal safety of store patrons and reducing the incidents of vandalism and theft. Said lighting shall be shown on the required plot plans and shall be reviewed and approved by the Community Development Department.~~
- ~~(8) Amplified Sound. No loudspeakers or sound equipment shall be used by an adult business for the amplification of sound to a level discernible by the public.~~

~~beyond the walls of the building in which such use is conducted or which violates any noise restrictions as may be adopted by the City of Dana Point.~~

~~(9) The building entrance to an adult business shall be clearly and legibly posted by a notice indicating that minors are precluded from entering the premises. Said notice shall be constructed and posted to the satisfaction of the Director of Community Development.~~

~~(10) Picture Arcades.~~

~~(A) No picture arcade shall be maintained or operated unless the complete interior of the picture arcade is visible upon entrance to such picture arcade. No partially or fully enclosed booths or partially or fully concealed booths shall be maintained. Notwithstanding this Section, any picture arcade lawfully in existence prior to the adoption of this subsection shall conform to the provision of this subsection within three (3) months of the effective date of this Section. This subsection shall also be applicable to any picture arcade which is not open for business prior to the date that this Section takes effect~~

~~(B) Minimum Lighting. No person shall operate a picture arcade unless a light level of not less than two (2) footcandles at floor level is maintained in every portion of said establishment to which the public is admitted.~~

~~(C) Wall and Partition Construction. No person shall operate a picture arcade unless any wall or partition which is situated so as to create a room or enclosure in which any image producing device is located is constructed of not less than one hour fire resistive material.~~

~~(D) Minimum Aisle Width. No person shall operate a picture arcade in which the width of the aisles in any room where an image producing device is located is less than forty-two (42) inches.~~

~~(E) Minimum Doorways. No person shall operate a picture arcade unless there are no fewer than two (2) doorways of a width no less than thirty-six (36) inches which provide ingress or egress from any room from which an image producing device is located; provided, however, that one (1) doorway shall be sufficient in the event the Fire Marshal should so determine. The doorway or doorways shall be unlocked during business hours.~~

~~(F) Lighted Exit Signs. No person shall operate a picture arcade unless over every doorway which provides egress from any room in which an image producing device is located, an internally illuminated exit sign with letters of at least five inches (5") in height is maintained.~~

~~(G) Maximum Occupancy Load. No person shall operate a picture arcade in which the number of persons in any room or partitioned portion of a room where an image producing device is located exceeds one (1) person per thirty (30) square feet. The maximum occupancy permitted in any room or partitioned portion of a room in which an image producing device is located shall be conspicuously posted by the operator and shall remain posted at the entrance of said room.~~

~~(H) Maximum Number of Devices. No person shall operate a picture arcade in which the number of image producing devices exceeds the maximum occupancy load permitted in any room or partitioned portion of a room in which an image producing device is located.~~

~~(11) Adult Motels.~~

~~(A) Evidence that a sleeping room is in a hotel, motel, or a similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this Section.~~

~~(B) A person is in violation of the provisions of this Section if, as a person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have an adult business permit, he/she rents or sub-rents a sleeping room to that person and, within ten (10) hours from the time the room is rented, he/she rents or sub-rents the same sleeping room again.~~

~~(C) For purposes of subsection (B) of this Section, the term "rent" or "sub-rent" means the act of permitting a room to be occupied.~~

~~(b) Issuance of Adult Business Permit An applicant for the operation of an adult business must obtain an adult business permit The adult business permit shall be non-transferable and shall be renewed administratively on an annual basis on the anniversary date of the original application, provided that the applicant has complied operational criteria listed in Section 9.07.090(b)(2) through (10). The permit obtained is not transferable and a new permit must be obtained if the business is leased, sold, or otherwise transferred for any reason.~~

~~(1) Applicants for such permits shall file a written, signed, and verified application on a form provided by the Community Development Department. Said application shall include the following information:~~

~~(A) The name and permanent address of the applicant~~

- ~~(B) The name and business address of the applicant. If the applicant is a corporation, the name shall be exactly as set forth in its Articles of Incorporation and the applicant shall show the name and residence address of each of the Officers, Directors, and each stockholder owning no less than twenty-five (25) percent of the stock of the Corporation. If the applicant is a partnership or other legal entity, the application shall show the name and residence address of each of the members, including limited partners;~~
- ~~(C) A detailed description of the manner of providing proposed entertainment, including type of entertainment, and the number of persons engaged in the entertainment;~~
- ~~(D) Hours of operation;~~
- ~~(E) A location, address, and floor plan showing where the specific entertainment uses are proposed to be conducted within the building;~~
- ~~(F) The name or names of the person or persons having the management or supervision of applicant's business and of any entertainment;~~
- ~~(G) A statement of the nature and character of applicant's business if any, to be carried on in conjunction with such entertainment;~~
- ~~(H) A statement that the site of the proposed business is not located:~~
- ~~1. Within three hundred (300) feet of any district, structure, or boundary as defined in Section 9.07.090(b)(1)(A);~~
 - ~~2. Within two hundred (200) feet of another adult business, whether inside or outside of the Dana Point City limits;~~
- ~~(I) A scale map or drawing accurately depicting land uses within a radius of three hundred (300) feet of the exterior boundaries of the property on which the adult business is proposed to be operated; and~~
- ~~(J) For a renewal application, the applicant submit a renewal application on a form provided by the Community Development Department including the information required by subsections (b)(1)(A) through (G) above, and shall indicate any changes since the filing of the initial application.~~
- ~~(2) All applications for a permit or renewal shall be filed with the Police Services Department on forms prescribed by the Police Services Department. Each application determined by resolution of the City Council shall be accompanied by a non-refundable fee for riling or renewal determined by resolution of the City Council, which fees will be used to defray the costs of investigation, inspection, and processing of such applicants.~~

- ~~(3) After an investigation, the Police Chief shall approve the issuance of a permit or renewal unless he finds one or more of the following to be true:~~
- ~~(A) That the building, structure, equipment, and location used by the business for which a permit is required herein does not comply with the Requirements and standards of the health, zoning, fire, and safety laws of the State of California and of the City of Dana Point;~~
 - ~~(B) That the applicant, his or her employee, agent, partner, Director, Officer, stockholder, or Manager has knowingly made any false, misleading, or fraudulent statement of material fact in the application for a permit, or in any report or record required to be filed with the Police Services Department, or other department of the City;~~
 - ~~(C) That the applicant has had any type of adult business permit revoked by any public entity within two (2) years of the date of the application;~~
 - ~~(D) That on the date that the business for which a permit is required herein commences, and thereafter, there will be no responsible person on the premises to act as manager at all times during which the business is open;~~
 - ~~(E) That the applicant has not shown how the on-premises manager will present the business from being used as a place where prostitution, assignation, or any lewd act could occur;~~
 - ~~(F) That an applicant is under eighteen (18) years of age.~~
- ~~(e) Decision of Police Chief. The decision of the Police Chief regarding a permit applicant shall be issued within forty five (45) days of the date of the filing of the application unless he has set the matter for hearing before the City Council. Such hearing must be held and a decision rendered within sixty (60) days from the date of the application, unless the matter is continued at the request of the applicant. No application for a permit shall be denied without giving the applicant an opportunity for a hearing before the City Council.~~
- ~~(d) Inspection. An applicant or permittee shall permit representatives of the Police Services Department, Health Department, Fire Department, Code Enforcement, Planning Department, or other City departments or agencies to inspect the premises of an adult business for the purpose of ensuring compliance with the law, at any time it is occupied or opened for business. A person who operates an adult business or his agent or employee is in violation of the provisions of this Section if he/she refuses to permit such lawful inspection of the premises at any time it is occupied or opened for business.~~
- ~~(e) Suspension or Revocation of Permit After an investigation, notice and hearing, the Police Chief shall suspend or revoke an existing adult business permit as shall be~~

~~found necessary to assure the preservation of the public health and safety, if the evidence presented establishes that one or more of the following conditions exist:~~

- ~~(1) The building, structure, equipment and location used by the business fails to comply with the requirements or fails to meet the standards of the health, zoning, fire, and safety laws of the State of California, or of the Ordinances of the City of Dana Point.~~
 - ~~(2) The permittee, his or her employee, agent, partner, Director, Officer, stockholder, or Manager has knowingly made any false, misleading, or fraudulent statement of material facts in the application for a permit, or in any report or record required to be filed with the Police Services Department or other department of the City;~~
 - ~~(3) The permittee has had any type of adult business permit revoked by any public entity within two (2) years of the date the permit was issued;~~
 - ~~(4) There was not a responsible person on the premises to act as a Manager at all times which the business was opened;~~
 - ~~(5) That the permittee, Manager, or any agent or employee of the permittee or Manager has been convicted in a court of competent jurisdiction in conjunction with or as a result of the operation of the subject adult business and after the date of issuance of the Conditional Use Permit for said business;~~
 - ~~(6) A picture arcade has been used as a place where sexual intercourse, sodomy, oral copulation, masturbation, prostitution, assignation, or other lewd acts occur or have occurred;~~
 - ~~(7) The permittee, his or her employee, agent, partner, Director, Officer, stockholder, or Manager, has violated any provision of this Section; or~~
 - ~~(8) The Conditional Use Permit for the use has been suspended or revoked.~~
- ~~(f) Transfer of Permit. A permittee shall not transfer an Adult Business Permit to another, nor shall a permittee operate an adult business under the authority of a permit at any place other than the address designated in the application.~~
- ~~(g) Regulations Non-Exclusive. The regulations set forth in this Chapter are not intended to be exclusive and compliance therewith shall not excuse noncompliance with any other regulations pertaining to the operation of adult businesses as adopted by the City Council of the City of Dana Point.~~
- ~~(h) Violations/Penalties. Any firm, corporation, or person, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof~~

~~shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment Any violation of the provisions of this Chapter which is committed and continues from day to day, constitutes a separate offense for each and every date during which such violation is committed or continued.~~

- ~~(i) Public Nuisance. In addition to the penalties set forth in Subsection (1) above, any adult business which is operating in violation of this Section or any provision thereof shall constitute a public nuisance and, as such, may be abated or enjoined from further operation.~~
- ~~(j) Conflicting Ordinances Repealed. All Ordinances or parts of Ordinances, or regulations in conflict with the provisions of this Code are hereby repealed.~~
- ~~(k) All adult businesses which were lawfully in existence as of the effective date of the Ordinance codified in this Title and which were rendered nonconforming by the application thereto of the provisions of this Section, shall be subject to abatement in the times and manner set forth in Chapter 9.63.~~

(Added by Ord. 93-16, 11/23/93)

9.07.100 Fortune-Telling.

- (a) Conditional Use Permit Required. Fortune telling uses shall require the approval of a Conditional Use Permit pursuant to Chapter 9.65. A Conditional Use Permit application for a fortune-telling use shall include the following information:
 - (1) The name, home and business address, and business telephone number of the applicant
 - (2) A record of all convictions for violations of this division, or other similar laws regulating fortune-telling, within five (5) years preceding the date of the application.
 - (3) The fingerprints of the applicant on a form provided by the Police Services Department.
 - (4) Two (2) copies of a photograph of the operator, one (1) inch by one (1) inch in size, taken within six (6) months of the date of application.
 - (5) The address, city and state, and the approximate dates where and when the applicant practiced a similar business either alone or in conjunction with others, for the three (3) years preceding the date of the application.
 - (6) All names used by the applicant during the previous five (5) years in conjunction with a fortune-telling business or practice.

- (7) A non-refundable application fee, to cover the cost of processing the application, in an amount set by Resolution of the City Council.
- (b) Investigation. Within three (3) working days of its filing, the application shall be referred to the Police Services Department for investigation and report. The investigation shall be conducted to verify the facts contained in the application and any supporting data. The investigation shall be completed and a report made in writing to the City Manager within fourteen (14) days after the application is referred to the Police Services Department unless the applicant requests or consents to an extension of the time period.
- (c) Hearing and Decision. The City Manager shall consider the application and the Police Services Department report at a hearing held not less than seven (7) nor more than fourteen (14) days following receipt of the Police Services Department report described in Section 9.07.110(b). Notice of the time and place of the hearing and a copy of the Police Services Department report shall be given to the applicant personally or by certified mail at least five (5) days prior to the hearing. Any interested party shall be heard at the hearing. The City shall have the burden of proof should the City wish to deny the permit. The decision of the City Manager to approve or deny the permit shall be in writing, and if adverse to the applicant shall contain findings of fact and a determination of the issues presented. Unless the applicant agrees in writing to an extension of time, the City Manager shall make his or her decision approving or denying the permit within forty-eight (48) hours after completion of the hearing on the application for a permit and shall immediately notify the applicant of his or her action by personal service or certified mail.
- (d) Approval of Permit. The City Manager shall approve the permit unless he or she makes any of the following findings:
 - (1) That any of the information contained in the application and supporting data is false;
 - (2) That the applicant, within one (1) year from the date of the application, has been convicted of any violation of this division;
 - (3) That the applicant has not paid an applicable business or registration fee; or
 - (4) That the applicant has not agreed to abide by and comply with all conditions of the permit and applicable laws.
- (e) Term of Permit. The term of the permit shall be one (1) year. A renewal application shall be filed between ninety (90) and thirty (30) days prior to the expiration of the permit and shall be processed in the same manner as a new application.
- (f) Posting of Fees.
 - (1) Each person required to obtain a permit pursuant to Section 9.07.100(a) shall post on his or her business premises as a sign containing the following information:

- (A) The true name of the fortune-telling practitioner,
 - (B) Each service provided by the fortune-telling practitioner;
 - (C) The fees charged for each service provided by the fortune-telling practitioner;
 - (D) The statement, “By law, this business is prohibited from charging or soliciting any fee, payment or remuneration beyond these established rates.”
- (2) The sign required by this section shall be prominently posted in the interior of the business premises at a point near the entry and shall be conspicuously visible to every person seeking the services of the fortune-teller. The sign lettering shall be of uniform size with each letter at least one-half (1/2) inch in height.
- (3) If the fortune-telling service is provided at a location other than the fortune-teller’s permanent place of business, the fortune-teller shall provide the information required by this section on eight and one-half (8½) by eleven (11) inch paper in legible print or type. The paper shall also include the name and permanent address of the person(s) providing the fortune-telling services. A true, correct and complete copy of such paper shall be given to each client prior to providing any fortune-telling services.
- (4) No person shall charge any fee, payment, remuneration, or item of value for fortunetelling services in excess of the fees set forth on the sign or paper required by this Section.
- (g) Receipts. Prior to the acceptance of any money or item of value from a client, other than the acceptance of a gratuitous tip given voluntarily by the client, the fortune-teller shall issue a written receipt to the client, clearly showing:
- (1) The date;
 - (2) The name of the client;
 - (3) The amount of money received or specific description of item of value received; and
 - (4) The purpose for which the money or item of value was received.
- (h) Client’s Record of Consultation. No person engaging in fortune-telling services shall prohibit a client from making an audio recording or taking written notes of the information conveyed by the fortune-teller.
- (i) Revocation of Permit The City Manager shall, at all times, have the power to revoke any permit granted hereunder should the City Manager determine:
- (1) That the permittee has violated any provision of this division; or

- (2) That any information contained in the permit application is false; or
- (3) That the issuance of the permit was based upon fraud, mistake or any misleading or untrue statements.

Should the City Manager have reason to believe that grounds for revocation exist, the City Manager shall notify the permittee, by registered mail, return receipt requested, addressed to the permittee at the address provided in the application and stated on the permit. Said notice shall set forth the date, time and location of a hearing to be held on the matter. Said hearing shall be held within twenty (20) days after said notice is mailed.

The City Manager shall conduct a revocation hearing, at the time and place specified, to determine whether the permit shall be revoked. All interested persons shall be heard at the hearing. The burden of proof for revocation shall be on the City.

Unless the permittee agrees in writing to an extension of time, the City Manager shall make his or her decision regarding the revocation within forty-eight (48) hours after completion of the hearing, and shall cause written notice of said decision to be sent to the permittee by registered mail, return receipt requested within twenty-four hours after said decision is made. If the permit is revoked, the notice shall contain findings supporting the decision. An appeal of the City Manager's decision may be taken pursuant to Section 9.61.110.

- (j) Exception—Entertainment The provisions of this division shall not apply to any person engaged solely in the business of entertaining the public by demonstrations of fortune-telling at public places and in the presence of and within the hearing of all other persons in attendance, and at which no questions are answered as part of such entertainment except in a manner to permit all persons present at such public place to hear such answers.
- (k) Exception—Religious Practice. The provisions of this division shall not be construed to include, prohibit or interfere with the exercise of any religious or spiritual function of any priest, minister, rector, or an accredited representative of any bona fide church or religion where such priest, minister, rector, or accredited representative holds a certificate of credit, commission or ordination under the laws of any state or territory or the United States of America or any voluntary religious association, and who fully conforms to the rites and practices prescribed by the supreme conference, assembly, convention, convocation, association synod of the system or faith with which they are affiliated, provided, however, that any church or religions organization which is organized for the primary purpose of conferring certificates of commission, credit or ordination for a price and not primarily for the purpose of teaching and practicing a religious doctrine or belief, is not deemed to be a bona fide church or religious organization.

- (1) Penalties. Any person violating or failing to comply with any provision of this Section shall be guilty of an infraction, and subject to punishment as set forth in the Municipal Code.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.07.110 Recycling Facilities.

- (a) No person shall establish or operate a recycling facility within the City of Dana Point without first obtaining the approval or permit required by this Section. Recycling facilities permitted by this Section shall comply with all applicable criteria and standards as follows and any additional conditions which may be established by the Planning Commission:
 - (1) Reverse Vending Machines. Reverse vending machines occupying up to fifty (50) square feet of floor area within or directly adjacent to a commercial structure may be approved by the Director of Community Development when the machines:
 - (A) Are established in conjunction with a primary use which is in compliance with the Zoning, Building, Fire and Health Codes of the City and County;
 - (B) Are located within thirty (30) feet of the entrance to the primary use, and do not obstruct pedestrian or vehicular circulation;
 - (C) Do not occupy parking spaces required by the primary use;
 - (D) Do not require additional parking spaces;
 - (E) Are not more than eight (8) feet in height;
 - (F) Are constructed and maintained with durable waterproof and rustproof material;
 - (G) Are clearly marked with operating instructions and the telephone number of a responsible person to call if the machine is out of order;
 - (H) Are maintained in a clean, attractive, and litter free condition on a daily basis;
 - (I) Are illuminated to ensure comfortable and safe operation;
 - (J) Are usable at least as long as the operating hours of the primary use.
 - (2) Small Collection Recycling Facilities and Mobile Recycling Units. Small collection facilities and mobile recycling units occupying less than five hundred (500) square feet of floor area may be approved by the Planning Commission pursuant to a Conditional Use Permit when the facilities or units:

- (A) Are established in conjunction with a primary use which is in compliance with the zoning, building, fire and health codes of the City and County;
 - (B) Occupy no more than three (3) of the parking spaces required for the primary use, not including spaces required for the periodic removal of containers or materials;
 - (C) Do not obstruct pedestrian or vehicular circulation;
 - (D) Accept only glass, metals, plastic containers, and paper. Other reusable materials may be permitted if reviewed and deemed appropriate by the Planning Commission;
 - (E) Use no power driven equipment other than that required to operate reverse vending machines;
 - (F) Are constructed and maintained with durable waterproof and rustproof material;
 - (G) Are secure .when the site is not attended;
 - (H) Are of sufficient capacity to accommodate materials collected and the proposed collection schedule;
 - (I) Are maintained in a clean, attractive, and litter free condition on a daily basis;
 - (J) Are clearly marked with operating instructions and a telephone number of a responsible person to call if the facility is out of order;
 - (K) Require no additional parking spaces;
 - (L) Are attended during their hours of operation, which should be as least as long as those of the primary use(s) to which they are appurtenant, and are operated in a manner so as not to disrupt the activities of the primary use(s) or nearby residential properties.
 - (M) Such facilities shall only provide recycling services for resident household recyclers. Such facilities shall not provide recycling services and shall not accept deposits from merchant or vendor recycling services.
- (3) Large Collection Recycling Facilities. Large collection recycling facilities covering more than five hundred (500) square feet of floor area or established independent of an existing commercial use may only be permitted by approval of a Conditional Use Permit, pursuant to Chapter 9.65, when the facilities:
- (A) Maintain a three hundred (300) foot distance from property zoned for residential use;

- (B) Are maintained in a clean, attractive, and litter-free condition on a daily basis;
- (C) Provide covers, secure containers for the exterior storage or material;
- (D) Provide one parking space for each five hundred (500) square feet of floor area, plus one space for each employee and one space for each commercial vehicle operated by the facility;
- (E) Are attended during their hours of operation, which shall be limited to the hours of 8:00 a.m. to 5:00 p.m. daily, and are operated in a manner so as not to disrupt the activities of the primary use(s) to which they are appurtenant or nearby residential properties;
- (F) Operate using only such power-driven processing equipment as may be approved by the Planning Commission.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.07.120 Outdoor Display, Sales or Storage.

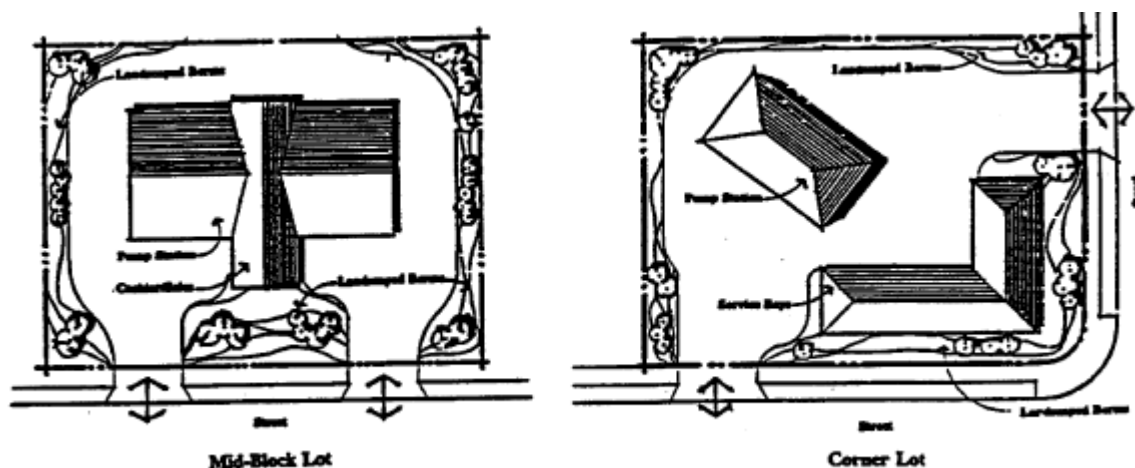
The following restrictions shall apply to the outdoor display, sales, or storage of goods and materials in non-residential districts:

- (a) Only goods and materials associated with on-site uses may be stored, sold, or displayed.
- (b) No outdoor display, sales, or storage shall exceed six (6) feet in height except as approved by a Site Development Permit or Temporary Site Development Permit as outlined in Chapters 9.71 and 9.39, respectively.
- (c) Outdoor display, sales, and storage of garden equipment and supplies, and building materials may only be permitted as an accessory use within the side or rear yards of properties zoned for such uses.
- (d) No outdoor display, sales, or storage shall occupy any part of a required parking area or encroach upon the public right-of-way.
- (e) Outdoor display, sales, or storage shall not violate sight visibility area standards of Section 9.05.090 of this Code.
- (f) Outdoor Red Box, Amazon facility, Donation Bins, or similar facilities shall be allowed with the approval of a Minor Conditional Use Permit as outlined in Chapter 9.65 of this code.**

(Added by Ord. 93-16, 11/23/93;)

9.07.130 Service Stations.

- (a) Public Services. All service stations shall provide the following facilities and services to the public free of charge:
- (1) Restrooms maintained in a clean and sanitary condition.
 - (2) Water and air shall be made available 24 hours per day in a convenient, conspicuous and well-lit location. All air hoses shall be equipped with operating and accurately calibrated gauges.
- (b) Facility Design. The site design of any new service station shall be in substantial conformance with the design concepts illustrated below. This requirement shall also apply to the remodeling of any existing service station where more than fifty (50) percent of the floor area of the existing structure is demolished or remodeled.



(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96)

9.07.140 Solid Waste Disposal Facilities.

A solid waste disposal facility may only be permitted by approval of a Conditional Use Permit pursuant to Chapter 9.65. The Conditional Use Permit shall establish appropriate conditions of approval to address the following development standards and operational controls:

- (a) Visual Screening. The facility shall be provided with visual screening, appropriate to the size, location, and orientation of the site, to prevent public view of facility operations.
- (b) Noise. The facility shall not include any operations or machinery that would violate the City Noise Ordinance.

- (c) Odor Control. The facility shall employ whatever means necessary to eliminate and contain odors on site.
- (d) Buffer Areas. Buffer areas to provide sufficient separation between the facility and adjacent uses. The buffer area shall include solid walls or fencing and landscaping.
- (e) Hours of Operation. The hours of operation of the facility shall be limited so as not to disturb adjacent uses. In no case may the facility be operated during the hours between 6:00 p.m. and 7:00 a.m.

(Added by Ord. 93-16, 11/23/93)

9.07.150 Trash and Recycling Storage Areas.

- (a) Purpose.
 - (1) The California Solid Waste Reuse and Recycling Access Act (Act) was adopted to meet the urgent need for state and local agencies to address access to solid waste for source reduction, recycling, and composting activities. In accordance with the California Integrated Waste Management Act of 1989 (AB 939), the City of Dana Point must divert fifty (50) percent of all solid waste by January 1,2000, through source reduction, recycling, and composting activities. As such, diverting fifty (50) percent of all solid waste will require the participation of residential, commercial, industrial, and public sectors.
 - (2) The lack of adequate areas for collecting and loading recyclable materials that are compatible with surrounding land uses is a significant impediment to diverting solid waste and constitutes an urgent need for the City to address access to solid waste for source reduction, recycling, and composting activities.

This Section has been developed to meet that need and comply with Public Resources Code Section 42911. This Section will fulfill the requirements of State Law, while being tailored to address issues specific to the City of Dana Point

- (b) Definitions. The following definitions shall apply to the language contained in this Section:
 - (1) “Development project” means any of the following:
 - (A) A project for which a building permit is required for a commercial, office, industrial, institutional, or residential building, where solid waste is collected and loaded. At a minimum, this includes all new development

projects, and any single alternation of an existing development project requiring a building permit

(B) Any new public facility where solid waste is collected and loaded and any improvements for areas of a public facility used for collecting and loading solid waste.

(2) “Recycling Area” or “Area for Recycling” means space allocated for collecting and loading of recyclable materials.

(c) General Requirements.

(1) Any new development project for which an application for a building permit is submitted on or after the effective date of this Section shall include adequate, accessible, and convenient areas for collecting and loading recyclable materials. A plan shall be submitted to the Director of Community Development that shows the location, materials, and size of such facilities. Such plan shall be approved prior to issuance of grading or building permits.

(2) Any improvements for areas of a public facility used for collecting and loading solid waste shall include adequate, accessible, and convenient areas for collecting and loading recyclable materials.

(3) Any existing project for which an application for a building permit is submitted on or after the effective date of this Section for modifications that meet one or both of the conditions below shall include adequate, accessible and convenient areas for collecting and loading recyclable materials according to the size and design standards as defined in subsection (d).

(A) A single alteration which is subsequently performed that adds thirty (30) percent or more to the existing floor area of the development project; or

(B) Multiple alterations which are conducted within a twelve (12) month period which collectively add thirty (30) percent or more to the existing floor area of the development project.

(d) Size and Design Standards. Facilities for recycling shall be designed in accordance with the following standards.

(1) Size Standards. Areas for recycling shall be adequate in capacity, number, and distribution to serve the uses and development where the project occurs. Refer to the City’s Recycling Guidelines for the recommended sizes for recycling facilities.

(2) Design Standards.

- (A) Bin-type trash, recyclable and green waste storage areas shall be screened with an enclosure.
 - (B) The design and construction of recycling areas shall not prevent security of any recyclable materials placed therein.
 - (C) Recycling containers or facilities shall provide protection against weather or other conditions which might render the collected materials unmarketable.
 - (D) Bin-type trash, recycling and green waste storage facilities shall have the ability to be accessed at all times by collection vehicles and personnel. Minimum clearance required by the collection methods and vehicles utilized by the hauler shall be utilized.
 - (E) Bin-type trash, recycling and green waste storage facilities shall have a maximum one (1) square foot sign, clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein. The sign shall be posted adjacent to all points of access to the recycling areas.
 - (F) Developments and transportation corridors adjacent to recycling areas shall be adequately protected from any adverse impacts.
 - (G) The property owner shall be responsible for the upkeep and care of the trash, recyclable and green waste storage areas, gates, and enclosures so that it shall remain in a clean and working condition.
 - (H) Each trash, recycling and green waste container shall be covered. Container lids may act as suitable cover, provided that they remain fully closed.
 - (I) **The design of the trash enclosure shall compliment the architectural style of the primary building onsite, and be appropriately designed to prohibit trash and debris from spilling or littering outside of the enclosure, and include a locking mechanism for safety. All trash enclosures shall be covered and subject to the height and setback requirements pursuant to Section 9.05.280, Accessory Buildings and Structures.**
- (3) Recycling Guidelines. Applicants should refer to the City's Recycling Guidelines for assistance in designing facilities for recycling.
- (e) Location.
- (1) The exterior trash, recycling and green waste storage area may be located on the outside or the exterior of a structure/building, or in a designated interior

area with access such as a garage, or in rear yards and interior side yards. Except as noted in subsection (4), Exceptions to Location Standards below, the exterior storage area shall not be located in any required front yard setback, un-fenced street side yard, required parking, open space or landscaped areas. The trash, recycling and green waste storage containers shall not be visible from any public right-of-way.

- (2) Trash, recycling and green waste areas shall not be located in any area required by the Municipal Code to be constructed and/or maintained as unencumbered, according to fire and other applicable building and/or public safety laws.
- (3) Within multiple residential developments there shall be a trash, recycling and green waste storage area located no greater than two hundred fifty (250) feet from each living unit.
- (4) Exceptions to Location Standards. The primary goal of this Section is to require and/or encourage a well-designed and attractive trash, recycling and green waste collection facility at each property while minimizing undue hardships for the property owner(s). Hardships are recognized based upon the unique features inherent to each existing developed property that may interfere with the goal of siting the recyclable storage area. Trash, recycling and green waste storage areas proposed in areas other than those permitted by subsections (1) through (3) above, may be approved if properly designed. Also, the screening of trash containers, when properly designed, may exceed the height limitations in Section 9.05.120. Property owners may submit an application for approval of a minor Conditional Use Permit in order to vary from locational standards or the height of screening for the trash containers. Applications for such proposals are required to include a letter and site plan explaining the locational hardship, and payment of applicable fees.

The Director of Community Development may approve the minor Conditional Use Permit pursuant to Chapter 9.65. In approving a minor Conditional Use Permit for altering the location standards or screening height for a trash storage area, the Director of Community Development must make the following findings:

- (A) That the nature, condition, and development of adjacent uses, buildings, and structures have been considered, and the proposal will not adversely affect or be materially detrimental to the adjacent uses, buildings, or structures.
- (B) That this request is made on the basis of a hardship condition and not as a matter of convenience.

(C) That trash, recycling and green waste containers shall be aesthetically pleasing and adequately screened so as not to be seen from the public right-of-way.

(f) Amortization Of Non-Conforming Development

(1) Unless an extension is granted by the City in accordance with subsection (f)(2) below, within ninety (90) days for residential land uses and one (1) year for non-residential land uses, following the date of adoption of this Section, whether or not existing developed properties obtain a building or grading permit for improvements as noted in subsection (c), all existing developed properties shall provide for trash, recycling and green waste storage areas in accordance with the requirements of this Section.

(2) Time Extension. Prior to the expiration of the ninety (90) day or one (1) year period, a written request may be made to the Community Development Department for an extension in accordance with the following:

(A) Time Period. The Planning Commission may approve a time extension for a period deemed appropriate, up to one (1) year.

(B) Application and Fee. An application shall be submitted on a form provided by the Director of Community Development and accompanied by a fee set by a Resolution of the City Council. The application shall include a letter from the property owner indicating why the amortization period would create a hardship.

(C) Findings. The Planning Commission shall make the following finding in approving an extension of time for the amortization period:

1. That due to special circumstances, immediate installation will result in hardship for the applicant

(g) Inconsistent Provisions. This Section shall supersede any inconsistent provisions of the Dana Point Municipal Code and any other ordinance or regulation to the extent that such regulation is less restrictive than the provisions hereof. This Section shall not affect the requirements of any ordinance or regulation to the extent that such regulation is more restrictive than the provisions of this Section.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94;)

9.07.160 Single Room Occupancy.

All single room occupancy (SRO) projects shall comply with the following provisions:

(a) General Provisions.

- (1) A Conditional Use Permit shall be required for all SRO projects.
- (2) All units in a SRO project shall be for rent only.
- (3) The rates for the rental of units in a SRO project shall be restricted so that fifty (50) percent of the units in the project are affordable to persons of very low income and thirty (30) percent of the units are affordable to persons of low income, as defined under Affordable Housing. Twenty (20) percent of the units may be unrestricted.
- (4) Affordable units must be rented on a monthly basis. Unrestricted units can be rented on a daily, weekly or monthly basis.
- (5) A transient occupancy tax of five (5) percent shall be charged on all stays of less than thirty-one (31) days and transmitted to the City of Dana Point.

(b) Unit Requirements.

- (1) Unit Size. Units in a SRO project shall comply with the following size requirements:

	<u>Minimum Size</u>	<u>Maximum Size</u>
One-person unit	150 sf	225 sf
Two-person unit	250 sf	350 sf

The average size of all units within a SRO project may not exceed three hundred (300) square feet

- (2) Maximum Occupancy. Units of two hundred twenty-five (225) square feet or less may not be occupied by more than one person. No more than two persons shall occupy any unit which is greater than two hundred fifty (250) square feet
- (3) Furnishings. Each unit within a SRO project shall be furnished with a bed, chair, table, and telephone.
- (4) Facilities. Full or partial kitchens, bathrooms and laundry facilities must be provided in every SRO project. Such facilities may be enclosed within each unit or provided in a common area. Laundry facilities may be deleted if the project is located within one thousand (1,000) feet of an existing laundromat

(c) Project Requirements.

- (1) Number of Units. All proposed SRO projects shall contain at least ten (10) SRO units, not including the required on-site manager's unit.

- (2) **Manager's Unit.** All SRO projects shall include a dwelling unit for an on-site manager. Said unit shall be at least five hundred (500) square feet but shall not exceed eight hundred (800) square feet. Said unit shall be located on the ground floor of the project and shall be adjacent to the lobby of the project.
- (3) **Entryway/Lobby Design.** All SRO projects shall have one controlled entryway into a main lobby area. The lobby area shall include a front desk with facilities for a receptionist to monitor activity in the lobby. The lobby shall include mailboxes located either behind the front desk or in the common area. Other facilities which should be considered for areas adjacent to the lobby are storage facilities, laundry facilities and vending machines. The lobby area shall be monitored by video cameras.
- (4) **Parking.** Each SRO project shall provide three parking stalls plus .5 parking stalls for every one-person unit and .8 parking stalls for every two-person unit. In addition, each SRO project shall provide .4 secure bicycle stalls for each unit excluding the on-site manager's unit.
- (5) **Common Areas.** Each SRO project shall provide a minimum of four hundred (400) square feet of common recreational space. An additional fifty (50) square feet of common recreational space shall be required for each SRO unit over 10. The required space may be provided in multiple areas, however no area less than two hundred (200) square feet may be counted toward this requirement.
- (6) **Building Code Compliance.** All SRO projects shall comply with the most recently adopted City Building, Plumbing, Mechanical, Electrical, Fire and Housing Codes.

(d) **Management Plan.**

- (1) A management plan shall be submitted for review and approval along with the submittal for the Conditional Use Permit. The plan shall address all management and operations policies, security programs, emergency procedures, rental procedures, resident rules, proposed rental rates and maintenance programs. The plan shall also include a provision for an annual report to be submitted to the City detailing the operations of the facility.
- (2) The management plan shall include a provision for an on-site, twenty-four (24) hour manager.
- (3) The management plan shall include a security plan which includes a comprehensive video monitoring system, secured entrances and exits, and

should include other regulations which would serve to promote the safety of the project tenants.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.07.170 Demolition of Structures.

(Pending)

9.07.180 Timeshare Development and Operations Standards.

(Pending)

9.07.190 Keeping of Animals in Residential Districts.

The keeping of animals in residential districts shall be 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.
- (c) 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
 - (5) Commercial breeding and sales of animals.

(Added by Ord. 94-09, 5/24/94; amended by Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96)

9.07.200 Tattoo Parlors.

The operation of any tattooing establishment, as defined in Section 9.75.270, within the City of Dana Point shall be in compliance with the applicable provisions of Chapter 6 of the Dana Point Municipal Code. Tattoo parlors may only be permitted subject to the issuance of a conditional use permit pursuant to Chapter 9.65. (Added by Ord. 94-09,5/24/94; amended by Ord. 96-10,8/13/96; Ord. 96-13, 11/26/96)

9.07.210 Second Dwelling Units

- (a) Purpose and Intent This Section provides standards and procedures for the development of second dwelling units. These standards are established so that second dwelling units may be evaluated under conditions that will assure their

compatibility and enhancement to the site and surrounding land uses, and provide a safe, desirable and affordable living environment.

(b) Development Standards. Where a single family dwelling unit exists on a lot zoned for such purposes, the property owner may apply for a Conditional Use Permit (Chapter 9.65) to establish a second dwelling unit from the same lot. In approving a Conditional Use Permit, the Planning Commission shall ensure the following standards have been met:

- (1) The second unit may be occupied by an individual adult or two senior adults, and may be attached to or detached from the primary single family unit, but may not be sold as a separate dwelling unit;
- (2) The second dwelling unit shall not exceed thirty (30) percent of the living area of the primary residence when attached or one thousand two hundred (1,200) square feet when detached;
- (3) Second dwelling units whether attached or detached shall not encroach into any setback area required for the primary structure;
- (4) An additional parking stall, in accordance with the standards described in Chapter 9.35, shall be provided for the second dwelling unit;
- (5) The second dwelling unit shall be compatible in height, setback and architectural design with the primary structure and the surrounding land uses;
- (6) Second dwelling units must be affordable to persons of low and moderate income, and remain affordable for the life of the project. The life of the project shall be determined as the length to time the second dwelling unit is occupied;
- (7) A Conditional Use Permit for a second dwelling unit and all conditions of approval shall be recorded with the County Recorder; and
- (8) Each second dwelling unit shall have adequate storage and private open space.

(Added by Ord. 94-21, 12/13/94; amended by Ord. 96-10, 8/13/96)

9.07.220 Mobilehomes.

(a) Purpose and Intent. This Section provides standards and procedures for the development and expansion of mobilehome parks and individual mobilehomes on individual lots in areas zoned for single family residential development. The following regulations shall apply to all new mobilehomes and mobilehome developments, and to the modification of existing mobilehomes or mobilehome developments. These regulations are established so that mobilehome development

may be evaluated under conditions that will ensure their compatibility with other surrounding permitted uses, create a safe and desirable living environment for mobilehome residences, and address land use compatibility.

(b) Mobilehome Parks.

(1) Conditional Use Permit Required. The development of a new mobilehome park or the modification or expansion of an existing mobilehome park requires the approval of a Conditional Use Permit and Site Development Permit by the Planning Commission as described in Chapters 9.65 and 9.71.

(2) Development Standards. The general mobilehome park development standards are described in Chapter 9.09. In addition to those general standards, the following design criteria apply to mobilehome parks.

(A) Circulation. Vehicular and pedestrian circulation ways shall be separate. Adequate sight distance and warning information shall be maintained wherever such circulation ways intersect.

(B) Trash and Recycling Storage. Where individual trash and recycling pick-up is not provided, common trash and recycling storage area(s) shall be provided within a totally walled and roofed structure with a roof not exceeding twelve (12) feet in height. The enclosure or enclosures shall be located within two hundred (200) feet of all mobilehomes within the park.

(C) Perimeter Landscaping and Walls. A perimeter wall of six (6) feet in height shall be provided along the perimeter of the mobilehome park. A minimum of five (5) feet of landscaped area shall be provided along each side of the required perimeter wall when such wall is adjacent to an existing or proposed public or private street. A minimum ten (10) foot landscape area shall be provided between the perimeter wall and mobilehomes where the perimeter wall is not adjacent to an existing or proposed public or private street.

(c) Individual Manufactured Homes on Individual Lots. In compliance with California Government Code Sections 65852.3, et seq., individual manufactured home installation in individual lots zoned for single family residential development shall comply with the following standards in addition to those of the base zoning district. For purposes of this Section, “manufactured home” shall mean mobilehome or modular home.

(1) Each manufactured home installation shall at a minimum, comply with the site development standards for the applicable RSF-2, -3, -4, -7, - 8, -12, -14, or -22 zoning districts and for the RD-14 and RMF-7, -14, -22, -30 zoning districts. Manufactured homes shall also adhere to the development standards

that are applicable to a conventional single-family dwelling. These are the only zoning districts in which individual manufactured homes may be placed on individual lots.

- (2) Each manufactured home shall be placed on a foundation system consisting of a solid concrete or masonry wall under the outside perimeter of the manufactured home; or piers or other open construction meeting the requirements of the currently effective City Building Code, combined with skirting placed around the outside of the manufactured home in such a manner that the exterior siding appears to start at ground level.
- (3) The exterior siding of the manufactured home shall be similar in appearance to siding material customarily used in conventionally-built single family dwellings. Matte-finish wood, vinyl or aluminum siding which are typically used in the construction of single family dwellings are permitted siding materials. High-gloss finishes and peeling, dented or damaged siding materials are not permitted.
- (4) Roof pitch shall be similar to roofs of the same type and material on single family dwellings in the neighborhood. Flat roofs are only permitted if they are the predominant roof pitch in the neighborhood. Otherwise, a minimum roof pitch of 3:12 is required.
- (5) Roofing material shall be consistent in color and texture with the roofs of existing single family dwellings in the neighborhood. Roofs made of corrugated metal, or rolled aluminum or fiberglass materials are not permitted.
- (6) Roofs shall have an eave overhang of at least sixteen (16) inches, measured perpendicularly from the vertical side of the manufactured home.
- (7) The exterior siding, roof materials and roof pitch of the garage shall be the same as the manufactured home siding, roof materials and roof pitch, and consistent with the siding, roof materials and roof pitch of existing single family dwellings in the neighborhood.
- (8) Manufactured homes which are more than ten (10) years old are not permitted on single family residential lots. Proof of the date of manufacture of the manufactured home shall be required at the time of building plan check submittal.
- (9) Manufactured homes are not permitted on single family residential lots which are located within the immediate vicinity of any place, building, structure or other object having special character or special historical interest or value which is listed on the National Register of Historic places, pursuant to California Government Code Section 37361.

- (10) The permanent placement of a manufactured home on a single family lot shall comply with all required procedures from the California Health and Safety Code Section 18551.

(Added by Ord. 94-21, 12/13/94; amended by Ord. 96-10, 8/13/96; Ord. 00-07, 10/24/00)

9.07.230 Massage Establishments.

The establishment and operation of any massage-establishment, as defined in Section 9.75.270, within the City of Dana Point shall be in compliance with the applicable provisions of Chapter 5.20 of the Dana Point Municipal Code. (Added by Ord. 96-10, 8/13/96)

9.07.240 Drive Through Uses.

(a) Purpose and Intent. This section provides standards and procedures for the development of non-restaurant drive through uses. These standards are established so that proposed drive through uses may be designed in such a manner to assure their compatibility and enhancement to the site and surrounding land uses, and to provide a safe and desirable living environment.

(b) Use Restrictions.

- (1) Drive through uses shall only be permitted to sites that are developed entirely with commercial uses.
- (2) Kiosks shall be prohibited.

(c) Development Standards.

- (1) All forms of speaker amplification shall be prohibited.
- (2) The hours of operation shall be limited from 7 a.m. to 10 p.m.
- (3) On site parking.
 - (A) Drive Through uses shall comply with the parking standards of Section 9.35.080(e) for “General Retail”.
 - (B) The total amount of required off-street parking may be reduced if justified by a parking demand study and an alternative parking design is submitted for review and approval by the Planning Commission to accommodate the total required off-street parking assuming the entire building contains retail uses.
- (4) The drive through use shall be designed to minimize conflicts with on-site circulation and to preclude impacts to the public roadways. The on-site

circulation shall be reviewed and approved by the Traffic Engineering Department

- (5) The drive through aisles shall be properly screened with landscaping to help minimize the potential visual impact.

(Added by Ord. 99-07, 8/10/99)

9.07.250 Historic Resources.

(a) Purpose and Intent.

(1) To provide a voluntary program that aides property owners that wish to preserve historic properties within the community by providing fiscal benefits or zoning and code incentives to preserve their properties.

(b) Definitions. The following definitions shall apply to the language contained in this Section:

(1) "Alteration" means any change or modification, through public or private action, to the character-defining or significant exterior physical features of properties affected by this chapter. Such changes may be changes to or modification of structure, architectural details, or visual characteristics, grading, surface paving, the addition of new structures, and the placement or removal of any significant objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings, and landscape accessories affecting the significant visual and/or historical qualities of the property.

(2) "Demolition" means any act or process that destroys in part or in whole and individual historic resource or an historic resource or other structure within an historic district.

(3) "Designated Historic Resource" means a parcel or part thereof on which an historic resource is or has been situated, and any abutting parcel or part thereof constituting part of the premises on which the historic resource is situated, and which has been designated an historic resource in the Dana Point Historical Resource Register.

(4) "Historic Resource" means improvements, buildings, structures, signs, or other objects of scientific, aesthetic, educational, cultural, architectural, or historical significance to the owner citizens of the City and the State of California, the Southern California region, or the nation which may be eligible for local designation for historic preservation by the City pursuant to the provisions of this Section. A historical resource is either included in the Inventory or may be added in accordance with Section 9.07.250(f)(2).

(5) "Improvement" means any building, structure, place, fence, gate, landscaping, tree, wall, parking facility, work of art, or other object constituting a physical feature of real property, or any part of such feature.

(6) “Inventory” refers to the 1997 City of Dana Point Historic Resources Inventory which identifies resources in the City which may be considered historical. Owners of property which were included in the Inventory are eligible to apply to be included on the City’s Historic Resources Register.

(7) “Ordinary Maintenance and Repair” means any work, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration of or damage to a structure or any part thereof and to restore the same to its condition prior to the occurrence of such deterioration or damage.

(8) “Preservation” means the identification, study, protection, restoration, or acquisition of historic resources.

(9) “Register” refers to the City of Dana Point Historic Resource Register. Inclusion on the Register results from submittal of an application to the Community Development Department by the property owner, with exception of the two structures in the City which are eligible for listing on the National Register of Historic Places.

(10) “Secretary of the Interior Standards for Rehabilitation” means the guidelines prepared by the National Park Service for Rehabilitating Historic Buildings and the Standards for Historic Preservation Projects prepared by the National Park Service with Guidelines for Applying the Standards.

(11) “Significant Feature” means the natural or man-made elements embodying style or type of historic resource, design, or general arrangement and components of an improvement, including but not limited to, the kind, color, and texture of the building materials, and the type and style of all windows, doors, lights, signs, and other fixtures appurtenant to such improvement.

(c) City of Dana Point Historic Architectural Resources Inventory.

(1) The 1997 City of Dana Point Historic Architectural Resources Inventory (Inventory) identifies resources in the City which may be considered historical. The Inventory was developed based on the National Register of Historic Places Guidelines for determining historical resources. Meeting criteria “j” and at least two of other criteria were utilized to determine the significance of a property. However, in most instances, at least four criteria applied. The criteria utilized in developing the Inventory is detailed below:

(A) Buildings, structures, or places that are important key focal or pivotal points in the visual quality or character of an area, neighborhood, or survey district.

(B) Structures that help retain the characteristics of the town that was 50 years ago.

(C) Structures that contribute to the unique urban quality of a downtown.

(D) Structures contributing to the architectural continuity of the street.

(E) Structures that are identified with a person or person who significantly contributed to the culture and/or development of the city, state, or nation.

(F) Structures that represent an architectural type or period and/or represent the design work of known architects, draftsmen, or builders whose efforts have significantly influenced the heritage of the city, state, or nation.

(G) Structures that illustrate the development of California locally and regionally.

(H) Buildings retaining the original integrity of and/or illustrating a given period.

(I) Structures unique in design or detail, such as, but not limited to, materials, windows, landscaping, plaster finishes, and architectural innovation.

(J) Structures that are at least 50 years old or properties that have achieved significance within the past 50 years if they are of exceptional importance.

(2) The Inventory identified two (2) structures which may be eligible for listing on the National Register of Historic Places. As such, this section shall provide additional protection to these structures. The two structures are the Dolph Mansion located at 34000 Capistrano by the Sea and a single-family Palisades home located at 35101 Camino Capistrano.

(3) The Inventory also identified sixty-one (61) properties which have potential to be considered historically significant and included on the City of Dana Point Historic Resources Register (Register).

(4) Resources are not subject to any provisions of this Section as result of being included in the Inventory. The intent of the Inventory is only to identify resources which are eligible for inclusion in the City's Register. Resources are included in the Register only upon request of the property owner, with exception of the two structures which may be eligible to be listed on the National Register of Historic Places.

(5) Properties identified in the Inventory shall not be prejudiced in any form as result of being included in the Inventory.

(d) Dana Point Historic Resources Register.

(1) A structure or resource becomes locally designated and included in the Dana Point Historic Resources Register only as result of the property owner submitting a Historical Preservation Application to the Community

Development Department and approved by the Historic Preservation Commission. Procedures for applying for designation are defined in Section 9.07.250(f).

(2) The two structures eligible for listing in the National Register of Historic Places shall be designated by the City as historically significant and, as such, included in the local Register.

(3) Requests to delete a designated historic resource from the Register shall be submitted in writing to the Community Development Director who shall remove the property from the Register. The Community Development Director shall report the removal of resources from the Register to the Commission, when deemed necessary by the Director. See Section 9.07.250(g) for additional details related to removing structures from the Register.

(4) Requests to delete the two structures eligible for listing in the National Register of Historical Places for the purpose shall be subject review of the Historic Preservation Commission.

(5) The Community Development Director shall periodically propose and process for deletion from the Dana Point Register those designated historic resources which have been lawfully removed, demolished or disturbed to such an extent that, in the Community Development Director's opinion, they no longer qualify for placement on the Register.

(6) The Register shall be maintained by the Community Development Director or his/her designee.

(7) Owners which place their historical resource in the Register are eligible for incentives detailed in Section 9.07.250(i).

(e) Historic Preservation Commission.

(1) There is hereby established that the members of the City of Dana Point Planning Commission shall act as the Historic Preservation Commission, hereinafter referred to as the "Commission".

(2) A quorum of the Commission shall be defined as three voting members.

(3) Powers and Duties. The Commission shall have the following powers and duties:

(A) Adopt procedural rules for the conduct of its business in accordance with the provisions of this chapter.

(B) Recommend in accordance with the criteria set forth in section (e) the designation of historic resources including historic districts, landmark sites, and landmarks within the City including all information required for each designation.

(C) Maintain a local register of historic resources consistent with the National Register of Historic Places criteria including historic districts,

landmark sites, and landmarks within the City including all information required for each designation.

(D) Adopt prescriptive standards to be used by the Commission in reviewing applications for permits to construct, change, alter, modify, remodel, remove, or significantly affect any historic resource.

(E) Make recommendations to the City Council on the use of various federal, state, local, or private funding sources and mechanisms, such as the Mills Act and State Historic Building Code, available to promote historic resource preservation in the City.

(F) Approve or disapprove, in whole or in part, or approve with conditions, applications for permits pursuant to Section 9.07.250(h).

(G) Review all applications for permits, environmental assessments, environmental impact reports, environmental impact statements, and other similar documents, as set forth in this Section, pertaining to designated and potential historic resources. The Community Development Department shall forward such documents to the Commission for review as appropriate.

(H) Review and comment on actions and environmental documentation associated with City-sponsored actions, programs, capital improvements, or activities as they relate to designated and potential historic resources.

(I) Cooperate with local, county, state, and federal governments in the pursuit of the objectives of historic resource preservation.

(J) Provide opportunity for direct public participation in historic resource preservation responsibilities. Commission meetings shall be open to the public with published agenda and minutes in accordance with the California Open Meeting Act. The published agenda shall be mailed in advance of meetings to individuals and citizen organizations interested in the Commission's activities.

(K) Confer recognition upon the owners of landmarks or property or structures within historic districts by means of certificates, plaques, or markers, and from time to time issue commendations to owners of historic resources who have rehabilitated their property in an exemplary manner.

(L) Undertake any other action or activity necessary or appropriate to the implementation of its powers or duties to fulfill the objectives of historic resource preservation.

(f) Historic Resource Designation Procedures.

(1) Property owners of resources identified in the 1997 City of Dana Point Historic Architectural Resources Inventory may request placement on the City of Dana Point Historic Resources Register in the following manner:

(A) Owner(s) of resources included in the City's Inventory may request inclusion in the Register by submitting a Historical Resource Application to the Community Development Department.

(B) Owner(s) of structures which were identified in the Inventory as being potentially eligible for the National Register of Historic Places are, upon adoption of this ordinance, considered locally significant and are included in the City's Register. National designation may also be requested for these structures.

(C) Historic Resource Applications shall be made to the Community Development Director or his/her designee, who shall within 30 days of receipt of a completed application, prepare and make recommendations on the contents of the contract for consideration by the Historic Preservation Commission. No fees are required to process the application.

(D) The Commission shall determine at a regular public meeting based on the documentation provided as to whether the nomination application is appropriate for and shall by motion approve the application in whole or in part, or shall by motion disapprove it in its entirety.

(E) The Director, Planning Commission or City Council may also initiate such proceedings on their own motion for resources on public property.

(2) Property owners not identified in the Inventory, upon demonstrating achievement of criteria "j" and two other criteria listed in Section 9.07.250(c)(1), may submit a Historical Resource Application requesting inclusion in the Register.

(g) Deletion From Dana Point Historic Resources Register.

(1) The procedure for deletion of a designated historic resource from the Dana Point Register shall be as follows:

(A) The owner(s) of a designated historic resource may request deletion of the listed resource from the Dana Point Register.

(B) Requests to delete a designated historic resource from the Register shall be submitted in writing to the Community Development Director who shall remove the property from the Register. The Community Development Director shall report the removal of resources from the Register to the Commission, as deemed necessary by the Director.

(C) Requests to delete the two structures which are eligible for National designation shall be subject to review by the Historic Preservation Commission. If deletion is requested for the purpose of demolishing the structure, a conditional use permit shall be required. Procedures for

applying for a conditional use permit are detailed in Section 9.65 of the City's Zoning Code.

(D) The Community Development Director shall periodically propose and process for deletion from the Dana Point Register those designated historic resources which have been lawfully removed, demolished or disturbed to such an extent that, in the Community Development Director's opinion, they no longer qualify for placement on the Register.

(E) Requests to delete a designated historic resource that has benefited from any of the incentives identified in Section 9.07.250(i) shall be forwarded to the Commission for review and action, and may be subject to penalties deemed appropriate by the Commission based on the significance of the resource at the time of the proposed deletion.

(F) The Commission shall not recommend that a resource be removed from the City's list of designated historic resources unless it is discovered that the information relied on by the Commission and the City Council in making the original designation was erroneous or false, or that circumstances wholly beyond the owner's control have rendered the resource ineligible for designation based on the criteria listed in Section 9.07.250(e) and it would be unfeasible to restore the resource.

(h) Exterior Alteration Of Designated Historic Resources.

(1) Review Process. All applications for a building permit for exterior alteration to any designated historic resource shall be reviewed as follows:

(A) Community Development Department staff shall review and approve minor exterior alterations. Minor exterior alterations are those alterations which the Community Development Director or his/her designee determines will not adversely affect the exterior architectural characteristics nor the historical or aesthetic value of the historic structure, its site or surroundings including window replacement, routine maintenance, residential additions less than 250 square feet, and the replacement of minor non-historic architectural features with materials and detailing consistent with existing historical features of the structure.

(B) The Commission shall review and approve applications involving major modifications to any designated historic resource. Major alterations include substantial additions, alterations, and restorations to a designated historic resource.

(2) Application Process. Requests to conduct exterior alterations to a structure included on the Register shall be subject to a Site Development Permit. Minor alterations shall be reviewed by the Community Development Director while major alterations are to be reviewed by the Commission. The process and timeframe for submitting the Site Development Permit are detailed in Chapter 9.61 of the City's Zoning Code.

(3) Standards of Review. In evaluating applications, the review bodies shall consider the architectural style, design, arrangement, texture, materials and color, and any other pertinent factors. The prime concern should be the exterior appearance of the building site. The proposed alterations should not adversely affect the exterior architectural characteristics nor the historical or aesthetic value of the building and its site.

(4) Appeals. Any action by the Director may be appealed to the Commission. Any action by the Commission may be appealed by any interested party to the City Council. Appeal procedures shall follow those detailed in Chapter 9.61 of the City Zoning Code.

(5) Structures on Septic Systems. Applicants proposing alterations who are on a septic system and are located within 100-feet of a main sewer line shall include with their application plans for linking the property to the main sewer line. Properties in excess of 100-feet of the main sewer line are exempt from this provision and may continue operating on a septic system provided that the septic system is safe and operable.

(i) Preservation Incentives.

(1) The Commission is authorized to develop and implement preservation incentive programs that are consistent with this Chapter. Incentives shall be made available for properties listed on the Register that undergo maintenance or alteration consistent with the Secretary of the Interior Standards for Rehabilitation.

(A) State Historic Building Code. The Building Official is authorized to use and shall use the California State Historic Building Code (SHBC) for projects involving designated historic resources. The SHBC provides alternative building regulations for the rehabilitation, preservation, restoration, or relocation of structures designated as historic resources. The SHBC shall be used for any designated historic resource in the City's building permit procedure.

(B) Fee Waivers. Any permit fees for minor or major exterior modifications to historic resources done in accordance with the Secretary of the Interior Standards for Rehabilitation shall be waived provided that the work is consistent with the historic criteria under which the property was designated an historic resources.

(C) Development Standard Flexibility.

1. Parking Standards.

a. Designated residential structures may add additional floor area and bedrooms without providing additional parking provided that such additions do not exceed more than 50 percent of the original square footage of the structure and that at least two covered parking spaces have been provided on-site. This incentive is not available when second units are proposed.

b. Designated historic commercial structures with limited off-street parking may be granted a conditional use permit to allow a reduction in parking requirements to a maximum of 50 percent when supported by documentation that demonstrates that the use will not adversely affect parking availability to surrounding properties.

c. Designated historic commercial structures may add up to 15 percent of the existing floor area, not to exceed 500 square feet, without providing additional parking and without bringing any existing nonconformity into compliance with the current zoning regulations, subject to review and approval by the Commission. The addition must be removed if the historic building is demolished.

d. The Commission may establish a parking in-lieu fee for the adaptive re-use of designated historic commercial structures that have no or limited off-street parking.

2. Setbacks.

a. Additions to designated historic resources shall be allowed to maintain legal non-conforming front, side and rear yard setbacks up to the line of existing encroachment, provided that all setbacks as required by the Uniform Building Code are maintained.

(D) Mills Act Contracts.

1. Mills Act contracts granting property tax relief shall be made available by the City of Dana Point only to owners of properties listed in the Dana Point Historic Resources Register, as well as properties located within the City of Dana Point that are listed in the National Register of Historic Places or the California Register of Historical Places. Properties that have been previously listed on the above-mentioned register(s), but that have been removed from the register(s) and are no longer listed, shall not be eligible for a Mills Act contract with the City.

2. Mills Act contracts shall be made available pursuant to California law. The Community Development Department shall make available appropriate Mills Act application materials. The Mills Act application may be processed with the Historic Resource Application.

3. Mills Act contract applications shall be made to the Community Development Director or his/her designee, who shall within 30 days of receipt of a completed application, prepare and make recommendations on the contents of the contract for consideration by the City Council. A fee of \$40 for the application

will be required, to cover all or portions of the costs of the preparation of the contract or an amount set by City Council Resolution may be charged.

4. The City Council shall, in public hearing, resolve to approve, approve with conditions, or deny the proposed contract. Should the City Council fail to act on the proposed contract within one year of its receipt of the proposal, the proposal shall be deemed denied.

5. A Mills Act contract application that has failed to be approved by the City Council cannot be resubmitted for one year from the date of City Council action, or where the Council fails to take action, within one year from the date that the application is deemed denied pursuant to (4) above.

(E) Preservation Easements. Preservation easements on the facades of buildings designated as an historic resource may be acquired by the City or nonprofit group through purchase, donation, or documentation pursuant to California Civil Code 815.

(F) Official Recognition/Awards. The Commission, on an annual basis, may recognize those projects involving designated historic resources that have demonstrated a high level of commitment to maintaining or restoring the historic integrity of the resource. The Community Development Department may nominate all projects implemented within a calendar year for award consideration by the Commission.

(j) Duty To Keep In Good Repair.

(1) The owner, occupant, or other person in actual charge of a designated historic resource or an improvement, building, or structure shall keep in good repair all of the exterior portions of such improvement, building, or structure, all of the interior portions thereof when subject to control as specified in the designating ordinance or permit, and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature.

(2) Accordance with the Secretary of the Interior Standards for Rehabilitation.

(3) It shall be the duty of the Community Development Director to enforce this Section.

(k) Ordinary Maintenance And Repair.

(1) Nothing in this subsection shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this Section that does not involve a change in design, material, or external appearance thereof, nor does this ordinance prevent the construction, reconstruction, alteration, restoration, demolition, or removal of any such architectural feature when the Community Development

Director certifies to the Commission that such action is required for the public safety due to an unsafe or dangerous condition which cannot be rectified through the use of the California State Historic Building Code and when such architectural feature can be replaced according to the Secretary of the Interior's Standards.

(1) Enforcement And Penalties.

(1) Any person who violates a requirement of this Section or fails to comply with a condition of approval of any certificate or permit issued under this Section shall be guilty of a misdemeanor and subject to provisions of Section 1.01.200 of the Dana Point Municipal Code.

(2) Any person who constructs, alters, removes, or demolishes a designated historic resource in violation of this Section shall be required to restore the building, object, site, or structure to its appearance or setting prior to the violation. Any action to enforce this provision may be brought by the City of Dana Point or any other interested party. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty and other remedy provided by law.

Chapter 9.09

RESIDENTIAL DISTRICTS

Sections:

9.09.010 Intent and Purpose.

- 9.09.020 Permitted Uses, Accessory Uses, Temporary Uses and Conditional Uses.**
- 9.09.030 Development Standards.**
- 9.09.040 Special Development Standards.**

9.09.010 Intent and Purpose.

The residential zoning districts are intended to permit a range of residential densities and dwelling types, in an organization and pattern consistent with the General Plan Land Use Policy Map. All residential zoning districts provide for high quality, attractive, and liveable residential neighborhoods.

- (a) Very Low Density. Very low density residential districts have a maximum density of 3 dwelling units per acre. Districts in this classification include Residential Single Family 2 and 3 (RSF 2 and RSF 3). The RSF 2 and RSF 3 districts provide for very low density, single family residential neighborhoods. These districts include single family detached residential dwellings at a maximum density of 2 and 3 dwellings per net acre of land, respectively.
- (b) Low Density. Low density residential districts have a maximum density of 7 dwelling units per acre. Districts in this classification include Residential Single Family 4 and 7 (RSF 4 and RSF 7) and Residential Multiple Family 7 (RMF 7). The RSF 4 and RSF 7 districts provide for low density, single family residential neighborhoods. These districts include single family detached and attached residential dwellings at a maximum density of 4 and 7 dwellings per net acre of land, respectively. The Residential Multiple Family 7 (RMF 7) district provides for low density, multiple family residential neighborhoods. This district includes multiple family development at a maximum density of 7 dwellings per net acre of land.
- (c) Medium Density. Medium density residential districts have a maximum density of 14 dwelling units per acre. Districts in this classification include Residential Single Family 12 (RSF 12), Residential Beach Road 12 (RBR 12), Residential Duplex 14 (RD 14) and Residential Multiple Family 14 (RMF 14). The RSF 12 and RBR 12 districts provide for medium density single family residential development. These districts include single family detached and attached residential dwellings at a maximum density of 12 dwellings per net acre of land. Residential Duplex 14 (RD 14) district provides for medium density residential development consisting of duplexes at a maximum density of 14 dwellings per net acre of land. Residential Multiple Family 14 (RMF 14) districts provide for medium density multiple family residential neighborhoods. These districts include multiple family residential development at a maximum density of 14 dwellings per net acre of land.
- (d) High Density. High Density Residential Districts have maximum density of 30 dwelling units per acre. Districts in this classification include Residential Beach Road Duplex (RBRD 18), Residential Single Family 22 (RSF 22), Residential Multiple Family 22 and 30 (RMF 22, RMF 30). The Residential Beach Road Duplex 18 (RBRD 18) district provides for moderate density residential development consisting of duplexes at a

maximum density of 18 dwellings per net acre of land. The Residential Multiple Family 22 and 30 (RMF 22 and RMF 30) districts provide for high density, multiple family residential neighborhoods. These districts include multiple family residential development at a maximum density of 22 and 30 dwellings per net acre of land, respectively.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 96-10, 8/13/96)

9.09.020 Permitted Uses, Accessory Uses, Temporary Uses and Conditional Uses.

- (a) Several classes of uses are allowed in Residential Districts. Each of these classes must promote the residential character of the individual districts. These classes of uses are:
- (1) Permitted Use — allowed by right if no discretionary review is required. Certain permitted uses, indicated by P*, are also regulated by provisions contained in Chapter 9.07.
 - (2) Accessory Use — allowed by right if accessory to a dwelling unit or a residential development, **indicated by A*, are also regulated by provisions contained in Chapter 9.07.**
 - (3) Temporary Use — allowed on a temporary basis in accordance with the provisions of Chapter 9.39.
 - (4) Conditional Use — allowed subject to the approval of a Conditional Use Permit in accordance with the provisions of Chapter 9.65. Certain conditional uses, indicated by a C*, are also regulated by provisions contained in Chapter 9.07.
 - (5) Prohibited Use — not allowed in the subject residential district
- (b) The following Table lists the classification of allowable uses in the Residential Districts. Any use not expressly allowed is prohibited.

SECTION 9.09.020(b)
RESIDENTIAL DISTRICTS

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8
Accessory Living Quarters	A	A	A	A	A
Communal Housing	X	X	X	X	X
Dwelling, Multiple Family	X	X	X	X	X
Dwelling, Single Family	P	P	P	P	P
Dwelling, Duplex	X	X	X	X	X
Employees' Quarters	C	C	C	C	C
Game Courts	A	A	A	A	A
Home Occupation	P*	P*	P*	P*	P*
Manufactured Home	P*	P*	P*	P*	P*
Mobilehome Park	C*	C*	C*	C*	C*
Mobilehome Subdivision	C*	C*	C*	C*	C*
Model Home Complex	T*	T*	T*	T*	T*
Open Space	P	P	P	P	P
Park, Public	P	P	P	P	P
Recreational Facilities, Private	A	A	A	A	A
Religious Uses	C*	C*	C*	C*	C*
Second Dwelling Units	C*	C*	C*	C*	C*
Senior Citizen Housing	X	X	X	X	X
Single Room Occupancy	X	X	X	X	X
Temporary Uses	T*	T*	T*	T*	T*
Trails, Riding and Hiking	P	P	P	P	P

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use

A*= Accessory Use subject to special use standards (see Chapter 9.07)

SECTION 9.09.020(b)
RESIDENTIAL DISTRICTS
 (continued)

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8
Adult Day Care Facility	C	C	C	C	C
Adult Day Health Care	C	C	C	C	C
Adult Day Health Center	C	C	C	C	C
Community Care Facility	C	C	C	C	C
Community Treatment Facility	C	C	C	C	C
Congregate Care Facility	C	C	C	C	C
Congregate Living Health Facility	C	C	C	C	C
Convalescent Facility	C	C	C	C	C
Day Care Center	C	C	C	C	C
Day Treatment Facility	C	C	C	C	C
Emergency Shelter	C	C	C	C	C
Family Day Care Home, Large	C	C	C	C	C
Family Day Care Home, Small	P	P	P	P	P
Foster Family Home	P	P	P	P	P
Group Dwelling	C	C	C	C	C
Group Home	P	P	P	P	P
Intermediate Care Facility	C	C	C	C	C
Residential Care Facility for the Elderly	C	C	C	C	C
Residential Facility	C	C	C	C	C
Small Family Home	P	P	P	P	P
Social Day Care Facility	C	C	C	C	C
Social Rehabilitation Facility	C	C	C	C	C

LEGEND:

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 C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use
A* = Accessory Use subject to special use standards (see Chapter 9.07)

SECTION 9.09.020(b)
RESIDENTIAL DISTRICTS
 (continued)

LAND USES	RBR 12	RBRD 18	RD 14	RSF 22
Accessory Living Quarters	C	C	C	C
Communal Housing	X	X	X	X
Dwelling, Multiple Family	X	X	X	X
Dwelling, Single Family	P	P	P	P
Dwelling, Duplex	X	P	P	X
Employees' Quarters	C	C	X	X
Game Courts	A	A	A	A
Home Occupation	P*	P*	P*	P*
Manufactured Home	P*	P*	P*	P*
Mobilehome Park	X	X	C*	X
Mobilehome Subdivision	X	X	C*	X
Model Home Complex	X	X	X	T*
Open Space	P	P	P	P
Park, Public	P	P	P	P
Recreational Facilities, Private	A	A	A	A
Religious Uses	C*	C*	C*	C*
Second Dwelling Units	C	C	X	C
Senior Citizen Housing	X	X	X	C
Single Room Occupancy	X	X	X	X
Temporary Uses	T*	T*	T*	T*
Trails, Riding and Hiking	P	P	P	P

LEGEND:

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 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use

A* = Accessory Use subject to special use standards (see Chapter 9.07)

SECTION 9.09.020(b)
RESIDENTIAL DISTRICTS
 (continued)

LAND USES	RBR 12	RBRD 18	RD 14	RSF 22
Adult Day Care Facility	C	C	C	C
Adult Day Health Care	C	C	C	C
Adult Day Health Center	C	C	C	C
Community Care Facility	C	C	C	C
Community Treatment Facility	C	C	C	C
Congregate Care Facility	C	C	C	C
Congregate Living Health Facility	C	C	C	C
Convalescent Facility	C	C	C	C
Day Care Center	C	C	C	C
Day Treatment Facility	C	C	C	C
Emergency Shelter	C	C	C	C
Family Day Care Home, Large	C	C	C	C
Family Day Care Home, Small	P	P	P	P
Foster Family Home	P	P	P	P
Group Dwelling	C	C	C	C
Group Home	P	P	P	P
Intermediate Care Facility	C	C	C	C
Residential Care Facility for the Elderly	C	C	C	C
Residential Facility	C	C	C	C
Small Family Home	P	P	P	P
Social Day Care Facility	C	C	C	C
Social Rehabilitation Facility	C	C	C	C

LEGEND:

- | | |
|--|--|
| P = Permitted Use | P* = Permitted Use subject to special use standards (see Chapter 9.07) |
| C = Conditional Use | C* = Conditional Use subject to special use standards (see Chapter 9.07) |
| T = Temporary Use | T* = Temporary Use subject to special use standards (see Chapter 9.39) |
| X = Prohibited Use | A = Accessory Use |
| <u>A* = Accessory Use subject to special use standards (see Chapter 9.07)</u> | |

SECTION 9.09.020(b)
RESIDENTIAL DISTRICTS
 (continued)

LAND USES	RMF 7	RMF 14	RMF 22	RMF 30
Accessory Living Quarters	X	X	X	X
Communal Housing	X	X	X	X
Dwelling, Multiple Family	P	P	P	P
Dwelling, Single Family	P	P	P	P
Dwelling, Duplex	P	P	P	P
Employees' Quarters	X	X	X	X
Game Courts	A	A	A	A
Granny Flat	X	X	X	X
Home Occupation	P*	P*	P*	P*
Manufactured Home	P*	P*	P*	P*
Mobile Home Park	C*	C*	C*	C*
Mobile Home Subdivision	C*	C*	C*	C*
Model Home Complex	T*	T*	T*	T*
Open Space	P	P	P	P
Park, Public	P	P	P	P
Recreational Facilities, Private	A	A	A	A
Religious Uses	C*	C*	C*	C*
Second Dwelling Units	X	X	X	X
Senior Citizen Housing	C	C	C	C
Single Room Occupancy	C	C	C	C
Temporary Uses	T*	T*	T*	T*
Trails, Riding and Hiking	P	P	P	P

LEGEND:

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 C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use
A* = Accessory Use subject to special use standards (see Chapter 9.07)

SECTION 9.09.020(b)
RESIDENTIAL DISTRICTS
 (continued)

LAND USES	RMF 7	RMF 14	RMF 22	RMF 30
Adult Day Care Facility	C	C	C	C
Adult Day Health Care	C	C	C	C
Adult Day Health Center	C	C	C	C
Community Care Facility	C	C	C	C
Community Treatment Facility	C	C	C	C
Congregate Care Facility	C	C	C	C
Congregate Living Health Facility	C	C	C	C
Convalescent Facility	C	C	C	C
Day Care Center	C	C	C	C
Day Treatment Facility	C	C	C	C
Emergency Shelter	C	C	C	C
Family Day Care Home, Large	C	C	C	C
Family Day Care Home, Small	P	P	P	P
Foster Family Home	P	P	P	P
Group Dwelling	C	C	C	C
Group Home	P	P	P	P
Intermediate Care Facility	C	C	C	C
Residential Care Facility for the Elderly	C	C	C	C
Residential Facility	C	C	C	C
Small Family Home	P	P	P	P
Social Day Care Facility	C	C	C	C
Social Rehabilitation Facility	C	C	C	C

LEGEND:

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 C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use
A* = Accessory Use subject to special use standards (see Chapter 9.07)

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94;)

9.09.030 Development Standards.

The following Table provides the minimum acceptable standards for development within the Residential Districts necessary to assure quality development and attractive local residential areas. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.09.040. Parking standards are provided in Chapter 9.35.

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**SECTION 9.09.030
 RESIDENTIAL DEVELOPMENT STANDARDS**

DEVELOPMENT STANDARDS (1)	RESIDENTIAL ZONING DISTRICTS			
	RSF 2	RSF 3	RSF 4	RSF 7
(a) Minimum Lot Size: (2)	17, 500 sf	12,000 sf	8,700 sf	5,000 sf
(b) Minimum Lot Width - (2)				
Standard Lot:	70 ft	50 ft	50 ft	50 ft
Cul-De-Sac Lot (at front building setback line):	30 ft	30 ft	30 ft	30 ft
Flag Lot (for access extension):	20 ft	20 ft	20 ft	20 ft
(c) Minimum Lot Depth: (2)	100 ft	80 ft	75 ft	75 ft
(d) Maximum Lot Coverage:	35%	35%	45%	60% (12)
(e) Minimum Land Area Per Unit: (3)	17,500 sf	11,667 sf	8,750 sf	5,000 sf
Maximum Density Per Acre (16)	<u>2</u>	<u>3</u>	<u>4</u>	<u>7</u>
(f) Maximum Height:	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories
(g) Minimum Front Yard Building Setback – (5)				
From Ultimate Public Street ROW line:	20 ft	10 ft	20 ft	20 ft
Flag Lot (from connection with access extension):	10 ft	10 ft	10 ft	10 ft
(h) Minimum Side Yard Setback – (5)				
Interior Side:	10 ft	8 ft	5 ft	5 ft
Exterior Side:	15 ft	10 ft	10 ft	10 ft
Flag Lot: (6)	10 ft	8 ft	5 ft	5 ft
(i) Minimum Rear Yard Setback – (5)			(7)	
Standard Lot:	30 ft	25 ft (7)	25 ft	25 ft
Flag Lot and Cul-De-Sac Lot:	30 ft	25 ft (7)	25 ft	25 ft
Adjacent to Alley or Street (from ROW line): (13)	20 ft	20 ft	15 ft	15 ft
(j) Minimum Open Space (Private):	<u>30% N/A</u>	<u>30%N/A</u>	<u>30% N/A</u>	<u>30% N/A</u>
(k) Minimum Landscape Coverage: (14)	25%	25%	25%	25%
Front Yard Setback Minimum Landscape Coverage: (15)	<u>35%</u>	<u>35%</u>	<u>35%</u>	<u>35%</u>
(l) Minimum Building Separation (between primary and accessory buildings, and/or primary to primary buildings on the	10 ft	10 ft	10 ft	10 ft

same lot):				
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* See footnotes on Page 9.09-14

SECTION 9.09.030
 RESIDENTIAL DEVELOPMENT STANDARDS
 (continued)

DEVELOPMENT STANDARDS (1)	RESIDENTIAL ZONING DISTRICTS		
	RSF 12	RBR 12	RBRD 18
(a) Minimum Lot Size: (2)	3,000 sf	4,200 sf	4,800 sf
(b) Minimum Lot Width - (2)			
Standard Lot:	40 ft	45 ft	45 ft
Cul-De-Sac Lot (at front building setback line):	30 ft	N/A	N/A
Flag Lot (for access extension):	20 ft	10 ft	10 ft
(c) Minimum Lot Depth: (2)	60 ft	50 ft	50 ft
(d) Maximum Lot Coverage:	60% (12)	N/A	N/A
(e) Minimum Land Area Per Unit: (3)	2,917 sf	2,917 sf	1,945 sf
Maximum Density Per Acre (16)	12	12	18
(f) Maximum Height:	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories (8)	28 ft/ (4) 2 stories (8)
(g) Minimum Front Yard Building Setback: (5)			
From Ultimate Public Street ROW line:	20 ft	20 ft (10)	20 ft (10)
Flag Lot (from connection with access extension):	10 ft	N/A	N/A
(h) Minimum Side Yard Setback – (5)			
Interior Side:	5 ft	3.5 ft	3.5 ft
Exterior Side:	10 ft	3.5 ft	3.5 ft
Flag Lot: (6)	5 ft	5 ft	5 ft
(i) Minimum Rear Yard Setback – (5)			
Standard Lot:	15 ft	(9)	(9)
Flag Lot and Cul-De-Sac Lot:	15 ft	(9)	(9)
Adjacent to Alley or Street (from ROW line): (13)	10 ft	(9)	(9)
(j) Minimum Open Space (Private):	700 sf per du N/A	700 sf per du N/A	700 sf per du N/A
(k) Minimum Landscape Coverage: (14)	25%	10% (11)	10% (11)
Front Yard Setback Minimum Landscape Coverage: (15)	35%	5%	5%
(l) Minimum Building Separation (between primary and accessory buildings, and/or primary to primary buildings on the	10 ft	10 ft	10 ft

same lot):			
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* See footnotes on Page 9.09-14

SECTION 9.09.030
RESIDENTIAL DEVELOPMENT STANDARDS
 (continued)

DEVELOPMENT STANDARDS (1)	RESIDENTIAL ZONING DISTRICTS			
	RSF 22	RD 14	RMF 7	
(a) Minimum Lot Size: (2)	2,000 sf	5,000 sf	15,000 sf	
(b) Minimum Lot Width - (2)				
Standard Lot:	40 ft	45 ft	60 ft	
Cul-De-Sac Lot (at front building setback line):	25 ft	30 ft	30 ft	
Flag Lot (for access extension):	N/A	25 ft	25 ft	
(c) Minimum Lot Depth: (2)	50 ft	100 ft	100 ft	
(d) Maximum Lot Coverage:	60% (12)	50%	50%	
(e) Minimum Land Area Per Unit: (3)	1,591 sf	2,500 sf	5,000 sf	
Maximum Density Per Acre (16)	22	14	7	
(f) Maximum Height:	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories	
(g) Minimum Front Yard Building Setback – (5)				
From Ultimate Public Street ROW line:	7.5 ft	20 ft	20 ft	
Flag Lot (from connection with access extension):	7.5 ft	15 ft	15 ft	
(h) Minimum Side Yard Setback – (5)				
Interior Side:	4 ft	4 ft	5 ft	
Exterior Side:	4 ft	10 ft	10 ft	
Flag Lot: (6)	4 ft	4 ft	5 ft	
(i) Minimum Rear Yard Setback – (5)				
Standard Lot:	7.5 ft	15 ft	15 ft	
Flag Lot and Cul-De-Sac Lot:	7.5 ft	15 ft	15 ft	
Adjacent to Alley or Street (from ROW line):(13)	7.5 ft	10 ft	10 ft	
(j) Minimum Open Space (Private and Common):	Private:	250 sf N/A	20% net ac	400 sf/du
	Common:	none N/A	N/A	30% net ac
(k) Minimum Landscape Coverage: (14)	20%	15%	25%	
Front Yard Setback Minimum Landscape Coverage: (15)	35%	35%	35%	
(l) Minimum Building Separation (between primary and accessory buildings, and/or primary to primary buildings on the same lot):	8 ft	10 ft	10 ft	

* See footnotes on Page 9.09-14

SECTION 9.09.030
 RESIDENTIAL DEVELOPMENT STANDARDS
 (continued)

DEVELOPMENT STANDARDS (1)	RESIDENTIAL ZONING DISTRICTS		
	RMF 14	RMF 22	RMF 30
(a) Minimum Lot Size: (2)	7,500 sf	4,800 sf	4,800 sf
(b) Minimum Lot Width - (2)			
Standard Lot:	45 ft	45 ft	45 ft
Cul-De-Sac Lot (at front building setback line):	25 ft	25 ft	25 ft
Flag Lot (for access extension):	25 ft	25 ft	25 ft
(c) Minimum Lot Depth: (2)	100 ft	90 ft	90 ft
(d) Maximum Lot Coverage:	60%	60%	60%
(e) Minimum Land Area Per Unit: (3)	2,600 2,500 sf	1,591 sf	1,167 sf
Maximum Density Per Acre (16)	14	22	30
(f) Maximum Height:	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories
(g) Minimum Front Yard Building Setback – (5)			
From Ultimate Public Street ROW line:	20 ft	20 ft	20 ft
Flag Lot (from connection with access extension):	15 ft	15 ft	15 ft
(h) Minimum Side Yard Setback – (5)			
Interior Side:	5 ft	10 ft	15 ft
Exterior Side:	10 ft	10 ft	15 ft
Flag Lot: (6)	15 ft	10 ft	15 ft
(i) Minimum Rear Yard Setback – (5)			
Standard Lot:	15 ft	20 ft	20 ft
Flag Lot and Cul-De-Sac Lot:	15 ft	N/A	N/A
Adjacent to Alley or Street (from ROW line): (13)	10 ft	15 ft	15 ft
(j) Minimum Open Space (Private and Common):	Private:	200 sf/du	200 sf/du
	Common:	30% net -ac	25% net ac
(k) Minimum Landscape Coverage: (14)	25%	20%	15%
Front Yard Setback Minimum Landscape Coverage: (15)	35%	35%	35%
(l) Minimum Building Separation (between primary and accessory buildings, and/or primary to primary buildings on the same lot):	10 ft	10 ft	10 ft

*** See footnotes on Page 9.09-14**

Footnotes for Section 9.09.030:

- (1) See Chapter 9.75 for definitions and illustrations of development standards.
- (2) Development standard applies to any proposed subdivision of land. These standards do not apply to existing lots where no subdivision is proposed nor to proposed condominiums or other common lot subdivisions.
- (3) Land Area per Dwelling Unit may not be rounded up. (Example: 14,250 square feet/2,500 square feet of land per dwelling unit = 5.7 dwelling units which equals 5 dwelling units, not 6 dwelling units.)
- (4) Subject to the measurement and design criteria in Section 9.05.110(a).
- (5) For existing lots less than **the width and depth requirements of the underlying zone as specified in Section 9.09.030** ~~fifty (50) feet wide and/or less than one hundred (100) feet deep~~, see Section 9.05.190 for reduced front, side and rear building setbacks.
- (6) If the side yard of a flag lot is adjacent to the rear yard of a residentially zoned lot, that side yard setback shall be a minimum of ten (10) feet.
- (7) Additional rear yard building setback from a bluff top may be required by Section 9.27.030.
- (8) For RBR 12 and RBRD 18, maximum building height is twenty-eight (28) feet as measured eighteen (18) inches above the Flood Plain Overlay 3 (FP-3) requirement or Beach Road which ever is higher. Mezzanines may be allowed subject to compliance with the applicable provisions of the Uniform Building Code.
- (9) See Section 9.09.040(a) for special building setbacks and standards for maximum projections into required yards applicable to properties on Beach Road.
- (10) Setback for the first floor as measured from the right-of-way line of Beach Road. The second floor may project a maximum of five (5) feet into the required front yard setback.
- (11) A minimum of ten (10) percent of that portion of the lot area bounded by the side property lines, the Beach Road property line and the structure stringline.
- (12) The maximum lot coverage standard for hillside lots, as defined in Section 9.05.110(a)(4)(A) of this Title, within the RSF7, RSF12 and RSF22 Zoning Districts shall be no greater than fifty percent (50%).
- (13) Subject to standards in Section 9.35.040(e) for garage setbacks.**
- (14) Landscaping may also include small amounts of accessory (25% or less of the required landscape coverage) decorative outdoor landscape elements such as ponds, fountains,**

artificial turf, mulch, 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.

(15) A reduction in Front Yard landscaping may be approved through an Administrative Modification of Standards pursuant to requirements of Zoning Code Section 9.61.090.

(16) Maximum Density shall be calculated per acre consistent with the General Plan Land Use Element Land Use Intensity/Density provisions.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96; Ord. 96-13, 11/26/96; amended during 8/99 supplement;)

9.09.040 Special Development Standards.

(a) Development in the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD 18) Zoning Districts shall comply with the following standards.

(1) The following Table provides the requirements for structural stringlines, patio stringlines, and front yard setbacks for properties in the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD 18) Districts.

SECTION 9.09.040(a)(1)

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)
35051	Block 2, Lot 133	102/102	120/120
35055	132	102/102	120/120
35057	131	102/101	120/118
35061	130	101/101	118/116
35065	129	101/101	116/116
35067	128	101/105	116/120
walkway (d)			
35071	Block 2, 127	107/112	121/126
35075	126	112/116	126/131
35077	125	116/116	131/131
35081	124	116/116	131/128
35083	123	116/116	128/128
35087	122	116/115	128/125
35091	121	115/114	125/122
35093	120	114/114	122/119
35095	119	114/113	119/120
35097	118	113/112	120/123
35099	117	112/112	123/126

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)
35101	116	112/111	126/130
35105	115	111/111	130/129
35107	114	111/111	129/129
35111	113	111/111	129/129
35115	112	111/111	129/129
35119	111	111/111	129/129
35121	110	111/112	129/129
walkway (d)			
35125	Block 2, 109	112/112	129/128
35127	108	112/113	128/128
35131	107	113/113	128/128
35135	106	113/113	128/128
35141	105, NWLY ½ 104	113/114	128/128
35145	103, SELY ½ 104	114/115	128/128
35147	102, NWLY ½ 101	115/115	128/127
35155	100, SELY ½ 101	115/116	127/127
35157	99	116/116	127/127
35161	98	116/117	127/125
35165	97	117/116	125/124
35167	96	116/115	124/123
35171	95	115/115	123/122
35175	94	115/114	122/121
35177	93	114/113	121/120
35181	92	113/113	120/119
35185	91	113/112	119/118
35189	90	112/112	118/118
35191	89	112/111	118/118
35195	88	111/110	118/118

* See footnotes on Page 9.09-19

SECTION 9.09.040(a)(1)
(continued)

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)	Front Setback (Ground Floor) (e)(f)
35197	Block 2, 87	110/109	118/117	20
35201	86	109/108	117/117	20
35205	85	108/107	117/116	20
35211	84	107/106	116/116	20

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Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)	Front Setback (Ground Floor) (e)(f)
35215	83	106/105	116/115	20
35221	82	105/104	115/115	20
35225	81 and 80	104/102	115/114	20
35235	79	102/103	114/113	20
35241	78	103/104	113/115	20
walkway (d)				
35245	Block 2, 77	104/106	115/116	20
35251	76	106/107	116/117	20
35255	75	107/108	117/118	20
35261	74	108/110	118/119	20
35265	73	110/109	119/118	20
walkway (d)				
35271	Block 2, 72	108/103	118/115	20
35275	71	103/99	115/113	20
35283	70	99/99	113/113	20
35285	69	99/98	113/111	20
35291	68	98/97	111/110	20
35295	67	97/96	110/108	20
35301	66	96/95	108/106	20
35305	65	95/93	106/104	20
35311	64	93/93	104/104	20
35315	63	93/94	104/106	20
35321	62	94/96	106/107	20
35325	61	96/97	107/108	20
35331	60	97/98	108/110	20
35335	59	98/99	110/111	20
35341	58	99/100	111/112	20
35345	57	100/101	112/114	20
35351	56	101/103	114/115	20
35355	55	103/104	115/116	20
walkway (d)				
35361	Block 2, 54	104/104	117/117	20
35365	53	104/103	117/117	20
35371	52	103/102	117/117	20
35375	51	102/101	117/116	20
35381	50	101/100	116/116	20
35385	49	100/99	116/116	20
walkway (d)				
35391	Block 2, 48	99/98	116/116	20
35395	47	98/98	116/116	20
35401	46	98/98	116/115	20
35405	45	98/97	115/114	20
35411	44	97/97	114/113	20
35415	43	97/97	113/112	20
35425	42	97/97	112/111	20
walkway (d)				

* See footnotes on Page 9.09-19

SECTION 9.09.040(a)(1)
(continued)

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)	Front Setback (Ground Floor) (e)(f)
35431	Block 2, 41	97/97	111/110	20
35435	40	97/96	110/109	20
35441	39	96/96	109/108	20
35445	38	96/96	108/107	20
35451	37	96/96	107/106	20
35455	36	96/96	106/106	20
35461	35	96/98	106/108	20
35465	34	98/99	108/110	20
35471	33	99/101	110/113	20
35475	32	101/102	113/115	20
35481	31	102/104	115/117	20
35485	30	104/106	117/120	20
35491	29	106/107	120/122	20
35495	NWLY 1/3 27, 28,	107/109	122/125	20
35505	SELY 2/3 27, 26,	109/112	125/129	20
walkway (d)				
35507	Block 2, 25	112/114	129/131	20
35511	24	114/115	131/134	20
35515	23	115/116	134/136	20
35521	22	116/116	136/137	20
35525	21	116/116	137/139	20
35527	20	116/116	139/141	20
35531	19	116/116	141/142	20
walkway (d)				
35535	Block 2, 18	115/115	143/144	20
35537	17	115/114	144/143	20
(g)				20
35541	16	119/115	147/145	20
35545	15	115/112	145/143	20
35551	14	112/109	143/140	20
35555	13	109/106	140/138	20
35557	12	106/106	138/134	20
35561	11	106/101 (h)	134/132	20
35565	10	101/101 (h)	132/131	20
35567	9	101/104 (h)	131/128	20
35571	8	104/103	128/124	20
35575	7	103/98	124/121	20
35577	6	98/93	121/118	20
walkway (d)				
35581	Block 2, 5	91/85	117/113	18 (9)
35585	4	85/80	113/110	18 (9)
35587	3	80/78	110/107	18 (9)

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)	Front Setback (Ground Floor) (e)(f)
35591	2	78/77	107/103	18 (9)
35595	1	77/77	103/100	18 (9)
walkway (d)				

* See footnotes on Page 9.09-19

SECTION 9.09.040(a)(1)
(continued)

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)	Front Setback (Ground Floor) (e)(f)
35601	Block 1, 69	76/70	99/95	18 (9)
35605	68	70/69	95/91	18 (8)
35611	67	69/66	91/90	18 (8)
35615	66	66/64	90/89	18 (8)
35621	65	64/62	89/87	18 (8)
35625	64	62/59	87/86	18 (8)
35631	63	59/57	86/84	18 (8)
35635	62	57/55	84/83	18 (8)
35641	61	55/52	83/81	18 (8)
35645	60	52/50	81/80	18 (7)
35651	59	50/47	80/78	18 (6)
walkway (d)				
35655	Block 1, 58	48/50	78/76	18 (6)
35657	57	50/51	76/74	18 (7)
35661	56	51/50	74/73	18 (7)
35665	55	50/51	73/73	18 (7)
35667	54	51/51	73/72	18 (7)
35671	53	51/51	72/71	18 (7)
35675	52	51/50	71/69	18 (7)
35677	51	50/49	69/71	18 (6)
35679	50	49/49	67/65	18 (6)
35685	49	49/48	65/63	18 (6)
35687	48	48/47	63/61	18 (6)
walkway (d)				
35691	Block 1, 47	47/47	60/60	18 (6)
35695	46	47/47	60/60	18 (6)
35697	45	47/48	60/60	18 (6)
35701	44	48/48	60/61	18 (6)
35705	43	48/49	61/61	18 (6)
walkway (d)				
35707	Block 1, 42	49/50	61/62	18 (6)
35711	41	50/50	62/62	18 (7)
35715	40	50/51	62/62	18 (7)
35721	39	51/51	62/63	18 (7)
35725	38	51/52	63/63	18 (7)

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)	Front Setback (Ground Floor) (e)(f)
35731	37	52/51	63/62	18 (7)
35735	36	51/55	62/64	18 (8)
35737	35	55/55	64/65	18 (8)
35741	34	55/54	65/67	18 (8)
walkway (d)				
35745	Block 1, 33	54/53	67/68	18 (8)
35747	32	53/52	68/70	18 (7)
35751	31	52/51	70/71	18 (7)
35755	30	51/51	71/73	18 (7)
35757	29	51/51	73/74	18 (7)
35761	28	51/58	74/74	18 (8)
35765	27	58/56	74/74	18 (8)
35767	26	56/58	74/74	18 (8)
35771	25	58/60	74/74	18 (8)
35775	24	60/62	74/74	18 (8)
35777	23	62/64	74/74	18 (8)
35781	22	64/64	74/78	18 (8)
35785	21	64/66	78/82	18 (8)

* See footnotes on Page 9.09-19

SECTION 9.09.040(a)(1)
(continued)

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)	Front Setback (Ground Floor) (e)(f)
35787	Block 1, 20	67/69	83/87	18 (8)
35791	19	69/72	87/90	18 (9)
35795	18	72/74	90/94	18 (9)
35797	17	74/76	94/97	18 (9)
35801	16	76/78	97/101	18 (9)
35805	15	78/80	101/104	18 (9)
35807	14	80/80	104/106	18 (9)
35811	13	80/83	106/107	18 (9)
walkway (d)				
35815	Block 1, 12	84/88	107/107	18 (9)
35817	11	88/91	107/107	18 (9)
35821	10	91/94	107/109	20
35825	9	94/97	109/110	20
35827	8	97/101	110/111	20
35831	7	101/104	111/113	20
35835	6	104/107	113/114	20
35837	5	107/108	114/115	20
35841	4	108/106	115/115	20

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)	Front Setback (Ground Floor) (e)(f)
35845	3	106/104	115/116	20
35845	2	104/103	116/116	20
35851	1	103/102	116/116	20
35855	P.M. 142-10 Parcel 1 (i)	102/102	116/116	20
35857	P.M. 142-10 Parcel 2 (i)	102/102	116/116	20

Footnotes for Section 9.09.040(a)(1):

- (a) No enclosed portion of any structure shall extend seaward of a straight line drawn between the structure stringline measurements set forth in this section for the east and west property lines of the subject property.
- (b) No patio or unenclosed portion of any structure shall extend seaward of a straight line drawn between the patio stringline measurements set forth in this section for the east and west property lines of the subject property. Where vertical displacement exists between the **lowest level** patio and sandy beach, a stairway may encroach seaward of the patio stringline no more than three (3) feet. Where the patio stringline lies inland of an ocean protective device (OPD), an accessway from the patio to the OPD may be constructed as necessary to link the **lowest level** patio with a stairway to the beach.
- (c) Deleted by Ord. 99-05,4/27/99.
- (d) Location of a twelve (12) foot wide walkway extending from Beach Road to the beach. According to Tract Map No. 889, walkways are for the use of the property owners within the Capistrano Bay Community.
- (e) May be reduced to the figure shown in parenthesis. If the setback on the ground floor is less than eighteen (18) feet, three parking spaces must be provided perpendicular to Beach Road.
- (f) The second floor of any structure may project a maximum of five (5) feet into the required front setback for the first floor, but no closer than five (5) feet to the ultimate right-of-way line for Beach Road.
- (g) The roadside line from which measurements are taken juts five (5) feet inland at this turnaround point. For properties directly seaward of the turnaround, the roadside measurement line is not necessarily their property line.

Footnotes for Section 9.09.040(a)(1) (continued):

- (h) A modification has been made that applies to the three indicated lots only. A control value of 101 feet shall extend from the midpoint of the lot a 35561 across 35565 to the midpoint of the lot at 35567. Therefore, any construction on the eastern half of 35561, on any portion of 35565 or on the western half of 35567 may extend no further than 101 feet. Any construction on the western half of 35561 or the eastern half of 35567 may extend no further than the control values established for their western and eastern property lines respectively.
- (i) This parcel is not a part of Tract No. 889. The stringline measurements set forth in this section for this parcel are based upon a line twenty (20) feet seaward of and parallel to the inland property line.
- (2) Maximum Projections into Required Yards. The following Table provides the requirements for allowable projections into required yards for properties in the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD 18) Districts.

SECTION 9.09.040 (a)(2)
MAXIMUM PROJECTION INTO REQUIRED YARDS

Item	Maximum Projection			Minimum Distance From Property Lines (B)	Maximum Projection Above District Height Limit	Other Limitations
	Front Yard Area	Seaward Of Structure Stringline	Side Yard Area (A)			
(a) Antennas (C)	NP	NP	NP	N/A	Not Permitted (D)	2 maximum
(b) Architectural Projections: (i.e., Eaves, Cornices and Roof Overhangs)	2' 6"	2' 6"	2' 6"	2' 0"	NP	None
(c) Balconies	5' 0"	8' 0"	NP	6' 0"	NP	(E)(F)
(d) Barbecues and Other Appliances	N/A	To patio stringline	To PL	0' 0"	N/A	(G)(H)
(e) Basements	NP	NP	NP	N/A	N/A	None
(f) Bay Windows	2' 6"	NP	NP	3' 0"	NP	(1)
(g) Chimneys (J)	2' 0"	NP	6"	3' 0"	3' 0"	(E)(K)
(h) Decks, Patios and	N/A	N/A	To PL	0' 0"	N/A	Horizontal

Walks (between Front Yard Setback and Structure Stringline)						surface to a maximum height of 18" above FP-3 elevation for the site. (I)(L)(M)
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* See Footnotes on Page 9.09-22

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SECTION 9.09.040(a)(2)
 MAXIMUM PROJECTION INTO REQUIRED YARDS
 (continued)

Item	Maximum Projection			Minimum Distance From Property Lines (B)	Maximum Projection Above District Height Limit	Other Limitations
	Front Yard Area	Seaward Of Structure Stringline	Side Yard Area (A)			
(i) Decks, Patios and Walk (between Structure Stringline and Patio Stringline)	N/A	To patio stringline (Except as provided in Section 9.09.040(a)(1), Footnote (b))	To PL	0'0"	N/A	The surface must be the lower of: 1) 18" above FP-3 elevation for the site; or 2) 30" above the average pre-graded/existing elevation at the structure stringline; or 3) 4 feet above Beach Road at the centerline of the site. (I)(L)(M)
(j) Detached Accessory Structures	NP	To patio stringline (N)	None	None (N)	None	(O)
(k) HVAC, Mech. Equip. and Window Mounted Air Conditioners	NP	NP	1'6"	2'0"	NP	(P)
(l) Patio Covers	NP	8'0"	NP	6'0"	NP	(Q)
(m) Planter Boxes	2'0"	2'0"	NP	10'0"	N/A	(R)
(n) Pool Equipment	NP	N/A	2'6"	2'0"	N/A	(P)(S)
(o) Roof Decks	NP	NP	NP	3'0"	NP	None
(p) Second Stories	5'0"	NP	NP	N/A	NP	(T)
(q) Stairways and Stairway Landings	2'6"	NP <u>Except as provided in Section 9.09.040(a)(1)</u>	NP	5'0"	NP	(E)

Item	Maximum Projection			Minimum Distance From Property Lines (B)	Maximum Projection Above District Height Limit	Other Limitations
	Front Yard Area	Seaward Of Structure Stringline	Side Yard Area (A)			
		Footnote (b)				
(r) Swimming Pools and Spas	NP	NP	N/A	3'0" (U)	N/A	(V)

NP = Not Permitted N/A = Not Applicable PL = Property Line

Footnotes for Section 9.09.040(a)(2):

- (A) On a corner lot, projections permitted in a front yard setback also apply to a street side yard.
- (B) In any instance where there is a conflict between the allowable maximum projection and the minimum distance from property line standard, the minimum distance from property line standard shall rule.
- (C) For radio antennas, only see Section 9.07.020 for satellite dish antennas.
- (D) This provision shall not apply to television and radio antennas used to receive UHF, VHF, FM and AM signals. Such antennas may exceed the district height limit by up to ten (10) feet. FCC licensed amateur ham radio operators may apply for a Conditional Use Permit for a radio tower greater than the maximum height limit, but not exceeding seventy (70) feet
- (E) The total horizontal length of all projections (marked by this footnote) on a given building elevation shall not exceed the maximum percentage of building elevation length as specified below: (Note: Building elevation length is measured at the first floor and not adjusted for multiple storied buildings.)

<u>BUILDING ELEVATION:</u>	<u>Front:</u>	<u>Side:</u>	<u>Rear:</u>
<u>MAX % OF BUILDING ELEVATION LENGTH:</u>	60%	40%	80%

The above stated maximum percentages have been established as a measure to control the overuse or abuse of the projection provisions in this Table. The maximum percentages will help prevent aesthetically inappropriate architectural facades or features that would pose a detriment to adjacent properties. At the discretion of the Director of Community Development, the total length of all projections on a given elevation may be reduced to below the indicated maximums in order to implement this intent

- (F) Column supports for balconies may be a maximum of twelve (12) inches square, and may be no closer than six (6) feet from a side property line. Balcony guard rails may be three (3) feet above the 2nd floor, or as required by the Uniform Building Code.

- (G) Outdoor appliances or permanent deck structures alongside property lines or the rear stringline limit cannot exceed forty-two (42) inches above the lowest patio elevation permitted by Chapter 931 “Floodplain Overlay Districts.”
- (H) Outdoor appliances or permanent deck structures may utilize tempered glass for wind deterrence, as permitted by Section 9.09.040(a)(3), to a maximum of five (5) feet above the lowest permitted patio elevation, or two (2) feet above the outdoor appliance.
- (I) Including deck railings or deck structures.
- (J) A maximum of two chimneys may project into required yards *or* above the height limit.
- (K) Maximum horizontal dimension of three (3) feet when above the height limit.
- (L) Provided district landscape requirements are met.
- (M) Those portions of deck, patios, or walks that are attached to the main structure and within three (3) feet of the side property line must meet UBC requirements for fire resistance.
- (N) Subject to the applicable provisions of the Uniform Building Code and Uniform fire Code.
- (O) Maximum Height Twelve (12) feet
- (P) Pool equipment may be placed adjacent to the rear or side property line subject to a minor Site Development Permit which shall include, but not be limited to, an acoustics report demonstrating compliance with the City’s Noise Ordinance. (Amended per city’s instructions, based on Ord. 97-12, 11/12/97 and Ord. 97-13, 11/25/97)
- (Q) The height of a patio cover in the patio stringline area may not exceed ten (10) feet above the lowest permitted deck elevation.
- (R) Only allowed on the 2nd floor as an extension of second floor framing; and may be a maximum of three (3) feet in height.
- (S) No higher than the height of the deck, patio, or walk.
- (T) No support columns permitted.
- (U) As measured from the edge of the water within the swimming pool or spa.
- (V) See Section 9.31.060(0)(10) regarding the construction of pools and spas in floodplain zones.

(3) Walls, Fences, Windscreens, and Railings. The following standards shall apply to the construction of:

- (A) Walls, fences, windscreens and railing between the front setback and the structure stringline:

Materials—any material that conforms with local ordinance, including UBC requirements for fire resistive construction, as applicable.

Height — a maximum of six (6) feet higher than the finished floor of the adjacent walk, deck, balcony, or patio allowed in Section 9.09.040(a)(2).

In the case of elevated sideyard decks, walks, or patios, the railing may extend down to the finished grade forming a fence. This fence may be higher than eight (8) feet above the finished grade of the adjoining property in cases where the structure on the subject property has been appropriately elevated to the FP-3 level and the structure on the adjacent property has not been so elevated.

- (B) Walls, fences, windscreens and railings between the structure stringline and the patio stringline:

Material — clear tempered glass with uprights and railings as required by City Code and not exceeding the following maximum finished dimensions:

Vertical posts: 6” x 6”

Horizontal railings: 3” x 6”

Height — a maximum of six (6) feet higher than the finished floor of the adjacent deck, balcony, or patio allowed in Section 9.09.040 (a)(2).

- (4) Offers to dedicate easements for public pedestrian access laterally along the beach at Capistrano Beach will be required as a condition of any new development project, as defined in public access ordinance (Section 9.27.030(a)(2)(A) of this Zoning Code), requiring a coastal development permit along Beach Road, consistent with the requirements of the public access ordinance (Section 9.27.030(a) of this Zoning Code).

- (b) Condominium, Stock Cooperative, and Community Apartment Conversions.

- (1) Purpose and Intent. This Section provides standards and criteria for converting multiple family dwellings, including dwelling units in a rental mobilehome park to residential condominium, stock cooperative and community apartment types of ownership. The standards and criteria promote the retention of affordable housing and promote design quality.

- (2) Development Standards. ~~Where possible~~ The conversion shall ~~be designed to~~ comply with all applicable development standards of the zoning district in which it is located. In addition, the following standards shall apply:
- (A) Conversion projects shall provide high quality urban design by the provision of architectural enhancement, high quality landscaping, high quality construction, and improvements to the function of the site and project signage.
 - (B) Privacy between residential units shall be enhanced through urban design, insulation, and other means.
 - (C) Individual gas and/or electrical metering systems shall be provided for each dwelling unit.
 - (D) Where individual trash and recycling pick-up is not provided, common trash and recycling storage shall be provided within a totally walled and roofed structure with a roof not exceeding twelve (12) feet in height. All enclosures shall be located within two hundred (200) feet of all dwelling units.
- (3) Conditional Use Permit and Tentative Tract or Parcel Map Required. Conversion requires approval of a Conditional Use Permit and Tentative Tract or Parcel Map by the Planning Commission as described in Chapter 9.65 and Title 7. The application for conversion must also include the following additional information.
- (A) A detailed report by licensed certified professionals describing the condition of all structural, electrical, plumbing, and mechanical elements of the existing development, including noise insulation, and the estimated cost of repair or improvement, if any, in a form acceptable to the City.
 - (B) A complete and current mailing list and two sets of addressed stamped envelopes of all tenants occupying the subject property as specified by the Department of Community Development shall be submitted and utilized to provide notice of the public hearing for consideration of the application for conversion.
 - (C) A housing program which includes, at a minimum, the following:
 1. The means by which the provision or expansion of affordable housing opportunities will be achieved by the conversion consistent with the goals and policies of the General Plan.
 2. A study of the balance of housing in the City, including vacancy rates, other available housing of similar type and rent; the current rents and estimated monthly payments and fees of the units to be converted, and all improvements and/or renovations contemplated;

3. For mobilehomes, the estimated costs for movement of each mobilehome to an available reasonably comparable space;
 4. A current survey of existing tenants as to their length of occupancy and the number of those who will purchase one of the units; and
 5. A relocation plan which comprehensively identifies all the steps which will be taken to assure the successful proposed relocation of each tenant with the minimum disruption to their lives. The relocation plan shall also state what specific relocation assistance existing tenants will be given, including the cost of physical moving, first and last months' rent, security and cleaning deposits, phone connection and utility deposits. Particular consideration shall be given to the elderly, handicapped, families with children, and other tenants who may encounter difficulty in finding a new residence.
- (4) Tenant Provisions. Each application for conversion shall include assurance that the following provisions will be or have been satisfied.
- (A) By certified mail or other verifiable means the property owner shall provide tenants a ninety (90) day preemptive right to purchase a unit or right of exclusive occupancy upon more favorable terms and conditions than those on which such unit or share will be initially offered to the general public. Such right shall be in writing and shall be irrevocable for a period of ninety (90) days after the commencement of sales and notification of the tenant of such right.
 - (B) By certified mail or other verifiable means, the property owner shall provide, in writing, all tenants a minimum of one hundred and eighty (180) days advance notice of termination of their tenancy due to an approved conversion plan, except that a one (1) year notice shall be provided for dwelling units in a mobilehome park conversion.
 - (C) "Art-in-Public-Places" Program. All new development projects located in the zoning districts described in this Chapter are subject to the provisions of the "Art-in-Public Places" Program as described in Section 9.05.240.

(Added by Ord. 93-16,11/23/93; amended by Ord. 94-09,5/24/94; Ord. 94-13,8/23/94; Ord. 94-21, 12/13/94; Ord. 97-05, 9/9/97; Ord. 97-12, 11/12/97; Ord. 97-13, 11/25/97; Ord. 99-05, 4/27/99;)

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Chapter 9.11

COMMERCIAL DISTRICTS

Sections:

- 9.11.010 Intent and Purpose.**
- 9.11.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.**
- 9.11.030 Development Standards.**
- 9.11.040 Special Development Standards.**

9.11.010 Intent and Purpose.

The commercial districts permit a range of commercial uses to support the commercial and service needs of residents, visitors, and the City's workforce.

- (a) Neighborhood Commercial District. The Neighborhood Commercial (NC) district provides for a limited range of smaller-scale business activities which serve the needs of residents who live nearby. Typical businesses include, but are not limited to, small food and drug stores, child care, clothing stores, neighborhood serving convenience stores, professional and business offices. These regulations are intended to ensure that development within the Neighborhood Commercial zone is compatible with the surrounding area with respect to the type of use scale, intensity of development, architectural character, and other impacts upon the community, and that the activities serve the needs of the adjoining residential neighborhoods.
- (b) Community Commercial/Pedestrian District. The Community Commercial/Pedestrian (CC/P) district provides for medium intensity commercial uses that serve community-wide needs in a pedestrian-oriented environment. The Community Commercial/Pedestrian District provides for the high quality design of commercial areas that include, but are not limited to, commercial services, professional business offices, retail sales, child care, restaurants, entertainment uses, and community facilities. The regulations promote integrated commercial districts which are designed to encourage positive pedestrian activity and minimize pedestrian and vehicular conflicts. These regulations promote architecturally pleasing commercial structures, with human scale and pedestrian character including efficient internal access, ingress and egress, and pedestrian amenities such as plazas, courtyards, and attractive landscaping.
- (c) Community Commercial/Vehicular District. The Community Commercial/Vehicular (CC/V) District provides for higher intensity commercial uses that serve community and subregional needs with an emphasis on convenient automobile access while incorporating efficient, safe, and attractive pedestrian circulation. The Community Commercial/Vehicular District provides for the high quality design of commercial areas that include, but are not limited to, larger commercial uses such as department stores, furniture and appliances stores, grocery stores, drug stores, and automotive related uses. The regulations promote integrated commercial developments which are designed to

accommodate high volume retail businesses with appropriate facilities for the access, circulation, and parking of cars. These regulations promote architecturally pleasing commercial structures situated and designed to facilitate the efficient circulation of motor vehicles.

- (d) Visitor/Recreation Commercial (V/RC) District. The Visitor/Recreation Commercial (V/RC) District provides for visitor-serving uses such as resorts, hotels, motels, restaurants, conference facilities, commercial-recreation uses, specialty and convenience shops, and recreation/open space uses. Supporting uses include, but are not limited to, community facilities, such as museums and theaters. Secondary uses may include offices, personal services, clinical services and similar uses provided they are not the primary use on the site and do not occupy the first floor of the structure. Development within this district shall provide visitor-serving facilities in a manner which promotes fiscal stability and has minimal negative impact on surrounding land uses. Commercial uses shall provide high quality design of sites and structures with extensive landscaping, open space and public and private recreational opportunities.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.11.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.

- (a) Several classes of uses are allowed in the Commercial Districts. Each of these classes must promote the commercial character of the individual districts. These classes of uses are:
- (1) Permitted Use — allowed by right if no discretionary review is required. Certain permitted uses, indicated by a P*, are also regulated by provisions contained in Chapter 9.07.
 - (2) Accessory Use—allowed by right if accessory to a permitted or conditional commercial development
 - (3) Temporary Use — allowed on a temporary basis in accordance with the provisions of Chapter 9.39.
 - (4) Conditional Use — allowed subject to the approval of a Conditional Use Permit in accordance with the provisions of Chapter 9.65. Certain conditional uses, indicated by a C*, are also regulated by provisions contained in Chapter 9.07.
 - (5) Prohibited Use — not allowed in the subject commercial district
- (b) The following Table lists the classification of allowable uses in Commercial Districts. Any use not expressly allowed is prohibited.

SECTION 9.11.020(b)
COMMERCIAL DISTRICTS

LAND USES	NC	CC/P	CC/V	V/RC
Administrative Office Uses	P	P	P	C
Adult Businesses	X	X	P*	P*
Adult Day Health Care	X	C	C	X
<u>Alcohol Beverage Manufacturer</u>	<u>C*</u>	<u>C*</u>	<u>C*</u>	<u>C*</u>
Alcoholic Beverage Outlets	P*/C*	P*/C*	P*/C*	P*/C*
Animal Hospital	X	P	P	X
Animal Shelter	X	C	C	X
Automotive Sales and Rental Uses	X	C*	C*	C*
Bed and Breakfast Inn	X	P	X	P
Building Materials Sales and Service Uses	X	P	P	C
Business Service Uses	P	P	P	X
Caretaker's Residence	X	C	C	C
Clinical Services	P	P	P	P
Commercial Antennas	C*	C*	C*	C*
Commercial Entertainment Uses	C	P	P	C
Commercial Recreation Uses	C	P	P	C
Construction and Maintenance Services	P	P	P	X
Cultural Uses	P	P	P	P
Dance Halls/Clubs	C	C	C	C
Day Care Centers	P	P	P	C
Drinking Establishments	P*/C*	P*/C*	P*/C*	P*/C*
Drive - Through Uses	C	C	C	C
Drug Abuse Recovery or Treatment Facility	X	C	C	X
Educational Uses	C	P	P	C
Emergency Shelter	C	C	C	X

LEGEND:

P = Permitted Use
 C = Conditional Use
 T = Temporary Use
 X = Prohibited Use

P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T* = Temporary Use subject to special use standards (see Chapter 9.39)
 A = Accessory Use

SECTION 9.11.020(b)
COMMERCIAL DISTRICTS
 (continued)

LAND USES	NC	CC/P	CC/V	V/RC
Family Day Care Home, Large	X	C	C	X
Family Day Care Home, Small	X	C	C	X
Food Services Uses, Specialty	P	P	P	P
Fortune Telling	X	C*	C*	C*
Furniture Store	P	P	P	C
<u>Hookah Lounges</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
Hospital, Acute Psychiatric	X	C	C	X
Hospital, Chemical Dependency Recovery	X	C	C	X
Hospital, General Acute Care	X	C	C	X
Hospital, Special	X	C	C	X
Hotel	X	P	P	P
Institutional Uses	X	C	P	X
Kennel	C	P	P	X
Live Entertainment Uses	C*	C*	C*	C*
Major Automotive Uses	X	C	C	X
Marine Uses	P	P	P	P
Massage Establishments	X	<u>C*P*</u>	<u>C* P*</u>	<u>C* P*</u>
Medical Office Uses	P	P	P	X
Membership Organizations	X	P	P	C
Minor Automotive Uses	X	X ¹	C	X
Minor Repair Service Uses	P	P	P	X
Motel	X	X	P	P
Open Space	P	P	P	P
Park, Public	P	P	P	P

¹ NOTE: All minor automotive uses existing prior to (final action date), or applications for such uses which were deemed complete prior to that date, shall be considered legal conforming uses and shall be exempt from the provisions of Chapter 9.63.

LEGEND:

P = Permitted Use	P* = Permitted Use subject to special use standards (see Chapter 9.07)
C = Conditional Use	C* = Conditional Use subject to special use standards (see Chapter 9.07)
T = Temporary Use	T* = Temporary Use subject to special use standards (see Chapter 9.39)
X = Prohibited Use	A = Accessory Use

SECTION 9.11.020(b)
COMMERCIAL DISTRICTS
(continued)

LAND USES	NC	CC/P	CC/V	V/RC
Personal Service Uses	P	P	P	P
Photographic, Reproduction and Graphic Service Uses	P	P	P	P
Professional Office Use -On the second floor or above, or below street level -Street Level	P P	P P	P P	P C
Recreational Uses	C	P	P	P
Recycling Facilities	P*	P*	P*	X
Religious Uses	X	C*	C*	X
Research and Development Uses	C	P	P	X
Residential Care Facility for the Elderly	C	C	C	X
Residential Facility	C	C	C	X
Restaurant	P	P	P	P
Restaurant, Drive-Through	C	C	P	P
Restaurant, Fast Food	C	C	P	P
Restaurant, Take-Out	P	P	P	P
Restaurant, Walkup	C	P	P	P
Retail Sales Uses	P	P	P	P
Single Room Occupancy	X	C	C	C
Skilled Nursing Facility	X	C	C	X
Social Rehabilitation Facility	X	C	C	X
Tattoo Parlors	X	C*	C*	C*
Temporary Uses	T*	T*	T*	T*
Timeshares	X	X	X	X
Transportation Uses	X	X	P	P
Video Arcades or Game Rooms	C	C	C	C

LEGEND:

P = Permitted Use
 C = Conditional Use
 T = Temporary Use
 X = Prohibited Use

P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T* = Temporary Use subject to special use standards (see Chapter 9.39)
 A = Accessory Use

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-02, 1/11/94; Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96; Ord. 97-05, 9/9/97; Ord. 97-12, 11/12/97; Ord. 97-13, 11/25/97;)

9.11.030 Development Standards.

The following general development standards Table provides the minimum acceptable standards for development within the commercial districts necessary to assure quality development and attractive local commercial areas. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.11.040. Parking standards are provided in Chapter 9.35.

SECTION 9.11.030
COMMERCIAL DEVELOPMENT STANDARDS

DEVELOPMENT STANDARDS (1)	COMMERCIAL ZONING DISTRICTS			
	NC	CC/P	CC/V	V/RC
(a) Minimum Lot Size: (2)	5,000 sf	5,000 sf	15,000 sf	15,000 sf
(b) Minimum Lot Width (2)	40 ft	50 ft	100 ft	100 ft
(c) Minimum Lot Depth (2)	100 ft	80 ft	120 ft	150 ft
(d) Minimum Lot Coverage	35%	60%	45%	40%
(e) Maximum Height	31-35 ft(3) 3 stories(4)	31-35 ft(3) 3 stories(4)	31-35 ft(3) 3 stories (4)	31-35 ft(3) 3 stories (4)
(f) Standard Floor Area Ratio (5)	.35:1	.6:1	.5:1	.5:1
(g) Minimum Front Yard Setback (6)				
From Ultimate Public Street R/W Line	20 ft	10 ft (7)	20 ft	5 ft
(h) Minimum Side Yard Setback				
Interior Side	10 ft	0 ft	0 ft	5 ft
Street Side (6)	15 ft	5 ft	10 ft	5 ft
(i) Minimum Rear Yard Setback				
Standard (8)	15 ft	0 ft	15 ft	15 ft
Adjacent to Alley or Street (6)	10 ft	5 ft	10 ft	10 ft
(j) Minimum Landscape Coverage (6)	10%	10%	15%	20%
(k) Minimum Building Separation	10 ft	10 ft	10 ft	10 ft

NOTE: See Footnotes on Page 9.11-7.

Footnotes for Section 9.11.030:

- (1) See Chapter 9.73 for definitions and illustrations of development standards.
- (2) Development standard applies to proposed subdivisions of land through a SDP. The standards may be modified by the Planning Commission when necessary to accommodate the parcel configuration for an integrated commercial development subject to the approval of a Conditional Use Permit pursuant to Chapter 9.65.
- (3) Subject to the measurement and design criteria in Section 9.05.110(b).
- (4) A maximum of 3 stories may only be permitted in accordance with Section 9.05.200.
- (5) A maximum FAR of 1.75:1 may be permitted in accordance with Section 9.05.210.
- (6) All setback areas adjacent to public streets must be landscaped.
- (7) A zero setback may be allowed if the structure is designed to occupy no more than sixty (60) percent of the front 10 feet of the parcel and with an increase in minimum landscape coverage to fifteen (15) percent
- (8) Twenty (20) feet adjacent to residential use or district

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94)

9.11.040 Special Development Standards.

- (a) Accessory Uses and Structures. Setbacks for detached accessory buildings or structures shall be **in compliance with Section 9.05.280, established through a Site Development Permit and shall be consistent with the provisions of Section 9.05.080, Maximum Projections into Required Yard Areas.**
- (b) Sign Programs. Multi-tenant commercial development shall be required to obtain approval for a project sign program pursuant to Chapter 9.37.
- (c) “Art-in-Public-Places” Program. All new development projects located in the zoning districts described in this Chapter are subject to the provisions of the “Art-in-Public-Places” Program as described in Section 9.05.240.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-13, 8/23/94;)

Chapter 9.13

MIXED USE DISTRICTS

Sections:

- 9.13.010 Intent and Purpose.**
- 9.13.020 Permitted Uses, Accessory Uses, Temporary Uses and Conditional Uses.**
- 9.13.030 Development Standards.**
- 9.13.040 Special Development Standards.**

9.13.010 Intent and Purpose.

The mixed use districts provide for the compatible and beneficial mixture of commercial, office and residential uses in a single structure or on a single site. These districts are designed to achieve a convenient business and residential environment in areas where multiple activities and an increased degree of pedestrian orientation are considered to be desirable. The districts also provide a transitional or buffering zone between exclusive non-residential and residential districts. Residences in the Mixed Use District provide housing near sources of employment or commercial and professional services— an alternative to exclusively residential districts. This alternative housing is intended to add to the City’s supply of affordable housing, reduce commutes between home and work, and promote a strong, stable, and desirable pedestrian-oriented business environment.

- (a) **Commercial/Residential (C/R).** The Commercial/Residential (C/R) district provides for compatible mixtures of commercial and office uses, and residential units in the same building or on the same parcel. Allowable commercial and office uses include those that are typically permitted in the Community Commercial (CC) districts. These uses provide for a commercially-oriented environment that also offers compatibility for residential uses. The only projects allowed in this district are commercial or mixed use (commercial/residential) projects. Residential development is only permitted in conjunction with commercial development as part of a mixed use project.
- (b) **Residential/Commercial-18 (R/C-18).** The Residential/Commercial-18 (R/C-18) district provides for a mixture of residential uses with commercial and office uses in the same building or on the same parcel. Allowable commercial and office uses include those which are visitor serving in nature and at the same time are compatible with residential uses such as bed and breakfast inns, restaurants, specialty and convenience shops and recreation/open space uses such as coastal recreation equipment, rental shops and environmental education facilities related to coastal ecology. This district provides for a residential density of eighteen (18) units per acre. New development within Residential/Commercial-18 shall be sited in a manner that minimizes the residential development residents’ vehicle miles traveled (VMT). VMT siting considerations shall include, but not be limited to: close proximity of the new

development to existing or planned transit stops (efforts should be made to site residential development within one-half mile to existing or planned transit stops); walkability to commercial development like restaurants, grocery stores and cultural venues; and close proximity to, and/or provision of, bicycle amenities like bicycle racks and bicycle lanes or dedicated bicycle pathways. It implements the State's Mello Act and the City's goals, objectives and policies for production of affordable housing by requiring that any project of new construction with more than ten residential units, which is located within the Coastal Overlay District, shall be required to provide a minimum ten percent (10%) of the total housing units as "affordable units," as defined in the Housing Element of the City's General Plan and pursuant to the provisions of the aforementioned State's Mello Act. The only projects allowed in this district are mixed use (residential/commercial) projects. The gross floor area for commercial uses is limited to a maximum of ten percent (10%) of the total site area. Properties fronting Pacific Coast Highway are required, at a minimum, to provide visitor serving commercial uses on the ground floor of all the buildings fronting Pacific Coast Highway, for a minimum depth of forty (40) feet. (Visitor serving uses are those allowed under the Visitor/Recreation Commercial (V/RC) zoning designation in Sections 9.11.010 and 9.11.020(b)).

- (c) Professional/Residential (P/R). The Professional/Residential (P/R) district includes a mixture of professional offices and residential use in the same building or on the same parcel. Allowable professional uses typically include those that are permitted in the Professional/Administrative (P/A) district. These uses provide for a professional office-oriented environment that also offers compatibility for residential uses. The only projects allowed in this district are professional or mixed use (professional/residential) projects. Residential development is only permitted in conjunction with professional development as part of a mixed use project

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94, Ord. 09-06, 7/27/09)

9.13.020 Permitted Uses, Accessory Uses, Temporary Uses and Conditional Uses.

- (a) Several classes of use are allowed in Mixed Use Districts. Each of these classes must promote the mixed use character of the districts. These classes of uses are:
- (1) Permitted Use — allowed by right if no discretionary review is required. Certain permitted uses, indicated by a P*, are also regulated by provisions contained in Chapter 9.07.
 - (2) Accessory Use — allowed by right if accessory to a permitted or conditional use.
 - (3) Temporary Use — allowed on a temporary basis in accordance with the provisions of Chapter 9.39.
 - (4) Conditional Use — allowed subject to the approval of a Conditional Use Permit in accordance with the provisions of Chapter 9.65. Certain conditional uses, indicated by a C*, are also regulated by provisions contained in Chapter 9.07.
 - (5) Prohibited Use — not allowed in the subject mixed use district.

- (b) Certain uses other than permitted uses may not be suitable or desirable in every location within Mixed Use Districts and, therefore require a Temporary Use Permit as described in Chapter 9.39, or discretionary review through the Conditional Use Permit process described in Chapter 9.65.
- (c) The following Table lists the classification of allowable uses in Mixed Use Districts. Any use not expressly allowed is prohibited.

SECTION 9.13.020(c)
MIXED USE DISTRICTS

LAND USES	C/R	R/C-18	P/R
Administrative Office Uses	P	P	P
Adult Day Care Facility	C	X	C
<u>Alcohol Beverage Manufacturer</u>	<u>C*</u>	<u>C*</u>	<u>X</u>
Alcoholic Beverage Outlet	P*/C*	P*/C*	P*/C*
Automotive Sales and Rental Uses	C* (1)	C* (1)	X
Bed and Breakfast Inn		C	
Business Service Uses	P	X	P
Caretaker's Residence	C	C	C
Civic Uses	C	C	P
Clinical Service Uses	P	C	P
Commercial Antenna	C	C	C
Community Care Facility	C	X	C
Congregate Care Facility	C	X	C
Congregate Living Health Facility	C	X	C
Convalescent Facility	C	X	C
Cultural Uses	P	P	P
Day Care Centers	P	X	C
Day Treatment Facility	C	X	C
Drinking Establishments	P*/C*	P*/C*	X
Drive Through Uses	C (5)	X	X
Drug Abuse Recovery or Treatment Facility	C	X	C
Dwelling Unit, Multiple Family	A (2)	P (3)	C (2)
Dwelling Unit, Single Family	P (4)	P (4)	C (2)
Educational Uses	X	X	C

LAND USES	C/R	R/C-18	P/R
Family Day Care Home, Large	C	C	C
Family Day Care Home, Small	C	C	C
Food Service Uses, Specialty	P	P	C
Group Dwelling/Group Home	C	X	C
<u>Hookah Lounges</u>	<u>X</u>	<u>X</u>	<u>X</u>
Hospital, Acute Psychiatric	C	X	C
Hospital, Chemical Dependency Recovery	C	X	C
Hospital, General Acute Care	C	X	X
Hospital, Special	C	X	C
Intermediate Care Facility	C	X	C
Live Entertainment Uses	C*	C*	X
Medical Office Uses	P	P	P
Membership Organizations	P	P	C
Minor Repair Service Uses	P	C	P
Mixed Use Center	P	P	P
Mobilehome Park	P (6)	X	X
Open Space	P	P	P
Park, Public	P	P	P
Personal Service Uses	P	P	P
Photographic, Reproduction and Graphic Service Uses	P	P	P
Professional Office Uses	P	P	P
Public Utility Uses	C	X	X
Recreational Uses	C	C	C
Religious Uses	C*	C*	C*
Research and Development Uses	P	X	P
Residential Care Facilities for the Elderly	C	X	C
Residential Facility	C	X	C
Restaurant	P	P	C
Restaurant, Take-Out	P	P	C
Restaurant, Walkup	P	P	C
Retail Sales Uses	P	P	C

LAND USES	C/R	R/C-18	P/R
Sanitarium, Health	X	X	C
Sanitarium, Mental	X	X	C
Senior Citizen Housing	C	C	C
Single Room Occupancy	C	C	C
Skilled Nursing Facility	C	X	C
Small Family Home	C	X	C
Social Day Care Facility	C	X	C
Social Rehabilitation Facility	C	X	C
Temporary Uses	T*	T*	T*

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use

Footnotes for Section 9.13.020(c):

- (1) Accessory repair or service of motor vehicles is prohibited, but the incidental installation of parts or accessories, excluding mechanical components, is permitted.
- (2) Permitted only ~~as an accessory use to commercial or professional uses~~ in a mixed use project and located on the second floor only.
- (3) Permitted only as part of a mixed use project. In compliance with the Mello Act, new construction projects of more than ten residential units which are located within the Coastal Overlay District are required to provide a minimum ten percent (10%) of the units as “affordable units.”
- (4) A single family detached unit may only be permitted to replace an existing nonconforming single family residence. The replacement residence shall be developed in accordance with the development standards of the RSF 7 district. Single family attached units may be constructed as an accessory use in a mixed use project.
- (5) Permitted with a Conditional Use Permit which shall be reviewed and approved by the Planning Commission and precludes restaurant/food uses, and liquor establishments, and permits such uses, but not limited to, dry cleaners, banks and pharmacies. (See Section 9.07.240)
- (6) Only those mobilehome parks in existence as of November 23, 1993 shall be permitted.

(Added by Ord. 93-16, 11/23/93; Ord. 94-02, 1/11/94; Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-11, 8/27/96; Ord. 99-07, 8-10-99; Ord 09-06 7/27/09;)

9.13.030 Development Standards.

The following general development standards Table provides the minimum acceptable standards for development within the mixed use districts necessary to assure quality development and attractive local mixed use areas. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.13.040. Parking standards are provided in Chapter 9.35.

SECTION 9.13.030
MIXED USE DEVELOPMENT STANDARDS

Development Standards (1)	Mixed Use Zoning Districts			
	C/R	R/C-18	P/R	
(a) Minimum Lot Size (2)	5,000 sf	5,000 sf	5,000 sf	
(b) Minimum Lot Width (2)	50 ft	50 ft	50 ft	
(c) Minimum Lot Depth (2)	100 ft	100 ft	100 ft	
(d) Maximum Lot Coverage	40%	40%	35% (3)	
(e) Maximum Residential Density	10 du/net ac	18 du/net ac	10 du/net ac	
(f) Maximum Height	31-35 ft (4) 3 stories (5)	31-35 ft (4) 3 stories (5)	31ft 2 stories	
(g) Standard Floor Area Ratio (nonresidential) (6)	.5:1	N/A	.5:1	
(h) Standard Floor Area Ratio for Mixed Use Projects (6)	.7:1	N/A	<u>.5:1</u>	
(i) Minimum Front Yard Setback				
From Ultimate Public Street R/W Line	5 ft	5 ft	0 ft	
(j) Minimum Side Yard Setback				
Interior Side	0 ft	5 ft	0 ft	
Street Side	5 ft	5 ft	5 ft	
(k) Minimum Rear Yard Setback				
Standard Lot	15 ft	15 ft	15 ft	
Adjacent to Alley or Street	10 ft	10 ft	10 ft	
(l) Minimum Open Space (required for residential portion of development only)	Private:	100 sf per du	100 sf per du	100 sf per du

	Common:	100 sf per du	100 sf per du	100 sf per du
(m) Minimum Landscape Coverage (7)		10%	15% (8)	15% (8)
(n) Minimum Building Separation		10 ft	10 ft	10 ft
(o) Minimum lockable, enclosed storage per residential unit provided in garage or carport area		250 cubic feet	250 cubic feet	250 cubic feet
(p) Separate trash and recycling facilities areas shall be provided for the residential component and the nonresidential component of C/R and P/R developments		Yes	Yes	Yes

Footnotes for Section 9.13.030:

- (1) See Chapter 9.75 for definitions and illustrations of development standards.
- (2) Development standard applies to proposed subdivisions of land. The standards may be waived by the Planning Commission when necessary to accommodate the parcel configuration for an integrated commercial development subject to approval of a Conditional Use Permit pursuant to Chapter 9.65.
- (3) An increase in lot coverage may be permitted with a Site Development Permit (pursuant to Chapter 9.71) provided that the development demonstrated exceptional design quality and improvements.**
- (4) Subject to the criteria in Section 9.05.110(b)(4).
- (5) A maximum of 3 stories may be permitted in accordance with Section 9.05.200.
- (6) A maximum FAR of 1.5:1 may be permitted in accordance with Section 9.05.210.
- (7) All residential units shall be provided with twenty (20) square feet of private landscaped area which shall not be calculated in the minimum landscape coverage.
- (8) A decrease in landscape coverage may be permitted with a Site Development Permit with an approved landscape plan.**

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord 09-06, 7/27/09;)

9.13.040 Special Development Standards.

- (a) **Maximum Density.** The maximum residential density in the mixed use districts is subject to the following requirements:
 When residential dwelling units are combined with office, or retail commercial uses in a single building or on the same parcel, the maximum density shall be ten (10) dwelling units per net acre. The Floor Area Ratio requirements do not apply to the residential portion(s) of the structure.
 The maximum residential density in the R/C-18 district shall be eighteen (18) dwelling units per acre. Proposed development does not have any presumptive

development right or “entitlement” to the maximum residential density of eighteen (18) dwellings units per acre; the actual development allowed may be less than the maximum density due to localized conditions identified during the development review process. Projects of new construction with more than ten (10) residential units, which are located within the Coastal Overlay District and in the R/C-18 district, are also required to provide a minimum ten percent (10%) of the total housing units as “affordable units” in compliance with the Mello Act. Any affordable housing units provided pursuant to Government Code Section 65590(d) shall be counted toward compliance with affordable housing requirements of this Zoning district and the City’s General Plan. The affordable housing units are not counted in the density calculations of a project.

- (b) Accessory Uses and Structures. Accessory buildings or structures are subject to the same height and setback requirements described for primary buildings and structures in Section 9.13.030 except as modified by Section 9.05.080, Maximum Projections into Required Yard Areas.
- (c) Design Compatibility. New improvements or uses to the site or structure shall be sensitive to the fact that the new improvement or use will be within a district that may act as a transition or buffer between intensive non-residential districts and residential neighborhoods. The new structure or use shall be designed so that it does not impact the adjacent uses, yet enhances the site’s use as a buffer or transition.

The new improvement or use shall recognize internal compatibility and create mutual enhancement with adjacent uses on site. In order to properly mix residential and non-residential uses on the same site, potential noise, odors, glare, excessive pedestrian traffic, or other significant impacts shall be reduced to a level of insignificance. New improvements shall be subject to the following additional standards:

- (1) Sound Mitigation. All residential dwellings shall be designed to be sound attenuated against present and future project noise. New projects, additions to existing projects, or new non-residential uses in existing projects shall, under the discretion of the Director of Community Development, prepare an acoustical analysis report (by a City-certified acoustical engineer) describing the acoustical design features of the structure required to satisfy the exterior and interior noise standards (65db CNEL in outdoor living areas and an interior standard of 45db CNEL). The report shall include satisfactory evidence that the measures specified in the report(s) have been, or will be, incorporated into the design of the project.
- (2) Lighting Compatibility. All new projects, additions to existing projects, and new non-residential uses, shall mitigate any light and glare impacts that may be directed towards on-site residential units. This may require, at the discretion of the Director of Community Development, the preparation of a photometric study which addresses the potential lighting impacts upon the residential units, any proposed mitigation measures, and evidence that the measures will be incorporated into the design of the project
- (3) Design Standards. The design of the structure and site shall encourage integration of the street pedestrian environment with the non-residential uses

through the use of plazas and street furniture, yet use its design to hinder the street pedestrian from direct access to the on-site residential units.

The design of a mixed-use project shall ensure that the residential units are of residential character, creating a home and not simply a place to live. The design of the project shall ensure that privacy between other residential units and between other uses on site shall be maintained.

For projects in the R/C-18 zone, the ground floor area of any building fronting Pacific Coast Highway, for a minimum depth of forty (40) feet, is restricted to visitor serving commercial uses. Projects are also encouraged to coordinate visual and circulation linkages between adjacent developments to create design continuity. Emphasis should be on pedestrian orientation and pedestrian opportunities through widened sidewalks and street facing plazas, courtyards and richly planted landscape focus points oriented to the street. Appropriate landscape buffers should be provided between street and pedestrians and building sites.

- (4) Parking Standards. Parking areas for mixed use projects shall incorporate the following provisions:
 - (A) Reserved parking stalls and appropriate signage indicating so, shall be required for each residential unit. This provision shall be included within the association bylaws.
 - (B) Each residential unit shall be assigned a minimum 45 cubic foot exterior storage space and bicycle locker capable of securing two bicycles.
 - (C) All parking areas shall be well lighted at all times.
 - (D) The design of the structure will incorporate safe passages from the parking areas to the units. Enclosed corridors for pedestrian access between parking areas and residential units, in excess of ten (10) feet long, shall be prohibited.
 - (E) Surface parking shall not be located to front Pacific Coast Highway.
- (5) Hours of Operation/Performance. In mixed use projects, non-residential uses shall be restricted from operation between the hours of 10:00 p.m. to 7:00 a.m.
- (6) Joint Owners' Association. A joint resident/commercial/office owner's association shall be formed in all mixed use projects to ensure the well-being of each tenant on site. The association shall be formed of equal voting rights according to type of use (i.e. residential, commercial, office). The association's bylaws shall at a minimum shall include the following: determination of the maintenance and landscaping responsibilities, trash facility responsibilities, parking facility maintenance responsibility, assignment of parking spaces per each use, relationship between uses regarding association representation, voting procedures, and ways that problems are solved between the different on-site uses. The association bylaws shall be subject to review and approval by the Director of Community Development and City Attorney.
- (7) Signage Standards. All site signage shall minimize potential impacts of light, glare and noise, upon the on-site residential units. Signage for all uses shall be

compatible with each other, and appropriately integrated into the structure/site design. All proposed signage shall conform to Chapter 9.37, Sign Regulations.

- (d) Sign Programs. Multi-tenant mixed use developments shall be required to obtain approval for a project sign program pursuant to Chapter 9.37.
- (e) “Art-in-Public-Places” Program. All new development projects located in the zoning districts described in this Chapter are subject to the provisions of the “Art-in-Public-Places” Program as described in Section 9.05.240.
- (f) In addition to the Special Development Standards located above, the following shall also apply to the site located at 34202 Del Obispo Street:**

(1) There shall be at least a twenty-five (25) foot setback from the property line adjacent to the San Juan Creek Bike Trail. Only development necessary to provide landscape features, pedestrian and bicycle uses and for passive park purposes are allowed within this setback area.

(2) Public pedestrian and bicycle access to the San Juan Creek Bike Trail shall be provided on-site.

(3) All streets and pedestrian and bicycle accessways shall be ungated and available to the general public for parking, vehicular, pedestrian, and bicycle access. All public entry controls (e.g., gates, gate/guard houses, guards, signage, etc.) and restrictions on use by the general public (e.g., preferential parking districts, resident-only parking periods/permits, etc.) associated with any streets, on-street parking areas, or pedestrian and bicycle accessways shall be prohibited.

(4) An adequate buffer shall be established during the development review process between the South Orange County Wastewater Authority (SOCWA) parcel and development located on the subject parcel. The buffer must be located on the subject parcel and not the SOCWA parcel. Where necessary to accommodate an adequate buffer, the amount/density of residential development on-site shall be reduced and/or eliminated, as opposed to reducing the amount/density of allowed commercial/visitor serving uses on-site.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-13, 8/23/94; Ord. 09-06, 7/27/09)

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Chapter 9.15

PROFESSIONAL/ADMINISTRATIVE DISTRICT

Sections:

9.15.010 Intent and Purpose.

9.15.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.

9.15.030 Development Standards.

9.15.040 Special Development Standards.

9.15.010 Intent and Purpose.

The Professional/Administrative (P/A) district permits a range of office uses in areas which compliment adjacent residential, commercial, or industrial business districts. The P/A district is designed to be compatible with and buffer residential neighborhoods from commercial, industrial, business and other intensive land uses.

- (a) Professional/Administrative Office District. The Professional/Administrative (P/A) district provides for concentrations of single tenant or multi-tenant offices and supporting uses throughout the community. The district provides office services and employment including legal, medical services, financial institutions, corporate and governmental offices, and community facilities. Small convenience or service commercial districts are supporting uses that are included to meet the needs of residents, visitors, and business employees working within the district.

(Added by Ord. 93-16, 11/23/93)

9.15.20 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.

- (a) Several classes of uses are allowed in the Professional/Administrative district Each of these classes must promote the professional/administrative character of the district. These classes of uses are:
- (1) Permitted Use — allowed by right if no discretionary review is required.
 - (2) Accessory Use — allowed by right if accessory to a permitted or conditional use.
 - (3) Temporary Use — allowed on a temporary basis in accordance with the provisions of Chapter 9.39.
 - (4) Conditional Use — allowed subject to the approval of a Conditional Use Permit in accordance with the provisions of Chapter 9.65.
 - (5) Prohibited Use — not allowed in the Professional/Administrative District.
- (b) The following Table lists the classification of allowable uses in Professional/Administrative District Any use not expressly allowed is prohibited.

SECTION 9.15.020(b)
PROFESSIONAL/ADMINISTRATIVE DISTRICT

LAND USES	P/A
Administrative Office Uses	P
Business Service Uses	P
Civic Uses	P
Clinical Service Uses	P
Commercial Antennas	C
Construction and Maintenance Service Uses	P
Cultural Uses	P
Educational Uses	P
Hospital, Acute Psychiatric	C
Hospital, Chemical Dependency Recovery	C
Hospital, General Acute Care	C
Hospital, Special	C
Intermediate Care Facility	C
Medical Office Uses	P
Open Space	P
Personal Service Uses	P
Photographic, Reproduction and Graphic Service Uses	P
Professional Office Uses	P
Recreational Uses	C
Research and Development Uses	P
Residential Care Facility for the Elderly	C
Sanitarium, Health	C
Sanitarium, Mental	C
Skilled Nursing Facility	C
Small Family Home	C
Social Rehabilitation Facility	C
Temporary Uses	T*

LEGEND:

P = Permitted Use C = Conditional Use
 X = Prohibited Use T* = Temporary Use subject to special use standards (see Chapter 9.39)

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-02, 1/11/94; Ord. 94-09, 5/24/94)

9.15.30 Development Standards.

The following general development standards Table provides the minimum acceptable standards for development within the Professional/Administrative districts necessary to assure quality development and attractive local Professional/Administrative areas. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.15.040. Parking standards are provided in Chapter 9.35.

**SECTION 9.15.030
 PROFESSIONAL/ADMINISTRATIVE DEVELOPMENT STANDARDS**

Development Standards (1)	Professional/ Administrative Zoning District
	P/A
(a) Minimum Lot Size (2)	10,000 sf
(b) Minimum Lot Width (2)	60 ft
(c) Minimum Lot Depth (2)	100 ft
(d) Maximum Lot Coverage	35%
(e) Maximum Height	31 - 35 ft (3)/3 stories (4)
(f) Standard Floor Area Ratio (5)	.7:1
(g) Minimum Front Yard Setback	
From Ultimate Street R/W Line	10 ft
(h) Minimum Side Yard Setback	
Interior Side	10 ft
Street Side	15 ft
(i) Minimum Rear Yard Setback	
Standard Lot	20 ft
Adjacent to Alley or Street	15 ft
(j) Minimum Landscape Coverage	15%
(k) Minimum Building Separation	10 ft

Footnotes for Section 9.15.030:

- (1) See Chapter 9.75 for definitions and illustrations of development standards and uses.
- (2) Development standard applies to proposed subdivisions of land. The standards may be waived by the Planning Commission when necessary to accommodate the parcel configuration for an integrated commercial development
- (3) Subject to the measurement and design criteria in Section 9.05.110(b)(4)
- (4) A maximum of three stories may only be permitted in accordance with Section 9.05.200.
- (5) A maximum FAR of 1.1:1 may be permitted in accordance with Section 9.05.210.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.15.40 Special Development Standards.

- (a) Accessory Uses and Structures. Accessory buildings and structures are subject to the same height and setback requirements described for primary buildings and structures in Section 9.15.030 except as modified by Section 9.05.080, Maximum Projections into Required Yard Areas.
- (b) Sign Programs. Multi-tenant professional/administrative developments shall be required to obtain approval for a project sign program pursuant to Chapter 9.37.
- (c) “Art-in-Public-Places” Program. All new development projects located in the zoning districts described in this Chapter are subject to the provisions of the “Art-in-Public-Places” Program as described in Section 9.05.240.

(Added by Ord. 93-16,11/23/93; amended by Ord. 94-13, 8/23/94)

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Chapter 9.17

INDUSTRIAL/BUSINESS DISTRICT

Sections:

- 9.17.010 Intent and Purpose.**
- 9.17.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.**
- 9.17.030 Development Standards.**
- 9.17.040 Special Development Standards.**

9.17.010 Intent and Purpose.

The Industrial/Business district permits a range of light industrial, business, and marine oriented uses. The district also allows the potential for affordable housing as a conditional use.

- (a) Industrial/Business District The Industrial/Business (I/B) district promotes the development of attractive, well-planned light industrial and business uses to serve the needs of the community, the City's coastal resources and a stable and vital local economy. Uses include, but are not limited to, marine-related businesses, auto supplies and services, home furnishings and appliances, lumber yards, home improvement centers, wholesale businesses, light manufacturing, research and development, and support activities for the City's commercial and office districts. The district provides for the development of an efficient and attractive industrial/business area that includes adequate circulation and landscaping, attractive buildings, and coordinated signage.

(Added by Ord. 93-16, 11/23/93)

9.17.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.

- (a) Several classes of uses are allowed in Industrial/Business district Each of these classes must promote the industrial/business character of the district. These classes of uses are:
 - (1) Permitted Use — allowed by right if no discretionary review is required.
 - (2) Accessory Use — allowed by right if accessory to a permitted or conditional use.
 - (3) Temporary Use — allowed on a temporary basis in accordance with the provisions of Chapter 9.39.
 - (4) Conditional Use — allowed subject to the approval of a Conditional Use Permit in accordance with the provisions of Chapter 9.65.
 - (5) Prohibited Use — not allowed in the Industrial/Business District
- (b) The following Table lists the classification of allowable uses in Industrial/Business district. Any use not expressly allowed is prohibited.

SECTION 9.17.020(b)
INDUSTRIAL/BUSINESS DISTRICT

LAND USES	I/B
Administrative Office Uses	P
Adult Businesses	P*
<u>Alcohol Beverage Manufacturer</u>	<u>P*</u>
Automotive Sales and Rental Uses	C*
Building Materials Sales and Service Uses	P
Business Service Uses	P
Caretaker's Residence	C
Commercial Antenna	C
Communal Housing	C
Construction and Maintenance Service Uses	P
Drive-Through Uses	C
Educational Uses	P
Hazardous Waste Facility	C*
Heavy Industrial Uses	C
Kennel	P
Light Industrial Uses	P
Major Automotive Uses	P
Medium Industrial Uses	P
Minor Automotive Uses	P
Minor Repair Service Uses	P
Open Space	P
Photographic, Reproduction and Graphic Service Uses	P
Public Utility Uses	P

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use

SECTION 9-17.020(b)
INDUSTRIAL/BUSINESS DISTRICT
 (continued)

LAND USES	I/B
Recreational Uses	C
Recycling Facilities	C*
Research and Development Uses	P
Restaurant	P
Restaurant, Drive-Through	C
Sanitary Sewer Facility	P
Single Room Occupancy	C
Solid Waste Disposal Facility	C*
Storage Yard Uses	C
Temporary Uses	T*
Transportation Uses	P
Warehouse and Storage Uses	P

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-02, 1/11/94; Ord. 94-09, 5/24/94; Ord. 96-10, 8/13/96;)

9.17.030 Development Standards.

The following general development standards Table provides the minimum acceptable standards for development within the Industrial/Business Districts necessary to assure quality development and attractive local Industrial/Business areas. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.17.040. Parking standards are provided in Chapter 9.35.

**SECTION 9.17.030
 INDUSTRIAL/BUSINESS DEVELOPMENT STANDARDS**

Development Standards (1)	I/B
(a) Minimum Lot Size (2)	20,000 sf
(b) Minimum Lot Width (2)	100 ft
(c) Minimum Lot Depth (2)	150 ft
(d) Maximum Lot Coverage	50%
(e) Maximum Height	31-35 ft (3) 3 stories (4)
(f) Standard Floor Area Ratio (5)	.5:1
(g) Minimum Front Yard Setback	
From Ultimate Public Street R/W Line	20 ft
(h) Minimum Side Yard Setback	
Interior Side	10 ft
Street Side	20 ft
(i) Minimum Rear Yard Setback	
Standard Lot	25 ft
Adjacent to Alley or Street	20 ft
(j) Minimum Landscape Coverage	20%
(k) Minimum Building Separation	10 ft

Footnotes for Section 9.17.030:

- (1) See Chapter 9.75 for definitions and illustrations of development standards.
- (2) Development standard applies to proposed subdivisions of land. The standards may be waived by the Planning Commission when necessary to accommodate the parcel configuration for an integrated commercial development
- (3) Subject to the measurement and design criteria in Section 9.05.110(b)(4).
- (4) A maximum of 3 stories may only be permitted in accordance with Section 9.05.200.
- (5) A Maximum FAR of .75:1 may be permitted in accordance with Section 9.05.210.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.17.040 Special Development Standards.

- (a) Accessory Uses and Structures. Accessory buildings and structures are subject to the same height and setback requirements described for primary buildings and structures in Section 9.13.030 except as modified by Section 9.05.080, Maximum Projections into Required Yard Areas.
- (b) Sign Programs. Multi-tenant Industrial/Business developments shall be required to obtain approval for a project sign program pursuant to Chapter 9.37.
- (c) “Art-in-Public-Places” Program. All new development projects located in the zoning districts described in this Chapter are subject to the provisions of the “Art-in-Public-Places” Program as described in Section 9.05.240.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-13, 8/23/94)

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Chapter 9.19

COMMUNITY FACILITIES DISTRICT

Sections:

- 9.19.010 Intent and Purpose.**
- 9.19.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.**
- 9.19.030 Development Standards.**
- 9.19.040 Special Development Standards.**

9.19.010 Intent and Purpose.

The Community Facilities District provides for public, quasi-public, and private community uses to serve the needs of residents, visitors, property owners, employers and employees of businesses in the City. The District includes both public and private community uses such as civic buildings, schools, churches, hospitals, cultural, recreational facilities and sanitary sewer facilities, and other public facilities. Development within this District should serve to create public places and city landmarks, which contribute to City design. **The District also allows multifamily housing at a density of thirty (30) units per acre to permit high density residential projects in compliance with the adopted Housing Element.** (Added by Ord. 93-16, 11/23/93)

9.19.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.

- (a) Several classes of uses are allowed in Community Facilities district. Each of these classes must promote the community character of the district. These classes of uses are:
 - (1) Permitted Use — allowed by right if no discretionary review is required.
 - (2) Accessory Use — allowed by right if accessory to a permitted or conditional use.
 - (3) Temporary Use — allowed on a temporary basis in accordance with the provisions of Chapter 9.39.
 - (4) Conditional Use — allowed subject to the approval of a Conditional Use Permit in accordance with the provisions of Chapter 9.65.
 - (5) Prohibited Use — not allowed in the Community Facilities District.
- (b) The following Table lists the classification of allowable uses in Community Facilities district Any use not expressly allowed is prohibited.

SECTION 9.19.020(b)
COMMUNITY FACILITIES DISTRICT

LAND USES	CF
Adult Day Care Facility	C
Adult Day Health Care	C
Animal Shelter	C
Athletic Field	P
Cemetery	C
Civic Uses	P
Commercial Antennas	C
Community Center	P
Congregate Care Facility	C
Congregate Living Health Facility	C
Convalescent Facility	C
Cultural Uses	P
Day Care Centers	P
Day Treatment Facility	C
Drug Abuse Recovery or Treatment Facility	C
<u>Dwelling, Multiple Family</u>	<u>P</u>
Educational Uses	P
<u>Emergency Shelters (Maximum 20 beds)</u>	<u>P</u>
Family Day Care Home, Large	C
Family Day Care Home, Small	C
<u>Group Dwelling</u> /Group Home	C
Hospital, Acute Psychiatric	C
Hospital, Chemical Dependency Recovery	C
Hospital, General Acute Care	C

LEGEND:

P = Permitted Use	P* = Permitted Use subject to special use standards (see Chapter 9.07)
C = Conditional Use	C* = Conditional Use subject to special use standards (see Chapter 9.07)
T = Temporary Use	T* = Temporary Use subject to special use standards (see Chapter 9.39)
X = Prohibited Use	A = Accessory Use

SECTION 9.19.020(b)
COMMUNITY FACILITIES DISTRICT
 (continued)

LAND USES	CF
Hospital, Special	C
Institutional Uses	C
Intermediate Care Facility	C
Open Space	P
Park, Public	P
Public Land Uses	C
Public Utility Uses	C
Recreational Uses	C
Recycling Facilities	C*
Religious Uses	C
Residential Care Facility for the Elderly	C
Residential Facility	C
Sanitarium, Health	C
Sanitarium, Mental	C
Sanitary Sewer Facilities	P
Skilled Nursing Facility	C
Small Family Home	C
Social Day Care Facility	C
Social Rehabilitation Facility	C
Solid Waste Disposal Facility	C*
Temporary Uses	T*
Transportation Uses	C

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94;)

9.19.030 Development Standards.

The following general development standards Table provides the minimum acceptable standards for development within the Community Facilities Districts necessary to assure quality development and attractive local community facilities. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.19.040. Parking standards are provided in Chapter 9.35.

**SECTION 9.19.030
 COMMUNITY FACILITIES DEVELOPMENT STANDARDS**

Development Standards (1)	CF	<u>For Residential Projects only</u>
(a) Minimum Lot Size (2)	5,000 sf	<u>4,800 sf</u>
(b) Minimum Lot Width (2)	50 ft	
<u>Standard Lot:</u>		<u>45 ft</u>
<u>Cul-De-Sac Lot (at front setback line):</u>	<u>N/A</u>	<u>25 ft</u>
<u>Flag Lot (for access extension):</u>	<u>N/A</u>	<u>25 ft</u>
(c) Minimum Lot Depth (2)	100 ft	<u>90 ft</u>
(d) Maximum Lot Coverage	35%	<u>60%</u>
(e) Maximum Height	31-35 ft (3) 3 stories (4)	<u>31-35 ft (3)</u> <u>3 stories (4)</u>
(f) Standard Floor Area Ratio (5)	.4:1	<u>N/A</u>
(g) Minimum Front Yard Setback <u>(8)</u>		
From Ultimate Public Street R/W Line	20 ft	<u>20 ft</u>
<u>Flag Lot (from connection with access extension):</u>	<u>N/A</u>	<u>15 ft</u>
(h) Minimum Side Yard Setback <u>(8)</u>		
Interior Side	10 ft	<u>10 ft</u>
Street Side	15 ft	<u>10 ft</u>
<u>Flag Lot: (6)</u>	<u>N/A</u>	<u>10 ft</u>
(i) Minimum Rear Yard Setback <u>(8)</u>		
Standard Lot	20 ft	<u>20 ft</u>
Adjacent to Alley or Street <u>(7)</u>	15 ft	<u>15 ft</u>
(j) Minimum Landscape Coverage	20%	<u>20%</u>
<u>(k) Minimum Open Space</u>		
<u>Private</u>	<u>N/A</u>	<u>200 sf/du</u>
<u>Common</u>	<u>N/A</u>	<u>25% ac</u>

(k) Minimum Building Separation	10 ft	<u>10 ft</u>
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Footnotes for Section 9.19.030:

- (1) See Chapter 9.75 for definitions and illustrations of development standards.
- (2) Development standard applies to proposed subdivisions of land. **These standards do not apply to existing lots where no subdivision is proposed nor to proposed condominiums or other common lot subdivisions.** The standards may be waived by the Planning Commission when necessary to accommodate the parcel configuration for an integrated commercial development.
- (3) Subject to the design and measurement criteria in Section 9.05.110(b)(4) **and Section 9.05.110(a) for residential projects.**
- (4) A maximum of 3 stories may only be permitted in accordance with Section 9.05.200.
- (5) A maximum of 1:1 may be permitted in accordance with Section 9.05.210.
- (6) If the side yard of a flag lot is adjacent to the rear yard of a residentially zoned lot, that side yard setback shall be a minimum of ten (10) feet.**
- (7) Subject to standards in Section 9.35.040(e) for garage setbacks.**
- (8) For existing lots less than fifty (50) feet wide and/or less than one hundred (100) feet deep, see Section 9.05.190 for reduced front, side, and rear building setbacks for residential projects.**

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94;)

9.19.040 Special Development Standards.

- (a) Accessory Uses and Structures.
 - (1) Height and Setbacks. Accessory buildings and structures are subject to the same height and setback requirements described for primary buildings and structures in Section 9.19.030, except as modified by Section 9.05.080, Maximum Projections into Required Yard Areas.
 - (2) **Accessory uses that do not add gross floor area such as clock towers, flag poles, and monuments (and do not contain signage) may be allowed to exceed the maximum building height by up to fifteen (15) feet through approval of a Conditional Use Permit. Allowance to exceed the building height shall be based on findings of the decision-making body that such accessory use promotes a positive community identity that contributes to City design.**
- (b) **Emergency Shelters. The purpose of these standards is to ensure the development of emergency shelters do not adversely impact adjacent parcels or the surrounding neighborhood, and shall be developed in a manner which protects the health, safety, and general welfare of the nearby residents and businesses, while providing for the housing needs of homeless population of the community. The following performance standards shall apply to emergency shelters.**

- (1) Emergency shelters which are setup as an accessory use to churches are limited to a maximum of 10 beds/persons facility.
- (2) Emergency shelters in the Community Facilities Zone are limited to a maximum of 20 beds/persons facility.
- (3) Emergency shelters shall provide on-site waiting and intake areas screened from public view to the satisfaction of the Director of Community Development. The intake is allowed between the hours of 5 p.m. to 8 p.m. or at dusk, whichever is sooner, and the discharge hours shall be from 8 a.m. to 10 a.m.
- (4) Emergency shelters shall provide on site management with security during operational hours only.
- (5) Emergency shelters shall be well lit during operational hours with adequate external lighting for security purposes. The lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of intensity compatible with the neighborhood to the satisfaction of the Director of Community Development.
- (6) Emergency shelters shall provide laundry facilities or services adequate for the number of residents. This requirement may be waived for emergency shelters which are set up as accessory use to churches by the Director of Community Development.
- (7) Emergency shelters may provide one or more of the following specific common facilities for the exclusive use of the residents and staff:

 - (a) Central cooking and dining room(s).
 - (b) Recreation room.
 - (c) Counseling Center.
- (8) For the purposes of noise abatement in residential districts, organized outdoor activities may only be conducted between the hours of 8 a.m. and 10 p.m.
- (9) Emergency shelters shall provide a trash enclosure that is completely enclosed with masonry walls not less than five feet high with a solid gated opening to accommodate a standard sized trash bin, or other enclosures as approved by the Director of Community Development. The trash enclosure shall be accessible to trash collection vehicles.
- (10) The provider/management of an emergency shelter shall have a written management plan including, as applicable, provisions for staff training, neighborhood outreach, security, screening of residents to insure compatibility with services provided at the facility, and for training, counseling, and treatment programs for residents.
- (11) The provider shall not discriminate in any services provided and shall not require participation by residents in any religious or philosophical ritual, service, meeting or rite as a condition of eligibility.
- (12) Emergency shelters shall abide by all applicable development standards of the Community Facilities District and with Parking Standards as set forth in Chapter 9.35 of this Code.

(13) No more than one Emergency Shelter shall be permitted within a radius of 300 feet from another such shelter.

- ~~(b) Sign Programs. Multi-tenant professional/administrative developments shall be required to obtain approval for a project sign program pursuant to Chapter 9.37.~~
- (c) “Art-in-Public-Places” Program. All new development projects located in the zoning districts described in this Chapter are subject to the provisions of the “Art-in-Public-Places” Program as described in Section 9.05.240.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-13, 8/23/94)

Chapter 9.21

RECREATION, OPEN SPACE AND CONSERVATION DISTRICTS

Sections:

- 9.21.010 Intent and Purpose.**
- 9.21.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.**
- 9.21.030 Development Standards.**
- 9.21.040 Special Development Standards.**

9.21.010 Intent and Purpose.

The Recreation, Open Space, and Conservation Districts provide a range of public and private uses to meet the recreation and open space uses needs of City residents, visitors, and employees; and to conserve the City's significant natural resources.

- (a) Recreation District. The Recreation (REC) district permits a wide range of higher intensity public and private active recreational uses. These uses are primarily outdoor and activity orientated. Recreation district uses include community facilities, outdoor athletic facilities, golf courses/health clubs, public parks and similar uses.
- (b) Open Space District. The Open Space (OS) district provides for a more limited range of public and private open space areas for low intensity, passive recreational purposes and related uses. The primary use within the Open Space district is passive recreation, such as trails, picnic areas, and other non-intensive or structured recreational activities.
- (c) Conservation District. The Conservation (CONS) district is intended for those lands that should remain in a natural state. Some minor intrusions from passive recreational uses may be appropriate if the primary goal of conservation and protection is achieved and there is a demonstrated need for such recreational uses. For areas within the coastal zone designated as the CONS district, "passive recreational uses" shall be limited to hiking, viewing of scenic areas, limited picnicking, and nature study.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.21.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.

- (a) Several classes of uses are allowed in Recreation, Open Space, and Conservation Districts. Each of these classes must promote the recreational, open space, or conservation character of the districts. These classes of uses are:
 - (1) Permitted Use — allowed by right if no discretionary review is required.
 - (2) Accessory Use — allowed by right if accessory to a permitted or conditional use.
 - (3) Temporary Use — allowed on a temporary basis in accordance with the provisions of Chapter 9.39.

- (4) Conditional Use — allowed subject to the approval of a Conditional Use Permit in accordance with the provisions of Chapter 9.65.
- (5) Prohibited Use — not allowed in the Recreation, Open Space, or Conservation District
- (b) The following Table lists the classification of allowable uses in Recreation, Open Space, and Conservation Districts. Any use not expressly allowed is prohibited.

SECTION 9.21.020(b)
RECREATION/OPEN SPACE/CONSERVATION DISTRICTS

LAND USES	REC	OS	CONS
Agriculture		C	
Animal Shelter	C	C	X
Athletic Reid	P	P	X
Camp, Public	C	C	X
Caretaker's Residence	C	C	X
Cemetery	C	C	X
Commercial Antennas	C	C	X
Commercial Recreational Uses	C	C	X
Community Center	P	P	X
Cultural Uses	P	P	X
Equestrian Facility	P	P	X
Food Services Uses, Specialty	C	X	X
Open Space	P	P	C
Open Space Uses	P	P	P
Park, Public	P	P	C
Public Land Uses	P	P	C
Public Utility Uses	C	C	C
Recreational Uses	P	C	X
Recreational Vehicle Park	C	X	X
Restaurant, Walkup	C	X	X
Stable, Private	P	C	X
Stable, Public	P	C	X
Temporary Uses	T*	T*	X
Trails, Riding and Hiking	P	P	P

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use

(Added by Ord. 93-16, 11/23/93; amended by Ord. 96-10, 8/13/96; Ord. 97-05, 9/9/97)

9.21.030 Development Standards.

The following general development standards Table provides the minimum acceptable standards for development within the Recreation, Open Space, and Conservation Districts necessary to assure quality development and attractive local Recreation, Open Space, and Conservation areas. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.21.040. Parking standards are provided in Chapter 9.35.

**SECTION 9.21.030
 RECREATION/OPEN SPACE/CONSERVATION DEVELOPMENT STANDARDS**

Development Standards (1)	Recreation/Open Space/ Conservation Districts		
	REC	OS	CONS
(a) Minimum Lot Size (2)	10,000 sf	N/A	N/A
(b) Maximum Building Coverage	20%	10%	N/A
(c) Maximum Height (3)	31 - 35 ft (4) 2 stories	18 ft/1 story	N/A
(d) Standard Floor Area Ratio (5)	.1:1	.1:1	N/A
(e) Minimum Setbacks			
From Ultimate Street R/W Line	50 ft	50 ft	N/A
From Adjoining Property Lines	25 ft	25 ft	N/A
(f) Minimum Open Space and Landscaping	80%	90%	100%

Footnotes for Section 9.21.030:

- (1) See Chapter 9.75 for definitions and illustrations of development standards.
- (2) Development standard applies to proposed subdivisions of land. The standards may be waived by the Planning Commission when necessary to accommodate the parcel configuration for an integrated community development.
- (3) The maximum height limit shall not apply to lighting standards providing illumination for recreational fields or parking facilities.
- (4) Subject to the design and measurement criteria in Section 9.05.110(b)(4).
- (5) A maximum FAR of .2:1 may be permitted in accordance with Section 9.05.210.

N/A — Development standard not applicable to this zoning district

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.21.040 Special Development Standards.

- (a) Accessory Uses and Structures. Accessory buildings and structures are subject to the same height and setback requirements described for primary buildings and structures in Section 9.21.030, except as modified by Section 9.05.080, Maximum Projections into Required Yard Areas.
- (b) Design Compatibility. Every new building or structure addition to an existing building or structure and site improvement shall result in a unified site design and architectural style that creates compatibility and an enhanced relationship.
The primary design objective in the recreation, open space, and conservation districts is to convey and achieve a sense and presence of public open space. Design within the District should strive to achieve visual, and where appropriate, physical public access. Where appropriate, the site should be lushly landscaped. Signage within the District should be clear but subdued and clearly indicate the use of a particular site.
- (c) “Art-in-Public-Places” Program. All new development projects located in the zoning districts described in this Chapter are subject to the provisions of the “Art-in-Public-Places” Program as described in Section 9.05.240.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-13, 8/23/94)

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Chapter 9.23

TRANSPORTATION CORRIDOR DISTRICT

Sections:

- 9.23.010 Intent and Purpose.**
- 9.23.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.**
- 9.23.030 Development Standards.**
- 9.23.040 Special Development Standards.**

9.23.010 Intent and Purpose.

The Transportation Corridor (TC) District includes land within the public rights-of-way for streets, highways, rail lines and other transportation corridors and facilities that are part of the General Plan Circulation Element Railroad rights-of-way shall be deemed to be in the TC district and shall be permitted to be used solely for the purpose of accommodating tracks, signals, other operative devices, and the movement of rolling stock. The District also includes open space areas adjacent to or included in the rights-of-way, public or private parking areas, and transit facilities. The District designates these major components of the City's circulation system and ensures these components are an efficient and aesthetic part of the community. (Added by Ord. 93-16, 11/23/93)

9.23.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.

- (a) Several classes of uses are allowed in the Transportation Corridor district. Each of these classes must promote the transportation character of the district. These classes of uses are:
 - (1) Permitted Use — allowed by right if no discretionary review is required.
 - (2) Accessory Use — allowed by right if accessory to a permitted or conditional use.
 - (3) Temporary Use — allowed on a temporary basis in accordance with the provisions of Chapter 9.39.
 - (4) Conditional Use — allowed subject to the approval of a Conditional Use Permit in accordance with the provisions of Chapter 9.65.
 - (5) Prohibited Use — not allowed in the Transportation Corridor district.
- (b) The following Table lists the classification of allowable uses in Transportation Corridor district. Any use not expressly allowed is prohibited.

**SECTION 9.23.020(b)
 TRANSPORTATION CORRIDOR DISTRICT**

LAND USES	TC
Roads, Streets and Highways	P
Transportation Uses	C

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use

(Added by Ord. 93-16, 11/23/93)

9.23.030 Development Standards.

The following general development standards Table provides the minimum acceptable standards for development within the Transportation Corridor District necessary to assure quality development. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.23.040. Parking standards are provided in Chapter 9.35.

**SECTION 9.23.030
 TRANSPORTATION CORRIDOR DEVELOPMENT STANDARDS**

Development Standards (1)	TC
(a) Minimum Lot Size (2)	5,000 sf
(b) Maximum Lot Coverage	10%
(c) Maximum Height (3)	31 - 35 ft (4) 2 stories
(d) Standard Floor Area Ratio (5)	.1:1
(e) Minimum Setbacks	
From Ultimate Street R/W Line	10 ft
From Adjoining Property Lines	10 ft
(f) Minimum Open Space and Landscaping	15%

Footnotes for Section 9.23.030:

(1) See Chapter 9.75 for definitions and illustrations of development standards.

- (2) Development standard applies to proposed subdivisions of land. The standards may be waived by the Planning Commission when necessary to accommodate the parcel configuration for an integrated commercial development.

Footnotes for Section 9.23.030 (continued):

- (3) Maximum height may be exceeded as necessary for utility poles, traffic signal towers, and other accessory structures that are related to the principal uses in the district.
- (4) Subject to the design and measurement criteria in Section 9.05.110(b)(4).
- (5) A maximum FAR of .2:1 may be permitted in accordance with Section 9.05.210.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.23.40 Special Development Standards.

The Special Development Standards contained in this section apply to lots outside the travel way of transportation corridors.

- (a) Accessory Uses and Structures. Accessory buildings and structures are subject to the same height and setback requirements described for primary buildings and structures in Section 9.23.030 except as modified by Section 9.05.080, Maximum Projections into Required Yard Areas.

(Added by Ord. 93-16, 11/23/93)

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Chapter 9.25

~~DANA POINT HARBOR PLANNED COMMUNITY DISTRICT~~

Sections:

9.25.010 ~~Purpose and Intent~~ Dana Point Harbor Revitalization Plan and District Regulations

~~9.25.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.~~

~~9.25.030 Development Standards.~~

9.25.010 — Purpose and Intent

~~This District provides for an efficient and mutually supporting range of harbor and marine-related commercial, business and recreational uses in and around Dana Point Harbor.~~

~~The land use and development regulations for this area are contained in the Dana Point Harbor Planned Community District Development Plan (DPHPCDDP) which is included as Appendix C. The underlying land use designations from the Land Use Element of the General Plan serve to direct the nature of land use in the harbor area. The land use designations applicable to the harbor include Visitor/Recreation Commercial, Recreation/Open Space, Community Facility, Harbor Marine Land and Harbor Marine Water. Please refer to the Land Use Element of the General Plan to determine the appropriate land use designation for individual sites within the Dana Point Harbor Planned Community. (Added by Ord. 93-16, 11/23/93)~~

9.25.020 — Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.

~~The land uses allowed in the harbor shall be in accordance with the land use regulations contained in the Dana Point Harbor Community Plan District Development Plan except that Adult Businesses shall also be permitted. (Added by Ord. 93-16, 11/23/93)~~

9.25.030 — Development Standards.

~~Development standards for projects in the harbor shall be in accordance with those standards contained in the Dana Point Harbor Planned Community District Development Plan. (Added by Ord. 93-16, 11/23/93)~~

9.25.010 Dana Point Harbor Revitalization Plan and District Regulations.

The land use and development regulations for this area are contained in the Dana Point Harbor Revitalization Plan and District Regulations included as Appendix C of the Dana Point Zoning Code.

(Amended by Ord. 06-08, 9/27/06; Ord. 10-02, 2/22/10; Ord. 11-03, 7/25/11)

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Chapter 9.27

COASTAL OVERLAY DISTRICT

Sections:

- 9.27.010 Intent and Purpose.**
- 9.27.020 Permitted, Accessory and Conditional Uses.**
- 9.27.030 Development Standards.**

9.27.010 Intent and Purpose.

The Coastal Overlay (CO) District preserves and protects the coastal resources within Dana Point, and implements the California Coastal Act (Division 20 of the Public Resources Code) and the General Plan coastal policies which constitute the Land Use Plan portion of the certified Local Coastal Program for the City of Dana Point. The CO District is an overlay district which shall be combined with any other zoning district that lies within the Coastal Zone of the City of Dana Point. A Coastal Development Permit subject to the standards of the specific zoning designation is required for all “development”, as defined in Section 9.75.040. Procedures and regulations in Chapter 9.61 “Administration of Zoning”, Chapter 9.69 “Coastal Development Permit” and this Chapter constitute additional minimum standards for all development within the Coastal Zone. In the Coastal Overlay District, the standards in this Chapter shall take precedence over other standards in the Zoning Code. The standards in this Chapter shall be applied in a manner which is most protective of coastal resources and public access. (Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.27.020 Permitted, Accessory and Conditional Uses.

Permitted, accessory, temporary and conditional uses within the Coastal Overlay district are the same uses as those allowed within the underlying base zoning districts, with the exceptions listed below. Refer to Chapter 9.69 for Coastal Development Permit requirements.

- (a) Beach area development in areas other than the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD 18) Districts, is limited to public lifeguard towers, public restrooms, public piers, shoreline protective works, public access structures, campgrounds, beach concessions, and recreational equipment;
- (b) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:
 - (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
 - (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

- (3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411 of the California Coastal Act as amended, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing spaces, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.
- (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
- (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
- (6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive habitat areas.
- (7) Restoration purposes.
- (8) Nature study, aquaculture, or similar resource dependent activities.
- (c) Coastal bluffs are limited to public coastal access or public park structures, bluff repair, and erosion control projects and structures that may include retaining and non-retaining walls, fences, and landscaping.
- (d) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (e) Any use or development in conflict with the General Plan coastal policies shall not be allowed.
- (f) Public Recreation. Salt Creek County Beach Park shall be a public park which is primarily geared towards passive recreational use. Limited active recreational use or educational use may be permitted provided the use is temporary, as defined in Coastal Commission guidelines for temporary events;

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.27.030 Development Standards.

In addition to the development standards for the base zoning districts described in Chapters 9:09-9.25, the following standards apply to all applicable projects within the CO District

- (a) Coastal Access.
 - (1) The purpose of this section is to achieve the basic state goals of maximizing public access to the coast and public recreational opportunities, as set forth in the California Coastal Act; to implement the public access and recreation policies of Chapter 3 of the Coastal Act; and to implement the certified land use plan of the Local Coastal Program which is required by Section 30500(a) of the Coastal Act to include a specific public access component In achieving these

purposes, the provisions of this subsection shall be given the most liberal construction possible so that public access to the navigable waters shall always be provided and protected consistent with the goals, objectives and policies of the California Coastal Act and Article X, Section 4, of the California Constitution.

(2) Definitions.

(A) New Development. For purposes of implementing the public access requirements of Public Resources Code Section 30212, the City of Dana Point certified land use plan, including Land Use Element Policy 3.12, and of this ordinance, “new development” includes “development” as defined in Section 9.75.040 of this zoning code except the following:

1. Structures destroyed by natural disaster. The replacement of any structure, other than a public works facility, destroyed by a disaster, provided that the replacement structure conforms to applicable existing zoning requirements, is for the same use as the destroyed structure, does not exceed either the floor area, height, or bulk of the destroyed structure by more than 10%, and is sited in the same location on the affected property as the destroyed structure. As used in this section, “disaster” means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owners.
2. Demolition and Reconstruction. The demolition and reconstruction of a single-family residence; provided that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.
3. Improvements. Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height or bulk of the structure by more than 10 percent, which do not block or impede access, and which do not result in a seaward encroachment by the structure.
4. Repair and Maintenance. Repair or maintenance activity which, pursuant to Public Resources Code Section 30610, requires no permit unless the activity will have an adverse impact on lateral public access along the beach.
5. Reconstruction and Repair. The reconstruction or repair of any seawall; provided that the reconstructed or repaired seawall is not seaward of the location of the former structure. As used in this section, “reconstruction or repair” of a seawall shall not include replacement by a different type of structure or other modification in design or construction which results in different or greater impacts to shoreline resources than those of the existing structure.

(B) The five (5) types of coastal public access (lateral, bluff top, vertical, trail, and recreational) are defined in Section 9.75.030 of this Zoning Code.

(C) Character of Accessway Use.

1. Pass and repass. Refers to the right of the public to walk and run along an accessway. Because this use limitation can substantially restrict the public's ability to enjoy adjacent publicly owned tidelands by restricting the potential use of lateral accessways, it will be applied only in connection with vertical access or other types of access where the findings required by Sections 9.27.030(a)(5) and 9.27.030(a)(5)(D) establish that the limitation is necessary to protect natural habitat values, topographic features (such as eroding bluffs), or privacy of the landowner.
2. Passive recreational use. As used in this section, "passive recreational use" refers to the right of the public to conduct activities normally associated with beach use, such as walking, swimming, jogging, sunbathing, fishing, surfing, picnicking, but not including organized sports, campfires, or vehicular access other than for emergencies or maintenance.
3. Active recreational use. As used in this section, "active recreational use" refers to the right of the public to conduct the full range of beach-oriented activities, not including horseback riding and use of motorized vehicles unless specifically authorized.

(3) Applicability.

- (A) Access Required. As a condition of approval and prior to issuance of a permit or other authorization for any class of new development as identified in Sections 9.27.030(a)(3)(A)1 through 9.27.030(a)(3)(A)4. below, except as provided in Section 9.27.030(a)(3)(B), an offer to dedicate an easement (or other legal mechanism pursuant to Section 9.27.030(a)(4)(J)2. for one or more of the types of access identified in Sections 9-27.030(a)(2)(D)1. through 9.27.030(a)(2)(D)5. shall be required and shall be supported by findings required by Sections 9.27.030(a)(5)(A) through 9-27.030(a)(5)(C); provided that no such condition of approval for coastal access shall be imposed if the analysis required by Sections 9.27.030(a)(5)(A)1. through 9.27.030(a)(5)(A)4. establishes that the development will not adversely affect, either individually or cumulatively, the ability of the public to reach and use public tidelands and coastal resources or that the access dedication requirement will not alleviate the access burdens identified.
1. New development on any parcel or location specifically identified in the certified land use plan or in the LCP zoning districts.
 2. New development between the nearest public roadway and the sea.
 3. New development on any site where there is substantial evidence of a public right of access to the sea acquired through use or a public right of access through legislative authorization.
 4. New development on any site where trail, blufftop access or other recreational access is necessary to mitigate impacts of the development on public access.

- (B) Exceptions. Section 9.27.030(a)(3)(A) above shall apply to all new development except in the following instances:
 - 1. Projects excepted from the definition of “new development” in Section 9.27.020(a)(2).
 - 2. Where findings required by Sections 9.27.030(a)(5)(A) and 9.27.030(a)(5)(B) establish any of the following:
 - a. Public access is inconsistent with the public safety, military security needs, or protection of fragile coastal resources; or
 - b. Adequate access exists nearby.
- (C) Exceptions identified in Section 9.27.030(a)(3)(B) shall be supported by written findings required by Section 9.27.030(a)(5)(C) of this Chapter.
- (4) Standards For Application Of Access Conditions. The public access required pursuant to Section 9.27.030(a)(3)(A) shall conform to the standards and requirements set forth in Section 9.27.030(a)(4) herein.
 - (A) Lateral Public Access (Minimum Requirements).
 - 1. A condition to require lateral access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of lateral public access and passive recreational use along the shoreline (or public recreational area, bikeway, or blufftop area, as applicable); provided that in some cases controls on the time, place and manner of uses may be justified by site characteristics including sensitive habitat values or fragile topographic features, or by the need to protect the privacy of residential development located immediately adjacent to the accessway.
 - 2. Active recreational use may be appropriate in many cases where the development is determined to be especially burdensome on public access. Examples include cases where the burdens of the proposed project would severely impact public recreational use of the shoreline, where the proposed development is not one of the priority uses specified in Public Resources Code Section 30222 and the policies of the certified land use plan, where active recreational uses reflect the historic public use of the site, where active recreational uses would be consistent with the use of the proposed project, and where such uses would not significantly interfere with the privacy of the landowner. In determining the appropriate character of public use, findings shall be made on the specific factors enumerated in Section 9.27.030(a)(5)(B). Lateral access shall be legally described as required in Section 9.27.030(a)(4)(G).
 - (B) Vertical Public Access (Minimum Requirements).
 - 1. A condition to require vertical public access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of access, either (1)

located in specific locations identified in the certified Local Coastal Program for future vertical access, or (2) located in a site for which the City of Dana Point has reviewed an application for a development permit and has determined a vertical accessway is required pursuant to the access and recreation policies of the Coastal Act or the applicable provisions of the Local Coastal Program.

2. A condition to require vertical access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of vertical access and be limited to the public right of passive recreational use unless another character of use is specified as a condition of the development. In determining whether another character of use is appropriate, findings shall be made on the specific factors identified in Section 9.27.030(a)(5)(B).
 3. Each vertical accessway shall extend from the road to the shoreline (or bluff edge) and shall be legally described as required in Section 9.27.030(a)(4)(G). The access easement shall be a minimum of 10 feet wide. If a residential structure is proposed, the accessway should not be sited closer than 10 feet (or another distance if specified in the certified land use plan) to the structure.
- (C) Bluff Top Access (Minimum Requirements).
1. A condition to require public access along a bluff top as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of scenic and visual access from the bluff top to the public tidelands; provided that in some cases controls on the time, place and manner of uses may be justified by site characteristics including sensitive habitat values or fragile topographic features, or by the need to protect the privacy of residential development located immediately adjacent to the accessway.
 2. The bluff top access shall be limited to passive recreational use and coastal viewing purposes unless another character of use is specified as a condition of development. In determining the appropriate character of use findings shall be made on the specific factors identified in Section 9-27.030(a)(5)(B).
 3. Each bluff top accessway shall be described in the conditions of approval of the coastal development permit as an area beginning at the current bluff edge extending 25 feet inland, or an area which allows for 50 years of bluff erosion, or another standard determined to be necessary for public safety and/or geologic stability, whichever results in the greatest width of the bluff top accessway. However, the accessway shall not extend any closer than 10 feet from an occupied residential structure. Due to the potential for erosion of the bluff edge, the condition shall include a mechanism that will cause the

accessway to be adjusted inland as the edge recedes. Any permanent improvements should be set back from the accessway by a distance derived by multiplying the annual rate of blufftop retreat by the life expectancy in years of the permanent improvements.

4. The accessway shall be legally described as required in Section 9.27.030(a)(4)(G), with the furthest inland extent of the area possible referenced as a distance from a fixed monument in the following manner.

“Such easement shall be [insert appropriate distance as described in Section 9.27.030(a)(4)(C)3 above] feet wide located along the bluff top as measured inland from the daily bluff edge. As the daily bluff top edge may vary and move inland, the location of this right of way will change over time with the then current bluff edge, but in no case shall it extend any closer than [specify distance] feet from [specify a fixed inland point, such as for example the centerline of the nearest public road].”

- (D) Trail Access (Minimum Requirements). A condition to require public access as a condition of approval of a coastal development permit (or other authorization to proceed with development) required pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of access and active recreational use, either (1) along a designated alignment of a coastal recreational path or trail in specific locations including those identified in the certified LCP for implementation of trail access, or (2) in locations where it has been determined that a trail access is required to link recreational areas to the shoreline or provide alternative recreation and access opportunities pursuant to the access and recreation policies of the LCP and Coastal Act, consistent with other provisions of this chapter; provided that in some cases controls on the time, place and manner of uses may be justified by site characteristics including sensitive habitat values or fragile topographic features, or by the need to protect the privacy of residential development located immediately adjacent to the accessway. In determining if another character of use is appropriate, findings shall be made on the specific factors enumerated in Section 9.27.030(a)(5)(B). The trail access shall be legally described as required by Section 9.27.030(a)(4)(G).
- (E) Recreational Access (Minimum Requirements). A condition to require public recreational access as a condition of approval of a coastal development permit required pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of access and use within a designated recreational access area. Conditions required pursuant to this section shall specify the location and extent of the public access area. The form and content should take the form of requirements in Sections 9.27.030(a)(4)(A), 9.27.030(a)(4)(B), 9.27.030(a)(4)(C), and 9.27.030(a)(4)(D) as applicable. The accessway shall be legally described as required in Section 9.27.030(a)(4)(G).

- (F) Protection of Historic Public Use.
1. Substantial Evidence Determination. Substantial evidence that the area used by the public has been impliedly dedicated shall be determined based on evidence of all of the following:
 - a. The public must have used the land for a period of five years or more as if it were public land,
 - b. Without asking for or receiving permission from the owner,
 - c. With the actual or presumed knowledge of the owner,
 - d. Without significant objection or bona fide attempts by the owner to prevent or halt the use, and
 - e. The use must be substantial, rather than minimal, and
 - f. The applicant must not have demonstrated that the law has prevented the property from being impliedly dedicated.
 2. Siting and Design Requirements. Development shall be sited and designed in a manner which does not interfere with or diminish any public right of access which may have been established based on historic public use. Only when site constraints are so severe that siting of the accessway or recreational use area in its historic location would significantly impair the proposed development and alternative development siting is not feasible, development may be sited in the area of public right of access based on historic use provided that the applicant provides an equivalent area of public access or recreation to and along the same destination and including the same type and intensity of public use as previously existed on the site. Mechanisms for guaranteeing the continued public use of the area or equivalent area shall be required in accordance with Sections 9.27.030(a)(4)(A) through 9.27.030(a)(4)(E) above.
 3. Minimum Requirements. An access condition shall not serve to extinguish or waive public prescriptive rights. In permits where evidence shows the possibility of such prescriptive rights, the following language shall be added to the access condition:

“Nothing in this condition shall be construed to constitute a waiver of any prescriptive rights which may exist on the parcel itself or on the designated easement.”
- (G) Legal Description of an Accessway (Recordation).
1. An access dedication required pursuant to Section 9.27.030(a)(3)(A) shall be described in the condition of approval of the permit in a manner that provides the public, the property owner, and the accepting agency with the maximum amount of certainty as to the location of the accessway. As part of the condition of approval, easements shall be described as follows:
 - a. for lateral access: along the entire width of the property from the mean high tide line to (as applicable): the toe of

- the bluff, the toe of the seawall, or other appropriate boundary such as structural and patio stringlines as described in Section 9.09.040(a)(1) of this Zoning Code (the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD) Zoning Districts).
- b. for blufftop access or trail access; extending inland from the bluff edge or along the alignment of a recreational trail.
 - c. for vertical access: extending from the road to the shoreline (or bluff edge). A privacy buffer provided pursuant to Section 9.27.030(a)(4)(I) shall be described, as applicable.
2. Prior to the issuance of the coastal development permit, the landowner shall execute and record a document in a form and content acceptable to the Director of Community Development, consistent with provisions of Section 9.27.030(a)(6), irrevocably offering to dedicate to a public agency, non-profit organization, or private association approved by the Coastal Commission an easement for a specific type of access as described in Section 9.27.030(a)(2)(D) and a specific character of use as described in Section 9.27.030(a)(2)(E), as applicable to the particular condition.
 3. The recorded document shall provide that the offer to dedicate shall not be used or construed to allow anyone, prior to acceptance of the dedication, to interfere with any rights of public access acquired through use which may exist on the property.
 4. The recorded document shall include legal descriptions of both the applicant's entire parcel and the easement area and a map to scale. The offer shall be recorded free of prior liens and any other encumbrances which the Coastal Commission [or local agency authorized by the Commission] determines may affect the interest being conveyed. The offer to dedicate shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.
- (H) Management Plan (Minimum Requirements). A management plan may be required in conjunction with a dedication of public access in any case where there is substantial evidence of potential conflicts between public access use and other uses on or immediately adjacent to the site. Examples include access in areas of sensitive habitats, agricultural resources, or significant hazards, or adjoining residential neighborhoods or military security areas. The plan shall be prepared by the accepting agency and approved by the City of Dana Point prior to the opening of the access to public use. Where applicable, the plan should specify management controls on time and intensity of use, standards for privacy

buffers, and requirements for maintenance of aesthetic values through such measures as litter control.

- (I) Privacy Buffers (Minimum Requirements). Separation between a public accessway and adjacent residential use may be provided when necessary to protect the landowner's privacy or security as well as the public's right to use of the accessway. Any such buffer shall be provided within the development area. Access should not be sited closer to any residential structure than the distance specified in the certified LUP amendment, or where there is no distance specified, no closer than 10 feet. The buffer can be reduced where separation is achieved through landscaping, fences or grade separation.
- (J) Implementation.
 - 1. A dedicated accessway shall not be required to be opened to public use until a public agency, non-profit organization, or private association approved in accordance with Section 9.27.030(a)(4)(G) agrees to accept responsibility for maintenance and liability of the access, except in cases where immediate public access is implemented through a deed restriction.
 - 2. In any case where the size and character of a development would impose very substantial burdens on public access, such as a large resort development on the shoreline, and where the applicant has the capacity to operate and maintain the accessway or recreation area, a deed restriction may be required instead of an offer to dedicate in order to assure immediate public use of the area and maintenance of the area by the applicant and successors in interest in any such case, all other applicable provisions of this ordinance shall apply.
 - 3. Access facilities constructed on access easements (e.g., walkways, paved paths, boardwalks, etc.) should be no wider than necessary to accommodate the numbers and types of users that can reasonably be expected. Width of facilities can vary for ramps or paved walkways, depending on site factors such as the need for privacy buffers, public safety needs, and the need to protect natural resource areas from overuse.
- (K) Title Information. As a requirement for any public access condition, prior to the issuance of the permit or other authorization for development, the applicant shall be required to furnish a tide report and all necessary subordination agreements. Tide insurance may also be required where easements are being granted. The amount of insurance shall reflect the estimated cost to acquire an equivalent accessway or recreational use elsewhere in the vicinity. All offers shall be made free of all encumbrances which the approving authority pursuant to Section 9.27.030(a)(4)(G) determines may affect the interest being conveyed. If any such interest exists which could erase the access easement, it must be subordinated through a written and recorded agreement.

- (5) Required Findings And Supporting Analysis For Public Access Dedications.
- (A) Required Overall Findings. Written findings of fact, analysis and conclusions addressing public access must be included in support of all approvals, denials or conditional approvals of projects between the first public road and the sea (whether development or new development) and of all approvals or conditional approvals of projects (whether development or new development) where an access dedication is included in the project proposal or required as a condition of approval. Such findings shall address the applicable factors identified by Section 9.27.030(a)(5)(B) and 9.27.030(a)(5)(C) and shall reflect the specific level of detail specified, as applicable. Findings supporting all such decisions shall include:
1. A statement of the individual and cumulative burdens imposed on public access and recreation opportunities based on applicable factors identified pursuant to Section 9.27.030(a)(5)(B). The type of affected public access and recreation opportunities shall be clearly described.
 2. An analysis based on applicable factors identified in Section 9.27.030(a)(5)(B) and 9.27.030(a)(5)(C) of the necessity for requiring public access conditions to find the project consistent with the public access provisions of the Coastal Act
 3. A description of the legitimate governmental interest furthered by any access condition required.
 4. An explanation of how imposition of a public access dedication requirement alleviates the access burdens identified and is reasonably related to those burdens in both nature and extent
- (B) Required. Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the City of Dana Point shall evaluate and document in written findings the factors identified in Sections 9.27.030(a)(5)(B)1. through 9.27.030(a)(5)(B)4. below, to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the City of Dana Point and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the dedication will alleviate or mitigate the adverse effects which have been identified and is reasonably related to those adverse effects in both nature and extent As used in this section, “cumulative effect” means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning. The following factors shall be analyzed:
1. Project Effects On Demand For Access And Recreation:
 - a. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development
 - b. Analysis of the project’s effects upon existing public access and recreation opportunities.

- c. Analysis of the project's cumulative effects upon the use and capacity of the identified public access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative buildout
 - d. Projection of the anticipated demand and need for increased coastal access and recreation opportunities for the public.
 - e. Analysis of the contribution of the project's cumulative effects to any such projected increase.
 - f. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas.
 - g. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities.
2. Shoreline Processes (for accessways on sites subject to wave action, such as beachfront and coastal blufftop accessways):
- a. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site.
 - b. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development
 - c. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity.
 - d. Analysis of the effect of any identified changes of the project - alone or in combination with other anticipated changes - will have upon the ability of the public to use public tidelands and shoreline recreation areas.

- e. The rate of blufftop erosion due to wave action as the base of the bluff.
 - 4. Physical Obstructions: Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline.
 - 5. Other Adverse Impacts On Access And Recreation:
 - a. Description of the development's physical proximity and relationship to the shoreline and any public recreation area.
 - b. Analysis of the extent to which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation.
 - c. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development
- (C) Findings for Projects Involving Historic Public Use/Prescriptive Rights:
- 1. Where an issue as to the existence of public prescriptive rights has been raised during the course of reviewing a coastal development permit application, one of the following findings shall be made:
 - a. Substantial evidence does not warrant the conclusion that public prescriptive rights exist;
 - b. Substantial evidence of public prescriptive rights exist, but development will not interfere with those rights;
 - c. There is an unresolved controversy as to the existence of public prescriptive rights which requires denial of a coastal development permit because of interference with those rights.
 - d. There is an unresolved controversy as to the existence of public prescriptive rights, but the applicant's dedication of a public access protects the rights of the public and allows an agreement to accept the actual dedication in exchange for giving up the contested claim of implied dedication.
 - 2. In determining any requirement for public access based on historic public use/prescriptive rights, including the type of access and character of use, the City of Dana Point shall evaluate and document in written findings the factors identified in Sections 9.27.030(a)(5)(C)2.a. through 9.27.030(a)(5)(C)2.e. below, to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the City of Dana Point and shall be supported by substantial evidence in the record. If an access

dedication is required as a condition of approval, the findings shall explain how the dedication will alleviate or mitigate the adverse effects which have been identified and is reasonably related to those adverse effects in both nature and extent. As used in this section, “cumulative effect” means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning. The following factors shall be analyzed:

- a. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal).
 - b. Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc. and for passive and/or active recreational use, etc.).
 - c. Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made.
 - d. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts.
 - e. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use).
- (D) Required Findings For Public Access Exceptions. Any determination that one of the exceptions of Section 9.27.030(a)(3)(B) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:
1. The type of public access potentially applicable to the rite involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected or the public safety concern which is the basis for the exception, as applicable.
 2. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that fragile coastal resources or public safety, as applicable, are protected.
 3. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an accessway on the subject land.
- (E) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:

1. Identification and protection of specific habitat values including the reasons supporting the conclusion that such values must be protected by limiting the hours, seasons, or character of public use.
 2. Topographic constraints of the development site.
 3. Recreational needs of the public.
 4. Rights of privacy of the landowner which could not be mitigated by setting the project back from the accessway or otherwise conditioning the development.
 5. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access.
 6. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.
- (6) Section 9.69.080(b) contains standards for the review of recorded documents for access.
- (7) Public Access in Private Development The hotel originally known as the Ritz Carlton Laguna Niguel at the time it opened for business, located on the promontory situated above Salt Creek County Beach Park, shall be operated as a hotel facility open to the general public and shall not be converted to a private resort facility. Existing public access through the hotel site, and signage visible to the public acknowledging the public access, shall be preserved and maintained.
- (b) Wetland Resources. To protect and maintain the City's coastal wetland resources, a minimum 100-foot buffer area around all identified wetlands shall be provided as part of all allowable development within or adjacent to wetlands, unless both the California Department of Fish and Game and the U.S. Fish and Wildlife Service provide a written determination that a lesser buffer will provide adequate protection.
- (1) To minimize the disturbance to a wetland from adjacent development, the following minimum requirements shall be incorporated into the design of a buffer area:
 - (A) Fences and/or natural barriers shall be provided to control the entry of humans and non-wetlands animal species into the wetland. The buffer shall also provide for visual screening in those cases where resident or migratory wetland species are particularly sensitive to human impacts. Development adjacent to wetlands shall be sited and designed to avoid excessive light or noise, where feasible. The use of walls, berms and other barriers shall be considered where excessive artificial light or noise is unavoidable.
 - (B) Buffers shall be designed, where necessary, to help minimize the effects of erosion, sedimentation, and pollution arising from urban and industrial activities. Any pollution control devices within the buffer area shall be maintained.
 - (C) Buffers shall provide habitat for species residing in the transitional zone between wetlands and uplands. The design of buffers should consider the movement of food and energy between habitats as well as the life cycles of organisms that feed or reproduce in the wetland but generally reside

outside the wetland. Any revegetation work in the buffer area shall use native species from local sources.

- (2) **Uses Within Buffer Areas.** Necessary pollution control devices and passive recreational uses shall be allowed within buffer areas but only if it can be shown that these uses will not have significant adverse impacts on the wetland ecosystem or the buffer's function as described in the above criteria. These uses shall be limited to bird watching, walking, jogging, and bike riding, and may include the construction of paths and interpretive signs and display. Any paths constructed shall minimize adverse impacts to plants and animals in the buffer area.
- (c) **Development Adjacent to Coastal Bluffs.** Development adjacent to coastal bluffs shall minimize hazards to owners, occupants, property, and the general public; be environmentally sensitive to the natural coastal bluffs; and protect the bluffs as a scenic visual resource. The minimum setback from the bluff edge of a coastal bluff shall be established by the underlying zoning district. However, in no case shall the minimum setback be less than 25 feet or one which provides for 50 years of erosion, whichever is most restrictive.

In addition, should the geotechnical report indicate bluff stabilization is required to ensure proposed development is safe from a threat of erosion and bluff failure for fifty years, additional setbacks will be required. Any approved slope stabilization measures shall be the least environmentally damaging feasible alternative and shall be designed to minimize alteration of the bluffs and be subordinate to the natural character of the bluffs.

Development setbacks from coastal bluff edges may not be the same due to varying geologic conditions and environmental conditions. The following provisions detail the items required for filing, the means by which coastal bluff edges are measured, criteria for review, development standards, and the potential development that may be permitted within the coastal bluff setback area.

- (1) **Coastal Bluff Edge Measurement.**
 - (A) The applicant shall provide an aerial photograph and contour map of the site clearly delineating the current coastal bluff edge, existing topography and the outline of the development proposed.
 - (B) The applicant shall provide a geotechnical report prepared within one year of the date of the application submittal, which specifically addresses the coastal bluff edge and delineates the bluff edge on a graphic exhibit on both the grading plan and site plan. The report shall specifically address the methodology used to support the conclusions of the report
 - (C) The Director of Community Development and Director of Public Works or their designee shall conduct an on-site survey of the property and compare the geotechnical report's conclusions with that of actual on-site terrain and bluff top patterns.
- (2) **Criteria for Review.** At a minimum, the following will be required for each application for development adjacent to coastal bluff edges:

- (A) Development plans shall be prepared and wet stamped by a State Certified Engineering Geologist knowledgeable in coastal engineering and engineering geology.
- (B) A geotechnical report shall address the factors which directly or indirectly cause, promote, or encourage bluff erosion or failure either on site or on adjacent properties, and the measures to control these factors. The report shall include, but shall not be limited to, the following information:
 - 1. Bluff geometry, site topography, and any other condition which may affect the site.
 - 2. Historic, current, and foreseeable bluff erosion. A minimum of fifty (50) years of historic erosion and fifty (50) years of future erosion should be analyzed.
 - 3. Geologic conditions including, but not limited to, soils, sediment, bedrock, drainage patterns, and structural features such as fault lines and joints. Soils borings to bedrock and the limits and depth of alluvial removal shall be addressed to the satisfaction of the Director of Public Works.
 - 4. Evidence of past and potential landslides and the implication of such conditions on the structural integrity of the proposed development as well as the proposed development's potential effect on landslide activity.
 - 5. Impact of construction activity on the stability of the site and adjacent area. This shall include, but not be limited to, remedial grading, the impact of grading machinery, or other vibration inducing factors on the bluff stability.
 - 6. Ground and surface water conditions or variations caused by the development, such as the alteration in surface/subsurface drainage, irrigation systems, and proposed drains and subdrains.
 - 7. Mitigation measures proposed to be used to ensure minimized erosion problems during and after construction.
 - 8. Any other facts that might affect slope stability, including but not limited to the effects of marine erosion on coastal bluffs, and related mitigation measures for potential impacts.
 - 9. Any proposed development, either main structures or minor development, shall be addressed in the report. Said structures and development shall be evaluated with respect to impact on the stability of the bluff to ensure that structures and development are reasonably safe from failure and erosion given a minimum 50-year physical life.
 - 10. Any other information as deemed necessary by the Director of Community Development or Director of Public Works.
 - 11. A bibliography of all information sources, including, but not limited to, dates of site visits.
- (3) Development Standards.
 - (A) Drainage. All surface and subsurface run-off shall be directed to a public street or an approved drainage facility to the satisfaction of the Director of

Public Works. Transportation of said run-off may require area drains, roof drains, reductions in grading, appropriate pumping mechanisms, and other similar measures. Where feasible, said run-off shall be directed to sewer systems rather than storm drains which lead directly to the ocean.

- (B) Landscaping. All landscaping shall be native or drought tolerant which minimizes irrigation requirements, and reduce potential slide hazards due to over watering. Irrigation and the use of turf grass, ice plant and similar shallow-rooted plants within the bluff setback shall be specifically prohibited on blufftop developments. Landscaping shall be maintained and installed so as to ensure that, during growing stages as well as at maturity, the landscaping will not obstruct public views.
- (4) Requirements for Setback Deviation. A State Licensed Civil Engineering Geologist shall prepare a site specific geotechnical and soils report to address and explain any proposed deviation from the minimum setbacks from the coastal bluff edge in the Zoning Map, and the Draft Dana Point General Plan Coastal Erosion Technical Report dated July 11, 1990. The report shall include:
- (A) An explanation and calculation of the deviations, if any, in the setback from the coastal bluff edge.
 - (B) If caissons are not recommended, the report shall explain why caissons are not needed. If caissons are recommended in the report, the following additional information shall be provided:
 - 1. Indicate the angle of repose.
 - 2. Depth of caisson required for the structure and limits of caissons.
 - (C) Requirements for Setback Deviation. Should an analysis of the geotechnical report conclude that a greater or lesser setback may be necessary than that required by this Code, the Planning Commission can make a finding that it is in the interest of the public safety to approve an additional or lesser setback as recommended. However, in no case shall a setback of less than 25 feet or less than 50 years of bluff erosion, whichever is most restrictive, be permitted.
- (5) Permitted Development within the Coastal Bluff Edge Setback. Precautions are required to ensure that the integrity of the bluff is not threatened. Development within the coastal blufftop setback area shall minimize landform alteration, be subordinate to the natural character of the bluff, and is limited to structures that may include retaining and non-retaining walls, fences, and drought-tolerant landscaping which conform to the setback requirements of this Chapter. Swimming pools and sunken spas are prohibited within the setback area. Additional setbacks shall be required if recommended in a geotechnical report submitted for the minor development.
- Minor development and improvements are defined as:
- (A) Those generally not requiring a building or grading permit and not attached to the main structure; and
 - (B) Those developments which protect natural resources or ensure public safety such as fences and low walls.

A Coastal Development Permit pursuant to Chapter 9.69 shall be required prior to any minor development. Minor development may only be approved if the approved geotechnical reports support such development and conclude that the development will not have an impact on bluff stability. All minor development shall be environmentally sensitive to the natural bluff line and public view.

Grading on the coastal bluff shall be kept to a minimum. Raising of the natural grade shall be limited to that level needed to provide a maximum of one (1) percent of fall to the existing top of curb in the street in order to facilitate piping of all bluff drainage to the street by gravity.

A study which details the potential impact of any proposed grading on the coastal bluff may be required at the discretion of the Director of Community Development or the Director of Public Works as the circumstances of the individual lot warrant. The study shall be prepared to address the impacts identified by the City to the satisfaction of the Director of Community Development and/or the Director of Public Works.

- (6) Development at the Base of Coastal Bluffs. Development proposed at the base of coastal bluffs shall be required to submit appropriate geotechnical reports which provide a detailed assessment of the ultimate stability of the bluffs above the subject site. The report(s) shall document the ultimate profile (section) of the bluff face, delineate the buildable portion of the site and shall include recommendations for adequate protective structures for the project as well as recommendations for alternatives which do not require landform alteration of the bluff face nor bluff stabilization. The report(s) shall address all topics relevant to the geologic condition of the subject site and adjacent bluffs and shall be prepared to the satisfaction of the Director of Public Works. Proposals for shoreline protective devices at the base of coastal bluffs shall be consistent with the requirements of Section 9.27.030(f) below.
 - (7) Development on the face of Coastal Bluffs. New private staircases, the replacement of fifty percent (50%) or more of existing private staircases, or additions to/expansion of existing private staircases, which descend down bluff faces shall be prohibited. Public staircases down bluff faces shall only be permitted if geologic instability would not result, if landform alteration would be minimized, and the staircase would be visually subordinate to the natural character of the bluff face.
- (d) Environmentally Sensitive Habitat Areas.
- (1) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
 - (2) Development adjacent to an environmentally sensitive habitat area (ESHA) shall be required to submit a biological assessment which shall include, at a minimum, a survey of the types and quantities of sensitive species present in the ESHA, the impacts of the development on the ESHA, alternatives to the

development, and mitigation measures for unavoidable impacts on the ESHA resulting from the development. Evaluations of the development's impact to the ESHA shall be sought from appropriate state and federal resources agencies.

- (e) Grading. Grading activity shall be conducted in a manner that minimizes landform alteration and erosion and ensures geologic stability and structural integrity.
- (1) Landform Alteration.
- (A) Man-made slopes shall be designed so that they can be conveniently maintained so as to minimize erosion, slope failure and unsightly conditions.
- (B) Man-made slopes shall be designed to resemble natural terrain where feasible, with a minimum of long, flat, inclined plane surfaces and acute angles.
- (C) Man-made slopes shall be no steeper than two (2) feet horizontal to one (1) foot vertical.
- (2) Erosion Control. Appropriate mitigation measures shall be employed, including but not limited to prompt revegetation of graded areas with similar types of vegetation which previously existed on-site prior to the commencement of grading activities, and avoiding grading during the rainy season from October 15 through April 15.
- Each building pad at or above street level shall drain directly to the street. Where any lot is designed in such a manner that it will not drain with a minimum one percent (1%) grade directly to a street or common drainage facility, it shall be designed in a manner that will conform to the following criteria:
- (A) Lots shall be designed in such a manner that man-made slopes are not subject to sheet flow or concentrated runoff from either the same or an adjacent lot. All slopes shall be protected from surface runoff by berms, interceptor ditches, or similar measures.
- (B) All water flowing off man-made slopes shall be constrained within an approved drainage device.
- (f) Shoreline Protective Devices. Seawalls, revetments, and other such shoreline protective devices or construction that alters natural shoreline processes shall be permitted only if non-structural alternatives are found to be infeasible, and when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures or shoreline protective devices causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible. Any shoreline protective device which may be permitted shall be placed so that no part of a new shoreline protective device is built further onto the beach than a line drawn between the nearest adjacent corners of the nearest adjacent shoreline protective devices.

Seawalls in the northern portion of the Capistrano Bay District private community along Beach Road (north of Pines Park located in the inland bluffs above the community), when permitted in accordance with the other requirements of this

Chapter, shall have a scour blanket consisting of rip-rap stone placed at the seaward toe of the seawall to minimize beach erosion.

- (g) **Water Quality.** All drainage facilities shall be designed to carry surface runoff to the nearest practical street or storm drain approved by the City and/or other appropriate governmental agency as the proper place to deposit such waters. Where feasible, structural and non-structural Best Management Practices including, but are not limited to, first flush diversion, detention/retention basins, infiltration trenches/basins, porous pavement, oil/grease separators, street sweeping, and grass swales, and other measures as may be required by State water quality agencies, shall be implemented All drainage improvements intended or required to convey storm runoff shall be designed and installed or constructed in accordance with the applicable National Pollutant Discharge Elimination System requirements.
- (h) **Fire Hazards.** Fuel modification within environmentally sensitive habitat areas shall be minimized to the extent feasible. Fuel modification plans shall, where feasible, employ selective thinning by hand rather than mass clear-cutting within environmentally sensitive habitat areas.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

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Chapter 9.29

PLANNED RESIDENTIAL DEVELOPMENT OVERLAY DISTRICT

Sections:

- 9.29.010 Purpose and Intent**
- 9.29.020 Permitted Uses, Accessory Uses, Temporary Uses and Conditional Uses.**
- 9.29.030 Procedure and Submittal Requirements.**
- 9.29.040 Adoption Requirements.**
- 9.29.050 Development Standards Modified by Planned Residential Development Overlay District**
- 9.29.060 Planned Residential Development Standards.**
- 9.29.070 Notification.**
- 9.29.080 Existing Planned Residential Developments.**

9.29.010 Purpose and Intent.

The Planned Residential Development Overlay (PRDO) District provides a method to allow deviation to zoning district standards to create superior designs for residential development. To achieve this, a PRDO District establishes zoning requirements that are in addition to, in combination with, or in place of the underlying residential base zoning requirements in Chapter 9.09 of this Code. The PRDO district requires exceptional design features, and sensitive and enhanced site planning to produce an integrated and stable residential development which is compatible and enhances existing and planned surrounding land uses.

The PRDO district allows flexibility for development to achieve additional public, common or private open spaces; minimize environmental impact and achieve a superior living environment and implementation of the General Plan. Planned Residential Development projects must conform with the density limitations, parking, open space, and other minimum or maximum standards of the underlying residential zoning district, except as otherwise described in this Chapter. Planned Residential Development projects must conform with the requirements of all applicable overlay districts.

The regulations of the Planned Residential Development Overlay District are intended to only apply to Planned Residential Developments that are proposed after the effective date of this Code. Residential developments physically existing prior to the effective date of this Code, but which are not currently identified as a Planned Residential Development by this Chapter, could be identified as a Planned Residential Development (Added by Ord. 93-16, 11/23/93)

9.29.020 Permitted Uses, Accessory Uses, Temporary Uses and Conditional Uses.

Permitted, accessory, temporary and conditional uses within the Planned Residential Development Overlay District are the same as those allowed within the applicable underlying base residential zoning districts. (Added by Ord. 93-16, 11/23/93)

9.29.030 Procedure and Submittal Requirements.

The procedure for establishing the Planned Residential Development Overlay District to any site shall be in accordance with zoning amendments in Chapter 9.61. Application for the

Planned Residential Development Overlay District does not modify the underlying base zoning district(s) until a Site Development Permit and a Planned Residential Development District for the site are adopted. An application for a Planned Residential Development Overlay shall include:

- (a) A detailed explanation of surrounding, existing, and planned land use and why the proposed overlay district achieves a development that meets the highest standards of the General Plan, creating a more desirable living environment in the surrounding area.
- (b) A proposed Zoning Map at one (1) inch = five hundred (500) feet indicating the base zoning for the area and showing the letters 'PRD' with a space for the PRD number for the site within parentheses followed by the base zoning. This map shall also show the zoning districts for one thousand (1,000) feet surrounding the site.
- (c) All the proposed changes to the base zoning requirements.
- (d) An application for a Site Development Permit which also clearly shows the existing standards and how the proposed Planned Residential Development Overlay District deviates from them.
- (e) A schematic Site Plan complying with the existing zoning regulations to allow the Planning Commission an opportunity to compare and evaluate the benefits of the proposed Planned Residential Development.

(Added by Ord. 93-16, 11/23/93)

9.29.040 Adoption Requirements.

The Ordinance adopting the approval of a Planned Residential Development Overlay shall contain the following:

- (a) Language which clearly identifies all the modifications to the base zoning district requirements. Only those standards clearly and expressly modified by the Ordinance approving the PRDO District shall be effective.
- (b) Language which clearly references the Site Development Permit for the project.
- (c) Language which clearly indicates the modification to the Zoning Map and the inclusion of all the PRDO standards as an appendix within the Zoning Code.
- (d) The findings included in an ordinance to adopt a Planned Residential Development Overlay District shall be as follows:
 - (1) That the proposal will result in an integrated, compatible development which will be consistent with the General Plan and in harmony with existing and proposed development in the surrounding neighborhood.
 - (2) That the proposal will result in a project that is clearly superior to what would be developed in accordance with the regulations of the base zoning district.
 - (3) That the unique development standards proposed are not contrary to the public health, safety, and general welfare.
 - (4) That the proposal exceeds the development standards of the base zoning district and provides improved use of common areas, open space, and off-street parking facilities.
 - (5) That the proposal is consistent with the intent of the underlying zoning designation.

(Added by Ord. 93-16, 11/23/93)

9.29.050 Development Standards Modified by Planned Residential Development Overlay District.

The following development standards of Chapter 9.09 may be modified through the approval of a Planned Residential Development Overlay District:

- Minimum lot size
- Minimum lot width
- Minimum lot depth
- Maximum lot coverage
- Minimum front yard setback
- Minimum side yard setback
- Minimum rear yard setback
- Minimum garage setback
- Maximum floor area ratio

The location and configuration of individual lots within a project site shall be determined by the Planned Residential Development Overlay Standards and implemented by an approved Site Development Permit for the entire Planned Residential Development Overlay District (Added by Ord. 93-16, 11/23/93)

9.29.060 Planned Residential Development Standards.

In addition to the development standards of the base zoning district described in Chapter 9.09 and other applicable provisions of this Code, new Planned Residential Development Overlay Districts shall meet the following standards:

- (a) Minimum Area for a Planned Residential Development. The area of a Planned Residential Development shall be a clearly definable geographical area subject to the approval of the Planning Commission.
- (b) Maximum Lot Coverage. The overall building coverage in a Planned Residential Development shall not exceed that of the base zoning district
- (c) Maximum Density. The maximum density shall be less than or equal to the maximum density of the base zoning district
- (d) Minimum Open Space. The minimum open space standards of the base zoning district shall be exceeded by a Planned Residential Development.
- (e) Building and Development Location. For Planned Residential Developments, building and development location need not satisfy the minimum regulations of the underlying zoning district, except those regulations relating to shorelines, coastal bluffs, or other overlay district regulations, or those required by the City Building Code, or by other requirements necessary to mitigate environmental impact and satisfy specific safety requirement associated with physical conditions of the individual building site. Actual development locations, distances between development or buildings, distances from streets and distances from other features will be identified by an approved Site Development Permit as referenced by the Planned Residential Development Overlay District.

(Added by Ord. 93-16, 11/23/93)

9.29.070 Notification.

Title reports for dwelling units shall include notification that the unit is within a Planned Residential Development and is subject to the PRDO and the Site Development Permit requirements. (Added by Ord. 93-16, 11/23/93)

9.29.080 Existing Planned Residential Developments.

An index detailing the locations and development standards of all Planned Residential Developments acknowledged by this Code is contained in the appendix. (Added by Ord. 93-16, 11/23/93)

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Chapter 9.31

FLOODPLAIN OVERLAY DISTRICT

Sections:

- 9.31.010 Intent and Purpose.**
- 9.31.020 General Provisions.**
- 9.31.030 Permitted, Accessory, Temporary, and Conditional Uses.**
- 9.31.040 Prohibited Uses and Structures.**
- 9.31.050 Administration.**
- 9.31.060 Provisions for Flood Hazard Reduction.**
- 9.31.070 Exception Procedure.**

9.31.010 Intent and Purpose.

The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Dana Point does hereby adopt the following floodplain management regulations.

The three (3) Floodplain Overlay (FP) districts protect the public health, safety, and general welfare from flood hazards by assuring proper use and development.

The FP-1 district is applied to areas shown as “floodway” areas on the FEMA Flood Insurance Rate Map (FIRM), as “floodway” on the other areas in which the City has determined that a floodway exists.

The FP-2 district is applied to “areas inundated by 100 year flood” which are shown as “A,” “A1” through “A30,” “AO,” “AH,” “A99,” and “M” on FEMA Flood Insurance Rate Maps and areas in which the City has determined to be a special flood hazard area.

The FP-3 district is applied to coastal areas subject to wave action, which are specifically shown as “AE,” “E,” “VE,” “V,” and “VI” through “V30” on the FEMA Flood Insurance Rate Maps and areas in which the City has determined to be a coastal high hazard area.

The Floodplain Overlay districts are overlay districts which may be combined with any other zoning district. The floodplain overlay districts provide use, development and permit requirements that are applied in addition to the underlying zoning district and the requirements of other overlay districts. In the event of conflicting provisions between the underlying district and the overlay districts, the more restrictive requirements shall prevail.

The purposes of the Floodplain Overlay Districts include:

- (a) The Floodplain Overlay districts and the flood hazard areas of the City of Dana Point are subject to periodic inundation which may result in loss of life and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and when

inadequately flood proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

- (c) It is the purpose of this Chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed:
 - (1) To protect human life and health;
 - (2) To minimize expenditure of public money for costly flood control projects;
 - (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (4) To minimize prolonged business interruptions;
 - (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone; and sewer lines, streets and bridges located in areas of special flood hazard;
 - (6) To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
 - (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and
 - (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions on the property.
- (d) In order to accomplish its purposes, this Chapter includes methods and provisions for:
 - (1) Restricting or prohibiting uses within the Floodplain Overlay Districts which are dangerous to health, safety, and property due to water or erosion hazards or which result in damaging increases in erosion or flood heights or velocities;
 - (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
 - (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
 - (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 19-01, 4/2/19)

9.31.020 General Provisions.

- (a) **Lands to Which this Chapter Applies.** This Chapter shall apply to all areas of special flood hazards, areas of flood-related erosion hazards, and areas of mudslide (i.e., mudflow) hazards within the jurisdiction of the City of Dana Point.
- (b) **Basis for Establishing the Areas of Special Flood Hazard.** The areas of special flood hazards, areas of flood-related erosion hazards, and areas of mudslide fix., mudflow) hazards identified by the Federal Emergency Management Agency (FEMA) or the Federal Insurance Administration in a scientific and engineering report entitled “Flood Insurance Study” for Orange County, California, and incorporated areas dated September 15,1989, and February 5,1992, with accompanying Flood Insurance Rate

Map (FIRM) and all subsequent revisions are hereby adopted by reference and incorporated in this Chapter. This Flood Insurance Study is on file at the City of Dana Point This Flood Insurance Study is the minimum area of applicability of this Chapter and may be supplemented by studies for other areas which allow implementation of this Chapter and which are recommended to the City Council by the Floodplain Administrator.

- (c) Compliance. No structure or land shall be constructed, located, extended, converted, or altered without full compliance with the leans of this Chapter and other applicable regulations. Violation of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the City Council horn taking such lawful action.as is necessary to prevent or remedy any violation.
- (d) Abrogation and Greater Restrictions. This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this Chapter and another Ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (e) Interpretation. In the interpretation and application of this Chapter, all provisions shall be:
 - (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the governing body; and
 - (3) Deemed neither to limit nor repeal any other powers granted under State Law.
- (f) Warning and Disclaimer of Liability. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards, areas of flood-rated erosion hazards, and areas of mudslide (i.e., mudflow) hazards, or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City of Dana Point, any officer or employee thereof, for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

(Added by Ord. 93-16, 11/23/93)

9.31.030 Permitted, Accessory, Temporary, and Conditional Uses.

- (a) The following uses are permitted in the Floodplain Overlay districts provided they are in compliance with the applicable provisions of this Chapter.
 - (1) Public flood control and utility facilities;
 - (2) Commercial extraction related to flood control purposes;
 - (3) Accessory uses and structures which may be required by this Chapter.
- (b) Other permitted, accessory, temporary and conditional uses shall be allowed as set forth in the underlying base zoning district, except as specifically prohibited or regulated by this Chapter.

(Added by Ord. 93-16, 11/23/93)

9.31.040 Prohibited Uses and Structures.

The following uses and structures are specifically prohibited in the Floodplain Overlay Districts:

- (a) Structures and uses which would increase flood elevations during the occurrence of a base flood.
- (b) Landfills, excavations, and grading or the storage of materials and equipment that would result in any diversion or increase in erosion, flood levels, or hazards to people or property, except as may be necessary for the periodic dealing of the mouth of San Juan Creek which incorporate appropriate protections for coastal resources.
- (c) Storage or disposal of floatable substances or materials, or of chemicals, explosives, or toxic materials.
- (d) FP-3 District only:
 - (1) The use of fill for structural support of structures or decks.
 - (2) The placement of mobilehomes, except in an approved mobilehome park or subdivision.
 - (3) Seawalls, revetments, and shoreline ocean protective devices or construction that alters natural shoreline processes, unless required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and only when positioned, designed and constructed to eliminate adverse impacts on local shoreline sand supply as provided for in Section 9.27.030(f) of this Zoning Code. Seawalls, revetments, and other shoreline protective devices or construction that alters natural shoreline processes shall only be permitted as a last resort protective device for coastal areas. Shoreline protective devices need not be subject to the elevation requirements of the FP-3 district.
 - (4) Swimming pools and spas below the base flood elevation.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.31.050 Administration.

- (a) Site Development Permit Required. A Site Development Permit according to Chapter 9.71 of this Code shall be obtained before construction or development begins within any area of special flood hazards, areas of flood-related erosion hazards, or areas of mudslide (i.e., mudflow) hazards established in or pursuant to Section 9.31.020. Application for a Site Development Permit shall be made on forms furnished by the Director of Community Development and may include, but not be limited to:
 - (1) Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing and proposed structures; structure occupancy, topography, landscape and hardscape, drainage and utility facilities, and the storage of materials;
 - (2) A certificate from a registered civil engineer stating that the information in the application is correct;
 - (3) Proposed elevation in relation to mean sea level of the lowest floor including the basement of all structures; in Zone AO, AE, or VE, V, and VI through V30,

- elevation of highest adjacent grade and proposed elevation of lowest floor of all Structures;
- (4) Proposed elevation in relation to mean sea level to which any structure will be flood proofed;
 - (5) All appropriate certifications listed in Section 9.31.050 of this Chapter;
 - (6) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
 - (7) A statement that the standards in Section 9.31.060 have been satisfied.
- (b) Director of Community Development. The Director of Community Development is hereby appointed to administer and implement this Chapter by granting or denying Site Development Permits in accordance with this Code. Appeals are covered in Section 9.31.070(a). The duties and responsibilities of the Director of Community Development shall include, but not be limited to:
- (1) Permit Review. Review all development permits to determine that:
 - (A) The permit requirements of this Chapter have been satisfied;
 - (B) All other required State and Federal permits have been obtained;
 - (C) The site is reasonably safe from flooding;
 - (D) The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this Chapter, “adversely affects” means that the cumulative effect of the proposed development when combined with all other existing and anticipated development which will not increase the water surface elevation of the base flood more than one (1) foot at any point.
 - (E) For the FP-3 District, the development satisfies the design criteria of the Coastal Floodplain Development Study.
 - (2) Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 9.31.020, the Director of Community Development shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, in order to administer this Chapter. Any such information shall first be submitted to the City Council for adoption.
 - (3) Alteration or Relocation of Watercourses. Whenever a watercourse is to be altered or relocated, the Director of Community Development shall:
 - (A) Notify adjacent communities and the California Department of Water Resources prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;
 - (B) Require that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.
 - (4) Base Flood Elevation changes due to physical alterations:
 - (A) Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that

the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).

(B) All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

- (4 ~~5~~) Maintain Certifications. Obtain and maintain for public inspection and make available as needed:
- (A) The certification required in Section 9.31.060(a)(3)(A) (floor elevations);
 - (B) The certification required in Section 9.31.060(a)(3)(B) (elevations in areas of shallow flooding);
 - (C) The certification required in Section 9.31.060(a)(3)(C)3 (elevation or flood proofing of non-residential structures);
 - (D) The certification required in Section 9.31.060(a)(3)(D) or 9.31.060(a)(3)(D)2 (wet flood proofing standard);
 - (E) The certified elevation required in Section 9.31.060(c)(2) (subdivision standards);
 - (F) The certification required in Section 9.31.060 (e)(1) (floodway encroachments); and
 - (G) The information required in Section 9.31.060(f)(6) (coastal high hazard construction standards).
- (5 ~~6~~) Interpretations. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards, areas of flood-related erosion hazards, or areas of mudslide (i.e., mudflow) hazards, for example, where there appears to be a conflict between a mapped boundary and actual field conditions. Any person contesting such interpretation may appeal as provided in Section 9.31.070.
- (6 ~~7~~) Remedy Violations. Take action to remedy violations of this Chapter as specified in Section 9.31.020 (c) herein.
- (7 ~~8~~) Act on Site Development Permits. Approve, conditionally approve, or deny Site Development Permits.
- (c) Nonconforming Uses and Structures in the Floodplain Overlay Districts. Any use or structure lawfully existing on any premises that is made nonconforming by the application of this Chapter, or by any amendment of this Chapter, shall be subject to the provisions of Chapter 9.63, Nonconforming Uses and Structures, except as follows:
- (1) Any nonconforming structure located outside the coastal zone may be expanded, enlarged, reconstructed or structurally altered without conforming to the standards of this Chapter, provided that such expansion, enlargement, reconstruction or structural alteration does not constitute a substantial

improvement. Any substantial improvement to a nonconforming structure shall be subject to all the regulations of this Chapter.

- (2) Any nonconforming structure located outside the coastal zone which sustains substantial damage shall be subject to all the regulations of this Chapter.
- (3) The following regulations shall apply to nonconforming uses and structures located in Floodplain Overlay Districts in the coastal zone:
 - (A) No nonconforming use or structure shall be enlarged, expanded, reconstructed or structurally altered, with the limited exception of a one-time, ten percent (10%) square footage improvement that may be allowed on the inland side or within the sideyard setback areas of an existing residence, unless the entire structure is made to conform with the development standards contained in this Chapter (excepting the provisions contained in subsections (c)(1) and (c)(2) above). In addition, that work done in any period of twelve (12) months on ordinary alterations or replacement of walls, fixtures or plumbing not exceeding ten percent (10%) of the value of the building, as determined by the Director of Community Development, shall be permitted provided that the cubical contents of the building, as it existed at the time this subsection or amendments thereto take effect, are not increased.
 - (B) If any nonconforming use or structure shall be destroyed or damaged to any extent by flood or wave action or accident, then said use or structure and the land on which said use or structure was located or maintained shall be allowed up to a fifty percent (50%) building valuation increase without any change in the structure's footprint once in a twelve month period. (Coastal Act/30600(e)).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99; Ord. 19-01, 4/2/2019)

9.31.60 Provisions for Flood Hazard Reduction.

- (a) Standards of Construction. In all areas of special flood hazards, the following standards are required:
 - (1) Anchoring.
 - (A) All new constructions and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - (B) All manufactured homes shall meet the anchoring standards of Section 9.31.060(d).
 - (2) Constructions Materials and Methods.
 - (A) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (B) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

- (C) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (D) Within Zones A, AH, AO, AE, or VE, adequate drainage paths around structures on slopes shall be installed to guide flood waters around and wary from proposed structures.
- (3) Elevation and Flood proofing.
- (A) New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. Nonresidential structures may meet the standards in Section 9.31.060(a)(3)(C). Upon the completion of the structure of the elevation of the lowest floor, including basement, such structure shall be certified by a registered professional engineer or surveyor and verified by the City Building Inspector to be property elevated. Such certification shall be provided to the Director of Community Development
 - (B) New construction and substantial improvement of any structure in Zone AO or A shall have the lowest floor, including basement. elevated about the highest adjacent grade at least as high as the depth number specified in feet on the FIRM, or at least two (2) feet if no depth number is specified. Nonresidential structures may meet the standards in Section 9.31.060(a)(3)(C). Upon the completion of the structure, the elevation of the lowest floor, including basement, such structure shall be certified by a registered professional engineer or surveyor and verified by the City Building Inspector to be properly elevated. Such certification shall be provided to the Director of Community Development
 - (C) Nonresidential construction shall either be elevated in conformance with Section 9.31.60(a)(3)(A) or 9.31.060(a)(3)(B) or shall conform to the following requirements together with attendant utility and sanitary facilities:
 - 1. Be flood proofed so that below the base flood level the structure is watertight with walls substantial impermeable to the passage of water;
 - 2. Have structural components capable of resisting hydrostatic and hydronamic loads and effects of buoyancy; and
 - 3. Be certified by a registered professional engineer or architect that the standards of this Subsection are satisfied. Such certification shall be provided to the Director of Community Development
 - (D) New construction and substantial improvements of any structure with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered

professional engineer or architect or meet or exceed the following minimum criteria:

1. Either a minimum of two openings having a total net area of not less than one (1) square inch for every square foot enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screen louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; or
2. Be certified to comply with a local flood proofing standard approved by the Federal Insurance Administration.

(E) Manufactured homes shall also meet the standards in Section 9.31.060(d).

(b) Standards for Utilities.

- (1) All new and replacement water supply and sanitary sewage systems shall be designed to eliminate or minimize infiltration of flood water into the system and discharge from systems into flood waters.
- (2) On-site waste disposal systems shall be located to avoid impairment or contamination during flooding.

(c) Standards for Subdivisions.

- (1) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.
- (2) All final subdivision plans shall provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the Director of Community Development.
- (3) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (4) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (5) All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

(d) Standards for Manufactured Homes. All new and replacement manufactured homes and additions to manufactured homes shall:

- (1) Be elevated so that the lowest floor is at or above the base flood elevation; and
- (2) Be securely anchored to a permanent foundation system to resist flotation, collapse, or lateral movement.

(e) Standards for Recreational Vehicles.

- (1) All recreational vehicles placed in Zones A1-30, AH, AE, V1-30 and VE will either:
 - (A) Be on the site for fewer than 180 consecutive days; or
 - (B) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

- (C) Meet the permit requirements of Section 9.31.050 of this ordinance and the elevation and anchoring requirements for manufactured homes in Section 9.31.060(d).
- (2) Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of Section 9.31.060(e)(1) and Section 9.31.060(g).
- (e f)** Floodways. Lands located within an Area of Special Flood Hazard established in Section 9.31.020(b) are designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions shall apply:
- (1) Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
 - (2) If Section 9.31.060(e)(1) is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of Section 9.31.060.
- (f g)** Coastal High Hazard Areas. Within coastal high hazard areas established in Section 9.31.020(b), the following standards shall apply:
- (1) All new construction and substantial improvements shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor excluding the pilings or columns is elevated to or above the base flood elevation.
 - (2) All new construction shall be located on the landward side of the reach of mean high tide.
 - (3) All new construction and substantial improvements shall have the "space below the lowest floor free of obstructions or constructed with breakaway walls. Such temporarily enclosed space shall not be used for human habitation.
 - (4) Fill shall not be used for structural support of structures or decks.
 - (5) Man-made alteration of sand dunes which would increase potential flood damage is prohibited.
 - (6) The Director of Community Development shall obtain and maintain the following records:
 - (A) Certification by a registered engineer or architect that the proposed structure complies with Section 9.31.060(f)(1).
 - (B) The elevation (relation to mean sea level) of the bottom of the lowest structural member of the lower floor (excluding pilings or columns) of all new and substantially improved structures and whether such structures contain a basement.

- (7) Satisfy the design criteria of the Coastal Floodplain Development Study and provide the required wave calculations prepared by a qualified registered Civil Engineer experienced in coastal engineering.
 - (8) Decks shall be constructed to meet the following criteria:
 - (A) Wood and raised concrete decks shall be constructed and adequately anchored on caissons or piles installed below the scour elevation and shall be designed by a structural Civil Engineer to withstand the forces of breaking waves and uplift forces to the satisfaction of the Building Official.
 - (B) Concrete decks constructed on existing ground do not require caissons or pile systems.
 - (C) All decks shall be designed to allow wave run-up to go over and under the deck without obstructions.
 - (9) Accessories, such as awnings, patio covers, or trellises, shall be adequately anchored and constructed on caisson or pile footing installed below the scour elevation.
 - (10) Spas shall be constructed to allow wave run-up under the spa without obstructions. Swimming pools and spas located below the base flood elevation are prohibited.
 - (11) The standards for seawalls, revetments, and other shoreline protective devices or construction that alters natural shoreline proas&5 are contained in Section 9.31.040(d)(3) and in Section 9.27.030(f)
 - (12) Garages may be constructed at the existing beach elevation and below the base flood elevation if they are anchored on pilings or columns and designed with breakaway panel walls. Subterranean garages are prohibited.
- (h) Mudslide (i.e., Mudflow)-Prone Areas.
- (1) The Director of Community Development shall review permits for proposed construction or other development to determine if it is located within a mudslide area.
 - (2) Permits shall be reviewed to determine whether the proposed development is reasonably safe from mudslide hazards. Factors to be considered in making this determination include, but are not limited to:
 - (A) The type and quality of soils;
 - (B) Evidence of ground water or surface water problems;
 - (C) The depth and quality of any fill;
 - (D) The overall slope of the site; and
 - (E) The weight that any proposed development will impose on the slope.
 - (3) Within areas which have mudslide hazards, the following requirements shall apply:
 - (A) A site investigation and timber review shall be made by persons qualified in geology and soils or engineering;
 - (B) The proposed grading, excavation, new construction, and substantial improvements shall be adequately designed and protected against mudslide damages;

- (C) The proposed grading excavation, new constructions, and substantial improvements do not aggravate the existing hazard by creating either on-site or off-site disturbances; and
 - (D) Drainage planting, watering, and maintenance shall not endanger slope stability.
- (i) Flood Related Erosion-Prone Areas.
- (1) The Director of Community Development shall require permits for proposed construction and other development within all flood-related erosion-prone areas as known to the City.
 - (2) Such permits shall be reviewed to determine whether the proposed site alterations and improvements will be reasonable safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing hazard.
 - (3) If a proposed construction or development is found to be in the path of flood-related erosion or would increase the erosion hazard, such construction or development shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.
 - (4) Within Zone “E” on the Flood Insurance Rate Maps, a setback is required for all new development from the ocean, lake, bay, riverfront, or other body of water to create a safety buffer consisting of a natural vegetative or contour strip. This buffer shall be designated according to the flood-related erosion hazard and erosion rate, in relation to the anticipated “useful life” of structures, and depending upon the geologic, hydrologic, topographic, and climatic characteristic of the land. The buffer may be used for suitable open space purposes such as for agricultural, forestry, outdoor recreation, and wildlife habitat areas, and for other activities using temporary and portable structures only.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97; Ord. 19-01, 4/2/19)

9.31.070 Exception Procedure.

- (a) Appeal Board.
 - (1) The City Council of the City of Dana Point shall hear and decide appeals from the requirements of this Chapter.
 - (2) The City Council shall hear and decide appeals when it is alleged there is an error in any requirements, decision, or determination made by the Director of Community Development in the enforcement and administration of this Chapter.
 - (3) In acting upon such appeals, the City Council shall consider all technical evaluations, all relevant factors, standards specified in this Chapter, and:
 - (A) The danger that materials may be swept onto other lands to the injury of others;
 - (B) The danger of life and property due to flooding or erosion damage;
 - (C) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

- (D) The importance of the services provided by the proposed facility to the City;
 - (E) The necessity to the facility of a waterfront location, where applicable;
 - (F) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (G) The compatibility of the proposed use with existing and anticipated development;
 - (H) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (I) The safety of access to the property in time of flood for ordinary and emergency vehicles;
 - (J) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
 - (K) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (4) Generally, exemptions may be issued for new constructions and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided Sections 9.31.050 and 9.31.060 have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the exemption increases.
- (5) Upon consideration of the factors of Section 931.070(a)(~~3~~**4**) and the purposes of this Chapter, the City Council may attach such conditions to the granting of exemptions as it deems necessary to further the purposes of this Chapter.
- (6) The Director of Community Development shall maintain the records of all appeal actions and report any exemptions to the Federal Insurance Administration request.
- (b) Conditions for Exemption.
- (1) Exemptions may be issued for the reconstruction, rehabilitation, or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, without regard to other conditions set forth herein.
 - (2) Exemptions shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result
 - (3) Exemptions shall only be issued upon a determination that the exemption is the minimum necessary, considering the flood hazard, to afford relief.
 - (4) Exemptions shall only be issued if the Zoning Map includes property within a Floodplain Overlay District of that property does not meet the purpose and intent for that district The determination to exempt a property shall be based on a study of topographic and design flood elevation contours on the subject property and on such additional information as he finds necessary or appropriate.
 - (5) Exemptions shall only be issued if flood protection or floodproofing work adequate to protect against the design flood, and in compliance with City and other applicable flood control and flood protection standards and policies, has

been completed. The finding of exemption shall confirm that any stream, channel, storm drain, or landfill improvements fully offset flood surface elevations established by the applicable map and that if the property is included on a Flood Insurance Rate Map or a Flood Boundary and Floodway Map, all such flood protection or flood control work has been approved by the appropriate Federal agency and the property removed from the floodplain designation on such maps.

- (6) Exemptions shall only be issued upon:
 - (A) A showing of good and sufficient cause;
 - (B) A determination that failure to grant the exemption would result in exceptional hardship to the applicant; and
 - (C) A determination that the granting of an exemption will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Exemptions may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that **all** the provisions of Sections 9.3L070(b)(4) through 9.31.070(b)(4) are satisfied and that the structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- (8) Any applicant to whom an exemption is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the Floodplain Board in the Office of the County of Orange County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 19-01, 4/2/19)

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Chapter 9.33

SPECIFIC PLAN DISTRICT

Sections:

- 9.33.010 Intent and Purpose.**
- 9.33.020 Specific Plan District Initiation.**
- 9.33.030 Cost of Preparation and Processing.**
- 9.33.040 Procedure for Establishing the Specific Plan District.**
- 9.33.050 Specific Plan Adoption.**
- 9.33.060 Specific Plan Requirements.**
- 9.33.070 Amendments.**
- 9.33.080 Adopted Specific Plans.**

9.33.010 Intent and Purpose.

The purpose of the Specific Plan (SP) District is to provide for the orderly, systematic, detailed, and enhanced implementation of the General Plan for designated areas of the City. Preparation and processing of Specific Plans shall be in accordance with the applicable provisions of State Law and this Chapter. (Added by Ord. 93-16, 11/23/93)

9.33.020 Specific Plan District Initiation.

The City Council shall identify those portions of the City where application of the Specific Plan District is appropriate. The City Council shall initiate the preparation of all Specific Plans. At the discretion of the City Council, specific plans may be prepared by the City or by persons representing affected property owners. (Added by Ord. 93-16, 11/23/93)

9.33.030 Cost of Preparation and Processing.

When the City Council finds that a specific plan is an appropriate method of planning for the future development of property and implementing the General Plan, the cost for preparation of the specific plan shall be borne by such property owner. The method for determining costs of preparation and making payment shall be as specified in a resolution adopted at the time of initiation of the specific plan and the final amounts shall be fixed upon adoption of the Specific Plan. (Added by Ord. 93-16, 11/23/93)

9.33.040 Procedure for Establishing the Specific Plan District

The procedure to establish a Specific Plan District shall be those described in Section 9.61.070 of this Code. Establishment of the Specific Plan District before the adoption of the Specific Plan prohibits the issuance of grading permits, building permits, or land use permits, unless such permits or entitlements are for the restoration or remedial maintenance and do not in

any way predispose land use or development, prior to the adoption of a Specific Plan. (Added by Ord. 93-16, 11/23/93)

9.33.050 Specific Plan Adoption.

A Specific Plan shall be adopted by the City Council in accordance with the provisions of Chapter 9.61 of this Code. Adoption shall be by Ordinance, however, the non-regulatory portions of the Specific Plan may be adopted by Resolution. Adoption of the Specific Plan shall include findings by the City Council that the Specific Plan is consistent with, and provides for the orderly, systematic, and specific implementation of the General Plan. (Added by Ord. 93-16, 11/23/93)

9.33.060 Specific Plan Requirements.

Adoption of the Specific Plan shall include amendment of the Zoning Map to identify the Specific Plan area and its corresponding Specific Plan number, and inclusion of the Specific Plan as an appendix to the Zoning Code. Where the Specific Plan specifically addresses changes in the Zoning Code, the Specific Plan shall supersede those land use regulations applicable to the subject property, including the previously adopted ordinances, standards, and guidelines. Specific plans may either supplement or supersede all land use regulations applicable to the subject property including all previously adopted ordinances, standards and guidelines.

- (a) **Scope of Specific Plan.** Each specific plan ordinance shall include the specific land uses, standards and criteria necessary for the development, maintenance, and use of the subject property, in compliance with the policies and programs of the General Plan. Each Specific Plan shall clearly specify how and to what extent the plan is to improve upon, supplement or supersede any adopted ordinances, regulations, and standards. Where not otherwise specifically referenced and addressed by a Specific Plan, all adopted ordinances, regulations, standards, and guidelines of the City of Dana Point are applicable.

Each Specific Plan shall include standards and a financing program for the installation of public facilities and utilities, schools, flood control and transportation facilities, and other public and private improvements and facilities related to the specific plan. Each Specific Plan shall address the applicable portions of the California Government Code related to the preparation of a Specific Plan.

- (b) **Designation on Zoning Map.** Adoption of a Specific Plan shall include adoption of an appropriate zoning map amendment according to Chapter 9.61 of this Code. Each Specific Plan shall be numbered and named. The zoning map shall not indicate zoning for the area within the Specific Plan, but shall show the letters “SP” within a circle and applicable application number. Thereafter, all land use, development and improvements shall conform to the provisions of the adopted Specific Plan.

- (c) Inclusion of Specific Plan Text and Maps. Adoption of a Specific Plan shall include the incorporation of the Specific Plan text and maps as an appendix to the Zoning Code.
- (d) Reference of Specific Plan Text and Maps. Adoption of a Specific Plan shall include the incorporation by reference of the Specific Plan in Section 9.33.080 of this Chapter.

(Added by Ord. 93-16, 11/23/93)

9.33.070 Amendments.

Any Specific Plan may be amended or replaced by the same procedure as the Specific Plan is adopted. Prior to adoption of the repeal of a Specific Plan, the City Council shall find that the Specific Plan is no longer necessary, and no longer provides for the orderly and systematic implementation of the General Plan. The adoption of a repealing ordinance shall include provisions for the immediate application of appropriate zoning to the area covered by the repealed Specific Plan. (Added by Ord. 93-16, 11/23/93)

9.33.080 Adopted Specific Plans.

As of the date of this Zoning Code, the following Specific Plans have been adopted by the City of Dana Point. Complete Specific Plans are provided as a separate appendix to this Code.

Adopted Specific Plans		
SP Number and Name	Zoning Code Appendix	City Council Resolution #
SP91-01 Monarch Beach Resort	D	92-02-25-3

(Added by Ord. 93-16, 11/23/93)

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Chapter 9.35

ACCESS, PARKING AND LOADING

Sections:

9.35.010	Intent and Purpose.
9.35.020	Applicability.
9.35.030	Site Plan and Building Permit Required.
9.35.040	General Provisions.
9.35.050	Access.
9.35.060	Parking Requirements.
9.35.070	Dimensions of Parking Facilities.
9.35.080	Minimum Number of Required Parking Stalls.
9.35.090	Loading Facility Standards.
9.35.100	Combined Parking and Loading Facilities.
9.35.110	Alternatives to Parking and Loading Standards.
9.35.120	Parking Structure Design Standards.

9.35.010 Intent and Purpose.

The access, parking, and loading regulations ensure that all land uses provide safe access and on-site circulation along with adequate off-street parking and loading facilities. The regulations also ensure that the use of land does not negatively affect the safety, use of, or vehicular circulation within public rights-of-way.

(Added by Ord. 93-16, 11/23/93)

9.35.020 Applicability.

- (a) The minimum standards of this section shall apply to all proposed land uses, buildings, and structures.
- (b) The minimum standards of this section shall also apply to all proposed additions, enhancements and changed modifications to existing land use structures. At the time a building or structure is added onto, enlarged, or modified, parking and loading spaces shall be provided for both the existing units and the modified or enlarged portions so as to conform to provisions of this Chapter.

(Added by Ord. 93-16, 11/23/93)

9.35.030 Site Plan and Building Permit Required.

- (a) A site plan shall be submitted for all required parking facilities. The plan shall consist of a detailed layout of the existing and proposed parking facilities, including the site, grades, drainage, utilities, all structures, landscaping, parking stalls, drive aisles, and ingress and egress drives. The plan shall be accurately and thoroughly dimensioned. The site plan shall be submitted and reviewed in conjunction with any application for a permit required by Chapters 9.65, 9.67, 9.69, or 9.71, subdivisions of land pursuant to Title 7 or building permits pursuant to Title 8.
- (b) Permits in accordance with the applicable provisions of the Dana Point Municipal Code shall be obtained prior to the development of any access, parking, or loading facilities. (Added by Ord. 93-16, 11/23/93)

9.35.040 General Provisions.

- (a) Accessibility/Usability.
 - (1) Required access, parking and loading facilities shall be made available and permanently maintained for access, parking and loading for the permitted and intended use(s).
 - (2) Required off-street parking stalls shall be designed, located, constructed and maintained so as to be fully and independently usable and accessible at all times.
 - (3) Required off-street parking facilities, and driveways providing access to such facilities, shall not be used for any purpose which at any time would preclude the use of the area for the temporary storage of motor vehicles, except as may be permitted through approval of a temporary site development permit
 - (4) Inoperable motor vehicles shall not be parked in driveways or carports.
- (b) Exclusivity of Facilities. Unless otherwise provided through an approved discretionary permit, no owner or tenant shall lease, rent or otherwise make the required off-street parking stalls unavailable to the intended users. The joint use of parking and loading stalls may be permitted subject to the approval of a Site Development Permit pursuant to Chapter 9.71., and as provided for by Section 9.35.060(c)(3).
- (c) Encroachment into Right-of-Way Prohibited. Land within the right-of-way of a proposed street or highway, or within the planned ultimate right-of-way on a street or highway proposed to be widened, shall not be used to provide required off-street parking and loading facilities.
- (d) Parking Facility Development Standards.

- (1) Paving Materials. All required access, parking, and loading spaces shall be paved with:
 - (A) Decorative paving, concrete, or asphalt-type surfacing as per City standards and requirements for all non-residential parking facilities. **Pervious paving may be utilized for non-residential development if all water quality requirements are met, and the aesthetics are in keeping with other improvements on-site subject to approval by the Director of Community Development, Public Works Director, and approval of a Minor Conditional Use Permit pursuant to section 9.65.040.**
 - (B) Decorative paving or concrete for all driveways, parking areas, parking maneuvering areas, and parking stalls providing access and parking for all newly constructed single family detached and attached residential projects.
- (2) Lighting. Lighting of outdoor parking areas shall be designed and maintained in a manner to prevent glare or direct illumination from intruding into any off-site areas.

Lighting fixtures shall be provided in accordance with the following specifications for

- (A) Uncovered access, parking and loading areas:

The following minimum lighting requirements shall apply to all common uncovered parking facilities.

General Use Areas		High Use Areas	
Footcandles (Minimum on Pavement)	Footcandles Uniformity Ratio (Average/Min)	Footcandles (Average on Pavement)	Footcandles Uniformity Ratio (Average/Min)
.4	4:1	1	3:1

As determined by the Director of Community Development, high use areas include: vehicular entries and exits, parking accessways, pedestrian areas, passenger loading areas, areas of higher intensity vehicular movement; areas of concentrated pedestrian and vehicular movement, and where added security is desired.

- (B) Covered access, parking and loading areas:

The following minimum lighting requirements shall apply to all parking structures:

Parking Structure lighting Standards (in Footcandles)

Area	Day	Night
General and pedestrian areas	5	5
Ramps, aisles, and corridors	10	7
Parking storage areas	4	4
Entrance areas	60	7
Elevator areas, walkways and cashiers booths	20	20
Stairwells	30	20

- (3) Landscaping Requirements. Parking lot landscaping should be designed and installed to comply with the applicable provisions contained in the Urban Design Guidelines,
- (e) Garage Setbacks. The vehicular entry to a garage must be located at least twenty (20) feet from:
 - (1) The back edge of the existing or ultimate sidewalk, whichever is further from the centerline of the street; or
 - (2) Five (5) feet from the back edge of the existing or ultimate curb line, whichever is further from the centerline of the street, where there is no sidewalk; or
 - (3) The property line if it is less than five (5) feet from the existing or ultimate curb line where there are no sidewalks, whichever is closest to the garage.

(Added by Ord. 93-16, 11/23/93; Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94;)

9.35.050 Access.

- (a) Roadways:
 - (1) Access to Circulation Element Roadways:
 - (A) Wherever access to parking is from a secondary arterial of two (2) lanes, or higher rated roadway designated on the Circulation Element of the General Plan, parking stalls and parking maneuvering areas shall be designed so that vehicles enter the roadway traveling in a forward direction.

- (B) Vehicular access to roadways designated on the Circulation Element of the General Plan will be permitted only in accordance with the driveway locations and access design specifically approved by the Director of Public Works.
- (2) The width of roadways providing access to parking facilities for all residential projects, including attached or detached single family or multiple family dwellings, shall be in accordance with the following standards, **unless otherwise approved by the Director of Public Works:**

Number of Dwelling Units Accessed by Roadway:	Curb-to-Curb Roadway Width for Access on Streets With:		
	No Parking:	Parking on One Side:	Parking on Two Sides:
1 — 20 units	28 <u>Less than 28</u> feet	28 <u>32</u> feet	36 <u>40</u> feet
21 — 50 units	30 <u>28</u> feet	32 <u>28</u> feet	40 <u>36</u> feet
51 — 120 units	30 <u>28</u> feet	34 <u>30</u> feet	40 feet
121 + units	30 <u>28</u> feet	36 <u>30</u> feet	40 feet

Access to residential and commercial property can be provided from an alley.

- (3) Access to on-street parking stalls is direct from the traffic lanes of the public right-of-way. The inclusion of on-street parking is restricted in accordance with the following street width standards:

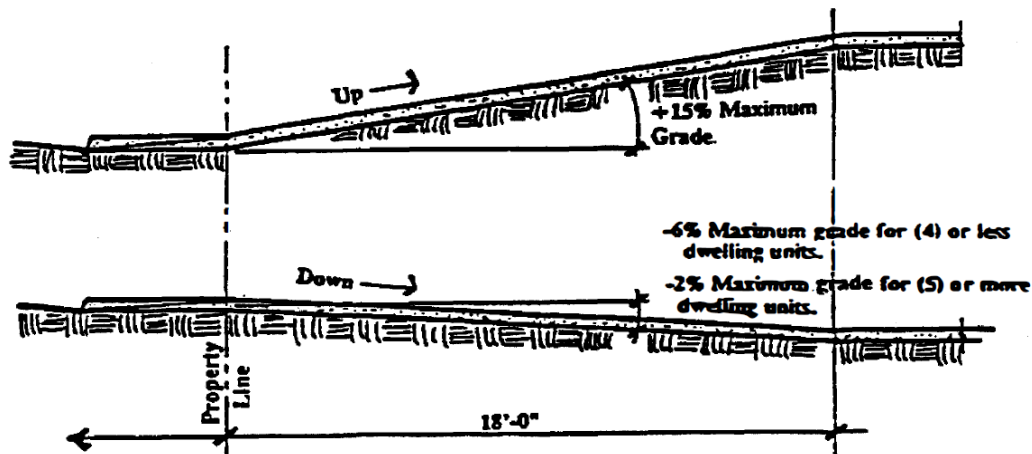
Curb-to curb Street Width	Parking Allowed
Less than 32 <u>28</u> '	None, unless in bays outside the curb-to curb width. Bays may include either perpendicular or parallel stalls.
> 32 <u>28</u> ' but < 40 <u>36</u> '	Parallel stalls on one side only
40 <u>36</u> ' or more	Parallel stalls on both sides

- (4) A five (5) foot sidewalk along at least one side of the roadway is required.
- (5) On private roadways, sidewalks may be deleted if alternative pedestrian circulation is provided and approved subject to a Site Development Permit. In approving a Site Development Permit that includes the deletion of required sidewalks, the Planning Commission must make the following finding:
 That a safe and adequate alternative pedestrian circulation system has been provided.

- (b) Driveways. Driveways are intended to provide access from public roadways to private, off-street parking facilities. Entry driveways provide direct ingress or egress from a street, alley, or public right-of-way to a parking aisle, internal driveway or parking maneuvering area. Internal driveways provide interior circulation between parking aisles. Except as is customary in single family residential districts, no parking is permitted in an entry driveway and no parking stall shall take direct access from any driveway. In multiple family residential and non-residential districts, neither entry driveways or internal driveways may provide direct access to any parking stall.
- (1) Location of Driveway on a Comer Lot: When a building she abuts two (2) intersecting streets and ~~only one a~~ driveway or multiple driveways are is proposed ~~or allowed~~, the driveway shall be located on the street frontage that allows the driveway to be farthest from the intersection of the two (2) streets, and on the street that carries the least volume of traffic. If one of the intersecting streets is a Circulation Element roadway, the driveway shall be located on the other street subject to approval by the Director of Public Works.
- (2) Driveway Spacing:
- (A) All Driveways: Driveways shall be located a minimum of four (4) feet apart. In addition, the space between driveways shall not exceed eight (8) feet unless the space is at least twenty-two (22) feet. This standard shall apply only to the development of new subdivisions and, where feasible, to the installation of new driveways in areas of existing development.
- (B) Driveway spacing standards for non-residential land uses and residential land uses with five (5) or more dwellings shall be as follows:
1. The centerline of a driveway shall be a minimum of one hundred ten (110) feet away from the centerline of any other driveway as measured along the ultimate right-of-way lines of an abutting street; and
 2. The centerline of a driveway shall be a minimum of two hundred (200) feet away from the centerline of any other street opening. In the Neighborhood Commercial and Residential Districts, the minimum distance between the centerline of a driveway and the centerline of any other street opening may be reduced to one hundred fifty (150) feet subject to approval of the Director of Public Works.

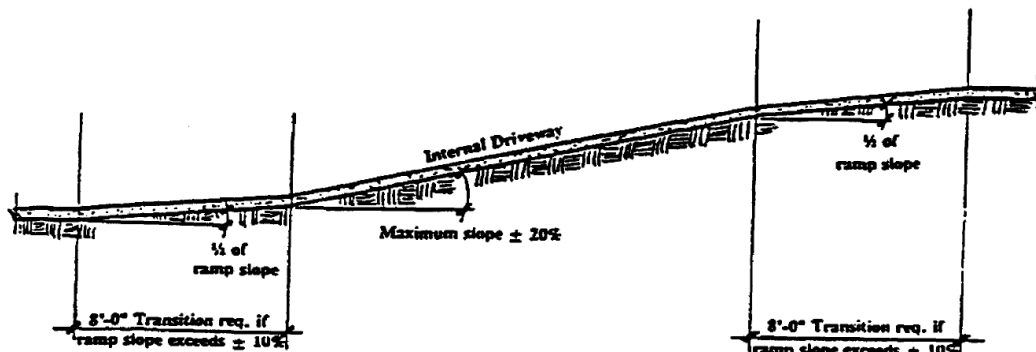
- (C) If the standards of (b)(2)(A) and (b)(2)(B) above cannot be achieved, a minimum distance of twenty-two (22) feet, as measured along the ultimate property line, may be provided subject to the approval of the Director of Public Works.
- (3) **Driveway Grades, Unless Otherwise Approved By the Director of Public Works:**
- (A) Entry Driveways:
1. Four (4) or Less Residential Dwellings. Whenever access is taken from a street, alley, or driveway to off-street parking serving four (4) or less dwelling units, the driveway shall have a maximum grade of plus fifteen (15) percent or minus six (6) percent, measured from the street, alley, or driveway grade along the driveway centerline, for a distance of not less than eighteen (18) feet from the ultimate street, alley, or driveway right-of-way line. Exhibit 9.35-1 illustrates these specifications.
 2. Non-residential Land Use or Five (5) or More Residential Dwellings. Whenever access is taken from a street, alley or driveway to an off-street parking area serving non-residential land use or five (5) or more dwelling units, the driveway shall have a maximum grade of plus fifteen (15) percent or minus two (2) percent, measured from the street, alley or driveway grade along the driveway centerline for a distance of not less than eighteen (18) feet from the ultimate street, alley, or driveway right-of-way line. **If the driveway is constructed below the street elevation, adequate drainage facilities to avoid flooding shall be provided.** Exhibit 9.35-1 illustrates these specifications.

EXHIBIT 9.35-1
MAXIMUM ENTRY DRIVEWAY GRADES



3. If any entry drive exceeds fifty (50) feet in length, the first eighteen (18) feet of the access may not exceed an eight (8) percent grade.
- (B) Internal Driveways. Driveways located beyond eighteen (18) feet from the ultimate right-of-way line of a street, alley, or driveway which provides vehicular access within the interior of a parking area are internal driveways and shall have a maximum slope of plus twenty (20) percent or minus twenty (20) percent. When the slope of an internal driveway exceeds plus or minus ten (10) percent, the internal driveway design shall include transitions on each end, no less than eight (8) feet in length, which have gradients equal to one-half (1/2) the slope of the ramp. **If the driveway is constructed below the street elevation, adequate drainage facilities to avoid flooding shall be provided.** Exhibit 9.35-2 illustrates these specifications.

EXHIBIT 9.35-2 INTERNAL DRIVEWAY GRADES



(4) Driveway Widths.

(A) Residential Driveways.

1. The minimum driveway width between the public right-of-way and parking stall maneuvering area shall be as follows, **unless otherwise approved by the Director of Public Works:**

Number of Dwelling Units	One-Way Circulation	Two-Way Circulation
1 ⁽¹⁾	10 feet	10 feet
2 - 4 ⁽²⁾	12 feet	20 feet
5-19 ⁽³⁾⁽⁴⁾	14 feet	24 feet
20 +	14 feet	28 feet

- (1) A single family residence driveway shall be paved to a minimum of ten (10) feet in width from access street or alley to the parking stall maneuvering area.
- (2) Except when a wider width is required for parking stall maneuvering area according to this Chapter or as required by the Director of Public Works for a transition to a driveway approach.
- (3) Where a one-stall garage has an interior width in excess of ten (10) feet and a garage door wider than eight (8) feet, the driveway width may be reduced by up to two (2) feet.

(4) Where a two-stall garage has a garage door at least sixteen (16) feet wide, the parking stall maneuvering area width may be reduced by up to two (2) feet.

2. Limit on Residential Driveways. For all residential uses, the driveway must lead directly to a garage, carport, or other approved parking facility. The number of permitted driveways shall be one per fifty (50) feet of lot frontage, or fraction thereof, not to exceed a total of two driveways.

(B) Non-Residential Driveways.

1. A one-way driveway shall have a minimum width of fifteen (15) feet unless it is a fire lane which requires a minimum width of twenty (20) feet where one-way driveways exist, pavement graphics and directional signage and arrows shall be provided. If the driveway is more than one-hundred fifty (150) feet long, a fire apparatus turning radii may be required.

2. The width of a two-way driveway from any roadway shall be designed in accordance with the following standards, **unless otherwise approved by the Director of Public Works:**

Project Size (by number of parking stalls):	Minimum Driveway Width:
1 — 100 parking stalls	28 feet
101 — 350 parking stalls	32 feet
351 + parking stalls	35 feet (with curb returns)

(5) Driveway Lengths.

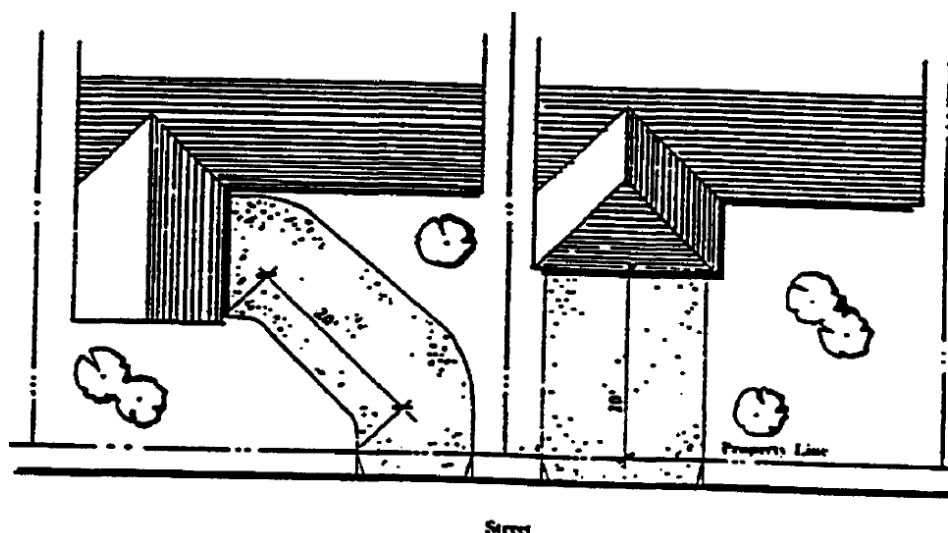
(A) Residential Uses:

1. Providing Access to a Garage:

a. Single Family Detached and Attached. A driveway with a minimum length of twenty (20) feet, as measured from the back of sidewalk, ~~or five (5) feet~~ **from the** back of the **existing or ultimate** curb

where there is no sidewalk, or property line if it is less than five (5) feet from the existing or ultimate curb line where there are no sidewalks to the parking stall or parking stall maneuvering area, whichever is closest further. Exhibit 9.35-3 illustrates this requirement.

**EXHIBIT 9.35-3
RESIDENTIAL DRIVEWAY TO A GARAGE**



- b. Single family detached on lots which are both shallow and narrow: (less than fifty (50) feet wide and one hundred (100) feet deep):

A driveway with a minimum length of five (5) feet and a maximum length of nine (9) feet, measured from the back of sidewalk or back of curb where there is no sidewalk to the parking stall or parking maneuvering area, whichever is further. An automatic garage door opener and roll-up garage door, kept in operating condition, shall be used on garages located on such lots.

2. Providing Access to a Parking Structure or Uncovered Parking. The length of driveways providing access to a parking structure or to any area of uncovered parking shall be in accordance with the following standards:

Number of Dwelling Units Served	Minimum Driveway Length
1 — 19 dwelling units	20 feet
20 — 49 dwelling units	30 feet
50 + dwelling units	40 feet

(B) Non-Residential Uses or Five (5) or more Residential Dwellings:

- The length of a driveway from any roadway shall be designed in accordance with the following standards as measured from the ultimate right-of-way to the first intersecting parking aisle, internal driveway or parking stall:

Project Size	Minimum Internal Driveway Length	
	Primary Driveway:	Secondary Driveway:
1 — 50 parking stalls	Subject to Director of Public Works	Subject to Director of Public Works
51 — 100 parking stalls	20 feet	20 feet
101 — 200 parking stalls	30 feet	20 feet
201 — 350 parking stalls	50 feet	40 feet
351 — 450 parking stalls	70 feet	50 feet
451 + parking stalls	90 feet	60 feet

- Driveways from non-circulation Element roadways shall not be less than twenty (20) feet in length as measured from the ultimate public right-of-way.

(6) Driveway Widths. The width of any driveway from any roadway shall be designed in accordance with the following standards, **unless otherwise approved by the Director of Public Works:**

Project Size:	Minimum Driveway Width:
0 — 100 parking stalls	28 feet
101 — 350 parking stalls	32 feet
351 + parking stalls	35 feet with curb returns

(Added by Ord. 93-16, 11/23/93; amended by 94-09, 5/24/94;)

9.35.060 Parking Requirements.

- (a) Parking Facilities.
 - (1) Parking Aisles. A parking aisle is a paved area designed to provide access to parking stalls.
 - (2) Parking Stall Maneuvering Area. A parking stall maneuvering area is the paved area behind a parking stall that allows a vehicle to back out and enter a parking aisle or driveway. Parking stall maneuvering areas many times are also parking aisles of public rights-of-way. For example, a parking stall maneuvering area for the garage of a typical single family detached home is the driveway and public street.
 - (3) Parking Stall. An area intended for the temporary parking of motor vehicles.
 - (4) Parking Structure. A parking structure is either an above-ground, below-ground, or at-grade parking facility which is partially enclosed and which contains structural elements, such as columns or other supports, to create a multi-level parking facility.
- (b) Access to Parking Facilities. Vehicular access to off-street parking facilities shall be provided in accordance with the following provisions:
 - (1) Fully accessible, adequate, and safe ingress and egress shall be provided between a parking area and a street, highway, alley or driveway as determined by the Director of Public Works.
 - (2) Where feasible, required parking facilities shall be designed so as to allow vehicular access to other areas of the parking facility or adjacent parking facilities without entering the public right-of-way.
 - (3) Except for single family detached or attached projects of four units or less, access facilities shall be arranged so that any vehicle can leave the parking area and enter into an adjoining vehicular right-of-way traveling in a forward direction.
 - (4) When a parking aisle containing seven (7) or more stalls dead ends, a turnaround area shall be provided which allows a vehicle entering the dead end parking aisle to exit the dead end parking aisle in a forward direction to the satisfaction of the Director of Public Works. The insertion or positioning of a landscape finger in a dead end parking aisle with more than seven (7) parking stalls in it will not eliminate the requirement for a

turnaround. For 90° parking from a dead end parking aisle, the last parking stall for the aisle shall be deleted and designated as a turnaround area.

Any required garage, covered parking stall, or parking stall located more than one hundred (100) feet from the street or highway from which access is taken, and served by a driveway or parking aisle less than twenty (20) feet wide, shall have an adjacent vehicle turnaround area with a minimum size equal to a standard nine (9) foot by eighteen (18) foot parking stall. The turnaround area shall be located so that it can physically accommodate a vehicular turnaround without excessive vehicular movements, subject to approval by the Director of Public Works. Larger turnaround areas may be required to accommodate larger vehicles as deemed necessary by the Director of Public Works.

- (5) Tandem parking is prohibited, except as indicated below, subject to the approval of a minor conditional use permit:
- (A) For duplexes, pursuant to Section 9.35.080(e)(4) and Exhibit 9.35-10; or
 - (B) For “employee only” parking areas of existing commercial structures; or
 - (C) For valet parking areas of existing commercial structures.
 - (D) Minor Conditional Use Permits may only be issued under subsections (B) and (C) above, when the Director of Community Development can make the following findings:
 - 1. That the proposed type of tandem parking (employee or valet) is appropriate for the proposed use; and
 - 2. That surrounding properties will not be adversely affected by the proposed tandem parking facilities; and
 - 3. That adequate off-street (or acceptable on-street) parking for the patrons of the business will be available for the proposed use; and
 - 4. That appropriate conditions have been imposed to address the maintenance and safety of the tandem parking area.
 - 5. That the proposed use demonstrates unusually high quality, character and/or exhibits characteristics which are highly

consistent with community objectives as stated in a specific General Plan goal(s) or policy(ies).

6. That the tandem parking program includes provisions for periodic monitoring and reporting to identify any issues associated with the program and to adjust the program as necessary to address any such issues.

Pedestrian access through off-street parking facilities shall be provided in accordance with the following provisions:

- (6) Parking lots with eighty (80) or more uncovered parking stalls shall be designed to incorporate a safe and identifiable pedestrian circulation system which links the on-site parking lot and the off-site pedestrian circulation to the on-site structure(s)/uses. The system shall be provided in accordance with the following criteria:
 - (A) The pedestrian linkage should be designed so as to be readily evident to the pedestrian as the safest pathway to the on-site use or structure. Vertical elements such as lighting, trees, arbors, or porticos may be used to enhance identification of the linkage.
 - (B) The pedestrian linkage should be routed and designed so as to provide maximum integration with the required parking lot landscaping and the maximum degree of separation between pedestrian and vehicular circulation.
 - (C) The pedestrian linkage shall be physically separated from vehicular circulation aisles except as necessary to provide a perpendicular crossing of such an aisle. Where the linkage crosses any vehicular circulation aisle, special treatments, including lights, signage, or enhanced pavement treatments such as pavers or brickwork, shall be provided to identify the crosswalk.
- (c) Location of Parking and Loading Facilities.
 - (1) Location of Residential Parking Stalls.
 - (A) Required parking facilities for residential districts shall be located on the same lot or parcel of land as the use the parking facilities are intended to serve. The facilities shall be conveniently and safely located on the site, required parking to be within one hundred fifty (150) feet of the primary entrance to a dwelling unit. Required parking facilities provided by a given project shall be used

exclusively for parking purposes by that project or residence, and shall not be leased, sold, or utilized by other projects or entities.

By approval of a Variance pursuant to Chapter 9.67, the Planning Commission may approve alternate parking facilities when it finds vehicular access to a garage, carport, or other required automobile storage space on the same lot or parcel of land is not possible from any street, highway, or alley. Such restrictions to access may be due to topographical or other physical conditions. Access may be so difficult to achieve that to require such access may be determined unreasonable in the opinion of the Planning Commission.

(B) Covered and Assigned Stalls:

1. Covered and assigned stalls within a garage shall be located on-site and at least twenty (20) feet from the ultimate right-of-way, except for lots which are both shallow and narrow (less than fifty (50) feet wide and one hundred (100) feet deep) and duplexes on narrow lots which may be setback in accordance with Section 9.05.190 or Section 9.35.080(e).
2. Covered and assigned stalls within a parking structure shall be located on-site and within one hundred (100) feet of the dwelling unit they serve.
3. Covered and assigned stalls shall be designated as to the dwelling unit to which they are assigned on all plans submitted for permits. The plans shall show how the assigned stalls are designated.

(C) Uncovered and Unassigned Stalls:

Uncovered and unassigned stalls shall be located on-site and within two hundred (200) feet of the dwelling units they serve, and shall be marked "visitor parking."

(2) Location of Non-Residential Parking Stalls. Required parking for non-residential uses shall be located:

- (A) On the same lot or parcel of land as the use which the facilities serve; or
- (B) On an adjoining lot or parcel of land under the same ownership as the lot supporting the use the parking facilities serve, provided that

the adjoining lot is merged with the property containing the primary use for which the parking is required; or

- (C) On a lot or parcel of land separated only by an alley (twenty (20) feet wide or less) from the lot or parcel supporting the use the parking facilities serve, provided:
 - 1. That said lots or parcels are under the same ownership; and
 - 2. That said lots or parcels would be contiguous if not separated by the alley; and
 - 3. That direct vehicular and pedestrian passage between said lots or parcels would be possible if the alley were vacated; and
 - 4. That the parking is located not more than two hundred (200) feet from the property it is intended to serve; or
 - 5. That the parking and vehicular access on said lots or parcels can be designed to ensure safe pedestrian movement between the parking and the property containing the primary use it is intended to serve.
 - 6. That the lots or parcels are bound for the purpose of development by a covenant for easement pursuant to Chapter 9.45.
 - (D) On a non-adjacent lot on the same block as the lot supporting the use the parking facilities serve, provided that the non-adjacent lot is under the same ownership.
 - (E) Required parking for non-residential uses may be located on residentially designated lots or parcels subject to the requirements described above through approval of a Conditional Use Permit pursuant to Chapter 9.65.
- (3) Joint Use of Parking Facilities. Multiple uses on multiple building sites may establish joint use parking facilities within one or more parking areas located within such multiple building sites, provided the following requirements are met
- (A) A detailed joint use parking plan shall be approved by a Minor Site Development Permit issued by the Director of Community Development pursuant to Chapter 9.71. The plan shall show and explain all parking facilities, uses and structures that will use the

parking and the pedestrian access from the parking facilities to the uses and structures.

- (B) The boundary of the parking facilities shall be within ¼ mile of the uses they serve and connected to the site by an adequate pedestrian path or sidewalk to the satisfaction of the Director of Community Development
 - (C) Adequate assurance, to the satisfaction of the Director of Community Development shall be provided to guarantee that required parking will continue to be maintained in compliance with applicable provisions of this Chapter. This assurance shall be recorded in the office of the Orange County Recorder on all properties utilizing the joint use parking facilities.
- (4) Shared Parking Program. A shared parking program is the shared use of an on-site common parking facility between various land uses according to a program that assures adequate parking is continually provided.

Approval of a shared parking program shall be by:

- (A) A minor Conditional Use Permit approved by the Director of Community Development pursuant to Chapter 9.65 if the shared parking program meets City parking requirements according to the standards of subsection 3 below; or

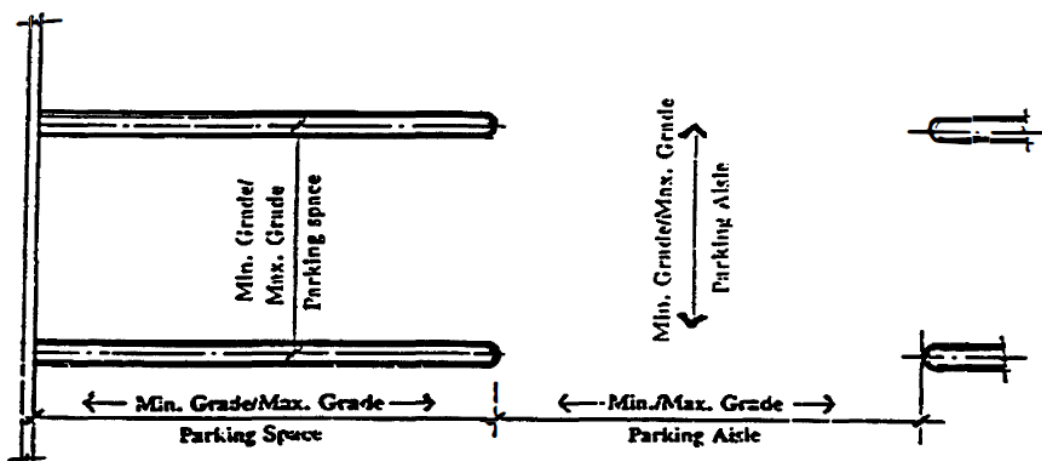
A Conditional Use Permit approved by the Planning Commission pursuant to Chapter 9.65 for all other proposed shared parking programs.
- (B) Findings for approval of a shared parking program shall be that the shared parking program provides a reasonable, accountable, and enforceable means for all uses to share common parking and that the City's minimum requirements assure parking demand is continually met.
- (C) The property owner shall submit the shared parking program to the Director of Community Development for review and approval. The shared parking program shall include:
 - 1. Written verification from property owner and tenants and all future property owners know of and will comply with the requirements of the shared parking program; and making known the shared parking program to all future property owners, tenants, and government agencies.

2. A site plan showing all parking spaces, building square footage and tenant spaces.
3. A shared parking matrix(s) with the following information:
 - a. The number of parking stalls available on-site (parking supply).
 - b. Project building and tenant addresses.
 - c. Gross square footage of all building and tenant spaces.
 - d. The name, type of use, and the days and hours of operation for each tenant
 - e. The number of parking stalls required by this Chapter for each tenant based on each tenant's gross square footage and type of use.
 - f. The hourly parking demand for all tenants on: Weekdays (M—F), Saturday, Sunday.
 - g. The comparison between hourly parking demand and the parking supply which shows hourly parking demand will not exceed hourly parking supply according to this Chapter.
4. Written acknowledgement from the property owner and tenants that shared parking is contingent upon the efficient implementation of the shared parking program by the property owner and the tenant, and that if the shared parking program is not implemented efficiently as determined by the Director of Community Development, the City shall have the right to deny issuance of tenant improvements or other permits for use or development on the site.
5. After signing any lease agreement with future tenants, or purchase agreement with a future owner, the owner shall submit an updated shared parking program to the Director of Community Development for review and approval. The submittal shall indicate the new tenant or property owner, the tenant's required parking, and agreement with the Shared Parking Program as evidenced through a signed letter. The submittal shall be accompanied with a services

fee in an amount equal to the hourly billing rate of a Planning Technician for one (1) hour, according to the most current “City of Dana Point — Schedule of Service Fees.” The City of Dana Point may withhold permits of any kind for the site until such documentation and fee is provided, reviewed, and approved.

- (d) Required Grades. Parking stalls, loading spaces, parking aisles, and parking stall maneuvering areas shall have a minimum grade of one-half (0.5) percent for concrete and one (1) percent for all other types of pavement; and a maximum grade of two (2) percent for retail commercial and five (5) percent for all other uses. Said grade may be measured across the parking space and the abutting parking aisle in any direction. Exhibit 9.35-4, on the following page, illustrates these requirements.

**EXHIBIT 9.35-4
 REQUIRED PARKING FACILITY GRADES**



(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 95-14, 7/25/95)

9.35.070 Dimensions of Parking Facilities.

- (a) Parking Aisles. Parking aisles, interior circulation drives, and other maneuvering areas shall have minimum dimensions, as specified in the following table.

Parking Stall Orientation to Parking Aisle	Minimum Parking Aisle Width	
	One-Way Circulation	Two-Way Circulation
Parallel	14 feet	24 feet

45°	14.5 feet	24 feet
60°	17 feet	24 feet
90°	24 feet	24 feet

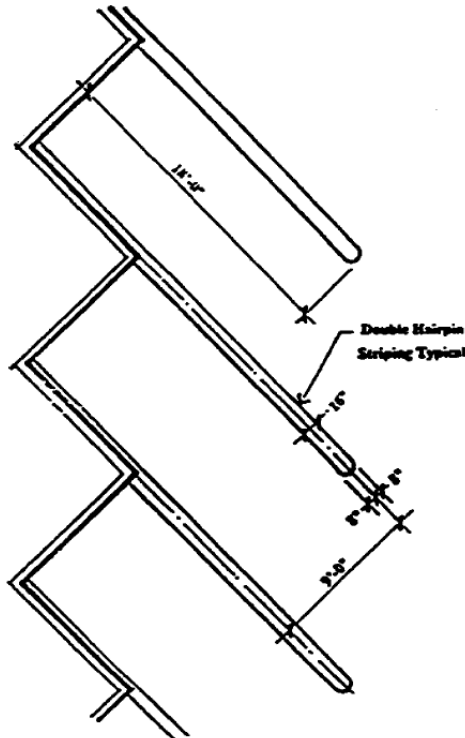
(b) Parking Stall Maneuvering Areas. Parking stall maneuvering areas for access into and out of parking stalls shall be as wide as the parking stall or parking stalls and as long as follows:

- (1) Garages—~~thirty (30)~~ **twenty four (24)** feet of unobstructed pavement measured from the garage door, ~~except as may be modified by (4) below.~~
- (2) Parking structures—~~twenty-eight (28)~~ **twenty-four (24)** feet of unobstructed pavement measured from the open end of the parking stall, ~~except as may be modified by (4) below.~~
- (3) Uncovered parking—twenty-four (24) feet of unobstructed pavement measured from the open end of the parking space.
- (4) ~~Where there is no physical barrier over six (6) inches in height at the end of a parking stall maneuvering area opposite a garage or parking structure parking stall that would prevent a vehicle from projecting beyond the parking stall maneuvering area, the required length may be reduced by up two (2) feet.~~

(c) Parking Stalls.

- (1) General Design Provisions.
 - (A) Parking Stall Delineation. Each parking stall, except for a parking stall within a single family garage, shall be clearly marked with double striping having a minimum width of four (4) inches centered around the minimum parking stall width. The outside dimension of the double striping shall not exceed sixteen (16) inches. Exhibit 9.35-5 illustrates this provision.

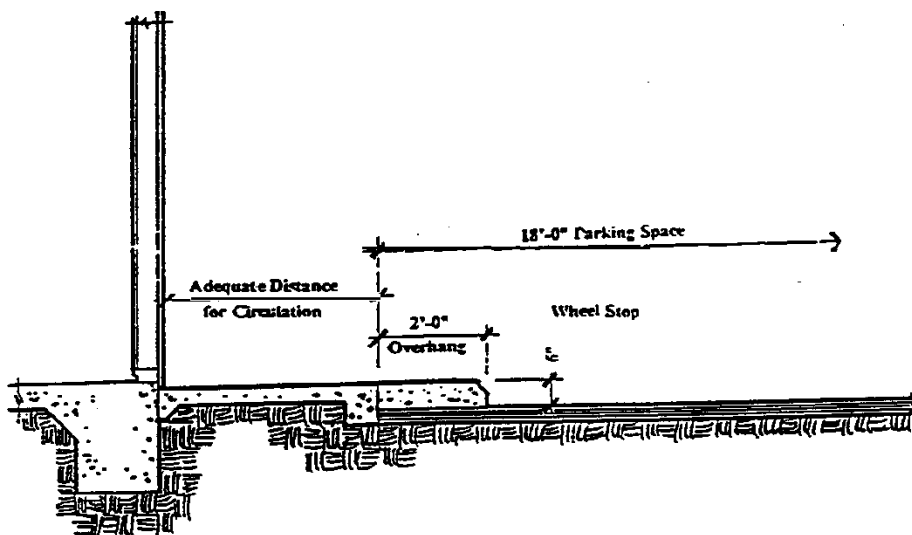
**EXHIBIT 9.35-5
REQUIRED PARKING STALL DELINEATION**



- (B) Parking Stall Curbing and Wheel Stops. A continuous six (6) foot by six (6) foot concrete curb shall be provided for any uncovered parking stall adjacent to a pedestrian walkway, accessway or driveway, landscape planter, street or alley, as illustrated in Exhibit 9.35-6, to ensure that vehicles will not encroach into these areas. Limited encroachment of a parking stall into landscape planters or pedestrian walkways is permitted pursuant to Section 9.35.070(c)(2)(C).

Wheel stops are discouraged in favor of concrete curbing with landscaping or sidewalk extending two (2) feet into the parking stall. Wheel stops should only be used to protect buildings, walls, pedestrians, or landscaping from contact by motor vehicles when there is no alternative measure of protection.

**EXHIBIT 9.35-6
CURBING AND WHEEL STOPS**



(2) Minimum Parking Stall Dimensions.

(A) General Stall Dimensions. All parking stalls shall be designed to meet the following minimum dimensional standards, as illustrated in Exhibit 9.35-7:

	Standard Parking Stalls (1)	Handicapped Parking Stalls (1)
Uncovered Stalls In a Parking Lot -		
Parallel:	8' x 22'	14' x 22'(2)
45, 60 or 90 degree:	9' x 18'	14' x 18'(2)
Covered Stalls Inside a Garage or Carport -	10' x 20'	14' X 20' (2)
Covered Stalls Inside a Parking Structure -		
Parallel:	8' x 22'	14' x 22'(2)
45, 60 or 90 degree:	9' x 18'	14' x 18'(2)

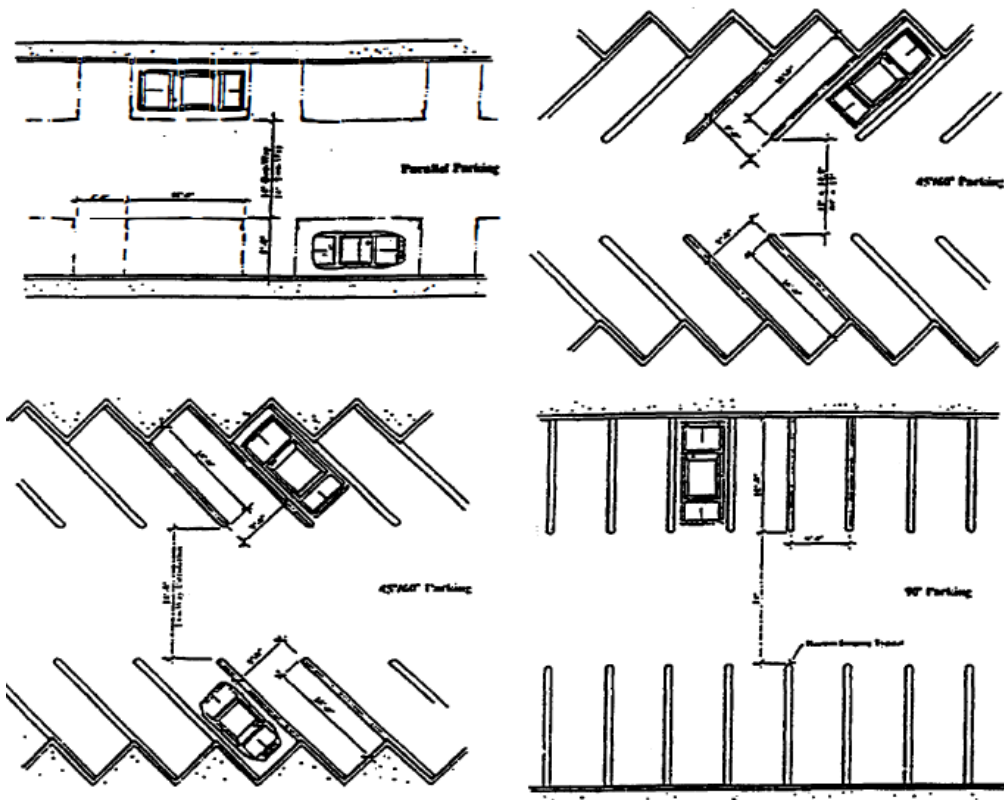
- (1) Excepting stalls in the garage of a single family residence, when a parking stall abuts a building, fence, support column or other vertical obstruction which would interfere in any way with access to a motor vehicle, the required width of the stall shall be increased by two (2) feet.
- (2) One (1) in every eight handicapped parking stalls, and always at least one handicapped stall, shall have a minimum dimension of seventeen (17) feet by eighteen (18) feet (nine (9) foot wide parking stall and eight (8) foot

wide access area by eighteen (18) feet deep) and shall have appropriate signage designating the stall “van accessible.”

All parking stalls shall maintain unobstructed vertical clearance in accordance with the provisions of Section 9.35.070(c)(2)(B).

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**EXHIBIT 9.35-7
PARKING AISLE AND PARKING STALL DIMENSIONS**

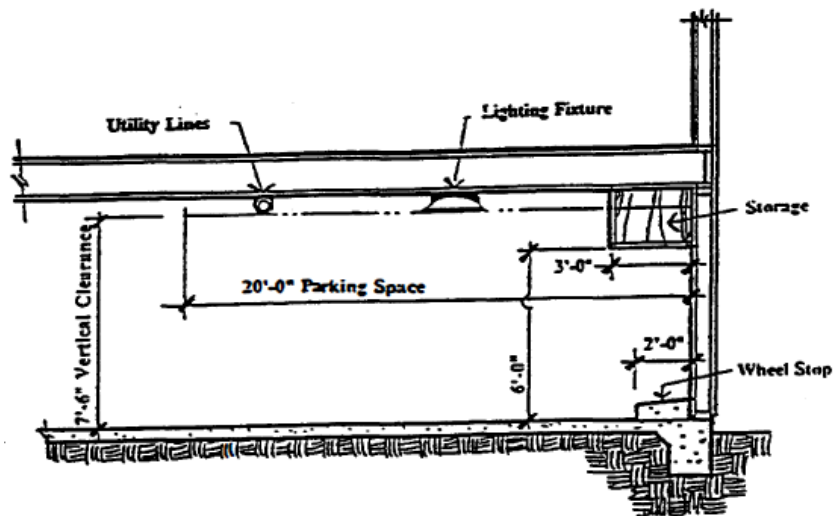


(B) Unobstructed Vertical Clearance. Unobstructed vertical clearance means the area above the parking stall that is clear of any overhead

intrusions such as structural supports, conduits, pipelines, signage or lighting fixtures. Such intrusions and overhead storage compartments may be permitted within the required unobstructed vertical clearance area along the wall, within the first three (3) feet at the head of the stall subject to the approval of the Director of Community Development. Exhibit 9.35-8 illustrates the requirements and exceptions for unobstructed vertical clearance.

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**EXHIBIT 9.35-8
UNOBSTRUCTED VERTICAL CLEARANCE**



- (C) Parking Stall Encroachment. When the head of a parking stall abuts a landscape planter or pedestrian walkway, the depth of the stall may be reduced by up to two (2) feet subject to the following provisions:

In either condition, the parking stall shall be provided with curbing that will limit vehicle encroachment to a maximum of two (2) feet.

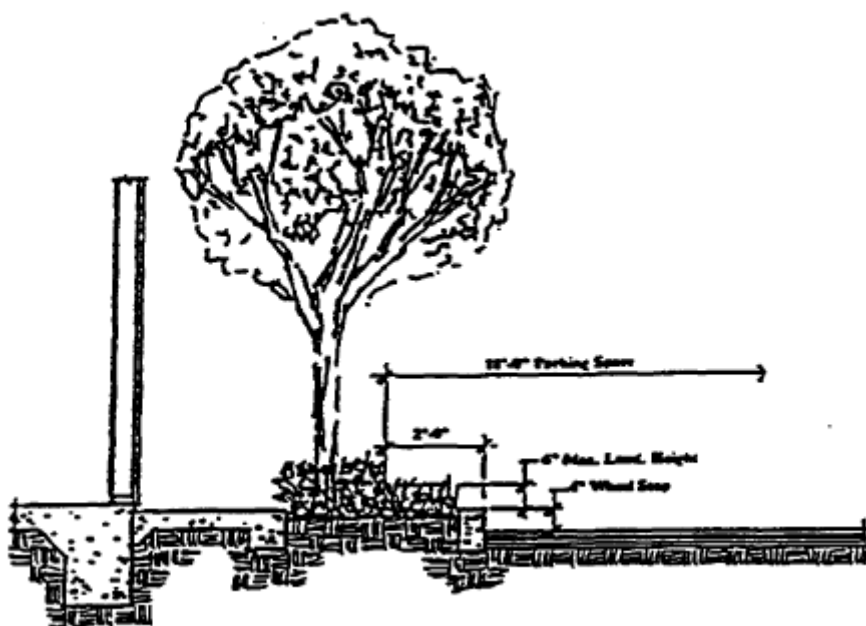
For encroachment into landscaped areas, planting material in the encroachment area shall be of a type that does not normally

grow above six (6) inches tall with routine maintenance. The depth of encroachment should be limited so that the remaining portion of landscaped area will satisfy the minimum required planter width referenced in Section 9.35.040(d)(3). The portion of the landscaped area that is encroached upon shall not be included in the calculation for minimum parking lot landscaping requirements.

For encroachment into pedestrian walkways, the amount of encroachment shall be limited so that the remaining portion of the walkway will be of an appropriate width to provide adequate pedestrian circulation.

Exhibit 9.35-9 illustrates the requirements and limitation for parking stall encroachments.

EXHIBIT 9.35-9 PARKING STALL ENCROACHMENTS



(Added by Ord. 93-16, 11/23/93; Ord. 94-21, 12/13/94)

9.35.080 Minimum Number of Required Parking Stalls.

- (a) Calculation of Minimum Parking Requirements. The requirement for a use not specifically mentioned in subsection (e) shall be the same as for a specified use which has the most similar traffic or parking generation characteristics. The

Director of Community Development shall determine what constitutes similar traffic or parking generation characteristics. When the calculation of required parking stalls results in a fractional number, the number of required stalls shall be rounded up to the next whole number when the fraction is equal to or greater than .5 and may be rounded down to the next whole number when the fraction is less than .5. The number of required stalls shall be adequate to service the proposed use. Notwithstanding the table in subsection (e) below, the Director of Community Development may require additional parking stalls. Subsection (e) specifies the number of off-street parking stalls required for specific uses.

(b) Calculation of Gross Floor Area. Where required parking calculations are based on gross floor area, gross floor area shall be calculated by measuring to the exterior of the building walls. The following areas shall be included in the calculation:

- (1) Restrooms, closets and storage or mechanical rooms;
- (2) Exterior patios which are intended to be occupied;
- (3) Elevator shafts and stairwells (may be counted once);

The following areas may be excluded from the calculation:

- (4) Interior building floor space which is devoted to parking, circulation to subgrade parking or landscaping;
- (5) Exterior breezeways, hallways and balconies.

(c) Handicapped Parking. The following table establishes the number of handicapped parking stalls required:

Total Number of Parking Stalls in Parking Lot or Garage	Minimum Number of Required Handicapped Parking Stalls
1 — 25	1
26 — 50	2
51 — 75	3
76 — 100	4
101 — 150	5
151 — 200	6
201 — 300	7
301 — 400	8
401 — 500	9

501 — 1000	2% of total stalls
1001 and over	20, plus 1 for each 100 or fraction thereof over 1001 stalls

- (d) Allowance for Bicycle Stalls. For projects with a minimum parking requirement of fifty (50) or more parking stalls, up to eight (8) percent of the required stalls may be provided as bicycle stalls in a properly secured and located rack.
- (e) Minimum Number of Required Stalls by Use. The minimum amount of parking provided for each use in a project shall be in accordance with the following ratios:

SECTION 9.35.080(e)
MINIMUM NUMBER OF REQUIRED PARKING STALLS BY USE

Residential Uses	
Use	Required Number of Stalls
(1) Age Restricted Single or Multiple Family Project	Same as single-family and multiple family listed above
(2) Convalescent Hospital	1 stall for every 4 beds plus parking for on-site employee housing
(3) Duplex	4-car garage (with minimum 40' x 20' interior floor space) and 1 additional stall per duplex. <u>The requirement for the additional stall may be waived with the approval of a Minor Site Development Permit provided the project satisfies the required findings detailed in Section 9.71.050.</u>

(4) Duplex on lot less than 50' wide	<p>Two (2) covered and assigned parking stalls within a garage per dwelling unit; or</p> <p>Two (2) covered and assigned parking stalls within a garage for one (1) dwelling unit; and one (1) covered and assigned parking stall within a garage and one (1) uncovered tandem stall for the second dwelling unit as illustrated in Exhibit 9.35-10. A tandem parking design providing the required four (4) covered parking spaces shall be approved, subject to the approval of a minor Conditional Use Permit by the Planning Commission and in accordance with the following standards:</p> <p>a. Prior to issuance of building permits, the recordation of a tandem parking agreement and management plan with the title for the property shall be provided to the satisfaction of the Director of Community Development.</p> <p>b. Prior to issuance of Certification of Occupancy, at least one large-24-inch box tree shall be planted in the front yard setback <u>or other alternative decorative paving and landscaping to screen the street views.</u></p> <p>c. The setback and design of the garage and the driveway shall be in accordance with the minimum and maximum <u>provide adequate articulation and structural details to the garages and front elevation. dimensions specified in Exhibit 9.35-10.</u></p>
	<p>d. The required front yard setback to the front of the garage may be measured from the back of the sidewalk.</p>
(5) Fraternity, Sorority or Rooming House	1 unassigned stall per bedroom, plus 2 covered and assigned stalls for the resident manager
(6) Granny Flat	1 covered (non-tandem)

SECTION 9.35.080(e)
MINIMUM NUMBER OF REQUIRED PARKING STALLS BY USE
 (continued)

Residential Uses (continued)	
Use	Required Number of Stalls

(7) Mobilehome Park	1 covered and assigned stall, plus ½ visitor stall per d.u.																				
(8) Multiple family units (including Timeshare): 1 bedroom or less 2 bedrooms 3 bedrooms more than 3 bedrooms	Stalls per Unit: <table border="1"> <thead> <tr> <th></th> <th><u>Covered</u>⁽¹⁾</th> <th><u>Uncovered</u>⁽¹⁾</th> <th><u>Visitor</u></th> </tr> </thead> <tbody> <tr> <td>1 bedroom or less</td> <td>1.0</td> <td>0.5</td> <td>0.2</td> </tr> <tr> <td>2 bedrooms</td> <td>1.0</td> <td>1.0</td> <td>0.2</td> </tr> <tr> <td>3 bedrooms</td> <td>2.0</td> <td>0.5</td> <td>0.2</td> </tr> <tr> <td>more than 3 bedrooms</td> <td>2.0</td> <td>0.5⁽²⁾</td> <td>0.2</td> </tr> </tbody> </table> <p>(1) Covered stalls shall be assigned; uncovered stalls shall not be assigned. (2) Plus 0.5 uncovered stall per additional bedroom in excess of 3.</p>		<u>Covered</u> ⁽¹⁾	<u>Uncovered</u> ⁽¹⁾	<u>Visitor</u>	1 bedroom or less	1.0	0.5	0.2	2 bedrooms	1.0	1.0	0.2	3 bedrooms	2.0	0.5	0.2	more than 3 bedrooms	2.0	0.5 ⁽²⁾	0.2
	<u>Covered</u> ⁽¹⁾	<u>Uncovered</u> ⁽¹⁾	<u>Visitor</u>																		
1 bedroom or less	1.0	0.5	0.2																		
2 bedrooms	1.0	1.0	0.2																		
3 bedrooms	2.0	0.5	0.2																		
more than 3 bedrooms	2.0	0.5 ⁽²⁾	0.2																		
(9) Senior Citizen Housing Complex	1 covered and assigned stall, plus ½ guest stall per dwelling unit, plus 1 stall for the resident manager																				
(10) Senior Congregate Care Facilities	1.25 stalls per unit (may be reduced to .67 stall per unit subject to Conditional Use Permit to reflect presence of special transportation services or other unique characteristics)																				
(11) Single-family, attached	Two (2) assigned and covered parking stalls within a garage or parking structure, plus .3 stalls unassigned per dwelling unit																				
(12) Single-family, detached: up to <u>4-5</u> bedrooms over <u>4-6</u> bedrooms	2 covered stalls <u>in a garage</u> 2 covered stalls <u>in a garage</u> + 1 covered stall for every two bedrooms over 4 bedrooms																				
(13) Single-family, detached on shallow or narrow lots (less than 50 feet wide and 100 feet deep)	Two (2) assigned and covered stalls within a garage per dwelling; or Two (2) assigned and covered stalls within a garage (setback 5 to 9 feet) per dwelling. The garage must be equipped with a garage door opener and a roll-up garage door.																				

SECTION 9.35.080(e)
MINIMUM NUMBER OF REQUIRED PARKING STALLS BY USE
 (continued)

Community Uses	
Use	Required Number of Stalls
(14) Church, chapel, religions finality, cemetery, mortuary, public assembly	1 stall/3 fixed seats (or 72" of bench seating), or 1 stall/25 SF-GFA where there are no fixed seats

(14a) Emergency Shelters	1 space per 10 beds/persons
(15) College or University	1 stall/employee, plus 1 stall/2 students based on maximum student capacity
(16) Convalescent Hospital, Rest Homes or Sanitariums	1 stall/3 beds, plus if employee residence facilities are provided onsite, additional parking in accordance with applicable residential requirements
(17) Day Care and Nursery Schools	1 stall/2 employees, plus 1 stall/5 children, based on facility capacity
(18) Elementary Schools and Junior High Schools	1.5 stalls/classroom, plus 1 stall/5 fixed seats in auditorium, gymnasium or similar public assembly facility (35 SF = 5 fixed seats)
(19) High Schools	1.5 stalls/classroom, plus 1 stall/3 students based on maximum student capacity
(20) Hospitals and Medical Centers (providing acute care, clinical, surgical, teaching, research and office services)	2 stalls/patient bed or 1 stall/300 SF-GFA, whichever is greater
(21) Libraries	1 stall/200 SF-GFA
(22) Museums, Art Galleries	1 stall/250 SF-GFA
(23) Public Utility Facilities	1 stall/2 employees in the largest shift, plus 1 stall for each vehicle used in connection with the use
(24) Theaters: Movie — Multiple Screen Movie — Single Screen Live Performance	1 stall/4 seats, plus 10 stalls for employees 1 stall/4 seats, plus 6 stalls for employees 1 stall/4 fixed seats
(25) Trade School, Business School or Adult Education	1 stall/1.5 people based on maximum number of students and staff, or 1 stall/35 SF of GFA
(26) Union Halls, Lodges and Clubs	1 stall/50 sq. ft. of gross floor area

SECTION 9.35.080(e)
MINIMUM NUMBER OF REQUIRED PARKING STALLS BY USE
 (continued)

Industrial Uses	
Use	Required Number of Stalls

(27) General Manufacturing and Processing Uses (not including buildings used exclusively for	1 stall/400 SF of industrial/manufacturing area, plus 1 stall/250 SF of office use, plus 1 stall/1,000 SF of warehouse area
(28) Mini-Storage Warehouse	1 stall/2,000 SF-GFA
(29) Recreational Vehicle and Boat Storage	5 stalls or, 1 stall/10,000 SF of storage area, whichever is greater
(30) Research and Development	1 stall/250 SF-GFA
(31) Warehouses (used exclusively for storage)	1 stall/1,500 SF of warehouse area, plus 1 stall/250 SF of office use
Office Uses	
Use	Required Number of Stalls
(32) Business and Professional Office (except medical)	1 stall/300 SF-GFA
(33) Financial Services (banks, savings and loans, credit unions)	1 stall/250 SF-GFA
(34) Medical and Dental Office	1 stall/150 SF-GFA
(33) Veterinary Office	1 stall/200 SF-GFA
Commercial Uses — Retail and Service	
Use	Required Number of Stalls
(36) Art Galleries	1 stall/500 SF-GFA
(37) Automobile/Truck/RV Sales	1 stall/400 SF indoor GFA plus 1 stall/4,000 sf outdoor retail area
(38) Automotive Service and Repair	2 stalls, plus 3 stalls/service bay (service bays do not count as stalls)
(39) Bed and Breakfast	2 covered and assigned stalls, plus 1 stall/guest room
(40) Car Wash	6 stalls per tunnel (plus additional stacking and drying areas as necessary to match capacity)

SECTION 9.35.080(e)
MINIMUM NUMBER OF REQUIRED PARKING STALLS BY USE
(continued)

Commercial Uses — Retail and Service	
Use	Required Number of Stalls
(41) Furniture Stores	1 stall/500 SF-GFA
(42A) General Retail: Individual use on a separate lot Multi-tenant with less than 25,000 SF-GFA Multi-tenant with more than 25,000 SF-GFA	1 stall/300 SF-GFA 1 stall/220 SF-GFA ¹ 1 stall/250 SF-GFA ¹ ¹ If restaurant space occupies more than 20% of the total GFA, or if an individual restaurant contains more than 2,000 SF, then additional parking stalls shall be provided for all restaurant space above the 20% or the 2,000 SF, <u>whichever is greater</u> . The additional parking shall be calculated at the applicable restaurant
<u>(42B) Personal Services</u>	<u>1 stall/300 SF-GFA</u>
(43) Laundromat	1 stall/3 washing machines
(44) Outdoor Sales, including Lumber Yards, and Salvage Yards	1 stall/1,000 SF gross outdoor retail area, plus additional parking as required for indoor sales area, service facilities and other uses
(45) Plant Nurseries	1 stall/1,000 SF indoor GFA, plus 1 stall/2,000 SF gross outdoor retail areas
(46) Resorts, Hotels and Motels	1 stall/guest room plus additional parking as required for accessory use
(47A) Restaurants: Dine-in (< 4,000 SF-GFA): 4,000 SF-GFA+: Fast Food: Take-Out: Outdoor dining areas in excess of 16 seats:	1 stall/100 SF-GFA 40 stalls, plus 1 stall/50 SF-GFA above 4,000 sf-GFA 10 stalls, or 1 stall/50 SF-GFA, whichever is greater 1 stall/250 SF-GFA 1 stall for 150 SF of entire outdoor dining area (Note: Outdoor seating areas with 16 or less seats need not provide additional parking)

<p><u>(47B) Alcohol Manufacturing</u></p> <p>(a) <u>Alcohol Manufacturing Area</u> (b) <u>Tasting Room/ Tap Room/Outdoor Patio with a kitchen</u></p>	<p><u>1 stall/400 SF-GFA</u> <u>Pursuant to Subsections 47A and 42A above, whichever is applicable</u></p>
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SECTION 9.35.080(e)
MINIMUM NUMBER OF REQUIRED PARKING STALLS BY USE
(continued)

Commercial Recreation Uses	
Use	Required Number of Stalls
(48) Self Service Car Wash	2.5 stalls/wash bay (wash bays do not count as stalls)
(49) Arcades, Pool Halls and Bingo Halls	1 stall/150 SF-GFA
(50) Bowling Alley	4 stalls/lane, plus other uses calculated separately
(51) Dance Halls	1 stall/7 SF dance floor
(52) Driving Range	1 stall/tee, plus other uses calculated separately
(53) Golf Courses - (Regulation and Pitch and Putt)	9 stalls/hole, plus other uses calculated separately
(54) Gyms, Spas, <u>and Health Clubs, and Yoga Studios</u>	1 stall/100 SF-GFA
(55) Handball and Racquetball Courts	3 stalls/court, plus other uses calculated separately
(56) Miniature Golf	13 stalls/hole, plus other uses calculated separately
(57) Skating Rink - Ice or Roller	1 stall/100 SF of rink, plus other uses calculated separately

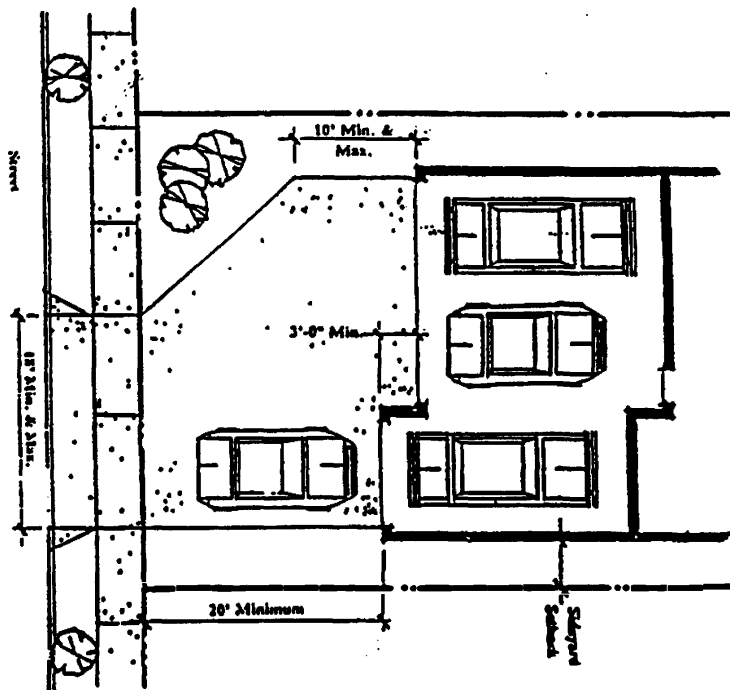
(58) Swimming Pool - Commercial	10 stalls, or 1 stall/1,000 SF of lot area, plus 1 stall/2 employees, whichever is greater
(59) Tennis Courts	3 stalls/court plus other uses calculated separately

Footnotes for Section 935.080(e):

d.u. = dwelling unit SF = square feet GFA = gross floor area

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EXHIBIT 9.35-10
OPTIONAL DUPLEX PARKING ARRANGEMENT
(IMAGE TO BE REMOVED)



(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96;)

9.35.090 Loading Facility Standards.

Off-street loading facilities shall be provided for all commercial, office, industrial, mixed use and warehousing land uses. The following provisions shall apply to all required loading facilities.

- (a) **Location.** Loading facilities shall be located on the same site as the use or building served; or within one hundred (100) feet of the use or building served, as approved by a Site Development Permit approved by the Director of Community Development according to Chapter 9.71. Such off-site loading facilities shall provide a covenant for easement in accordance with Chapter 9.45. Loading facilities shall not in any way block vehicular movement to or from a street, driveway, drive aisle, or parking stall. Loading facilities shall be located so that they may be accessed and utilized without maneuvering in the public right-of-way.

- (b) **Minimum Dimensions.** The minimum dimensions for any required loading space shall be ten (10) feet wide and twenty-five (25) feet long, with fourteen (14) feet of unobstructed vertical clearance.
- (c) **Number of Loading Spaces Required.** A minimum number of loading spaces shall be required for all commercial, industrial, office and warehouse uses as follows:

Building Size (SF-GFA)	Minimum Number of Loading Spaces
Less than 10,000 sf	None Required
10,001 - 20,000 sf	1 space
20,001 - 50,000 sf	2 spaces
50,001 sf or more	3 spaces

- (d) **Turning Radius.** Access to all loading areas shall have an adequate turning radius to enable vehicles to maneuver without backing into a Circulation Element roadway or to access the loading area without backing into the area from a Circulation Element roadway.
- (e) **Screening.** All loading spaces shall be screened from adjacent residential zoning districts and uses by landscaping no less than six (6) feet in height.

(Added by Ord. 93-16, 11/23/93)

9.35.100 Combined Parking and Loading Facilities.

- (a) **For Uses on Separate Lots or Parcels.** Required parking facilities may be provided collectively for two or more buildings or uses located on separate contiguous lots or parcels of land, provided that the combined parking and loading facilities meet or exceed all minimum requirements for the buildings or uses. Combined parking and loading facilities shall provide a covenant for easement in accordance with Chapter 9.45.
- (b) **For Separate Uses on the Same Lot or Parcel.** In instances where two or more uses are located on the same parcel of land, all parking and loading facilities, shall equal the sum total requirements for all the various individual uses calculated separately.

(Added by Ord. 93-16, 11/23/93)

9.35.110 Alternatives to Parking and Loading Standards.

The City recognizes that many uses and sites are unique and that certain components of parking and loading may be tailored to better comply with these standards based on factors such as awkward site shape and unique types or combinations of uses. As such, the City may consider modifications to certain provisions of the parking and loading standards to achieve safe and adequate parking and loading facilities, subject to the review and approval by the Planning Commission.

(a) Procedures for Alternative Standards. Alternative standards for certain elements of parking and loading standards may be permitted subject to the approval of the appropriate application as follows:

(1) A minor Conditional Use Permit shall be required for a shared parking program utilizing the City's model program, as outlined in Section 9.35.060(c)(4).

(2) A major Conditional Use Permit shall be required for a shared parking program not utilizing the City's model program.

(3) A Site Development Permit shall be required for any modification to:

(A) The location, height and/or amount of landscaping in the parking area; or

(B) The setback of a parking area from property lines; or

(C) The required driveway "throat" length, **drive aisle with and accessway width; or**

(D) Number of loading spaces required; or

(E) Lighting standards; or

(F) Allow the use of car lifts to meet minimum parking requirements.

(4) A Variance shall be required for any modification to the **minimum dimensions for parking stalls or loading spaces. Number of parking stalls. Per Government Code Section 65906.5, Variances for reduced parking may be granted in order that some or all parking spaces be located off-site, or that in-lieu fees or facilities be provided.**

~~(b) **Prohibited Alternative Standards. Alternative standards for the following aspects of parking and loading standards are not permitted under any circumstances:**~~

~~(1) **Lighting standards;**~~

~~(2) — Number of parking stalls and/or loading spaces required; and~~

~~(3) — Drive aisle and accessway width.~~

(eb) Alternative Parking Standard Findings. Alternative parking and loading standards may be approved provided the Planning Commission makes the following findings:

(1) Conditional Use Permits:

- (A) That the applicable parking and loading requirements are excessive or inappropriate due to either the nature of the specific use(s) involved or because of special circumstances applicable to the site; and
- (B) That the proposed parking and loading facilities, as conditioned, comply with the intent and purpose of the parking and loading regulations.
- (C) That the provisions of the proposed shared parking program are reasonable, accountable and enforceable.

(2) Site Development Permits:

- (A) That the proposed modifications to the parking and loading standards result in a project which is of a superior design quality and functionality as compared to the project which could have been built under the existing regulations; and
- (B) That the proposed parking and loading facilities, as conditioned, comply with the intent and purpose of the parking and loading regulations.

(3) Variances:

- (A) That there are special circumstances applicable to the subject property which, when the applicable parking and loading regulations are strictly applied, deprive the subject property of privileges enjoyed by other property in the vicinity and subject to the same parking and loading regulations; and
- (B) That approval of a Variance for the subject property will not constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same parking and loading regulations, when the specified conditions are complied with.

(C) That approval of the Variance will be an incentive to, and a benefit for, the nonresidential development (Government Code Section 65906.5).

(D) That approval of the Variance will facilitate access to the nonresidential development by patrons of public transit facilities, particularly guideway facilities (Government Code Section 65906.5).

(Added by Ord. 93-16, 11/23/93)

9.35.120 Parking Structure Design Standards.

Parking structures, including underground or subterranean structures, shall require a Site Development Permit and shall be designed to meet the following standards and guidelines:

- (a) **Minimum Driveway Width.** Any driveway providing access to a parking structure shall have a minimum width of twenty-eight (28) feet. If a toll or fee booth is located in the driveway area, the driveways on either side of the booth shall have a minimum width of fourteen (14) feet. A sidewalk with a minimum width of six (6) feet shall be provided adjacent to the entrance driveway.
- (b) **Maximum Parking Aisle Length.** Three hundred (300) feet shall be the maximum length of a parking aisle without being intersected by another parking aisle or driveway.
- (c) **Location of Support Columns.** The edge of structure support columns shall be located a minimum of two (2) feet and a maximum of four (4) feet from the parking aisle and shall not be located within the area of a parking stall.
- (d) **Increase in Parking Stall Width.** When the side of any parking stall abuts a building, fence, wall, support column or other obstruction which would interfere in any way with access to a motor vehicle, the width of the stall shall be increased to at least eleven (11) feet.
- (e) **Internal Circulation.** Where possible, the internal circulation of vehicles in a parking structure shall be designed to flow in a counter-clockwise direction.
- (f) **Minimum Floor Heights.** The minimum height from the floor to the lowest ceiling structure, support beam, or overhead fixture, such as a conduit, pipeline, signage, lighting, or any other obstruction mounted on the ceiling shall be:
 - (1) Eight (8) feet two (2) inches for areas providing access to handicap parking; or
 - (2) Eight (8) feet for all other parking areas; or

- (3) As determined by the Director of Public Works for areas providing access to loading areas.
- (g) Parking Structure Setbacks. The setbacks for the exterior walls of any underground or subterranean parking structure shall not encroach into the minimum above grade building setbacks unless approved through the Site Development Permit process pursuant to Chapter 9.71. **In no case may the setback for an underground or subterranean parking structure be less than three (3) feet**

All underground or subterranean parking structures permitted by a Site Development Permit to have lesser setbacks than the minimum above grade building setback shall be designed to have adequate soil depth above the parking structure to ensure healthy tree and landscape growth based on the evaluation and recommendation of a licensed landscape architect.

Where an underground or subterranean parking structure is proposed in an area with sensitive or unstable soils, the minimum setback of the parking structure shall be based on the evaluation and recommendations of a licensed geotechnical engineer.

- (h) Integral Design. Parking structures should be designed as an integral component of the coordinated site plan and architectural theme.
- (i) Interior Treatment The interior treatment of a parking structure shall be of a light color. The treatment shall include a coordinated interior sign program designed to identify parking levels and locate stairwells, elevators, phones, exits and other interior features. Parking structures shall have an attractive interior treatment pursuant to the Urban Design Guidelines.
- (j) Parking Floor and Ramp Grades. The parking areas of sloped floor parking structures shall not exceed a grade of five (5) percent as measured across the width of a 90 degree parking stall. The grade of a straight internal ramp shall not exceed fifteen (15) percent. The grade of a circular ramp shall not exceed twelve (12) percent as measured at the outside ramp wall.
- (k) Ramp Transitions. All ramps shall be provided with transition zones at the top and bottom of the ramp. Ramps with a grade of ten (10) percent or less shall have a transition zone at least eight (8) feet in length. Ramps with a grade of greater than ten (10) percent shall have transition zones at least twelve feet twelve (12) feet in length. The grade of a transition zone shall not exceed 1/2 the grade of the ramp it serves.
- (l) Ramp Widths. A straight one-way ramp shall be at least fourteen (14) feet in width. A two-way ramp shall be at least twenty-four (24) feet in width. The minimum outside wall radius of a circular ramp shall be thirty-six (36) feet.

- (m) Elevators. Parking structures of three stories or more shall incorporate at least two passenger elevators. Additional elevators are required for a structure accommodating 500 or more parking stalls subject to approval by the Director of Community Development.
- (n) Lighting. Adequate lighting shall be provided for all parking structures in accordance with the following provisions:

Area:	Required Lighting:
Entrances and Exits	50 footcandles
Stairways	20-50 footcandles
Cashiering/Security Areas	20 footcandles
Travel Lanes and Ramps	10 footcandles
Elevators	10 footcandles
Parking Areas	3-5 footcandles

- (o) Mirrors for Sight Distance. Blind corners shall be provided with viewing mirrors maintained in a position and condition to provide adequate sight distance.

(Added by Ord. 93-16, 11/23/93)

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Chapter 9.37

SIGNS AND ADVERTISING DEVICES

Sections:

9.37.010	Intent and Purpose.
9.37.020	Definitions.
9.37.030	Administration and Enforcement.
9.37.040	Permits Required.
9.37.050	Permit Application.
9.37.060	Neon Sign Review.
9.37.070	Sign Programs.
9.37.080	Signs Requiring a Variance.
9.37.090	Permit Fees.
9.37.100	Permit Issuance.
9.37.110	Exemptions.
9.37.120	Political Signs.
9.37.130	Location and Height.
9.37.140	Materials, Design and Construction.
9.37.150	Permitted Signs.
9.37.160	Special Use Sign Permits.
9.37.170	Prohibited Signs.
9.37.180	Unsafe and Unauthorized Signs.
9.37.190	Nonconforming Signs.
9.37.200	Inventory and Abatement of Illegal or Abandoned Signs.
9.37.210	Historical Signs.
9.37.220	Maintenance and Operation.
9.37.230	Use of Product or Manufacturer Names in Signs.

9.37.010 Intent and Purpose.

The intent of this Chapter is:

- (a) To recognize that the primary purpose of signage is to identify, locate, and encourage businesses and events.
- (b) To encourage well designed consistent signage that is pleasing in appearance and compatible with community character while providing latitude for a variety of signage.
- (c) To eliminate potential traffic and safety hazards to motorists and pedestrians.
- (d) To maintain the attractiveness of the community and to enhance the character of the City as a place in which to live, work, play, and visit.
- (e) To promote the public health, safety, and general welfare of the citizens and business community of the City through quality sign standards.
- (f) To promote a high quality business environment by assuring signage is complementary to the City's urban design.

The purpose of the provisions of this Chapter is to provide a reasonable and equitable system for regulation of the location, size, type, content, illumination, and number of signs, integrated as a part of the Zoning Code as set forth by this Chapter. (Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.020 Definitions.

(a) "A" Definitions.

Abandoned Sign-A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity.

Advertising Device – Any object, person, or animal including but not limited to banners, balloons, statues, flags, pennants, lights, portable signs, signs or landscaping, used to attract attention for the purpose of drawing attention to a site or promoting the sale of goods or services.

A-Frame Sign – A sign generally not securely attached or fixed to the ground or to a permanent structure used as a stationary advertising device and usually supported by two upright sign faces (also known as a "sandwich board").

Aggregate Area – The total area of sign and/or advertising device surface.

Alteration – Any change of copy, sign face, color, size, shape illumination, position, location, construction, or support of any sign or advertising device.

Animated Sign – A sign designed and constructed to attract attention through the movement of the whole or any part of the sign.

Area of Sign (for):

Attached Sign – Sign area for an attached sign shall be considered the entire area within which a single continuous perimeter of not more than eight (8) straight lines enclose the extreme limits of any writing, representation, emblem, or any figure or similar character together with any material or color forming any integral part of the display or used to differentiate such sign against which it is placed. Necessary supports or uprights on which the sign may be placed are excluded unless supports or uprights are designed in such a manner as to form an integral background or part of the display. When a sign has two or more faces, the area of all faces shall be included in determining the area of the sign except where two such faces are placed back to back. When a five (5) foot space or greater is provided between two advertising devices, sign area shall be calculated as two separate signs (Exhibit 9.37-1).

Detached Sign – Sign area for a detached sign shall be considered the entire area within which a single continuous perimeter of not more than eight (8) straight lines enclose the extreme limits of representation, emblem, or figure or similar characters. Necessary supports or uprights shall be excluded from sign area unless such uprights are designed in such a manner so as to form an integral part of the background or display. When a sign has two or more faces, the area

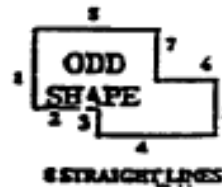
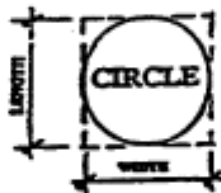
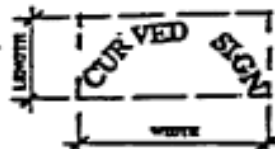
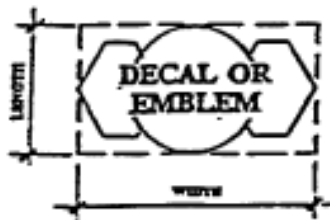
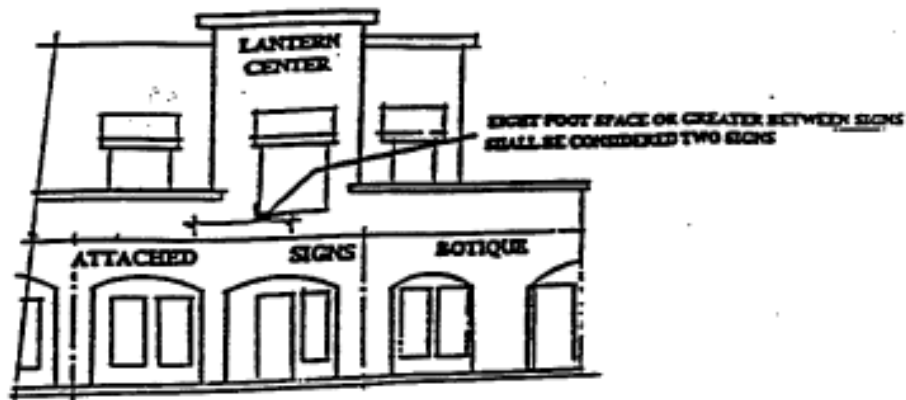
of all faces shall be included in determining the area of the sign except where two such faces are placed back to back (see Exhibit 9.37.2).

Attached Sign – Any sign or advertising device attached to a structure or building other than a freestanding pole, flag, or monument sign.

Awning – See Canopy.

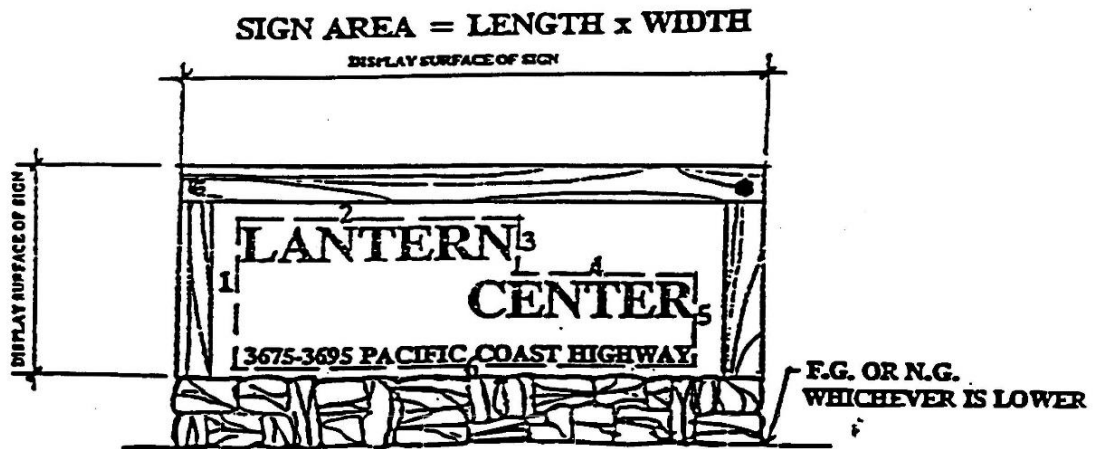
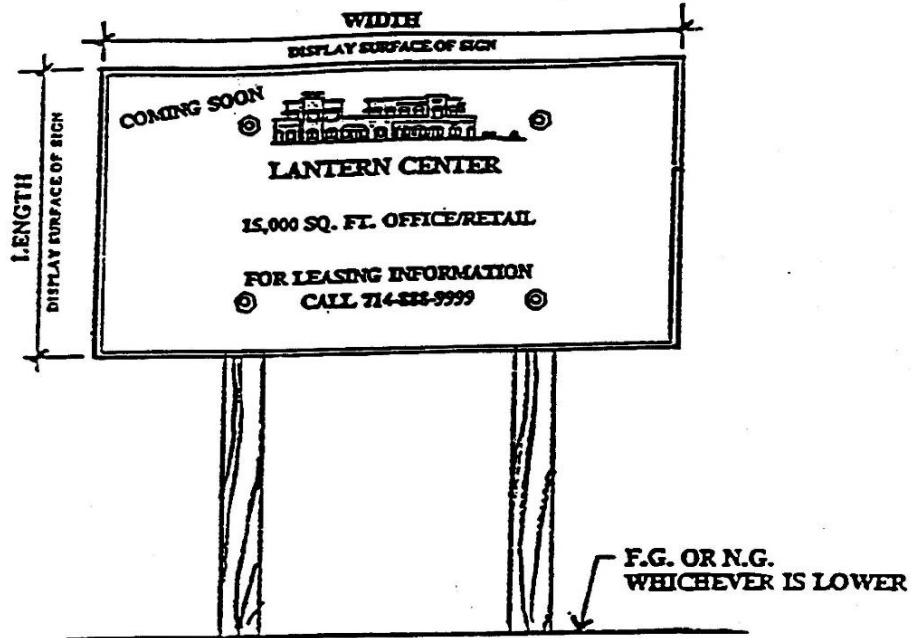
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**EXHIBIT 9.37-1
 AREA OF ATTACHED SIGNS**



SIGN AREA = LENGTH x WIDTH OR AREA CALCULATED WITHIN NOT MORE THAN EIGHT STRAIGHT LINES

EXHIBIT 9.37-2
AREA OF DETACHED SIGNS



SIGN AREA = AREA WITHIN NOT MORE
THAN 8 STRAIGHT LINES

(b) “B” Definitions.

Balloon – A spherical, flexible, non-porous bag or similar object capable of being filled with air or gas such as helium

Banner – A sign usually constructed of cloth, paper, or other lightweight material used for the purposes of advertising a business, organization, service, product, or event.

Bench – A seat usually located upon or adjacent to the public right-of-way for the purpose of persons resting and which is capable of displaying a sign or advertising device.

Billboard – A freestanding or attached outdoor advertising sign capable of having interchangeable messages (generally related to off-site advertising).

Blade Sign- A sign, other than a wall or projecting sign, which hangs from a building or wall fixture and extends perpendicular from the face of a building. Blade signs shall be designed consistent with the recommendations of the Dana Point Sign Guidelines.

Building Identification Sign – A sign which contains only the name of a building and/or the address of the building.

(c) “C” Definitions.

Campaign Sign – Campaign sign usually refers to a political sign but may include any advertising device or sign, not otherwise prohibited by this Section, which is designed to influence the passage or defeat of any measure on the ballot or designed to influence the voters with respect to the nomination, election, defeat, or removal of a candidate from public office at any national, state, or local election.

Canned Monument Sign-A freestanding sign supported by a sign structure with an acrylic, fiberglass, plastic or bare aluminum face, or material that exhibits a reflection similar to these materials.

Canopy – A fixed structure of any material projecting from and connected to a building, column, or post or supported by a frame extending from a building and/or posts.

Canopy Sign – Any form of advertising or illumination attached, painted, or constructed for a canopy.

Center – A center can be commercial, industrial, or professional use, consisting of one or more buildings sharing common facilities such as off-street parking, access, or landscaping. In each case, a center will consist of two or more retail stores or businesses, but may not necessarily be under a single ownership.

Center Identification Sign – Any freestanding sign **or wall mounted sign** which identifies the name or address or directs attention to a center but that does not identify an individual business or activity and which does not contain trademarks, trade names, logos, symbols, or any form of art that can be construed as a name of a single business.

Changeable Copy Sign – An advertising device which is capable of changeable text or graphics, regardless of method of attachment, which advertises events, services, or products.

Civic Activity Sign – A bulletin board or other similar advertising device incident to places of worship, hospitals, libraries, museums, and other similar public or non-profit institutions.

Construction Sign – A temporary sign on the premises listing the development, architect, engineer, planner, contractor, or other person or firm participating in the development, construction or financing of a development.

(d) “D” Definitions.

Detached Sign – Any freestanding sign or advertising device used to attract attention, including pole, flag and monument signs.

Directional Sign – Any on-site freestanding, non-flashing sign which is designed, erected, and maintained to serve as a public convenience in directing pedestrian and vehicular traffic, but not used for the purpose of advertising uses and activities on site.

(e) “E” Definitions.

Eave Line – That part of a roof which projects over or meets the wall.

Electric Sign – Any sign utilizing electricity to illuminate its surface.

Electronic Message Sign – A directly illuminated sign which presents variable advertising message displayed by electronically controlled lighting pattern against a contrasting background, and which may be programmed to change the message display periodically.

Externally Illuminated Sign – ~~An electric sign designed and constructed to display artificial light for the purpose of advertisement or identification, including but not limited to exposed neon signs.~~ **A sign illuminated from an exterior light source.**

(f) “F” Definitions.

Facade — The entire building front including the parapet.

Fascia – A broad well defined horizontal member of color or material having the form of a flat band between the top of a wall and the eaves of a roof. The area used for identification over the front of a shop.

Flag – Cloth or other lightweight material of distinctive size, color, and design, used as a symbol, standard, signal, emblem, or a device used to attract attention.

Flag Sign – A permanent freestanding sign with its advertising device suspended by a post and beam support.

Flashing Sign – Any electric sign which intermittently flashes on and off, changes in intensity, or creates the illusion of flashing, in any manner.

Freestanding Sign – A sign that is not attached to any building, but is securely attached and fixed to the ground.

Frontage, Building – The lineal measurement of a building facade which fronts on a street, landscaped area, and/or a parking area and is used to determine the maximum sign area and number of signs permitted for a given use.

Frontage, Street – The linear measurement of a lot along a public or private right-of-way but not including the lineal measurement along an alley, railroad, beach, freeway, or parking lot.

Fuel Price Identification Sign – A permanent sign, usually of a monument type, containing the prices and grades of fuel for sale at an automobile service station.

Future Facility Sign – A temporary sign denoting sale, lease, or rental of a site that is under construction.

Future Tenant Sign – A temporary sign denoting center name, tenant name, and type of use for a site that is constructed.

(g) “G” Definitions.

Garage Sale Sign – A temporary sign announcing the limited sale, from a private resident, of goods, furniture, clothing, or other similar articles.

(h) “H” Definitions.

Height of Sign – Sign height is calculated by measuring the vertical distance from the uppermost point of the sign to the ground directly beneath.

Historical Sign – A sign, which because of its character, age, or influence, is of historic significance to the community.

(i) “I” Definitions.

Identification Sign – A sign which serves to identify only the name, address, or trade of a business and sets forth no other advertising.

Illegal Sign – A sign not permitted or exempted by this Code.

Illuminated Sign – A sign with an artificial light source for the purpose of decorating, outlining, accentuating or brightening the sign area.

Inflatable Sign – See Balloon.

Interior Sign – A sign located within the inside of a business which is not visible from any area outside the building which is open to the public.

Internally Illuminated Sign -~~An electric sign whose source of illumination is not visible to the viewer.~~ **A sign illuminated from an interior light source contained within the sign cabinet.**

(j) “J” Definitions.
None.

(k) “K” Definitions.
Kiosk – A freestanding, round or multiple-sided structure whose main purpose is to display signs or information.

(l) “L” Definitions.

Legal Nonconforming Sign - Any permanent sign which was legally established and maintained in conformance with the ordinance in effect at the time of original installation, but does not comply with subsequently enacted sign restrictions and regulations.

Linear Frontage – The horizontal measurement of a building face or site.

Logo – A name, symbol, feature, or trademark that represents a business, enterprise, group, or activity.

(m) “M” Definitions.

Major Tenant – Any tenant in a multi-tenant commercial center which either: occupies thirty (30) percent or more of the leasable square footage of the center; or has 5 or more locations in the region, state or nation.

Marquee – A permanent structure attached to and supported by a building and projecting over public or private right-of-way usually using changeable copy.

Mansard – A roof system having a steep slope, normally on all building sides, often used to screen roof top equipment.

Menu Board Sign – Sign displaying food items sold on the premises.

Mixed-Use Districts – Areas with land use and zoning designations for which both residential and non-residential uses are the primary permitted uses.

Monument Sign – A freestanding sign directly supported by a sign structure that is not narrower than the display surface of the sign.

Multi-Tenant Identification Sign – A single sign identifying each tenant or business individually.

Mural – A display or illustration painted on a building or wall within public view.

(n) “N” Definitions.

Neon Sign – An electric sign consisting of gas-filled tubing exposed to view.

Nonconforming Sign – A sign, billboard, or other advertising device which does not conform to the sign regulations as set forth in this Section or applicable zone or land use district.

Non-Residential Districts – Areas with land use and zoning designations for which commercial, industrial or recreational uses are the primary permitted uses.

(o) “O” Definitions.

Off-Site Sign – Any sign which is not located on the business or activity site it identifies or advertises.

Open House Sign – A sign contain the only words “Open House” and the name of the owner of the sign, shaped and placed in a manner which provide direction to interested parties.

On-Site Sign – Any sign which directs attention to an occupancy, business, service, or activity conducted, sold, or offered upon the premises where the sign is located.

(p) “P” Definitions.

Parapet – A low wall, railing, or screen to protect the edge of a platform or roof.

Pole Sign – Except for a flag sign, a freestanding sign directly supported by a sign structure that is narrower than the display surface of the sign.

Political Sign – Political signage usually refers to campaign signs, but may include any sign, not otherwise prohibited by this Section, pertaining to the conduct of government in general.

Portable Sign – Any sign not designed to be permanently attached to a building or permanently anchored to the ground.

Projecting Sign – A sign which projects from a wall more than six (6) inches.

Public/Quasi-Public Uses – Uses of a community-serving nature such as civic centers, churches, parks, hospitals, schools, etc.

Pump Sign – Signs displayed upon service station gas pumps for the purpose of advertising the sale of products incidental to the sale of gas and oil or other automobile service provided on the premises.

(q) “Q” Definitions.
None.

(r) “R” Definitions.
Real Estate Sign – A sign advertising the sale, lease, or rental of the premises on which the sign is located and maintained, excluding construction, future facility, and future tenant signs.

Residential Districts – Areas with land use and zoning designations for which residential uses are the primary permitted uses.

Roof – The upper covering of a building for weather protection or any architectural feature resembling the covering in design or material.

Roof Sign – Any sign which is erected, constructed, or maintained on or above a roof system, roof line, or parapet of any building. **For purposes of this definition, a sign placed upon a mansard roof which does not exceed above the roof line shall not be considered a roof sign if no wall area exists on which to place the sign, subject to review and approval of the Community Development Department.**

(s) “S” Definitions.
Sandwich Board – See A-Frame Sign.

Service Station – A lot or a portion of a lot used for the servicing of motor vehicles including gas stations.

~~**Sign — Any structure, object, display verbiage, illustration, emblem, and/or logo used to direct or attract attention to an object, person, institution, organization, business, service, or event. A sign may include, but is not limited to, words, numbers, symbols, posters, pictures, and other objects or characters similar in nature used to attract attention.**~~

Sign — any representation used to convey information, or to identify, announce, or otherwise direct attention to a business, profession, commodity, service, or entertainment and placed on, suspended from, or in any way attached to, any structure, vehicle, or feature of the natural or man-made landscape.

Sign Program – A program intended to provide incentive, latitude, and variety in order to achieve aesthetically appealing and compatible signage for shopping and professional office

centers and industrial parks with two or more occupants. A sign program may also be applicable for a single business proposing two or more signs.

Sign Structure – The supports, uprights, braces, cables, framework, and display surface of a sign.

“Snipe” Sign – Any sign made of cloth, paper, cardboard, poster material, plastic, metal or other material affixed to or upon fences, posts, trees, buildings, people, or other structures or surfaces usually found off-site.

(t) **“T” Definitions.**

Temporary Sign – Any sign constructed of paper, cloth, canvas, fabric, cardboard, or other materials, including but not limited to flags, streamers, pennants, banners, and balloons, not intended for permanent display.

Time and Temperature Device – A device that displays the time or temperature whether or not it displays any advertising or establishment identification.

Transportation Shelter – A structure constructed for the use of persons waiting for transportation.

(u) **“U” Definitions.**

Under-Canopy Sign – A pedestrian-oriented sign which is perpendicular to the building and the pedestrian path, and is suspended from, or projects from the wall below a canopy or covered arcade. An Under-Canopy sign does not project beyond the canopy or covered arcade.

(v) **“V” Definitions.**

Vehicle Mounted Sign – Any sign or advertising device attached to any vehicle for the purposes of advertisement.

(w) **“W” Definitions.**

Wall Sign – Any sign or advertising device permanently attached to a building. A sign attached to a parapet shall be considered a wall sign.

Window Sign – Any sign exposed to public view, attached, painted, posted, or displayed, either permanently or temporarily, on or within one (1) foot of the interior or exterior surface of a window.

(x) **“X” Definitions.**

None.

(y) **“Y” Definitions.**

None.

(z) **“Z” Definitions.**

None.

Exhibits 9.37-3 through 9.37-9 depict many of the sign types described above and in the Permitted Sign Matrix, Section 9.37.150(a) through 9.37.150(f).

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EXHIBIT 9.37-3
SIGN TYPES

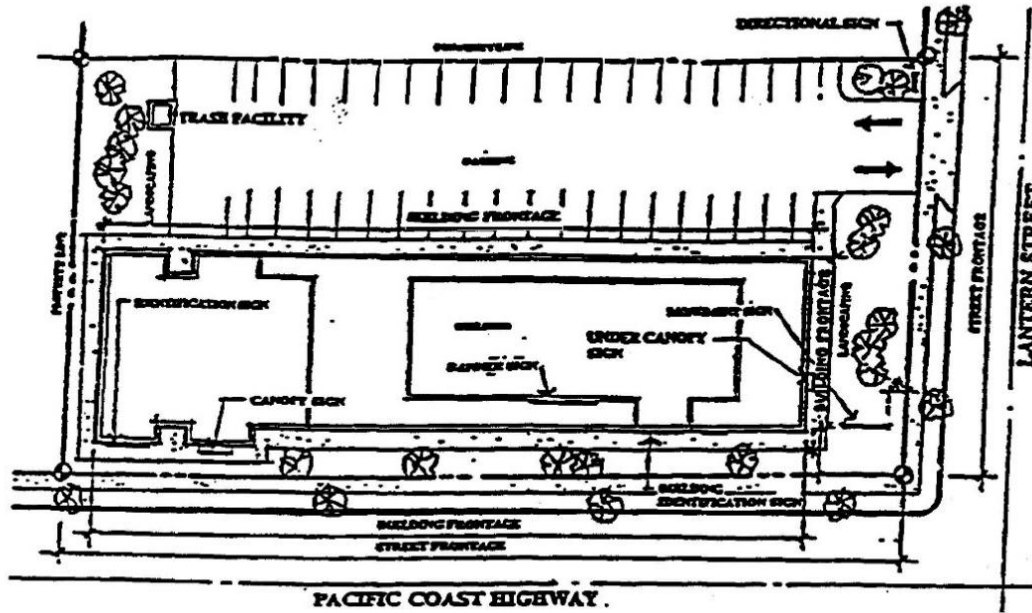
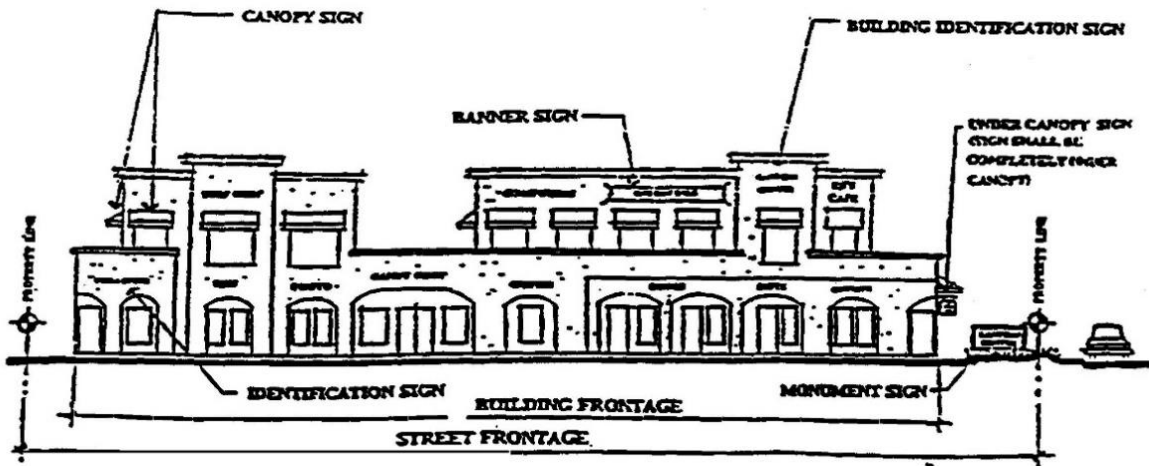
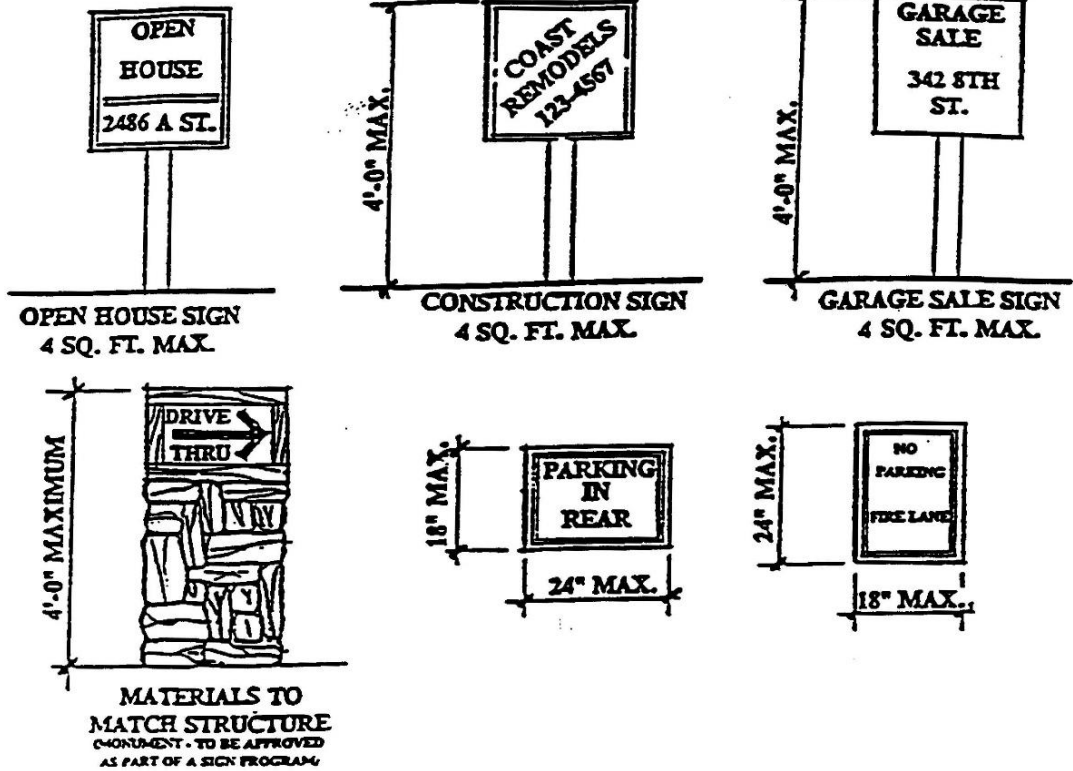


EXHIBIT 9.37-4
SAMPLE SIGN LOCATION ELEVATION



**EXHIBIT 9.37-5
 DIRECTIONAL SIGNS**



**EXHIBIT 9.37-6
 CENTER/TENANT IDENTIFICATION SIGNS
 (FREESTANDING)**

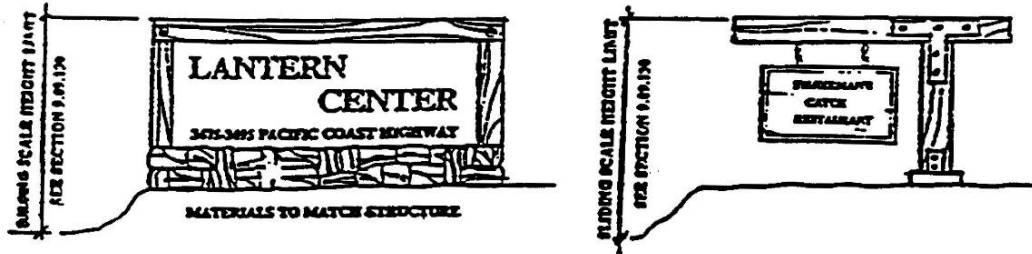


EXHIBIT 9.37-7
TEMPORARY FUTURE FACILITIES SIGN

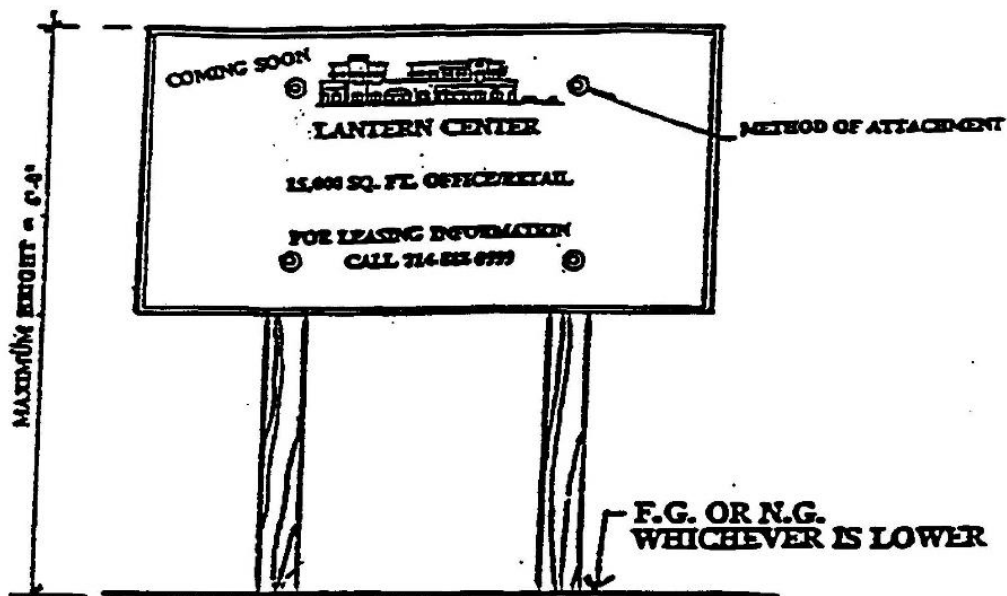


EXHIBIT 9.37-8
TEMPORARY CONSTRUCTION SIGN

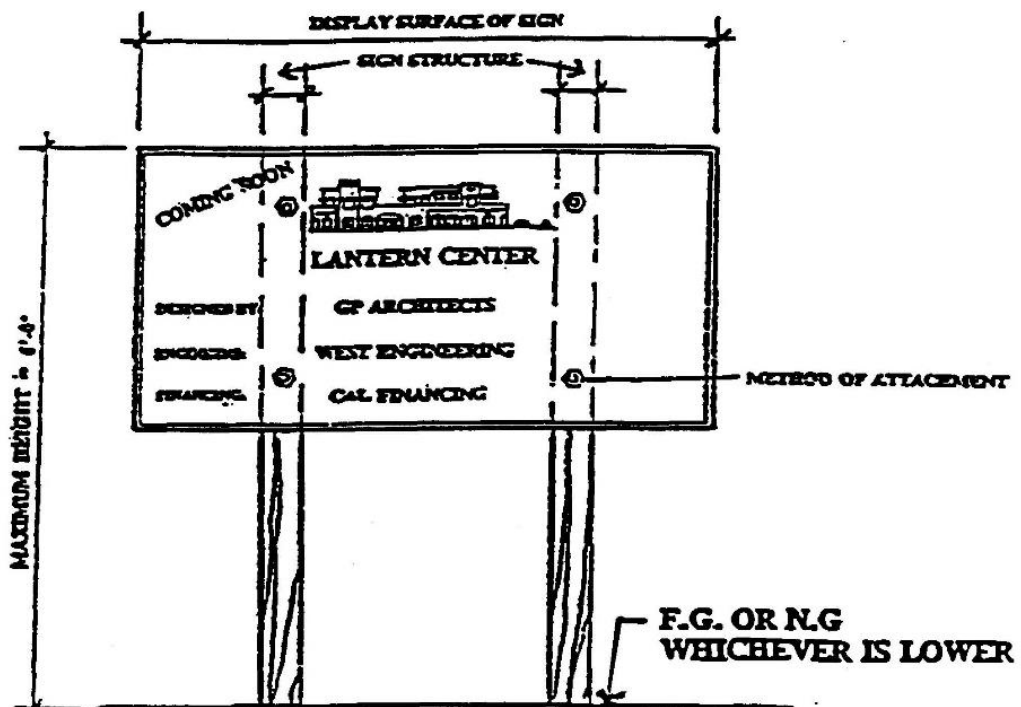
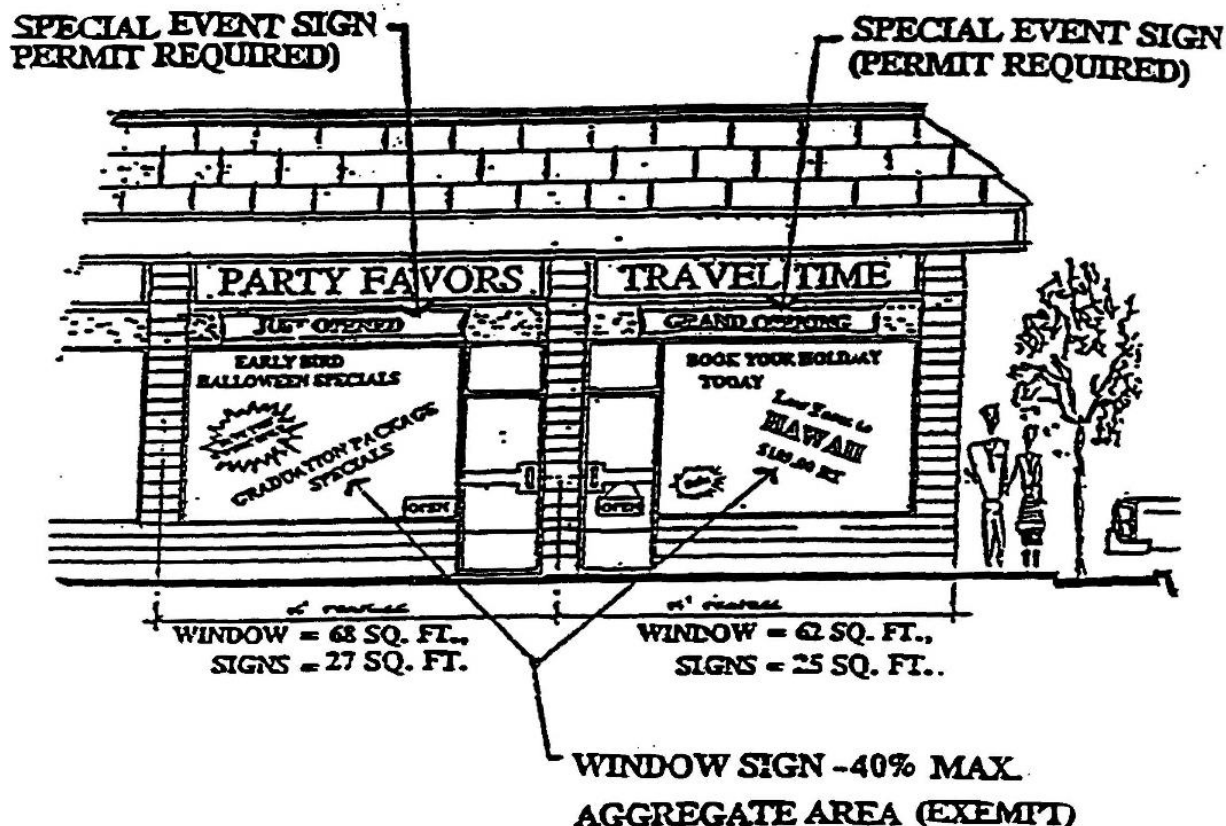


EXHIBIT 9.37-9
TEMPORARY SIGNS



(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94; Ord. 94-09, 5/24/94; Ord. 01-06, 10/9/01; Ord. 03-09, 4/23/03; Ord. 18-01, 1/16/18; Ord. 18-07, 10/2/18)

9.37.030 Administration and Enforcement.

The Director of Community Development or his authorized designee shall have the authority to enforce all the provisions of this Chapter and the applicable provisions of the City of Dana Point Municipal Code.

Sign permits shall be reviewed in the following manner:

- (a) **Administrative Approval. Sign applications deemed by the Community Development Department to be in substantial compliance with Dana Point Sign Guidelines may be approved administratively by the Director of Community Development or their authorized designee.**

- (b) After review of the Dana Point Sign Guidelines, if the Director of Community Development or his authorized designee determines that the sign application is not in conformance with the said Guidelines, then the sign application may be forwarded by the Director of Community Development to the Planning Commission for formal review.**
- (c) If submitted to the Planning Commission, the sign application shall be processed as a Minor Site Development Permit, as shown in Section 9.71.034.**
- (d) The Planning Commission may approve, deny, or approved with conditions the Minor Site Development Permit for the sign application. The Planning Commission shall consider the following findings for the sign application:**
- (1) Suitability of the site for the proposed sign; and**
- (2) Sign design that is appropriate for the site and compatible with the character of the surrounding area.**

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94;)

9.37.040 Permits Required.

No signs shall be erected, constructed, or altered except for maintenance or repair, except as provided for in this Section and unless a permit has been issued by the Director of Community Development. A separate permit shall be required for each sign or group of signs in one location. In addition to the requirements set forth in this Chapter, all applicable building and electrical permits shall be obtained in accordance with the Uniform Building Code and the Uniform Electrical Code. A tag issued by the City indicating the sign permit number shall be affixed to the sign so as to be readily visible. (Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.050 Permit Application.

An application for a sign permit shall be made in writing upon forms provided by the Department of Community Development. The application shall be signed either by the owner, lessee, or authorized agent of the premises on which the sign is located.

Permit application requirements shall include:

- (a) A completed application form.
- (b) Plans, drawn to scale, to include the following:
- (1) All sign details including sign area, dimensions, colors, materials, letter style, proposed copy, letter height and method of illumination.

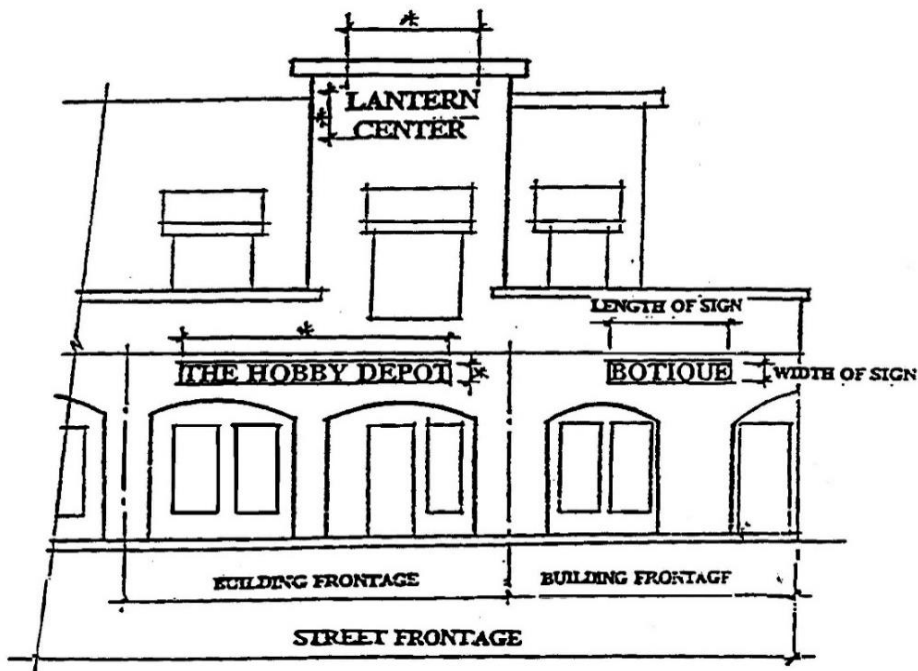
(2) A site plan indicating the location of all existing and proposed signs with sign area, dimensions, colors, materials, letter style, proposed copy, letter height, and method of illumination.

(3) All building elevations with the proposed signs depicted on the elevations (see Exhibit 9.37-10).

(4) A deposit/fee as required by a Resolution of the City Council.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

**EXHIBIT 9.37-10
SAMPLE ELEVATION REQUIRED FOR
SUBMITTAL OF PERMITS**



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9.37.060 Neon Sign Review.

Prior to the issuance of a sign permit, neon signs shall be subject to review and approval by the Director of Community Development. The Director shall assure the neon sign is an aesthetic enhancement to the site signage, site design and surrounding area; and does not create visual incompatibility. Pursuant to this title, the Director's decision may be appealed to the Planning Commission. (Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.070 Sign Programs.

The purpose and intent of a Sign Program is to integrate signs with building and landscape design into a unified architectural statement. Sign programs may also be used to consider signage alternatives for developments which have unique tenant visibility problems, such as obscured lease space or complex access patterns. A Sign Program shall be subject to the review of the design, placement, size, content, and compatibility of the proposed signage by the **Planning Commission Director of Community Development through a Minor Site Development Permit** and shall be in substantial compliance with Section 9.37.150 of this Chapter.

(a) Sign Program Required. A Sign Program shall be required for any new or upgrading center with two (2) or more tenants on a site; for any new or upgrading single enterprise which proposes three (3) or more signs on a site; for any new multiple-unit residential project (attached or detached) which proposes two (2) or more signs on the project site; or for any sign proposal deemed necessary by the Director of Community Development and in the interest of the public health, safety and general welfare. A Sign Program may also be submitted for the consideration of sign proposals which are designed to address centers with limited tenant visibility. A Sign Program may vary from the requirements of Section 9.37.150, but in no event shall any sign 'identified as prohibited in Section 9.37.170 be permitted, **nor shall the total area of all proposed signs exceed the maximum sign area allowed for a site.**

A Sign Program shall not be required for an existing single- or multi-tenant commercial establishment, unless initiated by the property owner and/or tenants as part of an overall aesthetic upgrading of the building or center. However, new signage for sites without a Sign Program must conform with all other provisions of this Chapter.

(b) Application Requirements. An application for any Sign Program shall be submitted for review and approval by the Director of Community Development **through a Minor Site Development Permit pursuant to Dana Point Zoning Code Section 9.71.034 or the Planning Commission in accordance with Chapter 9.61 of the Dana Point Zoning Code.**

Sign Program application requirements shall include:

- (1) A completed application form.

- (2) Plans, drawn to scale, including the following:
- (A) All sign details including sign area, dimensions, colors, materials, letter style, proposed copy, letter height and method of illumination.
 - (B) A site plan indicating the location of all existing and proposed signs with sign area, dimensions, colors, materials, letter style, letters height and method of illumination; and definition of type of signage, such as center identification signage or tenant identification signage.
 - (C) All building elevations with sign area and location depicted.
- (3) A deposit or fee as required by a Resolution of the City Council.
- (4) A letter of justification delineating how the proposed Sign Program is consistent with the intent of this Chapter.
- (5) Any other information as may be required by the Director of Community Development.

(c) Findings. Approval of a Sign Program shall be subject to the following findings (Section 9.71.050, Basis for Approval, Conditional Approval, or Denial of a Site Development Permit shall not apply):

(1) That the design, placement, size, and materials of the proposed signage is compatible with the project architecture.

(2) That the Sign Program is in general conformance with the Dana Point Sign Guidelines, and the Permitted Sign Types pursuant to Chapter 9.37 in the City of Dana Point Zoning Code.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94; Ord. 94-09, 5/24/94; Ord. 96-10, 8/13/96)

9.37.080 Signs Requiring a Variance.

Any proposed sign which deviates from any development standard set forth in this Chapter, except as may be permitted through a Sign Program pursuant to Section 9.37.070, shall require approval of a Variance in accordance with Chapter 9.67 of the Dana Point Municipal Code. However, the use or establishment of a sign or device which is prohibited pursuant to Section 9.37.170 shall not be permitted by a Variance. (Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94; Ord. 96-10, 8/13/96)

9.37.090 Permit Fees.

A sign permit and plan check fee for each sign permit shall be paid to the Community Development Department prior to the issuance of a sign permit in accordance with the schedule of fees established by a resolution of the City Council. (Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.100 Permit Issuance.

The Director of Community Development shall determine whether the proposed sign and related discretionary approvals with respect to construction, location, and materials conform to all applicable City ordinances, regulations, and the provisions of this Chapter. Any permit may be revoked in accordance with Section 9.61.110 of the Dana Point Municipal Code should any of the provisions set forth in this Chapter, any provision of this Code, or other applicable regulations and ordinances be violated by the permittee. (Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.110 Exemptions.

The provisions and regulations of this Chapter shall not apply to the following signs, nor shall the area of such signs be counted toward the maximum allowable sign area for any premises or use.

- (a) Directional or informational signs provided they are:
 - (1) Each no more than two and one-half (2½) square feet in area;
 - (2) Contain no advertising message; and
 - (3) Are located entirely on the business premises.
- (b) Four (4) Real Estate Open House or Garage Sale directional signs per intersection provided they are:
 - (1) Each no more than four (4) square feet in area;
 - (2) Contain no advertising message;
 - (3) Are located entirely on private property; and
 - (4) Not in excess of one per public street corner, per direction.
- (c) Signs for the convenience of the public, such as signs identifying restrooms, public telephones, walkways, and similar features or facilities, provided such signs are:
 - (1) Each no more than one and one-half (1½) square feet in area;
 - (2) Contain no advertising message; and
 - (3) Are located entirely on the business premises.
- (d) Memorial signs on tablets or plaques (intended to convey historical connotations), including names of buildings or sites, and dates of erection when cut into or attached to the surface or the facade of the building. Said signs and size may be exempted if deemed a memorial sign by the Director of Community Development.
- (e) Signs exclusively regulated by the state, traffic or municipal signs, signs required by law, railroad crossing signs, legal notices, and emergency or danger notices; provided such signs:

Shall not exceed twelve (12) square feet in area unless otherwise specified by law;

Contain no advertising message; and

Shall not be more than one (1) sign per street frontage unless otherwise required by law.

- (f) Emergency, temporary, and non-advertising signs as may be authorized by the City Council, including City-sponsored seasonal and promotional banners.
- (g) Signs of public utility companies and private contractors indicating danger or which serve as an aid to public safety, or which show the location of underground facilities.
- (h) One (1) real estate sign per street frontage provided such sign:

- Is located entirely on the property offered for sale or lease; or on private property;
 - Does not exceed six (6) feet in height;
 - Does not exceed four (4) square feet in area; and
 - Is removed upon the close of escrow or when the rental or lease has been accomplished, whichever event occurs first.

- (i) Street addressing, house numbers, nameplates, “No Trespassing,” “No Parking,” and other warning signs consistent with City Codes, provided the signs:

- Do not exceed two and one-half (2½) square feet in area; and
 - Are located entirely on-site.

- (j) Signs located in the interior of any building which are not visible from any public or private right-of-way.

- (k) One of each of the following flags:

- (1) United States of America;
 - (2) State of California; and
 - (3) One other flag.
 - (4) Additional flags and banners may be permitted pending approval of a minor Conditional Use Permit. See Section 9.65.040 for application procedures.

- (l) Temporary, removable non-illuminated, window signs with the following provisions:

- (1) The signs do not exceed ~~forty (40)~~ **twenty-five (25)** percent of the total **exposed** window area **of each individual window for the building elevation on which they are located;**
 - (2) **If maximum allowable sign area is met, window signage shall not exceed 10% of the total exposed area of each individual window. The signs are not erected or installed in a permanent manner;**
 - (3) The signs complement the building and permanent signage; and
 - (4) Additional signage shall be subject to the provisions of Section 9.37.160;
 - (5) **Window signs shall complement the building and permanent signage. The use of fluorescent, day-glow, and neon shall be limited;**
 - (6) **No more than three (3) signs per establishment;**
 - (7) **Open/closed sign not to exceed four (4) square feet in area may be displayed in the window of each business establishment;**
 - (8) **One sign, not more than one square foot, listing hours of operation may be displayed in the window of each business establishment; and**

(9) Credit card, club and association affiliation stickers do not exceed one square foot per entrance.

(m) Traditional Christmas signs and lights within any commercial and residential zone so long as they meet City Fire Codes, do not cause a detriment to the public health, safety, or welfare, and are displayed only between November 1st and January 10th, inclusive.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.120 Political Signs.

Political signs, as defined in Section 9.37.020, including their supporting structures shall be permitted in all zones, provided that:

- (a) No sign shall be permitted on or to extend over any public property, public easement, or in the public right-of way;
 - (b) Political signs shall not be posted in a manner which obstructs traffic or street signs or devices. In addition, all political signs shall be posted in a manner which preserves the lines of sight as set forth in Section 9.05.090;
 - (c) All political signs pertaining to a particular election shall be removed within ten (10) days after the date of the election;
 - (d) The candidate, committee, or any other authorized person posting political signs shall insure that all signs include the name, address and the required committee identification number of the campaign or political organization, if any.
 - (e) If the Director of Community Development finds that any political sign has been posted or is being maintained in violation of the provisions of this Section, the Director may cause said sign to be removed without prior notice. Any political sign that remains posted for more than fourteen (14) days after the election to which it pertains shall be deemed abandoned. The Director may also cause such abandoned signs and any signs which constitute an immediate peril to persons or property to be removed summarily and without prior notice.
- (Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94; Ord. 94-09, 5/24/94)

9.37.130 Location and Height.

- (a) All signs, unless otherwise provided for in this Chapter, shall be erected upon the premises occupied by the person or business sought to be identified by such signs.
- (b) No sign shall be located upon or project over a public right-of-way, except, **projecting signs and** signs promoting civic and non-profit activities sponsored by the civic and non-profit organizations subject to the review and approval of the Director of Community Development and in accordance with Section 9.37.160 (Special Use Sign Permits).
- (c) No sign shall be attached to any public utility pole or public property except non-advertising signs or public notices of public utility companies as may be required in their operations which provide service for the health and welfare of the general public or as required by any Federal or State law or agency thereof.
- (d) No sign shall be placed in such a manner that the visibility of a sign on adjacent properties is obscured as viewed from a public or private right-of-way.

(e) No sign shall extend above the eave line or parapet of the building on which it is located, **with the exception of signs located on mansard roofs of buildings without wall area for signage, provided that the sign does not exceed the roofline.**

(f) Signs shall be placed at or near the entrance to a building or site to indicate the most direct access to the business.

(g) The maximum height of permanent detached signs **shall be as follows: is six (6) feet. The Community Development Director has the discretion to grant up to a twenty-five (25) percent increase in allowable height, if the Director finds the sign design to be extraordinary creative and significantly contributing to the character of Dana Point and that the site characteristics warrant the additional height.**

Maximum Sign and Berm Height (in feet)	Sign Setback From Nearest Ultimate Property Line (in feet)
3.55	0—5
5-6	5.1—10
10	10.1—15
15	15.1—20
20	20+

Sign height shall be measured from the ground (finished grade) directly surrounding the sign to the top of the sign. When signs are constructed on hillsides or embankments where the sign supports are at varying lengths, height shall be measured from the horizontal mid-point of the sign. Signs may exceed the maximum height if approved in conjunction with a variance in accordance with Section 9.37.080.

(h) Signs located within any required building setback, access intersection or street intersection area shall be located in accordance with the sight distance requirements of Section 9.05.090. **Signs over three and one half (3½) feet tall shall be setback a minimum of five (5) lineal feet from the property line.** No sign shall be located so as to promote a safety hazard as determined by the Director of Community Development.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94; Ord. 94-09, 5/24/94)

9.37.140 Material, Design and Construction.

(a) All signs, **with the exception of monument signs,** shall be constructed of permanent materials, including but not limited to, metal, wood, acrylic or other comparable durable weatherproof materials. No material more combustible than treated wood shall be used in the construction of any permanent sign.

(b) It is acceptable and desirable to utilize the following high quality materials and/or methods for monument signs:

1. Natural materials such as wood (hand carved, sand-blasted, painted or routed), stone, brick or some other natural material that is of a high quality.

2. Ceramic tile either painted or sand blasted.

3. Sign face, supports and standards trimmed with moldings and letter of similar high quality design and material.

(c) It is not acceptable to utilize the following materials for monument signs: finished materials such as acrylic, fiberglass, plastic or bare aluminum face, or material that exhibits a reflection similar to these materials. Canned signs are not permitted.

(bd) Any sign support used in the construction of any permanent sign shall be reviewed as part of the sign application. Brackets or other structural elements that contribute to the architecture or in any way contribute to the advertisement of a business shall be calculated as part of the aggregate area of signage permitted for the site.

(ee) Design, color, and scale of the sign shall be in keeping with the design elements in the General Plan, respective Specific Plan or Planning Area, and/or with the existing and surrounding architecture.

(df) Signs may be ~~internally or~~ externally illuminated. **Signs, with the exception of monument signs, may be internally illuminated.** Internal illumination is from the interior of a sign, behind letters (back lighting), channel lighting, or other internal lighting source. Letter and logos may be internally lit but the sign background shall be opaque. **Where the only portion of the signs that is illuminated is the actual letterings and/or a registered trademark or logo. Monument signs are permitted to be externally illumination only.** External illumination is located outside of the sign and is focused to illuminate the exterior of the sign. External lighting shall be designed so as not to reflect glare or visually disturb surrounding land uses or function. Illumination shall be considered excessive when it prevents the normal perception of buildings or structures beyond or in the vicinity of the sign or when it is disruptive to residential zones or any public or private right-of-way.

(eg) Sign colors and materials should be selected to be compatible with the existing building designs and should contribute to legibility and design integrity. **The architectural design of the building's façade shall be considered in selecting sign materials that complement the design.**

(h) Sign colors and materials should be selected to be compatible with the existing building designs and should contribute to legibility and design integrity.

(fi) Sign colors and materials should be selected that provide a contrast between the background color(s) and the lettering.

(j) Colored lights shall not be used at a location or in a manner so as to be confused or construed as traffic control devices.

(k) Light sources shall utilize energy-efficient fixtures to the greatest extent possible.

(l) Sign removal or replacement shall ensure all brackets, poles, and other structural elements that supported the sign shall also be removed. Affected building surfaces shall be restored to match the adjacent portion of the structure.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.150 Permitted Signs.

The following table identifies the signs permitted in each land use district. In addition to the following regulations, all signs must be in compliance with all other provisions of this Chapter.

All signs shall be governed by the following matrix, except if specifically addressed elsewhere in this Chapter. Where contradictory, the more restrictive standards will apply. The matrix lists standards for the type, maximum number, aggregate area, maximum height of signs, and additional standards. In addition to the listed standards, each sign shall comply with the requirements set forth in each specific district or zone, and all other applicable City standards and ordinances. Consideration shall also be given to the overall appearance of the property and the surrounding neighborhood. The Planning Commission may adopt separate sign standards or provisions for specific sites or areas.

(a) Permitted Temporary Signs in Residential Districts.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA ¹	MAXIMUM HEIGHT ²	ADDITIONAL STANDA RDS ³
(1) Construction Sign	Freestanding or Wall	Yes	One per building site or street frontage	32 sq. ft.	6 feet	<p>(A) Copy shall be limited to the name of the project and may denote firms such as architectural, engineering, or construction firms engaged in work on the site.</p> <p>(B) A legal building permit must be issued for the site prior to sign erection.</p> <p>(C) Sign shall be removed upon issuance of the first certificates of use and occupancy.</p> <p>(D) A construction and future facility sign may be permitted simultaneo</p>

						usly as long as the total signage does not exceed 50 square feet.
(2) Future Facility	Freestanding or Wall	Yes	One per building site or street frontage	32 sq. ft.	6 feet	<p>(A) Sign shall be removed prior to occupancy of 50% of the buildings on site.</p> <p>(B) Copy may include sale, lease, or rental of the property on which the sign is located in lieu of a real estate sign.</p> <p>(C) Sign permits shall be valid for one year. However, prior to expiration of time period, the City may grant an extension of not more than one year.</p> <p>(D) A future facility sign may only be permitted upon</p>

						removal of a construction sign, unless the combined area of the construction and future facility signs does not exceed 50 square feet.
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Note: See footnotes on Page 9.37-29.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA ¹	MAXIMUM HEIGHT ²	ADDITIONAL STANDARDS ³
(3) Open House Sign	Freestanding	No, unless proposed in conjunction with a temporary sales facility	One sign per corner per direction, plus one sign per site	4 sq. ft.	4 feet	<p>(A) Open house signs may be displayed only until dusk and when the property is available for inspection.</p> <p>(B) Placement shall be permitted on private property only.</p> <p>(C) Signs shall be placed so that they do not obscure and are not attached to fire hydrants, traffic signals/signs or otherwise inhibit or interfere with vehicular or pedestrian traffic.</p> <p>(D) No wind signs (flags, ballons) shall be displayed. However,</p>

						one flag shall be permitted on site.
(4) Remodeling Sign	Freestanding or Wall	No	One per building	4 sq. ft.	6 feet	(A) Copy limited to name of firm engaged in home repairs, remodels, pool installation, etc. (B) Sign shall be removed upon completion of work and prior to final inspection.
(5) Real Estate Sign	Freestanding or Wall	No	One per street frontage	4 sq. ft.	6 feet	(A) Copy may include only information relating to the sale, lease or rental of the premises on which the sign is located. (B) Signs shall be removed upon close of escrow or when lease or rental has been accomplished.
(6) Gara	Wall, Window or	Yes	<u>One per intersection;</u>	<u>4 sq. ft. 32-sq-ft., or as</u>	<u>4 feet Below the eave line</u>	(A) <u>Placement shall be</u>

ge/Yard Sale Sign	Freestanding		<u>maximum of four (4) signs</u> One per site, or as deemed appropriate with a special event permit	<u>defined by a special event permit</u>		<u>permitted on private property only. A Special Event Permit is required pursuant to Section 9.37.160(a), Special Event Signs and Chapter 9.39.</u> (B) <u>See Section 4.20.010 in the Municipal Code for additional regulations related to conducting garage sales. Special event signs are to be removed on or before date of permit expiration.</u>
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Note: See footnotes on Page 9.37-29.

(b) Permitted Permanent Signs in Residential Districts.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA¹	MAXIMUM HEIGHT²	ADDITIONAL STANDARDS³
(1) Tract Identification	Freestanding or Wall	Yes, <u>Minor Site Development Permit</u>	One per street frontage or one on each side of an entrance	1 sq. ft. per lineal foot of street frontage up to 100 square feet	Wall: 6 feet Freestanding 5 feet	(A) Signs shall be affixed to a perimeter wall or placed within a landscaped planter. (B) Copy shall be limited to 18 inches in height.

				maximum or as defined by an approved sign program <u>and/or Minor Site Plan Permit</u>		(C) Location to be determined at time of sign program approval <u>and/or Minor Site Plan Permit</u> . (D) Freestanding signs shall be of a monument type. (E) Signs may be seven feet in height if height includes a two-foot high landscaped overall berm.
(2) Rent/Leasing Identification Signage (Apartment complexes only)	Freestanding or Wall	Yes	One per complex or entrance	12 sq. ft.	Wall: Below the eave line Freestanding: 5 feet	(A) Signage shall be approved as part of a comprehensive sign program. (B) Signs may be seven feet in height if overall height includes a two-foot high landscaped berm.
(3) Directional	Freestanding or Wall	No	Minimum number necessary to provide adequate information and direction	2½ sq. ft. per sign	Wall: Below the eave line Freestanding 4 feet	(A) Copy limited to directional signage as defined in this Section. (B) Signage to be included with a comprehensive sign program.
(4) Site Directory / Occupant Listing (Condominium Complex)	Freestanding or Wall	Yes	One per site, or as dictated by the sign program	24 sq. ft., or as defined by the sign program	6 feet	(A) Signs to be approved in conjunction with the approved sign program.

Note: See footnotes on Page 9.37-29.

(c) Permitted Temporary Signs in Mixed Use and Non-Residential Districts.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA¹	MAXIMUM HEIGHT²	ADDITIONAL STANDARDS³
(1) Construction Sign	Freestanding or Wall	Yes	One per building or leased parcel, or one per sheet frontage	32 sq. ft.	6 feet	<p>(A) Copy shall be limited to the name of the project and may denote firms such as architectural, engineering, or construction firms engaged in work on the site.</p> <p>(B) A legal building permit must be issued for the site prior to sign erection.</p> <p>(C) Sign shall be removed upon issuance of the first certificates of use and occupancy.</p>
(2) Future Facility	Freestanding or Wall	Yes	One per building or street frontage	32 sq. ft.	6 feet	<p>(A) Sign shall be removed prior to occupancy of 50% of the buildings on site.</p> <p>(B) Copy may include sale, lease, or rental of the property on which the sign is located in lieu of a real estate sign.</p> <p>(C) Sign permits shall be valid</p>

						<p>for one year. However, prior to expiration of time period, the City may grant an extension of not more than one year.</p> <p>(D) A future facility sign may only be permitted upon removal of a construction sign, unless the combined area of the construction and future facility signs does not exceed 50 square feet.</p>
(3) Future Tenant	Freestanding	Yes	One per building site or street frontage	32 sq. ft.	6 feet	<p>(A) Only permitted in lieu of a construction/future facility sign.</p> <p>(B) Copy shall be limited to center name, tenant name, and type of use.</p> <p>(C) Sign shall be removed at time of installation of permanent sign for a single business on a separate parcel or when a comprehensive sign program is approved for a multiple</p>

						tenant site.
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Note: See footnotes on Page 9.37-29.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA ¹	MAXIMUM HEIGHT ²	ADDITIONAL STANDARDS ³
(4) Real Estate	Freestanding or Wall	Yes	One per street frontage	12 sq. ft.	Wall : Below the eave line Freestanding: 6 feet	(A) Copy shall pertain only to the sale, rent, or lease of the building property. (B) Sign shall be removed upon close of escrow or when lease or rental has been accomplished. (C) Sign may only be erected in lieu of a construction and/or future facility sign.
(5) Portable Sign	Freestanding	Yes	One per business entity per site	12 sq. ft.	4 feet	(A) Sign(s) shall be designed and displayed in conformance with Section 9.37.160(b), Portable Signs.
(65) Special Event Sign	Wall, Window and Freestanding	Yes	One per site per street frontage or as deemed appropriate with a special event permit	<u>Banners not to exceed 24 sq. ft. 32 sq. ft., or as defined by a special event permit</u>	Below the eave line	(A) A special event permit is required pursuant to Section 9.37.160(a), Special Use Sign Permits, and Section 9.39.070. <u>Special Events.</u> (B) Special event signs are to be removed on or before date of permit expiration.

(7) —Window Sign	Affixed to window only	No	No limit	40% of the aggregate area of the window	N/A	(A) Window signage shall conform to the provisions of Section 9.37.110(1)
(86) Remodeling Sign	Freestanding or Wall	No	One per building site	4 square feet	Wall: 6 feet Ground: 4 feet	(A) Copy limited to name or firm engaged in repairs, remodels, installations, etc. (B) Signs shall be removed upon completion of work and prior to final inspection.

Note: See footnotes on Page 9.37-29.

9.37.150(d) Permitted Permanent Signs In Mixed Use and Non-Residential Districts (for Commercial Centers).

Note: Total of all allowable signage is based on total street frontage unless otherwise noted.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA ¹	MAXIMUM HEIGHT ¹	ADDITIONAL STANDARDS ³
(1) Center Identification Sign	Freestanding <u>or wall sign</u>	Yes, <u>Minor Site Development Permit</u>	Two: (One freestanding <u>or wall</u> sign allowed for each street frontage)	<u>1/3 of allowable sign area for the site up to 25 square feet.</u> <u>Up to 25 percent of additional sign area may be granted by the Community Development Director</u> <u>1 sq. ft. per lineal foot of lot frontage up to 100 square feet</u>	<u>5 feet 6 feet depending on setback. See Section 9.37.130(g)</u> (or as determined by an approved Sign Program) <u>If a wall sign is requested, shall be determined through Minor Site Development Permit process</u>	(A) Sign shall contain the name of the center (if any) and/or the name(s) of major tenant(s). <u>Inclusion of other tenants may be permitted with an approved minor Conditional Use Permit. See Section 9.37.160(d) for development standards and Section 9.65.040 for procedures and application requirements for a minor Conditional Use Permit.</u> (B) Sign shall <u>may</u> include the address of the site. <u>Telephone numbers shall not be permitted.</u> (C) <u>A sign Program may be required (see Section 9.37.070) Sign shall be approved as part of a Sign Program.</u> (D) Sign shall be of a monument type. (E) Sign may be up to seven feet in height if height includes a maximum two foot

						high landscape berm.
(2) Tenant Identification Sign	Wall or Window	Yes	Four: (One sign allowed for each street frontage, parking lot frontage or interior courtyard frontage)	1 sq. ft. per lineal foot of building frontage on a public right-of-way, parking lot or interior courtyard	Below the eave line	(A) Signs may be located on building elevations with street frontage or main public entrance. (B) Signs installed above the first floor may be installed adjacent to the entrance. (C) Two or more signs tenants requires approval of a Sign Program. (D) Under canopy signs shall be centered above a window or entrance.
(3) Directional Signage	Freestanding or Wall	No	Minimum number necessary to provide adequate information and direction	2½ sq. feet per sign	Wall: Below the eave Freestanding: 4 feet	(A) Copy limited to directional signage as defined. (B) Signage to be included with a comprehensive sign program.
(4) Menu Board	Freestanding or Wall	Yes	One per drive through lane	20 sq. ft.	6 feet	(A) Shall be approved as part of a comprehensive sign program. (B) Shall not be readily visible from any public right-of-way. (C) Sound shall not exceed 45 dBA at any point within 20 feet of the sign. (D) Shall include independent speaker pedestal or order placing/confirmation equipment.
<u>(5) Tenant Identification</u>	<u>Projecting</u>	<u>Yes</u>	<u>One: (per tenant)</u>	<u>9 square feet. Shall not project more</u>	<u>7-foot vertical clearance from sidewalk</u>	<u>(A) Contingent upon the sign owner obtaining and</u>

				<u>than 4-feet from the building and shall not extend beyond the curb.</u>		<u>maintaining in force liability insurance if the projecting sign projects above a public right-of-way.</u> <u>(B) Projecting signs shall not be internally illuminated.</u>
<u>(6) Window Sign</u>	<u>Affixed to window only</u>	<u>No</u>	<u>Three (3) signs per business</u>	<u>25% of exposed window area of each individual window. If allowable sign area is maximized signs shall not exceed 10% of exposed window area of each individual window.</u>	<u>N/A</u>	<u>(A) The signs shall complement the building and permanent signage. The use of fluorescent, day-glo, and neon colors shall be limited.</u> <u>(B) Permanent window signage shall be included in the maximum aggregate area allowed for the business.</u> <u>(C) Text of permanent window signage shall be limited to business name and brief message identifying the product or service or pertinent information.</u> <u>(D) Window signage shall conform to the</u>

						<u>provisions of Section 9.37.110(D).</u>
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Note: See footnotes on Page 9.37-29.

9.37.150(e) Permitted Permanent Signs in Mixed Use and Non-Residential Districts (for Single Tenant Sites).

Note: Total of all allowable signage is based on total street frontage unless otherwise noted.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA ¹	MAXIMUM HEIGHT ²	ADDITIONAL STANDARDS ³
(1) Center Identification Sign	Freestanding	Yes	Two: (One freestanding sign allowed for each street frontage)	1 sq. ft. per lineal ft. of lot frontage up to 100 square feet	5 feet (or as may be permitted by an approved sign program)	(A) Sign shall only include the name and address of the tenant. (B) Sign shall be approved as part of a Sign Program. (C) Sign shall be of a monument type. (D) Sign may be up to seven feet in height if height includes a maximum two foot high landscape berm.
(2) Tenant Identification Sign	Wall, Canopy, or Window	Yes	Four: (One sign allowed for each street frontage, parking lot frontage or interior courtyard frontage)	1 sq. ft. per lineal ft. of building frontage on any public right-of-way, parking lot or interior courtyard	Wall: Below the eave line	(A) Signs may be located on building elevations with street frontage or main public entrances. (B) Signs installed above the first floor may be installed adjacent to the entrance. (C) Three or more signs <u>may</u> requires approval of a Sign Program. (<u>See Section 9.37.070</u>) (D) Under canopy signs shall be attached centered above a window or entrance.
(3) Directional Signage	Freestanding	No	Minimum number necessary to provide adequate information and direction	2½ square feet per sign	Wall: below the eave Freestanding: 4 feet	(A) Copy limited to directional signage as defined. (B) If a Sign Program is otherwise required, the directional signage shall be included.

(43) Menu Board	Freestanding or Wall	Yes	One per drive through lane	20 sq. ft.	6 feet	(A) Shall be approved as part of a comprehensive sign program. (B) Shall not be readily visible from any public right-of-way. (C) Sound shall not exceed 45 dBA at any point within 20 feet of the sign. (D) Shall include independent speaker pedestal or order placing/confirmation equipment.
<u>(5) Tenant Identification</u>	<u>Projecting</u>	<u>Yes</u>	<u>One: (per tenant)</u>	<u>9 square feet. Shall not project more than 4-feet from the building and shall not extend beyond the curb.</u>	<u>7-foot vertical clearance from sidewalk</u>	(A) <u>Contingent upon the sign owner obtaining and maintaining in force liability insurance if the projecting sign projects above a public right-of-way.</u> (B) <u>Projecting signs shall not be internally illuminated.</u>
<u>(6) Window Sign</u>	<u>Affixed to window only</u>	<u>No</u>	<u>Three (3) signs per business</u>	<u>25% of exposed window area. If allowable sign area is maximized signs shall not exceed 10% of exposed window area</u>	<u>N/A</u>	(A) <u>The signs shall complement the building and permanent signage. The use of fluorescent, day-glo, and neon colors shall be limited.</u> (B) <u>Permanent window signage shall be included in the maximum aggregate area</u>

						<p><u>allowed for the business.</u></p> <p><u>(C) Text of permanent window signage shall be limited to business name and brief message identifying the product or service or pertinent information.</u></p> <p><u>(D) Window signage shall conform to the provisions of Section 9.37.110(I).</u></p>
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Note: See footnotes on Page 9.37-29.

(f) Special Sign Requirements for Service Stations.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA¹	MAXIMUM HEIGHT²	ADDITIONAL STANDARDS³
(1) Identification Sign	Freestanding	Yes	One per site	20 square feet if sign contains only identification and no changeable copy panels for pricing. If price information is incorporated in the identification sign, the total square footage may be 32 square feet.	4 feet	(A) Service stations with an associated convenience store shall be limited to a 20 square foot identification sign. (B) Signs shall be located within a landscape planter and may not be located closer than five (5) feet to the property line.
(2) Fuel Price	Freestanding	Yes	One per	12 square feet	4 feet	(A) Price signs

<p>Information</p>			<p>street frontage</p>	<p>per sign</p>		<p>shall advertise fuel prices only and no other products available. (B) Signs shall be completely located within a landscape planter area. (C) Signs shall only be permitted in lieu of the provisions of a 32 square foot identification sign. (D) The total square footage of sign including attached or detached signs shall not exceed an aggregate of 100 square feet in area.</p>
<p>(3) Attached</p>	<p>Wall or Canopy</p>	<p>Yes</p>	<p>One per street frontage</p>	<p>1 sq. ft. per lineal foot of building frontage</p>	<p>Wall – below the roof line Canopy – confined to canopy fascia, canopy columns or other structural elements below the</p>	<p>(A) The total square footage of sign including attached or detached signs shall not exceed aggregate of 100 square feet in area.</p>

					canopy	
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Note: See footnotes on Page 9.37-29.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA ¹	MAXIMUM HEIGHT ²	ADDITIONAL STANDARDS ³
(4) Information / Instruction Signs	Attached to island column	No	One per canopy column	3 square feet	10 feet	(A) No other signs shall be permitted on the canopy or columns. (B) Signs encompassed within a fuel pump or required by State or Federal Government shall not be regulated by this Code. (C) No signs shall be permitted to be displayed on top of attachment to or suspended from any pump.

(g) Special Sign Requirements for Public/Quasi-Public Uses.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA ¹	MAXIMUM HEIGHT ²	ADDITIONAL STANDARDS ³
(1) Identification (Detached)	Freestanding or Wall	Yes	One per site	1 square foot per lineal foot of street frontage not to exceed 50 square feet per street	4 feet	(A) Sign shall be located within a landscaped planter. (B) Additional signage may be permitted

						subject to a sign program (i.e., booster signage for baseball diamonds).
(2)	Identification (Attached)	Wall	Yes	One per use or building frontage	1 square foot per lineal foot of building frontage not to exceed 24 square feet	Below the entire line

Footnotes for Section 9.37.150(a) through 9.37.150(g):

- 1) The maximum site sign area is 1 square foot of sign area per linear foot of building site frontage on a public street, up to a maximum of 100 square feet **for all signs (monument and wall)**. A greater maximum site sign area may be allowed for multi-tenant commercial developments subject to approval of a Sign Program and based on building frontage. **Replacing of existing signs at a multi-tenant development shall not require a Sign Program if the sign was originally legally constructed.**
- 2) The maximum allowable height of a sign must also comply with the height/setback requirements of Section 9.37.130(g).
- 3) Illuminated signs located in residential districts may only be externally illuminated.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94; Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96)

9.37.160 Special Use Sign Permits.

The purpose of the Special Use Sign Permits section is to permit and regulate the use of: temporary banners, pennants, and flags in conjunction with special events; **and off-site directional signage for visitor-serving land uses. and portable signs in conjunction with normal business operations for both profit and nonprofit organizations.**

(a) Special Event Sign Permit. The use of banners, pennants, flags, and other temporary signage which are used to promote or advertise special events, civic activities, grand openings, and special sales are permitted when erected in an approved location and only upon obtaining a Temporary Site Development Permit as defined in Chapter 9.71 of the Dana Point Municipal Code; the provisions as set forth in this Section; and, where applicable an encroachment permit. Applications for special event banners, pennants, and flags shall be filed with the Department of Community Development on forms furnished by the Department.

Special events held outdoors in tents, unfinished structures, or in occupancies not approved for general use shall comply with the provisions as set forth in this Section and Chapter 9.39 of the Dana Point Municipal Code.

~~(1) — Center or Business Organizations. A business center or individual business may be granted a permit to display on-site temporary~~

~~banners, pennants, and flags for a maximum of sixty (60) days within a twelve (12) month period. This can be accrued in any multiple or consecutive days up to sixty (60) days. A temporary banners, pennants, and flags permit shall be submitted for review and approval to the Director of Community Development subject to the provisions listed below. If approved, a certificate of approval shall be issued including the expiration date.~~

- ~~(A) — Total temporary banners, pennants, and flags shall not exceed a total aggregate area of more than one (1) square foot per lineal foot of building frontage on a public street, and shall not exceed a total aggregate area of thirty-two (32) square feet. Building sites with one hundred (100) lineal feet of frontage or more on a public street may be permitted an aggregate area of banners, pennants, and flags not to exceed fifty (50) square feet. Tenants or sites with less than twenty-four (24) lineal feet of building frontage may be permitted twenty-four (24) square feet by right. Individual tenants within a center may be permitted a total aggregate area of one (1) square foot per lineal foot of store frontage at the main entrance, and shall not exceed twenty-four (24) square feet.~~
- ~~(B) — Total temporary signage for each site shall not exceed three different forms of banners, pennants, and/or flags, or other signage.~~
- ~~(C) — Banners, pennants, and/or flags shall be erected or placed only upon the site in which they are intended to advertise. No off-site banners, pennants, and flags shall be permitted.~~
- ~~(D) — Any banner, pennant, or flag shall not obscure or cover more than fifty (50) percent of the total window area on the building elevation on which they are located.~~
- ~~(E) — Pennants and flags proposed in conjunction with the use of a banner shall be limited in size and number subject to the discretion of the Director of Community Development.~~
- ~~(F) — Temporary banners, pennants and flags shall compliment rather than detract from the site and permanent signage.~~
- ~~(G) — Banner signs located adjacent to the public right-of-way at multi-tenant centers shall be limited to three banner signs at any one time and shall not cumulatively exceed one (1) square foot per lineal foot of building frontage on a public street. Additional banner signs may be approved if they are located at the individual tenant location, provided that they comply with other provisions of Section 9.37.160.~~

- (21)** Grand Opening/Liquidation/Special Sales. On-site grand opening or liquidation sale banners, pennants, or flags in connection with the

opening of a business, a major remodel, new ownership, or closure of a business may be permitted and approved by the Director of Community Development, subject to the provisions listed below. If approved, a certificate of approval shall be issued including the expiration date.

- (A) Banners, pennants, and flags shall be permitted for ~~forty-five (45)~~ sixty (60) days within a 12 month period unless extended by the Director of Community Development. This can be accrued in any multiple or consecutive days up to sixty (60) days;
 - (B) Banners, pennants, and flags shall not exceed a total aggregate area of more than one (1) square foot per lineal foot of building frontage on a public street; such banners, pennants, and flags shall not exceed an aggregate area of ~~thirty-two (32)~~ twenty-four (24) square feet.
 - (C) Copy shall be limited to usual wording such as “Going Out of Business Sale,” “Liquidation Sale,” or “Grand Opening,” or wording related to special sale items. The business name may be used if the banner is used to temporarily advertise a new business prior to obtaining permanent signage.
 - (D) Any banner, pennant, or flag shall not ~~obscure or cover more than fifty (50) percent of the total~~ be displayed within or on a window, be ground-mounted, or placed in trees. area on the building elevation on which they are located. Banners, pennants, and/or flags shall be placed only on the building in which the event is to occur. No off-site banners, pennants or flags shall be permitted.
 - (E) Pennants and flags proposed in conjunction with the use of a banner and window signage shall be limited in size and number subject to the discretion of the Director of Community Development.
 - (F) Temporary banners, pennants, flags, and window signage shall compliment rather than detract from the site and permanent signage and shall comply with Section 9.37.140(e) and (f) of this Chapter.
 - (G) Total temporary signage for each site shall not exceed three different forms of banners, pennants, and/or flags.
- (32) Non-Profit Organizations. Temporary banners, pennants, and flags advertising a special event, on- or off-site, including civic, public, religious, educational, or philanthropic events, may be granted a special event sign permit for no longer than one (1) month per occurrence unless extended by the Director of Community Development. Temporary banners, pennants, and flags shall be appropriate for the event and shall not have an adverse affect on adjacent land uses. The sign copy may contain names, logos, or corporate sponsors but such names, logos, or corporate sponsors may not exceed one-third (1/3) of the aggregate area of signage. Advertising signage area, specific locations, colors, and materials shall

be submitted for review by the Director of Community Development. If approved, a certificate of approval shall be issued including the expiration date.

- (43) Fee. A fee and deposit shall be required as approved by a Resolution of the City Council to guarantee the removal of temporary banners, pennants, and flags at the end of the permit period. If temporary banners, pennants, or flags are not removed at the end of the permit period, the applicant shall forfeit the deposit and excess days will be debited against any potential future permit time. Fees for non-profit organizations may be waived by the Director of Community Development. The applicant shall retain a copy of an approved permit on-site to be presented upon request by an authorized City Official.

~~(b) — Portable Sign Permit.~~

- ~~(1) — Definition. For the purposes of this Section, “portable sign” includes any signs or advertising devices not designed to be permanently attached to a building or permanently anchored to the ground. This includes A-frame or sandwich board signs.~~
- ~~(2) — Permit Required. Any business enterprise operating in an enclosed structure may apply for a Portable Sign Permit for one (1) portable sign.~~
- ~~(3) — Permit Criteria. Portable signs must meet the following development standards:~~
- ~~(A) — Portable signs may have a maximum sign area of twelve (12) square feet. The height of portable signs shall be in conformance with the height and setback standards under Section 9.37.130(g), but in no event will portable signs in excess of four (4) feet in height be permitted.~~
 - ~~(B) — Portable signs must be located entirely on private property, and must be arranged so as not to interfere with pedestrian access to, through and around the site of the business establishment. Portable signs must be located on the same site as the business advertised, and within close proximity to the main public entrance to the business.~~
 - ~~(C) — Portable signs may not encroach into required off-street parking areas, nor may they be arranged so as to create sight distance conflicts or other traffic hazards.~~
 - ~~(D) — Portable signs are to be utilized only during the regular hours of operation of the business, and shall be removed or otherwise secured during non-business hours.~~
 - ~~(E) — No additional lighting is permitted for portable signs.~~
 - ~~(F) — Portable signs are to be maintained in a neat, orderly fashion so as not to constitute an unsightly appearance or a public nuisance. Signs should be constructed of durable, weather-resistant materials and be~~

~~professional in appearance in a manner meeting the approval of the Director of Community Development.~~

~~(G) — The use of portable signs is permitted only in non-residential and mixed-use districts.~~

~~(H) — Portable signs for service businesses must include the name of the business as well as any service(s) advertised.~~

~~(4) — Review Period. The provisions of this Section shall be effective on a year-to-year basis starting at the beginning of the 1996-1997 fiscal year. Prior to the end of the fiscal year, the Director of Community Development will submit a summary of the Portable Sign Permit Program to the City Council for their review on the consent calendar at a regularly-scheduled City Council meeting. Based upon the outcome of this review, the City Council may:~~

~~(A) — Terminate the Program at the end of the current fiscal year by taking no action;~~

~~(B) — Extend the Program “as is” for one (1) year by minute order or Resolution; or~~

~~(C) — Extend the Program with modifications by Ordinance.~~

~~(5) — Period of Validity. Portable Sign Permits may be issued for a one (1) year period. The sign(s) may be utilized at any time during this period, in conformance with the standards listed above under Section 937.160(b)(3). Portable Sign Permits may be renewed indefinitely at the discretion of the Director of Community Development, provided the applicant has demonstrated compliance with the all the above-mentioned permit requirements during the preceding permit period.~~

~~(6) — Fees. A fee shall be required as approved by a Resolution of the City Council to guarantee compliance with the standards for portable signs. The applicant shall retain a copy of the permit and the fee receipt on-site to be presented upon request by an authorized City official.~~

~~(7) — Enforcement. Compliance with the provisions of this section will be monitored by the Code Enforcement Division. The owners of portable signs placed or used in violation of this section will be notified by first-class mail or by hand-delivered notice, and given twenty-four (24) hours to correct the violation. After the second notice of violation, the owner of a non-complying portable sign may be subject to revocation of the Portable Sign Permit and/or confiscation of non-complying signs (if placed on public property) without further notice.~~

(eb) Off-Site Sign Permit

(1) Eligibility Criteria. The intent of this Section is to provide adequate off-site directional signage for visitor-serving land uses which are not readily

visible or accessible from major public roadways. To be eligible for consideration of an off-site sign permit, a business or activity must be:

(A) A visitor-serving use as defined in the Zoning Code to include resorts, hotels, motels, restaurants, conference facilities, commercial-recreation uses, specialty and convenience shops, and recreation/open spaces uses; and

(B) Located on a site not immediately adjacent to or taking access from a Circulation Element roadway of primary or higher classification.

Businesses and activities which do not meet both of these criteria are not eligible for off-site signage.

(2) Location. Off-site signs must be placed entirely on development, private, non-residential property with the approval of the property owner. Only one (1) off-site sign is permitted per business or activity, although more than one (1) business or activity may be identified on an off-site sign in conformance with subsection (3)(D) below. All off-site signs must be located within a one thousand foot (1,000') radius of the business or activity advertised.

(3) Design. In order to present a unified appearance and avoid visual clutter, off-site signs shall comply with the following design criteria:

(A) Maximum height of forty-two inches (42"), which may be increased up to a maximum of sixty-six inches (66") if the sign is mounted on a twenty-four inch (24") landscaped berm.

(B) Maximum sign area of twenty-four (24) square feet.

(C) Minimum and maximum character size of eight inches (8") and twelve inches (12"), respectively. Character size may be increased to a maximum of sixteen inches (16") at the discretion of the Director of Community Development.

(D) Maximum of three (3) businesses and/or activities advertised per sign.

(E) Sign copy limited to the name of the business or activity and a simple directional arrow.

(F) Sign color, materials, method of illumination and design to be consistent with the architecture and existing on-site signage for the site where it will be located.

(G) Sign placement to comply with the provisions of Section 9.37.130 of this chapter.

(H) The sign shall not displace any required parking stall or other required feature or element of the subject site plan.

(I) The sign shall be integrated with the site design of the subject property, including landscaping.

(J) The sign shall be calculated with the sign budget of the site it is located and shall not exceed the allowed sign budget as defined in the Zoning Code.

(4) Review and Administration. Off-site signs may be permitted subject to the approval of a minor Conditional Use Permit as a consent action by the Planning Commission. In approving an off-site sign, the Planning Commission must find:

(A) That the business or activity meets the eligibility criteria from Section 9.37.160(c)(1); and

(B) That the proposed off-site sign will improve the accessibility and visibility of the businesses or activities advertised; and

(C) That the placement and design of the proposed off-site sign will not create visual confusion, clutter, or traffic hazards.

As a condition of approval for off-site signs, the applicant shall provide evidence of an agreement between the applicant and the owner of the property where the sign will be located for the placement and maintenance of the sign.

(c) Multi-Tenant Identification Sign. This Section contains criteria to allow multi-tenant centers to include all tenant names on the centers identification sign.

(1) Design. In order to assure legibility, multi-tenant identification signs shall comply with the following design criteria:

(A) The sign shall be monument design and comply with the monument design standards detailed in this Chapter.

(B) Sign shall contain the name of the center (if any) and/or the name(s) of tenants. The name of the center shall be the prominent title either by using larger characters, different color, or other design technique.

(C) Copy is easily readable from passing vehicles and character size is not more than eight inches (8") in height.

(D) Sign color, materials, method of illumination and design to be consistent with the architecture and existing on-site signage for the site where it will be located and comply with Section 9.37.140.

(E) Sign placement and height to comply with the provisions of Section 9.37.130 of this Chapter.

(F) Size of sign shall comply with the provisions of Section 9.37.150(d) of this Chapter.

(G) The sign shall not displace any required parking stall or other required feature or element of the subject site plan.

(H) The sign shall be integrated with the site design of the subject property, including landscaping.

(I) In order to assure aesthetic compatibility, additional conditions may be required to maintain continuity and harmony of the signage on the site.

(2) Review and Administration. Multi-tenant center identification signs may be permitted subject to the approval of a minor Conditional Use Permit by the Planning Commission. In approving a multi-tenant center identification sign, the Planning Commission must find:

(A) That the business or activity meets the eligibility criteria from Section 9.37.160(d)(1); and

(B) That the proposed multi-tenant center identification sign will improve the accessibility and visibility of the businesses or activities advertised; and

(C) That the placement and design of the proposed multi-tenant center identification sign will not create visual confusion, clutter, or traffic hazards.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94; amended by Ord. 95-02, 1/24/95; Ord. 95-04, 2/14/95; Ord. 96-04, 3/26/96; Ord. 96-05, 4/9/96)

9.37.170 Prohibited Signs.

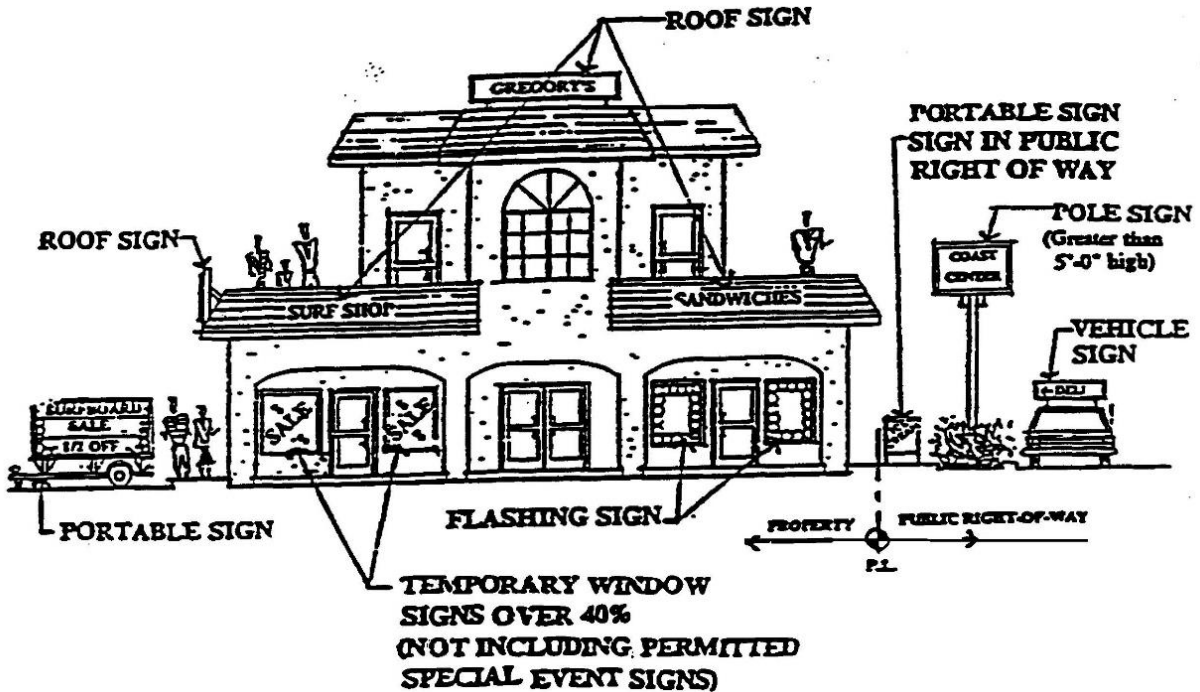
Except as otherwise expressly permitted in this Chapter, all signs are expressly prohibited, including, but not limited to the following:

- (a) Flashing, moving, animated and intermittently lighted signs and advertising devices including animals and human beings, excluding public service signs such as time and temperature signs and traditional barber shop poles.
- (b) Roof signs as defined in Section 937.020(r).
- (c) Signs which project over public right-of-way or adjacent private property, **except for Blade Signs approved as part of a Sign Program subject to Section 9.37.070.**
- (d) Changeable copy signs with the exception of signs intended for the advertisement of civic activities and menu board signs.

- (e) Banners, flags, pennants, balloons, and other temporary signage except as may be permitted by Section 937.160 in conjunction with a Temporary Site Development Permit or Section 9.37.110(k).
- (f) Off-site signs and other similar signs installed for the purpose of advertising a project, subject, or business, unrelated to the premises upon which the sign is located, inclusive of “snipe” signs and billboards, but exclusive of garage/yard sale and open house signs.
- (g) Vehicular signs including signs attached by any means to automobiles, trucks, trailers, or other vehicles on private or public property for the purpose of advertising, identifying, or providing direction to a use or activity not related to the lawful use of the vehicle for rendering service or delivering merchandise.
- (h) Obscene or unlawful signs.
- (i) Signs in the public right-of-way and public property except those signs that are provided for in this Chapter.
- (j) Permanent pole signs exceeding five (5) feet in height, not including flag signs, with open space from ground level to the bottom of the sign exceeding thirty-five (35) percent of the overall height.
- (k) Audible signs or advertising devices.
- (l) Inflatable signs and advertising devices.
- (m) Canned monument signs**
- (n) Portable signs which include A-Frame or sandwich board signs.**
- (o) Internally illuminated monument signs**

Exhibit 9.37-11 depicts many of the prohibited sign types described above.

**EXHIBIT 9.37-11
PROHIBITED SIGNS**



(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.180 Unsafe and Unauthorized Signs.

For any sign or other advertising device regulated in this Chapter that is deemed by the Director of Community Development to be unsafe or hazardous to the public health, safety, and welfare or that has been constructed, erected, or maintained in violation of this provisions as set forth in this Chapter or other applicable code, the permittee or property owner shall be given written notice to correct and/or remove the sign violation. If the permittee or property owner fails to alter or remove the structure to comply with the regulations set forth in this Code within ten days, such sign violation may be removed or altered by the City at the expense of the permittee or owner. Any sign or advertising device which presents an immediate threat to the public safety may be removed without notice.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.190 Nonconforming Signs.

A legal nonconforming sign is any permanent sign which was legally established and maintained in conformance with the ordinance in effect at the time of original installation, but because of

size, height, location, design, construction, or other circumstance is not in conformance with the requirements of this Code. The provisions of this section shall apply to all nonconforming signs.

- (a) General Provisions. A nonconforming sign shall be properly maintained in accordance with Section 9.37.190(c), but may not be:
 - (1) Changed to another nonconforming sign either due to a change in text, cosmetically or structurally;
 - (2) Structurally or electrically expanded or altered unless such alteration brings the sign into conformance with all current provisions of this Chapter;
 - (3) Relocated to another site on the same property;
 - (4) Re-established after discontinuance for ninety (90) days or more;
 - (5) Re-established after damage or destruction of more than fifty (50) percent of its original valuation.

- (b) Removal. Existing signs which are determined to be nonconforming on the effective date of this Chapter (December 26, 1991) shall be modified or removed to comply with all provisions of this Chapter within seven (7) years of the initial date of first written notice from the Director of Community Development, unless extended as permitted in this Section. Such written notice shall be recorded with the Orange County Recorder and mailed to the property owner. The owner shall be given written notice to correct or remove the nonconforming sign within the 7-year amortization period. If the property owner fails to alter or remove the structure to comply with the regulations set forth in this Chapter within ten (10) days following the final date of the amortization period, such sign may be removed or altered by the City at the expense of the permittee or owner. Signs which were erected or altered without a required permit or signs which did not comply with the applicable regulations when erected shall be immediately removed by the owner upon written notice from the City.

(1) Window signs. Any window sign that does not conform to this chapter, shall be abated or made to conform within one hundred twenty (120) days of the property or business owner receiving written notice that the sign is nonconforming.

- (c) Maintenance. All signs shall be maintained in good repair and functioning properly, to the satisfaction of the Director of Community Development. Signs shall be free from all defects including but not limited to cracking, peeling, and rusting. Signs that are not properly maintained shall be deemed a public nuisance and may be abated upon proper notice.

- (d) Minor Repairs and Repainting. Legal nonconforming signs may be removed for the purpose of repairing or repainting and may be replaced upon obtaining a sign permit. Legal nonconforming signs may be replaced if the identical sign and text is replaced within sixty (60) days of its removal.

- (e) Change of Ownership. Upon change of ownership of the business advertised by the nonconforming sign, the sign as originally approved, including text, may remain on site for seven (7) years from the date of written notice from the Director of Community Development in accordance with procedure of Section 9.37.190(b).
- (f) Change in Property Size or Configuration. If any size or configuration of a parcel or building is changed by the subdivision of the property, building addition or demolition, signs for the property shall be made to conform to the sign regulations applicable to the newly created parcel or building at the time such change becomes effective.
- (g) Time Extension. Prior to the expiration of the seven (7) year period provided in Section 9.37.190(b), a written request may be made to the Planning Commission for an extension. No time extension shall be approved for any sign unlawfully erected.
- (1) Time Period. The Planning Commission may approve a time extension for a period deemed appropriate, up to one (1) year.
- (2) Application and Fee. An application shall be submitted on a form provided by the Director of Community Development and accompanied by a fee set by a Resolution of the City Council.

Submittal requirements shall include:

- (A) An exhibit showing all signs currently on site;
 - (B) The date the sign was constructed and located on the site;
 - (C) The remaining economic life of the sign, which may or may not be less than the actual physical life of the sign;
 - (D) Any unusual circumstances concerning the size, height, and location of the sign;
 - (E) The manner in which the sign violated the sign regulations as provided in this Section;
 - (F) A letter of justification showing how the immediate removal or alteration of the sign, as required by this Section, would create unnecessary hardship on the applicant, and which hardship may be inconsistent with the purpose and intent of the sign regulations.
- (3) Findings. The Commission shall find the following in approval of an extension of time for a nonconforming sign:
 - (A) Due to special circumstances, immediate removal of the sign will result in a substantial hardship for the applicant.

- (B) The sign is not detrimental to the surrounding properties or the general health, safety, and welfare.
- (C) The sign does not constitute an obstruction to vehicular or pedestrian traffic or visibility and is not a hazardous distraction.
- (4) Conditions. Subject to approval of the time extension, the Planning Commission may require reasonable modification or alteration to the sign to improve appearance or its compliance with this Section. Modification that would extend the useful life of the sign shall not be permitted.
- ~~(h) All signs deemed non-conforming by the adoption of this Code and subject to Sections (b) through (g) above shall have the period of time extended to remove or modify the sign extended to December 31, 2001.~~

(h) Discretionary Review of Existing Nonconforming Signs. Nonconforming signs in existence at the time these provisions are adopted by the City Council may apply for a sign Exception Permit to legalize the subject sign as an alternative to removing or modifying the sign to comply with the requirements of this Chapter. Applications to request a Sign Exception Permit shall be submitted to the Community Development Department within ninety (90) days from the date the Sign Ordinance amendment is adopted. Nonconforming signs as defined above, for which applications have not been received by this date shall be removed.

- (1) **The Planning Commission, at a noticed public hearing, may grant a Sign Exception Permit, provided the following findings can be made:**
 - (A) Enforcement of regulations of the Sign Code would result in unnecessary physical hardship which would preclude visual access of the proposed sign;**
 - (B) There are exceptional circumstances to subject property which do not apply to other properties;**
 - (C) Enforcement of regulations would deprive the applicant of privileges enjoyed by other properties with the same constraints;**
 - (D) Sign Exception Permit would not result in a grant of special privilege;**
 - (E) Request is based on hardship and not as a matter of convenience;**
 - (F) Granting of the Sign Exception Permit would not result in conditions which would be detrimental to public health, safety, or welfare to properties in the vicinity;**
 - (G) Approval places suitable conditions to protect surrounding properties;**
 - (H) Approval would not result in adverse impacts, either cumulatively or individually, to coastal access, public recreation opportunities, or coastal resources, and development would be consistent with Local Coastal Program;**
 - (I) The sign is visually appealing, currently in good working order and well maintained, and does not currently have a sight-line or other vehicular or electrical problem that creates a public health, safety, or welfare issue;**

- (J) The site has a physical or functional constraint that effectively limits the ability of the business to advertise its location to the general public through the placement of a conforming sign.**
- (2) The property owner shall submit the Sign Exception Permit application to the Community Development Department within 90 days from the date the Ordinance is adopted. The application shall include:**
- (A) Discretionary Application forms;**
- (B) Letter of justification addressing findings identified in subsection (1), above;**
- (C) Colored site photos of all signs on subject property;**
- (D) Site plan including dimensions of subject sign; and**
- (E) Planning fees, plus CEQA fee**
- (3) The Planning Commission's denial of a request for a Sign Exception Permit shall designate the sign as illegal. As a illegal sign it shall be removed within 30 days once the decision is final.**
- (4) The Planning Commission's approval of a Sign Exception Permit shall render the sign legal nonconforming which shall be subject to the provisions of this Section except shall not require removal under Subsection (b)of this section.**

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94; Ord. 00-06, 10/24/00)

9.37.200 Inventory and Abatement of Illegal or Abandoned Signs.

- (a) Within six (6) months after the adoption of the ordinance codified in this title, the Director of Community Development shall authorize an inventory and identification of illegal and abandoned signs shall be made of all signs within the City. Illegal or abandoned signs shall be abated in accordance with the provision of this Section.
- (b) The Director of Community Development shall require the removal or abatement of all illegal or abandoned signs. If signs are not removed by the owner, abatement shall commence after sixty (60) days of the final inventory of illegal or abandoned signs.
- (c) Any unlawful signs located within the public right-of-way or on public property may be removed, without notice, by the Director of Community Development. Abated signs shall be retained at City Hall for a period of not less than three (3) working days, after which the signs may be discarded.
- (d) Should the City be required to remove any illegal or abandoned signs, the reasonable cost of such removal shall be assessed against the owner of such signs. The cost of removal shall be established by a Resolution of the City Council.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.210 Historical Signs.

An existing sign, which because of character, age, influence, cultural or historic significance, may be exempted from the standards of this Chapter. All such signs shall be subject to approval of a minor Conditional Use Permit by the Planning Commission.

- (a) Historical signage criteria may include:
 - (1) Date in which the sign was erected;
 - (2) Documentation of originality of historic or cultural value;
 - (3) Documentation showing that the sign has been maintained in original form and significant text as when it was originally constructed.

- (b) Findings. In approving a historical sign, the Planning Commission shall determine:
 - (1) That the sign contributes to the positive architectural, cultural, or historical character of the City of Dana Point, County of Orange, State of California, or the United States;
 - (2) That the sign would not create confusion to the public or to public safety officials in response to emergencies; and
 - (3) That the sign would not adversely affect the health, safety, or welfare of the community.
 - (4) That documentation of the history of the sign and site has been provided to the City for archive purposes.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.220 Maintenance and Operation.

(a) All time and/or temperature signs shall be continually maintained and calibrated to display the correct time and accurate temperature. Within three (3) days of the bi-annual time change, signs displaying the time shall be adjusted accordingly.

(b) All signs shall be maintained in good repair and functioning properly to the satisfaction of the Director of Community Development. Signs shall be free from all defects including but not limited to cracking, peeling, and rusting. Signs that are not properly maintained shall be deemed a public nuisance and may be abated upon proper notice.

(Added by Ord. 94-09, 5/24/94)

9.37.230 Use of Product or Manufacturer Names in Signs.

- (a) Product or manufacturer names are permitted on temporary banner signs. Product or manufacturer names may be allowed in tenant identification signage under the following conditions:
 - (1) The registered name of the business (dba) includes the product or manufacturer name; or
 - (2) The product or manufacturer name is associated with a product which, when new, has a manufacturer's suggested retail price exceeding one thousand dollars (\$1,000.00).

- (b) If a product and/or manufacturer name is used in a tenant identification sign, the following restrictions shall apply:
- (1) The product and/or manufacturer name portion of the sign may not exceed twenty (20) percent of the total sign area, ~~unless the product or manufacturer name is part of the registered business name (dba), in which case there shall be no percentage restriction~~; and
 - (2) A maximum of one (1) product name and one (1) manufacturer name may be included in the sign except as provided in subsection (c).
- (c) Exceptions from subsection (b)(2) may be permitted subject to the approval of a minor Conditional Use Permit by the Director of Community Development.

(Added by Ord. 94-21, 12/18/94)

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Chapter 9.39

TEMPORARY USES AND STRUCTURES

Sections:

- 9.39.010 Intent and Purpose.**
- 9.39.020 Temporary Real Estate Offices.**
- 9.39.030 Temporary Construction Office.**
- 9.39.040 Continued Use of an Existing Building During Construction.**
- 9.39.050 Seasonal Commercial Activities.**
- 9.39.060 Public Display of Fireworks.**
- 9.39.070 Special Events.**
- 9.39.080 Film, Video and Still Photography.**
- 9.39.090 Seasonal Fruit Sales.**

9.39.010 Intent and Purpose.

The purpose of this Chapter is to establish uniform standards in order to control the location, design, and duration of temporary uses and structures within the City of Dana Point.

The temporary uses listed in Sections 9.39.020 through 9.39.070 may be permitted in any district unless otherwise specifically prohibited. A Temporary Site Development Permit shall be required subject to the approval of the Director of Community Development as described in Chapter 9.71, Site Development Permits. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.39.020 Temporary Real Estate Offices.

Temporary real estate offices and related signs may be established within the area of an approved tentative tract to be used solely for the first sale of homes in projects of twenty (20) or more units within the same tract, subject to the following provisions:

- (a) Building Site not Required. The parcel of land on which a temporary real estate office is established is not required to be a building site provided the parcel is described on a final subdivision map.
- (b) Permitted Structures and Facilities. The following structures and facilities are permitted in conjunction with the establishment of a temporary real estate office.
 - (1) Model homes, garages, detached/accessory buildings, recreational facilities, and other permanent development that is in compliance with the zoning regulations and land use approvals applicable to the properties that are being sold.
 - (2) Temporary real estate office buildings dedicated to the properties being sold. Such offices shall have a current General Plan, Zoning Map, and project approval

prominently displayed to inform potential purchasers of the planned land uses surrounding the development.

- (3) Temporary and permanent fencing, walks and structural amenities.
 - (4) Accessways and parking to provide security, safety, access, and off-street parking as necessary for employees and guests.
- (c) The Temporary Site Development Permit shall include those conditions and requirements deemed to be necessary or advisable to protect the public safety and the general welfare and adequate guarantees that the structures and facilities will be removed or made consistent with applicable zoning regulations within ninety (90) days after the expiration of the permit. In addition to those findings required for the approval of a Temporary Site Development Permit, any approving action for a temporary real estate office shall also include the following findings:
- (1) That the access parking and circulation facilities will not result in excess traffic congestion or traffic safety hazards.
 - (2) That the operation of the temporary real estate office and associated activities will not conflict with adjacent and nearby residential uses.
- (d) Time limitation. A Temporary Site Development Permit application for a temporary real estate office may be approved for a maximum time period of two (2) years from the date of approval. Subsequent extensions of one (1) year each may be granted at the discretion of the Director of Community Development for the continued first sale of homes. Within sixty (60) days of the completion of the sale of the last home in the development, the temporary real estate office and its appurtenant structures shall either be removed or converted to an approved permanent use or structure.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.39.030 Temporary Construction Office.

The temporary use of a construction office during the construction of a site, structure, or building on the same site or adjoining site may be permitted upon the following conditions.

A temporary construction office shall be removed or shall be converted to a permitted use prior to the use and occupancy for the main building or buildings. If the construction is phased over a length of time, the temporary construction office shall be removed prior to certificates of use and occupancy being issued for seventy (70) percent of the site, structures or buildings.

(Added by Ord. 93-16, 11/23/93)

9.39.040 Continued Use of an Existing Building During Construction.

The use of an existing, lawfully established building may continue during construction or relocation of another building on the same building site, in compliance with the following provisions:

- (a) **Conformity with Regulations.** Prior to occupancy of a new building, the existing building shall be brought into conformity with any additional regulation rendered applicable by the placement of any new building on the site. Conformity shall be accomplished by removal, reconstruction, relocation, conversion, change of use or any combination thereof.
- (b) **Guarantee of Completion.** The Director of Community Development shall require the landowner to provide a guarantee including, but not limited to, a bond to ensure full compliance with the zoning regulations upon completion of the new building or sooner if, in the Director's opinion, work pertaining to the completion of all facilities required by law is not being diligently pursued.

(Added by Ord. 93-16, 11/23/93)

9.39.050 Seasonal Commercial Activities.

Seasonal commercial activities are temporary commercial uses which are associated with cultural or historical events including, but not limited to, Halloween pumpkin sales and Christmas tree sales. Unless prohibited by the regulations of the specific zoning district, seasonal commercial activity associated with cultural events shall be permitted in any commercial or industrial district, any church or school site, or any vacant residential district property which abuts a primary or higher rated roadway as designated in the General Plan. All seasonal commercial activities associated with cultural events shall be subject to the following requirements:

- (a) **Temporary Site Development Permit.** All seasonal commercial activities shall require approval of a Temporary Site Development Permit pursuant to Chapter 9.71.
- (b) **Date of Opening.** The date of opening for any seasonal commercial activity shall be specified in the Temporary Site Development Permit, except that the date of opening for designated uses shall be as follows:
 - (1) Halloween pumpkin sales shall not be open prior to October 1 each year.
 - (2) Christmas tree sales shall not be open prior to Thanksgiving each year.
- (c) **Merchandise to be Sold.** Seasonal commercial activity shall not engage in the sale of any merchandise not directly related to the associated cultural or historical event, as determined by the Director of Community Development.
- (d) **Electrical Permit.** If the facility is to be energized, the applicant shall secure an electrical permit and building permit, as applicable, from the City.

- (e) Removal of Facility. Upon completion of the seasonal commercial activity, all facilities used for such activities shall be removed and the site shall be cleared of all debris and restored to the pre-event condition. Unless otherwise permitted in the Temporary Site Development Permit, the removal of facilities and clearing of the site shall be complete within three (3) calendar days of the close of the activity, except that the date of removal for designated uses shall be as follows:
 - (1) Halloween Pumpkin Sales, November 14
 - (2) Christmas Tree Sales, January 8
- (f) Fire Prevention Standards. The facility shall comply with fire prevention standards as approved and enforced by the City's Fire Chief.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.39.060 Public Display of Fireworks.

Public displays of fireworks may be permitted in any district or specific plan area subject to the approval of a Temporary Site Development Permit, pursuant to Chapter 9.71. Permits may be issued at any time of the year, but in no case may any more than three (3) such permits will be issued between June 30 and July 7 for displays in celebration of the fourth of July. Such permits may include the accessory sales by nonprofit organizations of food, beverages and merchandise. All such displays shall be subject to the provisions of the permits required by the Fire Protection Services Department. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.39.070 Special Events.

A special event is a temporary use which requires special consideration due to an increase in traffic, parking, noise, light and glare, vibration, odor, visual impact, or other affects incidental to the operation of a temporary use and the effects that such uses may have on the health, safety and welfare of the neighborhood or the community as a whole. In granting a special event permit, the Director of Community Development may require certain safeguards and establish certain conditions of approval to protect the health, safety and general welfare of the community.

- (a) Definition. A special event is defined as any activity which temporarily intensifies the impacts (i.e., parking, traffic, noise, light and glare, etc.) of an existing permitted use or which create a potential conflict among land uses. Normal sales or functions which are incidental to the existing permitted use (i.e., sales conducted within the structure of an existing retail use, live entertainment if currently permitted under a Conditional Use Permit, etc.) shall not be considered a special event. Typical activities that would be considered a special event would include, but not be limited to, auctions (outdoor), farmers markets, open air markets and swap meets.
- (b) Permitted Uses. The following temporary uses are permissible in any zone in the City pursuant to the provisions of this Section and subject to the granting of a Temporary Site Development Permit per Chapter 9.71.

- (1) Retail sales events such as grand openings or special sales; or
 - (2) Outdoor gatherings and events of a temporary or seasonal nature which may include, but not be limited to, outdoor entertainment, community events, holiday or seasonal activities, or similar activities of religious, charitable, fraternal, or educational organizations or associations.
- (c) Duration of Special Events. Any event exceeding twenty-one (21) consecutive days in a calendar year shall not be considered a temporary use and shall be processed in accordance with the applicable permits and procedures for such permanent use.
- (d) Types of Permits. There are three types of Temporary Site Development Permits that may be issued for special events:
- (1) Individual Temporary Site Development Permit — a permit for any one (1) event within a calendar year subject to administrative review and approval by the Director of Community Development. A public hearing shall be required if the event is determined to be a major event.
 - (2) Comprehensive Temporary Site Development Permit — a permit for up to eight (8) separate, non-consecutive events within a calendar year subject to administrative review and approval by the Director of Community Development. A public hearing shall be required if the event is determined to be a major event.
 - (3) Master Temporary Site Development Permit — a permit for nine (9) or more non-consecutive events within a calendar year or for any continuous activity or use of a property which constitutes a special event as defined above. Master special event permits are subject to review and approval by the Planning Commission. A public hearing is required for consideration of a master special event permit.
- (e) Basis for Approval, Conditional Approval of a Special Event Permit. The approval, conditional approval or denial of any Individual Temporary Site Development Permit, Comprehensive Temporary Site Development Permit, or Master Temporary Site Development Permits shall be based upon the following factors and principles:
- (1) That the proposed temporary use is a special event permitted under this Section.
 - (2) That the special event is consistent with the Zoning Code and will not be incompatible with the General Plan.
 - (3) That the site for the special event is adequate in size, shape, and access to accommodate additional demands generated by the proposed use.
 - (4) That the special event as proposed and/or conditioned will protect the safety and general welfare of the community; and will not cause significant noise, traffic, or other conditions or situations that may be detrimental or incompatible with other permitted uses in the vicinity.

- (5) That any unimproved, vacant, privately owned property proposed for a special event shall be deemed “improved” for the duration of the special event so as to comply with the provisions of Dana Point Municipal Code Section 12.08.016(n). Signage shall be placed upon the subject property indicating that the property is being utilized under an approved Temporary Site Development Permit, and shall indicate the duration of the event.
- (f) Filing of Application. The items required for filing shall include:
- (1) A complete application form;
 - (2) An application fee as specified in the current structure of service fees, except that fees for non-profit organizations and associations may be waived by the Director of Community Development;
 - (3) A site plan showing the layout of the proposed activity. The number of copies required shall be as follows:
 - (A) Individual or Comprehensive Permit:
 - Five (5) copies for administrative review
 - Fifteen (15) copies for public hearing (as determined below)
 - (B) Master Permit:
 - Fifteen (15) copies
 - (4) A letter of authorization from the property owner(s) if different than the applicant;
 - (5) A letter of explanation signed and dated by the applicant demonstrating how the request meets the four (4) findings required for approval of a Temporary Use Permit for a special event;
 - (6) Notification materials as provided below.
- (g) Notification Requirements.
- (1) Single Event. No notification for a public hearing shall be required unless deemed necessary in the interest of the public safety and welfare of the surrounding community. Such determination shall be made by the Director of Community Development based on the following factors:
 - (A) The likelihood that the proposed special event will create noise beyond the boundaries of the property where the event is being held which may constitute a nuisance to property owners or residents;
 - (B) The likelihood that the proposed special event will require parking off-site from where the special event is being held;

- (C) The time of day and day of the week during which the proposed special event is to be held;
- (D) The property on which the special event is proposed to be held abuts residential property, school, nursing home, hospital, or similar facility; or
- (E) The scope and magnitude of the proposed special event is such that notice should be provided and a public hearing should be held.

Events which have the potential to impact adjacent property as described within these criteria shall be considered major events.

- (2) Major Events and Master Permits. For major events and master permits, the following notification materials shall be submitted:
 - (A) An assessor's map showing the subject site and indicating all properties within a three hundred (300) foot radius of the subject site.
 - (B) A list of the names of the property owners, their addresses and the assessor parcel numbers within a three hundred (300) foot radius of the subject site.
 - (C) Addressed envelopes with postage for each property owner within three hundred (300) feet of the subject site.

(h) Consideration of an Application.

- (1) An application for a major event or master event permit shall be submitted to the Director of Community Development no later than ninety (90) days before the first day of the proposed event, unless otherwise determined by the Director of Community Development.
- (2) The application shall be acted upon by the Director of Community Development/Planning Commission no later than forty five (45) days after the application is accepted as complete and at least forty five (45) days before the first day of the proposed event.
- (3) The Director of Community Development may require the applicant to provide verification of initial public notice for a major event. The decision of the Director of Community Development on initial public notice shall be sent to the applicant within five (5) days of the application submittal. Legal notice of a public hearing before the Planning Commission on the subject application shall be provided pursuant to Section 9.61.050 of the Dana Point Zoning Code.
- (4) Activities conducted on property owned by or leased to the City, or any public road rights-of-way may require an encroachment permit issued by the City of Dana Point, or other affected agency. The applicant shall be responsible for any fees or surety required for the use of public property.

- (5) Application for any Temporary Site Development Permit for a special event shall be referred by the Director of Community Development to other affected agencies as may be appropriate for review and comment.
 - (6) Related issues including, but not limited to, police/security, food and water supply, use of tents and canopies, sanitation facilities, medical services, noise, signage, fire protection, and traffic control shall be adequately addressed to the satisfaction of the Director of Community Development, Public Works Director, Sheriff, or Health Officer in their administration of other City codes. Such other codes may require the applicant to obtain permits such as building electrical, health or tent permits.
 - (7) The Director of Community Development/Planning Commission shall approve, conditionally approve, or deny any application and shall state findings and reasons for such decision. The Director of Community Development/Planning Commission, as appropriate, shall have the authority to attach conditions which directly relate to or further the protection of the public health, safety, and general welfare and ensure the fulfillment and intent of the City's Municipal Code.
 - (8) If an application is granted subject to conditions, the Temporary Site Development Permit shall become effective only after the conditions have been fulfilled or after the applicant has provided reasonable and sufficient guarantees that the conditions will be satisfied. The applicant shall satisfy or provide sufficient guarantee for the satisfaction of the conditions at least fifteen (15) days prior to the first day of the special event.
 - (9) Advertisement of a special event which requires approval of a Temporary Site Development Permit prior to issuance of such permit by the Director of Community Development/Planning Commission may be done at the applicant's own risk. Advertising of the subject special event prior to the event does not guarantee that Temporary Site Development Permit will be approved.
 - (10) Written approval from the owners of all properties used during the special event is required upon application submittal. A minimum of \$1,000,000 in liability insurance and indemnification is required for all owners, the City and other agencies, as determined by the Director of Community Development.
 - (11) Sales of prepared food, food stuffs, and merchandise (other than Christmas trees or Halloween pumpkins) shall be permitted only as specifically defined in the Temporary Site Development Permit.
 - (12) Informal swap meets and other street corner vending operations are not permitted through this Section.
- (i) Special Event Monitoring and Security.
- (1) The Director of Community Development or the Planning Commission, as a condition of approval, may require monitoring of the special event by appropriate City Departments and/or third parties. Such monitoring shall be at the expense of

the applicant, with any associated payment required in full at least fifteen (15) days prior the first day of the subject event.

- (2) Facility use deposits will be considered on a case-by-case basis to evaluate potential damage to city streets, parks, or other public property. The Director of Community Development shall evaluate the potential for damage and may require a cash bond or other guarantee for removal of the temporary use, cleanup, repair and restoration of the activity site within seven (7) days of the conclusion of the special event Said guarantee shall be in an amount which is sufficient to cover the estimated costs of administration, steam cleaning, sidewalk repair, storm drain cleanout and other associated cleanup or repair operations. All facility use deposits shall be at the expense of the applicant with any associated payment required in full at least fifteen (15) days prior the first day of the subject event.

(j) Consumption of Alcoholic Beverages at Special Events.

- (1) The service or sale of alcoholic beverages at a special event requires approval of a Conditional Use Permit by the Planning Commission at a public hearing. Verification of permits from the State Department of Alcoholic Beverage Control (ABC) is required for the temporary service or sale of alcoholic beverages at a special event. Such verification shall be provided by the applicant at least fifteen (15) days prior the first day of the subject event.
- (2) The applicant shall attend a City-approved training program on the responsible service of alcoholic beverages and California law regarding the service and sale of alcoholic beverages. The applicant will be responsible for disseminating all information from such programs to all servers. In addition, servers will be required to read the City's policies and procedures, as well as sign a server responsibility statement. The statement must be submitted to the Director of Community Development at least fifteen (15) days prior to the first day of the subject event.
- (3) All other requirements of the City of Dana Point Alcohol Policy must be met to the satisfaction of the Director of Community Development.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96)

9.39.080 Film, Video and Still Photography.

(a) Purpose. The purpose of this Section is to establish a streamlined permit procedure for professional film, video and still photography within the City of Dana Point.

(b) Definitions. The following definitions shall apply to the language contained in this Section:

- (1) "Charitable films" shall mean any and all activities described under subsection (b)(2) carried out by a non-profit organization which qualifies under Section 501(c)(3) of the Internal Revenue Code as a charitable organization. No person

shall receive a profit, directly or indirectly, from the marketing and production of the film or from showing the film, videotape or photographs.

- (2) "Film, video and still photography" shall mean and include all activity attendant to staging or shooting commercial motion pictures, television shows or programs, commercial advertisements, commercial promotion and training films, and professional still photography for promotional or advertising purposes.
- (3) "Regular activities of the news media" shall mean the filming, videotaping or photographing for the purpose of spontaneous, unplanned television news broadcast or reporting for print media by reporters, press photographers or news cameramen.
- (4) "Student films" shall mean any and all activities described under subsection (b)(2) carried out by students enrolled in a course or course of study at a college, university or other school for which the completion of a student film is a component of course or graduation requirements.
- (5) "Studio" shall mean a fixed place of business where filming activities (motion or still photography) are regularly conducted upon the premises.

(c) General Requirements.

- (1) Applicability. Film, video and still photography shall be permitted as a temporary use in all zoning districts, unless otherwise specifically prohibited, subject to the approval of a temporary Site Development Permit by the Director of Community Development. All filming activities are subject to the provisions of this section unless specifically exempted under subsection (d) below.
- (2) Cost. The fees related to a temporary Site Development Permit for film, video and still photography shall be as established by the City Council pursuant to the most current Schedule of Service Fees. The fees charged for permits for filming activities shall not exceed the actual costs incurred by the City. A cancellation fee of twenty (20) percent of the permit cost shall be incurred if an applicant cancels the permit after 3:00 p.m. on the last business day before the scheduled shoot
- (3) Permit Processing Time Requirements. The processing of temporary Site Development Permits for filming activities shall adhere to the following time schedule:
 - (A) Two (2) working days for approval and issuance of "typical" permits;
 - (B) Four (4) working days for approval and issuance of permits involving traffic control exceeding three (3) minutes, stunts or special physical effects;
 - (C) Ten (10) working days for approval and issuance of permits involving road closures.

- (4) Jurisdiction. The City of Dana Point reserves the authority to issue permits for professional film, video and still photography on all public and private property within the City, with the following exceptions:
 - (A) The County of Orange retains permit authority for County property within the City; and
 - (B) The State of California retains permit authority for State property within the City.
- (d) Exemptions. The following film, video and still photography activities are exempt from the provisions of this Section:
 - (1) Filming activities solely for personal, noncommercial use;
 - (2) The regular activities of the news media concerning those persons, locations or occurrences which are in the news and of general public interest;
 - (3) Charitable films (fee exempt only);
 - (4) Student films (fee exempt only); and
 - (5) Filming activities conducted at and entirely within a studio.
- (e) Permit Application and Issuance. The following information shall be included in the application for a temporary Site Development Permit for film, video, and still photography.
 - (1) The name of the owner(s), address(es) and telephone number(s) of the place(s) at which the activity will be conducted;
 - (2) The specific location(s) at said address(es) or place(s);
 - (3) The inclusive hours and dates such activity will transpire;
 - (4) A general statement of the character or nature of the proposed filming activity;
 - (5) The name(s), address(es) and telephone number(s) of the person(s) in charge of such activity;
 - (6) The exact number of personnel to be involved;
 - (7) A description of any use of animals, pyrotechnics or special physical effects to be involved; and
 - (8) The exact number and type of vehicles and equipment to be involved.

Applications for temporary Site Development Permits shall be processed in a timely manner in conformance with the requirements specified in subsection (c)(3) above.

(f) Findings. In approving a temporary Site Development Permit for film, video or still photography, the Director of Community Development shall make the following findings:

- (1) The filming activity requested falls within the scope of City Council Policy No. 501 and the provisions of this Section.
- (2) The filming activity as proposed and conditioned is not inconsistent with the City's Zoning Code and is not incompatible with the City's General Plan.
- (3) The site is adequate in size, shape, and access to accommodate additional demands generated by the proposed filming activity.
- (4) The filming activity as proposed and conditioned will not create significant noise, traffic, or other conditions that will be detrimental or incompatible with other permitted uses within the vicinity.
- (5) Any unimproved, vacant, privately-owned property used for filming activity shall be deemed "improved" for the duration of the permit so as to comply with the provisions of Dana Point Municipal Code Section 12.08.016(n) regarding parking on unimproved, vacant, privately owned property.

(g) Conditions of Approval.

- (1) Standard Conditions. The following standard conditions of approval shall be included in all temporary Site Development Permits for film, video and still photography:
 - (A) Prior to the issuance of a temporary Site Development Permit, the applicant shall provide a letter of indemnification to the City, agreeing to hold the City harmless for any events or actions which may occur during or as a result of the activities authorized by this permit
 - (B) Prior to the issuance of a temporary Site Development Permit, the applicant shall provide proof of liability insurance to the satisfaction of the Director of Community Development Said insurance shall list the City of Dana Point as additional insured for a minimum of \$1,000,000 per occurrence.
 - (C) Any vacant, unimproved, privately owned property which is proposed to be used for off-street parking purposes shall be posted with signs indicating that the parking is reserved for filming activity parking only; and specifying the dates of the filming activity.
 - (D) The applicant shall ensure that no activities will occur that are contrary to the public health, safety, or welfare.
 - (E) The applicant shall be responsible for the restrictions and conditions set forth in this permit. A copy of this permit shall be on site at all times. Any deviations from the provisions as set forth in this permit without written authorization from

the City of Dana Point shall deem this permit null and void, and shall be taken into consideration for future requests of this type.

(2) Special Conditions. The following special conditions of approval shall be included, when applicable, in all temporary Site Development Permits for film, video and still photography:

- (A) Site Clean-Up. The applicant shall conduct all operations in an orderly fashion with continuous attention to the storage of equipment not in use and the clean-up of trash and debris. The site used shall be cleaned of trash and debris upon completion of shooting at the scene and restored to the original condition before leaving the site. The applicant may be required to post a refundable faithful performance bond or security deposit prior to permit issuance to ensure clean-up and restoration of the site.
- (B) Filming on Private Property. The applicant shall provide evidence, to the satisfaction of the Director of Community Development, that activities taking place on private property are done with the approval of the property owner.
- (C) Filming in Public Right-of-Way. The applicant shall obtain the appropriate encroachment permits for the use of public rights-of-way, including sidewalks, medians and parkways. This includes permission to string cable across rights-of-way from generator to service point. Temporary "No Parking" signs shall be posted by the appropriate jurisdiction if the applicant will be parking vehicles or equipment in zones which do not otherwise permit parking.
- (D) Filming in Flood Control Channels. The applicant shall vacate any flood control channel where filming is taking place as required to allow releases of water. The applicable flood control agency or district shall be named as an additional insured on the applicant's liability insurance for filming in or on flood control properties.
- (E) Filming on Beaches. Scenes requiring a fire or campfire on the beach shall utilize a gas jet. No fires other than gas jets will be permitted unless the beach is equipped with fire rings. Access roads to beaches which serve as an emergency service road may not be obstructed in any way at any time. No relocation, alteration or moving of beach structures will be permitted without prior approval from the permitting jurisdiction.
- (F) Filming in City Parks. The applicant shall reserve the use of City parks through the Community Services Department. A security deposit for use of City parks shall be required prior to the issuance of a temporary Site Development Permit for filming activities.
- (G) Use of Public Parking Lots. The applicant may be billed according to the current rate schedule established by the applicable jurisdiction for the use of public parking lots.

(H) Traffic Control. The applicant shall be required to use California Highway Patrol or Orange County Sheriff personnel for all traffic control of any nature or duration. The applicant shall submit a traffic control plan for the permit which includes the following:

1. The applicant shall furnish and install advance warning signs and any other traffic control devices necessary in conformance with the current CALTRANS Manual of Traffic Controls for Construction and Maintenance Work Zones. All appropriate safety precautions must be taken.
2. Traffic may be restricted to one 12-foot lane of traffic and/or stopped intermittently. The period of time that traffic may be restricted will be determined by the permitting jurisdiction, based upon location, time of day, and time of year.
3. Traffic may not be detoured across a double-yellow line without prior approval from the permitting jurisdiction.
4. Unless otherwise authorized, camera cars must be driven in the direction of traffic and must observe all traffic laws.
5. Any emergency road work or construction by City or County crews and/or private contractors, under permit or contract to the appropriate jurisdiction, shall have priority over filming activities.

(I) Reimbursement for Personnel. The applicant shall be responsible for the reimbursement of any City or County personnel (i.e., police, fire, etc.) provided for the purpose of assisting the production.

(h) Permit Amendment and Validity. Once issued, a temporary Site Development Permit for filming activities may be amended with written attachments detailing minor changes to the permit, or “riders.” There is no limit on the number of riders to a permit. However, a permit cannot be extended or amended by rider after the end of the permit period or the completion of filming activity, whichever occurs first.

Permits shall be valid for the dates, times and locations specified in the permit. The City of Dana Point reserves the right, upon showing good cause, to change the date for which the permit has been issued provided established limitations are complied with in respect to time and location. Permits may be canceled by the applicant with a full refund at any time up to 3:00 p.m. of the last business day before the commencement of filming activity. Any violation of the provisions of the permit or of this Section shall deem the permit null and void.

(Added by Ord. 94-19, 11/22/94)

9.39.090 Seasonal Fruit Sales.

Seasonal produce sales are temporary commercial uses which occur during the particular local growing period of certain fruits or vegetables. Unless prohibited by the regulations of the specific zoning district, seasonal produce sales shall be permitted only on fully developed property in any commercial district

(a) Temporary Site Development Permit. Seasonal produce sales shall require approval of a Temporary Site Development Permit pursuant to Chapter 9.71.

(b) Operator Requirements.

(1) Seasonal produce sales are limited to growers with current Department of Agriculture certification.

(2) Seasonal produce sales operators must conspicuously display a current Certified Producer's Certificate issued by the State of California.

(3) Seasonal produce sales operators must obtain property owner approval.

(c) Locational and Parking Requirements.

(1) All seasonal produce sales must be located within a parking lot or other acceptable paved area of an existing and operative development. No such sales shall be permitted on any vacant lot or abandoned development.

(2) The operator must demonstrate sufficient available parking in conjunction with all other on-site uses.

(3) No seasonal produce sales shall occur within one thousand (1,000) feet of another seasonal produce stand, excepting those associated with other approved temporary uses such as a farmers market, fairs or festivals.

(d) Merchandise to be Sold.

Seasonal produce sales shall not duplicate existing produce sold on-site by current tenants unless authorized by the property owner and approved by the Director of Community Development.

(e) Duration of Sales.

Seasonal produce sales shall be limited to a maximum of 120 consecutive days at any one site.

(f) Removal of Facility.

Upon completion of seasonal produce sales, all facilities used for such activities shall be removed and the site restored to the pre-event condition. Unless otherwise permitted in the Temporary Site Development Permit, the removal of facilities and clearing of the site shall be complete within three (3) calendar days of the close of the activity.

(Added by Ord. 96-10, 8/13/96)

Chapter 9.41

HAZARDOUS WASTE FACILITIES

Sections:

- 9.41.010 Purpose and Intent.
- 9.41.020 Modification of Zoning Codes to Regulate Hazardous Waste Facilities.
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- 9.41.410 Financial Responsibility.**
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- 9.41.520 Appeal of Land Use Decision.**

- 9.41.010 Purpose and Intent**

This Chapter establishes uniform standards to control the location, design, and maintenance of hazardous waste facilities and protect the health, quality of life, and the environment of the residents of the City of Dana Point

The City Council hereby adopts the following policies:

- (a) The City of Dana Point prioritizes hazardous waste management strategies in order of priority as follows: source reduction (top priority), on-site recycling, off-site recycling, on-site treatment off-site treatment and disposal (last priority).
- (b) Public participation shall be a high priority throughout the process of siting hazardous waste facility projects.
- (c) The City of Dana Point will cooperate fully with other local, State, and Federal agencies to efficiently regulate the management of hazardous materials and hazardous waste.
- (d) Transportation of hazardous waste shall be minimized, and regulated where possible, to avoid environmentally sensitive areas and populated, congested, and dangerous routes.
- (e) Regulations governing pretreatment of hazardous wastes before discharge into sewer systems will be strictly followed. Discharge of hazardous wastes into storm drains is prohibited.
- (f) The City of Dana Point shall cooperate with the County of Orange with respect the proper management of household hazardous wastes. The City's General Plan addresses the types and quantities of household hazardous waste generated in the City, options and strategies for managing these wastes, and a program for educating the residents as to identification and proper management of household hazardous waste.

(Added by Ord. 93-16, 11/23/93)

9.41.020 Modification of Zoning Codes to Regulate Hazardous Waste Facilities.

The following shall apply to all applications for a land use decision regarding hazardous waste facility projects:

- (a) All hazardous waste facility projects and specified hazardous waste facility projects shall require a conditional use permit pursuant to Chapter 9.65. A Coastal Development Permit shall also be required if a Coastal Development Permit is otherwise required for development of the site by City Ordinance or State Law. A Coastal Development Permit shall also be required if such Coastal Development Permit is otherwise required for development of the site by City Ordinance or State law. The local permitting process is intended to assure protection of public health and the environment without imposing undue restrictions on projects.
- (b) All hazardous waste facility projects and specified hazardous waste facility projects must meet the criteria herein unless the City Council determines that one or more criteria should be relaxed to meet an overriding public need.
- (c) Specified hazardous waste facility projects and hazardous waste storage and disposal facilities shall be sited only in industrial zones. Hazardous waste facility projects, other than specified hazardous waste facility projects and hazardous waste storage and disposal facilities shall be sited in the following zoning designations: business park or community commercial zones only. All such uses shall be subject to a Conditional Use Permit and Coastal Development Permit, when a Coastal Development Permit is otherwise required.

(Added by Ord. 93-16, 11/23/93)

9.41.030 Procedural Requirements for Specified Hazardous Waste Facilities.

- (a) General. All applications for specified hazardous waste facility projects must follow the procedures set forth in Health and Safety Code Sections 25199 et seq. Public Resources Code Sections 21000—21177, and Government Code Sections 65920 et seq.; this Chapter and the following:
 - (1) Conflict of Interest. The person, or entity, preparing the documents required by the California Environmental Quality Act shall not be the same person, or entity, which acts as a consultant to the Local Assessment Committee.
 - (2) Public Education Plan. Every application for a specified hazardous waste facility project shall contain a proposed public education/participation program to be employed during the local land use decision making process. Such plan shall be mutually agreeable to the project proponent and the Director of Community Development.
 - (3) Property Value Impact Study. An application for a specified hazardous waste facility shall include an independent study of the impact of the facility on real property values within the City. The study shall have been funded by the applicant

The City shall select and control the work of the consultant conducting the study. The property value impact study shall be completed and filed with the application.

- (4) Employment Impact Study. The project proponent shall pay to the City, in advance, a fee in an amount sufficient to pay for the City's costs in conducting and reviewing an independent study of anticipated changes in employment in the City of Dana Point if the facility is sited. The City shall hire and control the work of the consultant conducting the study. Said study shall be completed prior to action on the application by the Local Assessment Committee.

- (b) Local Assessment Committee Comments. The Local Assessment Committee shall provide comments on the draft environmental impact report or proposed negative declaration, as appropriate, for specified hazardous waste facility projects:

(Added by Ord. 93-16, 11/23/93)

9.41.040 Processing Applications.

Every application for a hazardous waste facility project or a specified hazardous waste facility project shall be processed in accordance with the following procedures in addition to, and consistent with, Public Resources Code Sections 21000—21177 and Government Code Sections 65920 et seq. In the event of inconsistencies between the foregoing statutes and this Chapter, the provisions of this Chapter shall govern, to the extent they are not preempted by operation of law.

- (a) Determination by Director of Community Development. The Director of Community Development shall determine whether an application is complete for filing not later than thirty (30) calendar days after the application is submitted for filing.
- (b) Planning Commission Hearing. The Planning Commission shall hold a hearing on the application within sixty (60) calendar days after the application is accepted as or deemed complete.
- (c) Consistency Determination. At the request of the applicant, the Director of Community Development shall issue an initial written determination on whether the project is consistent with the General Plan, applicable zoning ordinances, the environmental guidelines of the City for implementing the California Environmental Quality Act ("CEQA"), and the County of Orange Hazardous Waste Management Plan in effect on the date the application was accepted as or deemed complete. This determination, which shall be issued within sixty (60) calendar days after the application has been accepted as or deemed complete, will not prohibit the City from making a different determination when the final decision is made if such decision is based on information which was not considered when the initial determination was made.
- (d) City Council Hearing. A public hearing on the application shall be held by the City Council not later than 180 days after the application is complete when the Director of Community Development, upon the advice of the City Attorney, has determined:
 - (1) That the application complies with all ordinance requirements;

- (2) That all procedures required by the City of Dana Point with regard to the California Environmental Quality Act have been met;
- (3) That all State and Federal permits for the facility have been obtained; and
- (4) That the applicant, not later than thirty (30) days prior to any public hearing scheduled by the City, has provided three (3) sets of stamped envelopes addressed to all owners of record as shown on the latest County Equalized Assessment Roll that lie within a one-mile radius of the boundary of the facility and three (3) sets of mailing labels indicating all residents, tenants, and businesses within a one-mile radius of the boundary of the facility.

(Added by Ord. 93-16, 11/23/93)

9.41.050 Contents of Application.

Every application for a hazardous waste facility project or a specified hazardous waste facility project shall be made in writing to the Director of Community Development on the forms provided by the Community Development Department and accompanied by a filing fee as set by Resolution of the City Council. An application must include fifteen (15) copies of the application, site plans, elevation, floor plans, and landscape plans all drawn to scale, and the following information:

- (a) Name and Address. Name and address of the applicant;
- (b) Ownership Evidence that the applicant is the owner of the premises involved or that it has written permission of the owner to make such application;
- (c) Plot and Development Plans. Plot and development plans drawn in sufficient detail as determined by the Director of Community Development and the City Engineer to clearly describe the following:
 - (1) Physical dimensions of the property and structures,
 - (2) Location of existing and proposed structures,
 - (3) Proposed setbacks and landscaping,
 - (4) Proposed methods of circulation and parking,
 - (5) Existing and proposed drainage patterns,
 - (6) Proposed ingress and egress,
 - (7) Proposed storage and processing areas,
 - (8) Utilization of property under the requested land use permit,

- (9) The distance from the project property line to the nearest adjacent structure, and a description and location of such structure,
- (10) Proximity of the project to one hundred (100) year flood prone areas,
- (d) Earthquake Fault Zones. Proximity of the project to any known earthquake fault zones;
- (e) Groundwater. The relationship of the proposed project to all above groundwater supplies and all known underground aquifers that might be threatened with contamination;
- (f) Topography. Topographic description of the property and surrounding area;
- (g) Geological Study. A preliminary geological study of the property and surrounding area which comprehends as deep a soils analysis as there are known aquifers, regardless of the potability of those aquifers;
- (h) Utilities. Existing and proposed utilities which service or will be required to service the facility;
- (i) Map. A vicinity map which indicates, at a minimum proximity of the project to schools, parks, and other community facilities within the City of Dana Point.
- (j) Routes. Proposed haul route for trucks taking hazardous waste and hazardous substances to and from site and the City limits;
- (k) Wastewater. Identification of all wastewater, treated and untreated, generated by the proposed facility and the method and place of final discharge shall be included with any application filed pursuant to the provisions of this Chapter;
- (l) Visual, Noise and Odors. An analysis of any visual, noise, or olfactory impacts associated with the project and recommended mitigation measures shall be included with any application filed pursuant to the provisions of this Chapter;
- (m) Air Quality. An analysis of all anticipated air quality impacts associated with the project. and proposed mitigation measures to ensure no degradation of air quality shall be included with any application filed pursuant to the provisions of this Chapter;
- (n) Endangered Species. Identification of any rare or endangered or candidate rare or endangered species of plant or animals or habitats of such species within the project site and recommended impact mitigation measures;
- (o) Quantities of Hazardous Waste. Identification of the amounts (in tons), sources, and types of hazardous wastes to be treated, stored, or disposed of at the proposed facility; the ultimate disposition of the wastes, and anticipated life of the facility. This information shall be based on an actual survey of the industries to be served and, thereby, be representative of the wastes that will be processed at the facility;

- (p) Risk Assessment. A risk assessment which analyzes, in detail, all probabilities and effects of releases or spills, at the site, transportation related accidents from the point of origin to the facility, and any other probabilities requested by either the Director of Community Development Director of Public Works, Planning Commission, or the City Council. Such analyses shall identify mitigation measures to reduce the identified risks. The risk assessment shall identify the most probable routes for transporting hazardous wastes to the facility. The risk assessment must also detail the maximum credible accident from the facility operations and its impact on all immobile populations in the City. The study must appropriately address the quantity and types of wastes that could be received at the facility. It must also include consideration of the design features and planned operational practices at the facility. Additionally, the study must provide an estimate of the distance over which the effects of a spill or emergency situation would carry, options for reducing the risks, and procedures for dealing with such spills or emergency situations;
- (q) Monitoring Program. A plan that identifies an ongoing monitoring program of air, soil, surface water, and groundwater. This plan shall include any monitoring requirements imposed by other permitting agencies such as, but not limited to, the South Coast Air Quality Management District, Regional Water Quality Control Board, Department of Health Services, or their successors in interest;
- (r) Alternative Sites. A designation of reasonable alternative sites which shall be reviewed pursuant to the California Environmental Quality Act;
- (s) Environmental Information. An Environmental Information Form in sufficient detail to enable the City to complete an Initial Study pursuant to the California Environmental Quality Act for the preparation by a qualified environmental consulting firm of an Environmental Impact Report or Negative Declaration, with all costs to be born by the applicant; and
- (t) Emergency Response Plan. An emergency response plan consistent with all applicable County, regional and City emergency response plans and all City, County, State and Federal regulatory requirements regarding emergency response procedure, including the following:
 - (1) Detailed procedures to be employed at the time of emergency for each and every type of chemical substance and emergency, including contingency procedures;
 - (2) Anticipated impacts on local fire, police, and medical services; and
 - (3) Names, home and business addresses, and home and business telephone numbers of all management personnel at the facility, if known, and a detailed description of uncontrolled release and release reporting procedures.

(Added by Ord. 93-16, 11/23/93; Ord. 94-09, 5/24/94)

9.41.060 Standards and Locational Criteria for Specified Hazardous Waste Facilities.

All specified hazardous waste facility projects in the City of Dana Point must comply with the provisions of this Chapter, including the locational criteria of Sections 9.41.080 through 9.41.320, inclusive. (Added by Ord. 93-16, 11/23/93)

9.41.070 Proximity to Populations.

- (a) Residuals repositories, as defined in Health and Safety Code Section 25204 must be a minimum of two thousand (2,000) feet from the closest residence.
- (b) Treatment and storage facilities, as those terms are defined in Health and Safety Code Section 25205.1 shall comply with zoning setback requirements for industrial facilities, unless a greater distance is justified pursuant to a risk assessment.

(Added by Ord. 93-16, 11/23/93)

9.41.080 Capability of Emergency Services.

All facilities shall be located in areas where fire departments are able to immediately respond to hazardous waste emergencies, where mutual aid and immediate aid agreements are established, and where demonstrated emergency response times are the same or better than those recommended by the National Fire Prevention Association and the Orange County Fire Department including a call response time for eighty (80) percent of the service area with the first fire engine and paramedics unit to reach the site within five (5) minutes. In addition, hazardous materials accident response services at the facility may be required based on the type of wastes handled or the location of the facility. (Added by Ord. 93-16, 11/23/93)

9.41.090 Flood Hazard Areas.

- (a) Residuals repositories and hazardous waste storage facilities are prohibited in areas subject to inundation by floods with a one hundred (100) year return frequency, and shall not be located in areas subject to flash floods and debris flows.
- (b) All other facilities shall avoid locating in floodplains or areas subject to flash floods and debris flows unless they are designed, constructed, operated, and maintained to prevent migration of hazardous wastes in the event of inundation.

(Added by Ord. 93-16, 11/23/93)

9.41.100 Proximity to Active or Potentially Active Faults.

All facilities are required to have a two hundred (200) foot setback from a known active earthquake fault. (Added by Ord. 93-16, 11/23/93)

9.41.110 Slope Stability/Subsidence/Liquefaction.

Residuals repositories and storage facilities are prohibited in areas of potential rapid geologic change. (Added by Ord. 93-16, 11/23/93)

9.41.120 Dam Failure Inundation Areas.

All specified hazardous waste management facilities shall locate outside a dam failure inundation area. (Added by Ord. 93-16, 11/23/93)

9.41.130 Aqueducts and Reservoirs.

All facilities shall locate in areas posing minimal threats to the contamination of drinking water supplies contained in reservoirs and aqueducts. (Added by Ord. 93-16, 11/23/93)

9.41.140 Discharge of Treated Effluent.

Facilities generating wastewater shall be located in areas with adequate sewer capacity to accommodate the expected wastewater discharge. If sewers are not available, the site should be evaluated for ease of connecting to a sewer or for the feasibility of discharge directly into a stream or the ocean. (Added by Ord. 93-16, 11/23/93)

9.41.150 Proximity to Supply Wells and Well Fields.

- (a) A residual repository shall be located away from the cone of depression created by pumping a well or well field ninety (90) days. Location is preferred where the saturated zone predominately discharges to non-potable water without any intermediate withdrawals for public water supply.
- (b) All other hazardous waste facilities shall locate outside the cone of depression created by pumping a well field for ninety (90) days unless an effective hydrogeologic barrier to vertical flow exists.

(Added by Ord. 93-16, 11/23/93)

9.41.160 Depth to Groundwater.

- (a) Residuals repositories and facilities with subsurface storage and/or treatment are prohibited in areas where the highest anticipated elevation of underlying groundwater is five (5) feet or less from the lowest subsurface point of the facility.
- (b) At all facilities, the foundation of all containment structures at the facility must be capable of withstanding hydraulic pressure gradients to prevent failure due to settlement, compression, or uplift as certified by a California Registered Civil Engineering Geologist.

(Added by Ord. 93-16, 11/23/93)

9.41.170 Groundwater Monitoring.

- (a) Residuals repositories and facilities with subsurface storage and/or treatment must develop a program that successfully satisfies the Regional Water Quality Control Board (RWQCB) permit requirements for groundwater monitoring.
- (b) Facilities which handle liquids should be located where groundwater flow is in one direction with no vertical interformational transfer of water.

(Added by Ord. 93-16, 11/23/93)

9.41.180 Major Aquifer Recharge Area.

- (a) Residuals repositories are prohibited within any area known to be, or suspected of, supplying principal recharge to a regional aquifer.
- (b) Facilities with subsurface storage or treatment must be located at least one mile away from potential drinking water sources.
- (c) All other facilities located in areas known to be, or suspected of, providing recharge to an existing water supply well shall provide for increased spill containment and inspection measures.

(Added by Ord. 93-16, 11/23/93)

9.41.190 Soil Permeability.

- (a) Soil permeability requirements for disposal and subsurface treatment and storage facilities shall conform to those required by the State Water Resources Control Board. All other above ground facilities shall have engineered structural design features common to other types of industrial facilities. These features shall include spill containment and monitoring devices.
- (b) All other facilities may be located in areas where surficial materials are principally highly permeable materials if adequate spill containment and inspection measures are employed.

(Added by Ord. 93-16, 11/23/93)

9.41.200 Existing Groundwater Quality.

- (a) Residuals repositories are allowed only where the uppermost water-bearing zone or aquifer is presently mineralized (by natural or human-induced conditions) to the extent that it could not reasonably be considered for beneficial use.
- (b) All other facilities located in areas where existing groundwater quality is Class 1 or Class 2 should provide increased spill containment and inspection measures as specified

by the Director of Community Development in accordance with standards designed to provide maximum protection to groundwater.

(Added by Ord. 93-16, 11/23/93)

9.41.210 Non-Attainment Areas.

All facilities with air emissions located in non-attainment areas and emitting air contaminants in excess of established limits will require pre-construction review under new source review requirements, and must obtain a permit to construct and a permit to operate from the South Coast Air Quality Management District (Added by Ord. 93-16, 11/23/93)

9.41.220 Prevention of Significant Deterioration (PSD) Areas.

All facilities with air emissions locating in the region which are classified under the PSD regulations as major stationary sources will be required to submit to pre-construction review and approval best available control technology. (Added by Ord. 93-16, 11/23/93)

9.41.230 Wetlands.

- (a) Facilities are prohibited from locating in wetlands without a Section 404 Clean Water Act. Permit, unless:
 - (1) Industrial usage is permitted,
 - (2) No filling is required; and
 - (3) Fish, plant and wildlife resources can be maintained and enhanced on a portion of the site, or preserved elsewhere in the area.
- (b) Approval of Permits for facilities in wetlands areas shall be conditioned upon issuance of a Section 404 permit.

(Added by Ord. 93-16, 11/23/93)

9.41.240 Proximity of Habitats of Threatened and Endangered Species.

Facilities are prohibited in habitats of threatened or endangered species or candidate threatened or endangered species unless the applicant obtains approval for a Habitat Conservation Plan meeting the requirements of the U.S. Fish and Wildlife Service and the California Department of Fish and Game. (Added by Ord. 93-16, 11/23/93)

9.41.250 Agricultural Lands.

- (a) Facilities shall not be located in areas zoned for agricultural uses.
- (b) Incinerators shall not be located in areas where the emissions from the facility could directly impact food crops.

(Added by Ord. 93-16, 11/23/93)

9.41.260 Recreation, Cultural, or Aesthetic Areas.

All facilities shall be prohibited in areas of recreation, cultural, or aesthetic value as determined by the Director of Community Development, Planning Commission or City Council. (Added by Ord. 93-16, 11/23/93)

9.41.270 Areas of Potential Mineral Deposits.

- (a) Residuals repositories shall not be located on or near lands classified as containing mineral deposits of significance by California's Mineral Land Class Maps and Reports.
- (b) All other facilities shall avoid locating on or near lands classified as containing mineral deposits of significance if the use or preservation of the mineral deposit would be restricted or prevented.

(Added by Ord. 93-16, 11/23/93)

9.41.280 Proximity to Areas of Waste Generation.

Subject to other standards and criteria described herein, all facilities shall be located in areas best suited for providing services to the hazardous waste generators of the City of Dana Point. Facilities which will primarily serve generators from outside the City must demonstrate why the facility cannot be located closer to the points of hazardous waste generation to be serviced. (Added by Ord. 93-16, 11/23/93)

9.41.290 Distance from Major Transportation Routes.

Distance traveled on minor roads shall be kept to a minimum. Facility proponents shall be required to pay user fees to ensure proper road construction and maintenance necessary to accommodate the anticipated increase in traffic due to the facility. (Added by Ord. 93-16, 11/23/93)

9.41.300 Structures Fronting Minor Routes.

- (a) Facilities shall be located such that any minor routes to and from state or interstate divided highways to or from the facility are used primarily by trucks, and the number of nonindustrial structures (homes, hospitals, schools, etc.) along such routes is minimal.
- (b) The facility proponent shall evaluate the "population at risk" based on the Federal Highway Administration's Guidelines for applying criteria to designate routes for transporting hazardous materials. The "population at risk" factor should not exceed that for existing facilities. Sites with lower factors are preferred.

(Added by Ord. 93-16, 11/23/93)

9.41.310 Access Roads.

The changes in the ratio of route capacity to average annual peak hour traffic shall be negligible after calculating the number of trucks on the major and minor routes expected to service the facility. To determine if a change in average annual peak hour traffic is negligible, the same standards of significant/insignificant impact utilized in the California Environmental Quality Act shall be used. (Added by Ord. 93-16, 11/23/93)

9.41.320 Consistency With the General Plan.

The proposed facility shall be consistent with all General Plan requirements, the Zoning Code, and other planning actions or policies that were in place at the time the application was deemed complete. (Added by Ord. 93-16, 11/23/93)

9.41.330 Direct Revenue to Local Jurisdictions.

The City may, at its discretion explore, review, and impose appropriate taxes, user fees, application filing fees, review fees, emergency response plan review fee and other revenue or compensation measures. (Added by Ord. 93-16, 11/23/93)

9.41.340 Safety and Security.

- (a) The owner or operator shall prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons, livestock, or wild animals onto any portion of the facility.
- (b) The operator shall provide a twenty-four (24) hour surveillance system which continuously monitors and controls entry onto the facility.
- (c) Perimeter fencing shall be constructed which meets the requirements of the regulations, implementing the Resource Conservation and Recovery Act, if applicable to the Project, or to the Director of Community Development's satisfaction.
- (d) Signs with the legend "DANGER HAZARDOUS WASTE AREA—UNAUTHORIZED PERSONNEL KEEP OUT," shall be posted at each entrance to the facility, and at other appropriate locations. The legend shall be written in English and Spanish and shall be legible from a distance of at least twenty-five (25) feet.

(Added by Ord. 93-16, 11/23/93)

9.41.350 Monitoring.

- (a) Upon reasonable notice, and for the purpose of ensuring compliance with all standards, conditions, and other requirements which the City of Dana Point is authorized to enforce under its police power. City officials or their designated representatives may

enter the premises on which a hazardous waste facility permit has been applied for or granted.

- (b) The owner or operator of a facility shall report quarterly to the Community Development Department the amount, type, and disposition of all wastes processed by the facility. Included in the report will be copies of all manifests showing the delivery and types of hazardous wastes and include a map showing the exact location (coordinates and elevation) of quantities and types of materials placed in repositories or otherwise stored or disposed of on-site.
- (c) The owner or operator of a hazardous waste facility shall immediately send copies of all complaints as to facility operations and copies of all inspection reports made by other Local, State or Federal Agencies to the Director of Community Development.
- (d) The emergency response plan shall be updated annually, signed by all management personnel at the facility, and distributed to all local emergency response agencies and the Director of Community Development.

(Added by Ord. 93-16, 11/23/93)

9.41.360 General Conditions.

The City may impose, as necessary, conditions and standards other than those presented in Sections 9.41.020 to 9.41.240 above in order to achieve the purposes of this Chapter and to protect the health, safety, or general welfare of the community. In addition to the conditions and standards imposed pursuant to this Section, the standards and conditions in Sections 9.41.250 to 9.41.310 of this Chapter shall also apply. (Added by Ord. 93-16, 11/23/93)

9.41.370 Excess Volume.

No hazardous waste facility shall be sited if such facility will manage a volume or type of hazardous waste in excess of that generated within the City of Dana Point and not currently being managed by a facility located in Dana Point unless satisfactory compensation is made to the City or a joint powers agreement provides otherwise. (Added by Ord. 93-16, 11/23/93)

9.41.380 Modifications.

Any modifications of the types and quantities of hazardous waste to be managed at the facility which were not included in the approved application for land use, including the Conditional Use Permit and Coastal Development Permit if required, must be approved by the City through an amendment to the Conditional Use Permit and Coastal Development Permit if required, before such modifications occur at the facility. (Added by Ord. 93-16, 11/23/93)

9.41.390 Contingency Operation Plan.

Every hazardous waste facility project must have a contingency operation plan approved by the California Department of Health Services (“DHS”). The facility owner or operator shall maintain a current copy of the contingency plan approved by DHS at the Hazardous Waste

Facility and provide current copies of the contingency plan to the Chief of Police, Fire Chief, each hospital within ten miles, and the Orange County Department of Environmental Health. (Added by Ord. 93-16, 11/23/93)

9.41.400 Closure Plan.

The owner or operator of a hazardous waste facility project, prior to the local land use decision, shall submit to the Community Development Department a written closure plan approved by the Department of Health Services. All revisions to such closure plans shall also be submitted to the Community Development Department. (Added by Ord. 93-16, 11/23/93)

9.41.410 Financial Responsibility.

Prior to issuance of an "Occupancy Permit" to begin the use identified in the land use decision, the applicant shall submit, to the City Manager/designee, proof that it has met all of the financial responsibility requirements imposed by the Department of Health Services and any other Federal or State Agency. (Added by Ord. 93-16, 11/23/93)

9.41.420 Indemnification.

By submitting an application pursuant to the provisions of this Chapter, the applicant agrees to protect, indemnify, defend, and render harmless the City of Dana Point and its City Council, City Attorney, Planning Commission, and all officers, employees and agents of the City against and from all claims, actions, or liabilities relating to the land use decision or arising out of its implementation at the site. (Added by Ord. 93-16, 11/23/93)

9.41.430 Hazardous Waste Minimization.

No specified hazardous waste facility project will be approved if it significantly undercuts incentives for waste minimization by hazardous waste generators. (Added by Ord. 93-16, 11/23/93)

9.41.440 Emergency Response Procedures.

Owners/operators of all facilities shall prepare and submit an annual emergency response preparedness report to the Director of Community Development. Such report shall be initialed by each person at the facility who has emergency response responsibilities. (Added by Ord. 93-16, 11/23/93)

9.41.450 Environmental Monitoring Report.

Owners/operators of all facilities shall submit an annual air, soil, and groundwater monitoring report to the Director of Community Development. (Added by Ord. 93-16, 11/23/93)

9.41.460 Release Response Costs.

The facility owner/operator shall be responsible for all costs incurred by the City of Dana Point and its officers, agents, employees, or contractors, for responding to a release of hazardous wastes at or enroute to or from the facility. (Added by Ord. 93-16, 11/23/93)

9.41.470 Extremely Hazardous Wastes.

Any storage, treatment, disposal or transportation of “extremely hazardous waste” as defined in Section 25115 of the Health and Safety Code, by the facility owner/operator shall be reported to the Director of Community Development at least forty-eight (48) hours prior to such storage, treatment, disposal, or transportation. (Added by Ord. 93-16, 11/23/93)

9.41.480 Compliance Costs.

All costs of compliance with this Chapter shall be borne by the facility owner/operator. (Added by Ord. 93-16, 11/23/93)

9.41.490 Enforcement.

The City of Dana Point may employ any and all methods permitted by a law to enforce any and all provisions of this Chapter. (Added by Ord. 93-16, 11/23/93)

9.41.500 Findings.

- (a) The findings specified in this Section shall be made in writing prior to making a land use decision which will allow the siting of a hazardous waste facility project:
 - (1) The project will be consistent with the General Plan, when adopted.
 - (2) The Project will not be detrimental to the health, safety, or general welfare of the community.
 - (3) The Project Site is or will be served by roads and other public or private service facilities.
 - (4) The Project has met or exceeded each requirement of this Chapter.

(5) The environmental impacts identified in the Environmental Impact Report or Proposed Negative Declaration have been adequately mitigated and a Mitigation Reporting and Monitoring Program has been established for each mitigation measure.

(Added by Ord. 93-16, 11/23/93)

9.41.510 Duration of Land Use Decision.

The life of the land use decision shall be determined at the time of approval and shall not exceed ten (10) years. The project proponent shall commence substantial construction of the facility within two (2) years of the land use decision and such construction must be pursued diligently to completion. (Added by Ord. 93-16, 11/23/93)

9.41.520 Appeal of Land Use Decision.

Appeal of decisions by the City Council pertaining to specified hazardous waste facilities projects shall be filed with the Office of the Governor of the State of California in accordance with Health and Safety Code Section 25199.9 et seq. The decision entered by the City Council for all other facilities shall be deemed final (Added by Ord. 93-16, 11/23/93)

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Chapter 9.43

TRANSPORTATION DEMAND MANAGEMENT

Sections:

- 9.43.010 Intent and Purpose.**
- 9.43.020 Policy.**
- 9.43.030 Applicability.**
- 9.43.040 Facility Standards.**
- 9.43.050 Property Owner Responsibility.**
- 9.43.060 Enforcement and Penalties.**
- 9.43.070 Chapter Definitions.**

9.43.010 Intent and Purpose.

This Chapter meets the requirements of Section 65089(b)(3) of the California Government Code requiring the development of a trip reduction and travel demand element to the Congestion Management Plan and Section 650893(a)(2) of the California Government Code which requires adoption and implementation of a trip reduction and travel demand ordinance. (Added by Ord. 93-16, 11/23/93)

9.43.020 Policy.

New commercial, industrial, and mixed-use development including employment centers of one hundred (100) persons or more may adversely impact existing transportation and parking facilities, resulting in increased motor vehicle emissions, deteriorating levels of service, and possibly significant additional capital expenditures to augment and improve the existing transportation system. In order to more efficiently utilize the existing and planned transportation system and to reduce vehicle emissions, it is the policy of the City to:

- (a) Reduce the number of peak-period vehicle trips generated in association with additional development;
- (b) Promote and encourage the use of alternative transportation modes such as ridesharing, carpools, vanpools, public bus and rail transit, bicycles and walking, as well as those facilities that support such modes;
- (c) Achieve related reductions in vehicle trips, traffic congestion, and public expenditure and achieve air quality improvements through utilization of existing local mechanisms and procedures for project review and permit processing;
- (d) Promote coordinated implementation of strategies on a county-wide basis to reduce transportation demand;
- (e) Achieve the most efficient use of local resources through coordinated and consistent regional and/or local TDM programs.

(Added by Ord. 93-16, 11/23/93)

9.43.030 Applicability.

- (a) The provisions of this Chapter shall apply to all new development projects that are estimated to employ a total of one hundred (100) or more persons as determined by the methodology in Section 9.43.030(b).
- (b) For purposes of determining whether a new development project is subject to this Chapter, the total employment figure shall be determined as follows:
 - (1) Employment projections developed by the project applicant, subject to approval by the City; or
 - (2) Employment projections developed by the City using the following employee generation factors by type of use.

Land Use Category	Gross Sq.Ft./Employee
Commercial:	
Regional	500
Community	500
Neighborhood	500
Office/Professional	250
Industrial	525
Hotel	0.8 – 1.2/room

- (3) The employment projection for a development of mixed or multiple uses shall be calculated on a case-by-case basis based upon the proportion of development devoted to each type of use.

(Added by Ord. 93-16, 11/23/93)

9.43.040 Facility Standards.

All applicable developments shall be subject to the Facility Standards as specified in this Section and shall include in the project Site Development Plan’s provision to provide each of the improvements identified in either Option “A” or Option “B” below:

- (a) Option “A” Facility Improvements.
 - (1) Preferential Parking for Carpool Vehicles.
 - (A) At least fifteen (15) percent of the employee parking spaces shall be reserved and designated for carpool vehicles by marking such spaces “Carpool Only.”
 - (B) Carpool spaces shall be used only by carpool vehicles in which at least two of the persons will be employees or tenants of the proposed project, or where a

Reciprocal Preferential Carpool Parking Agreement with other developments has been established.

- (C) Such carpool spaces shall be located near the building's employee entrance or at other preferential locations within the employee parking areas as approved by the Director of Public Works and Director of Community Development or their designees.
- (D) The total number of employee parking spaces shall be determined by using the following factors by type of use as specified in the City of Dana Point Municipal Code:

Type of Use	Percentage of Total Parking Devoted to Employee Parking
Commercial	30%
Office/Professional	85%
Industrial	90%
Hotel	20%

- (2) Bicycle Parking and Shower Facilities.
 - (A) Bicycle parking and locker facilities shall be provided in a secure location for use by employees or tenants who commute to the site by bicycle. The number of facilities/racks to be provided shall be at the rate of at least five (5) racks for every one hundred (100) employees or fraction thereof.
 - (B) A minimum of two (2) shower, changing, and locker facilities shall be provided, one each for men and women.
- (3) Information on Transportation Alternatives.
 - (A) A commuter information area shall be provided that offers employees appropriate information on available transportation alternatives to the single-occupancy vehicle. This area shall be centrally located and accessible to all employees or tenants.
 - (B) Information in the area shall include, but not be limited to, the following:
 1. Current maps, routes and schedules for public transit;
 2. Ridesharing match lists;
 3. Available employee/tenant incentives;

4. Ridesharing promotional material supplied by commuter-oriented organizations.

(4) Rideshare Vehicle Loading Areas.

- (A) The need for, design, and location of passenger loading areas to embark and disembark passengers from rideshare vehicles shall be reviewed by the Director of Public Works and the Director of Community Development or their designees.
- (B) Passenger loading areas shall be of a size large enough to accommodate the number of waiting vehicles equivalent to the rate of at least five (5) Stalls for every one hundred (100) required parking spaces for the project.
- (C) The passenger loading areas shall be located as close as possible to the building's employee entrance(s), and should be designed in a manner that does not impede vehicular circulation in the parking area.

(5) Vanpool Vehicle Accessibility.

- (A) The design of all parking facilities shall incorporate provisions for access and parking of vanpool vehicles.
- (B) Where applicable, vanpool vehicle accessibility shall provide a minimum of seven (7) feet two (2) inches vertical clearance for those parking spaces and ramps to be used by such vehicles.
- (C) Vanpool parking spaces shall be located near the building's employee entrance(s) or other preferential locations as approved by the Director of Public Works and the Director of Community Development or their designees.
- (D) The number of accessible vanpool parking stalls shall be at the rate of at least two stalls per every one hundred (100) employee parking stalls as determined in Section 9.43.040(a)(1)(D) above.

(6) Bus Stop Improvements.

- (A) Bus stop improvements including bus pullouts, bus pads, and right-of-way for bus shelters shall be required for all applicable developments located along high traffic volume streets and established bus routes.
- (B) Bus stop improvements shall be determined in conformance with standard traffic engineering principles including, but not limited to, the following:
 - 1. The frequency and relative impact of blocked traffic due to stopped buses;

2. The level of transit ridership at the location.

- (b) Option “B” Facility Improvements. Any combination of similar or alternate facilities, improvements or programs designed to achieve a reduction in transportation demand comparable to that effected by measures required under Option “A.” A report documenting the comparable performance of the substitute methods shall be submitted for review and approval by the Director of Community Development. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.43.050 Property Owner Responsibility.

The property owner shall be responsible for complying with the provisions of this Chapter either directly or by delegating such responsibility to an employer or tenant. (Added by Ord. 93-16, 11/23/93)

9.43.060 Enforcement and Penalties.

For purposes of ensuring that applicable developments comply with all the provisions of this Chapter, the City shall, following written notice to subject property owner or designee (employer or tenant), initiate enforcement action(s) which may include, but not be limited to, the following:

- (a) Withholding issuance of a building permit;
- (b) Withholding issuance of a certificate of use and occupancy; or
- (c) Issuance of stop work orders).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 02-09, 7/23/02)

9.43.070 Chapter Definitions.

For purposes of this Chapter, the following terms have been defined:

- (a) “Alternative Transportation Modes” means any mode of travel that serves as an alternative to the single occupant vehicle. This can include all forms of ridesharing such as carpooling or vanpooling, as well as public transit, bicycling or walking.
- (b) “Applicable Development**” means any new development project that is determined to meet or exceed the employment threshold using the criteria contained in Section 9.43.030 of this Chapter.
- (c) “Developer” means the builder who is responsible for the planning, design, and construction of an applicable development project A developer may be responsible for implementing the provisions of this Chapter as determined by the property owner.
- (d) “Employee” means any person employed by a firm, person(s), business, educational institution, non-profit agency or corporation, government agency or other entity which employs one hundred (100) or more persons at a single worksite.

- (e) “Employer” means any person(s), firm, business, education institution, government agency, non-profit agency or corporation, or other entity which employs one-hundred (100) or more persons at a single worksite, and may either be a property owner or tenant of an applicable development project
- (f) “Facility(ies)” means the total of all buildings, structures, and grounds that encompass a worksite, at either single or multiple locations, that comprises or is associated with an applicable development project.
- (g) “New Development Project” means any non-residential project being processed where some level of discretionary action by a decision-making body is required.
- (h) “Property Owner” means the legal owner of the applicable development project who serves as the lessor to an employer or tenant
- (i) “Tenant” means the lessee of facility space at an applicable development project who also serves as an employer.
- (j) “Worksite” means a building, or grouping of buildings located within the jurisdiction which are in actual physical contact or separated by a private or public roadway or other private or public right-of-way, and which are owned or operated by the same employer (or by employers under common control).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 02-09, 7/23/02)

Chapter 9.55

WATER EFFICIENT LANDSCAPE DESIGN STANDARDS AND REQUIREMENTS

Sections:

- 9.55.010 Intent and Purpose,**
- 9.55.020 Applicability.**
- 9.55.030 General Provisions.**
- 9.55.040 Procedures.**
- 9.55.050 Landscape Design Standards.**
- 9.55.060 Irrigation System Design.**
- 9.55.070 Definitions**

9.55.010 Intent and Purpose.

This Chapter promotes and encourages high quality landscape improvements in Dana Point that recognize and respect the limited availability of water in the State of California. These

provisions are intended to effect landscapes that can be maintained with low water use serviced by irrigation systems which will not overuse or waste the available water supply. This Chapter **requires promotes** the consideration of water conservation measures through the appropriate design, installation and maintenance of landscape and irrigation systems **in accordance with Governor Brown's April 1, 2015 Drought Executive Order (B-19-25)**

The purpose of the City's Water Efficient Landscape Ordinance is to establish an alternative model acceptable under Executive Order No. B-19-25 as being at least as effective as the State Model Water Efficient Landscape Ordinance in the context of conditions in the City in order to:

- (1) Promote the benefits of consistent landscape ordinances with neighboring local and regional agencies;**
- (2) Promote the values and benefits of landscapes while recognizing the need to invest water and other resources as efficiently as possible;**
- (3) Establish a structure for planning, designing, installing, and maintaining and managing water efficient landscapes in new construction and rehabilitated projects;**
- (4) Establish provisions for water management practices and water waste prevention for existing landscapes;**
- (5) Use water efficiently without waste by setting a Maximum Applied Water Allowance (MAWA) as an upper limit for water use and reduce water use to the lowest practical amount; and**
- (6) Encourage the use of economic incentives that promote the efficient use of water, such as a budget-based tiered-rate structure, providing rebate incentives and offering educational programs.**

(Added by Ord. 93-16, 11/23/93)

9.55.020 Applicability.

- (a) Beginning February 1, 2016, and consistent with Executive Order No. B-29-15 all planting, irrigation, and landscape-related improvements shall comply with this chapter and a landscape permit shall be required for the following types of landscape permit shall be required for the following types of landscape projects: Except as provided in Section 9.55.020(b) this Chapter shall apply to:**
 - (1) New landscape projects with an aggregate landscape area equal to or greater than 500 square feet, requiring a building or landscape permit, plan check, or a discretionary permit; All new and rehabilitated landscape projects for public agencies and private developments, that would require a permit; and**

- (2) Rehabilitated landscape projects with an aggregate landscaped area, equal to or greater than 2,500 square feet, requiring a building or landscape permit, plan check or discretionary permit; Common area landscaping for single-family or multiple family residential developments installed by the developer.
 - (3) New or rehabilitated landscape projects with an aggregate of 2,500 square feet or less may comply with the performance requirements of this ordinance or conform to the prescriptive measures contained in Appendix A of the Submittal Requirements and Guidelines; Sections 955.030(d) and (e) shall apply to all existing and proposed landscape and irrigation systems.
 - (4) New or rehabilitated projects using treated or untreated graywater or rainwater capture on site, any lot or parcels within the project that has less than 2,500 square feet of landscape area and meets the lot or parcel's landscape water requirement (Estimated Total Water Use - ETWU) entirely with the treated or untreated graywater or though stored rainwater capture on site is subject only to Appendix A of the Submittal Requirements and Guidelines.
 - (5) At cemeteries, Sections 2.9, 2.10, and Appendix C of the Submittal Requirements and Guidelines shall apply to new landscape installations and Sections 2.9, 2.10, and C of the Submittal Requirements and Guidelines shall apply landscape rehabilitation projects.
- (b) Section 9.55.050(b) of the Landscape Water Use Standards of this Chapter shall apply to: This Chapter shall not apply to:
- (1) All landscaped areas, weather installed prior to or after January 1, 2010; Landscaping for a single family residence with a total landscaped area of less than five thousand (5,000) square feet;
 - (2) All landscaped areas installed after February 1, 2016 to which Section 9.55.020(a) is applicable. Landscaping for multiple family residences with a total landscaped area of less than two thousand five hundred (2,500) square feet;
 - (3) Landscaping for non-residential developments with a total landscape area of less than one thousand (1,000) square feet;
 - (4) Cemeteries;
 - (5) Registered historical sites;
 - (6) Ecological restoration projects that do not require a permanent irrigation system;
 - (7) Landscape projects that existed prior to the effective date of this Chapter, unless such landscaping is rehabilitated;

- ~~(8) Final landscape plans which have been approved prior to the effective date of this Chapter, unless such landscaping is subsequently rehabilitated;~~
- ~~(9) Any landscape project associated with a discretionary development application that has been submitted, deemed complete by the City and publicly noticed for a public hearing before the effective date of this Chapter, unless such landscaping is subsequently rehabilitated;~~
- ~~(10) Landscape projects which, in the determination of the Director of Community Development, would reasonably or necessarily be exempt;~~
- ~~(11) Other landscape projects such as xeriscape installations that do not require permanent irrigation, except that such projects shall comply with the applicable provisions of Sections 9.55.030, 9.55.040 and 9.55.050.~~

(c) This Chapter does not apply to:

- (1) Registered local, state, or federal historical sites;
- (2) Ecological restoration projects that do not require a permanent irrigation system;
- (3) Mined-land reclamation projects that do not require a permanent irrigation system; or
- (4) Plant collections, as part of botanical gardens and arboretums open to the public.

(Added by Ord. 93-16, 11/23/93)

9.55.030 General Provisions.

- (a) Landscape design and construction shall emphasize water conservation through the appropriate use and groupings of plant materials that are well adapted to particular sites and to particular local climatic, geological, or topographical conditions. ~~The use of turf should be limited to only those areas designated for active recreational use or where irrigated by reclaimed water.~~
- (b) All landscape plan approvals are subject to and dependent upon the applicant complying with all applicable City ordinances, codes, regulations, adopted policies, and the payment of all applicable fees.
- ~~(c) Should any provision of this Chapter conflict with other any other provisions of the Dana Point Zoning Code or any adopted Specific Plan, the more restrictive shall apply.~~
- ~~(c d)~~ All landscaped areas shall be maintained in an orderly, attractive and healthy condition. This shall include proper pruning, mowing of turf areas, weeding, removal of litter,

fertilization, replacement of plants when necessary and the regular application of appropriate quantities of water to all landscaped areas.

- (d) All irrigation systems shall be maintained in proper operating condition. Water line breaks, head/emitter ruptures, overspray or runoff conditions and other irrigation system failures shall be repaired immediately.

(Added by Ord. 93-16, 11/23/93)

9.55.040 Procedures.

The submittal, review, revision and approval of all required landscape and irrigation plans shall be in compliance with the following provisions:

- (a) Prior to the issuance of grading permits or building permits, whichever occurs first, a Landscape Documentation Package shall be submitted to the City for review and approval and a landscape permit shall be issued for all landscape projects subject to the provisions of this Chapter. Any Landscape Documentation Package submitted to the City shall comply with the provisions of the Submittal Requirements and Guidelines.
- (b) The Landscape Documentation Package shall include a certification by a professional appropriately licensed to prepare landscape and irrigation plans in the State of California stating that the landscape design and water use calculations have been prepared by or under the supervision of the licensed professional and are certified to be in compliance with the provisions of this Chapter and the Submittal Requirements and Guidelines.
1. Landscape and irrigation plans shall be submitted to the City for review and approval with appropriate water use calculations. Water use calculations shall be consistent with calculations contained in the Submittal Requirements and Guidelines and shall be provided to the local water purveyors, as appropriate, under procedures determined by the City.
 2. Verification of compliance of the landscape installation with the approved plans shall be obtained through a Certification of Completion in conjunction with a Certificate of Use and Occupancy or Permit Final process, as provided in the Submittal Requirements and Guidelines. The Certification of Completion shall be prepared by the record professional that prepared the landscape design certification required in Section 9.55.040(a) and in accordance with the provisions of Submittal Requirements and Guidelines.
- (ac) ~~Conceptual and final~~ landscape and irrigation plans shall be required for all projects subject to this Chapter pursuant to Section 9.55.020, which also require discretionary approval except for single-family residences which shall only require a conceptual landscape and irrigation plan. Conceptual landscape and irrigation plans shall be included as part of the application package submitted to the Community Development Department, and required for discretionary permits, and shall incorporate the principles of this Chapter. Final landscape and irrigation plans shall be required for all projects subject to this Chapter pursuant to Section

~~9.55.020. The Director of Community Development may waive this requirement if there is no landscaping required or proposed in association with the project.~~

- ~~(bd)~~** All required landscape and irrigation plans shall be prepared in accordance with the **~~specifications~~** Submittal Requirements and Guidelines available from the Community Development Department.
- ~~(ee)~~** All final landscape and irrigation plans shall be prepared by a **~~landscape architect or other person~~** professional appropriately licensed **~~by the state to prepare such plans in the State of California. Conceptual landscape and irrigation plans may be prepared by the property owner or any other person capable of producing drawings that accurately reflect the landscape concept.~~**
- ~~(df)~~** **~~All required final landscape and irrigation plans shall be submitted for review and approval by the Community Development Department.~~** Conceptual landscape and irrigation plans shall be acted upon in conjunction with the specific discretionary approval development application.
- ~~(eg)~~** Final landscape and irrigation plans shall be submitted for review, and approved, by the Community Development Department prior to the issuance of grading permits or building permits, whichever occurs first.
- ~~(fh)~~** **~~Final landscape and irrigation plans shall be in substantial compliance with the approved conceptual landscape and irrigation plans.~~** Any modification to an approved final landscape or irrigation plan must first be approved by the Director of Community Development prior to the installation of the subject landscaping or irrigation.
- ~~(h)~~** **~~An applicant shall submit a certification, subject to field verification by the Community Development Department, prior to the issuance of a Certificate of Use and Occupancy. Said certification shall be prepared by the project landscape designer or architect and shall indicate that all plant materials and irrigation system components have been installed in accordance with the approved final landscape and irrigation plans.~~**

~~If a Certificate of Use and Occupancy is not required for the project, such certification shall be submitted prior to scheduling for the final inspection.~~

(Add by Ord. 93-16, 11/23/93)

9.55.050 Landscape Water Use and Design Standards.

The design and installation of all proposed landscape improvements subject to this Chapter shall be in compliance with the following general provisions:

- (a) For applicable landscape installation or rehabilitation projects subject to Section 9.55.020(a) of this Water Efficient Landscape Ordinance, the ETWU allowed for the landscape area shall not exceed the MAWA calculated using an ET adjustment**

factor of 0.7 except for special landscape areas where the MAWA is calculated using an ET adjustment factor of 1.0; or the design of the landscaped area shall otherwise be shown to be equivalently water efficient in a manner acceptable to the City; as provided in the Submittal Requirements and Guidelines. Landscape design shall include a selection of plant materials based upon their adaptability to the climatic, geologic, and topographical conditions of the site. The protection, preservation and enhancement of native species and natural areas are encouraged.

- (b) Irrigation of all landscape areas shall be conducted in a manner conforming to the Submittal Requirements and Guidelines, and shall be subject to penalties and incentives for water conservation and water waste prevention as determined and implemented by the local water purveyors or as mutually agreed by local water purveyors and the City. Landscape design shall encourage the use of drought-tolerant plant materials, minimal use of turf, drip irrigation systems and the use of reclaimed water, where feasible.
- (c) Landscape design shall illustrate a concern for aesthetic elements such as balance, scale, texture, form and unity. Landscape design shall address fire protection requirements in areas that are fire prone.
- (d) Landscape design shall address the functional aspects of landscaping such as grading, drainage, erosion control, minimal runoff, erosion prevention, wind barriers, provisions for shade and reduction of glare. ~~Landscape design shall provide for the grouping of plant materials having similar water demands so as to facilitate appropriate and efficient water applications.~~
- (e) Landscape design shall provide for the planting of all unpaved areas with an effective combination of trees, ground cover, turf, shrubbery and/or approved dry landscape materials including but not limited to accessory decorative outdoor landscape elements such as ponds, fountains, artificial turf, and paved or decorated surfaces, and sculptural elements.
- (e) ~~Landscape design shall illustrate a concern for aesthetic elements such as balance, scale, texture, form and unity.~~
- (f) ~~Landscape design shall address the functional aspects of landscaping such as grading, drainage, minimal runoff, erosion prevention, wind barriers, provisions for shade and reduction of glare.~~
- (g) ~~Landscape design shall demonstrate a concern for solar access, including exposure and shading of window areas.~~
- (h) ~~Landscape design shall address the retention of existing mature landscaping that is in good, healthful condition, incorporating such landscaping into the landscape plan where feasible.~~

- ~~(i) Landscape design shall provide for the planting of all unpaved areas with an effective combination of trees, ground cover, turf, shrubbery and/or approved dry landscape materials.~~
- ~~(j) Landscape design shall include provisions to protect plant materials from damage by the encroachment or overhang of motor vehicles.~~
- ~~(k) Landscape design shall facilitate the implementation of landscape maintenance practices which foster long-term water conservation. Said practices may include, but not be limited to, scheduling irrigation based on established industry standards, conducting water audits and establishing a water budget to limit the amount of water applied per landscaped acre.~~

(Added by Ord. 93-16, 11/23/93)

9.55.060 Irrigation System Design Delegation.

The City may delegate to, or enter into a contract with, a local agency to implement, administer, and/or enforce any of the provisions of this Chapter on behalf of the City.

~~The design and installation of all irrigation improvements subject to this section shall be in compliance with the following provisions:~~

- ~~(a) All landscaped areas shall be provided with an approved irrigation system except for approved native areas, areas planted with materials not needing permanent irrigation to survive, areas where irrigation systems are prohibited or areas which, in the determination of the Director of Community Development, do not need irrigation systems.~~
- ~~(b) All required irrigation systems shall consist of underground piped water lines with low flow sprinkler heads and/or a drip or trickle emitters, where applicable. Above grade irrigation lines may be acceptable in instances where only temporary irrigation is needed or other applicable areas as determined by the Director of Community Development.~~
- ~~(c) Irrigation systems shall be designed to provide adequate irrigation to all plant materials, existing and proposed, in accordance with the water demand of the plant materials. Because individual plant groupings may require differing amounts of water, the irrigation system should incorporate sprinkler heads/emitters with application rates and spray patterns appropriate to each hydrazone. Upon installation, appropriate adjustments shall be made as necessary to reduce overspray to a minimum.~~
- ~~(d) Irrigation systems shall be designed installed and maintained so as to minimize overspray and runoff onto streets, sidewalks, driveways, structures, windows, walls, and fences. Compliance with this provision will require consideration of the appropriate operating pressure, head/emitter location and spray patterns during the design phase.~~

- ~~(e) The irrigation of landscaped areas, except large recreational areas such as parks and golf courses, should be limited to the hours between dusk and early morning in order to provide maximum benefit to the plant material and to reduce unnecessary water loss through wind drift and evaporation.~~
- ~~(f) Water meter and line sizes for irrigation systems shall be calculated based on the total water demand of the proposed landscaping, taking into consideration the suggested irrigation windows specified in subsection (e).~~
- ~~(g) Irrigation systems for landscape projects of two thousand five hundred (2,500) square feet or greater shall include automatic controllers.~~
- ~~(h) Irrigation systems for landscape projects of five thousand (5,000) square feet or greater shall include the following additional components:~~
- ~~(1) Separate meter(s) for the irrigation system; and~~
 - ~~(2) Other appropriate system override devices, such as soil moisture sensors and rain sensors, selected on their ability to augment, complement and increase the efficiency of the irrigation system controllers.~~
- ~~(i) Irrigation systems for landscape projects of one (1) acre or more in area shall make provisions to accept reclaimed water for irrigation purposes. If reclaimed water is available to the site at the time of construction, a single line irrigation system shall be installed. If reclaimed water is not available at the time of construction but will be available in the future, the irrigation system shall be designed and installed to accommodate future connection to a reclaimed water source. Such systems shall be subject to appropriate health standards.~~
- ~~(j) Due to varying irrigation requirements for individual plant groupings, separate control valves and/or sprinkler/emitter heads shall be used when shrubs and turf area are proposed on the same landscape plan.~~

9.55.070 Definitions

The following definitions are applicable to this Chapter:

“Aggregate landscape area” areas related to production home neighborhoods, *common interest developments*, or other situations where multiple parcels are undergoing landscape development as one project, but may eventually be individually owned or maintained.

"Applied water" means the portion of water supplied by the irrigation system to the landscape.

"Budget-based tiered-rate structure" means tiered or block rates for irrigation accounts charged by the retail water agency in which the block definition for each

customer is derived from lot size or irrigated area and the evapotranspiration requirements of landscaping.

"Ecological restoration project" means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

"Estimated Total Applied Water Use" (ETWU) means the average annual total amount of water estimated to be necessary to keep plants in a healthy state, calculated as provided in the Submittal Requirements and Guidelines. It is based on the reference evapotranspiration rate, the size of the landscape area, plant water use factors, and the relative irrigation efficiency of the irrigation system.

"ET adjustment factor" or "ETAF" is equal to the plant factor divided by the irrigation efficiency factor for a landscape project, as described in the Submittal Requirements and Guidelines. The ETAF is calculated in the context of local reference evapotranspiration, using site-specific plant factors and irrigation efficiency factors that influence the amount of water that needs to be applied to the specific landscaped area.

A combined plant mix with a site-wide average plant factor of 0.5 (indicating a moderate water need) and average irrigation efficiency of 0.71 produces an ET adjustment factor of $(0.7) = (0.5/0.71)$, which is the standard of water use efficiency generally required by this Chapter and the Submittal Requirements and Guidelines, except that the ETAF for a special landscape area shall not exceed 1.0.

"Hardscapes" means any durable material or feature (pervious and non-pervious) installed in or around a landscaped area, such as pavements or walls, Pools and other water features are considered part of the landscaped area for water usage calculation and not considered hardscapes for purposes of this Chapter,

~~"Homeowner installed landscape" means any landscaping either installed by a private individual for a single family residence or installed by a licensed contractor hired by a homeowner. A homeowner, for purposes of this ordinance, is a person who occupies the dwelling he or she owns. This definition excludes speculative homes, which are not owner-occupied dwellings and which are subject under this ordinance to the requirements applicable to developer-installed residential landscape projects.~~

"Irrigation efficiency" means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The ~~minimum average~~ irrigation efficiency for purposes of this Chapter is ~~are~~ 0.751. ~~Greater irrigation efficiency can be expected from well designed~~ for overhead spray devices and ~~maintained~~ 0.81 for drip systems.

"Landscaped area" means all the planting areas including: xeriscape (drought tolerant landscape design), turf areas, and water features in a landscape design plan subject to the Maximum Applied Water Allowance and estimated applied water use calculations. The landscaped area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks,

other pervious or non-pervious hardscapes, artificial turf, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation),

"Landscape contractor" means a person licensed by the State of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

"Landscape Documentation Package" means the documents required to be provided to the City for review and approval of landscape design projects, as described in the Submittal Requirements and Guidelines.

"Landscape Permit" means a permit issued by the Community Development Department for the purposes of meeting the landscape area thresholds and design requirements under Section 9.55.020 of this Chapter and the corresponding Submittal Requirements and Guidelines.

"Landscape project" means total area of landscape in a project, as provided in the definition of "landscaped area," meeting the requirements under Section 9.55.020 of this Chapter.

"Local agency" means a city, ~~district~~, or county, including a charter city or charter county, that is authorized ~~by the City~~ to implement, administer, and/or enforce any of the provisions of this Chapter ~~on behalf of the City~~. The local agency may be responsible for the enforcement or delegation of enforcement of this Chapter including, but not limited to, ~~design review~~, plan check, issuance of permits, and inspection of a landscape project.

"Local water purveyor" means any entity, including a public agency, district, city, county, or private water company that provides retail water service.

"Maximum Applied Water Allowance" or "MAWA" means the upper limit of annual applied water for the established landscaped area as specified in Section 2.2 of the Submittal Requirements and Guidelines. It is based upon the area's reference evapotranspiration, the ET Adjustment Factor, and the size of the landscaped area. The Estimated Applied Water Use shall not exceed the ~~M~~maximum Applied ~~W~~water ~~A~~allowance. $MAWA = (ET_o) (0.62) [(ETAF \times LA) + ((1-ETAF) \times SLA)]$

"Mined-land reclamation projects" means any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

"New construction" means, for the purposes of this Chapter, a new building with a landscape or other new landscape such as a park, playground, or greenbelt without an associated building.

"Non-pervious" means any surface or natural material that does not allow for the passage of water through the material and into the underlying soil.

"Pervious" means any surface or material that allows the passage of water through the material and into the underlying soil.

"Permit" means an authorizing document issued by local agencies for new construction or rehabilitated landscape.

"Plant factor" or "plant water use factor" is a factor, when multiplied by ETo, that estimates the amount of water needed by plants. For purposes of this Chapter, the plant factor range for very low water use plants is 0 to 0.1; the plant factor range for low water use plants is 0.1 to 0.3; the plant factor range for moderate water use plants is 0.4 to 0.6; and the plant factor range for high water use plants is 0.7 to 1.0. Plant factors cited in this Chapter are derived from the Department of Water Resources 2000 publication "Water Use Classification of Landscape Species." Plant factors may also be obtained from horticultural researchers from academic institutions or professional associations as approved by the California Department of Water Resources (DWR).

"Recycled water" or "reclaimed water" means treated or recycled waste water of a quality suitable for non-potable uses such as landscape irrigation and water features. This water is not intended for human consumption.

"Reference evapotranspiration" or "ETo" means a standard measurement of environmental parameters which affect the water use of plants. ETo is given expressed in inches per day, month, or year as represented in Appendix A of the Submittal Requirements and Guidelines, and is an estimate of the evapotranspiration of a large field of four-to seven inch tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis of determining the Maximum Applied Water Allowances.

"Rehabilitated landscape" means any re-landscaping project that meets the applicability criteria of Section 9.55.020(a), where the modified landscape area is greater than 2,500 square feet, is 50% of the total landscape area, and the modifications are planned to occur within one year.

"Smart automatic irrigation controller" means an automatic timing device used to remotely control valves that operate an irrigation system and which schedules irrigation events using controllers utilizing either evapotranspiration (weather-based) or soil moisture sensor data with non-volatile memory shall be required for irrigation scheduling in all irrigation systems, recommending U.S. EPA WaterSense labeled devices as applicable.

"Special landscape area" means an area of the landscape dedicated solely to edible plants such as orchards and vegetable gardens, areas irrigated with recycled water, water features using recycled water, and recreational areas dedicated to active play such as parks, sports fields, golf courses, and where turf provides a playing surface.

"Submittal Requirements and Guidelines" refers to the Submittal Requirements and Guidelines for Implementation of this Chapter, as adopted by the City. Which describes procedures, calculations, and requirements for landscape projects subject to this Water Efficient Landscape Ordinance.

"Turf" means a ground cover surface of mowed grass. Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses. Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, and Buffalo grass are warm- season grasses.

"Valve" means a device used to control the flow of water in an irrigation system.

"Water feature" means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied). The surface area of water features is included in the high water use hydrozone of the landscaped area. Constructed wetlands used for on-site wastewater treatment, habitat protection or storm water best management practices that are not irrigated and used solely for water treatment or storm water retention are not water features and, therefore, are not subject to the water budget calculation.

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Chapter 9.61

ADMINISTRATION OF ZONING

Sections:

- 9.61.010 Intent and Purpose.**
- 9.61.020 Interpretation, Administration and Enforcement**
- 9.61.030 Penalty for Violation of the Code.**
- 9.61.040 Procedures for Applications Requiring Discretionary Action.**
- 9.61.050 Notice and Conduct of Public Hearings.**
- 9.61.060 Fees and Deposits.**
- 9.61.070 Procedure for Withdrawal of an Application.**
- 9.61.080 Amendments.**
- 9.61.090 Administrative Modification of Standards.**
- 9.61.100 Preliminary Review.**
- 9.61.110 Appeal Procedures.**
- 9.61.120 Revocations and Modifications.**
- 9.61.130 Expiration and Extensions.**
- 9.61.140 General Plan Consistency Requirements.**
- 9.61.150 Substantial Compliance with Discretionary Approval.**

9.61.010 Intent and Purpose.

The intent and purpose of this Chapter is to establish regulations for the effective and efficient implementation of this Code. This Chapter contains the procedures for the interpretation of the Code, criteria for acceptance of applications for discretionary actions, standards for processing of applications and requirements for the notice and conduct of public hearings. In combination, the provisions of this Chapter provide for a system of development review that is open to the public and responsive to the needs of the community. This Chapter will work to the benefit of all in the community by providing for the comprehensive management and implementation of this Code. Where the standards in this Chapter and Chapter 9.69 "Coastal Development Permit" differ, the standards of Chapter 9.69 shall be used for purposes of processing coastal development permits. (Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.61.020 Interpretation, Administration and Enforcement

- (a) Authority and Procedure for Interpretations.
 - (1) The Director of Community Development is hereby charged with the duty of providing interpretations of the Zoning Code.
 - (2) The interpretations of the Director of Community Development are subject to the policy directives of the Planning Commission and City Council.

- (3) Any appeal of decisions by the Director of Community Development shall be made pursuant to Section 9.61.110, Appeal Procedures.
 - (4) All interpretations of the Code made by the Director shall be recorded in writing. The record of interpretations made by the Director shall be kept on file in the Community Development Department and shall be available to the public upon request. These interpretations shall be incorporated into the Zoning Code pursuant to the provisions of Section 9.61.080, at such time as is deemed appropriate by the Director.
- (b) Planning Commission Administration of Code. The Planning Commission of the City of Dana Point is responsible for administering the Zoning Code, making recommendations to the City Council on matters governed by the Code, and initiating amendments to the Code when necessary to promote the public health, safety, or welfare.
 - (c) Procedure for Enforcement. When any use or structure is found to be in violation of the provisions of this Code, the City Council may direct the City Attorney to commence appropriate civil, administrative, or criminal proceedings for the discontinuation or removal of the illegal use or structure in the manner prescribed by law.
 - (d) Investigation or Inspection of Property. Any duly authorized city official may enter any premises, building, or structure at any reasonable hour, after either obtaining the consent of the owner or other responsible individual or pursuant to an inspection warrant, for investigation or inspection of such premises, building, or structure to determine whether said building, premises, or structure is in violation of this Code. Every person who denies, prevents, obstructs or attempts to deny, prevent, or obstruct such access pursuant to an inspection warrant is guilty of a misdemeanor.

(Added by Ord. 93-16, 11/23/93)

9.61.030 Penalty for Violation of the Code.

Penalty for violation of the Code is described in Dana Point Municipal Code, Title 1, Section 1.01.200. (Added by Ord. 93-16, 11/23/93)

9.61.040 Procedures for Applications Requiring Discretionary Action.

- (a) Legislative and Judicial Actions. Legislative action, implemented by adoption of an Ordinance by the City Council, is required for General Plan Amendments, Local Coastal Program Amendments, Specific Plans, Zone Change Amendments, and Zone Text Amendments. General Plan Amendments and Specific Plan Amendments may only be initiated in accordance with Section 9.61.080(b). Judicial action, implemented by adoption of a Resolution by the Planning Commission, is required for Specific Plan Amendments, Conditional Use Permits, Variances, Site Development Permits, and Tentative Tract/Parcel Maps.

- (b) Initiation of an Application. Applications requiring discretionary or judicial action may be initiated by the City Council, Planning Commission, any person who is able to demonstrate an ownership interest in the proposed application and the subject property, or the authorized agent of any person with an ownership interest in the subject property.
- (c) Acceptance of Applications.
 - (1) When a final action on any given application is a denial and conditions surrounding that application have not substantially changed, the Director of Community Development shall reject any new applications for any identical or substantially similar proposal for a period of twelve (12) months from the final action date on the original application.
 - (2) Upon submittal of a development application by an applicant, in accordance with the Permit Streamlining Act, Government Code Section 65920 et seq., the Director of Community Development shall have thirty (30) days to review the development application to determine if the application is complete pursuant to subsection (d). Prior to the end of that thirty (30) day period, the City shall notify the applicant in writing of any deficiencies in the application which make the application incomplete. This provision shall not apply to legislative actions by the City.
 - (3) If an applicant is notified in writing that a development application is incomplete, the applicant shall have three (3) months from the date of notification to revise and resubmit the application. If the applicant fails to revise and resubmit the application within the said three (3) month period, the application shall be deemed withdrawn. Thereafter, a resubmittal of an application for the same site shall constitute a new development application subject to the payment of new fees and commencing a new timeline for City action on the project.
 - (4) The Director of Community Development upon written request by the applicant or by the exercise of appropriate discretion, may provide a one-time extension of the three-month timeline for the revision and resubmittal of an incomplete application. Such extension shall not exceed sixty (60) days.
 - (5) The Director of Community Development or designee may send a courtesy notice to the applicant that if an incomplete application is not rectified by the submittal of additional information necessary to make the application complete, that the application will be deemed to be withdrawn. However, this notice is strictly a courtesy to an applicant and failure by the City to send, or the applicant to receive such notice shall not operate to negate the effective withdrawal of the application.
 - (6) The provisions of Government Code Section 65920 et seq., are applicable to City actions in processing development applications but are not applicable to legislative actions of the City.
- (d) Time Limit for Final Action on Development Project Applications.

- (1) Applications Requiring an Environmental Impact Report Those applications accepted as complete and requiring an Environmental Impact Report pursuant to the California Environmental Quality Act, (CEQA), the State Guidelines and the City of Dana Point CEQA Guidelines, shall be scheduled for a public hearing so that final action may be taken within one (1) year of the acceptance of the complete application unless the applicant requests, or consents to, an extension of time.
 - (2) All Other Applications. All other development applications accepted as complete by the Director of Community Development, shall be scheduled for public hearing so that final action may be taken within six (6) months of the date the application was deemed complete, unless the applicant requests, or consents to, an extension of time.
 - (3) Conflicts with Other Provisions. When the time limits established by other provisions of this Code (except for Chapter 9.69 “Coastal Development Permit” are in conflict with the time limits established by this Section, the provision with the shorter duration shall apply.
- (e) Requirements for Complete Applications.
- (1) Applications shall be made on a form prescribed by the Director of Community Development and shall contain the following information and other information as requested by the Director. The accuracy of all information, maps, and lists submitted shall be the responsibility of the applicant The Director may reject any application that does not supply, at a minimum, the following information:
 - (A) The name and address of the applicant and property owners.
 - (B) Evidence that the applicant
 1. Is the owner of the premises involved; or
 2. Has written permission of the owner or owners to make the application; or
 3. Is or will be the plaintiff in an action of eminent domain to acquire the premises involved; or
 4. Is a public agency negotiating to acquire a portion of the premises involved; and
 5. Has paid the required application fees and deposits or is exempt from such fees and deposits.
 - (C) The location of the subject property (address or vicinity).

- (D) The legal description of the subject property and two (2) copies of a recent (within 6 months of the submittal date) preliminary title report for the subject property.
 - (E) A detailed written description of the nature and specifics of the development proposal or requested action.
 - (F) Two (2) self-addressed, stamped envelopes to be used for notification of application completeness and final action on the application.
- (2) The following submittals are required for any application for a Conditional Use Permit, Variance, Site Development Permit, Coastal Development Permit, or other discretionary entitlements.
- (A) All required written information and colors/materials boards shall be submitted in eight and one-half (8½) inch by eleven (11) inch format.
 - (B) All required plans shall be submitted in a format no smaller than eight and one-half (8½) by eleven (11) inches and no larger than twenty-four (24) inches by thirty-six (36) inches. Larger plans must be folded to eight and one-half (8½) inches by eleven (11) inches. The twenty-four (24) inch by thirty-six (36) inch size plans are preferred.
 - (C) Indicate in writing and with graphics the nature, situation, and development of existing uses, buildings, and structures within one hundred (100) feet of the subject property and the effect the proposed application may have on those uses, buildings, and structures.
 - (D) Explain how the requested application will not cause negative impacts, endanger, or otherwise imperil the public health, safety, or general welfare, and will be compatible with and an enhancement to the subject site, surrounding properties and the City (one copy).
 - (E) Provide a detailed site plan indicating the existing and proposed area and dimensions of a project site; all existing features (streets, alleys, driveways, buildings, vegetation) within fifty (50) feet of the project boundary; the location, dimension, grades and descriptions of all existing and proposed uses, structures, yards, walls, fences, parking and loading facilities, landscaping, easements, utilities, dedications, and any other use and development features relevant to the application. All site plan drawings shall be drawn to an engineering scale between 1":10' and 1":40', or other scale appropriate to the project and acceptable to the Director of Community Development (12 sets).
 - (F) All existing and proposed building and structural elevations, and the materials and colors of all existing and proposed structural and surface components. All architectural elevations shall be drawn to an architectural scale of either 1":8' or 1":4', or other scale appropriate to the project and acceptable to the Director of Community Development (12 sets).

- (G) Floor plans for each existing and proposed floor indicating the size (dimension and area) and use of each room or area. All floor plans shall be drawn to an architectural scale of either 1":8' or 1":4' or other scale appropriate to the project and acceptable to the Director of Community Development (12 sets).
- (H) The required site plan shall indicate the dimensions and state of improvement of the existing and proposed streets or easements providing access to the subject site. The plans shall include all access features on, and within fifty (50) feet of the subject site. Applications which propose access from a Circulation Element roadway shall provide plans showing all access features within one hundred fifty (150) feet of the subject site as determined by the Director of Public Works.
- (I) A written list and description of other existing or proposed permits or approvals for the subject site (one copy).
- (J) Such other information as the Director of Community Development or designee may request in writing to clearly identify the conformity of the application to the General Plan and/or the Dana Point Municipal Code.
- (K) Ownership information as follows:
 1. Two (2) copies of the most recent County Assessor map, drawn to scale, showing the location of all properties included in the application; the location of all highways, streets, and alleys; and the location and dimensions of all lots or parcels of land within a five hundred (500) foot radius of the exterior boundaries of the subject property. If the subject property is located in the Coastal Zone, a coastal development permit is required, and the map shall also illustrate all lots or parcels of land within a one hundred (100) foot radius of the exterior boundaries of the subject property.
 2. A list of the names and addresses of all persons who are shown on the most recent assessment roll of the County of Orange as owners of properties within a five hundred (500) foot radius of the exterior boundaries of the subject property. If the subject property is located in the Coastal Zone, the applicant shall also submit a second list of the addresses of all dwelling units within one hundred (100) feet of the exterior boundaries of the subject property.
 3. Two (2) complete sets of stamped (first class postage) No. 10 business envelopes which are addressed to the property owners on the above list. If the subject property is located in the Coastal Zone, a coastal development permit application is required, and the applicant shall also submit two (2) complete sets of stamped envelopes which are addressed to the residents of dwelling units

within one hundred (100) feet of the subject property. Both sets of envelopes shall also include envelopes addressed to the property owner, the owner's agent, the project architect and project engineer.

- (3) Submittal requirements for General Plan Amendments, Zoning Text Amendments, Local Coastal Program Amendments shall be the same as in Sections 9.61.040(e)(1) and (2)(I), (J), and (K) above, and shall include a written statement describing how the proposed amendment will be consistent with the General Plan, beneficial to the surrounding neighborhood and the community as a whole and in keeping with the protection of the public health, safety, and general welfare.
- (4) Additional Specific Information.
 - (A) An application for a Conditional Use Permit shall also include evidence to substantiate the basis for approval as provided in Section 9.65.040, Basis for Approval, Conditional Approval or Denial of a Conditional Use Permit
 - (B) An application for a Variance shall also include evidence proposed to substantiate the basis for approval as provided in Section 9.67.040, Basis for Approval, Conditional Approval or Denial of a Variance.
 - (C) An application for a Coastal Development Permit shall also include evidence proposed to substantiate the basis for approval as provided in Section 9.69.060, Basis for Approval, Conditional Approval or Denial of a Conditional Use Permit.
 - (D) An application for Site Development Permit shall also include evidence proposed to substantiate the basis for approval as provided in Section 9.71.040, Basis for Approval, Conditional Approval or Denial of a Site Development Permit.
- (f) Procedure for Applications Made Prior to Code Amendment When an application is filed, and deemed complete, prior to the adoption of an amendment to the Code (or prior to effective certification of the Code amendment by the Coastal Commission for development in the Coastal Zone), processing of the application may continue exempt from the provisions of the pending amendment Applications filed or deemed complete after- a code amendment is adopted (or after effective certification of the Code amendment by the Coastal Commission for development in the Coastal Zone), shall proceed pursuant to the applicable provisions of the amended Code.
- (g) Recommendation by the Director of Community Development. The Director of Community Development shall review the application in accordance with the regulations and standards of this Code and relevant adopted plans and ordinances of the City and transmit a recommendation on the application to the Planning Commission.
- (h) Action by the Planning Commission.

- (1) A public hearing shall be scheduled before the Planning Commission and notice given pursuant to Section 9.61.040.
- (2) The Planning Commission may refer the application back to the Director of Community Development for further review. Such referral shall be accompanied with clear directives for recommended changes to the site plan or design features of the project.
- (3) If the application is not referred back to the Director of Community Development, the Planning Commission shall approve, conditionally approve, or deny an application for discretionary approval. Action on the application may be continued to a future meeting pursuant to the applicable provisions of Article 5, Chapter 4.5 of the California Government Code. If applicable, the decision approving or conditionally approving the application shall state the period of time for which the approval shall be valid.
- (4) The applicant or any interested party may file an appeal of the Planning Commission action pursuant to Section 9.61.110. The appeal hearing shall be noticed as provided in Section 9.61.050.
- (5) When a public hearing is required, notice of the hearing shall be given in accordance with the provisions of Section 9.61.050 of this Code.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 97-05, 9/9/97)

9.61.050 Notice and Conduct of Public Hearings.

- (a) Notice of Hearings for Review of Applications. No less than fourteen (14) calendar days prior to the date of a public hearing on development applications, the Director of Community Development shall give notice including the time and the place at which the application will be heard, the identity of the hearing body or officer, nature of the application (including but not limited to the date of filing of the application, the name of the applicant, the file number assigned to the application, and a description of the development), a brief description of the general procedure of the City of Dana Point concerning the conduct of hearing and local actions, and the general location of the property under consideration. If the application is for a coastal development permit which is appealable to the Coastal Commission, the notice shall indicate this fact and shall describe the process for local and Coastal Commission appeals, including any local fees required. (14 Cal. Code of Regulations/13565, 13568). The Director shall observe the following notice requirements:
 - (1) The notice shall be posted in three (3) places in the City of Dana Point designated by Resolution of the City Council.
 - (2) The notice shall be advertised in a newspaper circulated within the City of Dana Point.

- (3) The notice shall be mailed via first class mail to the applicants); to the property owners) or the property owner's agent(s); to all persons listed as owners of property within five hundred (500) feet of the exterior boundary of the subject property on the notification list required in Section 9.61.040, and if the subject property is located in the Coastal Zone, to the office of the Coastal Commission having jurisdiction over the City of Dana Point and to all persons listed as occupants of dwelling units within one hundred (100) feet of the exterior boundary of the subject property on the notification list required in Section 9.61.040.

Notice shall also be provided to anyone filing a written request and paying the cost for notification and to such other persons whose property might, in the Director's judgment, be affected by the proposed application. For coastal development permit applications, the Director shall also provide notice by first class mail free of charge to all persons who have requested to be on the mailing list for that development project or the mailing list for all coastal decisions within the City of Dana Point.

- (4) For all non-residential projects requiring a public hearing, at least fourteen (14) calendar days prior to the date of public hearing, the applicant shall post at the project site three (3) notices of public hearing in conspicuous places, with at least two (2) of the notices located adjacent and facing the public right-of-way so that they may be visible to both pedestrians and vehicular traffic. The required public notices will be provided by the Planning Division to the applicant, and the applicant shall provide visual evidence and a signed affidavit of posting.
- (5) If the Director finds that the posting and mailing of notices prescribed in this Section may not give sufficient notice to the affected property owners, then additional notices may be posted at locations which are best suited to reach the attention of, and properly inform those persons who may be affected.
- (6) When the proposed entitlement affects more than 1,000 (one thousand) property owners, the required notice may be provided by placing a 1/8 page display advertisement in a newspaper circulated within the City of Dana Point. Such notice shall be considered an acceptable substitute for the published notice required in subsection (2) and the mailed notice required in subsection (3). However, in the case of coastal development permit applications, newspaper notice shall not substitute for the mailed notice required in subsection (3) above.
- (7) The notice shall be sent to public officers, departments, bureaus, or agencies which, in the determination of the Director of Community Development, could be affected by the application or otherwise require noticing.
- (8) When a Negative Declaration is recommended for adoption pursuant to the California Environmental Quality Act (CEQA), notice of intent to adopt a Negative Declaration shall be published no less than twenty-one (21) days prior to the hearing date, or thirty (30) days prior to the hearing date for applications which require circulation of the Negative Declaration to the State Clearinghouse.

- (9) Notice for Timeshare Properties.
 - (A) If a timeshare property falls within the one hundred (100) foot occupant-notification radius for Coastal Development Permits described in (8) above, all shareholders shall be notified as described in subsection (3) above.
 - (B) If a timeshare property falls outside the one hundred (100) foot occupant-notification radius described in subsection (8) above, but within the five hundred (500) foot property owner-notification radius described in subsection (3) above, notices shall be sent to the property manager/sales agent for the timeshare, the shareholders association for the timeshare where one exists, and one notice to each physical unit in the timeshare, addressed to "Occupant."
- (b) Notice for General Plan Amendments. Prior to any amendment to the General Plan, the Community Development Department shall forward the proposed action to the following entities:
 - (1) Any City or County within or abutting the area covered by the proposal, and any special district which may be significantly affected by the proposed action.
 - (2) Any elementary, high school, or unified school district within the area covered by the proposed action.
 - (3) The Local Agency Formation Commission.
 - (4) Any area-wide planning agency whose operations may be significantly affected by the proposed action.
 - (5) Any Federal Agency if its operations or land within its jurisdiction may be significantly affected by the proposed action.
- (c) Notice of Public Hearings for Revocations. The Director of Community Development, in giving notice of a public hearing to revoke a Conditional Use Permit, Variance, or Site Development Permit, Coastal Development Permit, or other entitlement, shall observe the noticing requirements set forth as follows:
 - (1) Notification shall be provided as prescribed in Section 9.61.050; and
 - (2) The Director shall serve the owner of the premises involved written notice of such hearing, by registered or certified mail, return receipt requested and by posting a copy of said notice in a conspicuous location on the property.
- (d) Continuances. If, for any reason, testimony on a case cannot be heard or completed at the time set for such hearing, the Planning Commission may continue or extend the hearing to another time. Before adjournment or recess, the Planning Commission chairman shall publicly announce the time and place at which the hearing will be continued.

- (e) Failure To Receive Notice. The failure of any person or entity to receive notice required pursuant to this Section shall not constitute grounds to invalidate the proceedings or actions of the City in regards to the item for which the notice was given.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94; Ord. 97-05, 9/9/97)

9.61.060 Fees and Deposits.

- (a) Filing Fees and Deposits. Each applicant for an Amendment, Zone Changes, Conditional Use Permit, Variance, Site Development Permit, Coastal Development Permit or other entitlement or relief provided for in this Code shall pay the fees and costs established by Resolution of the City Council upon the filing of an application such entitlement or relief. Said Resolution may be periodically amended by resolution to reflect the cost of processing such applications.
- (b) Waiver of Fees. For special circumstances, the City Council may provide for the waiver or reduction of filing fees or deposits that have been established by Resolution of the City Council. The special circumstances may include, but not be limited to, cases of excessive hardship, projects that provide exceptional benefits to the public, projects sponsored by a non-profit applicant, or projects that provide very low, low, or moderate income housing,
- (c) Deficiencies and Refunds. The following provisions apply when full payment has not been made for an application or when an application is withdrawn:
 - (1) If any application is withdrawn, as provided in Section 9.61.070, within thirty (30) days from the date the application is filed, but prior to the publication of the notice of hearing, the City shall refund fifty (50) percent of the fees paid.
 - (2) If any application is withdrawn, as provided in Section 9.61.070 after thirty (30) days from the date the application is filed, but prior to the publication of the notice of hearing, the City shall refund twenty-five (25) percent of the fees paid.
 - (3) No refund shall be made after the notice of hearing has been published.
 - (4) If the application fee is a deposit based on an hourly rate, the refund, will be the difference between the time expended by the City and the amount of the deposit.

(Added by Ord. 93-16, 11/23/93)

9.61.070 Procedure for Withdrawal of an Application.

Any application for Amendment, Zone Change, Conditional Use Permit, Variance, Site Development Permit, Coastal Development Permit, Appeal or other application for permit, entitlement, or relief provided for in this Code may be withdrawn at any time prior to a public hearing by filing with the Director of Community Development a written request for withdrawal. The request for withdrawal shall be signed by all persons who signed the original application or their designated agents or successors. Any such application or petition may be withdrawn after

commencement of a public hearing thereon, with consent of the hearing body. The Director of Community Development shall provide to the Coastal Commission written notice of the withdrawal of a coastal development permit application. (Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.61.075 Amendment and Modifications to Discretionary Permits.

An approved discretionary permit, variance or other entitlement may be amended or modifies as long as the amendment is found to further the purpose of the Zoning Ordinance. An amendment request shall be filed prior to the expiration date of the previously approved permit. The Director of Community Development shall make one of the following determinations regarding the request:

- (a) Minor Amendments. If requested amendments are found to be minor in nature by the Director of Community Development, the amendments may be approved administratively.**
- (b) Major Amendments. If the Director of Community Development determines that the requested amendments are significant enough to require a discretionary review, then the amendments shall be referred to the original decision making authority. If the original application for the project required a public hearing, then the original decision making authority's review of amendments shall require a public hearing in accordance with Section 9.61.050, Notice and Conduct of Public Hearings.**

9.61.080 Amendments.

- (a) Scope of Amendments. Amendments may be proposed to change zoning districts, modify district boundaries or to revise the provisions of Title 9 to add, remove, or modify regulations pursuant to the provisions of the Government Code. Amendments may be filed to add, remove, or modify the goals and policies of the General Plan or to change the land use designations therein. Amendments to Title 9 and to the Land Use Element, Urban Design Element, and Conservation/Open Space Element of the General Plan shall not be effective in the coastal zone for local coastal program purposes unless and until effectively certified by the Coastal Commission as an amendment to the Local Coastal Program. An amendment to the Local Coastal Program shall be processed pursuant to the provisions of Section 9.61.080(e) below.
- (b) Amendment Initiation. The City Council, the Planning Commission, or staff may initiate an amendment to the text of the Zoning Code. Amendments involving a change in zoning district boundaries or a rezoning of property may only be initiated by the City Council, the Planning Commission, or the owner of the subject property. Only the City Council may initiate General Plan Amendments. Initiation of an amendment by the City Council or the Planning Commission may be directed at a regular meeting of either body. Following initiation of the amendment, the procedural steps identified in Sections 9.61.080(g) and 9.61.050 will be followed.
- (c) General Plan Amendments.

- (1) Frequency of Amendments. No mandatory Element of the General Plan shall be amended more frequently than four (4) times during any calendar year. This limitation on frequency does not apply to amendments to the General Plan requested and necessary for a single development of residential units, at least twenty-five (25) percent of which will be occupied or available to persons or families of low or moderate income.
- (2) Planning Commission Recommendation. The Planning Commission shall hold at least one public hearing and make a written recommendation on the adoption of an amendment to the General Plan. The Planning Commission shall forward its recommendation to the City Council.
- (3) Public Hearing. A General Plan Amendment requires a public hearing before the City Council. Any proposed amendment to the General Plan not excluded by (1) above, requires application and noticing as outlined in this Chapter.
- (4) Amendment by Resolution. The City Council shall adopt amendments to the General Plan by Resolution. The City Council may approve, modify, or disapprove the recommendation of the Planning Commission. Any substantial changes proposed by the City Council not previously considered by the Planning Commission shall first be referred to the Planning Commission for its consideration.

(d) Zoning Code Amendments.

- (1) Types of Amendments. There are two types of amendments to the Zoning Code including:

Zone Text Amendment — a revision, correction, addition or modification to the text of the Zoning Code, including changes to development standards, use regulations or procedures.

Zone Change — a change to the zoning designation of a property or properties on the Zoning Map.

- (2) Planning Commission Recommendation. The Planning Commission shall hold at least one public hearing and make a written recommendation on the adoption of a Zone Text Amendment or Zone Change. Such recommendation shall include the reasons for the recommendation and the relationship of the proposed amendment to the General Plan. The Planning Commission shall send its recommendation to the City Council.
- (3) City Council Consideration. The City Council shall hold at least one public hearing for any Zoning Code amendment. The City Council may approve, modify, or disapprove the recommendations of the Planning Commission; provided that any modifications to the proposed amendment are referred to the Planning Commission for report. The Planning Commission is not required to hold a public hearing to review the modifications sent by the City Council. No further City Council action

is required when the Planning Commission has recommended disapproval of a Zoning Code amendment.

- (4) Amendment by Ordinance. The City Council shall adopt amendments to the Zoning Code by Ordinance.
- (e) Local Coastal Program Amendments. A Local Coastal Program Amendment (LCPA) is required for modifications to the policies text, figures, tables, charts, and graphs, or land use designations, or land use and development standards contained in the portions of the General Plan Land Use Element, Land Use Map, Zoning Code or the Zoning Map effectively certified by the Coastal Commission as the LCP, for any property in the Coastal Zone. Amendments to the existing certified Dana Point Specific Plan/Local Coastal Program shall be processed in accordance with the procedures contained in that LCP. Amendments shall be processed in accordance with the following provisions:
 - (1) Frequency of Submittals of LCP Amendments to the Coastal Commission. No more than three (3) submittals of “major” LCP As to the Coastal Commission are permitted per calendar year, although there is no limit to the number of changes which can be included in each submittal. There is also no limit on the number of submittals of “minor” LCPAs which may be submitted to the Coastal Commission. Coastal Act/30514(b))
 - (2) Types of Amendments.
 - (A) “Major Amendments”. A major amendment is any amendment which does not meet the criteria for a “minor” or a “de minimis” amendment as listed below.
 - (B) “Minor Amendments”. A “minor” amendment to an LCP includes but is not limited to the following:
 1. Amendments to address the certification of zoning ordinances, zoning district maps or other implementing actions for newly-annexed or detached territory, when either of the following occur:
 - a. The certified land use plan and zoning designations of the City of Dana Point and the previous or new jurisdiction(s) of the geographic area are equivalent, or;
 - b. The Coastal Commission has certified proposed pre-annexation zoning for the City of Dana Point.
 2. Wording changes in the implementation program which make a use as designated in the zoning ordinances, zoning district maps or other implementing actions more specific without changing the type, location, or intensity of use and which are found by the Executive Director of the

Coastal Commission or the Coastal Commission to be consistent with the land use plan as certified by the Coastal Commission.

3. Changes in the kinds, location, intensity or density of uses covering areas specifically certified by the Coastal Commission as acceptable alternative land uses that become effective upon occurrence of specified events (such as the availability of sewer service) as authorized in the Land Use Plan.
4. For the Land Use Plan only:
 - a. The correction, reorganization, revisions, or deletion of certified language which when taken together does not change the kind, location, intensity or density of use or modify the resource protection measures for any area or property.
 - b. Additions or revisions to certified policies which impose further conditions, restrictions or limitations on any use which might adversely affect the resources of the coastal zone, if those amendments do not conflict with any policy of Chapter Three of the (Coastal Act or with any other certified land use plan policy.
5. Change in the notification and hearing procedures that is consistent with the requirements of the Coastal Act. (Coastal Act/30501, 30514(c); 14 Cal. Code of Regulations/13554, 13555)

(C) “De Minimis Amendments”.

1. The Executive Director of the Coastal Commission may determine that a proposed local coastal program amendment is de minimis if the Executive Director determines that a proposed amendment would have no impact, either individually or cumulatively, on coastal resources, is consistent with the policies of Chapter 3 of the Coastal Act (commencing with Section 30200), and meets the following criteria:
 - a. The City of Dana Point, at least twenty-one (21) days prior to the date of submitting the proposed amendment to the Executive Director, has provided public notice, and provided a copy to the Coastal Commission, which specifies the dates and places where comments will be accepted on the proposed amendment, contains a brief description of the proposed amendment, and states the address where copies of the proposed amendment are available for public review, by one of the following procedures:
 - i. Publication, not fewer times than required by Section 6061 of the Government Code, in a newspaper of general circulation in the area affected by the proposed amendment If more than one area will be

affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.

- ii. Posting of the notice by the local government both onsite and offsite in the area affected by the proposed amendment
 - iii. Direct mailing to the owners and occupants of contiguous property shown on the latest equalized assessment roll.
 - b. The proposed amendment does not propose any change in land use or water uses or any change in the allowable use of property.
2. At the time that the City of Dana Point submits the proposed amendment to the Executive Director, the City of Dana Point shall also submit to the Executive Director any public comments that were received during the comment period provided pursuant to subparagraph a. of paragraph 1. above.
3. Determination of De Minimis.
 - a. The Executive Director shall make a determination as to whether the proposed amendment is de minimis within 10 working days of the date of submittal by the City of Dana Point. If the proposed amendment is determined to be de minimis, the proposed amendment shall be noticed in the agenda of the next regularly scheduled meeting of the Coastal Commission, in accordance with Section 11125 of the Government Code, and any public comments forwarded by the City of Dana Point shall be made available to the members of the Coastal Commission.
 - b. If three members of the Coastal Commission object to the Executive Director's determination that the proposed amendment is de minimis the proposed amendment shall be set for public hearing in accordance with the procedures for either a major or minor amendment, as determined by the Executive Director, or, at the request of the City of Dana Point, returned to the City. If set for public hearing as a major amendment, the time requirements set by Sections 30512 and 30513 of the Coastal Act shall commence from the date on which the objection to the de minimis designation was made.
 - c. If three or more members of the Coastal Commission do not object to the de minimis determination, the de minimis local coastal program amendment shall become part of the City's certified local coastal program 10 days after the date of the Coastal Commission meeting. (Coastal Act/30514(d)).

(3) Required Findings for Submittal of LCPAs to the Coastal Commission.

- (A) That the public and affected agencies have had ample opportunity to participate in the LCPA process.
 - (B) That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act, including that the land use plan as amended is in conformance with and adequate to carry out the Chapter Three policies of the Coastal Act.
 - (C) 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.
 - (D) That the level and pattern of development proposed is reflected in the Land Use Plan, Zoning Code, and Zoning Map.
 - (E) That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after certification of the LCPA.
 - (F) That zoning measures are in place (prior to or concurrent with the LCPA) which are in conformance with and adequate to carry out the coastal policies of the Land Use Plan.
- (4) Notice/Public Participation Standards. In addition to Notice standards contained in Section 9.61.050, the following notice provisions shall apply (except for De Minimis LCP amendments in which case the notice provisions provided for in Section 9.61.080(e)(2)(C) above shall apply):
- (A) Notice of hearings on LCP documents shall be given general publication and shall be transmitted not less than ten (10) working days before the hearing. Notice of availability of public review drafts of LCPA materials and transmittal of said documents shall be made as soon as public drafts are available, but at a minimum at least six (6) weeks prior to any final action on the documents by the City. Public review drafts shall also be made readily available for perusal in local libraries, at the offices of the Community Development Department and/or other appropriate location at City Hall, and at the Coastal Commission district office having jurisdiction over the City of Dana Point.
 - (B) At a minimum, notices of public hearings, public review sessions, availability of public review drafts, studies, or other relevant documents or actions pertaining to the preparation and approval of LCPAs must be mailed free of charge by first class mail to:
 1. Members of the public requesting such notices, including those on a list for all coastal decisions in the City;
 2. Contiguous and affected local governments and special districts;

3. State and Federal agencies specified in Appendix A of Local Coastal Program Manual of the California Coastal Commission or other regional, state and federal agencies that may have an interest in or be affected by the LCPA, including the Coastal Commission itself; and
 4. Local libraries and media. (14 Cal. Code of Regulations/13515).
- (5) Planning Commission Recommendation. The Planning Commission shall hold at least one public hearing on the proposed LCPA and make a written recommendation on the adoption of an amendment to a local coastal program. Such recommendation shall include the reasons for the recommendation and the relationship of the proposed Ordinance or amendment to the Coastal Act, and applicable General Plan and/or Specific Plan policies. The Planning Commission shall send its recommendation to the City Council.
- (6) City Council Resolution.
- (A) The LCPA shall be submitted to the California Coastal Commission, after public hearing, pursuant to a Resolution adopted by the City Council. The Resolution shall include the following:
1. A statement certifying that 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. (Coastal Act/30510, 30605; 14 Cal. Code of Regulations/13551(a))
 2. The Resolution shall include an exact description of the nature of the amendment, including but not limited to whether the amendment is to the land use plan, implementing actions, or both, and the nature of the proposed changes.
 3. Resolutions for amendments involving changes to the land use plan shall certify that the City has found that the land use plan as amended is in conformity with and adequate to carry out the Chapter Three policies of the Coastal Act.
 4. Resolutions for amendments involving changes to the implementing actions shall certify that the City has found that the implementing actions as amended are in conformity with and adequate to carry out the provisions of the certified land use plan.
 5. The Resolution shall include the numbers of the General Plan, Zone Text, Zone Change, or other amendment(s) being submitted to the Coastal Commission to amend the certified local coastal program.
 6. The Resolution shall include a statement certifying that the amendment will be submitted to the Coastal Commission for review and approval.

- (B) The City Council Resolution may provide that the amendment will take effect automatically upon Coastal Commission approval, or as an amendment that will require formal approval by Resolution of the City Council after approval by the Coastal Commission. (Coastal Act/30501, 30512, 30513, 30519, 30605; 14 Cal. Code of Regulations/13551(b))
 - (C) Under either alternative in subsection 9.61.080(e)(6)(B) above, the requirements of Section 13544 or 13544.5 of the California Code of Regulations as amended must be fulfilled following Coastal Commission approval of the amendment, including that the City Council acknowledges receipt of the Coastal Commissions' certification of the amendment including any terms or modifications which may have been suggested for final certification and agrees to such terms or modifications. (Coastal Act/30501, 30605; 14 Cal. Code of Regulations/13551(b))
- (7) Contents of an LCPA Submittal to the Coastal Commission. At a minimum, the following shall be included in an LCPA submittal:
- (A) A summary of the measures taken to provide the public and affected agencies and districts maximum opportunity to participate in the LCP amendment process, including;
 - 1. A listing of members of the public, organizations, and agencies appearing at any hearing or contacted for comment on the LCP amendment, and copies of speaker slips for all persons testifying at said hearing(s);
 - 2. Copies or written summaries of significant comments received and of the City's response to those comments;
 - 3. Copies of hearing notices for all public hearings at which the LCPA was discussed or scheduled for discussion;
 - 4. Proof of publication.
 - (B) A summary of the measures taken to provide the public and affected agencies and districts maximum opportunity to participate in the LCP amendment process; a listing of members of the public, organization, and agencies appearing at any hearing or contacted for comment on the LCP amendment; and copies or summaries of significant comments received and of the City's response to the comments.
 - (C) All policies, plans, standards, objectives, diagrams, drawings, maps, photographs, and supplementary data, related to the amendment in sufficient detail to allow review for conformity with the requirements of the Coastal Act. Written documents should be readily reproducible. An amendment to the "land use plan" portion of the LCP shall include, where applicable, a readily identifiable public access component.

- (C) A written discussion of the LCPA's relationship to and effect on the other sections of the certified LCP.
- (D) An analysis that meets the requirements of Section 13511 or alternatively Section 13514 of the California Code of Regulations as amended. As part of the analysis, the Chapter Three policies of the Coastal Act shall be applied to determine the kind, location and intensity of land and water uses that would be in conformity with the Chapter Three policies.
- (E) Any environmental review documents, pursuant to the California Environmental Quality Act, required for all or any portion of the LCPA.
- (F) An indication of the zoning measures that will be used to carry out the amendment to the land use plan (unless submitted at the same time as the amendment to the land use plan). (Coastal Act/30501; 14 Cal. Code of Regulations/13552).
- (G) Copies of City staff reports for all public hearings at which the LCPA was discussed or scheduled for discussion.
- (H) Copies of final, adopted Ordinances and Resolutions approving the LCPA.
- (I) Copies of final, approved minutes of all public hearings at which the LCPA was discussed or scheduled for discussion.

(f) Specific Plan Amendments.

- (1) Planning Commission Recommendation. The Planning Commission shall hold at least one public hearing and make a written recommendation on the adoption of an amendment to a Specific Plan. The Planning Commission shall forward its recommendation to the City Council.
- (2) City Council Public Hearing. Any proposed amendment to a Specific Plan requires application and noticing as outlined in this Chapter. One City Council public hearing is required.
- (3) Amendment by Resolution and Ordinance. The City Council may adopt amendments to Specific Plans by Resolution and Ordinance. The City Council may approve, modify, or disapprove the recommendation of the Planning Commission. Any substantial changes proposed by the City Council not previously considered by the Planning Commission shall first be referred to the Planning Commission for its consideration.

(g) Procedural Duties Regarding Amendments.

- (1) When an application for an amendment is filed in accordance with Section 9.61.040, or when the City Council or Planning Commission has initiated an amendment, the Director of Community Development shall schedule the

proposed amendment for a public hearing pursuant to Section 9.61.050 of this Code.

- (2) The Planning Commission, upon receiving the recommendation of the Director of Community Development, shall hold a public hearing to ensure consistency with the General Plan or to provide for the public health, safety, and welfare of the citizens, visitors, and workers in the City of Dana Point.
 - (3) The Planning Commission shall transmit a written recommendation on the proposed amendment to the City Council. The recommendation of the Planning Commission may be for approval, conditional approval or denial except when the proposed amendment is a Zone Change, in which case the recommendation shall be for approval or denial.
 - (4) The Commission may continue a hearing in order to consider new or revised information as it deems necessary. A continuance shall not extend the period of time within which State law requires the City to render a final decision, unless the applicant requests, or consents to, a continuance beyond that period of time.
 - (5) Upon receiving the recommendation of the Planning Commission, the City Council shall hold a public hearing and shall make a determination and take final action on the amendment. This action shall take place within the time period specified in Section 9.61.040 of this Code.
 - (6) The Director of Community Development shall maintain an index of all approved amendments to this Code in order to insure that the Code is properly updated.
 - (7) For amendments in the Coastal Zone, the Director of Community Development shall provide notice of the amendment hearings and action to the California Coastal Commission.
- (h) Decision of the City Council. The City Council may approve or deny an application for an amendment. Except for Local Coastal Program Amendments, the action of the City Council shall be final.
- (i) Basis for Denial of Amendments. Amendments to the General Plan, Zoning Code, Zoning Map, Local Coastal Program, or Specific Plan may be denied if they are found to be:
- (1) Inconsistent with the General Plan;
 - (2) Inconsistent with a goal or policy of the General Plan;
 - (3) Inconsistent with the provisions of the Coastal Act;
 - (4) Inconsistent with mandatory findings required by State law or by this Code; or
 - (5) A threat to the public health, safety, and welfare.

Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94; Ord. 97-05,9/9/97; Ord. 99-05, 4/27/99)

9.61.090 Administrative Modification of Standards.

- (a) Intent and Purpose. Standards may be administratively modified by the Director of Community Development to permit development on property which is constrained due to lot size, shape, location, access restrictions, ~~or other~~ physical constraints or other constraints. Administrative modifications are used only when deviations from Code standards are truly minor and no potential impact will occur to the health, safety or general welfare of adjacent persons or properties will occur.
- (b) Authority of the Director of Community Development. The Director of Community Development shall have the authority to approve, conditionally approve, or deny an application for an administrative modification pursuant to the following limitations:
 - (1) Reduction of required lot area, minimum floor area, setbacks, courts or open areas, or landscaped areas ~~by five (5) percent or less of the area, distance between buildings or size and location of parking areas~~ required by the Zoning Code;
 - (2) Increases in the height of both retaining and non-retaining side or rear yard fences, walls, or hedges by not more than ten (10) percent of the maximum permitted height. No administrative modification may be granted for any fence, wall or hedge that is located in the required front yard.
- (c) Procedure for Administrative Modifications.
 - (1) An application shall be filed with the Community Development Department pursuant to Section 9.61.040.
 - (2) The Director of Community Development shall review the application and shall determine whether the application is complete as described in Section 9.61.040 and whether the application qualifies as an administrative modification within thirty (30) days of the application date.
 - (3) Notice of the administrative modification shall be provided to owners of the abutting properties.
 - (4) When in the public interest and agreed to by the applicant, the Director of Community Development may consider and render decisions on administrative modifications without a public hearing.
 - (5) If the application qualifies as an administrative modification, the Director of Community Development shall render a decision on the request within thirty (30) days of the application being deemed complete and qualified. If the application does not qualify as an administrative request, the Director shall notify the applicant, and the application may be withdrawn as described in Section 9.61.070.

(6) Appeals of the Director's decision may be made pursuant to the provisions of Section 9.61.110.

(d) Basis for Approval or Denial of Administrative Modifications.

(1) The Director of Community Development may impose such conditions as are deemed necessary to protect the public health, safety, and general welfare and assure compliance with the provisions and standards included in this Zoning Code.

(2) In making such determination, the Director of Community Development shall find that the proposed administrative modification meets the following criteria:

(A) That there are practical difficulties or unnecessary hardships created by strict application of the Zoning Code due to physical characteristics of the property; and

(B) The administrative modification does not constitute a grant of special privileges which are not otherwise available to surrounding properties in similar conditions and will not be materially detrimental to the public welfare or to the property of other persons located in the vicinity; and

(C) The administrative modification places suitable conditions on the property to protect the public health, safety, and welfare and surrounding properties.

(D) For development within the coastal zone, that the administrative modification would not result in significant adverse impacts either individually or cumulatively to coastal access/recreation opportunities or coastal resources, and the development would be consistent with the policies of the Local Coastal Program certified land use plan.

(e) Notice of Action. The Director of Community Development shall transmit a written Notice of Action to the applicant by first class mail.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.61.100 Preliminary Review.

A preliminary review is a request for a pre-submittal evaluation of a project. The preliminary review will assess the site and architectural design of the proposed project. In addition, this review will consider General Plan consistency, development standards, land use compatibility and community values. The objective of this exercise is to provide the applicant with a sense of the issues that need to be addressed in the formal application. The preliminary review process is not intended and cannot be used as a process to determine the ultimate decision on the formal application. Information gathered through this process can be used to determine whether a formal application should be filed.

(a) Review Levels. There are two levels of preliminary review available to a prospective applicant, described as follows:

- (1) Staff Level Review. Staff level review involves an informal assessment of the proposed project by the Community Development and Public Works Staff. These reviews are conducted during the regular weekly staff meetings. This review provides the applicant with an opportunity to receive preliminary comments from the departments who will ultimately make recommendations on a formal application. Staff will provide comments on the preliminary review within five (5) working days of the staff meeting.
 - (2) Planning Commission Review. Preliminary review by the Planning Commission is a more formal option available to the applicant. This process is more appropriate for projects which may involve more significant issues of sensitivity or compatibility, or qualitative interpretations of City policy. Through this process, a brief assessment will be prepared by staff to identify the issues pertinent to the proposed project. The applicant will have the opportunity to present the proposal directly to the Planning Commission. Preliminary reviews are considered by the Planning Commission under “New Business” at regular meetings. The Planning Commission is legally limited in the type and amount of input they can provide at this level. Typically, comments are focused on the identification of potential issues which may be raised during consideration of a formal submittal. General feedback on how key issues or policies might apply to the project may also be provided.
- (b) Fees. Staff level preliminary reviews require no fee. A fee in accordance with those set forth in an annual resolution of the City Council shall apply to an application for preliminary review by the Planning Commission.
- (c) Required Submittals.
- (1) Staff Level Review. One (1) copy of the conceptual site plan, floor plan(s) building elevations, and any other relevant exhibits.
 - (2) Planning Commission Review.
 - (A) Ten (10) copies of the conceptual site plan, floor plan(s), building elevations and any other relevant exhibits;
 - (B) A letter which provides a brief explanation of the proposed project and justification for the project based on General Plan policies and Zoning Code provisions;
 - (C) A completed planning application form;
 - (D) A filing fee as required by Section 9.61.100(b).

(Added by Ord. 94-09, 5/24/94)

9.61.110 Appeal Procedures.

- (a) Decisions May Be Appealed. Any decision rendered by the Director of Community Development may be appealed by the applicant, the Planning Commission, the City Council, any property owner or resident of property within a five hundred (500) foot radius of the subject property, or any group or individual. Appeals of decisions by the Director of Community Development shall be heard by the Planning Commission **as a DeNovo (new) hearing**.

Any decision rendered by the Planning Commission may be appealed by the applicant, the City Council, any property owner or resident of property within a five hundred (500) foot radius of the subject property, or any group or individual. Appeals of decisions by the Planning Commission shall be heard by the City Council **as a DeNovo (new) hearing**.

- (b) Filing of Appeals. Appeals to the Planning Commission and City Council must be made no later than fifteen (15) calendar days after the rendering of the decision being appealed. Appeals to the Planning Commission shall be filed with the Director of Community Development Appeals to the City Council shall be filed with the City Clerk.
- (c) Appeal Contents. Appeals filed in writing with the Director of Community Development or the City Clerk shall specifically cite the basis of the appeal, including how the person filing the appeal is negatively impacted by the deciding body's determination to approve, conditionally approve, or deny an application.
- (d) Appeals of Coastal Development Permit. After the exhaustion of the appeal procedures described in Section 9.61.100(a) through (c) above, except as provided for in Section 9.69.090(a)(1) of this Zoning Code, the City's final action on a coastal development permit for development that is appealable, as described in Section 9.69.090, may be appealed to the Coastal Commission in accordance with the procedures specified in Section 9.69.090.
- (e) Notice of Appeal Hearings. Notice of an appeal hearing shall conform to the requirements of Section 9.61.050 for the original application. The appellant shall be responsible for all noticing materials required in the original application.
- (f) Effective Date of Appealed Actions. A decision rendered by the Director of Community Development appealed to the Planning Commission shall not become final until upheld by the Commission. A decision rendered by the Planning Commission appealed to the City Council shall not become final until upheld by the Council.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96; Ord. 97-05, 9/9/97)

9.60.120 Revocations and Modifications.

- (a) Revocation or Modification of Entitlements. The Planning Commission, on its own motion or by direction from the City Council, may recommend, and the City Council may approve the revocation and/or modification of any previously approved application

or granted entitlement, after holding a properly noticed public hearing on the matter where any of the following findings are made:

- (1) That the approved application or entitlement was obtained by fraud; or
- (2) That the approved application or entitlement is not being exercised; or
- (3) That the approved application or entitlement has ceased or has been suspended for a period of time and is causing detriment to the public health, safety and welfare or constitutes a public or private nuisance; or
- (4) That the use for which the approved application or entitlement was granted or permitted is being or has been operated or used contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law, or regulation; or
- (5) If any provision of an approved application or entitlement is held or declared invalid, the approved application or entitlement shall be void and all privileges granted thereunder shall lapse.

(b) Notice of Action.

- (1) Notice of the action taken by the City Council at a hearing for a revocation or modification of an approved application or entitlement shall be sent by certified mail, return receipt requested, to the person owning and operating the property, structure, or use.
- (2) Notification of the action by the City Council shall be made by serving a notice in the manner required by law.

(c) Effective Date of Revocations and Modifications. An order by the City Council revoking or modifying an entitlement shall become effective immediately.

(Added by Ord. 93-16, 11/23/93)

9.61.130 Expiration and Extensions.

- (a) Expiration. When the activity for which a discretionary permit **such as** ~~(Conditional Use Permit, Coastal Development Permit or Site Development Permit)~~ was granted is not implemented or utilized within the time frame specified in the permit or within two (2) years if no timeframe is specified in the permit the discretionary permit shall become null and void and of no effect unless the permit is extended as provided below.
- (b) Extensions. A discretionary permit may be extended ~~indefinitely~~ in accordance with the following provisions:
 - (1) An application, consisting of a letter requesting an extension, shall be submitted to the Community Development Department prior to the expiration date of the subject discretionary permit

- (2) A fee, in accordance with the annual fee resolution adopted by the City Council shall be submitted with the letter.
 - (3) **A maximum of two extensions may be granted.** Action on the first extension request may be taken administratively by the Director of Community Development. **The Director may grant a one-time extension for a maximum of twelve (12) months. Second** ~~Any subsequent~~ extension requests must be presented to the Planning Commission for action. **The Planning Commission may grant the second extension for a maximum of twelve (12) months.**
 - (4) The action of the **Planning Director of Community Development** or Planning Commission on a request for extension may be appealed in accordance with Section 9.61.110.
 - ~~(5) No single extension request may be granted for any period of time exceeding one (1) year.~~
 - (65) A request for extension may be approved, conditionally approved or denied. An action to conditionally approve or deny a request for extension may be based on the existence of new requirements or standards which were not in effect at the time of the original approval. Such requirements or standards may be contained in the City's Zoning Code or in the Municipal Code, including the Health, Safety and Building Codes.
 - (76) While the discretionary permit is deemed active during the consideration of an extension request, if the expiration date has passed, the permit may not be implemented unless and until the extension request has been approved.
- (c) Exception. Where a proposal to acquire land for a governmental enterprise in conjunction with a discretionary permit has been approved, no time limit shall apply to the utilization of said permit, provided that within one (1) year of the date of approval, the subject governmental agency has either acquired the subject property or has commenced legal proceedings for its acquisition.

(Added by Ord. 94-09, 5/24/94)

9.61.140 General Plan Consistency Requirements.

- (a) Projects involving the acquisition, dedication, disposition, vacation, or abandonment of real property shall not be authorized until the location, purpose, and extent of the action has been submitted to and reported upon by the Planning Commission for consistency with the adopted General Plan. The following actions are exempt from this requirement:
 - (1) The disposition of the remainder of a larger parcel which was acquired and used in part for street purposes;
 - (2) Acquisitions, dispositions, or abandonments for street widening; or

- (3) Alignment projects, providing such dispositions for street purposes, acquisitions, dispositions, or abandonments for street widening or alignment projects are of a minor nature.
- (b) Applications for a General Plan Consistency finding shall be subject to review by the Planning Commission. At the discretion of the Director of Community Development, such applications may be processed in accordance with Section 9.61.040, Procedures for Applications Requiring Discretionary Action.
- (c) The Planning Commission shall render a report as to conformity of the project with the General Plan within forty (40) days after the application for the matter was deemed complete.

9.61.150 Substantial Compliance with Discretionary Approval.

(a) Approval of a request for Substantial Compliance with Discretionary Approval can occur, provided the following findings can be made:

- (1) The proposed changes comply with the provisions, spirit, and intent of the original approvals.**
 - (2) That the action would have been the same for the modifications as for the approved plan.**
- (b) Decisions on Substantial Compliance with Discretionary Approval applications shall be made administratively by the Director of Community Development. The Director shall include a determination of findings and additional conditions of approval as appropriate.**

(c) Effective Date of Substantial Conformance.

- (1) Any substantial conformance determination issued by the Director of Community Development shall be reported in writing on the Consent Calendar to the Planning Commission at their first regularly scheduled meeting after the substantial conformance is approved. The Director of Community Development shall prepare a report in writing with sufficient description of the substantial conformance and basis for the determination to allow the Planning Commission to understand the modifications to an approved project. Such report shall be available at the meeting and mailed free of charge to all persons wishing to receive such notification at the time of the regular mailing of notice of the Planning Commission meeting. The fifteen (15) calendar day appeal period, set forth in Section 9.61.110, shall begin the day after the Community Development Director's determination is reported to the Planning Commission.**

(Added by Ord. 93-16, 11/23/93)

Chapter 9.63

NONCONFORMING USES AND STRUCTURES

Sections:

- 9.63.010 Intent and Purpose.
- 9.63.020 Land Uses Permitted.
- 9.63.030 ~~Restriction on Improvements to Nonconformities.~~ Expansion, Improvement, and Maintenance of Nonconforming Structures
- 9.63.035 Expansion, Improvement, and Maintenance of Nonconforming Uses.
- 9.63.040 ~~Termination of Nonconformance.~~ Destruction and Restoration of Nonconformance
- 9.63.050 Notice.
- ~~9.63.060 Nonconforming Historic Structures and Uses.~~
- 9.63.0760 Right of Further Appeal.
- 9.63.0870 Public Nuisance.
- 9.63.0980 Substitution of a Nonconforming Use.
- ~~9.63.01090 Termination—Violation of Law.~~

9.63.010 Intent and Purpose.

This Chapter provides for the regulation of nonconforming uses and structures. This Chapter recognizes the legal status nonconforming uses and structures have. It is the intent of this Chapter to promote and encourage the ultimate conversion of nonconforming uses and structures to uses and structures that are conforming to this Code. The Chapter recognizes that until such conversion, the improvement of nonconforming uses and structures which promote compatibility and enhancement to surrounding land uses and which do not increase in nonconformity are permitted. (Added by Ord. 93-16, 11/23/93)

9.63.020 Land Uses Permitted.

No property in the City of Dana Point shall be used for any purposes except those permitted by this Code. (Added by Ord. 93-16, 11/23/93)

9.63.030 Expansion, Improvement, and Maintenance of Nonconforming Structures ~~Restriction on Improvements to Nonconformities.~~

Nonconformities may be continued subject to the following conditions.

- (a) Expansion of Nonconforming Structures Conforming as to Use. Except as provided for in the Floodplain Overlay District, nonconforming structures which are conforming as to use may be expanded provided that the proposed expansion meets the current requirements of this code and positively contributes to the neighborhood. An expansion of ten (10) percent or less of the existing **structural gross** floor area **is allowed by right. Shall require approval of a minor Site Development Permit issued by the Director of Community Development.** An expansion of more than ten (10) percent of the existing **structural gross** floor area may be approved by the

Director as a minor Site Development Permit or forwarded by the Director **as a Site Development Permit** for review by the Planning Commission.

- (b) **Improvements to and** Maintenance of Nonconforming Structures Conforming as to Use. Nonconforming structures which are conforming as to use may be, and are encouraged to be, maintained and aesthetically improved in compliance with the Dana Point Municipal Code. Maintenance and aesthetic improvement includes repainting and resurfacing, reroofing, recarpeting and reflooring, relandscaping, and **other minor cosmetic improvements** ~~replacement of a structure's materials or systems~~. Maintenance and aesthetic improvements shall not serve to expand the nonconforming structure in any way.

- (c) Expansions, Improvements, and Maintenance of Nonconforming Structures Conforming to Use in Doheny Village. Expansions, improvements, and maintenance of Nonconforming Structures conforming to use shall be permitted. All expansions, improvements, and maintenance shall be compliant to current Zoning and Building Code requirements, including the provisions in Chapter 9.31, Floodplain Overlay District. The provisions of this subsection (c) shall only be applicable to the geographic area shown in Figure 9.63.030 below, and shall expire December 31, 2025.**

(Added by Ord. 93-16, 11/23/93)

Figure 9.63.030
Doheny Village Area



~~(c) Improvement to Nonconforming Uses. Improvements and/or additions to nonconforming residential uses which are conforming to this Code, result in no increase intensity of nonconforming use, and serve to positively contribute to the neighborhood are encouraged. Improvements to nonconforming uses shall be allowed as follows: (Previous changes modified by 08-06)~~

~~(1) Nonconforming Residential Uses.~~

~~(A) Aesthetic Improvements and Minor Alterations. The repair, maintenance, replacement, and aesthetic improvement of nonconforming uses which are conforming to this Code and promote neighborhood enhancement, and which do not enlarge or expand the nonconforming use as determined by the Director of Community Development shall be permitted and encouraged. Repair, maintenance, replacement, and aesthetic improvements typically include painting, landscaping, paving the replacement and addition of skylights, windows, doors, open spaces, and other features which promote the liveability of the dwelling and its compatibility with and enhancement to the neighborhood.~~

~~(B) Minor Alterations and/or Expansions. A one-time minor alteration and/or expansion of ten (10) percent or less of an area or intensity of an~~

~~existing nonconforming residential use may be permitted and conditioned by the Director of Community Development subject to a consent approval of a minor Conditional Use Permit by the Planning Commission. The minor alteration and/or expansion may be subject to conditions to promote neighborhood compatibility and enhancement~~

~~(C) Major Alterations and/or Expansions. Any alteration and/or expansion in area or intensity greater than ten (10) percent of an existing nonconforming residential use may be permitted and conditioned by a Conditional Use Permit approved by the Planning Commission. The major alteration and/or expansion may be subject to conditions to promote neighborhood enhancement. (Removal unclear in 08-06, but appears to move to 9.63.035)~~

~~(2) Nonconforming Non-Residential Uses.~~

~~(A) Aesthetic Improvements and Minor Alterations. The repair, maintenance, replacement, and aesthetic improvement of nonconforming uses which are conforming to this Code and promote area enhancement and improvement, and which do not enlarge or expand the nonconforming uses termed by the Director of Community Development shall be encouraged.~~

~~The repair, maintenance, replacement, and aesthetic improvements to painting, landscaping, paving, the replacement and addition of signage, windows, doors, public spaces, and other similar features to promote the uses, compatibility and enhancement to the surrounding area.~~

~~(B) Alterations and/or Expansions. Alterations and/or expansions which substantially bring the use into better conformance with this Code are encouraged. The alteration or expansion shall result in the required number of parking spaces to be substantially complied with and result in compliance with the signage and landscaping regulations of this Code. A one-time alteration or expansion of a nonconforming use is allowed subject to approval of a Conditional Use Permit by the Planning Commission. (Added by Ord. 93-16, 11/23/93; amended by Ord. 96-10, 8/13/96) (Unclear removal in 08-06, but appears to be moved to 9.63.035).~~

9.63.035 Expansion, Improvement, and Maintenance of Nonconforming Uses.

Nonconforming uses shall not be enlarged or expanded except as provided herein.

(a) Expansion of Nonconforming Residential Uses. A one-time expansion of ten (10) percent or less of the gross floor area of the structure containing the nonconforming residential use may be permitted and conditioned by the Director of Community Development subject to a consent approval of a minor Conditional Use Permit by the Planning Commission. Any

expansion greater than ten (10) percent requires approval of a Conditional Use Permit by the Planning Commission. The expansions may be subject to conditions to promote neighborhood compatibility and enhancement.

(b) Expansion of Nonconforming Non-Residential Uses. A one-time expansion of a nonconforming non-residential use is allowed subject to the approval of a Conditional Use Permit by the Planning Commission. Expansions which substantially bring the use into better conformance with this Code are encouraged. The expansion shall result in compliance with the signage and landscaping regulations of this Code. The area of expansion is required to comply with current parking standards.

(c) Maintenance of Structures Containing Nonconforming Uses. The repair, maintenance, replacement, and aesthetic improvement of structures containing nonconforming uses which promote neighborhood enhancement, and which does not enlarge or expand the nonconforming use, as determined by the Director of Community Development shall be permitted and encouraged. Repair, maintenance, replacement, and aesthetic improvements typically include painting, landscaping, paving, the replacement and addition of skylights, windows, doors, open spaces, and other features which promote the livability and usability of the structure and its compatibility with and enhancement to the neighborhood.

(d) Expansions, Improvements, and Maintenance of Structures Containing Nonconforming Uses in Doheny Village. Expansions, improvements, and maintenance of Nonconforming Residential and Non-Residential Uses located in the geographical area shown in Figure 9.63.030 shall be permitted and exempt from the one-time expansion limitation provided that all expansions, improvements, and maintenance are compliant to current Zoning and Building Code requirements. The provisions of this subsection (d) shall only be applicable to the geographic area shown in Figure 9.63.035 below, and shall expire December 31, 2025.

(1) Properties located in the geographical area shown in Figure 9.63.030 and located within the Floodplain Overlay District, shall also comply with the provisions of Chapter 9.31. The provisions of this subsection (d)(1) shall only be applicable to the geographic area shown in Figure 9.63.030, and shall expire December 31, 2025.

(Added by Ord. 93-16, 11/23/93)

9.63.040 Destruction and Restoration of Nonconformance ~~Termination of Nonconformance.~~

~~(a) Destruction of Nonconforming Uses.~~

~~(1) Residential Districts.~~

~~(A) Destruction Due to Accident. Any nonconforming non-residential use that is lawfully existing at the time of the adoption of this Code shall not be reestablished if the structure that the use occupies is destroyed beyond fifty (50) percent of its market value, by fire, flood, explosion, act of God, or act of the public enemy. However, if the use is a residential use, it may be reestablished up to the number of preexisting dwelling units provided the reestablished density is no greater than one hundred twenty-five (125) percent of the maximum density allowed within the Zoning District. Nonconforming residential condominiums may be reestablished up to the number of pre-existing dwelling units. Approval of the Site Development Permit shall be based on the proposed reestablishment's improvement of the site's liveability, parking situation, building setbacks, and landscaping. Any reestablishments of use or reconstruction of structure must comply with current building and related codes.~~

~~(B) Abandonment or Destruction due to Insufficient Maintenance or Non-Accident Any nonconforming use that is lawfully existing at the time of the adoption of this Code which is abandoned for more than 180 consecutive calendar days or where the structure occupied by the nonconforming use is destroyed beyond fifty (50) percent of its market value by insufficient maintenance or non-accident shall be converted or reconstructed to conform to the requirements of this Code.~~

~~(2) Non-Residential Districts. Any structure occupied by a nonconforming use that is lawfully existing at the time of the adoption of this Code which is destroyed beyond fifty (50) percent of its market value for any reason shall be converted or reconstructed to conform the regulations of this Code.~~

~~(b-a) Destruction of Nonconforming Structures Damage to Nonconforming Structures due to Accidents.~~

~~**Destruction Due to Accident** Excluding properties in the Floodplain **and Coastal Overlay** Districts, any nonconforming structure that is lawfully existing at the time of adoption of this Code **which may, if it** is accidentally destroyed **beyond fifty (50) percent of its market value** by fire, flood, explosion, **earthquake, landslide**, act of God, or act of the public enemy, **may be restored and reconstructed to the limits of the pre-existing nonconformity, reconstruct those structural components that are not in conformance with this Code to the development standards in effect at the time the nonconforming structural component was erected. provided that all such construction and repair work commence within a period of five (5) years from the date of the accidental damage.**~~

~~However, any~~ Any reconstruction of a nonconforming structure must comply with current building and related codes.

(b) Voluntary Demolition of Nonconforming Structures.

(1) If any nonconforming portion of a structure is removed, that portion shall be reconstructed in conformance with current requirements of this Code.

~~(2) Abandonment or Destruction due to Insufficient Maintenance or Non-Accident~~ Any nonconforming structure lawfully existing at the time of adoption of this Code which is ~~abandoned for more than 180 consecutive calendar days or destroyed~~ **demolished** beyond fifty (50) percent of ~~it's~~ **the total linear length of all walls, market value by insufficient maintenance or non-accident** shall be ~~converted~~ **reconstructed** to conform to the **current** requirements of this Code.

(3) Any nonconforming structure lawfully existing at the time of adoption of this Code located in the geographic area as shown in Figure 9.63.030 which is demolished beyond seventy-five (75) percent of the total linear length of all walls, shall be reconstructed to conform to the current requirements of this Code. The provisions of this subsection (3) shall expire December 31, 2025.

(c) Damage to Structures Containing Nonconforming Uses due to Accidents. When a Structure containing a nonconforming use is destroyed due to fire, flood, explosion, earthquake, landslide, act of God, or act of the public enemy, the nonconforming use may be re-established and the structure rebuilt to the limits of the pre-existing nonconformity. Any reconstruction of the structure must comply with current building and related codes.

(d) Voluntary Demolition of Structures containing Nonconforming Uses. When a structure containing a nonconforming use is voluntarily demolished beyond fifty (50) percent of the total linear length of all walls, that structure shall be reconstructed to conform to the requirements of this Code and the nonconforming use shall be converted to a use which conforms to the current zoning designation of the site.

(1) Voluntary Demolition of Structures containing Nonconforming Uses in Doheny Village. When a structure containing a nonconforming use in the geographic area shown in Figure 9.63.030 is voluntarily demolished beyond seventy-five (75) percent of the total linear length of all walls, that structure shall be reconstructed to conform to the requirements of this Code and the nonconforming use shall be converted to a use which conforms to the current zoning designation of the site. The provisions of this subsection (1) shall expire December 31, 2025.

(e) Abandonment of Nonconforming Uses. When a nonconforming use is abandoned or discontinued for more than 365 consecutive calendar days, the use shall be converted to conform to the current requirement of this code.

(Added by Ord. 93-16, 11/23/93)

9.63.050 Notice.

- (a) Upon determination that the provisions of this Chapter apply to a given **nonconforming use parcel of land**, the Director of Community Development shall send a notice thereof by certified mail, return receipt requested, to the **property** owner thereof as shown on the last equalized assessment roll, shall cause such property to be posted with a similar notice, and shall publish such notice at least once in a newspaper of general circulation.
- (b) The notice provided for in this Section shall state that the property in question **is contains a nonconformity nonconforming use**, shall state the date of abatement established in Section 9.63.040 and shall state that the date of abatement may be appealed to the Planning Commission within thirty (30) days of the date appearing on the notice.

(Added by Ord. 93-16, 11/23/93)

9.63.060 — ~~Nonconforming Historic Structures and Uses.~~

- ~~(a) A nonconforming designated national. State or local historic structure may be exempted from the provisions of this Chapter through the approval of a Site Development Permit issued by the Planning Commission. A nonconforming historic structure must be consistent with the land use designation and goals of the General Plan. If a nonconforming historic structure is destroyed beyond fifty (50) percent of its market value by fire, flood, explosion, act of God, or act of the public enemy, or otherwise eliminated, it may not be rebuilt except in accordance with the requirements of this Code.~~
- ~~(b) A nonconforming designated national. State or local historic use may be exempted from the provisions of this Chapter through the approval of a Conditional Use Permit issued by the Planning Commission. If a nonconforming structure occupied by a historic use is destroyed beyond fifty (50) percent of its market value by fire, flood, explosion, act of God, or act of the public enemy, or otherwise eliminated, the use may not be reestablished except in a structure built in accordance with the requirements of this Code.~~
- ~~(c) Approval of a Site Development Permit or Conditional Use Permit for the purpose of exempting a nonconforming historical structure or use from the provisions of this Chapter require the following findings:
 - ~~(1) That the subject historical structure or use is a resource with local historical significance.~~
 - ~~(2) That the deviations allowed through the exception are granted as a vehicle to preserve the historical structure or use.~~
 - ~~(3) That the applicant has provided adequate assurances for the ongoing maintenance and preservation of the historic resource.~~~~

~~(4) That the historic resource will be a positive contribution to the community.~~

(Added by Ord. 93-16, 11/23/93)

~~9.63.070~~ **9.63.060** **Right of Further Appeal.**

- (a) Any interested person may appeal the decision of the Planning Commission to the City Council within 15 days of service or the order upon the owner. The appeal hearing shall be noticed in the same manner as the original hearing before the Planning Commission.
- (b) Each appeal shall be accompanied by such other documents and information the Director of Community Development deems to be necessary to adequately explain and to provide proper notification for the appeal. Each appeal shall set forth specifically and in detail the grounds for the appeal. The City Council may refuse to consider issues not raised in the written appeal.
- (c) When an appeal has been accepted, the Director of Community Development shall forward to the City Council all documents and information on file pertinent to the appeal, together with the minutes or official action of the approving authority, and a report on the basis of the decision and the appropriateness of the appeal.
- (d) The City Council shall consider the appeal at a public hearing, including all information and evidence submitted with the original application, and any additional information and evidence the appellant may submit which the City Council finds to be pertinent.
- (e) The action of the City Council shall be to sustain, deny, conditionally sustain, or refer the appeal back to the Planning Commission with the directions, all in compliance with the same requirements and procedures that were applicable to the Commission.

(Added by Ord. 93-16, 11/23/93)

~~9.63.080~~ **9.63.070** **Public Nuisance.**

Any nonconformity continuing beyond the date for abatement as established by this Chapter or as extended by the Planning Commission or City Council is a public nuisance. (Added by Ord. 93-16, 11/23/93; **amended by Ord. 08-06, 6/3/08**)

~~9.63.090~~ **9.63.080** **Substitution of a Nonconforming Use.**

Subject to Planning Commission approval **of a Conditional Use Permit pursuant to Chapter 9.65**, a nonconforming use may be replaced by another nonconforming use, provided that such substitute use is less detrimental to the public welfare and to the property of persons located in the vicinity thereof than is the original conforming use. Any such change of use shall not extend the termination date established for the original nonconforming use. (Added by Ord. 93-16, 11/23/93; **amended by Ord. 08-06, 6/3/08**)

~~9.63.100~~ **9.63.090** **Termination—Violation of Law.**

Any of the following violations of the Municipal Code shall immediately terminate the right to operate a nonconformity, except as otherwise provided in this Chapter

- (a) Changing a nonconforming use to a use not permitted in the zoning district;
- (b) Increasing or enlarging the area, space or volume occupied by or devoted to a nonconformity;
- (c) The addition to a nonconforming use of another use not permitted in the zoning district.

(Added by Ord. 93-16, 11/23/93)

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Chapter 9.65

CONDITIONAL USE PERMITS

Sections:

- 9.65.010 Intent and Purpose.**
- 9.65.020 Authority of Planning Commission.**
- 9.65.030 Procedural Requirements.**
- 9.65.040 Minor Conditional Use Permits.**
- 9.65.050 Notice.**
- 9.65.060 Basis for Approval, Conditional Approval, or Denial of a Conditional Use Permit.**
- 9.65.070 Notice of Action Taken.**
- 9.65.080 Effective Date.**
- 9.65.090 Continuing Validity.**
- 9.65.100 Performance of Imposed Conditions.**
- 9.65.110 Expiration and Extension of a Conditional Use Permit.**
- 9.65.120 Termination of a Conditional Use Permit.**
- 9.65.130 Maintenance of a Nuisance Prohibited.**

9.65.010 Intent and Purpose.

The intent and purpose of this Chapter is to recognize that certain uses, although suitable for inclusion in the list of uses allowable in a zoning district, are not always appropriate in every location and circumstance, due to their particular characteristics, nature, intensity or size. Uses requiring a Conditional Use Permit are considered to have a moderate to high potential for adverse impacts to the subject site or surrounding community due to their nature of the use or its operational characteristics.

This Chapter establishes the procedures, findings and enforcement measures for those uses listed as conditional uses in the individual zoning districts. The Conditional Use Permit process provides a means to evaluate such proposals to determine the compatibility of the proposed conditional use with surrounding uses at the given location and to establish appropriate controls and/or design features to ensure compatibility. (Added by Ord. 93-16, 11/23/93)

9.65.020 Authority of Planning Commission.

The Planning Commission shall have the authority to approve, conditionally approve, or deny an application for a Conditional Use Permit (Added by Ord. 93-16, 11/23/93)

9.65.030 Procedural Requirements.

Uses, programs or development standard modifications with a relatively moderate potential for adverse impacts are considered minor Conditional Use Permits. Uses with a relatively high potential for adverse impacts are considered major Conditional Use Permits. Major Conditional Use Permits shall be processed in accordance with Section 9.61.040. Minor Conditional Use

Permits shall be processed in accordance with Section 9.65.040. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.65.040 Minor Conditional Use Permits.

- (a) Applications for minor Conditional Use Permits are restricted to the following requests:
 - (1) Shared parking programs.
 - (2) Beer/wine/liquor licenses.
 - (3) Live Entertainment Uses.
 - (4) Animal permits pursuant to Section 9.07.190.
 - (5) Modifications to certain development standards as may be specified by this Code.
 - (6) Other modifications which, in the determination of the Director of Community Development, have a moderate potential for adverse impacts to the subject site and the surrounding community.
- (b) The submittals required for a minor Conditional Use Permit application shall be the same as those required in Section 9.61.040(e).
- (c) Decisions on minor Conditional Use Permit applications shall be made administratively by the Director of Community Development. The Director shall include a determination of findings and appropriate conditions in the decision. The basis for approval, conditional approval, or denial of a minor Conditional Use Permit shall be as specified in Section 9.65.060.
- (d) Subject to a determination by the Director of Community Development a minor Conditional Use Permit application may be placed on the Planning Commission agenda for review.
- (e) Subject to a determination by the Director of Community Development the noticing requirements for a minor Conditional Use Permit may be reduced from the standard five hundred (500) foot radius requirement to a notification of adjacent property owners only.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.65.050 Notice.

Notice for a public hearing to consider a Conditional Use Permit shall be provided pursuant to Section 9.61.050. (Added by Ord. 93-16, 11/23/93)

9.65.060 Basis for Approval, Conditional Approval, or Denial of a Conditional Use Permit

- (a) The Planning Commission shall consider applications for a Conditional Use Permit and may, with such conditions as are found necessary, approve the use, provided the use will not jeopardize, adversely affect endanger, or otherwise constitute a menace to the public health, safety, or general welfare, or be materially detrimental to the property of other persons located in the vicinity of such use.
- (b) In making such determination, the Planning Commission, or City Council on appeal, shall make the following findings:
 - (1) That the proposed conditional use is consistent with the General Plan.
 - (2) That the nature, condition, and development of adjacent uses, buildings, and structures have been considered, and the proposed conditional use will not adversely affect or be materially detrimental to the adjacent uses, buildings, or structures.
 - (3) That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping, and other land use development features prescribed in this Code and required by the Commission or Council in order to integrate the use with existing and planned uses in the vicinity.
- (c) Conditions imposed by the Planning Commission for a conditional use may involve any pertinent factors affecting the establishment, operation, or maintenance of the requested use, including, but not limited to:
 - (1) Open space and buffer areas.
 - (2) Fences and walls.
 - (3) Parking facilities, including vehicular ingress and egress, and the surfacing of parking areas and driveways.
 - (4) Public facilities, dedications and improvements.
 - (5) Landscaping and maintenance.
 - (6) Regulation of nuisance factors associated with the particular use and situation.
 - (7) Regulation of operating hours or activities.
 - (8) Additional regulation of signs or advertisement
 - (9) A specified time period within which development or use must begin and end.
 - (10) Provisions for surety that the conditional use will be removed on or before a specified date or under specific situations.
 - (11) A specific expiration date for the Conditional Use Permit

- (12) Provision of appropriate pedestrian amenities.
 - (13) Screening and proper orientation of **objectionable** elements of the use.
 - (14) Aesthetic treatments as necessary to integrate the use into the surrounding community.
 - (15) Any other conditions deemed necessary to provide for the orderly and efficient development or operation of the conditional use in accordance with the goals and policies of the General Plan.
- (d) The Planning Commission shall deny the requested Conditional Use Permit where the evidence indicates:
- (1) That the requested use will be detrimental to, or incompatible with, the property located in the vicinity or will pose a threat to the public health, safety, or general welfare; and
 - (2) That there are no reasonable restrictions or conditions which could be imposed that would permit the establishment of the proposed use in a manner that would prevent the detriment, incompatible or threatening conditions.

(Added by Ord. 93-16, 11/23/93)

9.65.070 Notice of Action Taken.

Notice of the Planning Commission's decision shall be filed with the City Clerk not more than fifteen (15) days following the Commission's decision, and a copy of the decision shall be sent to the applicant by certified mail, return receipt requested. (Added by Ord. 93-16, 11/23/93)

9.65.080 Effective Date.

An order by the Planning Commission granting or denying a major or minor Conditional Use Permit shall become effective immediately. (Added by Ord. 93-16, 11/23/93)

9.65.090 Continuing Validity.

A major Conditional Use Permit or minor Conditional Use Permit that is valid and in effect and granted pursuant to the provisions of this Code shall run with the land and shall continue to be valid upon change of ownership of the land or any lawfully existing building or structure on the land unless a time limitation for the permit is specified as a condition of approval. (Added by Ord. 93-16, 11/23/93)

9.65.100 Performance of Imposed Conditions.

Whenever a major Conditional Use Permit or minor Conditional Use Permit is granted or modified and is subject to one (1) or more conditions, the Planning Commission may require that the applicant to whom the permit was granted file with the City a surety bond, a corporate surety

bond, a deposit of money, savings and loan certificates, or other surety in an amount prescribed for the purpose of guaranteeing the faithful performance of the condition(s). Any such deposits or guarantees shall be subject to and in compliance with the provisions and conditions of the Municipal Code of the City. The applicant shall also record the granting of the major or minor Conditional Use Permit and its conditions with the County Recorder and shall provide proof of that recordation to the Director of Community Development (Added by Ord. 93-16, 11/23/93)

9.65.110 Expiration and Extension of a Conditional Use Permit

The expiration and extension of any minor or major Conditional Use Permit shall be in accordance with the limitations and procedures specified in Section 9.61.130. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.65.120 Termination of a Conditional Use Permit

- (a) A major or minor Conditional Use Permit shall be subject to revocation or modification as described in Section 9.61.120.
- (b) A major or minor Conditional Use Permit shall cease to be of any force or effect if the use, development improvement or operation has ceased for any consecutive period of six (6) months.

(Added by Ord. 93-16, 11/23/93)

9.65.130 Maintenance of a Nuisance Prohibited.

Neither the provisions of this Code nor the granting of any major or minor Conditional Use Permit authorizes or legalizes the maintenance of a nuisance. (Added by Ord. 93-16, 11/23/93)

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VARIANCES

- 9.67.010 Intent and Purpose.**
- 9.67.020 Authority of Planning Commission.**
- 9.67.030 Procedural Requirements.**
- 9.67.040 Notice.**
- 9.67.050 Basis for Approval, Conditional Approval, or Denial of a Variance.**
- 9.67.060 Notice of Action Taken.**
- 9.67.070 Effective Date.**
- 9.67.080 Continuing Validity.**
- 9.67.090 Performance of Imposed Conditions.**
- 9.67.100 Expiration and Extension of a Variance.**
- 9.67.110 Termination of a Variance.**
- 9.67.120 Maintenance of a Nuisance Prohibited.**

9.67.010 Intent and Purpose.

The intent and purpose of this Chapter is to provide the City with a procedure to permit appropriately mitigated developments on property which is constrained, because of size, shape, topography, or other constraining factors, and where strict interpretation of the Code would deny the applicant property development rights which are granted to other properties within the same zoning district under similar physical conditions. (Added by Ord. 93-16, 11/23/93)

9.67.020 Authority of Planning Commission.

The Planning Commission shall have the authority to approve, conditionally approve, or deny an application for a Variance. (Added by Ord. 93-16, 11/23/93)

9.67.030 Procedural Requirements.

An application for a Variance shall be processed in accordance with Section 9.61.040. (Added by Ord. 93-16, 11/23/93)

9.67.040 Notice.

Notice of a public hearing to consider a Variance shall be provided pursuant to Section 9.61.050. (Added by Ord. 93-16, 11/23/93)

9.67.050 Basis for Approval, Conditional Approval, or Denial of a Variance.

- (a) The Planning Commission may grant a Variance, with such conditions as are found necessary to protect the public health, safety, and general welfare and assure compliance with the provisions and standards included in this Code, provided the following findings can be made:

- (1) That the strict or literal interpretation and enforcement of the specified regulation(s) would result in practical difficulty or unnecessary physical hardships inconsistent with the objectives of this Chapter; and
- (2) That there are exceptional or extraordinary circumstances or conditions applicable to the subject property or to the intended use of the property which do not apply generally to other properties in the same zoning district; and
- (3) That the strict or literal interpretation and enforcement of the specified regulation(s) would deprive the applicant of privileges enjoyed by the owners of other properties in the same zoning district with similar constraints; and
- (4) That the granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the same zoning district with similar constraints; and
- (5) That the Variance request is made on the basis of a hardship condition and not as a matter of convenience; and
- (6) That the granting of the Variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity;
- (7) That the Variance approval places suitable conditions on the property to protect surrounding properties and does not permit uses which are not otherwise allowed in the zone;
- (8) For a Variance to regulations for off-street parking facilities or off-street loading facilities, the following additional findings shall be made:
 - (A) That neither the present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require the strict or literal interpretation and enforcement of the specified regulation(s).
 - (B) That the granting of the Variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets.
 - (C) That the granting of the Variance will not create a safety hazard or any other condition inconsistent with the objectives of this Chapter.
- (9) That granting of the Variance would not result in adverse impacts, either individually or cumulatively, to coastal access, public recreation opportunities, or coastal resources, and the development would be

consistent with the policies of the Local Coastal Program certified land use plan.

- (b) Conditions imposed by the Planning Commission for a Variance may involve any pertinent factors affecting the establishment, operation, or maintenance of the requested use, including, but not limited to:
- (1) Open spaces and buffer areas.
 - (2) Fences and walls.
 - (3) Parking facilities, including vehicular ingress and egress, and the surfacing of parking areas and driveways.
 - (4) Public facilities, dedications, and improvements.
 - (5) Landscaping maintenance.
 - (6) A specified time period within which the variance must be utilized or implemented.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.67.060 Notice of Action Taken.

Notice of the Planning Commission's decision shall be filed with the City Clerk not more than 15 days following the Commission's decision, and a copy of the decision shall be sent to the applicant by certified mail, return receipt requested. (Added by Ord. 93-16, 11/23/93)

9.67.070 Effective Date.

A decision by the Planning Commission granting or denying a Variance shall become effective immediately, subject to the appeal procedures set forth in Section 9.61.110. (Added by Ord. 93-16, 11/23/93)

9.67.080 Continuing Validity.

A Variance that is valid and in effect and granted pursuant to the provisions of this Code shall run with the land and shall continue to be valid upon change of ownership of the land or any lawfully existing building or structure on the land. (Added by Ord. 93-16, 11/23/93)

9.67.090 Performance of Imposed Conditions.

Whenever a Variance is granted or modified and is subject to one or more conditions, the Commission may require that the applicant to whom the Variance was granted file with the City a surety bond, a corporate surety bond, a deposit of money, savings and loan certificates, or other surety in an amount prescribed for the purpose of guaranteeing the faithful performance of the conditions. Any such deposits or guarantees shall be subject to and in compliance with the provisions and conditions of the Municipal Code of the City. (Added by Ord. 93-16, 11/23/93)

9.67.100 Expiration and Extension of a Variance.

The expiration and extensions of any Variance shall be in accordance with the limitations and procedures specified in Section 9.61.130. The approval of a variance recognizes limiting physical, geographic or environmental conditions which are typically permanent. Consequently, once a application for a Variance is approved, there shall be no expiration date and no extension is needed. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.67.110 Termination of a Variance.

A Variance shall be subject to revocation or modification as described in Section 9.61.120. (Added by Ord. 93-16, 11/23/93)

9.67.120 Maintenance of a Nuisance Prohibited.

Neither the provisions of this Code nor the granting of any Variance authorizes or legalizes the maintenance of a nuisance, either public or private. (Added by Ord. 93-16, 11/23/93)

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Chapter 9.69

COASTAL DEVELOPMENT PERMIT

Sections:

- 9.69.010 Intent and Purpose.**
- 9.69.020 Coastal Development Permit Required.**
- 9.69.030 Authority to Grant Permit.**
- 9.69.040 Exemptions.**
- 9.69.050 Application for Coastal Development Permit**
- 9.69.060 Notice and Public Hearing.**
- 9.69.070 Basis for Action on Coastal Development Permit Applications.**
- 9.69.080 Decision by the Director of Community Development or Planning Commission.**
- 9.69.090 Appeals to the Coastal Commission.**
- 9.69.100 Notice of Final Action to Coastal Commission.**
- 9.69.110 Administrative Coastal Development Permit.**
- 9.69.120 Expiration of Coastal Development Permits.**
- 9.69.130 Amendments to Coastal Development Permits.**
- 9.69.140 Extension of Time.**
- 9.69.150 Emergency Permits.**
- 9.69.160 De Minimis Project Waivers from Coastal Development Permit Requirements.**
- 9.69.170 Enforcement**
- 9.69.180 Format and Content of Coastal Development Permits.**

9.69.010 Intent and Purpose.

The intent and purpose of this Chapter is to establish procedures for the processing of Coastal Development Permits within the City's Coastal Zone, consistent with the City's certified Local Coastal Program and pursuant to Division 20 of the Public Resources Code and Division 5.5 of Title 14 of the California Code of Regulations (commencing with Section 13001).

The procedures established by this Chapter shall govern the issuance of coastal development permits by the City of Dana Point pursuant to Section 30600 of the Coastal Act.

The procedures described in this Chapter shall take precedence over other Chapters of the Zoning Code in the coastal zone, except in those areas regulated by the Dana Point Specific Plan/Local Coastal Program. The existing certified Dana Point Specific Plan/Local Coastal Program remains in effect in those areas covered by the Dana Point Specific Plan/Local Coastal Program for local coastal program purposes. The procedures in this Chapter shall be applied in a manner which is most protective of coastal resources and public access. (Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

9.69.020 Coastal Development Permit Required.

A Coastal Development Permit shall be required for all development, as defined in Section 9.75.040, located within the Coastal Overlay District, except for development specifically exempted pursuant to Section 9.69.040. Coastal Development Permits may be required for development which does not require any other approvals, discretionary or otherwise, from the City. A Coastal Development Permit shall also be required for any proposed development in the area of "Coastal Commission Permit Jurisdiction" as delineated on the Dana Point Local Coastal Program Post Certification Permit and Appeal Jurisdiction Map, filed with the City, or as subsequently amended, in which case the coastal development permit shall be obtained directly from the California Coastal Commission. (Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.69.030 Authority to Grant Permit.

All development undertaken after November 8, 1972, within the coastal zone as defined in the Coastal Initiative of 1972, or after January 1, 1977, within the coastal zone as defined by the Coastal Act of 1976, shall have a valid coastal development permit issued by the California Coastal Commission or by the City pursuant to provisions of the certified Local Coastal Program. (Coastal Act/30600(a)).

- (a) The Director of Community Development shall have the authority to approve, conditionally approve, or deny coastal development permits without a public hearing for the following types of administrative coastal development permit applications for development not located in uncertified areas or in the "Coastal Commission Permit Jurisdiction" area (Pursuant to Section 30519 of the Coastal Act and Section 9.69.030(c) of this Zoning Code) or in the appeals area (Pursuant to Section 30603(a) of the Coastal Act and as defined in Section of this Zoning Code):
- (1) Applications or a modification to an application for individual single family residences which are not located within the appeals area of the Coastal Overlay District.
 - (2) Applications or a modification to an application for improvements to existing structures which are not located within the appeals areas of the Coastal Overlay District.
 - (3) Applications for any development, not located within the appeals area of the Coastal Overlay District, which is not a division of land and is specifically authorized as a principal permitted use in the certified local coastal program and does not require a conditional use permit, site development permit, variance, or any other discretionary permit.
 - (4) Applications for any other development not in excess of one hundred thousand dollars (\$100,000).

All decisions of the Director of Community Development are subject to appeal, as described in Section 9.69.090, to the Planning Commission within ten (10) days of the decision. The Director of Community Development may refer any

application for a Coastal Development Permit to the Planning Commission for consideration.

- (5) Notwithstanding the specific uses listed in Sections 9.69.030(a)(1) through 9.69.030(a)(4) above, administrative coastal development permits shall not be processed for any of the following types of development, which shall instead be processed through the regular coastal development permit process as specified in this Chapter:
 - (A) Any division of land, including but not limited to subdivision pursuant to the Subdivision Map Act, lots splits and lot-line adjustments.
 - (B) Any development involving a structure or similar integrated physical construction which lies partly inside and partly outside the Coastal Commission's appeal area.
 - (C) Any development involving a structure or similar integrated physical construction which lies partly inside and partly outside the Coastal Commission's area of retained permit jurisdiction.

The Director of Community Development shall process applications for administrative coastal development permits in accordance with the procedures set forth in Section 9.69.110 of this Zoning Code. If the Director of Community Development receives an application for an administrative coastal development permit, and if the Director of Community Development finds that the application does not qualify as such within the criteria established in Sections 9.69.030(a)(1) through 9.69.030(a)(4) above, she or he shall notify the applicant that the permit application cannot be processed administratively and must comply with the procedures for regular coastal development permits provided in this Chapter. The Director of Community Development, with the concurrence of the applicant, may accept the application for filing as a regular coastal development permit and shall adjust the application fees accordingly.

- (b) The Planning Commission shall have the authority to approve, conditionally approve, or deny Coastal Development Permits for the following types of coastal development permit applications not located in uncertified areas or in the "Coastal Commission Permit Jurisdiction" area.
 - (1) Applications or a modification to an application for an individual single family residence located within the appeals area of the Coastal Overlay District.
 - (2) Applications or a modification to an application for more than one single family residence or multiple family residences located within the Coastal Overlay District
 - (3) Applications or a modification to an application for non-residential structures located within the Coastal Overlay District which do not fall into one of the classes of development specified in Sections 9.69.030(a)(1) through 9.69.030(a)(4) above.

All decisions of the Planning Commission are subject to appeal, as described in Section 9.69.090, to the City Council within ten (10) days of the decision. The Planning Commission may refer any application for a Coastal Development Permit to the City Council for a final decision.

- (c) The Coastal Commission retains the authority to approve, conditionally approve, or deny Coastal Development Permits for development proposed in uncertified areas of the City of Dana Point, and in the “Coastal Commission Permit Jurisdiction” area delineated on the Dana Point Local Coastal Program Post Certification Permit and Appeal Jurisdiction Map prepared by the Coastal Commission and a copy of which is filed with the City, or as subsequently amended. The areas of Coastal Commission Permit Jurisdiction includes all tidelands, submerged lands, and public trust lands, whether filled or unfilled within the coastal zone. (Coastal Act/30519(b)).

However, coastal development permit authority has been delegated to the City for certain public trust lands that have been determined by the Coastal Commission to be filled and developed and which are located within an area which is committed to urban uses. Coastal development permits issued by the City in these areas are appealable to the Coastal Commission. (Coastal Act/30613(a)).

- (1) Where a proposed development lies partially within the area of “Coastal Commission Permit Jurisdiction” and partially within the Coastal Overlay District, and the development is physically integrated, the Coastal Commission shall be the responsible agency for the issuance of any Coastal Development Permit for the entire development. That portion of the development that lies within the Coastal Overlay District shall be deemed to be within an area of deferred certification and the Commission shall approve a coastal development permit if the entire development is consistent with the policies of Chapter 3 of the Coastal Act. In addition, the Coastal Commission has the authority to approve, conditionally approve, or deny coastal development permits for developments approved by the City but which have been appealed to the Coastal Commission consistent with the requirements of this Zoning Code. Where an appealed development is a physically integrated development that lies both within and without the appeals area shown on the Post Certification Permit and Appeal Jurisdiction Map, the Coastal Commission shall have the authority to act on the entire development on appeal. (Coastal Act/30519, 30603).
- (2) The following shall apply to all proposed development in the uncertified Laguna Niguel/Monarch Beach segment of the City of Dana Point for which approval of a coastal development permit application is pending at the time of certification of this Local Coastal Program:
 - (A) Applications Pending before the California Coastal Commission.
 - 1. Any coastal development permit application for development in an uncertified area that was submitted to the Coastal Commission prior to effective certification of a Local Coastal Program and is

not filed complete as of the date of effective certification shall be withdrawn and resubmitted to the City. The standard of review for such application shall be the requirements of the certified Local Coastal Program and, for development between the sea and the first public road paralleling the sea, the Chapter 3 public access and recreation policies of the Coastal Act. Any application fee paid to the Coastal Commission shall be refunded to the applicant.

2. Any coastal development permit application for proposed development within the currently uncertified areas of the City which the City preliminarily approved before effective certification of the Local Coastal Program and for which an application has been filed complete with the Coastal Commission may, at the option of the applicant, remain with the Coastal Commission for completion of review and action. Coastal Commission review of any such application shall be based solely upon the requirements of this certified Local Coastal Program and, for development between the sea and the first public road paralleling the sea, the Chapter 3 public access and recreation policies of the Coastal Act. Alternatively, the applicant may resubmit the proposal to the City through an application for a coastal development permit pursuant to the requirements of this certified Local Coastal Program. The standard of review for such application shall be the requirements of this certified Local Coastal Program and, for development between the sea and the first public road paralleling the sea, the Chapter 3 public access and recreation policies of the Coastal Act. Under this option, any application fee paid to the Coastal Commission shall be refunded to the applicant. (Coastal Act/30501, (14 Cal. Code of Regulations/13546).

- (B) Applications Pending before the City of Dana Point. The standard of review for any coastal development permit application pending before the City of Dana Point for proposed development located within the certified areas of the City shall be the requirements of the certified Local Coastal Program. The requirements contained in an amendment to the certified Local Coastal Program shall not be effective in the certified area until the amendment has been effectively certified by the Coastal Commission.

(3) Prior Coastal Commission Approval.

- (A) In the case of a coastal development permit which was approved by the Coastal Commission, whether or not it has been vested prior to the date of effective certification of the Local Coastal Program, a separate coastal development permit from the City for the same development shall not be required except that:

1. No material change may be made in any such development previously approved by the Coastal Commission without Coastal Commission approval of an amendment to the Coastal Commission's coastal development permit; and
 2. If the coastal development permit approved by the Coastal Commission expires, a new coastal development permit for the same development shall be obtained from the City.
- (B) Development authorized by a coastal development permit issued by the Coastal Commission either prior to effective certification of a Local Coastal Program or on appeal after certification remains under the jurisdiction of the Coastal Commission for the purposes of condition compliance, amendment, extension, reconsideration and revocation.
- (C) Ritz Cove. The Coastal Commission approved Coastal Development Permit 5-85-94 for the subdivision of 101 residential lots, and the construction of a home on each of those lots, provided the homes are constructed in accordance with the adopted codes, covenants, and restrictions. Therefore, separate coastal development permits are not required for the construction of each of the individual 101 homes, since the construction of the homes is already approved under Coastal Development Permit 5-85-94.
- (D) Coastal Development Permit P-79-5539. Development authorized by Coastal Development Permit P-79-5539, including both development approved on condition that an additional coastal development permit be obtained, and development approved on condition of the submission of additional plans for the review and approval of the Executive Director of the Coastal Commission, remains under the jurisdiction of the Coastal Commission for purposes of condition compliance and amendment. Condition compliance includes both obtaining a coastal development permit from the Coastal Commission for development that was approved on condition that a separate coastal development permit be approved, and obtaining approval from the Executive Director of the Coastal Commission for plans for development that was approved on condition of the submission of final plans. Coastal development permits, or approval of plans by the Executive Director of the Coastal Commission, for development authorized by Coastal Development Permit P-79-5539 shall be obtained from the California Coastal Commission.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 95-11, 6/13/95; Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

9.69.040 Exemptions.

The types of development listed below are exempt from the requirement to obtain a Coastal Development Permit. A current record of all projects which are exempt from Coastal

Development Permits shall be available for review by the public and shall be sent to the Coastal Commission and shall include the following information: name of applicant, location of the project, and brief description of the project.

- (a) Development projects included in any categorical exclusion list adopted pursuant to Sections 30610(e) and 30610.5 of the Public Resources Code and Subchapter 5 of Title 14 of the California Code of Regulations (Sections 13240 et. seq.) after certification of the Local Coastal Program.
- (b) Improvements to an existing structure which do not changed the use of the structure are exempt, except the types of improvements listed below, which are not exempt:

For purposes of this subsection, structures on the property normally associated with a single-family residence, such as garages, swimming pools, fences, and storage sheds, but not including guest houses or self-contained residential units, shall be considered part of an existing single-family residence. Further, for purposes of this subsection, landscaping on the lot, and all structures directly attached to the structure being subjected to improvements, shall be considered part of the subject structure, whether the existing structure is residential or not.

- (1) Improvements to any structure located on a beach, wetland, or seaward of the mean high tide line or where the structure or proposed improvement would encroach within fifty (50) feet of the edge of a coastal bluff as described in Chapters 9.27 and 9.75.
- (2) Improvements to any structure located between the sea and the first public road paralleling the sea or within three hundred (300) feet of the inland extent of a beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, or within significant scenic resources areas as designated by the certified Local Coastal Program or the Coastal Commission when such improvements would constitute or result in any of the following:
 - (A) An increase of ten percent (10%) or more of the internal floor area of the structure;
 - (B) An increase in the floor area in any amount when improvements to the structure have previously been exempted in compliance with this subsection;
 - (C) The construction of an additional story or a loft or any increase in height of more than ten (10) percent of the existing height of the structure (for single-family residential improvements, increases in the height of significant non-attached structures such as garages, fences, shoreline protective devices or docks are subject to this provision also);
 - (D) The construction, placement, or establishment of any detached structure; or
 - (E) The demolition of more than 50 percent of the exterior walls of an existing structure.

- (3) Any significant alteration of land forms including removal or placement of vegetation in the following areas; on a beach, wetland, or sand dune; in an area of natural vegetation designated by the City of Dana Point by resolution as significant natural habitat; within one hundred (100) feet or, for a single family dwelling, within fifty (50) feet of the edge of a coastal bluff, as described in Chapter 9.27; or, for structures other than single-family residences, within one hundred (100) feet of streams.
- (4) Expansion or construction of a water well or septic system.
- (5) Improvements in an area which the Coastal Commission has determined to have critically short water supply that must be maintained for the protection of coastal resources or public recreational use, when such improvement would be a major water using development (not essential to residential use if for a single-family or multiple-family residence) including, but not limited to, swimming pools or the construction or extension of landscape irrigation systems.
- (6) Any improvement when the Coastal Development Permit issued for the original structure indicated that future additions/improvements would require a Coastal Development Permit.
- (7) Improvements to any structure or change in occupancy which would result in a change in the intensity of the uses on the building site.
- (8) Improvements pursuant to a conversion of existing structures (other than single-family residences and their associated structures) from a multiple unit rental use or visitor serving commercial use to a condominium, stock cooperative, or time share project
- (9) Improvements made to a public works facility. (Coastal Act/30333, 30610(a) and 30610(b); 14 Cal. Code of Regulations/13250 and 13253).

The improvements listed above which are not exempt require a the coastal development permit in accordance with the requirements of this Chapter.

- (c) Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers, or to a disposal facility, area or site within the Coastal Zone for which an approved coastal development permit has been issued or for which a federal consistency determination has been approved by the Coastal Commission. However, Section 9.69.040(d)(2) of this Zoning Code below specifies certain types of dredging which are not exempt (Coastal Act/30333; 30610(c)).
- (d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of such repair or maintenance activities, except the following types of development which are not exempt:

- (1) Repair or maintenance of a seawall, revetment, bluff retaining wall, breakwater, groin, culvert, outfall or similar shoreline work which involves one or more of the following;
- (2) The placement, whether temporary or permanent, of rip rap, or artificial berms of sand, or any other form of solid material, on a beach or in coastal waters, streams, wetlands, estuaries, or on shoreline protective works.
- (3) The replacement of twenty (20) percent or more of the materials of an existing structure with materials of a different kind.
- (4) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area or bluff or within twenty (20) feet of coastal waters or streams.
- (5) Any method of routine maintenance dredging that involves;
 - (A) The dredging of one hundred thousand (100,000) cubic yards or more within a twelve (12) month period;
 - (B) The placement of dredged spoils of any quantity on any sand area, within fifty (50) feet of the edge of a coastal bluff as described in Chapter 9.27, within an environmentally sensitive habitat area, or within twenty (20) feet of coastal waters or streams;
 - (C) The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the Coastal Commission has declared by Resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use. (Coastal Act/30610(d); 14 Cal. Code of Regulations/13252(a)(2))
- (6) Any repair or maintenance to facilities or structures or work located in any sand area, within fifty (50) feet of the edge of a coastal bluff as described in Chapter 9.27, within fifty (50) feet of or in an environmentally sensitive habitat area; or within twenty (20) feet of any coastal waters or streams that include:
 - (A) The placement or removal, whether temporary or permanent, of riprap, rocks, sand or other beach materials or any other forms of solid materials;
 - (B) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sandy area.
- (7) Unless destroyed by natural disaster, the replacement of fifty (50) percent or more of a seawall, revetment, bluff retaining wall, breakwater, groin or similar protective work under one ownership is not repair and maintenance according to this subsection but instead constitutes a replacement structure requiring a coastal development permit (Coastal Act/30610(d); 14 Cal Code of Regulations/13252).

- (e) The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this Chapter. (Coastal Act/30610(f)).
- (f) The replacement of any structure, other than a public works facility, destroyed by natural disaster, provided such replacement structure conforms to applicable current zoning regulations; is designed and intended for the same use as the destroyed structure; does not exceed the floor area, height or bulk of the destroyed structure by more than ten (10) percent; and is sited in the same location on the same building site as the destroyed structure. As used in this subsection:
 - (1) “Disaster” means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.
 - (2) “Bulk” means total interior cubic volume as measured from the exterior surface of the structure.
 - (3) “Structure” includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster. (Coastal Act/30610(g)).
- (g) Notwithstanding the above provisions, the Director of Community Development shall have the discretion to exempt the ongoing routine repair and maintenance activities of local governments, state agencies, and public utilities (such as railroads) involving shoreline works protecting transportation roadways, as well as the activities described in the “Repair, Maintenance, and Utility Hook-Up Exclusion from Permit Requirements” adopted by the Coastal Commission on September 5, 1978. (Coastal Act/30610(d); 14 Cal. Code of Regulations/13252(c)).
- (h) Interior modifications to an existing structure that do not result in the enlargement or expansion of the cubic area of the structure, except that a change in the intensity or density of use of the structure, or the reconstruction of fifty (50) percent or more of the exterior walls of the existing structure, is not exempt. Such modifications shall comply with the applicable sections of Chapter 8.06 of the Zoning Code and of this Chapter 9.69.
- (i) Notwithstanding the provisions of Chapter 9.39 “Temporary Uses,” temporary events consistent with guidelines adopted by the Coastal Commission may be exempt from coastal development permit requirements.
- (j) A coastal development permit is not required for any of the following projects, except that notification by the agency or public utility performing any of the following projects shall be made to the City within 14 days from the date of the commencement of the project:
 - (1) Immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has

been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

- (2) Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. This paragraph does not exempt any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide from the requirement to obtain a coastal development permit from the City.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 96-10, 8/13/96; Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

9.69.050 Application for Coastal Development Permit.

For all development proposed to be located within the Coastal Zone or Coastal Overlay District, an application for a Coastal Development Permit shall be made to the Director of Community Development in accordance with the following procedures, except in those areas designated as "Coastal Commission Permit Jurisdiction" in which case an application shall be made to the California Coastal Commission or its successor agency.

- (a) The application shall be made by the property owner of record, the owner's authorized agent, or any person with a legal right, interest or other entitlement to use the property for the proposed development or said person's authorized agent. A signed affidavit from the property owner of record may serve as proof of the legal right to use property for a proposed development. Prior to the issuance of a building permit, the applicant shall demonstrate the legal ability to comply with all conditions of approval of the coastal development permit. (Coastal Act/30601.5).
- (b) Application for a Coastal Development Permit shall be made on forms provided by the Community Development Department, and shall include, at a minimum, the following information:
 - (1) A location map showing the area to be developed in relation to nearby lots, streets, highways, any major natural features such as the ocean, beaches, wetlands, streams, and other major landforms.
 - (2) A site plan, drawn to scale, which is in sufficient detail to illustrate the compliance of the project with the certified Local Coastal Plan. The site plan shall, at a minimum, provide the following information:
 - (A) Site topography, including existing and proposed elevations.

- (B) The location of existing and proposed buildings and structures.
 - (C) The lot lines and dimensions of the building site.
 - (D) The location of existing and proposed circulation facilities, including streets, alleys and pedestrian accessways.
 - (E) The height, material and location of existing and proposed walls.
 - (F) Existing and proposed off-street parking.
 - (G) Tabulations of lot area, proposed gross floor area and proposed lot coverage.
- (3) Where the application includes proposed construction, the application shall also include the submittal of the following additional information:
- (A) Building elevations with dimensions to indicate the proposed finished floor levels and building height.
 - (B) Proposed building setbacks.
 - (C) A landscape plan.
 - (D) Site Development Permit application and certifications for properties located in a Floodplain Zone.
- (4) Where the application includes proposed demolition, the application shall also include the submittal of the following:
- (A) A description of the existing structure(s), including but not limited to building height, enclosed and non-enclosed floor area, number of stories, and number of parking spaces.
 - (B) Building plans of the existing structure(s), if available.
- (5) A dated signature by or on behalf of each of the applicants, attesting to the truth, completeness and accuracy of the contents of the application and, if the signer of the application is not the applicant, written evidence that the signer is authorized to act as the applicant's representative and to bind the applicant in all matters concerning the application.
- (6) A declaration signed by the applicant certifying that the applicant has posted a notice of the coastal development permit application in accordance with Section 9.69.090(a), and that the applicant will make a good faith effort to maintain, and replace if necessary, the posting until the application has been acted on by the City.
- (7) The following additional, current information (which may be in both written and graphic form), specific to the subject site, shall be required if applicable. In

addition, plans to mitigate adverse impacts, plans to monitor the mitigation, and an alternatives analysis shall be required where applicable.

- (A) For sites adjacent to, containing, or potentially containing wetland resources and/or environmentally sensitive habitat areas, a wetlands determination, biological assessment shall be required. Evaluations of the proposed development's impact on the wetland resources shall be sought from appropriate state and federal resources agencies, including but not limited to the California Department of Fish and Game, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service.
- (B) For sites adjacent to, containing or potentially containing cultural resources, an archaeological and/or paleontological survey prepared by a licensed archaeologist/paleontologist shall be required.
- (C) For sites adjacent to, containing or potentially containing areas of geologic instability, a geotechnical report prepared by a licensed geologic engineer shall be required.
- (D) For proposed shoreline protective devices, a study on the effects to shoreline sand supply resulting from the device, impacts to public access/recreation and sensitive habitat, effects on adjacent properties, and justification of the necessity for the proposed device, monitoring plans, and the factors described in Section 9.27.030(a)(5)(B)2. of this Zoning Code, prepared by a licensed coastal engineer shall be required.
- (E) For proposed development which would provide less parking than required in Chapter 9.35 of this Zoning Code, either a joint use parking plan prepared pursuant to Section 9.35.060(c)(3) or a shared parking program prepared pursuant to Section 9.35.060(c)(4) of this Zoning Code.
- (F) For proposed development which would result in significant adverse impacts to public views, a visual impact study prepared pursuant to the requirements of the Urban Design Element of the General Plan.
- (G) For proposed development which would result in water quality impacts, a plan shall be submitted to meet state and federal requirements regarding water quality. Such a plan should include, at a minimum, the following: structural and non-structural "best management practices", stormwater pollution prevention plans, drainage plans, and direction of runoff to the sewer system where possible rather than into storm drains which ultimately empty into rivers or the ocean.
- (H) A plan to mitigate any unavoidable significant adverse impacts to any of the above coastal resources which reasonably would be known to result from the proposed development shall be submitted.

- (8) A written description of the proposed development including any feasible alternatives or any feasible mitigation measures available which would substantially lessen any significant adverse impact which the development may have on the environment Any approved documents prepared pursuant to the California Environmental Quality Act (commencing with Section 21000 of the Public Resources Code as amended) shall be submitted. Additional environmental impact analysis may be required to make the necessary findings required by the certified Local Coastal Program. For purposes of this subsection, the term “significant adverse impact on the environment” shall be defined as contained in the California Environmental Quality Act and the Guidelines adopted pursuant thereto.
 - (9) Any additional information determined by the Director of Community Development to be necessary for evaluation of the proposed development.
 - (10) The application form shall also provide notice to applicants that failure to provide truthful and accurate information necessary to review the permit application or to provide public notice as required by these regulations may result in a delay in processing the application or may constitute grounds for revocation of the coastal development permit. (Coastal Act/30333; 14 Cal. Code of Regulations/13053.5, 13054(b)).
- (c) Prior to, or concurrently with the filing of the application, the applicant shall pay to the City a fee or deposit equal to the estimated cost of processing said application. The fee or deposit may be adjusted periodically by the City Council by resolution.
 - (d) Determination of Class of Development/Appeal Jurisdiction.
 - (1) At the time an application for a proposed development in the coastal zone is submitted, the Director of Community Development (or his/her designee) shall determine and inform the applicant that the proposed development is one of the following:
 - (A) Within the area of “Coastal Commission Permit Jurisdiction” and thus the applicant must obtain a coastal development permit directly from the Coastal Commission;
 - (B) Appealable to the Coastal Commission pursuant to Section 9.61.100(d)(2) and requires a coastal development permit from the City;
 - (C) Not appealable to the Coastal Commission pursuant to Section 9.61.100(d)(2) and requires a coastal development permit from the City;
 - (D) Exempt or categorically excluded and does not require a coastal development permit pursuant to Section 9.69.040 of this Zoning Code.
 - (2) The determination that a proposed development is exempt, categorically excluded, non-appealable or appealable shall be based on the certified Local Coastal

Program, including any maps, categorical exclusions, land use designations, and zoning ordinances which are adopted as part of the certified Local Coastal Program.

- (3) Where an applicant, interested person, or the City of Dana Point has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is exempt, categorically excluded, non-appealable, or appealable:
 - (A) The Director of Community Development shall make the determination as to what type of development is being proposed (Le. exempt, categorically excluded, non-appealable, or appealable) and shall inform the applicant of the notice and hearing requirements for that particular development.
 - (B) If the determination of the Director of Community Development is challenged by the applicant or an interested person, or if the City of Dana Point wishes to have a Coastal Commission determination as to the appropriate designation, the City shall notify the Coastal Commission by telephone of the dispute/question and shall request an Executive Director's opinion;
 - (C) The Executive Director shall, within two (2) working days of receipt of the City's request (or upon completion of a site inspection where such inspection is warranted), transmit his or her determination as to whether the development is categorically excluded, non-appealable or appealable;
 - (D) If the Executive Director's determination is not in accordance with the determination of the Director of Community Development, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation for the development. The Coastal Commission shall schedule the hearing on the determination for the next Coastal Commission meeting in Southern California following the Executive Director's determination. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13569).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.69.060 Notice and Public Hearing.

For coastal development permit applications requiring a public hearing, the Planning Commission, City Council on appeal, other approving body as may be specified pursuant to Section 9.69.030, or Director of Community Development shall conduct a noticed public hearing in accordance with the provisions of Section 9.61.050. If any of the notice and public hearing requirements of Section 9.69.060 conflict with the requirements of Section 9.61.050, the requirements of Section 9.69.060 shall take precedence for purposes of coastal development permit applications.

- (a) Posting of Site. At the time the application is submitted for filing, the applicant must post, at a conspicuous place, easily read by the public and as close as possible to the site

of the proposed development, notice that an application for a permit for the proposed development has been submitted to the City of Dana Point. Such notice shall contain a general description of the nature of the proposed development. The City shall furnish the applicant with a standardize form to be used for such posting. If the applicant fails to submit a signed declaration of posting as required by Section 9.69.050(6), the City shall refuse to file the application.

- (b) **Conduct of Public Hearing.** Public hearings on coastal development permits shall be conducted in accordance with the provisions of Section 9.61.050; provided that interested persons are given a reasonable opportunity to appear before and present their viewpoints to the approving authority holding the public hearing, either orally or in writing. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13566).
- (c) **Notice of City Action when Hearing Continued.** If a decision on a development permit is continued by the local government to a time which is neither previously stated in the notice provided pursuant to Section 9.61.050 of this Zoning Code, nor announced at the public hearing as being continued to a time certain, the City of Dana Point shall provide notice of the further hearings (or action on the proposed development) in the same manner, and within the same time limits, as established within Section 9.61.050 of this Zoning Code. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13567).
- (d) A public hearing is not required for the coastal development permits issued by the Director of Community Development pursuant to Section 9.69.030(a).
- (e) **Waiver of Public Hearing Requirements.**
 - (1) The requirement for a public hearing on a coastal development permit application for “minor development” as defined in Section 9.69.060(e)(2) below, may be waived only if both of the following occur. A Notice of intent to waive the public hearing requirement containing the information identified below in Section 9.69.060(e)(3) is provided to all persons who would otherwise be required to be notified of a public hearing pursuant to Section 9.61.50 and 9.69.060 of this Zoning Code as well as any other persons known to be interested in receiving such notice. For purposes of this section only, “any person” means anyone, whether a neighbor or not.
 - (A) No written request for a public hearing on the coastal development permit application in question is received by the Director of Community Development within fifteen (15) working days from the date of sending the notice pursuant to Section 9.69.060(e)(1)(A) above.
 - (2) For purposes of this section only, “minor development” means a development which both meets the definition of “development” as defined in Section 9.75.040 of this Zoning Code and which the Director of Community Development determines satisfies all of the following requirements:
 - (A) Is consistent with the certified local coastal program as defined in Chapter 9.75 of this Zoning Code, including but not limited to the land use

designation for the site and all applicable land use plan resource protection policies and related implementing Zoning Code provisions and standards;

- (B) Requires no discretionary approvals other than a coastal development permit; and
 - (C) Has no adverse effect either individually or cumulatively (as “cumulatively” is defined in Section 9.75.030 of this Zoning Code) on coastal resources or public access to the shoreline or along the coast.
- (3) Content of Notice for Waiver of Public Hearing Requirements. The notice of intent to waive public hearing requirements for a coastal development permit pursuant to this section shall include, at a minimum, the following:
- (A) The date of the notice.
 - (B) An indication that the coastal development permit either is or is not appealable to the Coastal Commission pursuant to Section 9.69.090 of this Zoning Code.
 - (C) The last date, which shall be no less than fifteen (15) working days from the date of the notice, to submit a written request for a public hearing.
 - (D) The date the coastal development permit may be granted after the fifteen (15) working day notice period, if a public hearing is not requested in writing within the fifteen (15) working day notice period.
 - (E) The last date to submit written comments other than a request for a public hearing.
 - (F) A statement that failure by a person to request a public hearing may result in the loss of that person’s ability to appeal to the Coastal Commission any action taken by the Planning Commission on a coastal development permit application which is appealable to the Coastal Commission.
 - (G) All other information required in a hearing notice pursuant to Section 9.61.050 of this Zoning Code.
- (4) If a written request for a public hearing on the subject coastal development permit application is received during the fifteen (15) working day notice period, a noticed public hearing pursuant to Chapters 9.61 and 9.69 of this Zoning Code shall be conducted.
- (5) All findings required pursuant to Section 9.69.050 of this Zoning Code shall be made for any coastal development permit application approved through Section 9.69.060(e).

- (6) A Notice of Final Action pursuant to Section 9.69.100 of this Zoning Code shall be distributed for any coastal development permit application approved through Section 9.69.060(d). (Coastal Act/30624.9).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.69.070 Basis for Action on Coastal Development Permit Applications.

Approval, conditional approval, or denial of any Coastal Development Permit by the City of Dana Point or the Coastal Commission on appeal shall be based upon compliance with the provisions of the certified Dana Point Local Coastal Program and, for development between the sea and the first public road paralleling the sea, the public access and recreation policies of Chapter 3 of the Coastal Act.

- (a) Approvals of Coastal Development Permits. In order for a Coastal Development Permit to be approved, all the following findings must be made, in writing, in addition to the findings required to approve other applications being considered concurrently:
 - (1) That the proposed development is in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code. (Coastal Act/30333, 30604(b); 14 Cal. Code of Regulations/13096).
 - (2) That the proposed development, if located between the nearest public roadway and the sea or shoreline of any body of water, is in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act. (Coastal Act/30333, 30604(c); 14 Cal. Code of Regulations/13096).
 - (3) That the proposed development conforms with Public Resources Code Section 21000 and following and that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment. (Coastal Act/30333; 14 Cal. Code of Regulations/13096).
- (b) Denials of Coastal Development Permits. In order for a Coastal Development Permit to be denied, all the following findings must be made, in writing, in addition to the findings required to deny other applications being considered concurrently:
 - (1) That the proposed development is not in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code. (Coastal Act/30333, 30604(b); 14 Cal. Code of Regulations/13096).
 - (2) That the proposed development, if located between the nearest public roadway and the sea or shoreline of any body of water, is not in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act (Coastal Act/30333, 30604(c); 14 Cal. Code of Regulations/13096).
- (c) Additional findings for public access are found in Section 9.27.030(a) of the Zoning Code.

- (d) That the proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources.
- (e) That the proposed development will minimize the alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards.
- (f) That the proposed development will be visually compatible with the character of surrounding areas, and, where feasible, will restore and enhance visual quality in visually degraded areas.
- (g) That the proposed development will conform with the General Plan, Zoning Code, applicable Specific Plan, Local Coastal Program, or any other applicable adopted plans and programs.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.69.080 Decision by the Director of Community Development or Planning Commission.

- (a) A copy of the notice of decision shall be filed with the City Clerk. If the decision on a coastal development permit application by the Director of Community Development is not appealed to the Planning Commission, or the decision of the Planning Commission on a coastal development permit application is not appealed to the City Council, in accordance with the appeal provisions of Section 9.61.100(a), then a Notice of Final Action shall be sent to the Executive Director of the Coastal Commission and any person requesting such notice in accordance with the provisions of Section 9.69.100 of this Chapter.
- (b) In approving an application for a Coastal Development Permit or other authorization for development, the Director of Community Development or Planning Commission (or City Council on appeal) may impose any conditions necessary to enable the required findings of fact to be fairly made and/or to be sustained in their validity. Such conditions may include, but need not be limited to, provision for public access and open space or conservation easements and the relocation and/or redesign of proposed site improvements. When conditions requiring the recordation of legal documents are imposed, notification of such action shall be submitted to the Executive Director of the Coastal Commission in accordance with the following:
 - (1) A copy of the coastal development permit conditions, findings of approval, and drafts of any legal documents proposed to implement the required conditions pertaining to public access and open space or conservation easements shall be forwarded to the Executive Director of the Coastal Commission for review and approval of such legal documents prior to the issuance of the Coastal Development Permit.

The Executive Director shall have fifteen (15) working days from the receipt of the documents to review:

- (A) The legal adequacy of the document(s) to carry out the purposes of the permit conditions or certified land use plan;
 - (B) The uniform application of the documents) with other documents required throughout the coastal zone; and
 - (C) The document's consistency with the requirements of potential participating agencies.
- (2) The Coastal Development Permit shall be issued fifteen (15) working days after the date of receipt of such documents by the Executive Director of the Coastal Commission, unless the Executive Director has notified the Director of Community Development within the fifteen (15) working days that any such legal documents are inadequate.
- (3) If the Executive Director has notified the Director of Community Development that the legal documents are inadequate, the Coastal Development Permit shall not be issued until the Director of Community Development has been notified by the Executive Director in writing that the inadequacies have been resolved to the satisfaction of the Executive Director.
- (4) The Coastal Development Permit shall not be issued to the applicant until the required documents have been recorded and verification of such recordation has been sent to, and receipt acknowledged by, the Executive Director.
- (5) Alternatively, only in the case of public access dedications/easements or dedications/easements for open space/conservation areas, the Director of Community Development may request that the Coastal Commission delegate, to the Director of Community Development, the authority to process the recordation of the necessary legal documents, subject to the following:
- (A) The Director of Community Development identifies the City department, other public agency, or private or non-profit association that has the resources and authorization to accept, open, operate, and maintain the public accessways and/or open space/conservation areas required as a condition of approval of coastal development permits; and
 - (B) Upon completion of the recordation of the documents, the Director of Community Development shall forward a copy of the coastal development permit conditions and findings of approval and copies of the legal documents pertaining to the public access and open space/conservation conditions to the Executive Director of the Coastal Commission. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13574).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.69.090 Appeals to the Coastal Commission.

The final action by the City, as described in Section 9.69.100(a), on a coastal development permit which is appealable to the Commission as described in Section 9.69.090(b), may be appealed in accordance with the procedures described in this Section.

- (a) Exhaustion of Local Appeals. An appellant shall be deemed to have exhausted local appeals where the appellant has pursued his or her appeal to the Planning Commission and/or City Council, as described in the City of Dana Point appeal procedures in Sections 9.61.100(a) through (c) of this Zoning Code; except that exhaustion of all local appeals shall not be required if any of the following occur:
 - (1) The City of Dana Point requires an appellant to appeal to more local appellate bodies than have been certified as appellate bodies for permits in the Coastal Zone, in the implementation section of the local coastal program.
 - (2) An appellant was denied the right of the initial local appeal by a local ordinance which restricts the class of persons who may appeal a local decision.
 - (3) An appellant was denied the right of local appeal because local notice and hearing procedures for the development did not comply with the provisions of this Chapter.
 - (4) The City of Dana Point charges an appeal fee for the filing or processing of appeals. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13111).
- (b) A final action taken by the City of Dana Point on a coastal development permit application may be appealed to the Coastal Commission for only the types of development defined in Section 9.75.010 of the Zoning Code under “Appealable Development, Coastal”. (Coastal Act/30603(a)).
- (c) Grounds for appeal to the Coastal Commission.
 - (1) The grounds for an appeal of a coastal development permit approved by the City of Dana Point for a development listed in Section 9.69.090(b) above shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in Chapter Three of the Coastal Act (Coastal Act/30603(b)(1)).
 - (2) The grounds for any appeal of a coastal development permit denied by the City of Dana Point for a major public works facility or a major energy facility, as such facilities are defined in Section 9.75.130 of the Zoning Code, shall be limited to the allegation that the development conforms to the standards set forth in the certified local coastal program and the public access policies set forth in Chapter Three of the Coastal Act. (Coastal Act/30603(b)(2)).
- (d) Filing of an Appeal to the Coastal Commission.

- (1) An appellant may contact the Coastal Commission for the appropriate forms and instructions to file an appeal. An appeal must contain the following information:
 - (A) The name and address of the permit applicant and appellant;
 - (B) The date of the local government action;
 - (C) A description of the development;
 - (D) The name of the governing body having jurisdiction over the project area;
 - (E) The names and addresses of all persons who submitted written comments or who spoke and left his or her name at any public hearing on the project, where such information is available;
 - (F) The names and address of all other persons known by the appellant to have an interest in the matter on appeal;
 - (G) The specific grounds for appeal which shall be limited to those stated in Section 9.69.090(c);
 - (H) A statement of facts on which the appeal is based;
 - (I) A summary of the significant question raised by the appeal.
 - (2) The appeal must be received in the Coastal Commission district office with jurisdiction over the City of Dana Point before the close of business on the tenth (10th) working day after receipt of the Notice of Final Action (as described in Section 9.69.100 of this Chapter) by the Coastal Commission.
 - (3) The appellant shall notify the applicant, any persons known to be interested in the application, and the City of Dana Point of the filing of the appeal. Notification shall be by delivering a copy of the completed Notice of Appeal to the domiciled, office(s), or mailing address(es) of said parties. In any event, such notification shall be by such means as may reasonably advise said parties of the pendency of the appeal. Unwarranted failure to perform such notification may be grounds for dismissal of the appeal by the Coastal Commission. (Coastal Act/30333/30620.6; 14 Cal. Code of Regulations/13111).
- (e) Any final action by the City on a coastal development permit for development identified in Section 9.69.090(b) above shall become effective at the close of business on the tenth working day from the date of receipt by the Coastal Commission of the Notice of Final Action required in Section 9.69.100 of this Chapter below, unless an appeal is filed within that time, pursuant to Section 9.69.090(d)(2). (Coastal Act/30603(c)).

- (f) If an appeal of a final action on an appealable development is filed with the Coastal Commission, the operation and effect of that action shall be stayed pending a decision by the Coastal Commission on the appeal. (Coastal Act/30623).
- (g) **Persons Who May Appeal.** A decision of the Director of Community Development, Planning Commission or City Council on a Coastal Development Permit for development which is appealable to the Coastal Commission pursuant to Section 9.69.090(b) above, may be appealed to the Coastal Commission, after the exhaustion of all local appeals as provided for in Section 9.69.090(a) above, by the following persons:
 - (1) The applicant.
 - (2) Any “aggrieved person” as defined in Section 9.75.010 of this Zoning Code.
 - (3) Any two members of the Coastal Commission.

Where a project is appealed by any two (2) members of the Coastal Commission, there shall be no requirement of exhaustion of appeals to the Planning Commission or the City Council. In the event that the local appeal process was not exhausted, the Planning Commission or City Council, whichever would have been the next higher appellate body for the project in question, may adopt and transmit to the Coastal Commission a resolution requesting that it receive a copy of the Coastal Commissioner appeals. The Coastal Commissioners’ appeal may be suspended pending a decision on the merits of the project by the appropriate appellate body. If the decision of the subject appellate body modifies or reverses the decision of the lower approving authority, the Coastal Commissioners shall be required to file a new appeal from the decision of the Planning Commission or City Council. (Coastal Act 30333/30620; 14 Cal. Code of Regulations/13573).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.69.100 Notice of Final Action to Coastal Commission.

- (a) The City’s decision on the Coastal Development Permit application shall be considered final when both 1) all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified local coastal program and, where applicable, with the public access and recreation policies of Chapter Three of the Coastal Act; and 2) all rights to appeals before the Planning Commission and City Council, as described in Section ~~9.61.100~~ **9.61.110** of the Zoning Code, have been exhausted, or the fifteen (15) calendar day appeals period to the Planning Commission and City Council, as described in Section ~~9.61.100(b)~~ **9.61.110(b)** of the Zoning Code, expires without an appeal being filed. (Coastal Act/30333, 30620; 14 Cal Code of Regulations/13570).
- (b) Notice of Final City Action.

- (1) Within seven (7) calendar days of the final City action as described in Section 9.69.100(a) of this Section above, a notice of the final City action shall be sent by first class mail free of charge to:
 - (A) The Coastal Commission office having jurisdiction over the City of Dana Point; and
 - (B) To any person or group requesting notice of such action.
- (2) Contents of Notice:
 - (A) The notice shall contain the date on which the appeal period from the approving authority to the next local appellate body expired.
 - (B) The notice shall include all conditions of approval and written findings as described in Section 9.69.100(a) of this Section above. Section 9.69.110(e)(3)(C) below, or Section 9.69.160(c) below.
 - (C) For decisions on developments which are appealable to the Coastal Commission, the notice shall indicate that the City's final action is appealable to the Coastal Commission and shall include attached the procedures described in Section 9.69.090 for appeal of the City decision on the coastal development permit to the Coastal Commission. (Coastal Act/30333, 30620; 14. Cal Code of Regulations/13571 (a))
- (c) Failure to Act—Notice. A coastal development permit application is deemed approved by operation of law under Government Code Sections 65950 through 65957. The Director of Community Development shall, within seven (7) calendar days of such determination, notify the Coastal Commission and any persons or group entitled to receive notice pursuant to Section 9.61.050(a)(3) of this Zoning Code that the application has been approved by operation of law pursuant to Government Code Sections 65950-65957.1 and, if applicable, that the application may be appealed to the Coastal Commission pursuant to Section 9.69.090 of this Chapter. This section shall apply equally to a determination by the City that the development has been approved by operation of law and to a judicial determination that the development has been approved by operation of law. (Coastal Act/30333; 30620; 14. Cal Code of Regulations/13571(b)(2)).
- (d) Effective Date of City Action. The City's final action as described in Section 9.69.100(a) above shall not become effective if either of the following occur during the appeal period described in Section 9.69.090(e):
 - (1) An appeal is filed in accordance with Section 9.69.090 of this Zoning Code; or
 - (2) The notice of final City action does not meet the requirements of Section 9.69.100(b) above.

When either of the circumstances described in Section 9.69.100(d)(1) or 9.69.100(d)(2) above occur, the Executive Director of the Coastal Commission shall, within five (5) calendar days of receiving notice of that circumstance, notify the City that the operation and effect of the final City action has been stayed.

When the circumstance described in Section 9.69.100(d)(2) above occurs, the City shall then transmit a revised notice of final action which meets the requirements of Section 9.69.100(b) above. When the Coastal Commission office having jurisdiction over the City of Dana Point receives the revised notice of final action, and the Executive Director has determined that the revised notice of final action meets the requirements of Section 9.69.100(b) above, the appeal period shall commence. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13572)

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

9.69.110 Administrative Coastal Development Permit.

- (a) The Director of Community Development may, without a public hearing, process as an administrative permit any coastal development permit application for the classes of development identified in Section 9.69.030(a)(1) of this Chapter according to the procedures set forth in this section below.
- (b) Content of Application. The application requirements for an administrative coastal development permit are those set forth in Section 9.69.050 of this Chapter.
- (c) Notice.
 - (1) Notice shall be posted at the site of the proposed development in accordance with the procedures set forth in Section 9.69.060(a) of this Chapter. The City shall revoke the administrative coastal development permit pursuant to the procedures set forth in Section 9.69.160 of this Chapter if it determines that the administrative coastal development permit was granted without proper notice having been given, and that proper notice would have had the potential of altering the decision of the Director of Community Development to act differently in issuing said permit.
 - (2) Notice of administrative coastal development permits shall also be mailed by first class mail to the Coastal Commission and to persons known to be interested in the proposed development in accordance with the procedures set forth in Section 9.61.050 of this Zoning Code.
- (d) Action of Administrative Coastal Development Permits. The Director of Community Development may deny, approve, or conditionally approve applications for administrative coastal development permits on the same grounds as contained in Section 9.69.070 of this Chapter for a regular coastal development permit application and may include reasonable terms and conditions necessary to bring the project into consistency with the certified local coastal program. Administrative coastal development permits issued shall be governed by the procedures used in approving

regular coastal development permits pursuant to the provisions of this chapter relative to format, receipt, and acknowledgment of permit.

(e) Effective Date of Administrative Permit.

- (1) Any administrative coastal development permit issued by the Director of Community Development shall be reported in writing to the Planning Commission at their first regularly scheduled meeting after the permit is approved. The Director of Community Development shall prepare a report in writing with sufficient description of the work authorized by the administrative coastal development permit to allow the Planning Commission to understand the development to be undertaken. Such report shall be available at the meeting and mailed free of charge to all persons wishing to receive such notification at the time of the regular mailing of notice for the Planning Commission meeting and any person who requested to be on the mailing list for the project as described in Section 9.69.110(d) above.
- (2) If one-third or more of the full membership of the Planning Commission so request, the issuance of an administrative coastal development permit shall not become effective, but shall, if the applicant wishes to pursue the application, be treated as a regular coastal development permit application subject to all provisions of this Chapter.
- (3) A decision on an administrative coastal development permit shall not be deemed final and effective until all the following have occurred:
 - (A) The Director of Community Development has made a decision on the application;
 - (B) The Planning Commission review of the administrative coastal development permit is complete, and the Planning Commission did not object, as provided for in Section 9.69.110(e)(2) above, to the decision of the Director of Community Development;
 - (C) All required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified LCP; and
 - (D) When all rights of appeal under City ordinances, including Section 9.69.090 of this Chapter and Section 9.61.100 of this Zoning Code, have been exhausted.
 - (E) Notice of Final Action prepared in accordance with Section 9.69.100 of this Zoning Code has been received by the Coastal Commission.

(f) Amendment to Administrative Coastal Development Permits.

- (1) Amendments to administrative coastal development permits issued by the Director of Community Development may be approved by the Director of Community Development upon the same criteria and subject to the same reporting requirements and procedures, including public notice and appeals, as provided for the issuance of administrative coastal development permits in Sections 9.69.110(a) through 9.69.110(f) inclusive.
- (2) If any amendment would, in the opinion of the Director of Community Development, change the nature of the approved project, or change or delete a previously imposed condition of approval, so that it no longer meets the criteria established for treating the application as an administrative coastal development permit pursuant to Section 9.69.030(a), then the application shall thereafter be treated in the manner prescribed in Section 9.69.130 of this Chapter dealing with amendments to permits other than administrative coastal development permits. (Coastal Act/30624; 14 Cal. Code of Regulations/13165).

- (g) The Director of Community Development shall not approve amendments to administrative permits issued by the Executive Director of the Coastal Commission.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

9.69.120 Expiration of Coastal Development Permits.

Any Coastal Development Permit granted herein shall be conditioned upon the privileges being exercised within 24 months after the effective date thereof, except as otherwise provided within a phasing program contained in: 1) a development agreement entered into between the City and the owners of the subject property; 2) a specific plan applicable to the subject property; or 3) as otherwise provided by resolution approved by the City Council upon recommendation of the Planning Commission. Failure to exercise such permit within such period will automatically cause the coastal development permit to expire, unless an extension of time has been granted as set forth in Section 9.69.140. De Minimis Waivers issued pursuant to Section 9.69.200 of this Chapter have no expiration date, since they are not permits.

Construction must actually be commenced within the stated period and must be diligently pursued to completion.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.69.130 Amendments to Coastal Development Permits.

- (a) The Director of Community Development or the Planning Commission (or City Council on appeal), may grant an amendment to a valid Coastal Development Permit issued by the City if, after considering facts presented in the application, by interested parties, and at the hearing (if a hearing is held), the Director or Commission makes all the findings set forth in Section 9.69.070.
- (b) An application for an amendment to a Coastal Development Permit shall be in writing and shall include an adequate description of the proposed amendment, including but not

limited to maps or drawings where appropriate. The amendment application shall be filed by the owner of record of the property covered by the permit, the owner's agent, any person with a legal right, interest, or other entitlement to use the property covered by the permit for the proposed development, or said person's authorized agent, in accordance with the provisions of Section 9.69.050(a) of this Chapter. The application shall be filed with the Director of Community Development.

- (c) An application for an amendment shall be rejected if, in the opinion of the Director of Community Development, the proposed amendment would lessen or avoid the intended effect of a partially approved or conditioned coastal development permit unless the applicant presents newly discovered material information which could not, with reasonable diligence, have been discovered and produced before the permit was granted.
- (d) In the case of all amendments, the noticing and public hearing requirements of Section 9.69.60 shall apply. The decision of the Director of Community Development or Planning Commission shall contain the findings required in Section 9.69.070 of this Zoning Code made to support that decision.
- (e) The decision of the Director of Community Development or Planning Commission may be appealed pursuant to the procedures specified in Section 9.69.090 of this Chapter and Section 9.61.100 of this Zoning Code. (Coastal Act/30333; 14 Cal. Code of Regulations/13166).
- (f) Amendments to coastal development permits approved by the Coastal Commission, either prior to certification of the local coastal program or on appeal after certification of the local coastal program, shall not be processed by the City and instead shall be processed by the Coastal Commission. (Coastal Act/30333, 30519(a); 14 Cal. Code of Regulations/13166)

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

9.69.140 Extension of Time.

- (a) **The expiration and extension of any Coastal Development Permit shall be in accordance with the limitations and procedures specified in Section 9.61.130. The Director of Community Development of the Planning Commission may grant one or more extensions of time, with no single extension to exceed twelve (12) months, for a valid Coastal Development Permit issued by the City if the Director of Commission finds that there has been no material change of circumstances which may affect the approved project's consistency with the certified Local Coastal Program since the original granting of the permit issued by the City.**
- (b) An application for an extension of time shall be in writing and shall be filed, prior to the expiration date of the permit, by the record owner or by any other person(s) who can demonstrate a legal right, interest, or other entitlement to use the property covered by the permit. The request shall be filed with the Director of Community Development, who may require a public hearing on such application if there is

indication of sufficient public interest The Director shall hold a public hearing, in accordance with the provisions of Section 9.61.050 of this Zoning Code, if the Director determines that there has been a material change of circumstances which may affect the approved project's consistency with the certified Local Coastal Program since the original granting of the permit In the case of all extensions, the noticing and public hearing requirements of Section 9.69.060 shall apply. If one-third or more of the full membership of the Planning Commission objects to the granting of the permit extension on the grounds that the proposed development may not be consistent with the certified Local Coastal Program, the application shall be set for a new hearing of the Planning Commission as though it were a new coastal development permit application, in accordance with the provisions of this Chapter. The decision of the Director of Community Development or the Planning Commission shall contain the findings of fact relied upon in reaching the decision.

- (b) The decision of the Director of Community Development or Planning Commission may be appealed pursuant to the procedures specified in Section 9.61.100(d) of this Zoning Code. (Coastal Act/30333; 14 Cal. Code of Regulations/13169).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.69.150 Emergency Permits.

- (a) This subsection shall govern procedures for processing an Emergency Coastal Development Permit to perform work to resolve problems resulting from an emergency situation as defined in Section 9.75.050 of this Zoning Code. In the event of a verified emergency, temporary emergency coastal development permit authorization to proceed with remedial measures may be given by the Director of Community Development or his/her designee until such time as a regular coastal development permit application is filed pursuant to Section 9.69.050 of this Zoning Code. Applications for an Emergency Coastal Development Permit shall be made by letter to the Director of Community Development, or in person or by telephone if time constraints do not allow either of the first two alternatives to be used. (Coastal Act/30333, 30624; 14 Cal. Code of Regulations/13136, 13138).
- (b) The following information, to be reported at the time of the emergency (if it is possible to do so), or no later than within three days after the emergency, shall be included in the application to the Director of Community Development:
 - (1) Nature of emergency;
 - (2) Cause of emergency, insofar as this can be established;
 - (3) Location of emergency;
 - (4) Remedial, protective, or preventative work required to deal with the emergency;
and

- (5) Circumstances during the emergency that appeared to justify the course(s) of action taken or to be taken, including probable consequences of failing to take emergency action. (Coastal Act/30333, 30624; 14 Cal. Code of Regulations/13139).
- (c) Verification. The Director of Community Development shall verify the facts, including the existence and nature of the emergency action, insofar as time allows. (Coastal Act/30333, 30624; 14 Cal. Code of Regulations/13140).
 - (d) Granting an Emergency Coastal Development Permit.
 - (1) The Director of Community Development shall grant the emergency coastal development permit with reasonable terms and conditions, including an expiration date and the necessity for a regular permit application later, where the Director finds that:
 - (A) An emergency exists that requires action more quickly than would be permitted by the normal procedures for acquiring a Coastal Development Permit pursuant to this Chapter, and the development can and will be completed within 30 days unless otherwise specified by the terms of the emergency coastal development permit.
 - (B) Public comment on the proposed emergency action has been solicited and reviewed to the extent feasible.
 - (C) The proposed emergency work would be consistent with the certified Local Coastal Program.
 - (2) The Director of Community Development shall provide public notice of the emergency work, with the extent and type of notice determined by the nature and time constraints of the emergency. If the nature of the emergency does not allow sufficient time for public notice to be given before the emergency work begins, the Director of Community Development shall provide public notice of the action taken, or being taken, as soon as is practical. Public notice of the nature of the emergency and the remedial actions to be taken shall be mailed by first class mail to the Coastal Commission and to all persons whom the Director of Community Development has reason to know would be interested in such action. (Coastal Act/30333, 30624; 14 Cal. Code of Regulations/13142).
 - (e) Expiration. An emergency coastal development permit shall be valid for sixty (60) days from the date of issuance by the Director of Community Development. Prior to expiration of the emergency coastal development permit, the permittee shall submit an application for a regular coastal development permit, pursuant to Section 9.69.050 of this Chapter, for the emergency development performed. If the emergency development performed is to be temporary and to be removed after the emergency has passed, the removal of the emergency development shall be included as part of the regular coastal development permit application.

- (f) Report to Planning Commission and Coastal Commission. The Director of Community Development shall report in writing the granting of the emergency coastal development permit to the Planning Commission at its next scheduled meeting, and to the Coastal Commission. The report shall include a description of the nature of the emergency, the development involved, and the person or entity undertaking the development. Copies of the report shall be available at the meeting and shall be mailed to the Coastal Commission and to all persons requesting notification of coastal development permit decisions.
- (g) Limitations.
 - (1) The Director of Community Development shall not grant an emergency coastal development permit for any development that falls within either the area of “Coastal Commission Permit Jurisdiction” or the Appeals Area, as shown generally on the Post-Certification Jurisdiction Map. In such areas and for such development, a request for an emergency authorization must be made to the Coastal Commission. Further, a waiver from coastal development permit requirements may also be obtained directly from the Executive Director of the Coastal Commission for development in the Appeals Area that is required to protect life or public property in accordance with Section 30611 of the Coastal Act.
 - (2) For emergency permits issued by the Coastal Commission in the appeals area pursuant to Section 30624 of the Coastal Act, an application for the required follow-up regular coastal development permit for the emergency work shall be submitted to the City, in accordance with the requirements of Section 9.69.050 of this Zoning Code, no later than 60 days from the date of issuance of the emergency permit granted by the Executive Director of the Coastal Commission. The City may process the follow-up regular coastal development permit application concurrently with the Coastal Commission proceeding of the emergency permit application.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

9.69.160 De Minimis Project Waivers from Coastal Development Permit Requirements.

A coastal development permit application is required for all development as defined in Section 9.75.040 of this Zoning Code, including any development for which a “de minimis” permit waiver is requested even if no other local discretionary approvals are required. For a proposed development that is de minimis as defined in Section 9.69.160(a)(2) below and Section 30624.7 of the Coastal Act, the Director of Community Development may issue a waiver from the coastal development permit requirements of this Chapter subject to all of the provisions of this section.

- (a) Limit of Applicability.
 - (1) A proposed development is de minimis only if the Director of Community Development determines that it involves no potential for any adverse effects either

individually or cumulatively, on coastal resources and public access and that it will be consistent with the certified local coastal program and the public access policies of Chapter Three of the California Coastal Act. The determination shall be made in writing and based upon factual evidence.

- (2) A Waiver for De Minimis Development shall be granted only for development that:
 - (A) Does not fall in a class of appealable development set forth in Section 9.69.090(b) of this Chapter or as defined in Section 9.75.010 of this Zoning Code;
 - (B) Is not located adjacent to a public accessway, public recreation areas, or sensitive coastal resource areas;
 - (C) Does not fall within an area in which the Coastal Commission retains direct permit review under Section 9.69.030(c) of this Chapter, or for any work that is appealable to the Coastal Commission under Section 9.69.090 of this Chapter; nor
 - (D) Involves a structure or similar integrated physical construction which lies partly in and partly outside the appeal area.
- (3) A De Minimis Waiver application may be combined with other local discretionary actions. Since a waiver is not an actual coastal development permit, however, conditions of approval cannot be imposed on the waiver.

(b) Notice.

- (1) The applicant shall post at the site in compliance with Section 9.69.060(a) of this Chapter.
- (2) Within ten (10) calendar days of accepting an application for a De Minimis waiver or at least seven (7) calendar days prior to the decision on the application, the Director of Community Development shall provide notice, by first class mail, of the pending waiver of permit requirements. This notice shall be provided to all persons who have requested to be on the mailing list for that development project or site or for coastal decisions within the local jurisdiction, to all property owners and residents within one hundred (100) feet of the perimeters of the parcel on which the development is proposed, and to the Coastal Commission.
- (3) The notice shall contain the following information:
 - (A) The information listed in Sections 9.69.060(b)(1) through 9.69.060(b)(4) inclusive of this Chapter;
 - (B) The date of the hearing at which the De Minimis waiver may become effective;

- (C) The general procedures concerning the submission of public comments either in writing or orally prior to the decision; and
 - (D) A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held prior to the decision.
 - (E) A note or a numbering system which clearly distinguishes the application as being for a De Minimis Waiver and not a coastal development permit.
- (c) Findings. The Director of Community Development may only issue a waiver of coastal development permit requirements only if the following written findings are made:
- (1) That the waiver falls within the criteria of Section 9.69.160(a) above;
 - (2) The proposed development has no potential for any adverse impacts, either individually or cumulatively, on public access, public recreation, or coastal resources; and
 - (3) The proposed development would be consistent with the certified local coastal program.
- (d) Issuance of Waiver: Effective Date.
- (1) A De Minimis waiver of coastal development permit requirements shall not take effect unless the site has been posted and until the waiver has been reported to the Planning Commission, and the Planning Commission has not objected to the issuance of the De Minimis Waiver. If one-third or more of the full membership of the Planning Commission request that the waiver not be effective, the applicant shall be advised that a coastal development permit is required, subject to the provisions for regular coastal development permits of Chapter 9.69 of this Zoning Code, if the applicant wishes to proceed with the development.
 - (2) A decision on De Minimis waivers shall not be deemed final and effective until all required findings described in Section 9.69.160(c) above have been adopted.
- (e) Compliance.
- (1) Any deviation from the application and plans on file in the Department of Community Development shall constitute grounds for the City of Dana Point to revoke the De Minimis waiver authorization and to require a coastal development permit for the entire project as well as possible enforcement action and penalties subject to Section 9.69.210 of the Zoning Code.
 - (2) Within seven (7) calendar days of the Planning Commission review of the issuance of a De Minimis waiver, the Director of Community Development shall notify the Coastal Commission and any persons who specifically requested notice of such action by mailing, via first class mail, a Notice of Final Action prepared pursuant

to Section 9.69.100 of this Zoning Code describing the issuance and effectiveness of the De minimis waiver.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

9.69.170 Enforcement.

In addition to the enforcement provisions contained in this Chapter, the provisions of Chapter 9 of Division 20 of the Public Resources Code shall also apply with respect to violations and enforcement. (Added by Ord. 97-05, 9/9/97)

9.69.180 Format and Content of Coastal Development Permits.

- (a) Coastal development permits shall include the following:
 - (1) The applicant's name;
 - (2) The project location;
 - (3) The project description;
 - (4) The permit number;
 - (5) A statement setting out the reasons for the City's approval of the permit, including the findings required in Section 9.69.070;
 - (6) Any other language or drawings, in full or incorporated by reference, that are consistent with the decision to approve the permit, and are required to clarify or facilitate carrying out the intent of the City's action;
 - (7) Any conditions approved by the City;
 - (8) Such standard provisions as approved by resolution of the City;
 - (9) The signature of the Director of Community Development, and
 - (10) The time for commencement of the approved development except that where the City on original hearing or on appeal has not imposed any specific time for commencement of construction pursuant to a permit, the time for commencement shall be two years from the date of the final vote by the local body on the coastal development permit application. Each coastal development permit shall contain a statement that any request for an extension of the time of commencement must be applied for prior to expiration of the permit. (Coastal Act/30333; 14 Cal. Code of Regulations/13156).
- (b) Coastal development permits approved by the Planning Commission or City Council may be in the form of a resolution, provided that all the items described in Section 9.69.180(a) above are contained in the resolution.

(c) Notice of Receipt and Acknowledgment

- (1) No building permits shall be issued for development approved by a coastal development permit until the City receives a written acknowledgment signed by the authorized permittee(s) or agent(s) stating that they have received a copy of the coastal development permit and understand and accept its contents, including all conditions of approval.
- (2) The signed acknowledgment should be returned within ten (10) working days following issuance of the coastal development permit but in any case prior to issuance of the building permits. (Added by Ord. 97-05, 9/9/97)

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Chapter 9.71

SITE DEVELOPMENT PERMITS

Sections:

- 9.71.010 Intent and Purpose.**
- 9.71.020 Site Development Permit Required.**
- 9.71.030 Procedural Requirements for Site Development Permits.**
- 9.71.034 Minor Site Development Permits.**
- 9.71.040 Procedural Requirements for Temporary Site Development Permits.**
- 9.71.050 Basis for Approval, Conditional Approval, or Denial of a Site Development Permit**
- 9.71.060 Expiration and Extension of a Site Development Permit**
- 9.71.070 Notice of Hearing.**
- 9.71.080 Notice of Action.**

9.71.010 Intent and Purpose.

This Chapter establishes a process to promote superior aesthetics, design compatibility and high quality site planning. The Site Development Permit process provides for the effective and efficient review of development proposals to ensure compatible and enhanced site and building design throughout the community. This process provides a means to implement the Urban Design Element of the General Plan and the City's Urban Design Guidelines. Through Site Development Permits the City can achieve excellence and innovation in the design of development projects. (Added by Ord. 93-16, 11/23/93)

9.71.020 Site Development Permit Required.

- (a) When no other discretionary permit is required, a Site Development Permit shall be required for all residential development except single-family homes on previously subdivided lots, and for all non-residential developments exceeding two thousand (2,000) gross square feet.
- (b) Applications for Conditional Use Permits, Variances, Coastal Development Permits and other permits and entitlements of this Code will be reviewed with the same attention to design as Site Developments Permits. All such applications are subject to Site Development Permit requirements, except that all coastal development permit applications shall satisfy all requirements of Chapters 9.27 "Coastal Overlay District" and 9.69 "Coastal Development Permit".
- (c) A Temporary Site Development Permit shall be required for all uses so identified in Chapter 9.39 pursuant to the provisions of Section 9.71.040.
- (d) The Director of Community Development may require that a Site Development Permit be filed for any proposal determined by the Director not to be in clear compliance with General Plan policies.

(e) A Minor Site Development Permit is required for residential projects of two to four units on a previously subdivided parcel as well as other developments pursuant to Section 9.71.034.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97; **Ord. 18-07, 10/2/18**)

9.71.030 Procedural Requirements for Site Development Permits.

- (a) Application for Site Development Permits shall be processed in accordance with Section 9.61.040.
- (b) When a Site Development Permit application is performed in conjunction with another discretionary permit review, the Director of Community Development shall conduct the review and shall make a recommendation to the Planning Commission.
- (c) When an application for a Site Development Permit proposes more than ten thousand (10,000) gross square feet of non-residential building area or five or more residential dwelling units, the application must be reviewed by the Planning Commission at a public hearing. All other applications may be processed in accordance with the provisions of Section 9.71.034.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 99-04, 3/9/99)

9.71.034 Minor Site Development Permits.

- (a) Application for Minor Site Development Permits are restricted to the following requests:
 - (1) Development with less than ten thousand (10,000) gross square feet of new residential building floor area.
 - (2) Four (4) or less residential dwelling units.
 - (3) Temporary uses and structures as described in Chapter 9.39.
 - (4) Any multi-family projects where a minimum twenty percent (20%) of total units are restricted to be affordable to lower income households or at least forty percent (40%) of total units are restricted to be affordable to moderate income households (for a period of time equal to provisions under State Density Bonus Law (California Government Code Section 65915)).**
 - (45) Sign Programs pursuant to Section 9.37.070.**
 - (6)** Certain types of improvements as may be specified by this Code.
- (b) The submitted requirements for a Minor Site Development Permit application shall be the same as those required in Section 9.61.040 (e).

- (c) Decisions on Minor Site Development Permit applications shall be made administratively by the Director of Community Development. The Director shall include a determination of findings and appropriate conditions in the decision. The basis for approval, conditional approval, or denial of a Minor Site Development Permit shall be as specified in Section 9.71.050.
- (d) Subject to a determination by the Director of Community Development, a Minor Site Development Permit application may be placed on the Planning Commission agenda for review.
- (e) Subject to a determination by the Director of Community Development, the noticing requirements for a Minor Site Development Permit may be reduced from the standard five hundred (500) foot radius requirement to a notification of adjacent property owners only. If the item is reviewed by the Planning Commission, then a 300-foot radius noticing shall be provided.

(Added by Ord. 99-04, 3/9/99)

9.71.040 Procedural Requirements for Temporary Site Development Permits.

- (a) Filing of Application. The items required for filing shall include:
 - (1) A complete Application Form.
 - (2) An application fee as specified in the current structure of service fees.
 - (3) A Site Plan showing the layout of the proposed activity, use, or structure, preferably drawn to scale (five (5) copies).
 - (4) A letter of authorization from the property owner(s), if different than the applicant.
 - (5) A letter of explanation signed and dated by the applicant demonstrating how the request meets the following criteria for granting a Temporary Site Development Permit.
 - (A) That the temporary use applied for is a special event permitted under this Policy.
 - (B) That the special event is consistent with the City Zoning Code and will not be incompatible with the City's future General Plan.
 - (C) That the site for the special event is adequate in size, shape, and access to accommodate additional demands generated by the proposed use.
 - (D) That the special event as proposed will protect the safety and general welfare of the community and will not create significant noise, traffic, or

other conditions or situations that may be detrimental or incompatible with other permitted uses in the vicinity.

- (6) Submittal requirements for special events shall be as specified in Section 9.39.070(d).
- (b) Noticing. No notice shall be required for Temporary Site Development Permits unless the Director of Community Development determines that such notice is necessary. In making a determination to require noticing, the Director shall specify the form and scope of the required notice. Noticing for special events shall be provided in accordance with the provisions of Section 9.39.070(e).
- (c) Consideration of Application.
 - (1) An application shall be submitted to the Director of Community Development no later than thirty (30) days prior to the date of the proposed event.
 - (2) The application shall be acted on by the Director of Community Development no later than thirty (30) days from the date the application is accepted for filing.
 - (3) The Director of Community Development in consideration shall approve, conditionally approve, or deny any application and shall state findings and reasons for such decision. The Director of Community Development, as appropriate, shall have the authority to attach conditions which directly relate or further the public health, safety, and general welfare and ensure the fulfillment and intent of the City's Municipal Code.
 - (4) If an application is granted subject to conditions, the permit shall become effective only after the conditions have been fulfilled or after the applicant has provided reasonable and sufficient guarantees that the conditions will be fulfilled.
- (d) Appeals.
 - (1) Any applicant or affected party may appeal any determination of conditions established by the Director of Community Development.
 - (2) Any appeal of the Director's decision shall be governed by Section 9.61.110.
- (e) Revocation. A Temporary Site Development Permit may be revoked in accordance with Section 9.61.120 or if the permitted use is conducted in a manner which is detrimental to the public peace, health, safety, and welfare of the City, or constitutes a public nuisance.

When a Temporary Site Development Permit has been revoked, no other Temporary Site Development Permit shall be issued under this policy to the same permittee within one (1) calendar year of the date of revocation.
- (f) Exemptions. The following are specifically exempt from the provisions of this Section:

- (1) Any use which is subject to any other discretionary approval shall not be considered under the provisions of this Section.
- (2) Private events conducted on private residential property which are typical activities ancillary to residential uses shall not be subject to the provisions of this Section but shall be governed by any and all other applicable provisions of the Dana Point Municipal Code and all other applicable laws.
- (3) Non-profit organizations and associations which endorse activities, community events, or fund raisers for non-commercial profit may be exempt from the fees established in this Section, but shall submit the remaining application filing requirements for review and approval by the Director of Community Development Applicants claiming non-profit status shall include a notice of participation and expected return from all participating non-profit organizations or agencies.
- (4) Any temporary use, structure, or activity which clearly does not intensify the existing permitted use and is ancillary or incidental to the approved use, structure, or activity, shall be exempt from both the filing fee and application requirements. If it is unclear if such an event should be subject to the requirements of this Section, the Director of Community Development shall determine if a proposed use necessitates a Temporary Site Development Permit

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.71.050 Basis for Approval, Conditional Approval, or Denial of a Site Development Permit

Approval, conditional approval, or denial of any Site Development Permit application shall be based upon the following factors and principles:

- (a) Compliance of the site design with development standards of this Code.
- (b) Suitability of the site for the proposed use and development
- (c) Compliance with all elements of the General Plan and all applicable provisions of the Urban Design Guidelines.
- (d) Site and structural design which is appropriate for the site and function of the proposed use(s), without requiring a particular style or type of architecture.

(Added by Ord. 93-16, 11/23/93)

9.71.060 Expiration and Extension of a Site Development Permit

The expiration and extension of any site development permit shall be in accordance with the limitations and procedures specified in Section 9.61.130.

(Added by Ord. 94-09, 5/24/94)

9.71.070 Notice of Hearing.

Notice of a public hearing to consider a Site Development Permit shall be provided pursuant to Section 9.61.050.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.71.080 Notice of Action.

- (a) For those applications decided by the Director of Community Development the Director shall notify the applicant in writing, of the action taken within fifteen (15) days of the decision.
- (b) For those applications decided by the Planning Commission, the Director of Community Development shall notify the applicant in writing, of the action taken within fifteen (15) days of the Planning Commission decision.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

Chapter 9.73

DEVELOPMENT AGREEMENTS

Sections:

- 9.73.010 Authority and Scope.**
- 9.73.020 Intent and Purpose.**
- 9.73.030 Application Forms.**
- 9.73.040 Fees.**
- 9.73.050 Qualified Applicant.**
- 9.73.060 Proposed Agreement**
- 9.73.070 Filing and Review of Application.**
- 9.73.080 Notice.**
- 9.73.090 Processing.**
- 9.73.100 Notice of Intention and Public Hearing.**
- 9.73.110 Failure to Receive Notice.**
- 9.73.120 Hearing and Findings of the Planning Commission.**
- 9.73.130 Hearing by the City Council.**
- 9.73.140 Decision by the City Council.**
- 9.73.150 Approval of Development Agreement**
- 9.73.160 Amendment and Cancellation.**
- 9.73.170 Recordation.**
- 9.73.180 Periodic Review.**
- 9.73.190 Modification or Termination.**
- 9.73.200 Irregularity in Proceedings.**

9.73.010 Authority and Scope.

This Chapter is adopted pursuant to Government Code Section 65864 et seq. All development agreements entered into after the effective date of this Chapter shall be processed in accordance with the provisions of this Chapter. (Added by Ord. 93-16, 11/23/93)

9.73.020 Intent and Purpose.

The State Legislature has authorized cities to enter into development agreements which provide greater certainty to developers to proceed with approved projects according to local policies and regulations. A development agreement should include public benefits that extend beyond those already forthcoming through project approvals. The Planning Commission and City Council shall make a finding at the time of consideration for the development agreement that the above purpose has been achieved. (Added by Ord. 93-16, 11/23/93)

9.73.030 Application Forms.

- (a) The Director of Community Development shall prescribe the form of each application, notice and document provided for or required under this Chapter for the preparation, processing and implementation of development agreements. The application shall include as separate documents, and/or concurrent land use actions and supporting documents by reference, the following information:
- (1) Duration of the agreement;
 - (2) The permitted uses of the property;
 - (3) The density or intensity of use of the property;
 - (4) The maximum height and size of proposed buildings;
 - (5) Provisions for reservation of dedication of land for public purposes;
 - (6) Fiscal impact statement;
 - (7) Phasing and project completion date;
 - (8) A list of proposed public benefits;
 - (9) An assessment of how the development agreement will address the applicable provisions of the City's Growth Management Element which require that the project will maintain a balance with the required infrastructure needs of the project;
 - (10) Consistency with the General Plan and any applicable Specific Plan.
- (b) The Director of Community Development may require an applicant for a development agreement to submit such information and supporting data as the Director of Community Development deems necessary to process the application.

(Added by Ord. 93-16, 11/23/93)

9.73.040 Fees.

The City Council shall establish, and from time to time amend by resolution, a schedule of fees imposed for the filing and processing of each application and document required by this Chapter. The fee may be waived in whole or in part by the City Council. (Added by Ord. 93-16, 11/23/93)

9.73.050 Qualified Applicant.

An application for a development agreement may only be filed by a person who has a legal or equitable interest in the real property for which a development agreement is sought or the authorized representative of such a person. (Added by Ord. 93-16, 11/23/93)

9.73.060 Proposed Agreement.

Each application shall be accompanied by the development agreement proposed by the applicant (Added by Ord. 93-16, 11/23/93)

9.73.070 Filing and Review of Application.

The Community Development Department shall endorse on the application the date it is received. The Director of Community Development shall review the replication and determine the additional requirements necessary to complete the agreement. The Director may reject the application if it is not completed in the manner required by this Chapter. After receiving the required information, the Director of Community Development shall prepare a staff report. The staff report shall analyze the proposed development and shall contain a recommendation as to whether or not the development agreement proposed, or in an amended form, would be consistent with the General Plan and any applicable Specific Plan. (Added by Ord. 93-16, 11/23/93)

9.73.080 Notice.

The Director of Community Development shall give Notice of Intention to consider adoption of the development agreement and any other public hearing required by law or this Chapter. Notice of Intention to consider adoption of the development agreement may be given concurrently and as a part of the required public hearing notice for consideration of related land use proposal(s). The development agreement may include all or a part of the concurrent approved land use proposal(s). (Added by Ord. 93-16, 11/23/93)

9.73.090 Processing.

The Planning Commission shall consider the proposed development agreement and make a recommendation thereon to the City Council in the manner set forth in this Chapter. The Planning Commission shall forward its recommendations to the City Council within thirty (30) days of the time specified for the public hearing in the Notice of Intention. (Added by Ord. 93-16, 11/23/93)

9.73.100 Notice of Intention and Public Hearing.

All notice required by this Chapter shall be given in the following manner.

- (a) Mailing or delivery to the applicant and to all persons, including businesses, corporations or other public or private entities, shown on the last equalized assessment roll as owning real property within five hundred (500) feet of the property which is the subject of the development agreement or by publication as authorized by Section 65854(b) of the Government Code.
- (b) Mailing by first class mail to any person who has filed a written request therefor with the Director of Community Development.
- (c) Publication at least once in a newspaper of general circulation published and circulated in the City.

(Added by Ord. 93-16, 11/23/93)

9.73.110 Failure to Receive Notice.

The failure to receive notice by any person entitled thereto by law or this Chapter does not affect the authority of the City to enter into a development agreement. (Added by Ord. 93-16, 11/23/93)

9.73.120 Hearing and Findings of the Planning Commission.

The Planning Commission shall hold a public hearing on the proposed development agreement at the time and place specified in the Notice of Intention. The Planning Commission shall make its recommendation to the City Council in writing. The Planning Commission must make the following findings in order to recommend approval of any development agreement:

- (a) That the proposed development agreement is consistent with the objectives, policies, general land uses and programs specified in the General Plan and any applicable Specific Plan;
- (b) That the proposed development agreement is consistent with the City's Growth Management Element and adequately provides for the installation and operation of the infrastructure required to service each phase of the subject development;
- (c) That the development proposed in association with the subject development agreement is compatible with the uses authorized in the district in which the real property is located;
- (d) That the proposed development agreement is in conformity with the public necessity, public convenience, general welfare, and good land use practices;
- (e) That the proposed development agreement provides for public benefits to a degree which warrants any concessions granted by the City;
- (f) That the proposed development agreement will in no way be detrimental to the public health, safety, and general welfare;
- (g) That the proposed development agreement will not adversely affect the orderly development of property;
- (h) That the proposed development agreement will have a positive fiscal impact on the City.
(Added by Ord. 93-16, 11/23/93)

9.73.130 Hearing by the City Council.

After the recommendation of the Planning Commission or after the expiration of the time period specified in Section 9.73.090, the Director of Community Development shall give notice

of a public hearing before the City Council in the manner provided for in Section 9.73.080.
(Added by Ord. 93-16, 11/23/93)

9.73.140 Decision by the City Council.

- (a) After completing the public hearing and consideration of the recommendation, if any, of the Planning Commission, the City Council may accept, modify, or disapprove the proposed development agreement. The City Council may, but need not, refer the matters not previously considered by the Planning Commission during its hearing, back to the Planning Commission for report and recommendation. The Planning Commission shall not be required to hold a public hearing on matters referred back to it by the City Council.
- (b) The development agreement may not be approved unless the City Council can make the findings listed in Section 9.73.120.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.73.150 Approval of Development Agreement.

The development agreement shall be approved by the adoption of an ordinance. Upon the adoption of the ordinance, the City shall enter into the development agreement by the execution thereof by the City Manager. (Added by Ord. 93-16, 11/23/93)

9.73.160 Amendment and Cancellation.

- (a) The City shall retain the authority to impose new obligations on the part of the developer if it is found that infrastructure deficiencies are found during the life of the development agreement.
- (b) Either the City or the applicant or successor in interest thereto may propose an amendment or cancellation in whole or in part of the development agreement.
- (c) The procedure for proposing and approving an amendment to or cancellation in whole or in part of the development agreement shall be the same as the procedure for entering into a development agreement.
- (d) Except as provided for in Section 9.73.180, the development agreement may only be amended or canceled in whole or in part by the mutual consent of all parties to the development agreement.

(Added by Ord. 93-16, 11/23/93)

9.73.170 Recordation.

- (a) No later than ten (10) days after the City enters into the development agreement the City Clerk shall record with the County Recorder a copy of the development agreement.
- (b) If the parties to the agreement or their successors in interest amend or cancel the agreement, or if the City terminates or modifies the agreement for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the City Clerk shall cause notice of such action to be recorded with the County Recorder.

(Added by Ord. 93-16, 11/23/93)

9.73.180 Periodic Review.

- (a) The City Council shall review the development agreement at least every twelve (12) months from the date the development agreement is entered into until expiration of the term of the agreement.
- (b) The Director of Community Development shall give the applicant or successor in interest thereto at least thirty (30) days' advance notice of the time at which the City Council will review the development agreement.
- (c) The City Council may refer the matter to the Planning Commission for further proceedings or for a report and recommendation.
- (d) The applicant or successor in interest thereto shall demonstrate good faith compliance with the terms of the development agreement.
- (e) If, as a result of such periodic review the City Council finds and determines, on the basis of substantial evidence, that the applicant or successor in interest thereto has not complied in good faith with the terms or conditions of the development agreement, the City Council may commence proceedings to enforce, modify, or terminate the development agreement.

(Added by Ord. 93-16, 11/23/93)

9.73.190 Modification or Termination.

- (a) If, upon a finding under Section 9.73.170(e), the City Council determines to proceed with modification or termination of the development agreement, the City Council shall give notice to the applicant or successor in interest thereto of its intention to do so. The notice shall contain:
 - (1) The time and place of the hearing;
 - (2) A statement as to whether or not the City Council proposes to modify or terminate the development agreement;
 - (3) Any proposed modification to the development agreement;

- (4) Other information which the City Council considers necessary to inform the applicant or successor in interest thereto of the nature of the hearing.
- (b) At the time set for the hearing on the modification or termination, the City Council may refer the matter back to the Planning Commission for further proceedings or for report and recommendation. The City Council may take such action as it deems necessary to protect the interests of the City. The decision of the City Council shall be final.

(Added by Ord. 93-16, 11/23/93)

9.73.200 Irregularity in Proceedings.

No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission as to any matter pertaining to the application, notice, finding, record, hearing, report, recommendation, or any other matters of procedure whatsoever unless after an examination of the entire record the court is of the opinion that the error complained of was prejudicial and that a different result would have been probable if the error had not occurred or existed. (Added by Ord. 93-16, 11/23/93)

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Chapter 9.75

DEFINITIONS AND ILLUSTRATIONS OF TERMS*

Sections:

9.75.010	“A” Definitions and Illustrations.
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9.75.230	“W” Definitions and Illustrations.
9.75.240	“X” Definitions and Illustrations.
9.75.250	“Y” Definitions and Illustrations.
9.75.260	“Z” Definitions and Illustrations.
9.75.270	Definitions of Use.

* For general terminology used throughout the Zoning Code, see Section 9.01.100. For terminology used in the Zoning Code, but not defined in this Chapter or in Section 9.01.100, see the Uniform Building Code or accepted dictionaries of the English language. The Director of Community Development shall interpret all definitions in this Code and Chapter.

9.75.010 “A” Definitions and Illustrations.

Abandoned — the cessation of use and maintenance of a property by the owner thereof with no intention of resuming the use of the property. Vacant properties offered for sale or rental, but effectively maintained in an orderly manner shall not be construed to be abandoned.

Abutting Land — a parcel of land having a common boundary with another parcel of land including parcels which have no common boundary other than a common corner.

Accessory Building or Structure — a building or structure which is incidental to the principal structure, and not designed for human habitation. Such structures may be attached to or detached from the primary structure. Typical accessory buildings or structures would include garages, gazebos, workshops, sheds and patios.

Accessory Living Quarters — See Section 9.75.270.

Accessory Use — a use of a portion of land or building which is ~~customarily and~~ clearly incidental and subordinate **and less than 50% of** ~~to~~ the principal use **operation and/or of** the land or building which is located on the same lot as such principal use. Accessory uses typically are very small in proportion to the principal use **and associated structures exceed six (6) feet in height.**

Acreage, Gross — the total land area within a defined lot or parcel of land before the exclusion of public rights-of-way, public parks and public school sites.

Acreage, Net — the total area of a site or lot minus any and all required dedications for public streets and rights-of-way, public parks, school sites, and other facilities.

Action — the decision made by the review authority on a land use application, including appropriate findings, environmental determination and conditions of approval, where applicable.

Addition — any construction that is attached to an existing building or facility and which increases the size or capacity of a building or facility in terms of site coverage, height, length, width, or gross floor area.

Adult Bookstore — See Section 9.75.270.

Adult Business — See Section 9.75.270.

Adult Cabaret — See Section 9.75.270.

Adult Day Care Facility — See Section 9.75.270.

Adult Day Health Care — See Section 9.75.210.

Adult Day Health Center — See Section 9.75.270.

Adult Hotel Motel — See Section 9.75.270.

Adult Modeling Studio — See Section 9.75.270.

Adult Picture Arcade — See Section 9.75.270.

Adult Theater — See Section 9.75.270.

Affordable Housing — housing which is rented or sold for an amount that is limited by a set percentage of the County median income, adjusted for family size, as reported and updated annually by the Department of Housing and Community Development (HCD). Affordable housing is divided into three (3) categories — Very Low, Low, and Moderate defined as follows:

Very Low — Housing which rents for an amount not exceeding thirty (30) percent of the total monthly household income for a very low income household; or housing with a total purchase price not exceeding two and one-half (2½) times the annual household income for a very low income household. A very low income household is defined as a household with an annual income of not more than fifty (50) percent of the County median income.

Low — Housing which rents for an amount not exceeding thirty (30) percent of the total monthly household income for a low income household; or housing with a total purchase price not exceeding two and one-half (2½) times the annual household income for a low income household. A low income household is defined as a household with an annual income of not more than eighty (80) percent of the County median income.

Moderate — Housing which rents for an amount not exceeding thirty (30) percent of the total monthly household income for a moderate income household; or housing with total purchase price not exceeding two and one-half (2½) times the annual household income for a moderate income household. A moderate income household is defined as a household with an income of not more than one hundred twenty (120) percent of the County median income.

Agent — any person authorized to act for the owner of a property by virtue of a notarized statement of authorization, a proof of contract to purchase, or a lease to the property.

Aggrieved Person — any person who, in person or through a representative, appeared at a public hearing of the Coastal Commission or City of Dana Point in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing, informed the Coastal Commission or City of Dana Point of the nature of his or her concerns or who for good cause was unable to do either. “Aggrieved person” includes the applicant for a permit and, in the case of an approval of a local coastal program for the City of Dana Point, the City of Dana Point. (Coastal Act/30801).

Alcoholic Beverage Outlet, Off Sale — See Section 9.75.270.

Alcoholic Beverage Outlet, On Sale — See Section 9.75.270.

Alley — a narrow **vehicular** service way, either public or private, which provides a permanently reserved **means of vehicular access to a private or public property, but secondary means of public access. — Alleys are not intended for general traffic circulation, but for services and delivery access.** Alleys are typically located along rear property lines.

Alteration — any change or rearrangement in the supporting members of an existing building, structure, or improvement such as bearing walls, columns, beams, girders or interior partitions, as well as any change in doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or change in the exterior appearance of any building or structure, or the moving of a building or structure from one location to another.

Alteration, Structural — any change in the supporting members of a structure such as bearing walls, partitions, columns, beams or girders, floor joists or roof joists, roof rafters, foundations, piles, or similar components.

Amateur Radio Antenna — any antenna used to receive and/or transmit radio signals on the amateur radio band, as designated by the Federal Communications Commission.

Amenity — a natural or man-made feature which provides a visual or recreational enhancement for a particular property.

Animal — unless otherwise stated for a specific situation, “animal” includes birds, fish, mammals, and reptiles.

Animal Hospital — See Section 9.75.270.

Animal Shelter — See Section 9.75.270.

Antenna — an electronic device comprised of one or more integrated elements which receives and transmits radio waves to provide commercial and non-commercial wireless telecommunication services.

Antenna Facility — see “Commercial Wireless Telecommunication Antenna Facility.”

Antenna Use Permit — a discretionary land use permit specifically for the entitlement of commercial wireless telecommunication antenna facilities within the City of Dana Point.

Apartment — two or more rooms with private bath and kitchen facilities comprising an independent self-contained dwelling unit in a building containing more than two dwelling units for rent.

Apartment Building — a structure containing two (2) or more apartment units which is intended for rental purposes.

Appeal in the Floodplain Districts — a request for a review of the Floodplain Administrator’s interpretation of any provision of this Chapter or a request for an exemption.

Appealable Development, Coastal — The following types of development may be appealed to the Coastal Commission pursuant to procedures described in Section 9.69.090:

- (1) Developments approved by the City of Dana Point between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
- (2) Developments approved by the City of Dana Point not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, within 300 feet of the top of the seaward face of any coastal bluff.

- (3) Developments approved by City of Dana Point not included within paragraph (1) or (2) that are located in a sensitive coastal resource area.
- (4) Any development which constitutes a major public works project or a major energy facility, as defined in Section 9.75.130 of this Zoning Code. (Coastal Act/30603(a)).

Appealable Development — any Coastal Development Permit application that may be appealed to the California Coastal Commission pursuant to the Coastal Act of 1976, as amended. (Coastal)

Applicant — the owner(s) or lessee(s) of property, or their authorized agents, or person(s) who have contracted to purchase property contingent upon their ability to obtain the required entitlements, who requests in writing and on the appropriate forms, the approval of a permit, license, certificate, or other entitlement from the City.

Applicant, Coastal — the person, trust, partnership, corporation, other legal entity, or state or local government agency or special district applying for a coastal development permit. (Coastal).

Application — the form and information fees submitted by an applicant for purposes of requesting an entitlement from a public agency.

Aquaculture — a form of agriculture that is devoted to the controlled growing and harvesting of fish,” shellfish, and plants in marine, brackish, and freshwater. (Coastal Act/30100.2).

Area of Shallow Flooding — any area designated AO, AH or VO Zone on the Flood Insurance Rate Map (FIRM). In such zones, the base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

Area of Special Flood-Related Erosion Hazard — the area subject to severe flood-related erosion losses. The area is designated as Zone E on the Flood Insurance Rate Map (FIRM).

Area of Special Flood Hazard — an area having special flood or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, VO, V1-V30, VE, or V.

Area of Special Mudslide (i.e. Mudflow) Hazard — the area subject to severe mudslides (i.e., mudflows). The area is designated as Zone M on the Flood Insurance Rate Map (FIRM).

Athletic Field — See Section 9.75.270.

Carrier — a commercial enterprise licensed by the Federal Communications Commission to provide wireless telecommunication services.

Automobile Wrecking — See Section 9.75.270.

Awning — a roof-like cover that is attached to, and projects from, the wall of a building for the purpose of shielding from the elements. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98)

9.75.020 “B” Definitions and Illustrations.

Balcony — a platform that projects from the wall of a building, typically above the first level, and is surrounded by a rail, balustrade, or parapet.

Base Flood — the flood having a one (1) percent chance of being equaled or exceeded in any given year (also called the 100-year flood).

Basement — living or storage area which is constructed wholly underground, meaning below the exterior finished grade on all sides, with no more than 20% percent of the lineal footage of the exterior wall broken by light wells, no light well wider than four feet and no light well within six feet of another light well. An exception to these provisions, subject to a Minor Site Development Permit, would allow adequate day lighting of one wall to provide vehicular ingress and egress, **to a residential/nonresidential garages which shall be considered a basement.** ~~would permit subterranean residential garages to be considered as a basement for the Ritz Cove (PRD 4) area only.~~ Any structural area meeting this definition shall not be considered a story.

Basement in the Floodplain Overlay Districts — the area of the building having its floor subgrade (below ground level on all sides).

Bay Window — a window or group of windows projecting from a room.

Beach — a sandy or gravelly portion of land along the edge of the ocean.

Bed and Breakfast Inn — See Section 9.75.270.

Bedroom — any habitable room other than a bathroom, kitchen, dining room or living room **with a closet.**

Berm — a mound of earth, usually two (2) to six (6) feet in height.

Bicycle Lane (Class II facility) — a corridor expressly reserved for bicycles, existing on a street or roadway in addition to any lanes for use by motorized vehicles.

Bicycle Path (Class I facility) — a paved path not on a street or roadway and expressly reserved for bicycles traversing an otherwise unpaved area. Bicycle paths may parallel roads but typically are separated from them by landscaping.

Bicycle Route (Class III facility) — a facility shared with motorists and identified only by signs, a bicycle route has no pavement markings or lane stripes.

Bikeway — a term that encompasses bicycle lanes, bicycle paths, and bicycle routes.

Block — a unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to the continuity to development.

Bluff — see “Coastal Bluff.”

Body or Hearing Body — the individual or group duly authorized by this Code to take action, grant changes to, relief from, or special consideration under this Code.

Body Painting Studio — See Section 9.75.270.

Breakaway Wall — any type of wall, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building materials which are not part of the structural support of the building and which are designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. Breakaway walls shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

- (a) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
- (b) The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

Buffer Area — an area of land separating two (2) distinct land uses that acts to soften or mitigate the effects of one land use on the other, generally located on the site of the offending land use.

Building — any structure used or intended for supporting or sheltering any use or occupancy.

Building Height, Non-Residential — the vertical distance, ~~measured from the interior of the building,~~ **by which the uppermost portion of** a building extends above the existing grade, finished grade, finished pad elevation (excluding subterranean parking structure finished pad elevation), ceiling of uppermost level of subterranean parking structure, or eighteen (18) inches above the flood protection level, whichever is lower, to the top of the roof. Refer to Section 9.05.110 for clarification.

Building Height, Residential — the vertical distance, ~~measured from the interior of the building,~~ **by which the uppermost portion of the roof of a structure extends** above the existing grade, finished pad elevation (excluding basement finished pad elevation), ceiling of a maximum ten (10) foot high basement, or eighteen (18) inches above the flood protection level, whichever is lower, to the top of the roof. Refer to Section 9.05.110 for clarification.

Building, Historic — a building listed individually on the National Register of Historic places by a State or County agency charged with recognition or preservation of historic

structures, or by resolution of the City Council as having significant local or regional historical importance and value to the community.

Building Pad — the level area of a lot designed for the construction of buildings and structures.

Building, Primary — a building within which the principal use or occupancy of a site is conducted.

Building Site — a lot or contiguous lots of land which provides the area and open spaces required for construction of a building or buildings, and which abuts a public or private street, alley or easement.

Bus Turnout — a paved indentation in the curb of a roadway designed to allow buses to pull off to the side and stop while picking up and dropping off passengers. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 96-10, 8/13/96; Ord. 97-05, 9/9/97)

9.75.030 “C” Definitions and Illustrations.

California Coastal Act (or) Coastal Act — the California Coastal Act of 1976, Division 20 of the Public Resources Code (commencing with Section 30000), as amended.

Camp, Public — See Section 9.75.270.

Car lift-A machine by which automobiles are hoisted above or below the level utilized for access onto the lift in order to provide access to other areas or additional parking.

Caretaker’s Residence — See Section 9.75.270.

Cemetery — See Section 9.75.270.

Carport — a roofed structure providing space for the parking or storage of motor vehicles and enclosed on less than four sides.

Cellar — see “Basement.”

Centerline — the centerline of a street as referred to in this Code shall mean the right-of-way centerline as established by the County Engineer of the County, by the Director of Public Works of the City, or by the State Division of Highways of the State; in any case in which the foregoing definition is not applicable, the Planning Commission shall designate the centerline.

Certificate of Occupancy — a document issued to allow a building to be occupied or used and certifying that the building or structure has been constructed, or will be used, in compliance with all the applicable municipal codes and ordinances.

Certified Coastal Land Use Plan — a land use plan which has been effectively certified by the Coastal Commission pursuant to Section 30512 of the Coastal Act as amended. (See definition of “Land Use Plan (LUP amendment). Coastal” in Section 9.75.120 of this Zoning Code). (Coastal).

Certified Local Coastal Program (LCP) — a local coastal program which has been effectively certified by the California Coastal Commission pursuant to Section 30512 and 30513 of the Coastal Act as amended. (See definition of “Local Coastal Program” in Section 9.75.120 of this Zoning Code). (Coastal).

Chapter Three Policies or Chapter 3 Policies — those policies of the Coastal Act contained in Chapter Three, commencing with Section 30200, which constitute the standards by which the adequacy of local coastal programs and the permissibility of proposed development subject to the provisions of the Coastal Act is determined.

Child Day Care Facility — See Section 9.75.270.

Chimney — a vertical masonry structure extending vertically above the roof of a building for the purpose of carrying off heat smoke, soot and/or ash.

Church — See Section 9.75.270.

Circulation System Master Plan — the plan which identifies the adopted and proposed routes for all Circulation Element roadways and bikeways within the City.

Cluster Development — a development in which a number of dwelling units are placed in closer proximity than usual, or are attached, with the purpose of retaining a significant amount of open space area.

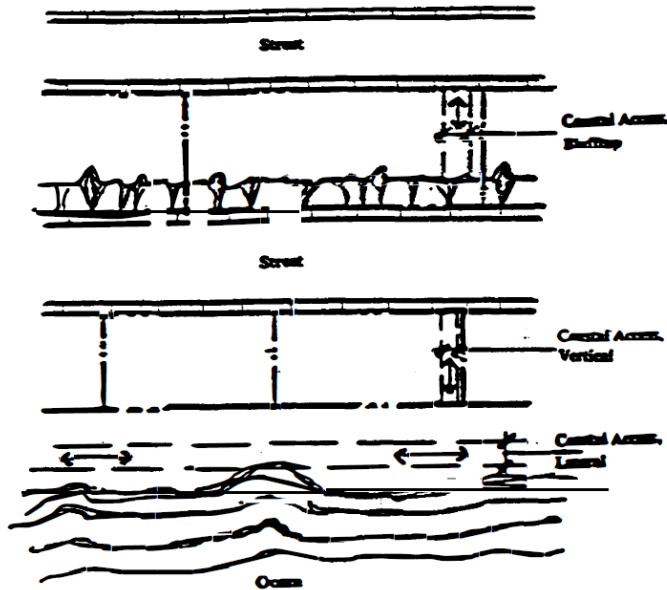
Coastal Access, Bluff Top — provides public access for public viewing of the shoreline along a coastal bluff top area.

Coastal Access, Lateral — provides public access and use along the shoreline or parallel to the sea.

Coastal Access, Recreational — provides public access to coastal recreational resources through means other than those provided by bluff top, lateral, trail and/or vertical coastal access, including but not limited to parking facilities, viewing platforms and bluff top parks.

Coastal Access, Trail — provides public access through a coastal recreational path, including to and along lakes, rivers, streams, freshwater marshes, significant habitat and open space areas or similar resource areas, and which also may link inland recreational facilities to the shoreline.

Coastal Access, Vertical — provides a public access connection between the first public road, public use area nearest the sea, or trail and the publicly owned tidelands or established lateral access.



Coastal Bluff — within the Coastal Zone, coastal bluffs are: (1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and (2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified as an Appealable Area. (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(h)).

Coastal Bluff, Bottom — the lower point of a coastal bluff, subject to determination by the Director of Community Development, where there is a distinct or general transition from the vertical edge (bluff face) to a horizontal plain which is the base of the bluff.

Coastal Bluff Edge — the upper termination of a coastal bluff. When the top edge of the coastal bluff is rounded away from the face of the coastal bluff, the edge shall be defined as that point nearest the coastal bluff beyond which the downward gradient of the land surface increases more or less continuously until it reaches the general gradient of the coastal bluff. In a case where there is a step-like feature at the top of the coastal bluff, the landward edge of the top-most riser shall be considered the bluff edge. The termini of the bluff edge along the seaward face of the bluff shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(h)).

Coastal Bluff, Face — the portion of a coastal bluff between the top and bottom of the coastal bluff.

Coastal Bluff, Top — the upper portion of a coastal bluff, subject to determination by the Director of Community Development, where there is a transition from the vertical edge (bluff face) a horizontal plain which is the plateau, or upper elevation of the bluff.

Coastal Commission — the California Coastal Commission or its successor agency as created pursuant to Division 20 of the Public Resources Code as amended. Whenever the term

California Coastal Zone Conservation Commission appears in any law, it means the California Coastal Commission. (Coastal).

Coastal Commission Permit Jurisdiction Area — all tidelands, submerged lands, and public trust lands (whether filled or unfilled) within the Coastal Zone. (Coastal Act/30519(b)).

Coastal Dependent Development — any development or use which requires a site on, or adjacent to, the sea to be able to function at all. (Coastal Act/30101).

Coastal Dependent Use — Any use which requires a site on, or adjacent to, the sea to be able to function at all. (Coastal Act/30101).

Coastal Development Permit — any license, certificate, approval, or other entitlement for use granted or denied by any public agency which is subject to the provisions of Division 20 of the Public Resources Code as amended. (Coastal Act/30110).

Coastal Flood Plain Development Study — a report which contains technical criteria and standards necessary to provide protection of property from the ocean along the coastal plain.

Coastal High Hazard Area — the area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE, V, or AE and is also designated as FP-3.

Coastal High Hazard Incorporated Area — the area subject to ocean related hazards, including but not limited to high waves, storms, hurricane wave wash, and tsunamis. (Coastal)

Coastal-Related Development — any development or use that is dependent on a coastal-dependent development or use. (Coastal Act/30101.3).

Coastal Plan — the California Coastal Zone Conservation Plan prepared and adopted by the California Coastal Zone Conservation Commission and submitted to the Governor and the Legislature on December 1, 1975, pursuant to the California Coastal Zone Conservation Act of 1972 (commencing with Section 27000). (Coastal).

Coastal Zone — that land and water area of the City of Dana Point, specified on the maps identified and set forth in Section 17 of that chapter of the Statutes of the 1975-76 Regular Session enacting the California Coastal Act of 1976, extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea. (Coastal Act/30103(a)).

Co-Location — the locating of two or more antenna facilities operated by more than one service provider at a single location and mounted to a common antenna structure, wall, roof or other parts of a building.

Commercial Antenna — an antenna used for commercial enterprise, including, but not limited to, cellular antennas, microwave relay stations, AM/FM broadcasting antennas and UHF/VHF broadcasting antennas.

Commercial Vehicle — a vehicle customarily used as part of a business for the transportation of goods or people.

Commercial Wireless Telecommunication Antenna Facility — a facility consisting of one or more antennas that is secured at a fixed and specified location, including any structure designed to support such antenna, which is used for commercial enterprise to provide radio communication services, including, but not limited to, paging services, wireless data services, cellular telephone services, enhanced special mobile radio services (ESMR), personal communication services (PCS), microwave relay stations, AM/FM broadcasting antennas and UHF/VHF broadcasting antennas. Types of antenna facilities include, but are not limited to, rooftop-mounted, wall-mounted and freestanding antenna structure (also known as an “Antenna Facility”).

Commercial Wireless Telecommunication Services — those wireless telecommunication services offered by commercial carriers licensed by the Federal Communication Commission, including, but not limited to, paging services, wireless data services, cellular telephone services, enhanced special mobile radio services (ESMR), personal communication services (PCS), microwave relay stations, AM/FM broadcasting antennas and UHF/VHF broadcasting antennas.

Common Area — land in a development held by an association in common or single ownership which is not reserved for the exclusive use or benefit of an individual tenant or owner.

Common Facility — a non-commercial use established primarily for the benefit and enjoyment of the residential community in which it is located, typically recreation, utility, or service use oriented.

Communal Housing — See Section 9.75.270.

Community Care Facility — See Section 9.75.270.

Community Center — See Section 9.75.270.

Community Treatment Facility — See Section 9.75.270.

Conditional Use — a use permitted on a particular site and within a zoning district only upon finding that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in the Code and authorized by the Commission.

Conditional Use Permit — a permit issued to a property owner allowing a particular use or activity not allowed as a matter of right within a particular district or zone.

Condominium — an undivided interest in common in a portion of real property coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan, in sufficient detail to locate all boundaries thereof. An individual condominium within a condominium may include, in addition, a separate interest in other portions of the real property.

Conforming — fully meeting the requirements of Chapter 8.02 (Building Regulations) and all property development regulations and requirements prescribed in the applicable zoning district.

Congregate Care Facility — See Section 9.75.270.

Congregate Living Health Facility — See Section 9.75.270.

Construction Trailer — a trailer, the use of which is incidental to new construction on a site, including but not limited to temporary office space for the direction of on-site construction activities.

Convalescent Facility — See Section 9.75.270.

Conversion — the change from an individual ownership of existing real property and structure to multiple ownerships of the structure(s), together with a common interest in the land on which the residential, industrial, or commercial buildings are located.

Courtyard — an open, unoccupied space, which is unobstructed from ground to sky, other than a yard, on the same lot with a building and bounded on two or more sides by the walls of a building.

Covered Parking — a parking stall(s) within a carport or completely under the overhanging portion of a building.

Cumulative Effect or Cumulatively — the effect of an individual project in combination with the effects of past projects, other current projects, and probable future projects. (Coastal).

Curb Elevation — the level of the established curb in front of a building, as measured at the center of the frontage. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 96-10, 8/13/96; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98)

9.75.040 “D” Definitions and Illustrations.

Dance Floor — an area which is in excess of three hundred (300) square feet or in excess of fifteen (15) percent of the public area of a building and is used as a dance area, whether as a primary or accessory use.

Dance Hall/Club — See Section 9.75.270.

Day Care Center — See Section 9.75.270.

Day Treatment Facility — See Section 9.75.270.

Day Care Facilities — see “Congregate Health Care and Residential Facilities, Adult Day Health Care, Adult Day Health Center, Adult Day Care Facility, Child Day Care Facility, Day Care Center, Day Treatment Facility, Family Day Care Home, Family Day Care Home, Large, Family Day Care Home, Small, and Social Day Care Facility.”

Days — shall always mean consecutive calendar days unless otherwise stated.

Decibel (db) — a unit used to express the intensity of a sound wave.

Deck — a platform, either freestanding or attached to a building that is supported by pillars, posts or walls.

Deck (Floodplain Overlay District) — a concrete or wooden patio located on the front, rear, or sideyards of a structure.

Dedication — the conveyance by an owner or developer of private land for public use, and the acceptance of land for such use by the governmental agency having jurisdiction over the public function for which it will be used.

Demolish or Destroy — other than immediate replacement or reconstruction, the removal, destruction, wrecking, tearing down, dismantling, or razing of a building or structure to a level where the building or structure is non-functional.

Density — the number of residential dwelling units per acre of land.

Density/Intensity Bonus — the granting of additional development potential that allows a specific development to accommodate additional square footage or additional residential units beyond the maximum for which the site is zoned. Density/Intensity Bonuses are granted in exchange for the provision or preservation of a significant and exemplary public benefit at the same site or at another location.

Density, Gross — the ratio expressed by the number of residential dwelling units divided by gross acreage.

Density, Net — the ratio expressed by the number of residential dwelling units divided by net acreage.

Design — a detailed and organized plan of development that includes: (1) architectural features; (2) street alignments, grades and widths; (3) drainage and sanitary facilities and utilities, including alignments and grades thereof; (4) location and size of all required easements and rights-of-way; (5) fire roads and fire breaks; (6) lot size and configuration; (7) traffic circulation and access; (8) parking; (9) grading; (10) land to be dedicated for park or recreation purposes; and (11) such other specific requirements in the plan and configuration of the entire project as may be necessary or convenient to ensure conformity to, or implementation of, the General Plan, Zoning Code, or any adopted Specific Plan.

Detached Building — any building or structure that does not have a wall or roof in common with any other building or structure.

Detention Basin — a storage facility for the temporary storage of storm water runoff.

Development, Coastal — the placement or erection, on land, in or under water, of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid,

solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto, construction, reconstruction, demolition, or alteration of the size of any structure; including any facility of any private, public, or municipal utility; and the removal of harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provision of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511). As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. (Coastal Act/30106).

Development in the Floodplain Overlay Districts — any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Development Project — any project undertaken for the purpose of development. Development project includes a project involving the issuance of a permit for construction or reconstruction but not a permit to operate. Development permit does not include any ministerial projects proposed to be carried out or approved by public agencies.

Directional panel antenna — an antenna component that transmits and receives wireless telecommunication signals from a specific direction and generally has a box-like, panel-style shape.

Director — the Director of Community Development for the City of Dana Point, unless otherwise specified.

Discretionary Action — an action taken on a development project based on the individual choice or judgement of the members of the hearing body.

District — a division or category of zoning which establishes a distinction in land use through a differentiation in development standards and/or land use regulations.

District, Special — an agency or organization which controls the provision of a public utility or service such as schools, parks, flood control or sewer or water service.

Drinking Establishment — See Section 9.75.270.

Driveway — a private roadway or accessway providing direct vehicular access to a garage, parking lot or use which requires vehicular access such as a service station or car wash.

Drug Abuse Recovery or Treatment Facility — See Section 9.75.270.

Dwelling, Duplex — See Section 9.75.270.

Dwelling, Multiple Family — See Section 9.75.270.

Dwelling, Single Family Attached — See Section 9.75.270.

Dwelling, Single Family Detached — See Section 9.75.270.

Dwelling Unit — a self-contained group of interconnected rooms designed, occupied or intended as separate living quarters, with sleeping and sanitary facilities and one cooking facility, provided within a permanent structure or portion thereof, for residential occupancy by a single household, not including hotels, motels or timeshares. (Added by Ord. 93-16,11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 96-10, 8/13/96; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98)

9.75.050 “E” Definitions and Illustrations.

Easement — An interest in real property owned by another that entitles its holder to a specific limited use or privilege.

Eave — See “Overhang, Roof.”

Elevation — a scale drawing of the front, rear, or side of a building or structure.

Emergency, Coastal — for the purposes of Section 9.69.150 (Emergency Permits) of this Zoning Code, “emergency” shall mean, within the Coastal Zone, a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. (Coastal Act/30333, 30624; 14 Cal. Code of Regulations/13009).

Employment Generation Factors — factors developed for use by the City for projecting the potential employment of any proposed development project.

Emergency Shelter — See Section 9.75.270.

Employees’ Quarters — See Section 9.75.270.

Equestrian Facility — See Section 9.75.270.

Enclosed Parking Structure — a building or structure used for the parking of motor vehicles, having exterior enclosure walls which have less than twenty-five (25) percent of the total wall area open to the atmosphere at each level that enclose at least two sides of the structure.

Enclosed Portion of any Structure — an edifice or building of any kind, attached to or detached from the dwelling unit, or any piece of work artificially built up or composed of parts joined together, that serves some functional or aesthetic connection to the primary building.

Energy Facility — any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal or other source of energy. (Coastal)

Environmental Impact Report (EIR) — a detailed statement setting forth the environmental effects, considerations, and mitigation measures pertaining to a project pursuant to Section 21100 of the California Environmental Quality Act (CEQA), CEQA Guidelines, and local CEQA Guidelines.

Environmentally Sensitive Habitat Area — any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and development. (Coastal Act/30107.5).

Equestrian Trail — a trail which is designed, improved, and intended to be used for horseback riding purposes.

Equipment Shelter — an enclosed structure, cabinet, shed or box at the base of a freestanding antenna mount.

Erosion Control Projects — a plan or proposal of man-made systems, including, but not limited to, dams or diversions, used to decrease damages of erosion caused by storms, wind, wave action and/or flooding.

Escort — means a person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency — See Section 9.75.270.

Estuary — all area within the mean high tide line of any coastal water body, usually semi-enclosed by land, having open, partially obstructed or intermittent exchange with the open sea and in which ocean water is at least occasionally diluted by fresh water runoff from the land. (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(c)).

Exception — a grant of relief from the requirements of Chapter 9.31 which permits construction in a manner that would otherwise be prohibited by Chapter 9.31.

Exceptional Case Approval Procedure — the Exceptional Case Approval procedures shall be required of certain freestanding antenna facilities and any proposed installation which is, in the opinion of the City, of controversial design. Exceptional Case Approval is also required if a wireless carrier-wishes to propose an antenna facility contrary to the design. A Variance is required when a proposal is contrary to the setbacks from residential districts or classrooms.

Existing Use — the use of a lot or structure established at the time of the enactment of this Code. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 96-10, 8/13/96; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98))

9.75.060 “F” Definitions and Illustrations.

Fall Zone — the area on the ground within a prescribed radius from the base of a freestanding antenna facility. The fall zone is the area within which there could be a hazard from falling debris or the collapse of the antenna support standard.

Family Day Care Home — See Section 9.75.270.

Family Day Care Home, Large — See Section 9.75.270.

Family Day Care Home, Small — See Section 9.75.270.

Feasible — capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors. (Coastal Act/30108).

Fence — a solid or open barrier above ground intended to enclose or mark a boundary.

Fill, Coastal — earth or any other substance or material, including pilings placed for purposes of erecting structures thereon, placed in a submerged area. Examples of fill materials include but are not limited to earth, excavated or dredged materials, sand, gravel, rock, rip-rap, and concrete. (Coastal Act/30108.2).

First Public Road Paralleling the Sea — that road nearest to the sea as defined in Section 9.75.190, which is: (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(i)).

First Public Roadway — (See “First Public Road Paralleling the Sea”) - (Coastal).

Flood or Flooding — a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of flood waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source, and/or; (3) the collapse or subsidence of land along the shore of the ocean or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

Flood Boundary and Floodway Map — the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.

Flood Insurance Rate Map (F.I.R.M.) — the official maps on which the Federal Emergency Management Agency has delineated the areas of special flood hazard and the risk premium zones and the floodways applicable to the City.

Flood Insurance Study — the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

Flood, 100-Year — the magnitude of a flood expected to occur on the average every 100 years, based on historical data. The 100-year flood has a 1/100, or one (1) percent, chance of occurring in any given year. See “Base Flood.”

Floodplain — the relatively level land area on either side of the banks of a stream regularly subject to flooding. That part of the floodplain subject to a 100-year flood is designated as an “area of special flood hazard” by the Federal Insurance Administration.

Floodplain or Flood-Prone Area — any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain Fringe — all land between the floodway and the upper elevation of the 100-year flood.

Floodplain Management — the operation of any overall program of corrective and preventive measures for reducing flood damage, including but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations — zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance) and other local regulations. The term describes such state or local regulations in any combination thereof, which provide standards for purpose of flood prevention and reduction.

Floodproofing — any combination of structural and nonstructural additions, changes or adjustments to structures which eliminate or reduce flood damage to improved real property, water and sanitary facilities, structures or their contents.

Floodway — the channel of a river, stream, creek, or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. Also referred to as “Regulatory Floodway”.

Floor Area Ratio — the total gross floor area, including habitable subterranean floors, but not parking structures, of all buildings on a lot divided by the lot area.

Floor Area, Gross — the area included within the surrounding exterior finish wall surface of a building or portion thereof, exclusive of courtyards, **parking structures, and other non-habitable space** but including stairways, hallways, ~~mechanical rooms, and~~ **restrooms,** ~~and other non-habitable areas.~~

Fortune-Telling — See Section 9.75.270.

Foster Family Home — See Section 9.75.270.

Freestanding Antenna Facility — any freestanding structure specifically designed to support one or more antennas and any mounting appurtenances mounted on such a structure.

Fuel Modification Zone — a wide strip of land where flammable native vegetation has been removed and/or modified and partially or totally replaced with drought-tolerant, fire-resistant plants. Fuel modification zones are typically composed of three subzones — a non-combustible zone, a wet zone and a thinning zone.

Functionally Dependent Use — shall mean a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98)

9.75.070 “G” Definitions and Illustrations.

Garage — an enclosed building or structure, or part thereof, used or intended to be used for the parking and storage of motor vehicles.

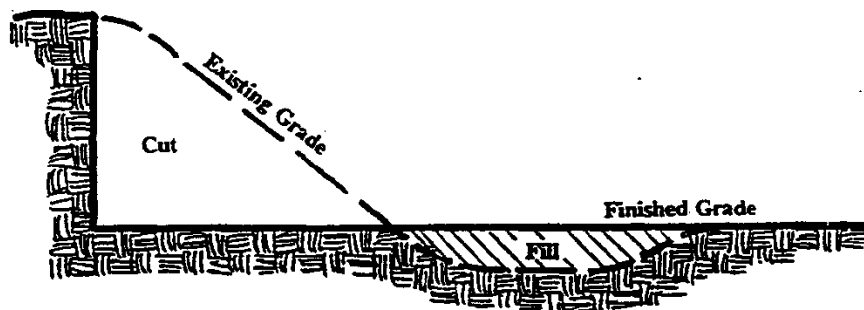
Garage, Private — a garage for general public use, whether free or for free.

Garage, Public — a garage where vehicles are parked or stored for remuneration, hire or sale.

General Plan — the General Plan, pursuant to Government Code Section 65301, of the City of Dana Point which may be amended from time to time by the City Council.

Grade — the average of the finished ground level (finished grade) at the center of all exterior walls of a building or, where such walls are parallel to and within five (5) feet of a sidewalk, the average of the finished ground level at the sidewalk, or to the top of curb, where there is no sidewalk.

Grade, Existing — the elevation of the ground which exists prior to the start of any site preparation, grading, or construction related to the project being proposed. Existing grade will not be the same as natural grade if the site has been previously graded.



Grading, Contour — a grading concept designed to result in earth forms and contours which resemble natural terrain characteristics, with generally curving, non-linear slope banks having variations in the slope ratios of the horizontal and vertical curves.

Granny Flat — See Section 9.75.270.

Greenbelt—an open area, cultivated, landscaped or maintained in a natural state, which surrounds development. Greenbelts serve as a buffer between land uses, or mark the edge of an urban or developed area.

Group Home — See Section 9.75.270.

Guest Room — any room which is used or designed to provide transient occupancy and sleeping accommodations for one or more guests. Guest rooms occur in hotels, motels, time-shared, bed and breakfast, private clubs, lodges, fraternal organizations, and other transient occupancy uses. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.75.080 “H” Definitions and Illustrations.

Handicapped Housing — any housing which is designed and constructed to accommodate physically handicapped persons.

Hazardous Waste Facility — See Section 9.75.270.

Hazardous Waste Facility Project — an on-site facility and pursuant to Health and Safety Code 25199.1.

Hedge — a grouping of vegetation, composed exclusively of shrubs or bushes, planted, grown, maintained and shaped in a linear pattern which forms a solid barrier similar in shape and proportion to a fence or wall.

Helipad — an area of land designed, constructed, properly equipped and authorized by the Federal Aviation Administration to function as a private landing and takeoff facility for helicopters.

Heliport — an area of land designed, constructed, properly equipped and authorized by the Federal Aviation Administration to function as a public landing and takeoff facility for helicopters.

Highest Adjacent Grade — the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Home Occupation — See Section 9.75.270.

Homeowners Association—a community association which is organized within a residential development in which individual owners share common ownership interests and responsibilities for buildings, open space, landscaping, and/or facilities.

Hospital, Acute Psychiatric — See Section 9.75.270.

Hospital, Chemical Dependency Recovery — See Section 9.75.270.

Hospital, General Acute Care — See Section 9.75.270.

Hospital, Special — See Section 9.75.270.

Hotel — See Section 9.75.270.

Household — the permanent residents of a dwelling unit (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.75.090 “I” Definitions and Illustrations.

Improvement—the construction or addition of one or more features, structures or utilities on a parcel of land.

Infill — development of vacant land located within areas that are already developed.

Infrastructure — basic facilities and services needed to sustain development.

Inland Extent of the Beach — the inland extent of the beach shall be determined as follows:

(1) from a distinct linear feature (e.g. a seawall, road, or bluff, etc.); (2) from the inland edge of the further inland beach berm, as determined from historical surveys, aerial photographs, and other records or geological evidence; or (3) where a beach berm does not exist, from the further point separating the dynamic portion of the beach from the inland area as distinguished by vegetation, debris or other geological or historical evidence. (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(g)(1), 13577(g)(2)).

Intermediate Care Facility — See Section 9.75.270.

Island, Traffic — a raised barrier, sometimes landscaped, located in the right-of-way for the purpose of directing circulation patterns. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 97-05, 9/9/97)

9.75.100 “J” Definitions and Illustrations.

None. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.75.110 “K” Definitions and Illustrations.

Kennel — See Section 9.75.270.

Kitchen/Cooking Facilities — a room or portion of a room in a structure used for the purpose of preparing meals, containing the necessary appliances, ~~and equipped with~~ including a sink and running water, and one or more of the following: stove, hot plate, or similar portable or non-portable cooking device.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94;)

9.75.120 “L” Definitions and Illustrations.

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.

Landscape, Front Yard Setback Coverage – The front yard setback of all residentially zoned parcels shall be covered by landscaping with the minimum percentage identified in Zoning Code Section 9.09.030(k) of this Title and consistent with the “Landscaping” definition.

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 non-native** plant materials including lawn, ground cover, **xeriscape (drought tolerant landscape design)**, 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).

Living Area- Means the interior habitable area of a dwelling unit including permitted habitable basements and permitted habitable attics, but does not include a garage or any accessory structure.

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.

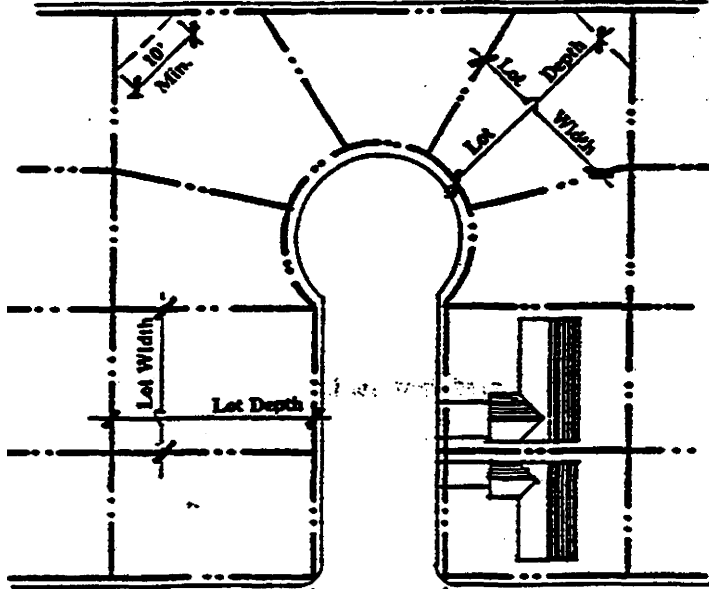
Lot Line, Rear — the lot line opposite and most distant the front lot line; or in the case of an irregularly shaped lot a straight line not less than ten (10) feet long, within the lot and most nearly parallel to and at the maximum distance from the front lot line.

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.



(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 97-05, 9/9/97)

9.75.130 “M” Definitions and Illustrations.

Major Antenna Use Permit — a Major Antenna Use Permit would be required for certain light standard right-of-way antenna facilities and certain “stealth” antenna facilities that are within setbacks defined herein to residential districts and classrooms. A Major AUP would also be required for all non-stealth design antenna facilities setback further from residential districts, such as rooftop facilities, wall-mounted facilities or other non-freestanding facilities that for whatever reason might not be able to strictly adhere to the requirements for “stealth installations” as specified in Section 9.02.020(b).

Major Energy Facility — facilities that cost more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Sections 30610, 30610.5, 30611 or 30624 of the California Coastal Act of 1976. (Coastal Act/30333; 14 Cal. Code of Regulations/13012(a)).

Major Public Works Project — “major public works facilities” are defined as follows:

- (1) Facilities that cost more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Sections 30610, 30610.5, 30611 or 30624 of the California Coastal Act of 1976.
- (2) Notwithstanding the criteria in (1) above, “major public works” also means publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities. (Coastal Act/30333; 14 Cal. Code of Regulations/13012).

Manufactured Home — a structure, transportable in one or more sections, which is built on a permanent chassis and is depicted for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision — a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.

Map Act — the Subdivision Map Act of the State of California.

Market Value — the value of a structure based on market conditions or trends as established by a current or recent appraisal on said property. The term recent is intended to refer to the previous six (6) months.

Massage Parlor — See Section 9.75.270.

Mean High Tide Line — the mean high tide line shall be defined as the statistical mean of all the high tides over the cyclical period of 18.6 years, and shall be determined by reference to the records and elevations of tidal benchmarks established by the National Ocean Survey. In areas where observations covering a period of 18.6 years are not available, a determination may be made based on observations covering a shorter period, provided they are corrected to a mean value by comparison with observations made at some suitably located control tide station. (Coastal Act 30501, 30620.6; 14 Cal. Code of Regulations/13577(c)).

Mean Sea Level — for purposes of the National Flood Insurance Program, the ~~National Geodetic Vertical Datum (NGVD) of 1929~~ **North American Vertical Datum (NAVD) of 1988** or other datum, to which base flood elevations shown on the City's Flood Insurance Rate Map are referenced.

Median — a paved and/or planted area separating a street or highway into two or more lanes of opposite direction travel.

Menagerie — a collection of wild animals and/or birds.

Merger — see “Lot Merger.”

Mezzanine – **An intermediate level or levels between the floor and ceiling as defined, or as amended by the California Building Code, a low-ceilinged story between the main stories or below the roof of a building.**

Microcell — an installation that is used on occasion by Carriers which consists typically of small panel antennas (usually two) mounted on poles and light standards within the public right-of-way with fiber-optic cable connecting the antennas.

Minor Antenna Use Permit — a Minor Antenna Use Permit would be required for light standard right-of-way antenna facilities and certain “stealth” antenna facilities within designated setbacks from residential districts and classrooms. However, unlike those considered through the Major AUP process, these antenna facilities would observe all of the design and siting requirements specified in these regulations.

Microwave Antenna — a wireless telecommunication facility antenna (most often in the shape of a dish or a drum) that transmits and receives microwave radio signals to provide an electronic line-of-sight interconnection between antennas facilities.

Mixed Use — the development, in a compact urban form and designed or arranged to ensure land use compatibility, of a structure(s) or site with two or more different land uses including, but not limited to, residential, office commercial, light industrial, business park, recreational, or public.

~~Mezzanine — a low-ceilinged story between the main stories or below the roof of a building.~~

Mobilehome — See Section 9.75.270.

Mobilehome Park — See Section 9.75.270.

Mobilehome Subdivision — See Section 9.75.270.

Monopole — a type of freestanding antenna facility comprised of a pole designed to support platforms or arms with cross-beams to mount antennas at a desired height above ground level.

Motel — See Section 9.75.270.

Motor Vehicle — a machine capable of self-propulsion, with human guidance, whether for the performance of work or as a mode of transportation.

Multi-Phase Development — a development project that is constructed in increments, with each increment capable of existing independently of the other. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98; Ord. 19-01, 4/2/19)

9.75.140 “N” Definitions and Illustrations.

New Construction in the Floodplain Overlay Districts — for floodplain management purposes, structures for which the “start of construction” commenced on or after **September 14, 1979**, the effective date of a floodplain management regulation adopted by the City. **the area within the City’s boundaries were first included on the Flood Insurance Rate Maps (FIRM).**

Noise, Ambient — the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding alleged offensive noises, at the location and approximate time at which a comparison with alleged offensive noises is to be made.

Nonconforming Lot — any subdivision of land that was lawfully established and in compliance with all applicable ordinances and laws at the time the property was subdivided, but which, due to a subsequently enacted ordinance or law, no longer complies with all the applicable regulations and standards of the zone in which the property is located.

Nonconforming Structure — any structure, building, or improvement upon land, other than the land itself, including any sign, that was lawfully established and in compliance with all applicable ordinances and laws at the time the structure, building or improvement was established, but which, due to a subsequently enacted ordinance or law, no longer complies with

all of the applicable regulations and standards of the zone in which the structure, building or improvement is located.

Nonconforming Structure, Illegal — any structure, building, or improvement upon land, other than the land itself, including any sign, that was not established in compliance with all ordinances and laws that were applicable at the time the structure, building, or improvement was established.

Nonconforming Use — any use of land that was lawfully established and in compliance with all applicable ordinances and laws at the time the use was established, but which, due to a subsequently enacted ordinance or law, no longer complies with all of the applicable regulations and standards of the zone in which the use is located.

Nonconforming Use, Illegal — any use of land that was not established in compliance with all the ordinances and laws that were applicable at the time the use of land was established.

Non-Freestanding Antenna Facility — an antenna facility that utilizes a building to mount the antennas at a desired height above ground level. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 98-06, 9/22/98; Ord. 19-01, 4/2/19)

9.75.150 “O” Definitions and Illustrations.

Occupiable Space, Non-Residential-A room or enclosed space designed for human occupancy in which individuals could congregate and which is equipped with means of egress and light and ventilation facilities meeting the requirements of the California Building Code.

Omni-directional Whip Antenna — a thin whip-style antenna that can transmit and receive wireless telecommunication signals in all directions, typically less than fifteen (15) feet in length.

Open Space — See Section 9.75.270.

Open Space, Active — any parcel or area of land or water which is set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space and which contains recreational facilities such as pools and swimming areas, courts and other game areas, playing fields and equipment or other required facilities for various active activities.

Open Space, Common — land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the owners of the development and which may include complementary structures, facilities and improvements such as gazebos, recreational facilities, pools, spas, and game courts.

Open Space, Passive — any parcel or area of land or water which is essentially unimproved and set aside, dedicated, designated or reserved for non-structured recreational activities in order to preserve the natural and aesthetic qualities of the area.

Open Space, Private — an open space, fenced or otherwise, designed to promote privacy, and which is reserved for the exclusive use of the occupants of a specific dwelling unit.

Open Space, Public — open space owned and maintained by a public agency for the use and enjoyment of the general public.

Overhang, Roof — that portion of a roof which extends beyond the vertical facade of a lower wall.

Overhang, Vehicle — the portion of a parked vehicle which extends beyond a curb and into a landscaped or sidewalk area.

Overlay Zoning District — a zoning district established by ordinance, which shall be applied to properties in combination with any other zoning district or specific plan or development plan.

Owners Association — a community association which is organized within a non-residential development in which individual owners share common ownership interests and responsibilities for buildings, open space, landscaping, and/or facilities. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98)

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 or 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. **Subterranean parking structures shall be allowed to daylight for vehicular access without counting as a story nor against the height calculation if the vehicular access is the only area where a subterranean parking structure daylights.**

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).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98)

9.75.170 “Q” Definitions and Illustrations.

Quasi-Public — a use owned or operated by a non-profit institution providing educational, cultural, recreational, religious, or similar types of public programs.

Queue Area — an area provided for motor vehicles to queue while waiting to obtain goods or services from a drive-through facility. (Added by Ord. 93-16,11/23/93; amended by Ord. 94-09, 5/24/94)

9.75.180 “R” Definitions and Illustrations.

Radiofrequency (RF) emissions — the emissions created by the radio signals from wireless telecommunication facilities.

Reception Window — the area within the direct line between a satellite antenna and those orbiting communications satellites carrying available programming.

Recreational Equipment — structures or devices that stimulate activity through amusement, exercise or play in order to refresh one’s mind or body. Examples include playground equipment (i.e. swings, slides, etc.), park benches, picnic tables, and exercise courses.

Recreational Vehicle — a vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle which is designed or used for recreational or sporting purposes. The term recreational vehicle shall include, but not be limited to, travel trailers, pickup campers, camping or tent trailers, motor coach homes, converted trucks or buses, boats, and boat trailers, and all-terrain vehicles.

Recreational Vehicle Park — See Section 9.75.270.

Recycling Facility — See Section 9.75.270.

Replacement Cost — the actual cost to replace or reconstruct a damaged structure, facility or feature as determined by the appraisal of a qualified and approved appraiser.

Residential Care Facility for the Elderly — See Section 9.75.270.

Residential Facility — See Section 9.75.270.

Resource Recovery — the process of obtaining materials or energy from waste materials, particularly solid waste.

Restaurant — See Section 9.75.270.

Restaurant, Drive-Through — See Section 9.75.270.

Restaurant, Fast Food — See Section 9.75.270.

Restaurant, Take-Out — See Section 9.75.270.

Restaurant, Walkup — See Section 9.75.270.

Retention Basin — see “Detention Basin.”

Right-of-Way — a corridor, either public or private, on which a right of passage has been recorded.

Right-of-Way, Public — any parcel or strip of land acquired by reservation, dedication, prescription or condemnation and intended to be occupied by a road, trail, water line, storm drain, sanitary sewer line and/or other public use.

Right-of-Way, Ultimate — the boundaries of any future right-of-way shown on an adopted precise plan of highway alignment, or the street rights-of-way shown within the boundary of a recorded tract map, a recorded parcel map or a recorded Site Plan. The latest adopted or recorded document in the above case shall take precedence. If none of these exist, the ultimate right-of-way shall be considered the right-of-way required by the roadway classification as shown on the Circulation System Master Plan of the General Plan. In all other instances, the ultimate right-of-way shall be considered to be the existing right-of-way.

Riparian Habitat — an environment associated with freshwater watercourses, including perennial and intermittent streams, lakes, and other bodies of fresh water, and characterized by plants and animals which are dependent upon the availability of water in the resource.

Riverline — relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Roof Deck — a structure that is constructed above the top plate line of a structure, accessed from below the top plate line, and which is designed to function as an outdoor patio or observation area.

Rooftop-mounted Antenna — an antenna mounted to the roof of an existing building.

Room — an area within a building that is fully enclosed by walls, a ceiling and a floor, including at least one door way access and which may include a door(s) or window(s).

Rounding of Quantities — the process whereby, in the calculation of distances, unit density, density bonuses, parking requirements, or other aspects of development or the physical environment, fractional numbers are converted to whole numbers. Where the fractional number is .5 or more, the number shall be rounded up to the next higher whole number. Where the fractional number is less than .5, the number shall be rounded down to the next lower whole number, except as may be otherwise provided in this Code. (Added by Ord. 93-16,11/23/93; amended by Ord. 94-09,5/24/94; Ord. No. 98-06, 9/22/98)

9.75.190 “S” Definitions and Illustrations.

Sand Dunes — naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Sanitarium, Health — See Section 9.75.270.

Sanitarium, Mental — See Section 9.75.270.

Sanitary Sewers — pipes that carry only domestic or commercial sewage to a treatment plant and into which storm, surface, and ground waters are not intentionally admitted.

Satellite Dish Antenna — any antenna in the shape of a shallow dish, and appurtenant equipment, used for the reception of communications (television and otherwise) from orbiting satellites or ground transmitters. This definition includes, satellite dish antennas of all sizes including those satellite dish antennas less than one (1) meter in diameter.

Scale, Public — a weighing mechanism, intended to determine the gross weight of motor vehicles, usually large trucks, that is open to the general public.

Scenic Highway — a roadway designated by the City General Plan as a “scenic highway.”

Screening — a method of visually shielding or obscuring any abutting or nearby structure, use or mechanical device from another by fencing, walls, berms or densely planted vegetation.

Sea — the Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding non-estuarine rivers, streams, tributaries, creeks, and flood control and drainage channels. (Coastal Act/30115).

“Second Dwelling Units” — See Section 9.75.270.

Senior Citizen Housing — See Section 9.75.270.

Senior Congregate Care Housing — See Section 9.75.270.

Sensitive Coastal Resources Area — an identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity. A sensitive coastal resources area includes the following:

- (a) Special marine and land habitat areas, wetlands, lagoons, and estuaries as mapped generally in the Conservation/Open Space Element Figure COS-1.
- (b) Areas possessing significant recreational value.
- (c) Highly scenic areas.
- (d) Archaeological sites designated by the State Historic Preservation Officer.
- (e) Special communities or neighborhoods which are significant visitor destination areas.
- (f) Areas that provide existing coastal recreational opportunities for low-and moderate-income persons.
- (g) Areas where divisions of land could substantially impair or restrict coastal access. (Coastal Act/30116).

Septic System — a sewage treatment system that includes a settling tank through which liquid sewage flows and in which solid sewage settles and is decomposed by bacteria in the absence of oxygen.

Setback — the minimum required distance between a building or structure, and a property line.

Setback Line — a line within a lot, parallel to and measured from a corresponding lot line, forming the boundary of a required yard and governing the placement of buildings/structures and uses on a lot.

Sexual Encounter/Rap Center — means any business or commercial enterprise that, as one of its primary business purposes, offers any form of consideration: (1) physical contact in the form of wrestling or bumbling between persons of the opposite sex; or (2) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

Shoreline Protective Works — a man-made structure or system of structures, including but not limited to, seawalls, revetments, rip-rap, jetties, groins, breakwaters, cliff retaining walls, or dams or diversion, used to protect the shoreline from damage caused by storms, wave action, erosion, and/or flooding. (Coastal Act/30235).

Shoreline Setback — the distance from the mean high tide line governing the placement of buildings, structures, parking or uses on a lot.

Sidewalk—a paved surface or leveled area used as a pedestrian walkway which parallels and is usually separated from, but may be adjacent to, the street.

Sight Distance Area — an area, generally triangular in shape, located at the corners of a street or highway intersection that is designated to be kept clear of visual obstructions in excess of three (3) feet tall.

Sign — ~~any representation used to convey information, or to identify, announce, or otherwise direct attention to a business, profession, commodity, service, or entertainment and placed on, suspended from, or in any way attached to, any structure, vehicle, or feature of the natural or man-made landscape.~~

Sign- See Section 9.37.020(s)

Significant Public Views — those views of the ocean, coastline, coastal foothills and other open space areas within the City from public roadways, public recreational land uses and designated scenic highways.

Single Room Occupancy — See Section 9.75.270.

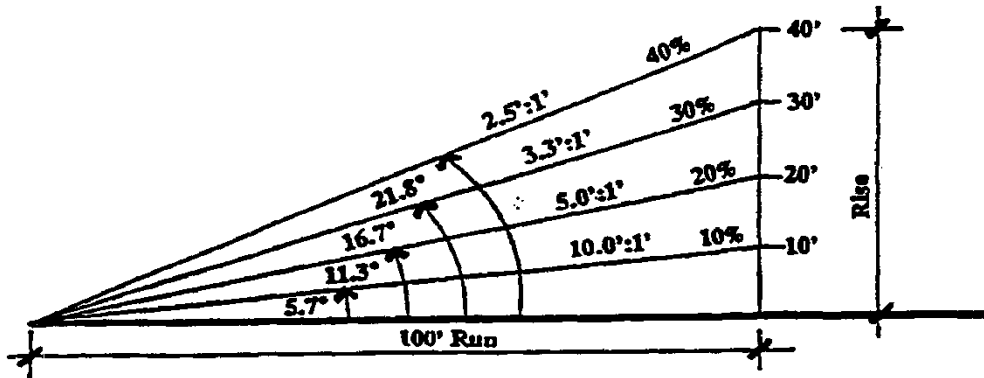
Site — any lot or parcel of land or combination of contiguous lots or parcels of land used or intended for a particular use or group of uses.

Site Development Permit — an approval which is required prior to the development of certain structures or uses in a particular district or zone. This permit is required for most non-restricted uses and is typically utilized to ensure compliance with the district development regulations and to identify necessary improvements, requirements, and dedications.

Site Plan — a diagram of a property proposed for development as seen from above. The diagram shall be drawn to scale and properly dimensioned. The diagram shall illustrate the existing and proposed uses and structures on the property in accordance with the applicable regulations and shall include lot lines, streets, grades, building sites, landscaping, parking areas, structures, and uses on adjacent parcels, reserved open space and other specific development proposals.

“Skilled Nursing Facility” — See Section 9.75.270.

Slope — the degree of deviation of a surface from the horizontal, usually expressed in percent or degrees. The diagram, formulas, and table below are provided for reference.



$$\text{Slope Percentage} = \text{Rise/Run} \times 100$$

Slope Ratio = Run/Rise = (x) feet run to one foot rise = x:1

% Grade	Degrees	Ratio
100.0	45.0	1.0:1
50.0	26.6	2.0:1
40.0	21.8	2.5:1
33.3	18.4	3.0:1
30.0	16.7	3.3:1
25.0	14.0	4.0:1
20.0	11.3	5.0:1
15.0	8.5	6.7:1
12.0	6.8	8.3:1
10.0	5.7	10.0:1
8.0	4.6	12.5:1
6.0	3.4	16.7:1

Slope Bank — a man-made slope steeper than fifteen (15) percent.

“Small Family Home” — See Section 9.75.270.

“Social Day Care Facility” — See Section 9.75.270.

“Social Rehabilitation Facility” — See Section 9.75.270.

Solar Energy Systems — a complete design or assembly consisting of a solar energy collector, energy storage facility, and components for the distribution of transformed energy.

Solid Fence — a fence of wall constructed of materials that are visually opaque.

“Solid Waste Disposal Facility” — See Section 9.75.270.

Specified Hazardous Waste Facility Project — an off-site or on-site facility which serves more than one generator of hazardous waste, and pursuant to Health and Safety Code 25199.1(n).

Specific Plan — a detailed plan for the development of a specific area. It implements the local General Plan by creating a bridge between General Plan policies and individual development proposals. A Specific Plan directs all facets of future development; from the distribution of land uses to the location and sizing of supporting infrastructure, from methods of financing public improvements to standards of development

Specified Anatomical Areas — includes any of the following:

- (1) Less than completely and opaquely covered:
 - (a) Human genitals, pubic region;
 - (b) Buttocks; anus; and

- (c) Female breasts below a point immediately above the top of the areola; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities — includes any of the following:

- (1) The fondling or touching of human genitals, pubic regions, buttocks, anus, or female breasts; or
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of, or in connection with, any of the activities set forth in subsections 1 through 3 of this Section; or
- (5) Human genitals in a state of sexual stimulation or arousal.

Stable, Private — See Section 9.75.270.

Stable, Public — See Section 9.75.270.

Stairway — a flight, or flights of stairs that are connected by common landings.

Standards, Development — requirements in the Code that govern building and development including but not limited to lot area, height limits, frontage, setbacks, density, landscaping, and floor area ratio.

Start of Construction in the Floodplain Overlay Districts — includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means with the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets, and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Stealth Antenna Facility — a commercial wireless telecommunication facility that uses stealth design treatments to completely screen, hide or disguise the antennas and other exposed related equipment to be unobtrusive to the general public.

Stealth Design — design features used to disguise, screen or hide a commercial wireless antenna facility from public views.

Stock Cooperative — a corporation that holds title to improved real property, either in fee simple or for a terms of years, in which all or substantially all of the shareholders have a right of exclusive occupancy in a portion of the property, and the right of occupancy is transferable only concurrently with the transfer of the corporate stock.

Storm Drains — any facilities designed to control, retain or remove surface water runoff.

Story — that portion of a building included between the surface of any floor and the upper surface of the floor next above it, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. Basements and underground parking structures shall not be considered a story.

Stream — a natural watercourse identified as a stream on a map adopted pursuant to a certified Local Coastal Program; or as designated by a solid blue line or other symbol on the USGS 7.5 minute quadrangle series map. The bank of the stream shall be defined as the watershed and relatively permanent elevation or acclivity at the outer line of the stream channel which separates the bed from the adjacent upland, whether valley or hill, and serves to confine the water within the bed and to preserve the course of the stream. In areas where the stream has no discernible bank, the boundary shall be measured from the line closest to the stream where riparian vegetation is permanently established. (Coastal)

Street — an accessible vehicular right-of-way, other than an alley, which affords a primary means of access to abutting property.

Street, Private — a right-of-way, easement or lot, designated for vehicular access, that is not dedicated to the public and held in private ownership, which provides internal access to or through a property.

Street, Public — a right-of-way designated for vehicular access that is dedicated to the public.

Structure — a combination of materials which is assembled for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. Includes, but is not limited to any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, or electrical power transmission and distribution area.

Structure in the Floodplain Overlay Districts — a walled and roofed building, cabana, or garage, including a gas or liquid storage tank, that is principally above ground, as well as a manufacture home.

Structures, Historic in the Floodplain Overlay Districts means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

Subdivision — the division of a tract of land into defined lots, either improved or unimproved, which can be separately conveyed by sale or lease, and which can be altered or developed pursuant to the Subdivision Map Act. Subdivision includes a condominium project as defined in Section 1350 of the California Civil Code and a community apartment project as defined in Section 11004 of the Business and Professions Code.

Subdivision, Tract — a subdivision which creates five or more parcels to be developed as a whole by an owner or builder.

Submerged Lands — lands which lie below the line of mean low tide. (Coastal)

Substantial Damage — damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial Improvement in the Floodplain Overlay Districts — any reconstruction, rehabilitation, addition, enlargement, expansion, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living condition; or
- (b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration will not preclude the structure’s continued designation as a historic structure.

For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (a) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living-conditions; or
- (b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-13, 11/26/96; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98)

9.75.200 "T" Definitions and Illustrations.

Temporary Structure — a structure without any permanent foundation or footings which will be removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

Temporary Use — a use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period, which is permitted through the provisions of Chapter 9.39.

Tenant — the lessee of facility space in a development project.

Terracing — an erosion control method that uses small hills and contours on the land surface to control flooding and runoff.

Tidelands — lands which are located between the line of mean high tide and mean low tide. (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(d)).

Topography — the configuration of a surface area, including its relief and the position of natural and man-made features.

Tot Lot — an improved and equipped play area for small children.

Townhouse — a single-family attached dwelling organized in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common and fire resistant walls.

Trail Staging Area — an area designated for the purpose of preparatory activities prior to the use of trail facilities.

Trail, Riding and Hiking — a path designed for or used by equestrians, pedestrians, and/or cyclists using non-motorized bicycles.

Trailer — a structure standing on wheels, towed or hauled by another vehicle, and used for short-term human occupation, carrying of materials, goods or objects, or as a temporary office.

Transportation Demand Management (TDM) — the implementation of programs, plans or policies designed to encourage changes in individual travel behavior. TDM can include an emphasis on alternative travel modes to the single occupant vehicle (SOV) such as carpools, vanpools and transit; reduction or elimination of the number of vehicle trips, or shifts in the time of vehicle commutes to other than the peak-period.

Travel Trailer — a vehicle, other than a motor vehicle, which is designed or used for human habitation and for travel or recreational purposes, does not at any time exceed eight (8) feet in width and forty (40) feet in length, and may be moved upon a public highway without a special permit or chauffeur's license without violating any provisions of the California Vehicle Code.

Travel Trailer Park — an area where spaces are offered to one or more users of travel trailers.

Trip Reduction — reducing the number of work related trips taken in single occupancy vehicles during the peak period Monday through Friday.

Triplex — a single family attached or multiple family building containing three dwelling units. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 97-05, 9/9/97)

9.75.210 “U” Definitions and Illustrations.

Unenclosed Portion of any Structure — an outdoor extension of living space, built up or composed of parts joined together not serving as habitable living space.

Unique Natural Feature — that part of the natural environment which is rare or not duplicated in the city or region.

Use — the purpose for which land or a building is used, arranged, designed or intended, or for which the land or building is or may be occupied or maintained.

Utility, Private or Public — any closely regulated agency which, under public franchise or ownership, or under certificate of convenience and necessity, provides the public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection, or other similar service. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.75.220 “V” Definitions and Illustrations.

Variance — a discretionary entitlement which permits the departure from the strict application of the development standards contained in this Code and pursuant to the findings required by the California Government Code. This term does not refer to “Administrative Modification of Standards” pursuant to Section 9.61 of this Code.

Vehicle, Disassembled — a vehicle without hoods, doors, fenders, body panels, headlights, trunk lids, tires, wheels, windows, or windshields, or any other part required for legal operation of vehicle.

Vehicle, Wrecked — a vehicle which is rendered inoperable as a result of physical damage.

Vehicular Accessway — a private, non-exclusive vehicular easement affording access to abutting properties.

Vested Right — a right which has been legally established.

Violation in the Floodplain Overlay Districts — the failure of a structure or other development to be fully compliant with the City’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Chapter is presumed to be in violation until such time as that documentation is provided.

Visitor Parking — parking stalls provided in a residential development for intermittent use by visitors. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.75.230 “W” Definitions and Illustrations.

Wall — a solid barrier intended to enclose, separate or surround and typically four (4) inches or more in thickness.

Wall-Mounted Antennas — antennas mounted directly to the exterior main wall or the exterior penthouse wall of an existing building.

Wetlands — any land area which may be covered periodically or permanently with shallow water including, but not limited to, saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps and mudflats. (Coastal Act/30121).

Wetland Restoration Projects — a plan or proposal to restore wetland areas to their natural functioning capability.

Window — an opening which is in a wall of a building, designed to allow light and/or ventilation into the building, enclosed by casement or sash and contains glass or other similar transparent or semitransparent material. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98)

9.75.240 “X” Definitions and Illustrations.

Xeriscape — landscaping characterized by the use of vegetation which is drought-resistant or low water use in character. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.75.250 “Y” Definitions and Illustrations.

Yard — an open space on a developed lot that is unoccupied or unobstructed from the ground upwards, and when a yard dimension is given it represents the minimum horizontal distance between the lot line from which the distance must be measured and a line parallel to the lot line.

Yard, Exterior Side — an area bounded by the required front yard or, where there is no required front yard, the front lot line; the rear lot line, the side street lot line, or the existing or

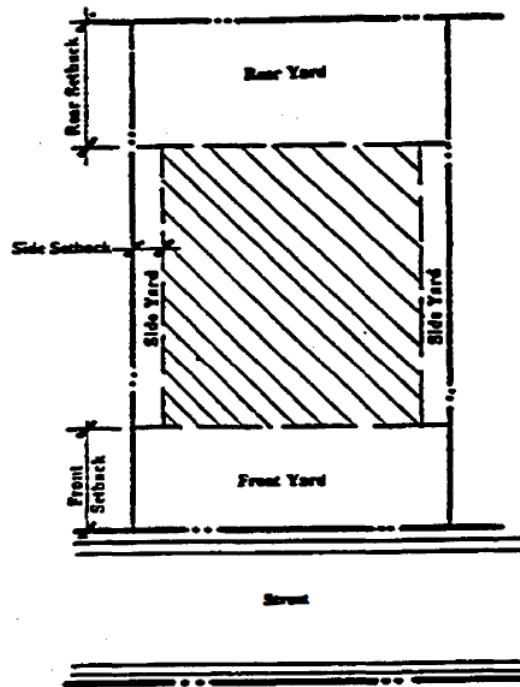
ultimate right-of-way (whichever is greater); and a structural setback line parallel thereto. The measured distance of the yard shall represent the shortest distance between the exterior side lot line and that portion of the main building nearest to the exterior side lot line.

Yard, Front — the open space extending across the full width of the front of the lot, the depth of which is the horizontal distance between the front lot line and a line parallel thereto on the lot.

Yard, Interior Side — an area bounded by the required front yard or, where there is no required front yard, the front lot line; the required rear yard or, where there is no required rear yard, to the rear lot line; the interior side lot line and a structural setback line parallel thereto. The measured distance of the yard shall represent the shortest distance between the interior side lot line and that portion of the main building nearest to the interior side lot line.

Yard, Rear — the open space extending across the full width of the rear of lot, the depth of which is the horizontal distance between the rear lot line and a line parallel thereto on the lot.

Yard, Side — the space between the main building and the side lot line, extending from the front yard to the rear yard; the measured distance of the yard shall represent the shortest distance between the side lot line and that portion of the main building nearest the line from which the measurement is taken.



(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.75.260 “Z” Definitions and Illustrations.

Zero Lot Line — the location of a building on a lot in such a manner that one or more of the building's sides rest directly on a side lot line.

Zone Change — a change to the zoning designation or a property or properties on the Zoning Map.

Zone Text Amendment — a revision, correction or modification to the text of the Zoning Code, including changes to development standards, use regulations or procedures.

Zoning District — a specifically delineated area or district within a municipality in which regulations and requirements uniformly govern the use, placement, spacing and size of land and buildings.

Zoning Map — the map or maps which are a part of the Code and delineate the boundaries of zone districts. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94)

9.75.270 Definitions of Use.

The following terms are utilized in the use charts for Chapters 9.09 through 9.23 and are defined here for reference.

Accessory Living Quarters — shall mean living quarters within the primary structure or an accessory structure for the sole use of persons employed on the premises, relatives or guests of the occupants of the premises, having no kitchen or cooking facilities and not rented or otherwise used as a separate dwelling.

“Administrative Office Uses” — shall mean establishments which provide administrative, consulting, management, and general services to businesses and individuals. Typical uses would include, but not be limited to, offices of real estate agents, insurance agents, banks and other financial institutions, security and commodity brokers, employment agencies, public utilities, telephone answering services and travel agents.

~~Adult Bookstore — shall mean a commercial establishment which has twenty-five (25) percent or more of its shelf space or square footage devoted to the sale or rental of any form of consideration any one or more of the following:~~

~~A. Books, magazines, periodicals, or other printed matter, or photographs, films, motion picture, videocassettes or video reproductions, slides, or other visual representations which depict or describe “specified sexual activities” or “specified anatomical areas”; or~~

~~B. Instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities.”~~

~~A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as an Adult Bookstore or~~

~~Adult Video Store. — Such other business purposes shall not serve to exempt such commercial establishment from being categorized as an Adult Bookstore or Adult Video Store so long as twenty-five (25), percent or more of the shelf space or square footage is devoted to the offering for sale or rental for any form of consideration of specified materials which depict or describe “specified sexual activities” or “specified anatomical areas.”~~

"Adult Bookstore": Any establishment, which as a regular and substantial course of conduct, displays and/or distributes sexually oriented merchandise, book periodicals, magazines, photographs, drawings, sculptures, motion pictures, videos, slides, films, or other written, oral or visual representations which are distinguished or characterized by an emphasis on a matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts.

Adult Business — shall mean a business which is conducted exclusively for the patronage of adults, and as to which minors are specifically excluded from patronage, either by law and/or by the operators of such businesses. Adult Business also means and includes any adult arcade, adult bookstore, adult cabaret, adult hotel or motel, adult theater, adult model studio, adult picture arcade, body painting studio, escort agency, sexual encounter/rap center, and any other business involving “specified sexual activities” or display of “specified anatomical areas.”

~~Adult Cabaret — shall mean any nightclub, bar, restaurant, or similar establishment which, is distinguished or characterized by its emphasis in the entertainment presented on:~~

- ~~(1) Live performances which is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical area; and/or~~
- ~~(2) Films, motion pictures, video cassettes, slides, or other photographic reproductions whose dominant or predominant character and theme is the depiction of specified sexual activities or specified anatomical areas for the observation by patrons.~~

"Adult Cabaret": A nightclub, bar, lounge, restaurant or similar establishment or concern which features as a regular and substantial course of conduct, any type of live entertainment, films, motion pictures, videos, slides, other photographic reproductions, or other oral, written, or visual representations which are characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts.

Adult Day Care Facility — shall mean any facility which provides nonmedical care to persons 18 years of age or older who are in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

Adult Day Health Care — shall mean any organized day program of therapeutic, social, and health activities and services provided pursuant to the Health and Safety Code, Chapter 3.3, to elderly persons with functional impairments, either physical or mental, for the purpose of restoring or maintaining optimal capacity for self-care.

Adult Day Health Center — shall mean a facility which provides adult day health care, or a distinct portion of a licensed health facility in which such care is provided by a specialized unit.

~~Adult Hotel/Motel — shall mean a hotel, or similar commercial establishment which:~~

~~1. Offers accommodations to the public for any form of consideration;~~

~~2. Provides patrons with closed circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or~~

~~3. Offers a sleeping room for rent for a period of time that is less than ten (10) hours;~~

~~or~~

~~4. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.~~

"Adult Entertainment Business": Any business establishment or concern which as a regular and substantial course of conduct performs as an Adult Bookstore, Adult Theater, Adult Motion Picture Arcade, Adult Cabaret, Stripper, Adult Model Studio, Adult Motel/Hotel: or any other business establishment or concern which as a regular and substantial course of conduct offers to its patrons products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts. "Adult Entertainment Business" does not include, those uses or activities, the regulation of which is preempted by state law. "Adult Entertainment Business" shall also include any business establishment or concern which, as a regular and substantial course of conduct provides or allows performers, models, actors, actresses, or employees to appear in any place in lingerie or similar attire which does not opaquely cover Specified Anatomical Parts. For the purposes of this Section, a business establishment or concern has established the provision of products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts as a regular and substantial course of conduct when one or more of the following conditions exist:

1. The area devoted to Sexually Oriented Merchandise and/or Sexually-Oriented Material exceeds more than 25 percent of the total display area or floor space area open to the public;

2. The business establishment or concern presents any type of live entertainment which is characterized by an emphasis on Specified Sexual Activity or Specified Anatomical Parts on any ten or more days in a thirty consecutive day period;

3. Twenty per cent (20%) of the businesses revenues are derived from the provisions of services or merchandise characterized by an emphasis on Specified Sexual Activity or Specified Anatomical Parts.

"Adult Hotel/Motel": A hotel or motel, which as a regular and substantial course of conduct provides to its patrons, through the provision of rooms equipped with closed-circuit television or other medium, material which is distinguished or characterized by the emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts and which rents, leases, or lets any room for less than a 12-hour period and/or rents, leases or lets any room more than once in a 24-hour period and which advertises the availability of any of the above.

~~Adult Modeling Studio— shall mean any establishment open to the public where for any form of consideration of gratuity, human models who display “specified anatomical areas” are provided to be observed, sketched, drawn, painted, sculpted, photographed, or otherwise depicted by persons other than the proprietor paying such consideration or gratuity. This definition does not apply to any school of art, or a firm which is operated by an individual, firm association, partnership, corporation, or institution which meets the requirements established in the Education Code of the State of California for the issuance or conferring of a diploma.~~

"Adult Model Studio": Any premises where as a regular and substantial course of conduct, there is furnished, provided or procured a figure model or models who pose in any manner which is characterized by its emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Parts for the purpose of being observed or viewed by any person or being sketched, painted, drawn, sculptured, photographed, filmed, or videotaped before any person who pays a fee, or any other thing of value, as a consideration, compensation, or gratuity for the right or opportunity to so observe the model or remain on the premises. Adult Model Studio shall not include any Live Art Class or any studio or classroom which is operated by any public agency, or any private educational institution authorized to issue and confer a diploma or degree under Section 94300 et seq. of the Education Code.

~~Adult Picture Arcade— shall mean any place to which the public is permitted or invited wherein coin or token operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine, at any one time, and where the emphasis of the images so displayed is on depiction of “specified sexual activities” or “specified anatomical areas.”~~

“Adult Motion Picture Arcade”: Any business establishment or concern which as a regular and substantial course of conduct provides. for a fee, the use of manually or electronically controlled still, motion picture or video machines, projectors, computer generated or displayed images or other image producing devices which serve less than 5 persons at any one time and are maintained to display images distinguished or characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts machines, devices or other contraptions.

"Adult Motion Picture Theater": a business establishment or concern with one or more viewing rooms with the capacity for fifty or more persons which, as a regular and substantial course of conduct, presents for any form of consideration films, motion

pictures, videos, slide photographs, computer generated or displayed images or other pictures or visual reproductions which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Parts.

“Adult Mini-Motion Picture Theater”: a business establishment or concern with one or more viewing rooms with the capacity of more than five (5), but less than fifty (50) persons, where, for any from of consideration, films, motions pictures, video cassettes, slides, computer generated or displayed images or similar graphic reproductions are shown and material whose dominant or predominant character and theme is the depiction of specified sexual activities or specified anatomical areas for observation is shown on any ten (10) or more days in a thirty (30) consecutive day period.

Adult Theater—shall mean a theater, concert hall, auditorium, or similar establishment, either indoor or outdoor in nature, which presents live entertainment, films, motion pictures, slide photographs, videocassettes, or similar photographic reproductions which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activity” or “specified anatomical areas.”

Agriculture — shall mean the use of land for the growing plants, flowers, shrubs, trees and/or truck crops. All such uses shall be conducted out-of-doors (no greenhouses) and shall not include any on-site retail sales of agricultural products.

Alcoholic Beverage Outlet, Off Sale — shall mean any establishment wherein alcoholic beverages are sold, served or given away for consumption off the premises, including, but not limited to, any facility which is applying for or has obtained a Type 20 or 21 license from the California Department of Alcoholic Beverage Control.

Alcoholic Beverage Outlet, On Sale — shall mean any establishment wherein alcoholic beverages are sold, served or given away for consumption on the premises, including, but not limited to, any facility which is applying for or has obtained a Type 41,42,47,48,51,52 or 53 license from the California Department of Alcoholic Beverage Control.

“Alcoholic beverage manufacturing” means the manufacture or production within the City of Dana Point of beer, wine, brandy or distilled spirits by any person licensed by the Department of Alcoholic Beverage Control of the State of California and includes the sale or distribution of said products.

Animal Hospital — shall mean a facility where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment and the accessory use of the premises as a kennel where animals or pets are boarded for compensation.

Animal Shelter — shall mean a facility providing short-term and long-term boarding for stray animals which may include services such as pet adoption, spay/neuter clinics and the reunion of pets and their owners.

Athletic Field — shall mean a field established for non-professional recreational activities such as youth sports and adult recreational leagues.

“Automotive Sales or Rental Uses” — shall mean establishments which offer motor vehicles, including automobiles, trucks, motorcycles and recreational vehicles such as motorhomes, boats or watercraft, for sale, lease or rent. Typical uses would include, but not be limited to, new or used automobile dealerships, car/truck rental agencies, motorcycle dealerships and recreational vehicle dealers. Such uses may also include accessory repair and service uses.

Automobile Wrecking — shall mean the dismantling or wrecking of one or more used motor vehicles or trailers; or storage, sale or dumping of one or more dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

Bed and Breakfast Inn — shall mean a large single-family dwelling unit, sometimes a small hotel, which provides lodging and breakfast for temporary overnight occupants for compensation.

Body Painting Studio — shall mean any establishment or business which provides the service of applying paint or any other substance, whether transparent or not, to or on the human body when such body is wholly or partially nude in terms of “specified anatomical areas.”

“Building Materials Sales and Service Uses” — shall mean establishments that provide retail sales of materials and services for building construction, remodeling or repair and maintenance of home and garden. Typical uses would include, but not be limited to, lumber yards, interior design shops, cabinet shops, carpet sales, garden supply stores, nurseries, pool supply and equipment sales, glass and minor sales, home improvement centers, paint and wallpaper stores, tile sales and drapery sales.

“Business Service Uses” — shall mean establishments which provide goods or services primarily to businesses on a retail or wholesale basis. Typical uses would include, but not be limited to, office products and supply stores, parcel/postal services, computer sales and service, and courier/messenger services.

Camp, Public — shall mean a plot of ground upon which two or more campsites are located and which is established or maintained for use by the general public as temporary living quarters for recreation, education or vacation purposes.

Caretaker’s Residence — shall mean a dwelling unit accessory to the principal use on a site and intended for occupancy by a caretaker, security guard, worker, or similar person generally requiring residence on the site.

Cemetery — shall mean property which is used for the interring of the dead, including a columbarium and/or mausoleum.

Child Day Care Facility — shall mean a facility which provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. This includes day care centers and family day care homes.

Church — shall mean an assemblage of people for worship or an institution facilitating worship, which may include personal counseling and education, and the building or buildings where such activities take place.

“Civic Uses” — shall mean publicly or privately owned and managed facilities for meetings, conventions or exhibitions and other community, social and multi-purpose uses. Typical uses would include, but not be limited to. City administrative offices, community halls, convention centers, animal shelters, police stations, post offices, and governmental offices.

“Clinical Service Uses” — shall mean establishments which provide physical and mental health services on an out-patient basis. The services may be of preventative, diagnostic, treatment, therapeutic, rehabilitative or counseling nature. Typical uses would include, but not be limited to, medical and health clinics, chiropractic/physical therapy clinics, counselling services and emergency care centers.

“Commercial Entertainment Uses” — shall mean establishments which provide facilities for entertainment for compensation. Typical uses would include, but not be limited to, video game rooms, movie theaters, arcades, batting cages, skating rinks, shooting galleries, miniature golf courses, and bowling alleys.

“Commercial Recreation Uses” — shall mean establishments which provide facilities for recreational amusement, pleasure or sport. Typical uses would include, but not be limited to, bicycle rentals, billiard parlors, boat rentals, dance studios, golf courses, health and athletic clubs and youth clubs.

Communal Housing — shall mean housing for non-family groups with common kitchen and dining facilities but without medical, psychiatric or other care including boarding houses, lodging houses, dormitories, fraternity/sorority houses, communes, and religious homes.

Community Apartment Project — shall mean a development in which an undivided interest in land is coupled with the right of exclusive occupancy of any apartment located thereon.

Community Care Facility — shall mean any facility, or building which is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes residential facilities, adult day care facilities, day treatment facilities, foster family homes, small family homes, social rehabilitation facilities, community treatment facilities, and social day care facilities.

Community Center — shall mean a facility which provides recreational, cultural or other similar community activities.

Community Treatment Facility — shall mean any residential facility which provides mental health treatment services to children in a group setting.

“Construction and Maintenance Service Uses” — shall mean establishments which serve as the administrative and business office of a contractor engaged in construction or maintenance

activities being performed off-site. Company vehicles, excluding construction equipment, may be stored outside, but associated equipment and supplies must be stored in a completely enclosed building or an approved off-site storage yard. Typical uses would include, but not be limited to, construction companies, carpentry services, electrical contractors, handyman services, janitorial services, home and business maintenance services, painting contractors, pest control services, tree surgeons, landscape maintenance services, and plumbing contractors.

Congregate Care Facility — shall mean apartment housing, usually for senior citizens, which is arranged in a group setting that includes independent living and sleeping accommodations in conjunction with shared dining and recreational facilities.

Congregate Living Health Facility — shall mean a facility with a non-institutional, home-like environment which provides inpatient care, including medical supervision, 24-hour skilled nursing and supportive care, pharmacy, dietary, social and recreational services, and at least one type of service specified in Section 1250, paragraph (i) of the Health and Safety Code.

Convalescent Facility — shall mean a State licensed facility which provides long term nursing, dietary, and other medical services except surgery or primary treatments customarily provided in a hospital, to convalescents or invalids.

“Cultural Uses” — shall mean establishments involved in the collection and exhibition of objects or the performance of works having literary, artistic, historic, natural historic, musical, and/or scientific value for public appreciation. Typical uses would include, but not be limited to, public art galleries, museums, libraries, auditoriums, performance halls, amphitheaters and live arts theaters.

Dance Hall/Club — shall mean a public hall which is primarily intended for dancing.

Day Care Center — shall mean a facility which provides non-medical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Family day care homes are further divided into the following categories: Small (up to six (6) children) and large (seven (7) or more children). Day care facilities include family day care homes, infant centers, pre-schools, and extended day care facilities.

Day Treatment Facility — shall mean any facility which provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from, foster care.

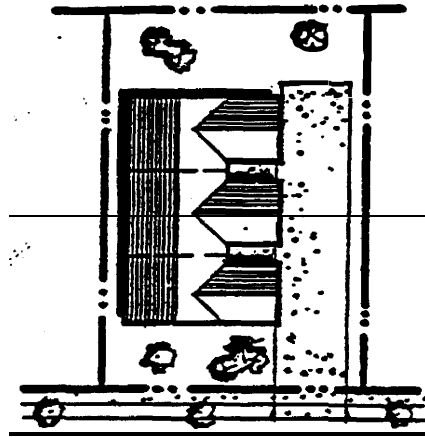
“Drinking Establishment” — shall mean establishments which serve alcoholic beverages such as beer, wine, and liquor for on-site consumption, also known as an Alcoholic Beverage Outlet, On-Site. Typical uses would include, but not be limited to, restaurants that serve alcoholic beverages, bars, pubs, taverns, nightclubs and cocktail lounges.

“Drive-Through Uses” — shall mean establishments which include facilities for the provision of goods, services or food to persons who are occupants of a motor vehicle. Typical uses would include, but not be limited to, banks, dairies, or laundries with window service.

Drug Abuse Recovery or Treatment Facility — shall mean any facility, place, or building which is maintained and operated exclusively to provide 24-hour residential nonmedical services in a group setting to adults, which may include, but need not be limited to, mothers under 18 years of age and their children, who are recovering from alcohol, drug, or drug and alcohol misuse and are currently capable of meeting their life support needs independently, but who temporarily need guidance, counseling, or other alcohol or drug recovery services.

Dwelling, Duplex — shall mean a structure or structures designed to contain two dwelling units on one lot under single or separate ownership.

Dwelling, Multiple Family — shall mean a structure or structures designed to contain three or more dwelling units on one lot under a single or separate ownership.



~~Dwelling, Single Family Attached — shall mean a structure or structures designed to contain two or more dwelling units under separate ownership on one lot under common ownership.~~

Dwelling, Single Family Detached — shall mean a structure designed to contain one dwelling unit on one lot under single ownership.

Eating Establishment, bona fide — shall mean a licensed premises which is maintained in good faith and used for the regular service of meals to patrons which does not contain a separate bar or lounge area. The premises must have suitable kitchen facilities and supply an assortment of foods commonly ordered at various hours of the day.

“Educational Uses”—shall mean establishments, public or private, which provide formal academic, artistic or athletic training. Typical uses would include, but not be limited to, art schools, martial arts schools, dance schools, ~~day care centers~~, gymnastics schools, technical schools, vocational schools and university/college extension programs or satellite facilities.

Emergency Shelter — **shall mean housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay. shall mean a facility that provides immediate and short term housing and supplemental services. Supplemental services may include food, counseling, or access to other social programs.**

Employees' Quarters — shall mean living quarters within the primary structure or within a detached accessory structure intended for the sole occupancy of persons employed on the premises, which may include a separate kitchen or cooking facilities, and which shall not be rented or otherwise used as a separate dwelling unit.

Equestrian Facility — shall mean a structure or area provided for the use of and activities involving horses, mules, donkeys, or ponies.

Escort Agency — shall mean any person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Family Day Care Home — shall mean a home which regularly provides care, protection, and supervision of 12 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away. This includes Large and Small Family Day Care Homes.

Family Day Care Home, Large — shall mean a home which provides family day care to seven to twelve children, including children who reside in the home.

Family Day Care Home, Small — shall mean a home which provides family day care to one to six children, including children who reside in the home.

"Food Service Uses, Specialty" — shall mean establishments which prepare and serve a limited menu of specialty foods or beverages, generally not considered to be meals, for consumption either on or off the premises. Typical uses would include, but not be limited to, candy stores, bakeries, delicatessens, donut shops, sandwich shops, ice cream/yogurt shops and coffee houses.

Fortune-Telling — shall mean the telling of fortunes, forecasting of future events or furnishing of any information not otherwise obtainable by the ordinary process of knowledge, by means of any occult or psychic power, faculty, or force, including, but not limited to, clairvoyancy, clairaudience, cartomancy, phrenology, spirits, tea leaves or other such reading, mediumship, seership, prophecy, augury, astrology, palmistry, necromancy, mind-reading, telepathy, or other craft, art, cards, talisman, charm, potion, magnetism, magnetized article or substance, crystal gazing, or magic, of any kind or nature. Fortune-telling for pay shall mean for a fee, reward, donation, loan or receipt of anything of value.

Foster Family Home — shall mean any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parents, including their family, in whose care the foster children have been placed.

Furniture Store — shall mean establishments consisting primarily of the display and retail sale of interior furnishings for home and office. Typical uses would include, but not be limited to, large appliances, floor coverings, wall coverings, window coverings, bedding and linens, kitchen and bath fixtures and lamps and lighting fixtures.

“Granny” Flat — shall mean an additional dwelling unit on a parcel designated for a single family residence intended for the sole occupancy of one or two adult persons who are 62 years of age or older pursuant to Government Code Section 65852.1.

~~Group Dwelling — shall mean the residential occupancy of a structure by groups of more than five persons who are not related by blood, marriage or adoption, on a weekly or longer basis under a common housekeeping plan or as members of a structured organization. Typical uses would include, but not be limited to, retirement homes, boarding houses and lodging houses.~~

Group Home — shall mean any residential care facility for six or fewer persons which is licensed by the State.

Hazardous Waste Facility — shall mean any facility defined pursuant to Health and Safety Code 25117.1.

“Heavy Industrial Uses” — shall mean establishments which involve the processing, manufacturing and use of natural resources, raw materials, primary metals or alloys, chemicals, petroleum and petroleum by-products. Typical uses would include, but not be limited to, the manufacture and/or assembly of boats, carpeting and rugs, cellophane products, ceramic products, chemicals, clay products, corrugated paper products, die casting, fuel storage, electric motors, enamel products, engines, glass, heating equipment, metal electroforming/coating, metal products and casting, paint, paper product, petroleum products, plastics and plastic products, prefabricated buildings, rubber products, tire retreading, steel fabrication, steel and sheet metal products, tile, or wire, and sand and gravel yards, or automotive salvage or wrecking yards.

Home Occupation — shall mean a commercial activity conducted solely by the occupants of a particular dwelling unit in a manner incidental to and indistinguishable from residential occupancy.

Hospital — shall mean an institution designed within an integrated campus setting for the diagnosis, care, and treatment of human illness, including surgery and primary treatment.

Hospital, Acute Psychiatric — shall mean a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 or Division 6 of the Welfare and Institutions Code. Such care shall include, but need not be limited to the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

Hospital, Chemical Dependency Recovery — shall mean a health facility which provides 24- hour inpatient care for persons who have a dependency on alcohol or other drugs, or both

alcohol and other drugs. Such care shall include, but not be limited to, the following basic services: patient counseling, group therapy, physical conditioning, family therapy, outpatient services, and dietetic services.

Hospital, General Acute Care—shall mean a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

Hospital, Special — shall mean a specialized health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient care in dentistry or maternity.

Hotel — shall mean a structure or group of structures containing six (6) or more guest rooms or suites offering transient lodging accommodations to the general public, with most rooms gaining access through a common lobby and an interior hallway(s). Such a facility may include incidental services that customarily are provided by a hotel such as food service, recreational facilities, retail services provided for the convenience of hotel guests and banquet, reception, and meeting facilities.

“Institutional Uses” — shall mean establishments of a non-profit or quasi-public use status. Typical uses include, but are not limited to, libraries, public or private schools, hospitals, municipally owned or operated buildings, structures or lands used for public purposes.

Intermediate Care Facility — shall mean a health facility which provides inpatient care to ambulatory or non-ambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

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.

“Light Industrial Uses” — shall mean establishments which are quiet, non-polluting operations wholly contained within a structure or screened from public view. Typical uses would include, but not be limited to, the manufacture, assembly, processing or production of apparel and garments, brushes, cameras, candy/confectionery, canvas products, clocks, computers, cutlery, dental equipment, drugs and pharmaceuticals, foods, electronics, glass (edging and beveling), jewelry, medical equipment, musical instruments, optical products, orthopedic devices, precision instruments, scientific instruments, and watches.

"Live Art Class": Any premises on which all of the following occur: there is conducted a program of instruction involving the drawing, photographing, or sculpting of live models exposing Specified Anatomical Parts; instruction is offered in a series of at least 2 classes; the instruction is offered indoors; an instructor is present in the classroom while any participants are present; and pre-registration is required at least 24 hours in advance of participation in the class.

“Live Entertainment Uses” — shall mean establishments which provide the facilities and environment for entertainment, including any act, play, revue, pantomime, scene, dance act, or song and dance act, or any combination thereof, performed by one or more persons whether or not they are compensated for the performance. Typical uses would include, but not limited to, dance halls, dinner theaters, discotheques, nightclubs, playhouses, theaters and restaurants with dance floors.

“Major Automotive Uses” — shall mean establishments which provide major repair and maintenance related to motor vehicles. Typical uses would include, but not be limited to, auto body repair shops, auto glass shops, automotive painting shops, customizing shops, engine rebuilding, speed shops and transmission shops.

“Marine Uses” — shall mean establishments which provide goods and services, on a retail or wholesale basis, for marine related activities. Typical uses would include, but not be limited to, boat rental, boat storage, fishing supply stores, surfboard sales and repair, scuba equipment sales and service, marine supply sales, sail making and repair and jet ski repair.

Massage Establishment — shall mean any establishment having a fixed place of business where any individual, firm, association, partnership, corporation, joint venture, or combination of individuals engages in, conducts, carries on or permits to be engaged in, conducted or carried on for consideration, massages, baths, or health treatments involving massages, or baths as regular functions.

“Medical Office Uses” — shall mean establishments which provide medical services to individuals. Typical uses would include, but not be limited to, offices of doctors, dentists, chiropractors and veterinarians.

“Medium Industrial Uses” — shall mean establishments which involve moderately intensive industrial operations. Typical uses would include, but not be limited to, the manufacture, packing, processing, or assembly of abrasives, adhesives, appliances, audio/visual products, automotive parts, beverage production, bicycles, books, cabinets, candles, cork products, cosmetics, film, electrical appliances, electrical or neon signs, floor covering, fur products, furniture, ink, leather, mattresses, sash and doors, seafood, shoes, soap, textiles, toiletries, tools, toys, window shades, and wood products and shall include welding and machine shops, bottling plants, breweries (not including micro-breweries) and dry cleaning plants.

“Membership Organizations” — shall mean establishments which provide facilities for the meeting and activities of members of philanthropic, social, business or fraternal organizations, but excludes those customarily carried on as businesses. Typical uses would include, but not be limited to, union halls, fraternities and sororities, boys and girls clubs, and lodge halls.

“Minor Automotive Uses” — shall mean establishments which provide routine care and maintenance related to motor vehicles. Typical uses would include, but not be limited to, brake shops, tire stores, muffler shops, alignment shops, car washes (full service or self-service), detail shops, radiator shops, upholstery shops, service stations, stereo installation shops, tune-up services and oil and lubrication services.

“Minor Repair Service Uses” — shall mean establishments which provide service and repair of appliances and other similar utility items for business and personal uses. Typical uses would include, but not be limited to, fix-it shops, jewelry and watch repair, household appliance repair, locksmith shops, stereo and television repair and upholstery shops.

“Mixed Use Center” — shall mean a combination of certain types of retail, office, residential and light industrial uses which, because of the nature of their operation or access and space needs, are compatible and can be located within a common development area.

Mobilehome—shall mean a structure which is transportable in one or more sections, designed and equipped to contain not more than two dwelling units, to be used with or without a foundation system. Mobilehome does not include a recreational vehicle, commercial coach, or factory-built housing.

Mobilehome Park — shall mean any area or tract of land where two or more spaces are permitted to be rented or leased or held out for rent or lease to accommodate two or more manufactured homes or mobilehomes used for human habitation.

Mobilehome Subdivision — shall mean any mobilehome park where spaces are owned instead of rented, leased or held out for rent.

Motel — shall mean an establishment otherwise defined as a hotel with at least twenty-five (25) percent of all rooms having direct access to the parking areas without the necessity of passing through the main lobby of the building.

Nursery — See “Building Materials Sales and Service Uses.”

Open Space — shall mean any parcel or area of land or water set aside, dedicated, designated or reserved for public or private use or enjoyment

“Open Space Uses” — shall mean land which will remain essentially undeveloped and provide for preservation of an environment suitable to wildlife and flora indigenous to the area as well as an environment for food production, outdoor recreation and facilities for the public benefit. Typical uses would include, but not be limited to, beaches, coastal bluffs, riparian areas, and slope areas.

Park, Public — shall mean an open space area intended for public recreation use which is operated by a public agency.

Performer: shall mean any dancer, model, entertainer, and/or other person who publicly performs any Specified Sexual Activities or publicly display any specified anatomical part in adult entertainment businesses.

“Personal Service Uses” — shall mean establishments which provide services to an individual related to personal care and appearance, or the cleaning or repair of personal effects, excluding motor vehicles. Typical uses would include, but not be limited to, antique restoration, barber shops and beauty salons, cosmetologists (including incidental facial and scalp massage), **botox, medical spas or similar procedures**, mortuaries and funeral parlors, shoe repair, dry

cleaning, laundromats, reducing salons, nail salons, tailors, and pet grooming. Massage therapy, and similar such uses, may be considered a personal service use provided that the massage services are administered by a medical practitioner, chiropractor, acupuncturist, acupressurist, or physical therapist appropriately licensed by the State of California.

“Photographic, Reproduction and Graphic Service Uses” — shall mean establishments which provide services involving technical skills, training or talents for the reproduction of printed, graphic or audio/visual materials for businesses, individuals or the general public. Typical uses would include, but not be limited to, printing establishments, blueprint companies, lithographic services, motion picture studios, photographic studios, photographic laboratories, photocopy companies, radio/television studios and recording studios.

“Professional Office Uses” — shall mean establishments which provide professional or technical services to businesses and individuals. Typical uses would include, but not be limited to offices of accountants, architects, accountants, designers, engineers, interior decorators, landscape architects, photographers and planners.

“Public Land Uses” — shall mean land and/or facilities owned, operated and maintained by public agencies for the use and enjoyment of the general public. Typical uses would include, but not be limited to, beaches, parks and open space.

“Public Utility Uses” — shall mean a business organization, such as a public service corporation, performing or providing some public service subject to special governmental regulations, usually a protected monopoly. Typical uses would include, but not be limited to, public utility buildings, structures or facilities for the provision of sewer, water, telephone, gas, electric, or television cable service, city or county maintenance/utility service yards, communication equipment buildings, electrical distribution and transmission substations, microwave antenna/tower, natural gas distribution and control stations, public utility service yards, radio/television transmitters, sewage treatment plants, telephone repeater stations and water treatment and distribution facilities.

“Recreational Uses” — shall mean establishments providing active or passive recreational activities and their incidental support facilities. Typical uses would include, but not be limited to, athletic clubs, health clubs, dance studios, game courts, golf courses, golf driving ranges, gymnasiums, swimming pools, private or public recreational facilities and parks.

Recreational Vehicle Park — shall mean an area used or intended to be used for camping by recreational vehicles.

Recycling Facility — shall mean any center for the collection of recyclable materials. A recycling facility does not include temporary storage containers on property used solely for the recycling of material generated by the approved uses on that property. Recycling facilities include reverse vending machines, small collection recycling facilities, mobile recycling units and large collection recycling facilities. With the exception of reverse vending machines, a recycling facility may only be located within an established convenience zone.

“Religious Uses” — shall mean establishments which provide facilities for public assembly involving worship and ceremonies that pertain to a system of religious beliefs. Typical uses would include, but not be limited to, churches, synagogues and temples.

“Research and Development Uses” — shall mean establishments which provide facilities for testing, investigating or evaluating natural or physical elements or social sciences and include engineering and development activities with the objective of creating end products. Typical uses would include, but not be limited to, research, design or testing laboratories for aeronautics, automobiles, computer products development, controls, engineering services, materials testing, medical/dental, and electronics.

Residential Care Facility for the Elderly — shall mean a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, personal care, or health-related services are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility.

Residential Facility — shall mean any family home, group care facility, or similar facility determined by the State Director of Social Services, established for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

Restaurant — shall mean an establishment which prepares and sells foods and/or beverages for immediate consumption, including but not limited to, dining rooms, cafes, cafeterias, coffee shops, and pizza parlors.

Restaurant, Drive-Through — shall mean a restaurant which includes one (1) or more drive-through lanes for the ordering and receipt of foods and/or beverages by patrons remaining in their vehicles.

Restaurant, Fast Food — shall mean a restaurant whose principal business is the sale of a pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either on or off the premises.

Restaurant, Take-Out — shall mean a restaurant where foods and/or beverages are sold directly to the customer in a ready to consume state for consumption off-site. A take-out restaurant provides no more than four (4) tables and sixteen (16) seats, either inside or outside, for on-site consumption.

Restaurant, Walkup — shall mean a restaurant where the serving and consumption of foods and/or beverages is made available to patrons outside the confines of a building. A walkup restaurant provides only a limited amount of seating (up to 16 seats) for on-site consumption.

“Retail Sales Uses” — shall mean establishments which provide general retail sales of goods and services for the community at large. Typical uses would include, but not be limited to, antique sales, appliance sales and repair, art supplies, automotive parts stores, bicycle sales and service, book stores, camera sales and service, clock sales, clothing sales, coin and stamp sales, computer and electronics stores, convenience stores, department stores, drug stores, feed

and grain stores, fishing supply stores, florist shops, furniture sales, gift shops, grocery and food stores, gun shops, hardware stores, hobby shops, jewelry stores, liquor stores, machine and tools sales, medical/dental equipment sales, music stores, newsstands, optical products sales, pawnshops, pet shops and pet supply stores, photo finishing and photo supply stores, shoe stores, sporting goods stores, stationery stores, television/stereo sales, toy stores and video sales/rental stores.

Sanitarium, Health — shall mean an institution where patients, other than the mentally disoriented or mentally incompetent, are housed and where medical or post-surgical treatment is provided.

Sanitarium, Mental — shall mean an institution for the recuperation and treatment of the mentally disordered or the mentally incompetent victims of drug addiction.

Sanitary Sewer Facility — shall mean any facility used in the treatment, disposal, collection, reclamation, reuse or any other use commonly accepted in industry practice in the handling of raw sewage.

Second Dwelling Unit — shall mean an additional dwelling unit on a lot which is zoned for single family or multiple family use and which contains an existing single family dwelling. The unit is not intended for sale and may be rented. The additional dwelling unit may be attached or detached from the primary residence and must be developed pursuant to Government Code Section 65852.2.

Senior Citizen Housing — shall mean licensed housing for persons 62 years of age or older, or unlicensed housing for persons 55 years of age or older, including such housing facilities as retirement villas, apartments, condominiums, etc., but not including state licensed rest homes, group homes, convalescent hospitals, etc., which are regulated by other provisions of this Code.

Senior Congregate Care Housing — shall mean a structure(s) providing residence for senior citizens (60 years of age or older) with separate bedroom(s) and/or living quarters and including a central or private kitchen, dining, recreational, and other accessory facilities.

Sexually-Oriented Material — Any element of Sexually-Oriented Merchandise, or any book, periodical, magazine, photograph, drawing, sculpture, motion picture film, or other written, oral, or visual representation characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities or specified anatomical parts. This definition also includes, but is not limited to sexual novelties depicting, designed or shaped as specified anatomical parts or which depict specific sexual activities.

Sexually-Oriented Merchandise — Sexually-oriented implements and paraphernalia, such as, but not limited to: dildos, auto sucks, sexually-oriented vibrators, edible underwear, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery operated vaginas, and similar sexually-oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sado-masochistic activity.

Single Room Occupancy — shall mean a cluster of guest units within a residential hotel for weekly or longer tenancy providing sleeping or living facilities for one person per unit, in which sanitary facilities may be provided within the units, and cooking facilities may be shared within the hotel.

Skilled Nursing Facility — shall mean a health facility which provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

Small Family Home — shall mean any residential facility providing 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

Social Day Care Facility — shall mean a community based group program designed to meet the needs of functionally impaired adults through an individual plan of care in a structured comprehensive program that provides a variety of social and related support services in a protective setting on less than a 24-hour basis.

Social Rehabilitation Facility — shall mean any residential facility which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling.

Solid Waste Disposal Facility — shall mean any authorized facility or location where disposal of solid waste occurs.

Specified Anatomical Parts:

- a. Less than completely and opaquely covered human genitals; pubic region; buttocks; or female breast below a point immediately above the top of the areola; or**
- b. Exposed human male genitals or human male genitals in a discernibly turgid state, regardless of whether they are completely and opaquely covered.**

Specified Sexual Activities— shall mean

- a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory function in the context of a sexual relationship, any of the following depicted sexually- oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerastia; or**
- b. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or**

- c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or**
- d. Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or**
- e. Masochism, erotic or sexually-oriented torture, beating or the infliction of pain; or**
- f. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or**
- g. Human excretion, urination, menstruation, vaginal or anal irrigation.**
- h. Striptease; or any act involving the public removal of clothing to the point where Specified Anatomical Parts are displayed; or the public appearance of any person in a state where Specified Anatomical Parts are displayed, or the public appearance of any person where Specified Anatomical Parts are only covered by attire commonly referred to as pasties or a G-string, or any other opaque covering which does not expose the areola or nipples of the female breast, and while covering the natal cleft and pubic area covers less than one inch on either side of the entire length of the natal cleft and two inches across the pubic area. For the purposes of this definition, appearance in "public" shall include a situation when a single employee, agent or other non-patron of the adult entertainment business is in the presence of a single patron of the adult oriented business.**

Stable, Private—shall mean an accessory structure for the keeping of equine animals including horses, mules or ponies for the exclusive use of the occupants of the premises.

Stable, Public — shall mean a structure for the keeping of equine animals including horses, mules or ponies, which are boarded for compensation.

“Storage Yard Uses” — shall mean establishments where construction materials and/or equipment are stored within an enclosed building or properly screened yard. Typical uses would include, but not be limited to, automobile/RV storage, contractor storage yards, equipment sales and rentals, equipment storage, garden equipment sales and storage yards, heating/ventilation/air conditioning equipment storage yards, impound yards, machinery storage yards, plumbing supply yards and truck storage.

Supportive Housing-shall mean housing with no limit on length of stay, that is occupied by the target population and that is linked to on or off site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

Swap Meet — shall mean any indoor or outdoor place, location, or activity where, on a temporary, intermittent or otherwise non-permanent basis, new or used goods or secondhand personal property is offered for sale or exchange to the general public by a multitude of

individual licensed vendors, usually in compartmentalized spaces; and, where a fee may be charged to prospective buyers for admission, or a fee may be charged for the privilege of offering or displaying such merchandise. The term swap meet is interchangeable with and applicable to: flea markets, auctions, open air markets, sidewalk sales, farmers markets, or other similarly named or labeled activities, but the term does not include normal intermittent and incidental retail operations of supermarkets or department stores.

Tattoo Parlor — shall mean any premises used for the business of marking or coloring the skin with tattoos, and all furnishings, equipment, instruments, dyes and inks, and other facilities maintained therein incidental to such use.

Transitional Housing and Transitional Housing Development shall mean buildings configured as rental housing development, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months.

“Transportation Uses” — shall mean establishments which provide local and regional passenger transportation by bus, boat or rail with terminal facilities. Typical uses would include, but not be limited to, bus stations, ferry service facilities, train stations and park and ride facilities.

Video Arcades or Game Rooms — shall mean establishments which provide six (6) or more video games, **virtual reality devices or computers** for the use and enjoyment of the general public.

“Warehousing and Storage Uses” — shall mean establishments which provide facilities for the storage of trade goods, personal goods, or service products and equipment in an enclosed structure. Typical uses would include, but not be limited to, cold storage plants, freight terminals, moving and storage facilities, parcel delivery services, warehouses, and mini-warehouses. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-02, 1/11/94; Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96;)

Chapter 9.77

ON-SHORE SUPPORT FACILITIES FOR OFF-SHORE OIL DRILLING — APPROVALS REQUIRED

Sections:

- 9.77.010** **Purpose.**
- 9.77.012** **Findings of Need for Chapter.**
- 9.77.014** **On-Shore Support Facility Defined.**
- 9.77.016** **Application for and City Council Findings Necessary for On-Shore Support Facilities.**
- 9.77.018** **City Council Approval, Submission to Voters.**
- 9.77.020** **City Council Action Required and Authorized to Effectuate Purposes of this Chapter.**
- 9.77.022** **Limitations of Chapter.**
- 9.77.024** **Amendments to Chapter.**

9.77.010 **Purpose.**

The purpose of this Chapter is to protect the unique and picturesque coastline along the City of Dana Point and to prevent Dana Point from becoming an oil port or other logistical base for off-shore oil operations. (Added by Ord. 92-06, 6/23/92)

9.77.012 **Findings of Need for Chapter.**

This Chapter is needed for the following reasons:

- (a) The City of Dana Point's coastal zone is an environmentally sensitive area which can be irreparably harmed by the seepage of environmental contaminants such as untreated petrochemical products.
- (b) The City of Dana Point's coastal zone is a heavily populated residential area.
- (c) An on-shore oil facility placed within the City of Dana Point's coastal zone would be in close proximity to a high concentration of residences.
- (d) In the normal course of operations, oil facilities increase traffic and produce irritating and unpleasant odors.
- (e) The City of Dana Point is a small community with many unique and environmentally sensitive habitat areas.
- (f) The City of Dana Point is located in a physical setting with spectacular visual qualities. The visual resources of the community serve as valuable assets to both City residents and visitors.
- (g) Tourism is an important part of the City's economy with the quality of die beaches and the beautiful visual resources being a prime factor in the success of

the tourist industry. Oil and gas development off-shore could have a disastrous effect on beaches within the City and the tourist industry.

- (h) Support facilities for off-shore oil and gas development cannot be accommodated in the City of Dana Point The City's approved Local Coastal Programs contain no sites designated for on-shore support facilities associated with off-shore oil development. Any site in the City would have debilitating effects on the local economy and environment.

(Added by Ord. 92-06, 6/23/92)

9.77.014 On-Shore Support Facility Defined.

“On-Shore Support Facility” or “On-Shore Oil Facility” shall mean any structure or development created for the purpose of storing, transporting, or processing liquid petroleum products or natural gas products which operates directly or indirectly in support of any off-shore oil or gas exploration, development, drilling, pumping, or production. Nothing herein provided shall preclude the development of, transportation to, or storage of petroleum products and natural gas products for the retail sale of the same within the City limits. (Added by Ord. 92-06, 6/23/92)

9.77.016 Application for and City Council Findings Necessary for On-Shore Support Facilities.

Whenever any person, partnership, group, firm, or corporation seeks an amendment to the Dana Point General Plan, the Dana Point Zoning Ordinance, any approved Specific Plan, or any applicable Local Coastal Program to permit the development within the City's coastal zone of any on-shore support facility for off-shore oil drilling, the City Council shall hold a public hearing to determine if:

- (a) The proposed amendment is consistent with the coastal policies contained in Public Resources Code Sections 30200 through 302655;
- (b) The proposed amendment is consistent with the City's General Plan;
- (c) The proposed amendment is consistent with the Dana Point Zoning Ordinance;
- (d) The proposed amendment is consistent with any applicable Specific Plan;
- (e) The proposed amendment is consistent with any applicable Local Coastal Program;
- (f) The proposed amendment and underlying development will not pose a significant danger or threat to life, injury, or property of residents of the neighborhood, community, or City;
- (g) The benefits of the proposed amendment and underlying development clearly outweigh the possible adverse environmental effects;

- (h) There are no feasible alternatives to the proposed amendment and underlying development; and,
- (i) The location and approval of the on-shore support facilities identified in the proposed amendment and underlying development at the particular location clearly outweigh any potential harm to public health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or community and will not be detrimental or injurious to property in the neighborhood, community, or to the general welfare of the City.

(Added by Ord. 92-06, 6/23/92)

9.77.018 City Council Approval, Submission to Voters.

- (a) If after concluding the public hearing, the City Council is able to make the findings set forth in Section 9.77.016 above, the City Council shall submit the proposed amendment to a vote of the people at either a special election or the then upcoming general election in accordance with Elections Code Section 4017.
- (b) If the proposed amendment receives a majority of vote of those voters casting ballots on the measure, the proposed amendment shall be deemed adopted. The amendment shall be effective ten (10) days following City Council certification of the election canvass.
- (c) If the proposed amendment fails to receive a majority vote of those voters casting ballots on the measure, the amendment shall have failed passage. The applicant or his/her successor- in-interest shall not thereafter file a subsequent application for a proposed amendment which is substantially the same or similar to the one which failed passage for a period of one (1) year.
- (d) The person, partnership, group, firm, or corporation seeking any such amendment hereunder shall pay, to the extent permitted by law, any and all costs associated with the special or general election required herein. The City Council is hereby authorized to require the posting of a bond, letter of credit, or similar security as a condition precedent to calling an election on the proposed amendment.

(Added by Ord. 92-06, 6/23/92)

9.77.020 City Council Action Required and Authorized to Effectuate Purposes of this Chapter.

The City Council of the City of Dana Point is hereby authorized and directed to enact any further Ordinances, Resolutions, policies, or other documents necessary to give effect to or further the purposes of this Chapter. (Added by Ord. 92-06, 6/23/92)

9.77.022 Limitations of Chapter.

The initiative Ordinance election provided for by this Chapter is intended to extend only to those legislative acts which may be validly exercised by the City Council or the People of the City of Dana Point in connection with the amendment to the City of Dana Point's General Plan, the City of Dana Point's Zoning Ordinance, any applicable Specific Plan, or any applicable Local Coastal Program to provide for the development of on-shore support facilities for off-shore oil drilling. This Chapter is not intended and shall not be construed to apply to any activity or program which is regulated by federal or state law to the extent that such application of this Chapter would conflict with such law. It is the intention of the City Council and the People of the City of Dana Point that this Chapter be interpreted to be compatible with federal and state enactments. (Added by Ord. 92-06, 6/23/92)

9.77.024 Amendments to Chapter.

With the exception of recodification into any comprehensive Municipal or Zoning Code, this Chapter may only be amended or repealed by a majority vote of the People of the City of Dana Point. (Added by Ord. 92-06, 6/23/92)

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**APPENDIX A
MASTER LAND USE MATRIX**

	RSF 2	RSF 3	RSF 4	RSF 7	RMF 7	RSF 8	RSF 12
(1) Accessory Living Quarters	A	A	A	A	X	A	A
(2) Administrative Office Uses	X	X	X	X	X	X	X
(3) Adult Bookstore	X	X	X	X	X	X	X
(4) Adult Business	X	X	X	X	X	X	X
(5) Adult Day Care Facility	C	C	C	C	C	C	C
(6) Adult Day Health Care	C	C	C	C	C	C	C
(7) Adult Day Health Center	C	C	C	C	C	C	C
(8) Adult Hotel/Motel	X	X	X	X	X	X	X
(9) Adult Modeling Studio	X	X	X	X	X	X	X
(10) Adult Theater	X	X	X	X	X	X	X
(11) Alcoholic Beverage Outlet, Off-Site	X	X	X	X	X	X	X
(11B) Alcohol Beverage Manufacturer	X	X	X	X	X	X	X
(12) Animal Hospital	X	X	X	X	X	X	X
(13) Animal Shelter	X	X	X	X	X	X	X
(14) Athletic Held	X	X	X	X	X	X	X
(15) Automotive Sales and Rental Uses	X	X	X	X	X	X	X
(16) Bed and Breakfast Inn	X	X	X	X	X	X	X
(17) Building Materials Sales and Service Uses	X	X	X	X	X	X	X
(18) Business Service Uses	X	X	X	X	X	X	X
(19) Camp, Public	X	X	X	X	X	X	X
(20) Caretaker's Residence	X	X	X	X	X	X	X
(21) Cemetery	X	X	X	X	X	X	X
(22) Civic Uses	X	X	X	X	X	X	X
(23) Clinical Service Uses	X	X	X	X	X	X	X
(24) Commercial Entertainment Uses	X	X	X	X	X	X	X
(25) Commercial Recreation Uses	X	X	X	X	X	X	X
(26) Communal Housing	X	X	X	X	X	X	X
(27) Community Care Facility	C	C	C	C	C	C	C
(28) Community Center	X	X	X	X	X	X	X
(29) Community Treatment Facility	C	C	C	C	C	C	C
(30) Congregate Care Facility	C	C	C	C	C	C	C

LEGEND: P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use

A*= Accessory Use subject to special use standards (see Chapter 9.07)

**APPENDIX A
MASTER LAND USE MATRIX**

	RBR 12	RMF 12	RSF 14	RD 14	RMF 14	RBRD 18
(1) Accessory Living Quarters	C	X	C	C	X	C
(2) Administrative Office Uses	X	X	X	X	X	X
(3) Adult Bookstore	X	X	X	X	X	X
(4) Adult Business	X	X	X	X	X	X
(5) Adult Day Care Facility	C	C	C	C	C	C
(6) Adult Day Health Care	C	C	C	C	C	C
(7) Adult Day Health Center	C	C	C	C	C	C
(8) Adult Hotel/Motel	X	X	X	X	X	X
(9) Adult Modeling Studio	X	X	X	X	X	X
(10) Adult Theater	X	X	X	X	X	X
(11) Alcoholic Beverage Outlet, Off-Site	X	X	X	X	X	X
(11B) Alcoholic Beverage Manufacturer	X	X	X	X	X	X
(12) Animal Hospital	X	X	X	X	X	X
(13) Animal Shelter	X	X	X	X	X	X
(14) Athletic Field	X	X	X	X	X	X
(15) Automotive Sales and Rental Uses	X	X	X	X	X	X
(16) Bed and Breakfast Inn	X	X	X	X	X	X
(17) Building Materials Sales and Service Uses	X	X	X	X	X	X
(18) Business Service Uses	X	X	X	X	X	X
(19) Camp, Public	X	X	X	X	X	X
(20) Caretaker's Residence	X	X	X	X	X	X
(21) Cemetery	X	X	X	X	X	X
(22) Civic Uses	X	X	X	X	X	X
(23) Clinical Service Uses	X	X	X	X	X	X
(24) Commercial Entertainment Uses	X	X	X	X	X	X
(25) Commercial Recreation Uses	X	X	X	X	X	X
(26) Communal Housing	X	X	X	X	X	X
(27) Community Care Facility	C	C	C	C	C	C
(28) Community Center	X	X	X	X	X	X
(29) Community Treatment Facility	C	C	C	C	C	C
(30) Congregate Care Facility	C	C	C	C	C	C

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A* = Accessory Use subject to special use standards (see Chapter 9.07)

**APPENDIX A
MASTER LAND USE MATRIX**

	RSF 22	RMF 22	RMF 30	NC	CC/P	CC/V
(1) Accessory Living Quarters	C	X	X	X	X	X
(2) Administrative Office Uses	X	X	X	P	P	P
(3) Adult Bookstore	X	X	X	X	X	<u>XC*</u>
(4) Adult Business	X	X	X	X	X	<u>CP*</u>
(5) Adult Day Care Facility	C	C	C	X	X	X
(6) Adult Day Health Care	C	C	C	X	C	C
(7) Adult Day Health Center	C	C	C	X	X	X
(8) Adult Hotel/Motel	X	X	X	X	X	C*
(9) Adult Modeling Studio	X	X	X	X	X	C*
(10) Adult Theater	X	X	X	X	X	C*
(11) Alcoholic Beverage Outlet, Off-Site	X	X	X	P*/C*	P*/C*	P*/C*
(11B) Alcoholic Beverage Manufacturer	X	X	X	C*	C*	C*
(12) Animal Hospital	X	X	X	X	P	P
(13) Animal Shelter	X	X	X	X	C	C
(14) Athletic Field	X	X	X	X	X	X
(15) Automotive Sales and Rental Uses	X	X	X	X	C*	C*
(16) Bed and Breakfast Inn	X	X	X	X	P	X
(17) Building Materials Sales and Service Uses	X	X	X	X	P	P
(18) Business Service Uses	X	X	X	P	P	P
(19) Camp, Public	X	X	X	X	X	X
(20) Caretaker's Residence	X	X	X	X	C	C
(21) Cemetery	X	X	X	X	X	X
(22) Civic Uses	X	X	X	X	X	X
(23) Clinical Service Uses	X	X	X	P	P	P
(24) Commercial Entertainment Uses	X	X	X	C	P	P
(25) Commercial Recreation Uses	X	X	X	C	P	P
(26) Communal Housing	X	X	X	X	X	X
(27) Community Care Facility	C	C	C	X	X	X
(28) Community Center	X	X	X	X	X	X
(29) Community Treatment Facility	C	C	C	X	X	X
(30) Congregate Care Facility	C	C	C	X	X	X

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APPENDIX A MASTER LAND USE MATRIX

	V/R/C	C/R	P/R	P/A	I/B
(1) Accessory Living Quarters	X	X	X	X	X
(2) Administrative Office Uses	P	P	P	P	P
(3) Adult Bookstore	C*	X	X	X	C*
(4) Adult Business	CP*	X	X	X	CP*
(5) Adult Day Care Facility	X	C	C	X	X
(6) Adult Day Health Care	X	X	X	X	X
(7) Adult Day Health Center	X	X	X	X	X
(8) Adult Hotel/Motel	C*	X	X	X	C*
(9) Adult Modeling Studio	C*	X	X	X	C*
(10) Adult Theater	C*	X	X	X	C*
(11) Alcoholic Beverage Outlet, Off-Site	P*/C*	P*/C*	X	X	C*
(11B) Alcoholic Beverage Manufacturer	C*	C*	X	X	P*
(12) Animal Hospital	X	X	X	X	X
(13) Animal Shelter	X	X	X	X	X
(14) Athletic Field	X	X	X	X	X
(15) Automotive Sales and Rental Uses	C*	C*	X	X	C*
(16) Bed and Breakfast Inn	P	X	X	X	X
(17) Building Materials Sales and Service Uses	C	X	X	X	P
(18) Business Service Uses	X	P	P	P	P
(19) Camp, Public	X	X	X	X	X
(20) Caretaker's Residence	C	C	C	X	C
(21) Cemetery	X	X	X	X	X
(22) Civic Uses	X	C	P	P	X
(23) Clinical Service Uses	P	P	P	P	X
(24) Commercial Entertainment Uses	C	X	X	X	X
(25) Commercial Recreation Uses	C	X	X	X	X
(26) Communal Housing	X	X	X	X	C
(27) Community Care Facility	X	C	C	X	X
(28) Community Center	X	X	X	X	X
(29) Community Treatment Facility	X	X	X	X	X
(30) Congregate Care Facility	X	C	C	X	X

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**APPENDIX A
MASTER LAND USE MATRIX**

	CF	REC	OS	CONS	TC	DPHPC
(1) Accessory Living Quarters	X	X	X	X	X	(1)

(2) Administrative Office Uses	X	X	X	X	X	(1)
(3) Adult Bookstore	X	X	X	X	X	(1)
(4) Adult Business	X	X	X	X	X	(1)
(5) Adult Day Care Facility	C	X	X	X	X	(1)
(6) Adult Day Health Care	C	X	X	X	X	(1)
(7) Adult Day Health Center	X	X	X	X	X	(1)
(8) Adult Hotel/Motel	X	X	X	X	X	(1)
(9) Adult Modeling Studio	X	X	X	X	X	(1)
(10) Adult Theater	X	X	X	X	X	(1)
(11) Alcoholic Beverage Outlet, Off-Site	X	X	X	X	X	(1)
(11B) Alcoholic Beverage Manufacturer	X	X	X	X	X	(1)
(12) Animal Hospital	X	X	X	X	X	(1)
(13) Animal Shelter	C	C	C	X	X	(1)
(14) Athletic Field	P	P	P	X	X	(1)
(15) Automotive Sales and Rental Uses	X	X	X	X	X	(1)
(16) Bed and Breakfast Inn	X	X	X	X	X	(1)
(17) Building Materials Sales and Service Uses	X	X	X	X	X	(1)
(18) Business Service Uses	X	X	X	X	X	(1)
(19) Camp, Public	X	C	C	X	X	(1)
(20) Caretaker's Residence	X	C	C	X	X	(1)
(21) Cemetery	C	C	C	X	X	(1)
(22) Civic Uses	P	X	X	X	X	(1)
(23) Clinical Service Uses	X	X	X	X	X	(1)
(24) Commercial Entertainment Uses	X	X	X	X	X	(1)
(25) Commercial Recreation Uses	X	C	C	X	X	(1)
(26) Communal Housing	X	X	X	X	X	(1)
(27) Community Care Facility	X	X	X	X	X	(1)
(28) Community Center	P	P	P	X	X	(1)
(29) Community Treatment Facility	X	X	X	X	X	(1)
(30) Congregate Care Facility	C	X	X	X	X	(1)

(1) See the Dana Point Harbor Planned Community for applicable use regulations.

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APPENDIX A MASTER LAND USE MATRIX

	RSF 2	RSF 3	RSF 4	RSF 7	RMF7	RSF 8	RSF 12
(31) Congregate Living Health Facility	C	C	C	C	C	C	C
(32) Construction Maintenance Services	X	X	X	X	X	X	X
(33) Convalescent Facility	C	C	C	C	C	C	C
(34) Cultural Uses	X	X	X	X	X	X	X
(35) Dance Hall/Club	X	X	X	X	X	X	X
(36) Day Care Center	C	C	C	C	C	C	C
(37) Day Treatment Facility	C	C	C	C	C	C	C
(38) Drinking Establishments	X	X	X	X	X	X	X
(39) Drive-Through Uses	X	X	X	X	X	X	X
(40) Drug Abuse Recovery or Treatment Facility	X	X	X	X	X	X	X
(41) Dwelling Unit, Duplex	X	X	X	X	P	X	X
(42) Dwelling Unit, Multiple Family	X	X	X	X	P	X	X
(43) Dwelling Unit, Single Family	P	P	P	P	P	P	P
(44) Educational Uses	X	X	X	X	X	X	X
(45) Emergency Shelter	C	C	C	C	C	C	C
(46) Employee's Quarters	C	C	C	C	X	C	C
(47) Equestrian Facility	X	X	X	X	X	X	X
(48) Family Day Care Home, Large	C	C	C	C	C	C	C
(49) Family Day Care Home, Small	P	P	P	P	P	P	P
(50) Food Service Uses, Specialty	X	X	X	X	X	X	X
(51) Fortune Telling	X	X	X	X	X	X	X
(52) Foster Family Home	P	P	P	P	P	P	P
(53) Furniture Store	X	X	X	X	X	X	X
(54) "Granny" Flat	C*	C*	C*	C*	X	C*	C*
(55) Group Dwelling	C	C	C	C	C	C	C
(56) Group Home	P	P	P	P	P	P	P
(57) Hazardous Waste Facility	X	X	X	X	X	X	X
(58) Heavy Industrial Uses	X	X	X	X	X	X	X
(59) Home Occupation	P*	P*	P*	P*	P*	P*	P*
(60) Hospital, Acute Psychiatric	X	X	X	X	X	X	X

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**APPENDIX A
MASTER LAND USE MATRIX**

	RBR 12	RMF 12	RSF 14	RD 14	RMF 14	RBRD 18
(31) Congregate Living Health Facility	C	C	C	C	C	C
(32) Construction and Maintenance Services	X	X	X	X	X	X
(33) Convalescent Facility	C	C	C	C	C	C
(34) Cultural Uses	X	X	X	X	X	X
(35) Dance Hall/Club	X	X	X	X	X	X
(36) Day Care Center	C	C	C	C	C	C
(37) Day Treatment Facility	C	C	C	C	C	C
(38) Drinking Establishments	X	X	X	X	X	X
(39) Drive-Through Uses	X	X	X	X	X	X
(40) Drug Abuse Recovery or Treatment Facility	X	X	X	X	X	X
(41) Dwelling Unit, Duplex	X	P	X	P	P	P
(42) Dwelling Unit, Multiple Family	X	P	X	X	P	X
(43) Dwelling Unit, Single Family	P	P	P	P	P	P
(44) Educational Uses	X	X	X	X	X	X
(45) Emergency Shelter	C	C	C	C	C	C
(46) Employee's Quarters	C	X	X	X	X	C
(47) Equestrian Facility	X	X	X	X	X	X
(48) Family Day Care Home, Large	C	C	C	C	C	C
(49) Family Day Care Home, Small	P	P	P	P	P	P
(50) Food Service Uses, Specialty	X	X	X	X	X	X
(51) Fortune Telling	X	X	X	X	X	X
(52) Foster Family Home	P	P	P	P	P	P
(53) Furniture Store	X	X	X	X	X	X
(54) "Granny" Flat	C*	X	C*	X	X	C*
(55) Group Dwelling	C	C	C	C	C	C
(56) Group Home	P	P	P	P	P	P
(57) Hazardous Waste Facility	X	X	X	X	X	X
(58) Heavy Industrial Uses	X	X	X	X	X	X
(59) Home Occupation	P*	P*	P*	P*	P*	P*
(60) Hospital, Acute Psychiatric	X	X	X	X	X	X

LEGEND:

P = Permitted Use
 C = Conditional Use
 T = Temporary Use
 X = Prohibited Use

P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T* = Temporary Use subject to special use standards (see Chapter 9.39)
 A = Accessory Use

**APPENDIX A
MASTER LAND USE MATRIX**

	RSF 22	RMF 22	RMF 30	NC	CC/P	CC/V
(31) Congregate Living Health Facility	C	C	C	X	X	X
(32) Construction and Maintenance Services	X	X	X	P	P	P
(33) Convalescent Facility	C	C	C	X	X	X
(34) Cultural Uses	X	X	X	P	P	P
(35) Dance Hall/Club	X	X	X	C	C	C
(36) Day Care Center	C	C	C	P	P	P
(37) Day Treatment Facility	C	C	C	X	X	X
(38) Drinking Establishments	X	X	X	P*/C*	P*/C*	P*/C*
(39) Drive-Through Uses	X	X	X	C	C	C
(40) Drug Abuse Recovery or Treatment Facility	X	X	X	X	C	C
(41) Dwelling Unit, Duplex	X	P	P	X	X	X
(42) Dwelling Unit, Multiple Family	X	P	P	X	X	X
(43) Dwelling Unit, Single Family	P	P	P	X	X	X
(44) Educational Uses	X	X	X	C	P	P
(45) Emergency Shelter	C	C	C	C	C	C
(46) Employee's Quarters	X	X	X	X	X	X
(47) Equestrian Facility	X	X	X	X	X	X
(48) Family Day Care Home, Large	C	C	C	X	C	C
(49) Family Day Care Home, Small	P	P	P	X	C	C
(50) Food Service Uses, Specialty	X	X	X	P	P	P
(51) Fortune Telling	X	X	X	X	P*	P*
(52) Foster Family Home	P	P	P	X	X	X
(53) Furniture Store	X	X	X	P	P	P
(54) "Granny" Flat	C*	X	X	X	X	X
(55) Group Dwelling	C	C	C	X	X	X
(56) Group Home	P	P	P	X	X	X
(57) Hazardous Waste Facility	X	X	X	X	X	X
(58) Heavy Industrial Uses	X	X	X	X	X	X
(59) Home Occupation	P*	P*	P*	X	X	X
(59B) Hookah Lounge	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
(60) Hospital, Acute Psychiatric	X	X	X	X	C	C

LEGEND:

P = Permitted Use
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P* = Permitted Use subject to special use standards (see Chapter 9.07)
C* = Conditional Use subject to special use standards (see Chapter 9.07)
T* = Temporary Use subject to special use standards (see Chapter 9.39)
A = Accessory Use

**APPENDIX A
MASTER LAND USE MATRIX**

	V/RC	C/R	P/R	P/A	I/B
(31) Congregate Living Health Facility	X	C	C	X	X
(32) Construction and Maintenance Services	X	X	X	P	P
(33) Convalescent Facility	X	C	C	X	X
(34) Cultural Uses	P	P	P	P	X
(35) Dance Hall/Club	C	X	X	X	X
(36) Day Care Center	C	P	P	X	X
(37) Day Treatment Facility	X	C	C	X	X
(38) Drinking Establishments	P*C*	P*/C*	X	C*	C*
(39) Drive-Through Uses	C	C(3)	X	X	C
(40) Drug Abuse Recovery or Treatment Facility	X	C	C	X	X
(41) Dwelling Unit, Duplex	X	X	X	X	X
(42) Dwelling Unit, Multiple Family	X	A (1)	A (1)	X	X
(43) Dwelling Unit, Single Family	X	P (2)	P (2)	X	X
(44) Educational Uses	C	X	P	P	P
(45) Emergency Shelter	X	X	X	X	X
(46) Employee's Quarters	X	X	X	X	X
(47) Equestrian Facility	X	X	X	X	X
(48) Family Day Care Home, Large	X	C	C	X	X
(49) Family Day Care Home, Small	X	C	C	X	X
(50) Food Service Uses, Specialty	P	P	C	X	X
(51) Fortune Telling	P*	X	X	X	X
(52) Foster Family Home	X	C	C	X	X
(53) Furniture Store	P	X	X	X	X
(54) "Granny" Flat	X	X	X	X	X
(55) Group Dwelling	X	C	C	X	X
(56) Group Home	X	C	C	X	X
(57) Hazardous Waste Facility	X	X	X	X	C*
(58) Heavy Industrial Uses	X	X	X	X	C
(59) Home Occupation	X	P*	P*	X	X
(59B) Hookah Lounge	X	X	X	X	X
(60) Hospital, Acute Psychiatric	X	C	C	C	X

- (1) Permitted only as an accessory use to commercial or professional development in a mixed use project.
- (2) A single family detached unit may only be permitted to replace an existing nonconforming single family residence. The replacement residence shall be developed in accordance with the development standards of the RSF 7 district. Single family attached units may be constructed as an accessory use in a mixed use project.
- (3) Permitted with a Conditional Use Permit which shall be reviewed and approved by the Planning Commission and precludes restaurant/food uses, and liquor establishments, and permits such uses, but not limited to, dry cleaners, banks and pharmacies. (See Section 9.07.240)

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X = Prohibited Use A = Accessory Use

**APPENDIX A
MASTER LAND USE MATRIX**

	CF	REC	OS	CONS	TC	DPHPC
(31) Congregate Living Health Facility	C	X	X	X	X	(1)
(32) Construction and Maintenance Services	X	X	X	X	X	(1)
(33) Convalescent Facility	C	X	X	X	X	(1)
(34) Cultural Uses	P	P	P	C	X	(1)
(35) Dance Hall/Club	X	X	X	X	X	(1)
(36) Day Care Center	P	X	X	X	X	(1)
(37) Day Treatment Facility	C	X	X	X	X	(1)
(38) Drinking Establishments	X	X	X	X	X	(1)
(39) Drive-Through Uses	X	X	X	X	X	(1)
(40) Drug Abuse Recovery or Treatment Facility	C	X	X	X	X	(1)
(41) Dwelling Unit, Duplex	X	X	X	X	X	X
(42) Dwelling Unit, Multiple Family	X	X	X	X	X	X
(43) Dwelling Unit, Single Family	X	X	X	X	X	X
(44) Educational Uses	P	X	X	X	X	(1)
(45) Emergency Shelter	P(2)	X	X	X	X	(1)
(46) Employee's Quarters	X	X	X	X	X	(1)
(47) Equestrian Facility	X	P	P	C	X	(1)
(48) Family Day Care Home, Large	C	X	X	X	X	X
(49) Family Day Care Home, Small	C	X	X	X	X	X
(50) Food Service Uses, Specialty	X	C	X	X	X	(1)
(51) Fortune Telling	X	X	X	X	X	(1)
(52) Foster Family Home	X	X	X	X	X	X
(53) Furniture Store	X	X	X	X	X	(1)
(54) "Granny" Flat	X	X	X	X	X	X
(55) Group Dwelling	C	X	X	X	X	X
(56) Group Home	C	X	X	X	X	X
(57) Hazardous Waste Facility	X	X	X	X	X	X
(58) Heavy Industrial Uses	X	X	X	X	X	X
(59) Home Occupation	X	X	X	X	X	X
(59B) Hookah Lounge	X	X	X	X	X	X
(60) Hospital, Acute Psychiatric	C	X	X	X	X	X

(0) See the Dana Point Harbor Planned Community for applicable use regulations.

(1) **Up to 20 bed maximum, pursuant to Section 9.19.020 and 9.19.040(b).**

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**APPENDIX A
MASTER LAND USE MATRIX**

	RSF 2	RSF 3	RSF 4	RSF 7	RMF 7	RSF 8	RSF 12
(61) Hospital, Chemical Dependency Recovery	X	X	X	X	X	X	X
(62) Hospital, General Acute Care	X	X	X	X	X	X	X
(63) Hospital, Special	X	X	X	X	X	X	X
(64) Hotel	X	X	X	X	X	X	X
(65) Institutional Uses	X	X	X	X	X	X	X
(66) Intermediate Care Facility	C	C	C	C	C	C	C
(67) Kennel	X	X	X	X	X	X	X
(68) Light Industrial Uses	X	X	X	X	X	X	X
(69) Live Entertainment Uses	X	X	X	X	X	X	X
(70) Major Automotive Uses	X	X	X	X	X	X	X
(71) Manufactured Home	P*	P*	P*	P*	P*	P*	P*
(72) Marine Uses	X	X	X	X	X	X	X
(73) Medical Office Uses	X	X	X	X	X	X	X
(74) Medium Industrial Uses	X	X	X	X	X	X	X
(75) Membership Organizations	X	X	X	X	X	X	X
(76) Minor Automotive Uses	X	X	X	X	X	X	X
(77) Minor Repair Service Uses	X	X	X	X	X	X	X
(78) Mixed Use Center	X	X	X	X	X	X	X
(79) Mobile Home	P*	P*	P*	P*	P*	P*	P*
(80) Mobile Home Park	C*	C*	C*	C*	C*	C*	C*
(81) Mobile Home Subdivision	C*	C*	C*	C*	C*	C*	C*
(82) Motel	X	X	X	X	X	X	X
(83) Open Space	P	P	P	P	P	P	P
(84) Open Space Uses	P	P	P	P	P	P	P
(85) Parks, Public	P	P	P	P	P	P	P
(86) Personal Service Uses	X	X	X	X	X	X	X
(87) Photographic, Reproduction and Graphic Service Uses	X	X	X	X	X	X	X
(88) Professional Office Uses	X	X	X	X	X	X	X
(89) Public Land Uses	X	X	X	X	X	X	X
(90) Public Utility Uses	X	X	X	X	X	X	X
(91) Recreational Uses	A	A	A	A	A	A	A

LEGEND: P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
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 X = Prohibited Use A = Accessory Use

APPENDIX A MASTER LAND USE MATRIX

	RBR 12	RMF 12	RSF 14	RD 14	RMF 14	RBRD 18
(61) Hospital, Chemical Dependency Recovery	X	X	X	X	X	X
(62) Hospital, General Acute Care	X	X	X	X	X	X
(63) Hospital, Special	X	X	X	X	X	X
(64) Hotel	X	X	X	X	X	X
(65) Institutional Uses	X	X	X	X	X	X
(66) Intermediate Care Facility	C	C	C	C	C	C
(67) Kennel	X	X	X	X	X	X
(68) Light Industrial Uses	X	X	X	X	X	X
(69) Live Entertainment Uses	X	X	X	X	X	X
(70) Major Automotive Uses	X	X	X	X	X	X
(71) Manufactured Home	P*	P*	P*	P*	P*	P*
(72) Marine Uses	X	X	X	X	X	X
(73) Medical Office Uses	X	X	X	X	X	X
(74) Medium Industrial Uses	X	X	X	X	X	X
(75) Membership Organizations	X	X	X	X	X	X
(76) Minor Automotive Uses	X	X	X	X	X	X
(77) Minor Repair Service Uses	X	X	X	X	X	X
(78) Mixed Use Center	X	X	X	X	X	X
(79) Mobile Home	P*	P*	P*	P*	P*	P*
(80) Mobile Home Park	X	C*	C*	C*	C*	X
(81) Mobile Home Subdivision	X	C*	C*	C*	C*	X
(82) Motel	X	X	X	X	X	X
(83) Open Space	P	P	P	P	P	P
(84) Open Space Uses	P	P	P	P	P	P
(85) Parks, Public	P	P	P	P	P	P
(86) Personal Service Uses	X	X	X	X	X	X
(87) Photographic, Reproduction and Graphic Service Uses	X	X	X	X	X	X
(88) Professional Office Uses	X	X	X	X	X	X
(89) Public Land Uses	X	X	X	X	X	X
(90) Public Utility Uses	X	X	X	X	X	X
(91) Recreational Uses	A	A	A	A	A	A

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**APPENDIX A
MASTER LAND USE MATRIX**

	RSF 22	RMF 22	RMF 30	NC	CC/P	CC/V
(61) Hospital, Chemical Dependency Recovery	X	X	X	X	C	C
(62) Hospital, General Acute Care	X	X	X	X	C	C
(63) Hospital, Special	X	X	X	X	C	C
(64) Hotel	X	X	X	X	P	P
(65) Institutional Uses	X	X	X	X	C	P
(66) Intermediate Care Facility	C	C	C	X	X	X
(67) Kennel	X	X	X	C	P	P
(68) Light Industrial Uses	X	X	X	X	X	X
(69) Live Entertainment Uses	X	X	X	C*	C*	C*
(70) Major Automotive Uses	X	X	X	X	C	C
(71) Manufactured Home	P*	P*	P*	X	X	X
(72) Marine Uses	X	X	X	P	P	P
(73) Medical Office Uses	X	X	X	P	P	P
(74) Medium Industrial Uses	X	X	X	X	X	X
(75) Membership Organizations	X	X	X	X	P	P
(76) Minor Automotive Uses	X	X	X	X	C	C
(77) Minor Repair Service Uses	X	X	X	P	P	P
(78) Mixed Use Center	X	X	X	X	X	X
(79) Mobile Home	P*	P*	P*	X	X	X
(80) Mobile Home Park	X	C*	C*	X	X	X
(81) Mobile Home Subdivision	X	C*	C*	X	X	X
(82) Motel	X	X	X	X	X	P
(83) Open Space	P	P	P	P	P	P
(84) Open Space Uses	P	P	P	P	P	P
(85) Parks, Public	P	P	P	P	P	P
(86) Personal Service Uses	X	X	X	P	P	P
(87) Photographic, Reproduction and Graphic Service Uses	X	X	X	P	P	P
(88) Professional Office Uses	X	X	X	P	P	P
(89) Public Land Uses	X	X	X	X	X	X
(90) Public Utility Uses	X	X	X	X	X	X
(91) Recreational Uses	A	A	A	C	P	P

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**APPENDIX A
MASTER LAND USE MATRIX**

	V/RC	C/R	P/R	P/A	I/B
(61) Hospital, Chemical Dependency Recovery	X	C	C	C	X
(62) Hospital, General Acute Care	X	C	X	C	X
(63) Hospital, Special	X	C	C	C	X
(64) Hotel	P	X	X	X	X
(65) Institutional Uses	X	X	X	X	X
(66) Intermediate Care Facility	X	C	C	C	X
(67) Kennel	X	X	X	X	P
(68) Light Industrial Uses	X	X	X	X	P
(69) Live Entertainment Uses	C*	C*	X	X	X
(70) Major Automotive Uses	X	X	X	X	P
(71) Manufactured Home	X	X	X	X	X
(72) Marine Uses	P	X	X	X	X
(73) Medical Office Uses	X	P	P	P	X
(74) Medium Industrial Uses	X	X	X	X	P
(75) Membership Organizations	P	P	C	X	X
(76) Minor Automotive Uses	X	X	X	X	P
(77) Minor Repair Service Uses	X	P	P	X	P
(78) Mixed Use Center	X	P	P	X	X
(79) Mobile Home	X	X	X	X	X
(80) Mobile Home Park	X	P(1)	X	X	X
(81) Mobile Home Subdivision	X	X	X	X	X
(82) Motel	P	X	X	X	X
(83) Open Space	P	P	P	P	P
(84) Open Space Uses	P	P	P	P	P
(85) Parks, Public	P	P	P	X	X
(86) Personal Service Uses	P	P	P	P	X
(87) Photographic, Reproduction and Graphic Service Uses	P	P	P	P	P
(88) Professional Office Uses	P	P	P	P	X
(89) Public Land Uses	X	X	X	X	X
(90) Public Utility Uses	X	X	X	X	P
(91) Recreational Uses	P	C	C	C	C

(1) - Only those mobilehome parks in existence as of November 23, 1993 shall be permitted.

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**APPENDIX A
MASTER LAND USE MATRIX**

	CF	REC	OS	CONS	TC	DPHPC
(61) Hospital, Chemical Dependency Recovery	C	X	X	X	X	X
(62) Hospital, General Acute Care	C	X	X	X	X	X
(63) Hospital, Special	C	X	X	X	X	X
(64) Hotel	X	X	X	X	X	(1)
(65) Institutional Uses	C	X	X	X	X	(1)
(66) Intermediate Care Facility	C	X	X	X	X	X
(67) Kennel	X	X	X	X	X	X
(68) Light Industrial Uses	X	X	X	X	X	X
(69) Live Entertainment Uses	X	X	X	X	X	(1)
(70) Major Automotive Uses	X	X	X	X	X	X
(71) Manufactured Home	X	X	X	X	X	X
(72) Marine Uses	X	X	X	X	X	(1)
(73) Medical Office Uses	X	X	X	X	X	(1)
(74) Medium Industrial Uses	X	X	X	X	X	X
(75) Membership Organizations	X	X	X	X	X	X
(76) Minor Automotive Uses	X	X	X	X	X	X
(77) Minor Repair Service Uses	X	X	X	X	X	X
(78) Mixed Use Center	X	X	X	X	X	X
(79) Mobilehome	X	X	X	X	X	X
(80) Mobilehome Park	X	X	X	X	X	X
(81) Mobilehome Subdivision	X	X	X	X	X	X
(82) Motel	X	X	X	X	X	(1)
(83) Open Space	P	P	P	P	X	(1)
(84) Open Space Uses	P	P	P	C	X	(1)
(85) Parks, Public	P	P	P	P	X	(1)
(86) Personal Service Uses	X	X	X	X	X	(1)
(87) Photographic, Reproduction and Graphic Service Uses	X	X	X	X	X	X
(88) Professional Office Uses	X	X	X	X	X	(1)
(89) Public Land Uses	C	P	P	P	X	(1)
(90) Public Utility Uses	C	C	C	C	X	(1)
(91) Recreational Uses	C	P	C	X	X	(1)

(1) - See the Dana Point Harbor Planning Community for applicable use regulations.

LEGEND: P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
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**APPENDIX A
MASTER LAND USE MATRIX**

	RSF 2	RSF 3	RSF 4	RSF 7	RMF 7	RSF 8	RSF 12
(92) Recreational Vehicle Park	X	X	X	X	X	X	X
(93) Recycling Facility	X	X	X	X	X	X	X
(94) Religious Uses	C*	C*	C*	C*	C*	C*	C*
(95) Research and Development Uses	X	X	X	X	X	X	X
(96) Residential Care Facility for the Elderly	C	C	C	C	C	C	C
(97) Residential Facility	C	C	C	C	C	C	C
(98) Restaurant	X	X	X	X	X	X	X
(99) Restaurant, Drive-Through	X	X	X	X	X	X	X
(100) Restaurant, Fast Food	X	X	X	X	X	X	X
(101) Restaurant, Take-Out	X	X	X	X	X	X	X
(102) Restaurant, Walkup	X	X	X	X	X	X	X
(103) Retail Sales Uses	X	X	X	X	X	X	X
(104) Sanitarium, Health	X	X	X	X	X	X	X
(105) Sanitarium, Mental	X	X	X	X	X	X	X
(106) Sanitary Sewer Facility	X	X	X	X	X	X	X
(107) Second Dwelling Units	C*	C*	C*	C*	X	C*	C*
(108) Senior Citizen Housing	X	X	X	X	C	X	X
(109) Single Room Occupancy	X	X	X	X	C	X	X
(110) Skilled Nursing Facility	X	X	X	X	X	X	X
(111) Small Family Home	P	P	P	P	P	P	P
(112) Social Day Care Facility	C	C	C	C	C	C	C
(113) Social Rehabilitation Facility	C	C	C	C	C	C	C
(114) Solid Waste Disposal Facility	X	X	X	X	X	X	X
(115) Stable, Private	X	X	X	X	X	X	X
(116) Stable, Public	X	X	X	X	X	X	X
(117) Storage Yard Uses	X	X	X	X	X	X	X
(118) Tattoo Parlors	X	X	X	X	X	X	X
(119) Timeshares	X	X	X	X	X	X	X
(120) Transportation Uses	X	X	X	X	X	X	X
(121) Video Arcades or Game Rooms	X	X	X	X	X	X	X
(122) Warehousing and Storage Uses	X	X	X	X	X	X	X

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**APPENDIX A
MASTER LAND USE MATRIX**

	RBR 12	RMF 12	RSF 14	RD 14	RMF14	RBRD 18
(92) Recreational Vehicle Park	X	X	X	X	X	X
(93) Recycling Facility	X	X	X	X	X	X
(94) Religious Uses	C*	C*	C*	C*	C*	C*
(95) Research and Development Uses	X	X	X	X	X	X
(96) Residential Facility for the Elderly	C	C	C	C	C	C
(97) Residential Facility	C	C	C	C	C	C
(98) Restaurant	X	X	X	X	X	X
(99) Restaurant, Drive-Through	X	X	X	X	X	X
(100) Restaurant, Fast Food	X	X	X	X	X	X
(101) Restaurant, Take-Out	X	X	X	X	X	X
(102) Restaurant, Walkup	X	X	X	X	X	X
(103) Retail Sales Uses	X	X	X	X	X	X
(104) Sanitarium, Health	X	X	X	X	X	X
(105) Sanitarium, Mental	X	X	X	X	X	X
(106) Sanitary Sewer Facility	X	X	X	X	X	X
(107) Second Dwelling Units	C*	X	C*	X	X	C*
(108) Senior Citizen Housing	X	C	C	X	C	X
(109) Single Room Occupancy	X	C	X	X	C	X
(110) Skilled Nursing Facility	X	X	X	X	X	X
(111) Small Family Home	P	P	P	P	P	P
(112) Social Day Care Facility	C	C	C	C	C	C
(113) Social Rehabilitation Facility	C	C	C	C	C	C
(114) Solid Waste Disposal Facility	X	X	X	X	X	X
(115) Stable, Private	X	X	X	X	X	X
(116) Stable, Public	X	X	X	X	X	X
(117) Storage Yard Uses	X	X	X	X	X	X
(118) Tattoo Parlors	X	X	X	X	X	X
(119) Timeshares	X	X	X	X	X	X
(120) Transportation Uses	X	X	X	X	X	X
(121) Video Arcades or Game Rooms	X	X	X	X	X	X
(122) Warehousing and Storage Uses	X	X	X	X	X	X

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APPENDIX A MASTER LAND USE MATRIX

	RSF 22	RMF 22	RMF 30	NC	CC/P	CC/V
(92) Recreational Vehicle Park	X	X	X	X	X	X
(93) Recycling Facility	X	X	X	P*	P*	P*
(94) Religious Uses	C*	C*	C*	X	C*	C*
(95) Research and Development Uses	X	X	X	C	P	P
(96) Residential Facility for the Elderly	C	C	C	C	C	C
(97) Residential Facility	C	C	C	C	C	C
(98) Restaurant	X	X	X	P	P	P
(99) Restaurant, Drive-Through	X	X	X	C	C	P
(100) Restaurant, Fast Food	X	X	X	C	C	P
(101) Restaurant, Take-Out	X	X	X	P	P	P
(102) Restaurant, Walkup	X	X	X	C	P	P
(103) Retail Sales Uses	X	X	X	P	P	P
(104) Sanitarium, Health	X	X	X	X	X	X
(105) Sanitarium, Mental	X	X	X	X	X	X
(106) Sanitary Sewer Facility	X	X	X	X	X	X
(107) Second Dwelling Units	C*	X	X	X	X	X
(108) Senior Citizen Housing	C	C	C	X	X	X
(109) Single Room Occupancy	X	C	C	X	C	C
(110) Skilled Nursing Facility	X	X	X	X	C	C
(111) Small Family Home	P	P	P	X	X	X
(112) Social Day Care Facility	C	C	C	X	X	X
(113) Social Rehabilitation Facility	C	C	C	X	C	C
(114) Solid Waste Disposal Facility	X	X	X	X	X	X
(115) Stable, Private	X	X	X	X	X	X
(116) Stable, Public	X	X	X	X	X	X
(117) Storage Yard Uses	X	X	X	X	X	X
(118) Tattoo Parlors	X	X	X	X	C*	C*
(119) Timeshares	X	X	X	X	X	X
(120) Transportation Uses	X	X	X	X	X	P
(121) Video Arcades or Game Rooms	X	X	X	C	C	C
(122) Warehousing and Storage Uses	X	X	X	X	X	X

LEGEND:

P = Permitted Use
 C = Conditional Use
 T = Temporary Use
 X = Prohibited Use

P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T* = Temporary Use subject to special use standards (see Chapter 9.39)
 A = Accessory Use

APPENDIX A MASTER LAND USE MATRIX

	V/RC	C/R	P/R	P/A	I/B
(92) Recreational Vehicle Park	X	X	X	X	X
(93) Recycling Facility	X	X	X	X	C*
(94) Religious Uses	X	C*	C*	X	X
(95) Research and Development Uses	X	P	P	P	P
(96) Residential Facility for the Elderly	X	C	C	C	X
(97) Residential Facility	X	C	C	X	X
(98) Restaurant	P	P	C	X	P
(99) Restaurant, Drive-Through	P	X	X	X	C
(100) Restaurant, Fast Food	P	X	X	X	P
(101) Restaurant, Take-Out	P	P	C	X	X
(102) Restaurant, Walkup	P	P	C	X	X
(103) Retail Sales Uses	P	P	X	X	X
(104) Sanitarium, Health	X	X	C	C	X
(105) Sanitarium, Mental	X	X	C	C	X
(106) Sanitary Sewer Facility	X	X	X	X	P
(107) Second Dwelling Units	X	X	X	X	X
(108) Senior Citizen Housing	X	C	C	X	X
(109) Single Room Occupancy	C	C	C	X	C
(110) Skilled Nursing Facility	X	C	C	C	X
(111) Small Family Home	X	C	C	C	X
(112) Social Day Care Facility	X	C	C	X	X
(113) Social Rehabilitation Facility	X	C	C	C	X
(114) Solid Waste Disposal Facility	X	X	X	X	C*
(115) Stable, Private	X	X	X	X	X
(116) Stable, Public	X	X	X	X	X
(117) Storage Yard Uses	X	X	X	X	C
(118) Tattoo Parlors	C*	X	X	X	X
(119) Timeshares	X	X	X	X	X
(120) Transportation Uses	P	X	X	X	P
(121) Video Arcades or Game Rooms	C	X	X	X	X
(122) Warehousing and Storage Uses	X	X	X	X	P

LEGEND:

P = Permitted Use
 C = Conditional Use
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 X = Prohibited Use

P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T* = Temporary Use subject to special use standards (see Chapter 9.39)
 A = Accessory Use

APPENDIX A MASTER LAND USE MATRIX

	CF	REC	OS	CONS	TC	DPHPC
(92) Recreational Vehicle Park	X	C	X	X	X	X
(93) Recycling Facility	C*	X	X	X	X	(1)
(94) Religious Uses	C	X	X	X	X	X
(95) Research and Development Uses	X	X	X	X	X	X
(96) Residential Facility for the Elderly	C	X	X	X	X	X
(97) Residential Facility	C	X	X	X	X	X
(98) Restaurant	X	X	X	X	X	(1)
(99) Restaurant, Drive-Through	X	X	X	X	X	(1)
(100) Restaurant, Fast Food	X	X	X	X	X	(1)
(101) Restaurant, Take-Out	X	X	X	X	X	(1)
(102) Restaurant, Walkup	X	C	X	X	X	(1)
(103) Retail Sales Uses	X	X	X	X	X	(1)
(104) Sanitarium, Health	C	X	X	X	X	X
(105) Sanitarium, Mental	C	X	X	X	X	X
(106) Sanitary Sewer Facility	P	X	X	X	X	X
(107) Second Dwelling Units	X	X	X	X	X	X
(108) Senior Citizen Housing	X	X	X	X	X	X
(109) Single Room Occupancy	X	X	X	X	X	X
(110) Skilled Nursing Facility	C	X	X	X	X	X
(111) Small Family Home	C	X	X	X	X	X
(112) Social Day Care Facility	C	X	X	X	X	X
(113) Social Rehabilitation Facility	C	X	X	X	X	X
(114) Solid Waste Disposal Facility	C*	X	X	X	X	X
(115) Stable, Private	X	P	C	X	X	X
(116) Stable, Public	X	P	C	X	X	X
(117) Storage Yard Uses	X	X	X	X	X	(1)
(118) Tattoo Parlors	X	X	X	X	X	X
(119) Timeshares	X	X	X	X	X	X
(120) Transportation Uses	C	X	X	X	C	(1)
(121) Video Arcades or Game Rooms	X	X	X	X	X	(1)
(122) Warehousing and Storage Uses	X	X	X	X	X	X

(1) - See the Dana Point Harbor Planned Community for applicable use regulations.

LEGEND: P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use

**APPENDIX B
PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS**

Refer to the standards of the underlying zoning designation, except for the following modifications:

PRD NUMBER	1	2	3	4	5	6	7	8	9	10
Underlying Zoning	RSF 4	RSF 7 RSF 12	RSF 3 RSF 4 RSF 7 RSF 12	RSF 4	RSF 4 RSF 7	RSF 7	RSF 7	RSF 7	RSF 7	RSF 7
(a) Maximum Height	28 ft.	* 35 ft.	* 35 ft. ⁽¹⁰⁾	* 35 ft. ⁽⁹⁾	28 ft.	28 ft.	28 ft.	28 ft.	(6)	28 ft.
(b) Front Setback										
From ultimate ROW	* 5 ft.	20 ft. (1)	20 ft. (1)	*(8)	20 ft.	(5)	20 ft.	* 5 ft.	(6)	20 ft.
(c) Side Setback										
Interior	10 ft. (2)	10 ft. (2)	10 ft. (2)	10 ft.(2)	5 ft.	5 ft.	5 ft.	* 5 ft.	* 5 ft.	5 ft.
Street	5 ft.	10 ft (2)	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	* 5 ft.	* 5 ft.	10 ft.
Flag Lot	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
(d) Rear Setback										
Standard	* 10 ft.	10/5 (3)	* 15 ft.	* 15 ft.	25 ft. (4)	25 ft. (5)	* 15 ft.	* 5 ft.	(6)	25 ft. (7)
Street	* 5 ft.	10 ft.	15 ft.	15 ft.	15 ft. (4)	25 ft. (5)	25 ft.	* 5 ft.	(6)	15 ft. (7)
Flag Lot	25 ft.	25 ft.	25 ft.	25 ft.	25 ft. (4)	25 ft. (5)	25 ft.	* 5 ft.	(6)	25 ft. (7)

* indicates a standard which is different than that in the underlying zoning.

FOOTNOTES:

Footnote/Location:

Standard:

1/Laguna Niguel Planned Community

A twenty foot (20') setback is required for the primary structure. Detached or attached garages may have front setback of five feet (5') provided that the garage is equipped with an automatic opener attached to a rollup garage door. Without the automatic opener and rollup garage door, the front setback for a garage is twenty feet (20'). The front yard setback is measured from the back of sidewalk, or the back of curb where there is no sidewalk. Where the garage has been built with a front setback of between five (5) and twenty (20) feet, a second story area may be built above the garage area with a minimum setback equal to the exiting front garage setback plus five (5) feet. Within Tract 12119 (The Estates of Monarch Cove), a ten-foot (10') setback is required.

2/Laguna Niguel Planned Community

10 ft. aggregate side yard setbacks

3/Laguna Niguel Planned Community

5 ft. setback when rear yard abuts open space or golf course

4/Thunderbird Capistrano Planned Community

Structures with existing legal rear setbacks less than 25 ft. are permitted to develop according to the existing setback; all others shall comply with the development standards of the underlying zoning district.

5/Dana Woods Tract

Structures with existing legal front and/or rear setbacks less than that noted in the development standards are permitted to develop according to the existing setback; all others shall comply with the development standards of the underlying zoning district. Note that garage setbacks less than 20 ft. shall be equipped with an automatic garage door opener.

6/Lantern Bay Estates

Front: Lots 1-9, 20' or more:
Lots 10-40 = garage may be 5' with provision of an automatic garage door opener; or 20' or more
Sides: 5' for all structures
Rear: Lots 3-10, 10' setback
Lots 41-46, 15' setback
All others, 25' setback
Height: Lots 20-40, 25' above existing pad elevation

Note: All structures shall be prohibited beyond the top of slope. Subarticle #10 of the City of Dana Point Grading Manual shall determine the setback from top of slope.

7/Stratford at the Pacific and Marlborough Seaside Villas

Structures with existing legal rear setbacks less than 25 ft. are permitted to develop according to the existing setback; all others shall comply with the development standards of the underlying zoning district.

FOOTNOTES: (Continued)

Footnote/Location:

Standard:

8/Ritz Cove

A fifteen foot (15') setback is required for the primary structure. A ten foot (10') front yard setback is permitted to a side entry garage provided that the driveway is consistent with Section 9.35.050(b)(5) and the maximum height of the side-entry garage does not exceed fourteen feet (14').

9/Ritz Cove

Subterranean residential garages consistent with the definition of a "Basement" as set forth in Chapter 9.75, and subject to a minor Site Development Permit pursuant to Section 9.71, shall be considered a basement and shall not be considered in the calculation of building height or stories.

10/Monarch Cove

Within Tract 12119 (The Estates of Monarch Cove), the maximum height for structures shall not exceed 30 feet.

APPENDIX B PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS

Refer to the standards of the underlying zoning designation, except for the following modifications:

PRD NUMBER	11	12	13	14	15	16	17	18	19	20
Underlying Zoning	RSF 7	RSF 4	RSF 7	RSF 7	RSF 7	RSF 7	RSF 7	RSF 7	RSF 7	RSF 7
(a) Maximum Height	28 ft.	28 ft.	28 ft.	28 ft.	28 ft.	28 ft.	28 ft.	28 ft.	28 ft.	28 ft.
(b) Front Setback										
From ultimate ROW	20 ft.	20 ft. (1)	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.
(c) Side Setback										
Interior	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.
Street	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
Flag Lot	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
(d) Rear Setback										
Standard	* 10 ft.	25 ft. (2)	* 10 ft.	* 5 ft.	* 5 ft.	* 10 ft.	* 5 ft.	* 20 ft.	* 10 ft.	* 20 ft.
Flag Lot	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

FOOTNOTES:

* indicates a standard which is different than that in the underlying zoning

Footnote/Location:

1/The Village

Standard:

10 ft. setback for side entry garage is permitted.

2/The Village

Structures with existing rear setbacks less than 25 feet are permitted to develop according to the existing setback; all others shall comply with the development standards of the underlying zoning district.

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**APPENDIX B
PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS**

Refer to the standards of the underlying zoning designation, except for the following modifications:

PRD NUMBER	21	22	23		25	26
Underlying Zoning	RSF 7	RSF 4	RSF 7	NO PRD 24	RSF 12	RSF 7
(a) Maximum Height	28 ft.	28 ft.	28 ft.		28 ft.	28 ft.
(b) Front Setback						
From ultimate ROW	* 10 ft.	20 ft.	*(5)		(1)	(3)
(c) Side Setback						
Interior	5 ft.	5 ft.	5 ft.		* 5 ft.	(4)
Street	10 ft.	10 ft.	10 ft.		* 10 ft.	* 5 ft.
Flag Lot	10 ft.	10 ft.	5 ft.		N/A	N/A
(d) Rear Setback						
Standard	* 10 ft.	* 15 ft.	15 ft.		(2)	* 10 ft.
Street	15 ft.	15 ft.	10 ft.		(2)	N/A
Flag Lot	N/A	N/A	15 ft.		N/A	N/A

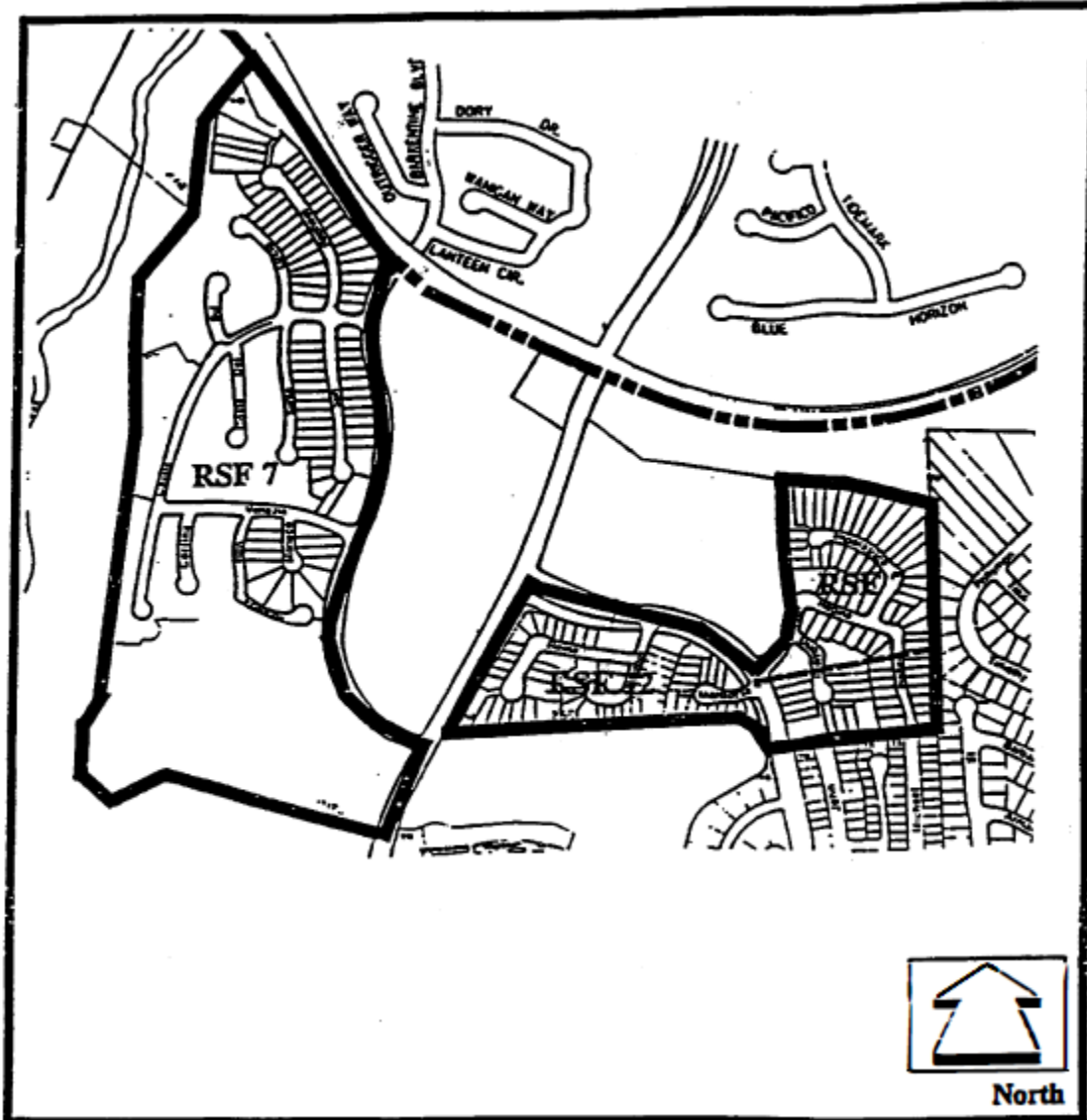
FOOTNOTES:

* indicates a standard which is different than that in the underlying zoning.

Footnote/Location:	Standard:
1/Chelsea Pointe	5 ft. garage setbacks are permitted.
2/Chelsea Pointe	20 ft. adjacent to PCH 20 ft. for interior lots 15 ft. adjacent to Selva road 5 ft. adjacent to Niguel Beach Terrace
3/Crystal Cove	5 ft. setback with automatic garage door opener; otherwise 20 ft. or more
4/Chelsea Pointe	12 ft. aggregate ("Z" lots) interior
5/Monarch Beach	20 feet except lot numbers 3, 4, 12, 24, 25, 26, 27, 34, 35, 37, 39, 40, 43, 45, 47, 50, 54, 55, 59, 61, 62, 64, 65, 66 and 67, which shall have front yard setbacks to garage of eighteen feet.

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APPENDIX B
PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS



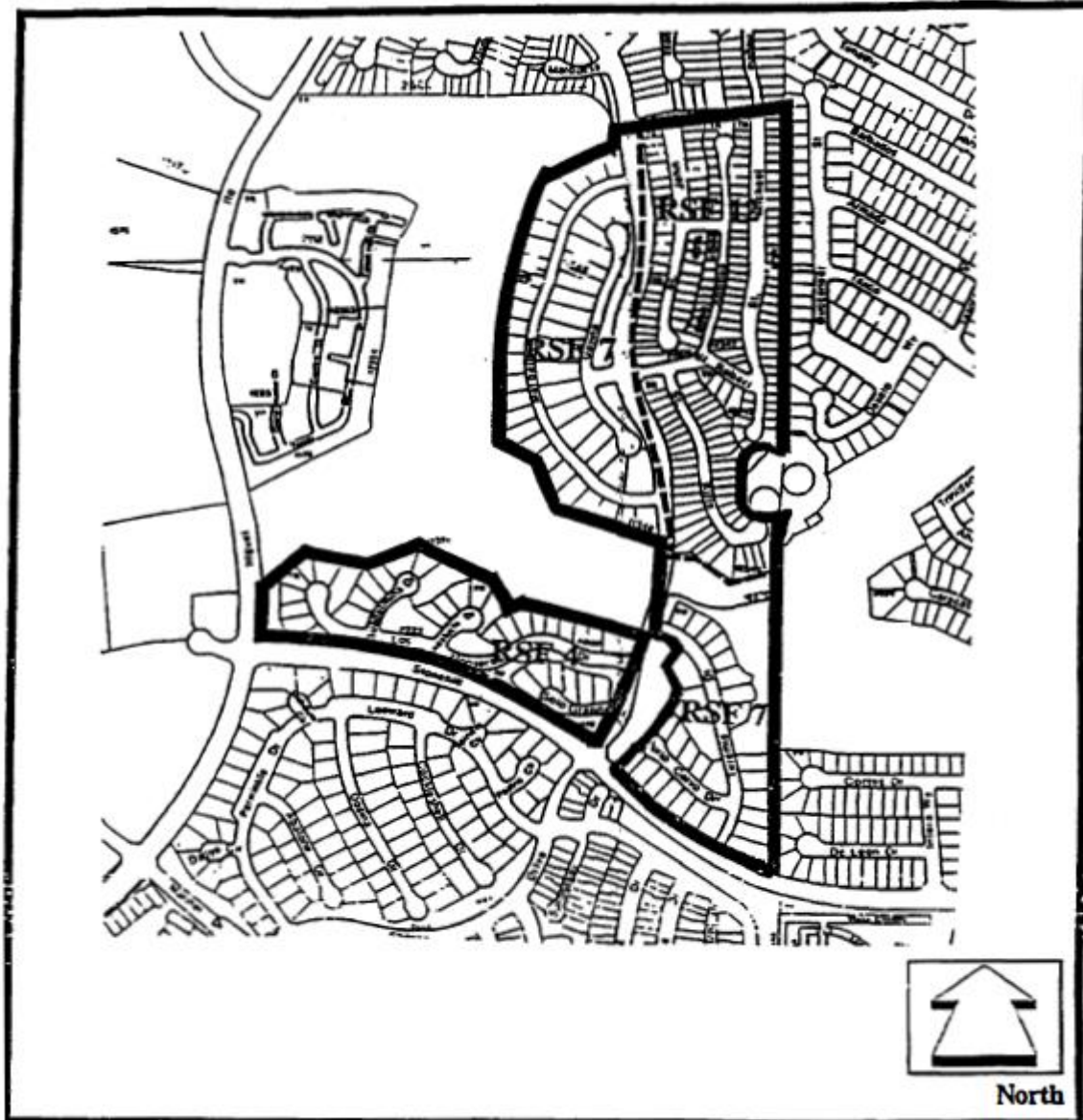
PRD 2
UNDERLYING ZONING

**APPENDIX B
PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS**



**PRD 3 AND PRD 4
UNDERLYING ZONING**

**APPENDIX B
PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS**



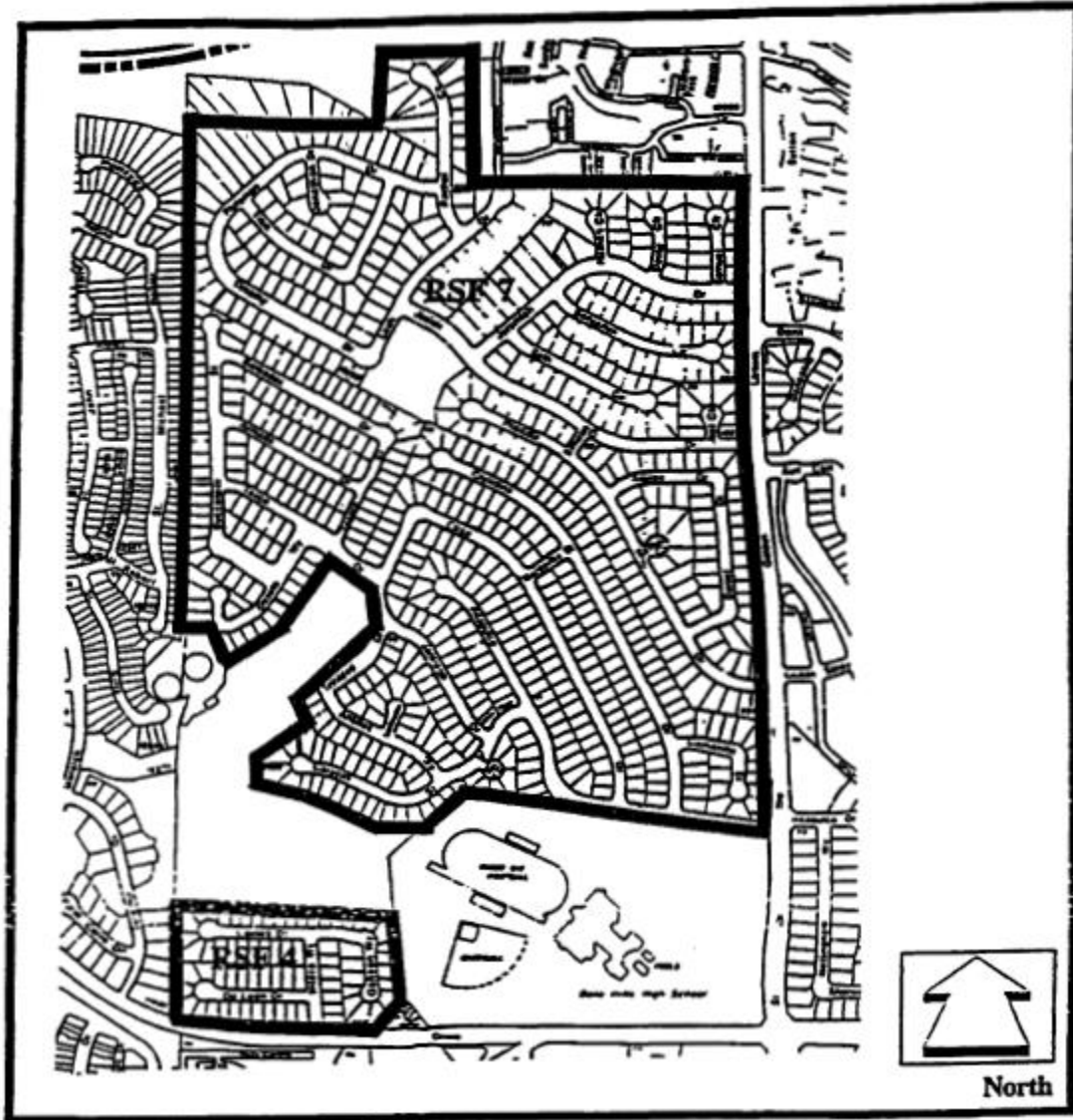
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UNDERLYING ZONING**

**APPENDIX B
PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS**



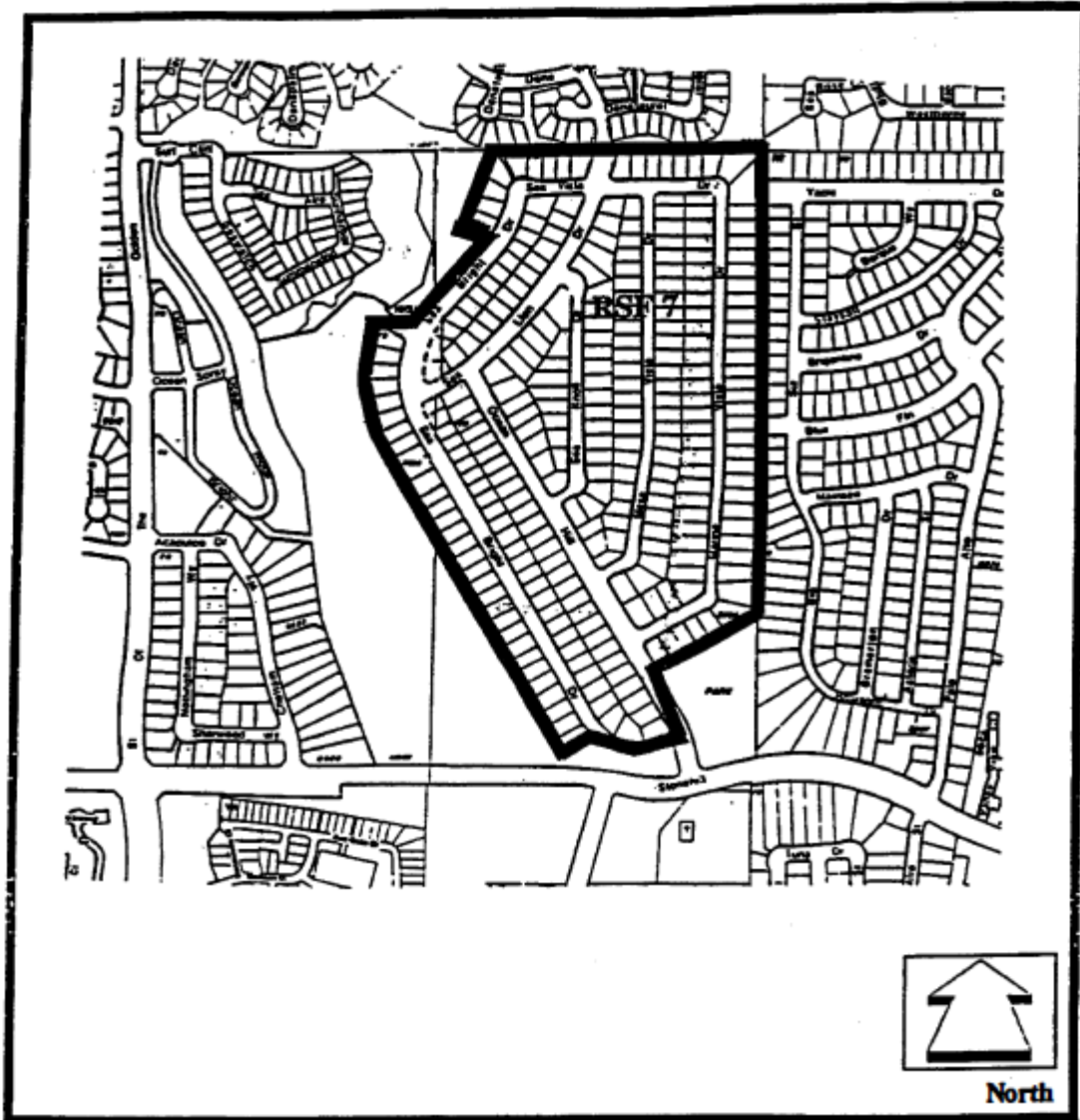
**PRD 3
UNDERLYING ZONING**

APPENDIX B
PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS



PRD 5
UNDERLYING ZONING

APPENDIX B
PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS



PRD 5
UNDERLYING ZONING

EXHIBIT “B”

CHAPTER 9.05

GENERAL DEVELOPMENT STANDARDS

Sections:

- 9.05.010 Intent and Purpose.**
- 9.05.020 Maintenance of Properties.**
- 9.05.030 Nuisances.**
- 9.05.040 Identification of Front Lot Lines.**
- 9.05.050 Adjustments for Front Yard Setbacks.**
- 9.05.060 Yard Requirements Modified by Previous Regulations.**
- 9.05.070 Required Lot Standards Reduced by Public Use.**
- 9.05.080 Maximum Projections into Required Yard Areas.**
- 9.05.090 Sight Visibility Area.**
- 9.05.100 Right-of-Way Dedication.**
- 9.05.110 Measurement of Building Height**
- 9.05.120 Fences, Walls, and Hedges.**
- 9.05.130 General Design Compatibility and Enhancement**
- 9.05.140 Roof Mounted Appurtenances.**
- 9.05.150 Wetland Buffer.**
- 9.05.160 Cultural and Natural Resources.**
- 9.05.170 Coastal Views from Public Areas.**
- 9.05.180 Steep Hillides.**
- 9.05.190 Building Setbacks on Shallow/Narrow Building Sites.**
- 9.05.200 Increase in Maximum Stories.**
- 9.05.210 Increase in Floor Area Ratio.**
- 9.05.220 Lighting.**
- 9.05.230 Roof Decks.**
- 9.05.240 “Art in Public Places” Program.**
- 9.05.250 Internal Access to Separate Living Quarters.**
- 9.05.260 Increased Height for Detached Garages.**
- 9.05.270 Decks Extension Over Slope Areas.**
- 9.05.280 Accessory Buildings and Structures**

9.05.010 Intent and Purpose.

The development standards included in this Code are general in nature and apply to all zoning districts unless otherwise indicated. The regulations in this Code are provided as minimum or maximum standards and may be modified by more stringent standards in particular districts, and/or due to specific site conditions. The primary intent of this Code, and this Chapter, is to establish generally acceptable standards for development in the City. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.05.020 Maintenance of Properties.

All properties within the City, shall be kept and maintained in a clean, neat, orderly, operable, and usable condition. This Section applies to buildings, paving, fences, walls, landscaping, water, earth, and any other structures or natural features. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.05.030 Nuisances.

Neither the provisions of this Code nor the granting of any permit provided for in this Code shall authorize or legalize the creation or maintenance of any public or private nuisance. (Added by Ord. 93-16, 11/23/93)

9.05.040 Identification of Front Lot Lines.

It is the intent of this section to promote compatibility and enhance relationships with respect to access to property, and to promote the safest access to properties based on roadway characteristics and any physical constraints to access. Occasionally, a lot is adjacent to more than one street. In such cases, the following requirements shall be observed in identifying the front lot line. The following figure provides graphic illustration to the following provisions.

- (a) When a lot exists between two developed lots which both abut the same street, the front lot line shall be on the same street as the existing developed lots on either side.
- (b) When a lot is adjacent to vacant lots or developed lots which abut either street, the following criteria shall apply:
 - (1) Where one street is of a higher classification than the other, the lot line fronting the street with the lower classification shall be the front lot line.
 - (2) If the lot in question is a comer lot and both streets are of the same classification, the narrower of the two frontages shall be designated the front lot line.
 - (3) The Director of Community Development shall make the determination when the above criteria cannot be clearly applied to the particular situation as a result of topography or other factors.
- (c) The front lot line for a comer lot or a reverse comer lot is the lot line which fronts the street with the lower classification. If both streets are of the same classification, the narrower of the two frontages shall be designated the front lot line, except in those cases where the subdivision or parcel map specifies another line as the front lot line.

For example, as shown on the comer lot in Exhibit 9.05.040(c), line (a) is the proposed front lot line because line (a) fronts a street with a lower classification, and because line (a) is shorter than line (b).

- (d) The front lot line for a flag lot is the shorter of the two perpendicular lot lines that radiate from the end of the pole portion of the lot. For example, as shown on the flag lot in Exhibit 9.05.040(c)/(d), line (c) is the front lot line because it is shorter than line (d).

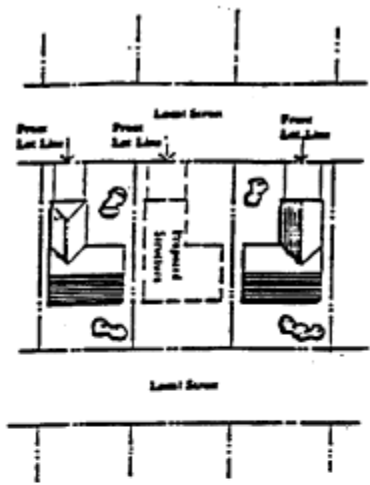
When the two lot lines radiating from the end of the pole portion of a flag lot are at an obtuse or acute angle, as shown in Exhibit 9.05.040(d), then the front lot line is a midpoint located at the end of the pole portion. The front yard for such a lot is formed by plotting an imaginary arch starting at the midpoint and extending for a distance equal to the minimum front yard setback for the zoning district in which the lot is located.

- (e) The front lot line for a cul-de-sac lot is that lot line which abuts the edge of the public right-of-way or private access easement way from which primary lot access occurs.

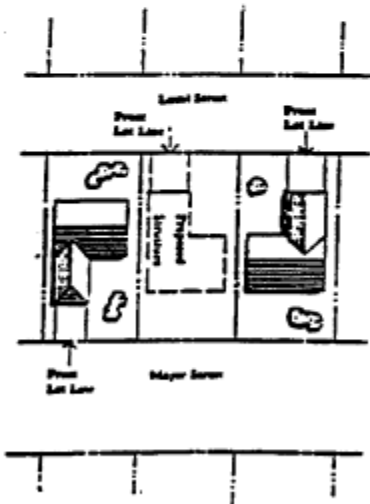
(Added by Ord. 93-16, 11/23/93; amended by Ord. 96-10, 8/13/96)

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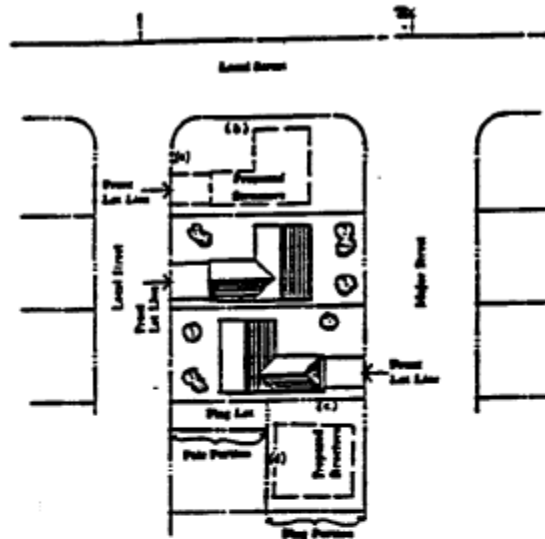
**SECTION 9.05.040
IDENTIFICATION OF FRONT LOT LINES**



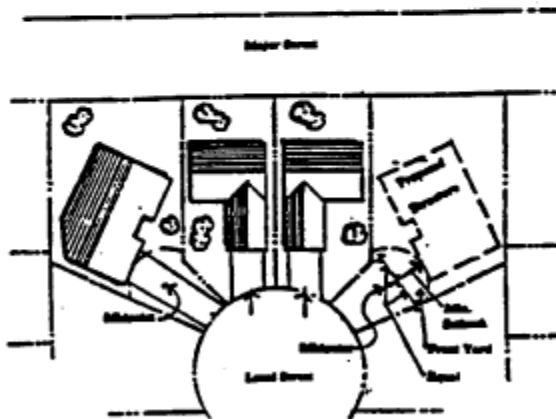
Section 9.05.040(a)



Section 9.05.040(b)



Section 9.05.040(c) and (d)



Section 9.05.040(e)

—→ = Existing Front Lot Line
 - -> = Proposed Front Lot Line

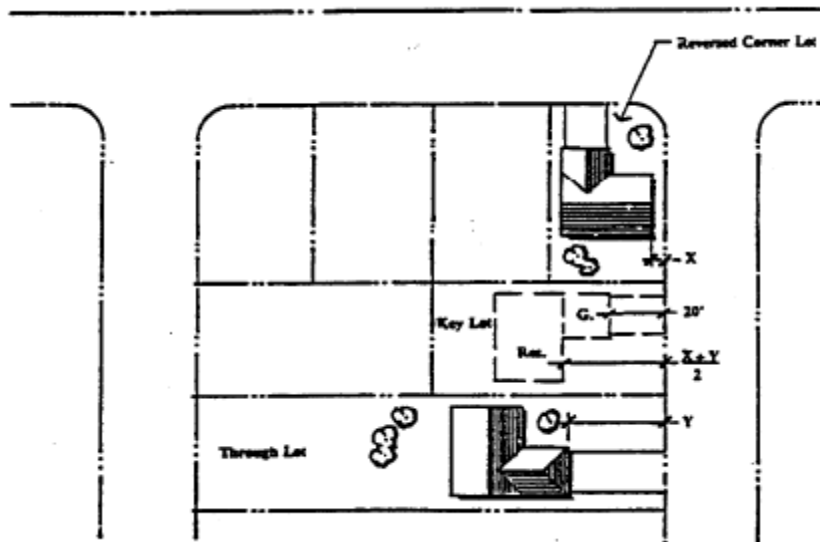
9.05.050 Adjustments for Front Yard Setbacks.

The depth of the required front yard setback shall be adjusted as indicated under the following conditions:

- (a) Through Lots. Both frontages of a through lot shall have a setback from both streets of twenty (20) feet minimum, unless the provisions of this Code allow for reduced non-garage and rear setbacks for shallow lots.
- (b) Key Lots. The depth of the required front yard of a key lot shall not be less than the average depth of the required street-abutting yards of the adjoining interior and reversed corner lots. The garage portion of the primary structure shall require a minimum front yard setback of not less than twenty (20) feet.

(Added by Ord. 93-16, 11/23/93)

**SECTION 9.05.050
ADJUSTMENTS FOR FRONT YEAR SETBACKS**



9.05.060 Yard Requirements Modified by Previous Regulations.

When the yard setbacks on a lot have been established by previous regulations and all existing development on the same block and street conform to those yard setbacks, new development may also use those previously established setback standards. (Added by Ord. 93-16, 11/23/93)

9.05.070 Required Lot Standards Reduced by Public Use.

- (a) Area. If a portion of a lot or parcel of land is acquired by any means including dedication, purchase, or condemnation, or for any public use including recreation, services, or utilities, that lot or parcel shall be considered conforming as long as the area is reduced to no less than ninety (90) percent of the minimum required area for the zoning district in which the lot or parcel is located.

The Planning Commission shall have the authority to reduce the lot size below the ninety (90) percent minimum pursuant to all the conditions and procedures relating to Variances found in Chapter 9.67 of this Code.

- (b) Width. If a portion of a lot or parcel is acquired by any means, including dedication, purchase, or condemnation, or for any public use which may include recreation, services, or utilities, that lot or parcel shall be considered conforming as long as the width is not reduced by more than thirty (30) percent. In no case, however, shall a lot reduced to less than thirty-five (35) feet in width be considered conforming unless a narrower lot is permitted by the base zoning district or a PRD.

(Added by Ord. 93-16, 11/23/93)

9.05.080 Maximum Projections into Required Yard Areas.

Except for the Residential Beach Road 12 (RBR 12), and the Residential Beach Road Duplex 18 (RBRD 18) zoning districts, the items indicated in the following Table may be placed in required yards or extend beyond maximum height limits subject to the conditions placed upon those items by the table, except that for blufftop lots in the Coastal Overlay District, the limitations on development in the blufftop setback described in the blufftop setback requirements of Chapter 9.27 (Coastal Overlay District) shall supersede the provisions of the following Table.

See Section 9.09.040(a) for the standards for maximum projection into yards for properties in the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex (RBRD 18) zoning districts.

**SECTION 9.05.080
MAXIMUM PROJECTIONS INTO REQUIRED YARD AREAS**

Item	Front	Rear	Side	Minimum Distance From Property Lines (B)	Maximum Projection Above Height Limit (C)	Other Limitations (D)
	Maximum Projection Into Front Yard Area	Maximum Projection Into Rear Yard Area	Maximum Projection Into Side Yard Area (A)			
(a) Antennas	Not Permitted	8'0" height limit	Not Permitted	1'0"	Not Permitted (C)	2 max. (D)
(b) Arch. Projections: (i.e. Cornices, Eaves)	2'6"	2'6"	2'6"	2'0"	Not permitted	None

and Roof Overhangs)						
(c) Awnings	4'0" (no vertical supports)	3'0"	2'6"	2'0"	Not permitted	None

SECTION 9.05.080
MAXIMUM PROJECTIONS INTO REQUIRED YARD AREAS
(Continued)

Item	Front	Rear	Side	Minimum Distance From Property Lines (B)	Maximum Projection Above Height Limit	Other Limitations
	Maximum Projection Into Front Yard Area	Maximum Projection Into Rear Yard Area	Maximum Projection Into Side Yard Area (A)			
(d) Balconies	2' 6"	2' 6"	2' 6"	5' 0"	Not permitted	(E)
(e) Basement (Below Grade)	To PL (H)	15'0"	To PL (H)	N/A	N/A	(T)
(f) Bay Windows	2' 6"	2' 6"	2' 6"	3' 0"	N/A	(E)
(g) Chimneys (Maximum 7' Width)	2' 0"	2' 0"	2' 0"	3' 0"	3' 0"	(E)(F)(G)
(h) Decks/Patios Less Than 30" Above Grade	To PL (H)	To PL (H)	To PL (H)	N/A	N/A	(I)
(i) Decks/Patios 30" + Above Grade (Not To Exceed First Story Or 7'6" as measured from top of the railing)	Not Permitted	6' 0"	2' 6"	3' 0"	N/A	(I)(J)
(j) Detached Accessory Structures	Not Permitted	To PL (K)	To PL (K)	None (K)	Not Permitted	(L)(H)

SECTION 9.05.080
MAXIMUM PROJECTIONS INTO REQUIRED YARD AREAS
(Continued)

Item	Front	Rear	Side	Minimum Distance From Property Lines (B)	Maximum Projection Above Height Limit	Other Limitations
	Maximum Projection Into Front Yard Area	Maximum Projection Into Rear Yard Area	Maximum Projection Into Side Yard Area (A)			
(k) Flagpoles	15' 0"	5' 0"	2' 6"	5' 0"	15' 0"	(M)
(l) HVAC/mech. equip. and window mounted air conditioners	Not permitted	3' 0"	2' 6"	2' 0"	Not permitted	(N)
(m) Patio Covers/Porches	6' 0"	15' 0"	2' 6"	Front – 15' 0" Side – 3' 0" Rear – 10' 0"	Not permitted	(P)(O)
(n) Planter Boxes	2' 0"	2' 0"	2' 6"	2' 0"	Not permitted	(P)(Q)
(o) Pool Equipment	Not permitted	N/A	N/A	5' 0" (N)	Not permitted	(P) (N)
(p) Porte Cochere	Permitted by Minor Site Development Permit only				Not permitted	None
(q) Exterior Stairways, ramps, and Stairway Landings 30 inches or more above grade	2' 6"	2' 6"	2' 6"	2' 6" (R)	Not Permitted	(E)
(r) Swimming Pools and Spas	Not permitted	N/A	N/A	3' 0" (S)	N/A	None

Footnotes for Section 9.05.080:

- (A) On a corner lot, projections permitted in a front yard setback also apply to a street side yard.
- (B) In any instance where there is a conflict between the allowable maximum projection and the minimum distance from property line standard, the more restrictive standard shall rule.
- (C) This provision shall not apply to television and radio antennas used to receive UHF, VHF, FM and AM signals. Such antennas may exceed the district height limit by ten (10) feet. FCC licensed amateur ham radio operators may apply for a Conditional Use Permit for a

radio antenna tower greater than the maximum height limit but not exceeding seventy (70) feet.

(D) For radio antennas only, see Section 9.07.020 for satellite dish antennas.

(E) The total horizontal length of all projections (marked by this footnote) on a given building elevation shall not exceed the maximum percentage of building elevation length as specified below (building elevation length is measured at the first floor and not adjusted for multiple storied buildings):

<u>BUILDING ELEVATION:</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
<u>MAXIMUM PERCENTAGE OF</u>			
<u>BUILDING ELEVATION LENGTH:</u>	60%	40%	80%

The above stated maximum percentages have been established as a measure to control the overuse or abuse of the projection provisions in this Table. The maximum percentages will help prevent aesthetically inappropriate architectural facades or features that would pose a detriment to adjacent properties. At the discretion of the Director of Community Development, the total length of all projections on a given elevation may be reduced to below the indicated maximums in order to implement this intent.

(F) A maximum of two chimneys may project into required yards or above the height limit.

(G) Maximum horizontal dimension of three (3) feet when above the height limit.

(H) Provided minimum landscape coverage requirements are met.

(I) No deck may be constructed so as to extend beyond the top of slope with a grade of more than fifteen (15) percent, except as may be permitted through a minor Site Development Permit subject to the provisions of Section 9.05.270.

(J) Including deck railings or deck structures.

(K) Subject to the applicable provisions of the California Building Code, Uniform Fire Code, and provisions as provided in Footnote (L) below and Section 9.05.280 "Accessory Building and Structure".

(L) The maximum height of detached accessory structures is twelve (12) feet except as otherwise permitted in Section 9.05.260. Accessory structures shall be located in the rear half of the parcel, with the exception of entry features (i.e., arbors, porticos and trellises) and garages. Other exceptions for locating structures in the front half of the parcel require approval of a minor Site Development Permit.

(M) Flagpoles may not exceed fifty (50) feet in height in non-residential districts and forty (40) feet in residential districts. Requests to exceed height limits may be permitted by approval of a minor Conditional Use Permit.

- (N) HVAC/mechanical equipment, window mounted air conditioners, and pool equipment may be placed adjacent to the rear or side property line subject to a minor Site Development Permit which shall include, but not be limited to, an acoustics report demonstrating compliance with the City's Noise Ordinance. If the pool equipment is vaulted and an applicant can show compliance with the provisions of Chapter 11.10, Noise Control, than the equipment vault can encroach into the side and rear setbacks to the Property Line without going through the Minor Site Development Permit process.
- (O) Maximum coverage: Thirty (30) percent of rear yard setback area.
- (P) Including vertical supports.
- (Q) Only allowed on the 2nd floor as an extension of second floor framing; and may not exceed three (3) feet in height.
- (R) Only if the sideyard setback is at a minimum 5 feet wide
- (S) As measured from the edge of the water within the swimming pool or spa.
- (T) Basement area must be fully subterranean, except for as provided in Section 9.75.020. Basement level may impact height calculation, see Section 9.05.110 for Building Height limitations.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 96-13, 11/26/96; Ord. 97-12, 11/12/97; Ord. 97-13, 11/25/97; Ord. 99-04, 3/9/99;)

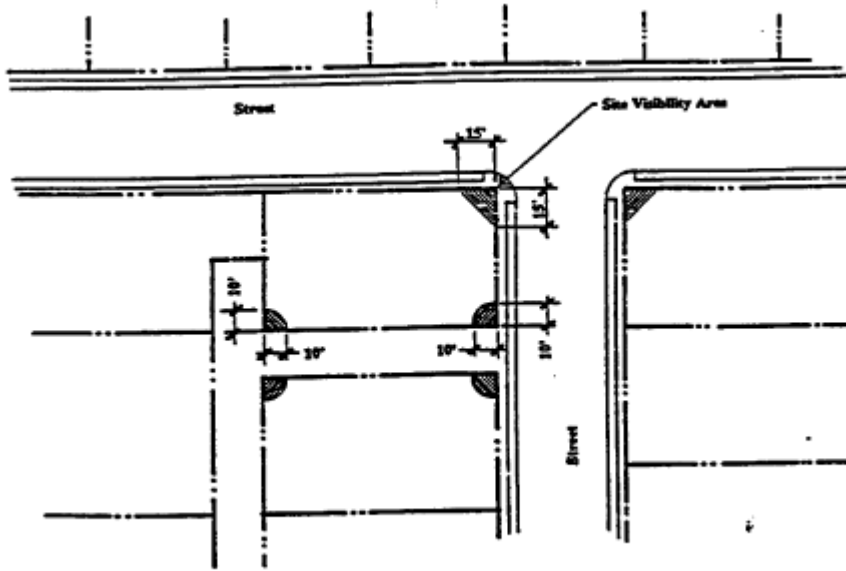
9.05.090 Sight Visibility Area.

- (a) In all zones, a sight visibility area shall be provided at the intersection of all streets, as shown in the Exhibit below. The sight visibility area shall be reserved for the purpose of maintaining adequate sight distance.
- (b) No vegetation shall be planted or allowed to grow, nor shall any structure be placed in the sight visibility area in a manner which obstructs visibility or threatens vehicular or pedestrian safety as determined by the Director of Public Works or the Director of Community Development.
- (c) Traffic control devices, traffic signs, utility poles, transformers, or pedestals or other traffic control devices or street furniture in excess of thirty (30) inches in height may be located within the sight visibility area.
- (d) Due to roadway geometries and traffic characteristics, a greater sight visibility area may be required to minimize visual obstruction to motorist and pedestrians as determined by the Director of Public Works or the Director of Community Development.
- (e) A line of sight shall be shown at intersections on all landscaping plans, grading plans and tentative tract maps where safe sight distance is questionable. In cases where an intersection is located on a vertical curve, a profile of the line of sight may be required.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

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**SECTION 9.05.090(a)
SIGHT VISIBILITY AREA**



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9.05.100 Right-of-Way Dedication.

(a) Dedication and Improvement

(1) No building permit shall be issued for any building or structure until all required dedications of public right-of-way have been made to the satisfaction of the Director of Public Works. A Certificate of Use and Occupancy shall not be issued for any site, building, or structure until all improvements abutting rights-of-way for said site, building, or structure have been made to the ultimate right-of-way shown in the General Plan and as determined by the Director of Public Works. Improvements include, but are not limited to curbs, gutters, sidewalks, paving, street trees, traffic improvements, undergrounding of existing and/or proposed utilities, and drainage. All improvements shall be constructed to the specifications and in a manner prescribed by the Director of Public Works.

(2) In lieu of dedication, the City Council may accept an irrevocable offer to dedicate and improve. Such agreement shall be signed by all persons having any right, title, interest, or lien in the property, or any portion thereof, to be dedicated. The signatures on such offer shall be acknowledged, and the agreement shall be recorded in the office of the Orange County Recorder prior to certificate of use and occupancy.

(b) Exceptions. In cases where the strict replication of this Code fails to meet community objectives as identified in the General Plan, modifications to right-of-way dedication and improvement requirements may be authorized by the City Council.

(c) Dedication Standards. Highways, streets, and alleys shall be dedicated to the standards established by the Director of Public Works.

(d) Agreement to Improve.

(1) In lieu of the required improvements and if in the best interest of the City, the City Council may accept from any responsible party an agreement to make the specified improvements within a specified time period.

(2) Such agreements shall be accompanied by surety deposits which may include cash, negotiable bonds, or savings and loan certificates. The surety deposit shall equal the cost of the agreed upon improvements. Where savings and loan certificates or deposits are deposited, the owners thereof shall assign the certificates to the City and administration adjusted for inflation as determined by the Director of Public Works. Such deposit and assignment shall be subject to and in compliance with the provisions and conditions of the Municipal Code of the City.

(3) If the estimated cost of the improvements equals or exceeds one thousand dollars, the applicant may file a corporate surety bond with the City in lieu of the deposit.

Such corporate surety bond shall guarantee the adequate completion of all of the improvements in an amount equal to the estimated cost of said improvements.

- (4) In cases where the stipulated time within which improvements were to be made expires, the City Council may grant additional time as it considers appropriate. Granting of additional time shall include recalculation of improvement costs and security deposits.
 - (5) Should the responsible person fail to complete any improvement within the agreed upon time, the City Council may determine that the agreed upon improvement is incomplete and may cause a portion of the deposit or surety bond to be forfeited to the City. Such forfeiture shall not exceed the amount required to complete the agreed upon work and expenses incurred by the City as a result of the default. Not less than ten days prior to such a determination, the City shall serve the person with written notice. If the written notice is delivered by mail, it must be registered and shall be served not less than twenty days prior to the determination.
- (e) Adequate Rights-of-Way. The City Council may grant a modification to the provisions of this section, Right-of-Way Dedication, thereby relieving the applicant from compliance with all or a portion of the provisions thereof, subject to the following findings:
- (1) That relieving or partially relieving the applicant's development from providing the required dedications and improvements is consistent with the General Plan and the best interest of the City of Dana Point; and
 - (2) The required improvements are included in a budgeted City project which will be complete prior to the start of applicant's development or within an approved assessment district and the improvement can be more effectively provided by the City; or
 - (3) The required construction would create a temporary drainage or traffic problem that can be avoided by delaying the improvement to a later date as part of comprehensive improvements to the area; or
 - (4) The Director of Public Works determines current improvements to be satisfactory.

All requests for modifications shall be made in the form of a Variance application, as specified in Chapter 9.67, Variances.

(Added by Ord. 93-16, 11/23/93; amended by ord. 94-09, 5/24/94)

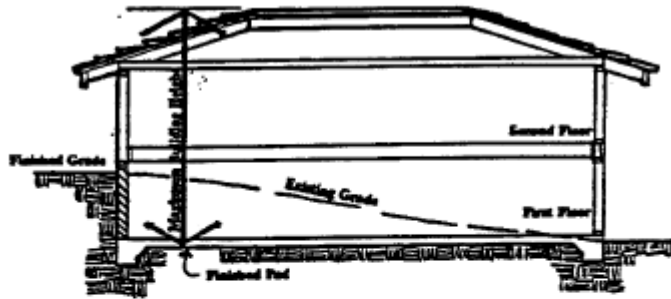
9.05.110 Measurement of Building Height.

- (a) Residential Building Height.
 - (1) The maximum building height for residential buildings is described in Chapter 9.09 for each of the individual zoning districts.

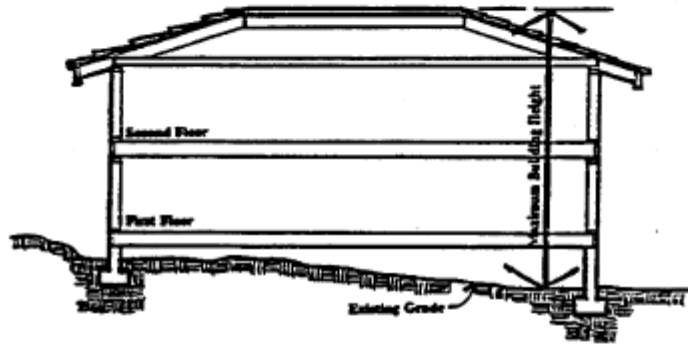
- (2) For residential structures, building height is defined as the vertical distance, by which the uppermost portion of the roof of a structure extends above the existing grade, finished pad elevation, (excluding the basement finished pad elevation), ceiling of a maximum ten (10) foot, zero (0) inch high basement, or eighteen (18) inches above the flood protection level, whichever is lower, as measured from the lowest portion of the structure. In no case may this vertical distance exceed the maximum height limit specified in Section 9.05.110(a)(6). For residential structures on Beach Road, building heights shall be measured at eighteen (18) inches above the FP-3 elevation, or the elevation of Beach Road, whichever is higher. For residential structures on lots with hillside conditions, in cases where the garage is the lowest floor level, the building height is measured from the garage floor or existing grade, whichever is lower.

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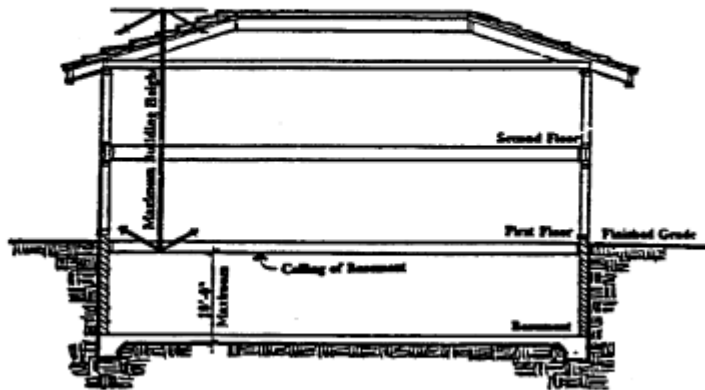
SECTION 9.05.110 (a)(2)
MEASUREMENT OF BUILDING HEIGHT



Building Height Measured from Finished Pad



Building Height Measured from Existing Grade



Building Height Measured from Ceiling of Basement

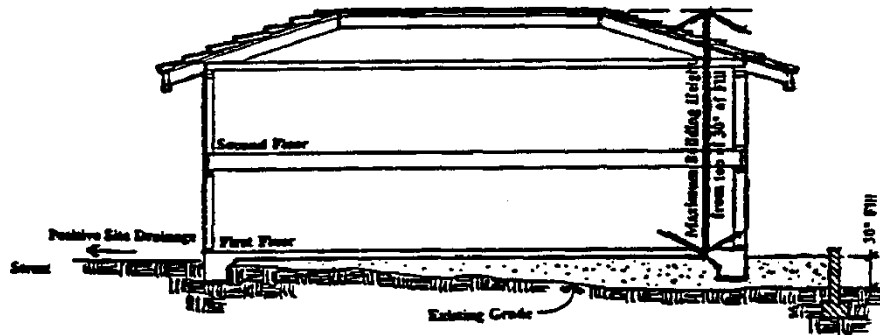
(3) Subject to the approval of a minor Site Development Permit, non-residential or residential building height may be measured from the top of not more than thirty (30) inches of fill. Approval of such a minor Site Development Permit, by the Director of Community Development, may only be granted if the applicant can demonstrate compliance with the following criteria:

- (A) That the proposed fill is required only for the purpose of creating positive drainage flow (via gravity) to the street or to otherwise correct an existing drainage problem; and
- (B) That the proposed fill is necessary to create a minimum percentage grade for drainage flow consistent with a gravity flow drainage pattern as verified by the Director of Public Works; and
- (C) That the amount of fill proposed is the minimum amount necessary to create the desired drainage pattern; and

Should the proposed fill be deemed by the Director of Community Development to be proposed for any purpose other than providing the drainage pattern proposed by this Section, the application shall be denied. Structures shall only be granted credit for enough height to achieve positive (gravity) drainage flow.

Should additional (more than thirty (30) inches) fill be required to create the desired drainage pattern, it may be allowed through the approval of the minor Site Development Permit, however the height of the structure cannot be measured from any point higher than thirty (30) inches above existing grade.

**SECTION 9.05.110(a)(3)
MEASUREMENT OF BUILDING HEIGHT
ATOP THIRTY (30) INCHES MAXIMUM FILL**

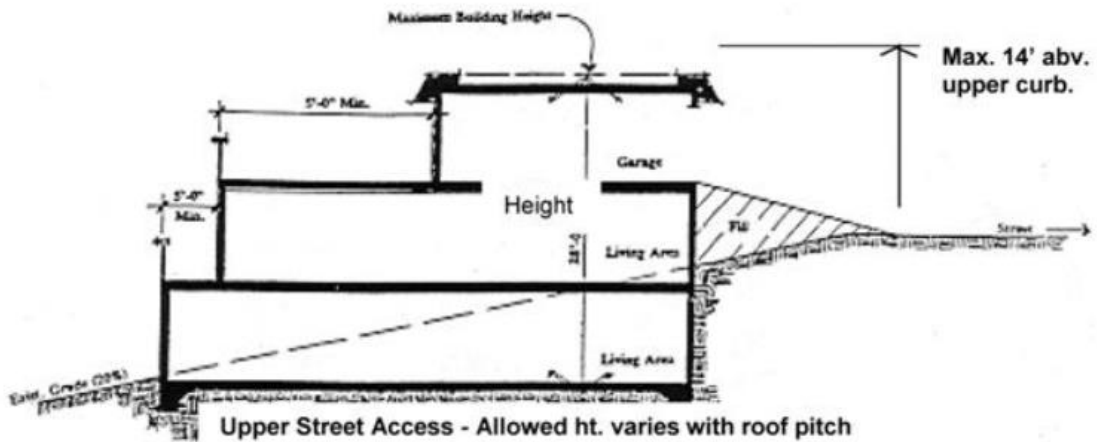
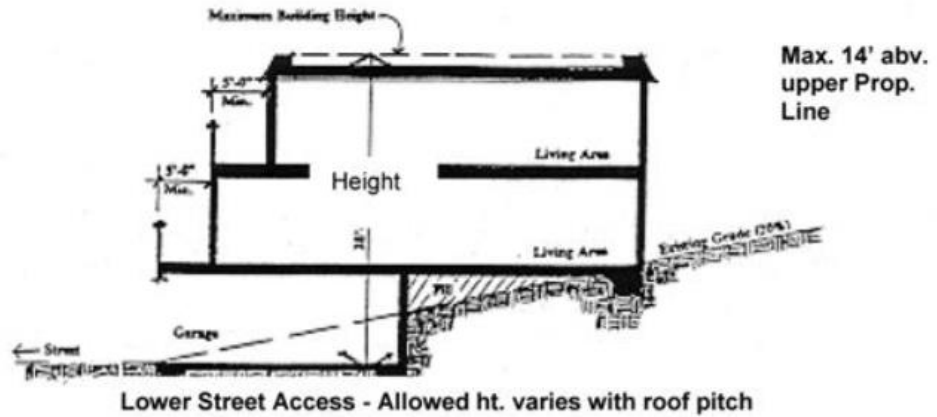


**Building Height Measured from Top
of Not More than Thirty (30) Inches of Fill**

(4) Subject to the approval of a Site Development Permit, a residential structure proposed in a hillside condition may be allowed to have three (3) stories in accordance with the following provisions:

- (A) For purposes of this Section, a hillside condition shall mean a lot with a topographic slope percentage, as defined in Section 9.75.190 of this Title, either front to rear or side to side, of twenty (20) percent or greater. The topographic slope percentage shall be calculated by determining the vertical differential between the highest elevation point of the property at the front or rear property line (whichever is higher) and the lowest elevation point along the opposing rear or front property line (whichever is lower) or between the highest elevation point along the higher side property line to the lowest elevation point along the opposing, lower side property line and dividing that vertical differential by the horizontal distance between the two (2) points.
- (B) Three (3) story structures shall be designed so that the second story has an average, additional yard setback area of five (5) feet times the total width of the structure at the street elevation and the third story, an average additional yard setback area of ten (10) feet times the total width of the structure at the street elevation. This additional setback area shall occur on the portions of the structure having three (3) stories exposed above grade. Maximum allowed projections into the additional setback areas are as specified in Section 9.05.080 (Projections into Required Yard Areas) of this Chapter.
- (C) Residential structures having three (3) stories shall be limited to a maximum Floor Area Ratio (FAR) of .75 the area of the lot, excluding garage area. The amount of garage area in excess of that required for minimum compliance with parking standards, as specified in Section 9.35.070 of this Title, shall be considered part of the floor area when calculating the FAR.
- (D) Building height shall be measured as specified in Subsection (a)(2) of this Section, and in no case may the overall height of the structure exceed thirty-three (33) feet or as specified in Subsection (a)(7) of this Section.
- (E) The applicant shall demonstrate that the proposed design will result in a reduction in grading and the disruption to existing topography that would be incurred with a standard two (2) story design on the subject site, pursuant to Subsection (a)(2) of this Section, to the satisfaction of the Director of Community Development.
- (F) The height of the third story shall not exceed a height of fourteen (14) feet above the upper property line or upper street curb elevation, as measured perpendicular to any point along said line or curb.
- (G) Applications for Site Development Permits to allow three (3) story developments on hillside properties shall include story pole staking as described in the City's application requirements for a Site Development Permit.

SECTION 9.05.110(a)(4)
MEASUREMENT OF BUILDING HEIGHT
IN HILLSIDE CONDITIONS



- (5) Building height and height of fences and walls for new residential subdivisions shall be measured from finished grade, subject to approval by the Planning Commission.
- (6) Additional criteria in determining maximum building height in residential districts are as follows:

Criteria	Height Limit
Roof pitch of 6/12 or greater	28 feet
Roof pitch of 3/12 or greater but less than 6/12	26 feet
Roof pitch of less than 3/12 or greater	24 feet

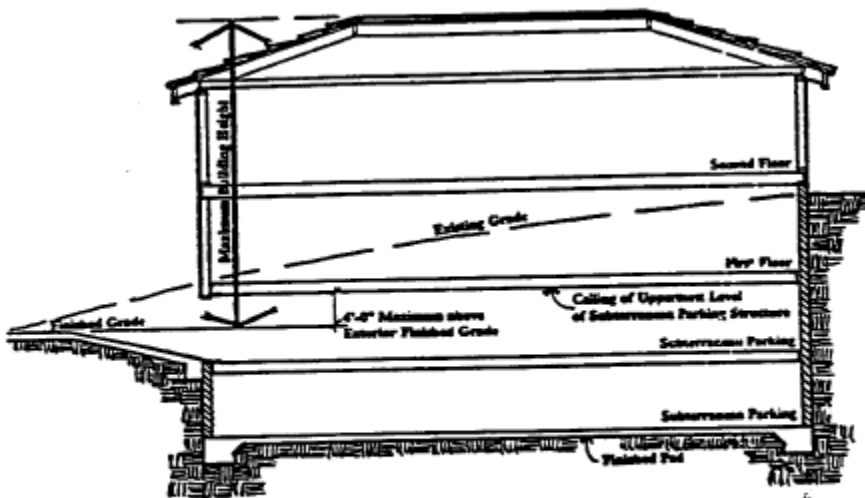
(7) Building height for hillside lots in residential districts is as follows:

Criteria (Lots with 20% or greater slope per Subsection (a)(4) of this Section)	Height Limit
Roof pitch of 6/12 or greater	33 feet
Roof pitch of 3/12 or greater but less than 6/12	31 feet
Roof pitch of less than 3/12	29 feet

(b) Non-Residential Building Height Criteria.

- (1) The maximum building height for non-residential buildings is described in Chapters 9.11 through 9.25 for each of the individual zoning districts.
- (2) For non-residential structures, building height is defined as the vertical distance, by which the uppermost portion of a building extends above the existing grade, finished grade, finished pad elevation (excluding subterranean parking structure finished pad elevation), ceiling of uppermost level of subterranean parking structure, or eighteen (18) inches above the flood protection level, whichever is lower, to the top of the roof.

SECTION 9.05.110(b)(2)
MEASUREMENT OF NON-RESIDENTIAL BUILDING HEIGHT



Building Height Measured from Ceiling of Subterranean Parking Structure

- (3) Subject to approval of a Site Development Permit, in order to correct existing site drainage problems, a provision to permit non-residential and residential building height to be measured from the top of not more than thirty (30) inches of fill, will be granted in all zones, provided that the fill will contribute to positive site drainage flow (via gravity) to the street, at a minimum percentage grade as verified by the Director of Public Works and Director of Community Development. (See (a)(3) for Exhibit).
- (4) Additional criteria in determining maximum building height in non-residential districts are as follows:

CRITERIA	HEIGHT LIMIT
Structures which have sloped roof elements (pitched at 4/12 or greater) that comprise a substantial proportion of the roof plan and which utilize high-quality, aesthetic roofing materials. (Examples include architectural grade shingles, various metals, wood, wood type, tile, slate, etc.)	35 feet
Structures which have sloped roof elements (pitched at less than 4/12) that comprise a substantial portion of the roof plan or any pitched roof with lower quality aesthetic materials than those specified above, or any other roof with a parapet of 18" or greater	33 feet
Structures which have sloped elements but with a roof plan that is predominantly flat or any roof not otherwise specified under the above standards	31 feet

(c) Permitted Encroachments into the Required Height Limit

(1) Permitted Encroachments.

(A) Screened mechanical or electrical towers, chimneys, cupolas, weather vanes or other decorative architectural elements that are not used for sleeping or eating quarters, occupying no greater than five (5) percent of the horizontal roof area, may extend above the maximum building height by a maximum of three (3) feet.

(B) In non-residential buildings, accessways such as stairwells or elevators to roof decks occupying no greater than ten (10) percent of the horizontal roof area, may extend above the maximum building height up to a maximum of five (5) feet

(2) The Director of Community Development may choose to require the applicant to obtain approval of a Site Development Permit pursuant to Chapter 9.71, if the proposed encroachment creates conditions which may be incompatible, objectionable or detrimental to the surrounding land uses.

(8) Accessory Structures- Accessory Structures shall be limited to the same maximum height as the primary structure provided that the Accessory Structure conforms to all required setbacks. Detached Accessory Structure located in required setbacks shall be limited to twelve (12) feet in height, except as provided in Section 9.05.260. All accessory structure building heights shall be measured as specified in Section 9.05.110(a)(2).

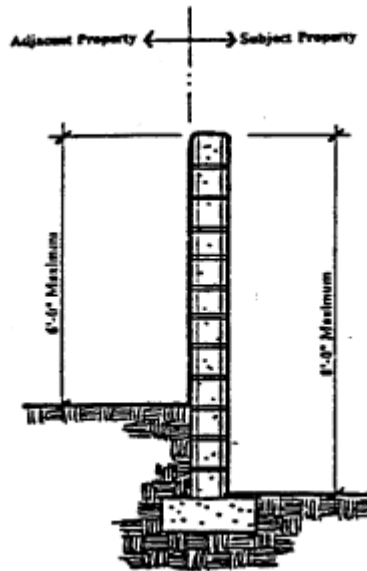
(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-13, 11/26/96.)

9.05.120 Fences, Walls, and Hedges.

(a) Maximum Height Within the Required Side and Rear Yards.

- (1) The maximum height of any fence, wall or hedge within the required side and rear yard which faces an adjacent property shall be six (6) feet as measured from the finished grade at the base of the fence, wall or hedge to the top of the fence, wall or hedge. The maximum height of any fence, wall or hedge within the required side or rear yard which faces the subject property shall be eight (8) feet as measured from the finished grade at the base of the fence, wall or hedge to the top of the fence, wall or hedge.

SECTION 9.05.120(a) SPECIAL WALL HEIGHT REQUIREMENTS

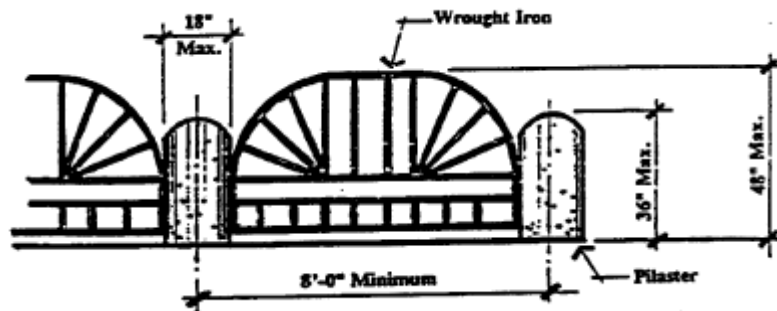


- (2) For those uses or facilities that are required by the City to be screened, screen walls/hedges in excess of eight (8) feet may be permitted as necessary to provide adequate screening subject to determination by the Director of Community Development

(b) Maximum Height Within the Required Front Yards.

- (1) Fences, walls and hedges shall not exceed forty-two (42) inches in height except as provided in (2) below.
- (2) Pilaster and wrought iron fences may exceed forty-two (42) inches if designed to conform to the following requirements:
 - (A) Pilasters may not exceed eighteen (18) inches in width and may not exceed thirty-six (36) inches in height. Pilasters must be spaced at a minimum of eight (8) feet on center.
 - (B) Wrought iron inserts may be designed to a maximum height of forty-eight (48) inches as measured from finished grade.
- (3) Open face fence, material, whether wood, wrought iron, or other material shall not exceed two (2) inches in width nor be spaced less than six (6) inches apart, edge to edge.

**SECTION 9.05.120(v)(2) AND (3)
WALLS AND FENCES IN THE FRONT YARD**

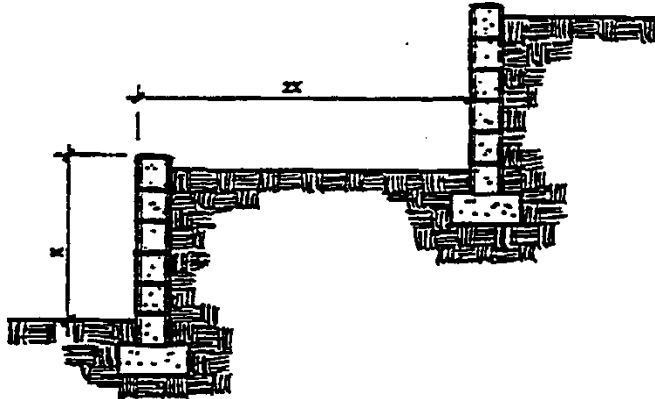


- (4) The maximum height of retaining walls in the required front yard shall be thirty (30) inches. The total wall height, including the retaining wall shall not exceed forty-two (42) inches.
 - (5) The sight visibility area requirements in Section 9.05.090 shall apply to the placement and height of fences, walls, and hedges.
 - (6) Reasonable temporary security fencing for vacant lots or construction sites shall be exempt from this Section and may be placed in the required front yard to a maximum height of six (6) feet subject to determination by the Director of Community Development
- (c) Alternatives to the height limits for fences, walls and hedges specified in sections (a) and (b) above, or (g) below, and provisions for the placement of arbors, porticos, trellises or other entry features within required yards may be granted subject to the approval of a Minor Site Development Permit pursuant to the provisions of Chapter 9.65.

(d) Retaining Walls. The height of any portion of a wall which retains earth or water, in all locations except the required front yard, shall be as follows:

- (1) Retaining Walls Under Thirty (30) Inches in height. Retaining walls that are less than thirty (30) inches in height from top of retaining wall to finished grade on either side are permitted.
- (2) Retaining Walls Thirty (30) Inches or Greater in height. Except where the subject wall was shown on an approved preliminary or precise grading plan, retaining walls that are greater than thirty (30) inches from the top of the wall to finished grade may be permitted subject to the approval of a Minor Site Development Permit, as described in Chapter 9.71. Approval of retaining walls higher than thirty (30) inches in height shall be considered when the wall is landscaped and does not create conditions or situations that may be detrimental or incompatible with other permitted uses or improvements in the vicinity.
- (3) Retaining Walls Greater Than Thirty (30) Inches but less than Seventy-two (72) Inches in height which will not result in a grading fill condition and will not be visible from a public right-of-way, are permitted without a Site Development Permit, provided that the wall does not create conditions or situations that may be detrimental or incompatible with other permitted uses or improvements in the vicinity as determined by the Director of Community Development.
- (4) Alternative to Height Limit of Retaining Walls. Stepping of retaining walls is also permitted for a maximum height of seventy-two (72) inches, provided the height of any individual wall does not exceed thirty (30) inches. Stepping is allowed provided that the minimum horizontal distance between the top of the downslope retaining wall, and the bottom of the up slope retaining wall, shall be greater than 2 times the vertical distance of the downslope retaining wall. Approval shall be considered when the retaining wall is landscaped and does not create conditions or situations that may be detrimental, or incompatible with other permitted uses or improvements in the vicinity. The top of walls may require guardrails as necessary for safety purposes as determined by the Director of Community Development.

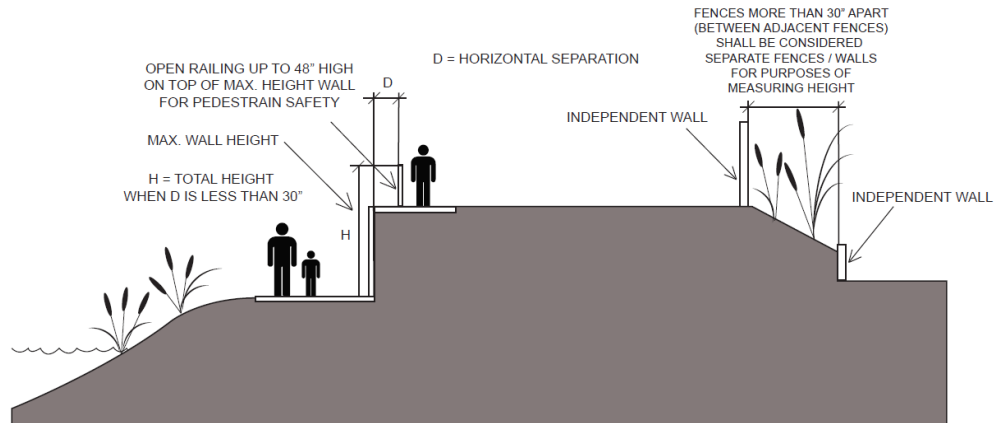
SECTION 9.05.120(c)(4)
HEIGHT LIMIT FOR RETAINING WALLS



- (5) Retaining walls greater than thirty (30) inches in height which face a public street or other public area shall be provided with a landscaped strip along the base of the wall which is of an adequate width (two (2) foot minimum) to accommodate plants which will mature to visually screen the wall.
 - (e) Fences or walls shall include a gate or other suitable opening no less than thirty (30) inches in width to provide access to primary or accessory structures.
 - (f) Fences constructed under permit, but made nonconforming as a result of the adoption of the Zoning Code are exempt from amortization.
 - (g) Height measurements for retaining walls requiring guardrails and for multiple fences/walls.
26. Retaining walls requiring guardrails as mandated by the California Building Code (CBC) shall be considered one wall for the purposes of measuring overall height when the guardrail is separated horizontally by less than 30 inches (as measured between their closest above grade surfaces). The overall height shall be measured from the finished grade at the base of the retaining wall to the top of the required guardrail and shall not exceed the maximum heights identified in (a), (b), and (d) above.
27. Fences/walls and required guardrails separated horizontally by 30 inches or more (as measured between their closest above grade surfaces) shall be considered separate fences/walls and their heights shall be measured independently. Freestanding fences/walls less than 30 inches apart shall be considered one fence/wall and overall fence/wall height shall be measured from the finished grade at the base of the lower fence/wall to the top of the higher fence/wall. This provision applies to conditions where a retaining wall is the lower wall with a freestanding fence/wall above. When both walls are retaining walls, the requirements of Section 9.05.120(d) shall apply.

The space between the two fences/walls shall be landscaped and maintained to provide screening to avoid negative massing impacts.

SECTION 9.05.120(g)(1) & (2)
MEASUREMENT OF HEIGHT LIMIT FOR MULTIPLE FENCES/WALLS



- (h) Any freestanding walls, fences, or hedges located outside of a required setback shall be limited to a maximum height of seventy-two (72) inches, unless otherwise approved with a Minor Site Development Permit, as described in Chapter 9.71. Any retaining walls outside of a required setback shall comply with subsection (d) above.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 96-10, 8/13/96;)

9.05.130 General Design Compatibility and Enhancement

Any new building or structure, any addition to an existing building or structure, and the installation or construction of any site improvements shall be designed to create a unified functional and comprehensive site plan with an integrated architectural theme that is compatible with and will compliment and enhance the subject and surrounding properties, as determined by the Director of Community Development

The factors used to evaluate design compatibility and enhancement shall include, but not be limited to:

- (a) Architectural style and detailing;
- (b) Massing and bulk;
- (c) Color and materials; and
- (d) Scale and proportion.

The design of all development projects including, but not limited to, architecture, and landscaping should consider the applicable direction provided by the Urban Design Guidelines. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94)

9.05.140 Roof Mounted Appurtenances.

All roof mounted appurtenances including, but not limited to air conditioning units, and mechanical equipment shall be shielded and architecturally screened from view from on-site parking areas, adjacent public streets and adjacent residentially zoned property. The screening material must be compatible with and integrated into the architectural design of the structure. (Added by Ord. 93-16, 11/23/93)

9.05.150 Wetland Buffer.

To protect and maintain the City's wetlands resources, a 100-foot buffer area around all identified wetlands located outside the coastal zone shall be provided, unless consultation with the California Department of Fish and Game and the U.S. Fish and Wildlife Service indicates that a lesser buffer will provided adequate protection. The standards for wetland buffers around wetlands within the coastal zone are contained in Section 9.27.030(b)(3). (Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.05.160 Cultural and Natural Resources.

For those projects where the City's environmental review process indicates the potential for significant impacts to cultural and natural resources (such as archaeological, paleontological, or historical resources and biological resources), site-specific studies shall be performed to identify the significance of such resources, and identified mitigation measures designed to reduce those impacts will be incorporated into project design. (Added by Ord. 93-16, 11/23/93)

9.05.170 Coastal Views from Public Areas.

To protect the coastal scenic overlooks from public lands identified in the General Plan Urban Design and Conservation/Open Space Elements, a detailed view impact study which includes recommendations to avoid impacts to coastal views from public lands shall be prepared and incorporated into projects where the proposed development impacts such views. (Added by Ord. 93-16,11/23/93)

9.05.180 Steep Hillsides.

A detailed geotechnical report which includes recommendations to avoid geologic impacts of the proposed development shall be prepared and incorporated into all projects or development proposals on slopes exceeding twenty-five (25) percent or 4:1. Proposed development shall take into consideration the provisions of the Urban Design Guidelines for hillside development, subject to the satisfaction of the Director of Community Development. (Added by Ord. 93-16, 11/23/93)

9.05.190 Building Setbacks on Shallow/Narrow Building Sites.

The following provisions for shallow and narrow lots will maintain consistency in older areas of the community, by allowing new construction of single family or multiple family projects to develop with reduced setbacks only if the said parcel is not consistent with the width and depth standards of the underlying zoning district as required in Section 9.09.030:

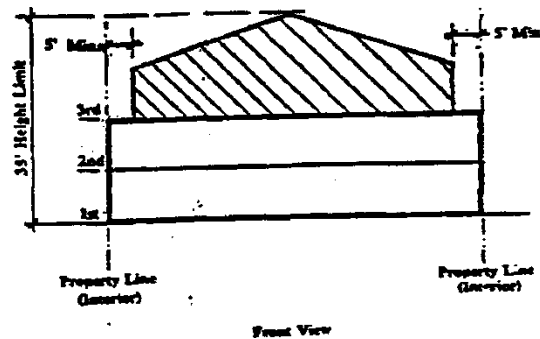
- (a) When a building site has an average depth of one hundred (100) feet or less but more than seventy-five (75) feet, any required front and rear building setbacks need not be more than twenty (20) percent of such average depth; and when a building site has an average depth of seventy-five (75) feet or less, any required front and rear building line setbacks need not be more than fifteen (15) percent of such average depth, but in no event shall any required front or rear building line setback be less than five (5) feet
- (b) When a building site has an average width of less than fifty (50) feet any required building setback from the interior side property lines need not be more than ten (10) percent of such average width but in no event less than three (3) feet.

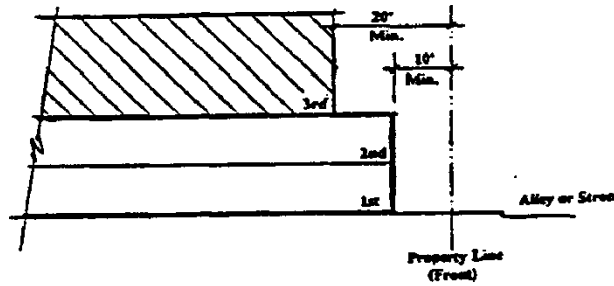
(Added by Ord. 93-16, 11/23/93)

9.05.200 Increase in Maximum Stories.

- (a) In non-residential districts, primary structures shall not exceed two stories. A third story, in accordance with the height limitations specified in Section 9.05.110(b)(4), may be permitted in the commercial, mixed use, professional/administrative, industrial/business and community facilities districts subject to the approval of a Site Development Permit pursuant to Chapter 9.71.
- (b) In no circumstance may the third story of a building be setback less than: (1) twenty (20) feet from the minimum required yard adjacent to a street or alley; (2) twenty (20) feet from the minimum yard adjacent to a residential district; and (3) five (5) feet from the interior side yard. A third story must be set back from a street or alley at least ten (10) feet greater than both the first and second stories as shown in the following diagram.

**SECTION 9.05.200(b)
THIRD STORY SETBACK REQUIREMENTS**





- (c) In order to approve a request for an increase in maximum stories, the Planning Commission must make the following findings:
- (1) That the proposed third story has been designed in accordance with the provisions of Section 9.05.200(b); and
 - (2) That the proposed third story demonstrates exceptional design quality; and
 - (3) That the proposed third story allows the project to incorporate public spaces at the ground level.

Benefits, amenities or design qualities used to warrant an increase in maximum stories may not be used to justify any increase in floor area ratio as provided in Section 9.05.210. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94)

9.05.210 Increase in Floor Area Ratio.

- (a) The standard floor area ratio (FAR) for commercial, mixed use, professional/administrative, industrial/business, community facilities, recreation/open space/conservation, and transportation corridor zoning districts is specified in Chapters 9.11 through 9.23. An increase in the standard FAR may be permitted subject to the approval of a Site Development Permit pursuant to Chapter 9.71. In no event shall the increased FAR approved by the Planning Commission exceed the maximum floor area ratios as specified below:

District	Maximum FAR
Neighborhood Commercial	1.75:1
Community Commercial/Pedestrian	1.75:1
Community Commercial/Vehicular	1.75:1
Visitor/Recreation Commercial	1.75:1
Commercial/Residential	1.50:1
Professional/Residential	1.50:1
Professional/Administrative	1.10:1
Industrial/Business	.75:1
Community Facilities	1.00:1
Recreation/Open Space/Construction	.20:1
Transportation Corridor	.20:1

- (b) In order to approve a request for an increase in floor area ratio above the standard floor area ratio, the Planning Commission must make the following findings:
- (1) That the requested increase will not significantly contribute to the temporary or cumulative demand for public facilities or services; and
 - (2) That the proposed project warrants increased intensity because it demonstrates exceptional design quality exceeding minimum City standards; and
 - (3) That the proposed project provides significant or exceptional public amenities, improvements or benefits, in excess of the minimum standards applicable to the project, which promote the goals and objectives of the General Plan.

The benefits, amenities or design qualities used to warrant an increase in floor area ratio may not be used to justify any increase in maximum stories as provided in Section 9.05.200. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96)

9.05.220 Lighting.

Exterior lighting shall be energy-efficient and shielded or recessed so that direct glare and reflections are contained within the boundaries of the parcel, and shall be directed downward and away from adjoining properties and public rights-of-way. No lighting shall blink, flash, or be of unusually high intensity or brightness. All lighting fixtures shall be appropriate in scale, intensity, and height to the use it is serving. Security lighting shall be provided at all entrances/exits. (Added by Ord. 93-16, 11/23/93)9.05.230

9.05.230 Roof Decks.

Roof decks are permitted, subject to approval of a Minor Site Development Permit, in any zoning district provided that they meet the following development standards:

- (a) In residential districts, the permitted area of all roof decks per dwelling unit may not exceed twenty-five (25) percent of the roof area of the story directly below the deck or three hundred (300) square feet, whichever is less.
- (b) In residential districts, the guardrail and other objects, whether permanent or temporary, which rest upon the roof deck such as patio furniture, landscaping, and storage, may not exceed the district's required height limit as specified in Section 9.05.110(a) of this Chapter.
- (c) The roof deck shall be architecturally compatible with the existing exterior materials and colors of the existing structure, and appear as an integral part of the roof system.
- (d) The roof deck area shall be appropriately designed so as not to be visible from all sides of the structure or from the grade below. Appropriate screening shall be architecturally compatible with and integrated into the existing structure as determined by the Director

of Community Development. The solid screening may include roofing, solid parapet walls, or other methods architecturally compatible with the design of the structure.

- (e) The deck shall be compatible with the color of the existing roof material or structure, yet it shall not be of a color that would reflect glare onto surrounding properties at a higher elevation.
- (f) In residential districts, exterior stairways and other access features such as stairwells or elevators for access to roof decks shall not exceed the residential zoning district's height limit and shall be architecturally integrated into the design of the structure.
- (g) All furniture and accessories located on a roof deck shall be secured as necessary to prevent wind damage or dislocation.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 96-10, 8/13/96, Ord. 06-02, 4/12/06.)

9.05.240 "Art in Public Places" Program.

- (a) Purpose. The purpose of this Section is to enhance the cultural and aesthetic environment of the City of Dana Point, and to encourage creativity, education, and an appreciation of the arts and our cultural heritage. The program also serves to implement a number of goals and policies of the Dana Point General Plan Urban Design Element and the Dana Point Community Cultural Plan.
- (b) Definitions. The following definitions shall apply to the language contained in this Section:
 - (1) "Art in Public Places" shall mean public art installed, either on- or off-site, as a part of a new development project in conformance with the standards set forth in this Chapter.
 - (2) "Arts and Culture Commission" shall mean the Dana Point Arts and Culture Commission as established by City Council Resolution No. 11-07-25-01; and any successor commission, agency, board, committee or other body empowered by the City Council with the same duties and responsibilities.
 - (3) "New Development" shall mean the construction of new residential, commercial, mixed use, office, industrial, institutional and recreational projects, and the remodeling or renovation of such projects in excess of fifty (50) percent of the value of the entire development project.
 - (4) "Other discretionary review" shall mean any coastal development permit, site development permit, conditional use permit, variance, tentative map, zone change, zone text amendment, general plan amendment or local coastal program amendment as reviewed by the Dana Point Planning Commission, Dana Point City Council or California Coastal Commission.

- (5) "Public art" shall include, but not be limited to, sculpture, paintings, graphic arts, mosaics, photographs, fountains, decorative arts, film and video, and preservation of features or resources of historical, archaeological or paleontological significance, located in or on a site open and accessible to the public. Public art may be either representational or non-representational (i.e., abstract).
- (6) "Public art component" shall mean the piece of public art and any accompanying landscape, hardscape, lighting, public performance space, public art display space, and plaques, signs or narrative materials.
- (7) "Total construction costs" shall mean the valuation of the proposed structures or improvements, as calculated based on the most recent building valuation data from the Uniform Building Code (UBC).

(c) General Requirements.

- (1) Applicability. The provisions of this Section shall apply to all new development within the residential (Chapter 9.09), commercial (Chapter 9.11), mixed use (Chapter 9.13), office (Chapter 9.15), industrial (Chapter 9.17), institutional (Chapter 9.19) and recreational (Chapter 9.21) districts as defined in the Dana Point Zoning Code.

The "Art-in-Public-Places" Program described in this section is a mandatory program and the standards specified are minimum standards for compliance. Participation in the program by itself does not qualify project applicants for consideration of increased project density/intensity as discussed in the Land Use Plan of the Dana Point General Plan.

- (2) General Guidelines/Content and Appropriateness. There are no mandated themes for the public art component of a project Both representational and non-representational artworks are encouraged. Possible thematic content areas for public art may include, but should not be limited to:
 - (A) The coastal/marine lifestyle;
 - (B) The history of the City of Dana Point;
 - (C) The archaeology and paleontology of the natural environment of the area; or
 - (D) The cultures of indigenous peoples of the area.

These themes are listed for general guidance only and are not intended to mandate a particular theme type or style of artwork.

- (3) Media. The media used in the public art component of a new development project may include any of the features or element described in subsection (b)(5) above. The media employed should be appropriate to the artwork and the immediate physical surroundings. The media chosen should also incorporate non-visual

elements (i.e., texture, sound, etc.) wherever possible for the benefit of the visually impaired.

- (4) Location. The public art component should be prominently placed within the development project and oriented toward the pedestrian experience of the site. Particular consideration should be given to making the public art accessible to the physically handicapped. Site design should “showcase” the public art and provide viewing opportunities from many angles. Site landscaping and lighting design should complement and enhance the work.

If there is no appropriate on-site location for the public art component, the applicant may propose an alternate location off-site.

- (5) Cost. The minimum value requirement for the public art component of a development project is one-half (0.50) percent of the total construction costs of the subject project. The provisions of this Section may be satisfied by either:

- (A) The on- or off-site placement of public art as a component of the development project.

- (B) A contribution to a public art in-lieu fund in an amount equal to the minimum value for the public art component.

- (d) Exemptions. The following types of development projects shall be exempt from the provisions of this Section:

- (1) Individual single family residences and individual multiple family structures of four (4) or fewer units on existing, legal building sites (Chapter 9.09);

- (2) Projects subject to regulation under the Dana Point Harbor Planned Community Development Plan (Chapter 9.25); or

- (3) Projects with total construction costs of less than one million dollars (\$1,000,000.00) as defined under subsection (b)(7) above.

- (e) Review Procedures.

- (1) Projects Requiring Other Discretionary Review. The review of the public art component of development projects shall be carried out by the Planning Commission and shall be completed and installed and/or in-lieu fees paid prior to issuance of a certificate of use and occupancy for any project that meets the requirements in Sections 9.05.240(c)(1) and 9.05.240(d).

- (2) Application Processing.

- (A) Placement of Public Art. The public art component of a development project may be submitted as a part of the application for the entire project, but must be installed prior to issuance of certificate of occupancy. The project plans, including

the public art component will be provided to the Arts and Culture Commission for their review. The Arts and Culture Commission will evaluate the public art component of the project, seeking, as necessary, responsible voluntary public and professional opinions and input in its deliberations, and submit feedback for approval or denial to the Planning Commission.

If deemed necessary by staff, the public art component of a project may be reviewed multiple times by the Arts and Culture Commission. Comments from the Arts and Culture Commission will be compiled by the Planning Department along with the comments of other departments, agencies and/or interested parties. These comments will be forwarded to the applicant and Planning Commission. If, however, the Arts and Culture Commission cannot provide feedback before the public art is considered by the Planning Commission the review of the public art will proceed and be undertaken solely by the Planning Commission.

Once the application has been deemed complete (pursuant with State law), the environmental review for the public art component of the project will be completed and the project will be scheduled for public hearing before the Planning Commission. A public hearing notice will be provided to the Arts and Culture Commission and the Arts and Culture Commission will have the opportunity to attend the public hearing and provide additional input on the project.

If the Arts and Culture Commission is not able to provide feedback on the public art component prior to the Planning Commission hearing, the Planning Commission shall have authority to review and give final approval for the public art component.

- (3) **Projects Not Requiring Other Discretionary Review.** The review process for projects which do not require other discretionary review is similar to that described under subsection (e)(2) above, with the exception that the recommendation of the Arts and Culture Commission will be made to the Director of Community Development. Final approval of the public art component of a development project will be made by the Planning Commission, except in cases where the in-lieu contribution is chosen.
- (4) **Public Art Component Application Requirements.** The application for the public art component of a development project shall include the following:
 - (A) A rendering or model of the proposed work;
 - (B) A colors and materials board;
 - (C) Site, landscaping and lighting plans;
 - (D) A statement from the artist applicant, detailing how the proposed work fulfills the purpose of this Section as described in subsection (a) above;

- (E) A copy of the text of any plaque(s) or narrative material(s) accompanying the proposed work;
 - (F) An estimate of the total construction cost of the development project as defined under subsection (b)(7) above and the value of the proposed public art; and
 - (G) Any other materials or information necessary to determine compliance with this Section as required by the Director of Community Development.
- (5) Findings. In approving the public art component of a development project, the Planning Commission must make the following findings in the form of an adopted resolution:
- (A) That the work fulfills the purpose of this Section; and
 - (B) That the work is an enhancement to the site, surrounding neighborhood, and the City as a whole.
- (6) Conditions of Approval. The following standard conditions of approval shall apply to all development projects participating in the “Art-In Public-Places” program:
- (A) Prior to the issuance of Certificates of Use and Occupancy, the applicant must obtain approval of the public art component of the project from the Dana Point Planning Commission.
 - (B) Prior to the issuance of Certificates of Use and Occupancy, the public art component of the project shall be installed in accordance with the approved plans and in a manner meeting with the approval of the Director of Community Development. If the public art component cannot be installed prior to the issuance of Certificates of Use and Occupancy, the applicant shall deposit surety with the City in an amount equal to the value of the required public art component to ensure installation within thirty (30) days of the issuance of Certificates of Use and Occupancy.
 - (C) On-Site Placement. The maintenance of the public art component for the project shall be the responsibility of the applicant and the applicant’s assigns and successors-in-interest.

OR

Off-Site Placement. The maintenance of the public art component for the project shall be the responsibility of the applicant and the applicant’s assigns and successors- in-interest The applicant shall provide evidence, to the satisfaction of the Director of Community Development, that the public art component will be placed off-site with the approval of the owner of the property upon which the artwork will be located.

(D) In-Lieu Contribution. Prior to the issuance of Certificates of Use and Occupancy, the applicant shall deposit an amount equal to the required value of the public art component into a public art in-lieu fund.

(Added by Ord. 94-13, 8/23/94)

9.05.250 Internal Access to Separate Living Quarters.

Single-family residences with living quarters having no internal access to the primary residence may be permitted subject to review and approval by the Director of Community Development. In such cases, the Director may require the property owner to record a document against the title of the subject property that indicates that said living quarters cannot be used as a second dwelling unit (Added by Ord. 94-09, 5/24/94)

9.05.260 Increased Height for Detached Garages.

The standard maximum height of detached accessory structures is twelve (12) feet when located in the setback area pursuant to Section 9.05.080(L). The maximum height of a detached garage may be increased up to a maximum of eighteen (18) feet subject to the following standards:

- (a) The added height provides nonhabitable space for storage uses only;
- (b) No stairway access is permitted and the storage space may only be entered by an internal ladder access; and
- (c) The roof of the detached garage is fully sloped in either a hip or gable configuration.

(Added by Ord. 94-21, 12/13/94;)

9.05.270 Decks Extension Over Slope Areas.

Where a deck is proposed to extend over a slope area, the following regulations shall apply, except that for slope areas on blufftop lots in the Coastal Overlay District, decks shall not project past the bluff edge, and the limitations on development in the blufftop setback described in the blufftop setback requirements of Chapter 9.27 (Coastal Overlay District) shall supersede the following regulations.

- (a) For purposes of this section only, areas with less than a five (5) percent grade shall not be considered a slope area and decks may be extended pursuant to the applicable setback requirements.
- (b) If the slope has a grade of more than five (5) percent but less than fifteen (15) percent, the deck may be extended to a maximum of eight (8) feet beyond the top of the slope.
- (c) If the slope has a grade of fifteen (15) percent or greater, at-grade or above-grade decks are not permitted to extend beyond the top of any slope, except as may be permitted by a minor Site Development Permit subject to the approval of the Director of Community

Development and pursuant to the applicable provisions of Chapter 9.71. Such extension shall be subject to the required yard setbacks and to the following requirements:

- (1) The applicant shall submit a site plan detailing the location of the top of the subject slope.
- (2) The applicant shall submit evidence which details the gradient of the slope.
- (3) The applicant shall submit a soils report substantiating the ability of the slope geology to support the proposed deck extension.
- (4) The applicant shall provide a letter detailing how the proposed deck extension would not pose any detrimental aesthetic impact to any surrounding properties or to any public views or vistas.
- (5) In no case may the minor Site Development Permit allow an extension of the deck beyond four (4) feet from the top of the slope.

(Added by Ord. 96-13, 11/26/96; amended by Ord. 99-05, 4/27/99)

9.05.280 Accessory Buildings and Structures

Accessory Buildings and Structures are permitted, in any zoning district provided that they meet the following development standards:

28. An Accessory Building or Structure meets the definition of an Accessory Building or Structure as specified in Section 9.75.010.
29. In residential districts, attached accessory structures shall conform to the development standards of the primary structure, and be less than 50% of the existing living area.
30. In all zones, the cumulative total of all attached and/or detached accessory structures shall be less than 50% of existing occupiable area (non-residential) or existing living area (residential).
31. In residential districts, no detached accessory structure can exceed 500 square feet, unless a Minor Site Development Permit is approved pursuant to Chapter 9.71. Required garages associated with a single family residence are permitted to exceed this requirement.
32. In residential districts, detached accessory structures shall be located in the rear ½ of the parcel, with the exception of entry features (i.e., arbors, porticos and trellises) and garages, unless a Minor Site Development Permit is approved pursuant to Chapter 9.71.
33. In residential districts, a detached accessory structure less than 500 square feet, and located wholly in the rear ½ of a parcel shall be allowed to encroach into the side and rear yard setbacks as allowed in Section 9.05.080, provided they meet the building separation requirements.
34. In residential districts, detached accessory structures 500 square feet or greater shall meet all applicable setback requirements.

35. In all zones, the minimum accessory structure to accessory structure setback shall comply with minimum California Building Code separation requirements.
36. All accessory structures count towards lot coverage requirements.
37. Barbeque structures, fire pits, and outdoor fire places, and other structures that do not require a building, electrical, plumbing, mechanical, or grading permit, are not subject to the building separation and setback requirements, but must be located outside of the front and exterior side yard setbacks, unless a Minor Site Development Permit is approved pursuant to Chapter 9.71.
38. Height limitations and measurements shall be in compliance with Section 9.05.110(a)(8).

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**CHAPTER 9.07
SPECIAL USE STANDARDS**

Sections:

- 9.07.010 Intent and Purpose.**
- 9.07.020 Antennas.**
- 9.07.030 Home Occupations.**
- 9.07.040 Alcoholic Beverage Outlets.**
- 9.07.045 Alcoholic Beverage Manufacturing**
- 9.07.050 Utility Substations.**
- 9.07.060 Entertainment Establishments Providing Dancing, Music, and Similar Activities.**
- 9.07.070 Churches.**
- 9.07.080 Motor Vehicle Sales.**
- 9.07.090 Adult Businesses.**
- 9.07.100 Fortune-Telling.**
- 9.07.110 Recycling Facilities.**
- 9.07.120 Outdoor Display, Sales or Storage.**
- 9.07.130 Service Stations.**
- 9.07.140 Solid Waste Disposal Facilities.**
- 9.07.150 Trash and Recycling Storage Areas.**
- 9.07.160 Single Room Occupancy.**
- 9.07.170 Demolition of Structures.**
- 9.07.180 Timeshare Development and Operations Standards.**
- 9.07.190 Keeping of Animals in Residential Districts.**
- 9.07.200 Tattoo Parlors.**
- 9.07.210 Second Dwelling Units.**
- 9.07.220 Mobilehomes.**
- 9.07.230 Massage Establishments.**
- 9.07.240 Drive Through Uses.**
- 9.07.250 Historic Resources.**

9.07.010 Intent and Purpose.

Certain uses, although permitted in specific districts, require additional development standards beyond those specified for the applicable zone. Additional standards are required to ensure that such uses are operated in a manner that do not adversely impact surrounding uses. The purpose of this Chapter is to provide additional development standards and conditions for certain uses to ensure their compatibility with surrounding uses. (Added by Ord. 93-16, 11/23/93)

9.07.020 Antennas.

- (a) Exempt Antennas. The following types of antennas are exempt from the requirements of this Section, unless otherwise noted:(1) Common skeletal

residential type radio and television antennas used to receive UHF, VHF, AM, and FM signals of off-air broadcasts from radio and television stations.

(b) Commercial Wireless Telecommunication Antenna Facilities.

(1) Purpose. The purpose of these requirements is to regulate the location and design of “Commercial Wireless Telecommunication Antenna Facilities** as defined herein to protect the scenic ocean and coastal public views; public safety; and the quality of residential neighborhoods in the City of Dana Point. The Dana Point City Council has determined that these requirements are intended to create reasonable regulations in conformance with the provisions of the Telecommunication Act of 1996. These requirements also apply to non-commercial wireless telecommunication antenna facilities that are associated with local businesses, public agencies, utility services and emergency services. These requirements do not apply to “exempt antennas*” under Section 9.07.020(a) or “antennas and satellite dish antennas in residential districts” under Section 9.07.020(c).

(2) Antenna Use Permits.

(A) All commercial wireless telecommunication service antenna facilities and public/private local telecommunication system antenna facilities shall require an Antenna Use Permit. A proposed antenna facility may require either a Major or Minor Antenna Use Permit (AUP) depending upon the proposed location with respect to residential districts, classrooms and scenic highways, as well as the type and design of the proposed antenna facility, as described herein. Appeals of a decision on an AUP are subject to the provisions contained in Section 9.61.110.

(B) Under certain location and design conditions as described herein, a proposed antenna facility may be subject to the Exceptional Case Approval procedure in addition to a Major AUP. Exceptional Case Approvals shall be reviewed at a public hearing by both the Planning Commission and the City Council. In addition to the required submittal material for a Major Antenna Use Permit, the applicant must submit documents which would conclusively demonstrate that the carrier is technically unable to satisfy system coverage objectives by any other means that would be consistent with the regulations contained herein. Said documents shall be submitted to the City for review by a third party wireless telecommunication consultant. Any and all costs associated with the third party consultant review shall be paid by the applicant through a deposit fee set by the City Council. If the Exceptional Case Approval proposes to deviate from the established setbacks contained herein, a Variance application shall also be included with the submittal.

(C) Antenna Use Permit Procedure.

1. Prior to the formal submittal for any Antenna Use Permit, the Community Development Department staff shall determine if a Minor Antenna Use Permit,

Major Antenna Use Permit and, if applicable. Exceptional Case Approval would be needed for a given antenna facility proposal.

2. Once a determination has been made by Community Development Department staff as to which permitting procedure is appropriate, the following application materials shall be submitted to the City for consideration of the proposed antenna facility:

- a. Application form for Minor Antenna Use Permit, Major Antenna Use Permit and, if applicable. Exceptional Case Approval.
- b. Site Plans and Elevations drawn to scale in compliance with the City's accepted format.
- c. A radiofrequency (RF) report prepared by a qualified RF engineer acceptable to the City to demonstrate that the proposed facility, as well as any co-located facilities, complies with current Federal RF emission standards.
- d. Computerized Visual Assessments showing the before and after visual effects of the proposed facility.
- e. Technical report with signal strength exhibits stating the need for the proposed antenna facility (for commercial wireless telecommunication antenna facilities only; not required of non-commercial wireless telecommunication antenna facilities).
- f. For Minor AUP applications, a written statement must be submitted which discusses how the proposed antenna facility complies with the stealth design criteria set forth in these regulations.
- g. For Major AUP applications, a written statement must be submitted which discusses why the proposed antenna facility cannot comply with all of the stealth design criteria set forth in these regulations.
- h. For Exceptional Case Approval applications, a written statement must be submitted which discusses among other things why the proposed antenna facility cannot comply with all of the stealth design criteria and, if a Variance for setbacks is required, as to why the antenna facility setbacks set forth in these regulations can not be met.

3. After the Antenna Use Permit application is deemed complete by the Community Development Department, it shall be considered at a meeting of the Planning Commission. Minor Antenna Use Permits would be scheduled for the consent calendar and Major Antenna Use Permits would be scheduled for public hearing in accordance with Chapter 9.61 of the Zoning Code. The decision of the Planning Commission may be appealed to the City Council within 15 days of the decision.

4. Exceptional Case Approval application materials shall first be reviewed by a third party wireless telecommunication consultant chosen by the City, paid for by the applicant through a deposit fee set by the City Council. After the review is completed and the application is deemed complete by City Staff, the Exceptional Case Approval in conjunction with the Major AUP would be scheduled for public hearing in accordance with Chapter 9.61 of the Zoning Code before the Planning Commission. The Planning Commission shall render a recommendation that shall be considered by the City Council at a public hearing held in accordance with Chapter 9.61 of the Zoning Code. The City Council shall render a final decision on the matter. If the Exceptional Case Approval also includes another discretionary action, that action shall also be considered by the City Council.
 5. Antenna Use Permits are subject to review by the City's Planning Commission every two (2) years to determine if technology has changed to the point where an installation can be reduced in size or redesigned in a "stealth" manner and to evaluate RF emissions. A technology upgrade report and RF emissions testing report would be required to be submitted by the applicant. The City's third party consultant would review the reports and any changes would be incorporated into the approval of the review by the Commission.
 6. An RF (radio-frequency) testing report shall be required of all proposed facilities after the initial installation and once the site is operable to demonstrate that they are in compliance with government safety standards prior to final sign off of permits.
 7. The City may require modification or removal of wireless antenna facilities for various reasons such as, but not limited to, changes in technology, safety hazards, and new environmental concerns, etc. All costs of installation, modification to and removal of wireless antenna facilities and related equipment shall be borne by the Carrier, as defined herein, whether required by the City or otherwise.
- (4) Location Criteria. The following applies to both commercial wireless telecommunication antenna facilities and private/public local wireless telecommunication antenna facilities:
- (A) Antenna facilities under these regulations are prohibited in residential districts. With the exception of the criteria set forth in these regulations.
 - (B) Antenna facilities are encouraged to be located on and/or inside of existing structures, such as buildings, light standards, traffic control standards or existing freestanding telecommunication facilities.
 - (C) Antenna facilities are encouraged to be located where existing topography, vegetation, buildings or other structures provide the greatest amount of visual screening.
 - (D) Antenna facilities shall be co-located with other antenna facilities in accordance with this subsection wherever possible and technically feasible.

- (E) Freestanding antenna facilities shall not be located within five hundred (500) feet from another freestanding antenna facility, unless co-located on the same supporting structure.
- (F) Roof-mounted antennas, wall-mounted antennas and other antenna facilities on private property shall not be allowed within one hundred (100) feet of residential districts, even as an Exceptional Case Approval.
- (G) Antenna facilities under these regulations are prohibited in the Conservation District.
- (H) Stealth antenna facilities in the Community Facilities District shall require the approval of a Major AUP, and non-stealth or water tank mounts require the approval of an Exceptional Case Approval.
- (I) Wireless antenna facilities shall not be located so as to create a hazard to persons or property within the “Fall Zone” as defined herein.
- (J) Setbacks from Residential property line and classrooms shall be subject to the procedures set forth for each of the applicable permit types shown in the table below:

Setback from Residential Property Line & Classrooms	Light Standard ROW Installation	Stealth & Non-Freestanding	Non-Stealth and Non-Freestanding	Freestanding Installation
0 to 100 Feet	Major AUP	Prohibited	Prohibited	Prohibited
100 to 150 Feet	Minor AUP	Major AUP	Prohibited	Major AUP (Stealth Only)
150 to 300 Feet	Minor AUP	Minor AUP	Major AUP	Major AUP (Stealth Only)
Over 300 Feet	Minor AUP	Minor AUP	Major AUP	Major AUP (Stealth Only) Major AUP & ECA (Non-Stealth)

AUP = Antenna Use Permit
 ECA = Exceptional Case Approval

(K) Setbacks from centerline of scenic highways shall be subject to the procedures set forth for each of the applicable permit types shown in the table below:

Setback from Centerline	Light Standard ROW Installation	Stealth & Non-Freestanding	Non-Stealth and Non-Freestanding	Freestanding Installation
0 to 150 Feet	Major AUP	Major AUP	Major AUP and ECA	Major AUP (Stealth Only)
150 to 300 Feet	N/A	Minor AUP	Major AUP	Major AUP (Stealth Only)
Over 300 Feet	N/A	Minor AUP	Major AUP	Major AUP (Stealth Only) Major AUP & ECA (Non-Stealth)

AUP = Antenna Use Permit

ECA = Exceptional Case Approval

(L) The provisions of Section 9.07.020 (d)(6) do not apply to Commercial Wireless Telecommunication Antenna Facilities.

(5) Design Criteria. The following stealth criteria apply to both commercial wireless telecommunication antenna facilities and public/private local telecommunication antenna facilities:

(A) Light standard-mounted or traffic control standard-mounted antenna facilities shall be designed to be unobtrusive, in the opinion of the City, and shall locate equipment cables within the light standard or traffic control standard; place related electronic equipment in underground vaults (except for environmental air conditioning units needing above-ground access); and paint or finish the antennas to match the supporting standard.

(B) Roof-mounted, wall-mounted and other non-freestanding antenna facilities are acceptable if they are screened or designed in such a way to be unobtrusive, in the opinion of the City, and does not block significant public or residential views.

(C) Roof-mounted antenna facilities (except for omni-directional whip antennas) shall be completely screened from public view in a manner that is consistent with the building's existing architectural style, color and materials, including, if necessary, screening to avoid adverse impacts to public views from higher elevations.

(D) Wall-mounted antenna facilities shall utilize flush-mounted antennas painted or finish to match the building with concealed cables.

- (E) The height of antenna facilities shall not exceed the maximum building height allowed for the subject property's zoning district, unless exceeding the height limit is approved under a Major Antenna Use Permit and a Variance as per Chapter 9.67 of the Dana Point Zoning Code.
 - (F) Rooftop-mounted antenna facilities placed on existing non-conforming buildings that exceed a given height limit shall not exceed the building's height
 - (G) Co-location of commercial antenna facilities is desirable, however, there shall be no more than three commercial providers per co-location facility unless it can be shown to be aesthetically feasible, in the opinion of the City, and within current government safety standards.
 - (H) If a building of suitable height is not available, commercial antennas could be hidden in a new architectural feature that matches an existing building's design (clock tower, cupola, etc.) or a freestanding architectural feature (entry monument, etc.). Any such improvements shall be appropriate for and compatible with the site and surrounding area and shall not exceed the site's height limit except in association with a Variance as per Chapter 9.67 of the Dana Point Zoning Code.
 - (I) Colors and designs for freestanding antenna facilities shall be integrated with the surrounding visual background including buildings, landscape and/or uses in the area or those likely to exist in the area, and should prevent the facility from visually dominating the surrounding area.
 - (J) Freestanding antenna facilities shall avoid being a visually dominant intrusion into a given viewshed by locating the facilities near other vertical elements such as existing structures or trees.
 - (K) Freestanding antenna facilities shall be architecturally compatible with the surrounding land uses, buildings, structures, landscaping and other improvements by blending with the existing characteristics to the greatest extent possible.
- (6) Antenna Use Permit Required Findings. The following are the required findings for every Antenna Use Permit:
- (A) That the proposed antenna facility will not create any significant or meaningful blockage to public views; and,
 - (B) That the proposed antenna facility will be an enhancement to the City due to its ability to provide additional communication capabilities; and,
 - (C) That the proposed antenna facility will be aesthetically integrated into its surrounding environment; and,

- (D) That the proposed antenna facility will not interfere with the reception or transmission of other wireless telecommunication signals within the surrounding community; and,
 - (E) That the proposed antenna facility will operate in compliance with all applicable Federal safety regulations for such facilities; and,
 - (F) That the public need for the use of the antenna facility has been documented.
- (7) Exceptional Case Approval Required Findings. In addition to the above findings, the following findings are also required when relevant for Exceptional Case Approvals.
- (A) That the proposed antenna facility cannot be implemented without the use of a freestanding antenna facility; and/or,
 - (B) That the proposed antenna facility cannot reasonably operate without being located within the setbacks from residential uses, classrooms and scenic highways as established in this ordinance; and/or
 - (C) That the Carrier acknowledges that they shall be responsible for any damage or injuries that result from hazards within Fall Zones or otherwise from such freestanding facility.
- (8) Fees. The fees and deposits for Antenna Use Permits and Exceptional Case Approvals shall be established by the City Council by resolution.
- (c) Antennas and Satellite Dish Antennas in Residential Districts.

Antennas and satellite dish antennas located in the residential districts of the City shall conform to the following standards:

- (1) All ground-mounted antennas and satellite dish antennas shall be required to maintain their supporting structures at least five (5) feet from any property line and ten (10) feet from any other structure.
- (2) All ground-mounted antennas and satellite dish antennas shall be screened by walls, fences or landscaping at least six (6) feet in height obscuring visibility of the antenna or satellite dish antenna. Landscaping shall be of a type and variety capable of growing within one (1) year to provide a landscape screen which obscures the visibility of the antenna and supporting structure(s).
- (3) All antennas and satellite dish antennas and their supporting structures shall be located in the rear yard or any side yard, except a street side yard.
- (4) No antenna, satellite dish antenna, or its supporting structure shall be located in the area between the front property line and the dwelling.

(5) The following height limit shall apply to all antennas:

Antenna Type	Maximum Above Grade	Height
Satellite Dish Antennas	15 feet	
Other Permitted Antennas	Maximum height of base zoning district	

Antennas, as defined in Section 9.75.010, may be permitted to exceed the maximum height of the base zoning district subject to the approval of a minor Conditional Use Permit. Such a permit may only be granted under the following circumstances:

- (A) The subject antenna is retractable, the height of the antenna when retracted is thirty-five (35) feet or less, the height of the antenna when extended is fifty (50) feet or less, and the applicant executes an agreement which stipulates that the antenna may only be extended during actual use of said antenna; or
 - (B) The subject antenna is used solely for transmission and reception of ham radio signals, the operator is a FCC licensed amateur ham radio operator and the antenna is retractable with a maximum height of seventy (70) feet when extended and no higher than the maximum height limit of the base zoning district when retracted.
- (6) A maximum of two antennas, including satellite dish antennas or exempt antennas, shall be allowed per lot
- (7) Antennas and satellite dish antennas shall not be mounted on the roof.
- (d) Antennas and Satellite Dish Antennas Located in Non-Residential Districts. Antennas and satellite dish antennas located in the non-residential zones of the City shall conform to the following standards:
- (1) All ground-mounted antennas and satellite dish antennas shall be required to maintain their supporting structures at least five (5) feet from any property line and ten (10) feet from any other structure.
 - (2) All ground-mounted antennas and satellite dish antennas shall be screened by walls, fences or landscaping at least six (6) feet in height obscuring visibility of the antenna. Landscaping shall be of a type and variety capable of growing within one (1) year to provide a landscape screen which obscures the visibility of the antenna and supporting structure.
 - (3) All antennas, satellite dish antennas, and their supporting structures shall be located in the rear yard or any side yard, except a street side yard.

- (4) No antenna, satellite dish antenna, or its supporting structure shall be located in the area between the front property line and the main structure or building.
 - (5) No antenna or satellite dish antenna shall be higher than the maximum height permitted in the zone measured from grade level.
 - (6) A maximum of two antennas, including satellite dish antennas or exempt antennas, shall be allowed per lot
 - (7) No antenna or satellite dish antenna shall be roof-mounted except on a flat portion of the roof structure with architecturally integrated parapets or screening elements.
- (e) Required Criteria and Performance Standards.
- (1) Antennas, commercial antennas, and satellite dish antennas shall be installed and maintained in compliance with the requirements of the Building Code. Antenna installers shall obtain a building permit prior to installation.
 - (2) No advertising material shall be allowed on any antenna, commercial antenna, or satellite dish antenna.
 - (3) All electrical wiring associated with any non-exempt antenna shall be buried underground or hidden in a manner acceptable to the Building Official.
 - (4) No portion of an antenna or satellite dish antenna array shall extend beyond the property lines or into any front yard area. Guy wires shall not be anchored within any front yard area but may be attached to the building.
 - (5) The antenna, commercial antenna, or satellite dish antenna, including guy wires, supporting structures and accessory equipment, shall be located and designed so as to minimize the visual impact on surrounding properties and from public streets. The materials used in constructing the antenna or satellite dish antenna shall not be unnecessarily bright, shiny, garish, or reflective.
 - (6) Every antenna, commercial antenna, or satellite dish antenna must be adequately grounded, for protection against a direct strike of lightning, with an adequate ground wire. Ground wires shall be of the type approved by the latest edition of the Electrical Code for grounding masts and lightning arrestors and shall be installed in a mechanical manner, with as few bands as possible, maintaining a clearance of at least two (2) inches from combustible materials, lightning arrestors shall be used that are approved as safe by the Underwriters Laboratories, Inc., and both sides of the line must be adequately protected with proper arrestors to remove static charges accumulated on the line. When lead-in conductors of the polyethylene ribbon-type are used, lightning arrestors must be installed in each conductor. When coaxial cable or shielded twin lead is used for lead-in, suitable protection may be provided without lightning arrestors by grounding the exterior metal sheath.

- (7) A wind velocity test may be required for any non-exempt antenna, as deemed necessary by the Building Official.
- (f) Variances. Pursuant to the procedures of Chapter 9.67 of the Zoning Code, any person may seek a variance from the provisions of this Section. Any variance so granted is revocable for failure by the applicant or property owner to comply with the conditions imposed. A variance may be issued for an antenna or satellite dish antenna if it meets the following standards:
 - (1) Locating the antenna or satellite dish antenna in conformance with the specifications of this section would obstruct the antenna's reception window or otherwise excessively interfere with reception, and such obstruction or interference involves factors beyond the applicant's control; or, the cost of meeting the specifications of this section is excessive given the cost of the proposed antenna.
 - (2) The variance application includes a certification that the proposed installation is in conformance with applicable City Building regulations. Furthermore, the application must contain written documentation of such conformance, including load distributions within the building's support structure and certified by a registered engineer.
 - (3) If it is proposed that the antenna or satellite dish antenna will be located on the roof, where possible, the antenna shall be located on the rear portion of the roof and be consistent with neighboring improvements, uses and architectural character.
- (g) Non-Conforming Antennas and Satellite Dish Antennas. Antennas and satellite dish antenna, in any zone, which were lawfully constructed and erected prior to the effective date of this Code, which do not conform to the requirements of this Section for the particular zoning district in which they are located, shall be accepted as non-conforming uses for a period of one (1) year from the date of adoption of this Code. Thereafter, the antennas shall be subject to abatement as set forth below via removal, modification, or relocation to comply with the standards of this Code. Any antenna or satellite dish antenna constructed, or erected in violation of this Code or any prior law, ordinance or regulation shall be subject to immediate abatement.
- (h) Notice of Non-Conforming Antennas or Satellite Dish Antennas.
 - (1) Upon the determination of the Director of Community Development that the provisions of this Chapter apply to a given parcel of land on which an antenna or satellite dish antenna is located, the Director or his/her designee shall send a notice thereof by certified mail, return receipt requested, to the owner thereof as shown on the last equalized assessment roll and shall cause such property to be posted with a similar notice.
 - (2) The notice provided for in this Section shall state that the property and antenna in question is a non-conformity, shall state the date of abatement established in accordance with Section 9.63.050, shall state that an administrative hearing will be held before the Director of Community Development, and shall state the date of such hearing.

(i) Hearing.

- (1) Within sixty (60) days after the issuance of the notice prescribed in Section 9.63.050, the Director of Community Development shall hold an administrative hearing to determine whether the nonconformity should be abated or whether a time extension should be granted as provided in Section 9.63.070.
- (2) The Director of Community Development shall receive written and oral testimony at such hearing in regard to abatement.
- (3) At the close of the hearing, the Director of Community Development shall find and determine whether the nonconformity should be abated and all facts in support thereof, whether the owner of the property can amortize his/her investment in the term for abatement provided in accordance with Chapter 9.63.
- (4) The Director of Community Development shall also find and determine whether the structure encompassing the nonconforming use can economically be used in its present condition or can successfully be modified for a purpose permitted in the zone in which it is located.

(j) Decision and Order. The decision of the Director of Community Development and the findings in support thereof shall be in the form of a written order and shall be served upon the property owner personally or by United States certified mail, return receipt requested, within ten (10) days after the decision is rendered.

(k) Right of Appeal. The decision of the Director of Community Development may be appealed to the Planning Commission within fifteen (15) days of the order, provided, however, that the appeal period shall not commence until service of the order. The decision of the Planning Commission may be appealed to the City Council in the same manner.

(l) Recordation of Order. After the conclusion of all appeals, notice of the decision and order of the Director of Community Development, or the Planning Commission, or City Council in the case of an appeal, shall be recorded with the County Recorder of the County of Orange.

(m) Extension of Time.

- (1) The Director of Community Development and the City Council on appeal, shall grant an extension of the time for abatement of nonconformity where it finds that an unreasonable hardship would otherwise be imposed on the property owner.
- (2) The Director of Community Development and the Planning Commission, or City Council on appeal, shall consider the following factors, among others, in determining whether to grant an extension of time and the length of the term:
 - (A) The nature of the use.
 - (B) The amount of the owner's investment in improvements.

- (C) The convertibility of improvements to permitted uses.
 - (D) The character of the neighborhood.
 - (E) The detriment, if any, caused to the neighborhood by continuance of the nonconforming use.
 - (F) The amount of time needed to amortize the investment.
- (n) Proof of Amortization. The Director of Community Development and the Planning Commission or City Council on appeal shall base its decision as to the length of the permitted amortization period on any competent evidence presented, including but not limited to the depreciation schedule attached to the owner's latest federal income tax return.
- (o) Relocation. Where the Director of Community Development finds that a nonconforming antenna or satellite dish antenna, either in its present condition or as modified, can be used in compliance with the standards set forth in this Code for the zone in which it is located, the nonconforming antenna or satellite dish antenna may be granted an extension sufficient to permit it to be relocated on the site wherein such use is permitted and which has substantially equivalent utility for the use. In no event shall such extension be more than two (2) years.
- (p) Antennas Used for Transmission Purposes.
- (1) Except as provided in subsection (2) below, prior to the approval by the City for the installation of any non-exempt antenna, the applicant must submit a written statement that the antenna will not be used for transmission purposes; or, that the use of the antennas for transmission purposes will not exceed Effective Instantaneous Radiated Power (EIRP) levels of 80 decibel watts (DBW).
 - (2) Antennas used for transmission purposes which exceed EIRP levels of 80 DBW may be approved by the Director, subject to the imposition of reasonable conditions to protect the applicant and the public health and safety. Reasonable conditions shall include, but not be limited to, fencing, screening, warning signs, partial submersion below ground level, and other like conditions.
 - (3) Any applicant aggrieved by a decision of or condition imposed by the Director of Community Development, may appeal that decision or condition pursuant to Section 9.61.110 of this Code.

(Added by Ord. 93-16, 11/23/93); amended by Ord. 94-09 5/24/94; Ord. 94-21, 12/13/94; Ord. 98-06, 9/22/98;)

9.07.030 Home Occupations.

- (a) The residence in which a home occupation is conducted shall not display any indication of a business.

- (b) Only persons residing in the residence shall be involved in the business; no outside employees shall be permitted.
- (c) No more than one room of the residence shall be used for business purposes. Required garages shall not be used for the business in any manner, including storage of materials, and no portion of the business shall be conducted out of doors.
- (d) The business shall generate no more than 10 vehicle trips per day.
- (e) Permitted business equipment shall be limited to that normally associated with a residential use.
- (f) The business shall not produce any noise, heat, vibration, glare, dust, or odor effects other than those ordinarily associated with a residential use.
- (g) No actual retail sales shall be conducted on the premises other than sales by phone, mail, or internet. (Added by Ord. 93-16, 11/23/93; amended by Ord. 18-01; 1/14/19;)

9.07.040 Alcoholic Beverage Outlets.

The following regulations shall apply to alcoholic beverage outlets established after February 11, 1993. The establishment, operation, and maintenance of any alcoholic beverage outlet shall be subject to the following regulations:

- (a) Establishment. The establishment of an alcoholic beverage outlet includes the opening of such a business, the relocation of such a business to a new location, the conversion of an existing use or premises to an alcoholic beverage outlet use, and/or the expansion or change of the type of alcoholic beverages to be sold at an existing alcoholic beverage outlet (i.e., a change in the type of retail liquor license within a license classification). For purposes of this Section, establishment shall not mean the transfer of an existing license from one operator to another at a location which is occupied by an existing alcoholic beverage outlet, unless there is a proposed change in the type of license.
- (b) Minor Conditional Use Permit. A Minor Conditional Use Permit, shall be required for the establishment of an alcohol beverage outlet in the following situations:
 - (1) Sale of alcoholic beverage for off-site consumption when a site is located within:
 - (A) Five hundred (500) feet of any area zoned or used for any church, park, or educational institution utilized by minors; or
 - (B) Five hundred (500) feet of any hospital or public beach; or
 - (C) One hundred (100) feet of any area zoned or used for residential purposes.
 - (2) Sale of alcoholic beverages for on-site consumption when a site is located within:

- (A) Five hundred (500) feet of any area zoned or used for any church, park, or educational institution utilized by minors; or
 - (B) One hundred (100) feet of any area zoned or used for residential purposes.
- (3) Any establishment conducting concurrent sale of alcoholic beverages and motor vehicle fuels.
- (c) Findings. An application for a Minor Conditional Use Permit shall not be approved unless the following findings can be made in addition to the required findings for the approval of a Conditional Use Permit contained in Chapter 9.65:
- (1) That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this Section will be observed;
 - (2) That the proposed use will not enlarge or encourage the development of a “skid row” area;
 - (3) That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any other city program; and,
 - (4) That all applicable regulations of the zoning district in which the use is permitted will be observed.
- (d) General Provisions.
- Where the alcoholic beverage outlet is proposed on a site which abuts the property line of any property zoned or used for residential purposes, a six (6) foot high solid masonry wall shall be constructed between the parking area of the proposed use and the adjacent residential property. Said wall shall be designed and constructed in compliance with all other applicable provisions of this Code including, but not limited to, Section 9.05.090, Sight Visibility Area and Section 9.05.120, Fences, Walls and Hedges.
- (e) Sale of alcoholic beverages for off-site consumption. The sale of alcoholic beverages for consumption on the premises including parking lots shall be prohibited. There shall be appropriate and conspicuous posting of a notice inside the premises indicating that consumption of alcohol, either inside or outside of the building on the premises is prohibited by law. The notice shall be at least one and one-half (1½) square feet in size.
- (f) Sale of alcoholic beverages for on-site consumption. The sale of alcoholic beverages for consumption off the premises shall be prohibited, there shall be appropriate and conspicuous posting of a notice inside the premises, indicating that consumption of alcohol outside the building on the premises including parking lots is prohibited by law, except as may be permitted in any designated outdoor eating or drinking area, such as an on-site patio. The notice shall be at least one and one-half (1½) square feet in size.

(g) Concurrent Sale Requirements. Any use engaged in the concurrent sale of the motor vehicle fuels and alcoholic beverages shall meet the following requirements:

- (1) An establishment engaged in the sale of motor vehicle fuels may offer beer and wine, and not distilled spirits, for sale for off-site consumption.
- (2) Beer and wine products shall not be displayed within five (5) feet of the cash register or the front door unless such display occurs within a permanently affixed cooler which existed as of January 1, 1988.
- (3) Advertisement of beer and wine products shall not be displayed at motor vehicle fuel islands, on fuel pumps, on the canopy supports or the canopy structure covering said motor vehicle fuels islands.
- (4) The sale of beer or wine shall not be made from a drive-through window.
- (5) Display or sale of beer or wine products shall not be made from an ice tub.
- (6) Self-illuminating advertising for beer or wine products shall not be located on buildings or in the windows.
- (7) Employees on duty between the hours of 10:00 p.m. and 2:00 a.m. shall be at least 21 years of age to sell beer or wine.
- (8) A notice shall be posted within three (3) feet of the cash register bearing the following message: "Don't Drink and Drive." The notice shall be at least one and one-half square feet in size.
- (9) Additional requirements on the establishment and operation of facilities engaged in the concurrent sale of motor vehicle fuels and beer and wine which are not inconsistent with this Section, may be imposed by the Planning Commission, or the City Council on appeal, where a Conditional Use Permit is required to establish such a use.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-02, 1/11/94;)

9.07.045 Alcoholic Beverage Manufacturing

The following regulations shall apply to Alcoholic Beverage Manufacturing establishment, operation, and maintenance subject to the following regulations:

39. Applicability. Shall be for any Alcoholic Beverage Manufacturing use as defined in 9.75.270, including all tasting/tap room facilities within the City of Dana Point.
40. Minor Conditional Use Permit. A Minor Conditional Use Permit pursuant to Section 9.65.040 shall be required for the establishment of any Alcoholic Beverage

Manufacturing and/or associated tasting/tap room, except for the Industrial/Business (I/B) District where it is permitted subject to all applicable development standards.

41. General Provisions. The following shall apply to all Alcoholic Beverage Manufacturing and/or tasting/tap rooms:

42. The Director of Community Development may establish or modify hours of operation for tasting or tap rooms and/or outdoor patios associated with Alcohol Beverage Manufacturing business. Any decision of the Director of Community Development regarding the hours of operation may be appealed to the Planning Commission pursuant to Section 9.61.110.

43. All Alcohol Beverage Manufacturing owners and employees working in a tasting/tap room shall successfully complete the LEAD (License Education on Alcohol and Drugs) program through the Department of Alcoholic Beverage Control and/or other responsible beverage service program as approved by the Orange County Sheriff Department. Certification from the LEAD or equivalent program shall be completed prior to commencement of the tasting/tap room business. Proof of certification of LEAD or equivalent program shall be made available to the City of Dana Point upon request.

44. Outdoor Storage/Grain Silo/Outdoor Equipment shall be screened.

45. The real property upon which an Alcohol Beverage Manufacturing use is operated shall be permanently maintained in an orderly fashion by the provision of regular landscape maintenance, removal of trash and debris, and removal of graffiti within 48 hours from the time of occurrence.

46. There shall be no admission fee, cover charge, nor minimum purchase required.

47. Signs shall be posted inside the business/enclosed outdoor patio stating: "No alcohol allowed past this point."

48. The number of persons shall not exceed the maximum occupancy load as determined by the Building Official or their designee.

49. There shall be no live entertainment, amplified music, or dancing permitted at any time without issuance of applicable permits as required by the City of Dana Point Zoning Ordinance.

50. Food preparation and service shall be allowed.

(10)The alcohol beverages served shall be limited to the products that are authorized to be sold by the alcoholic beverage manufacturer under its license issued by the California Department of Alcoholic Beverage Control.

9.07.050 Utility Substations.

(a) Approval of a Site Development Permit pursuant to the provisions of Chapter 9.71, shall be required for all utility substations, including electrical distribution and transmission substations, sewage and potable water system pump stations, and similar facilities.

- (b) Utility substations and similar facilities shall be established only on lots that conform to the minimum lot size requirements of the zoning district in which they are located.
- (c) All buildings, structures, and landscaping shall be visually compatible with surrounding development

(Added by Ord. 93-16, 11/23/93)

9.07.060 Entertainment Establishments Providing Dancing, Music, and Similar Activities.

- (a) Any live entertainment use, as defined in Section 9.75.270, which is located within two hundred (200) feet of any residential structure, shall require a minor Conditional Use Permit. The minor Conditional Use Permit shall be processed pursuant to Chapter 9.65 and shall be subject to consent approval by the Planning Commission.
- (b) Noise levels shall not exceed the standards set forth in the City Noise Ordinance when measured from the nearest property line.
- (c) All live entertainment uses requiring a minor Conditional Use Permit shall be operated in compliance with the following conditions:
 - (1) Sound controls appropriate to the proposed use shall be provided. This may require modifications to the subject structure including, but not limited to, vestibule entries and soundproof windows.
 - (2) Dancing, music, and similar entertainment uses shall not be permitted between the hours of 2:00 a.m. and 10:00 a.m. Greater restrictions on permitted hours of operation may be applied as warranted to maintain compatibility with adjacent uses.
 - (3) The parking lot of the subject use shall be designed and lighted to provide adequate security for patrons of the establishment and vehicles in the lot as determined by the Chief of Police. Supplemental security measures, such as video monitoring or security guards, may be required as conditions of approval.
 - (4) Any other condition which, in the determination of the Planning Commission, is necessary to ensure compatibility with, and enhancement to the subject and surrounding properties, and which is required as a condition of approval.
- (d) Exemptions. Subject to a review by the Director of Community Development, the following uses shall be exempt from the requirement for a minor Conditional Use Permit
 - (1) Any live entertainment use consisting of three (3) or less performers and/or involving amplification of 150 watts or less; or
 - (2) The use of any stereo system, music recording machine, karaoke machine, or jukebox associated with a live entertainment use; or

- (3) Any similar live entertainment use with no impact outside the structure where the live entertainment is performed, as determined by the Director of Community Development This exemption may only be granted when it can be demonstrated to the satisfaction of the Director of Community Development that such uses can be conducted without resulting in an undue impact to the surrounding area.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.07.070 Churches.

- (a) Churches and church facilities shall require the approval of a Conditional Use Permit pursuant to Chapter 9.65.
- (b) All buildings, structures, and landscaping shall be developed in a manner harmonious and compatible with development on surrounding properties.
- (c) Establishment of a church does not automatically permit any school, day nursery, kindergarten, or any congregation of persons for purposes other than religious instruction, worship, or guidance. Any such additional uses shall be subject to the use requirements of the zoning district in which they are located.
- (d) Churches in residential districts may not be established in structures designed to function as dwelling units.
- (e) Establishment of Emergency Shelters for up to a maximum of 10 beds/persons is allowed by right as an accessory use, subject to development and management standards contained in Section 9.19.040(b).

(Added by Ord. 93-16, 11/23/93,)

9.07.080 Motor Vehicle Sales.

- (a) Motor vehicles sales uses shall require the approval of a Conditional Use Permit pursuant to Chapter 9.65.
- (b) The minimum lot width of any site supporting a motor vehicle sales business shall be one hundred (100) feet
- (c) The minimum lot area shall be ten thousand (10,000) square feet.
- (d) Proper walls or fencing and landscaping shall be required to ensure compatibility with, and enhancement to surrounding land uses.
- (e) A permanent sales building two hundred (200) square feet or larger shall utilized to conduct the business. Portable buildings or mobile homes are not permitted.

(Added by Ord. 93-16, 11/23/93)

9.07.090 Adult Businesses.

No person shall be permitted to establish, operate or maintain an Adult Oriented Businesses as that term is defined in Section 5.32.110 of this Code unless:

- (a) The property on which the proposed business is to be located is:
 - 1. Located in the City's Community Commercial/Vehicle (CCV), Visitor/Recreation Commercial (V/RC), and Industrial/Business (I/B) zoning districts;
 - 2. Located in excess of three hundred (300) feet away from of any residentially zoned property or any residential use properly approved by the City;
 - 3. Located in excess of three hundred (300) feet away from any lot upon which there is properly located a religious institution, public park or school;*
 - 4. Located in excess of three hundred (200) feet away from any lot upon which there is located another adult oriented business; and
- (b) There is obtained and maintained in full force and effect a properly issued Dana Point Adult Oriented Business Permit pursuant to Chapter 5.32 of this Code.

* All measurements referenced in Section 9.07.090, subsections (a)(1)—(4) inclusive, shall be measured in a straight line without regard to intervening objects or structures from the nearest point on the property line of residential structure, religious institution, public park or school to the closest point of the building or unit within the building proposed to house the adult-oriented business.

(Added by Ord. 93-16, 11/23/93)

9.07.100 Fortune-Telling.

- (a) Conditional Use Permit Required. Fortune telling uses shall require the approval of a Conditional Use Permit pursuant to Chapter 9.65. A Conditional Use Permit application for a fortune-telling use shall include the following information:
 - (1) The name, home and business address, and business telephone number of the applicant
 - (2) A record of all convictions for violations of this division, or other similar laws regulating fortune-telling, within five (5) years proceeding the date of the application.
 - (3) The fingerprints of the applicant on a form provided by the Police Services Department.
 - (4) Two (2) copies of a photograph of the operator, one (1) inch by one (1) inch in size, taken within six (6) months of the date of application.

- (5) The address, city and state, and the approximate dates where and when the applicant practiced a similar business either alone or in conjunction with others, for the three (3) years preceding the date of the application.
 - (6) All names used by the applicant during the previous five (5) years in conjunction with a fortune-telling business or practice.
 - (7) A non-refundable application fee, to cover the cost of processing the application, in an amount set by Resolution of the City Council.
- (b) Investigation. Within three (3) working days of its filing, the application shall be referred to the Police Services Department for investigation and report. The investigation shall be conducted to verify the facts contained in the application and any supporting data. The investigation shall be completed and a report made in writing to the City Manager within fourteen (14) days after the application is referred to the Police Services Department unless the applicant requests or consents to an extension of the time period.
- (c) Hearing and Decision. The City Manager shall consider the application and the Police Services Department report at a hearing held not less than seven (7) nor more than fourteen (14) days following receipt of the Police Services Department report described in Section 9.07.110(b). Notice of the time and place of the hearing and a copy of the Police Services Department report shall be given to the applicant personally or by certified mail at least five (5) days prior to the hearing. Any interested party shall be heard at the hearing. The City shall have the burden of proof should the City wish to deny the permit. The decision of the City Manager to approve or deny the permit shall be in writing, and if adverse to the applicant shall contain findings of fact and a determination of the issues presented. Unless the applicant agrees in writing to an extension of time, the City Manager shall make his or her decision approving or denying the permit within forty-eight (48) hours after completion of the hearing on the application for a permit and shall immediately notify the applicant of his or her action by personal service or certified mail.
- (d) Approval of Permit. The City Manager shall approve the permit unless he or she makes any of the following findings:
- (1) That any of the information contained in the application and supporting data is false;
 - (2) That the applicant, within one (1) year from the date of the application, has been convicted of any violation of this division;
 - (3) That the applicant has not paid an applicable business or registration fee; or
 - (4) That the applicant has not agreed to abide by and comply with all conditions of the permit and applicable laws.
- (e) Term of Permit. The term of the permit shall be one (1) year. A renewal application shall be filed between ninety (90) and thirty (30) days prior to the expiration of the permit and shall be processed in the same manner as a new application.

(f) Posting of Fees.

(1) Each person required to obtain a permit pursuant to Section 9.07.100(a) shall post on his or her business premises as a sign containing the following information:

(A) The true name of the fortune-telling practitioner,

(B) Each service provided by the fortune-telling practitioner;

(C) The fees charged for each service provided by the fortune-telling practitioner;

(D) The statement, "By law, this business is prohibited from charging or soliciting any fee, payment or remuneration beyond these established rates."

(2) The sign required by this section shall be prominently posted in the interior of the business premises at a point near the entry and shall be conspicuously visible to every person seeking the services of the fortune-teller. The sign lettering shall be of uniform size with each letter at least one-half (1/2) inch in height.

(3) If the fortune-telling service is provided at a location other than the fortune-teller's permanent place of business, the fortune-teller shall provide the information required by this section on eight and one-half (8½) by eleven (11) inch paper in legible print or type. The paper shall also include the name and permanent address of the person(s) providing the fortune-telling services. A true, correct and complete copy of such paper shall be given to each client prior to providing any fortune-telling services.

(4) No person shall charge any fee, payment, remuneration, or item of value for fortunetelling services in excess of the fees set forth on the sign or paper required by this Section.

(g) Receipts. Prior to the acceptance of any money or item of value from a client, other than the acceptance of a gratuitous tip given voluntarily by the client, the fortune-teller shall issue a written receipt to the client, clearly showing:

(1) The date;

(2) The name of the client;

(3) The amount of money received or specific description of item of value received; and

(4) The purpose for which the money or item of value was received.

(h) Client's Record of Consultation. No person engaging in fortune-telling services shall prohibit a client from making an audio recording or taking written notes of the information conveyed by the fortune-teller.

- (i) Revocation of Permit The City Manager shall, at all times, have the power to revoke any permit granted hereunder should the City Manager determine:
- (1) That the permittee has violated any provision of this division; or
 - (2) That any information contained in the permit application is false; or
 - (3) That the issuance of the permit was based upon fraud, mistake or any misleading or untrue statements.

Should the City Manager have reason to believe that grounds for revocation exist, the City Manager shall notify the permittee, by registered mail, return receipt requested, addressed to the permittee at the address provided in the application and stated on the permit. Said notice shall set forth the date, time and location of a hearing to be held on the matter. Said hearing shall be held within twenty (20) days after said notice is mailed.

The City Manager shall conduct a revocation hearing, at the time and place specified, to determine whether the permit shall be revoked. All interested persons shall be heard at the hearing. The burden of proof for revocation shall be on the City.

Unless the permittee agrees in writing to an extension of time, the City Manager shall make his or her decision regarding the revocation within forty-eight (48) hours after completion of the hearing, and shall cause written notice of said decision to be sent to the permittee by registered mail, return receipt requested within twenty-four hours after said decision is made. If the permit is revoked, the notice shall contain findings supporting the decision. An appeal of the City Manager's decision may be taken pursuant to Section 9.61.110.

- (j) Exception—Entertainment The provisions of this division shall not apply to any person engaged solely in the business of entertaining the public by demonstrations of fortune-telling at public places and in the presence of and within the hearing of all other persons in attendance, and at which no questions are answered as part of such entertainment except in a manner to permit all persons present at such public place to hear such answers.
- (k) Exception—Religious Practice. The provisions of this division shall not be construed to include, prohibit or interfere with the exercise of any religious or spiritual function of any priest, minister, rector, or an accredited representative of any bona fide church or religion where such priest, minister, rector, or accredited representative holds a certificate of credit, commission or ordination under the laws of any state or territory or the United States of America or any voluntary religious association, and who fully conforms to the rites and practices prescribed by the supreme conference, assembly, convention, convocation, association synod of the system or faith with which they are affiliated, provided, however, that any church or religious organization which is organized for the primary purpose of conferring certificates of commission, credit or ordination for a price and not primarily for the purpose of teaching and practicing a

religious doctrine or belief, is not deemed to be a bona fide church or religious organization.

- (1) Penalties. Any person violating or failing to comply with any provision of this Section shall be guilty of an infraction, and subject to punishment as set forth in the Municipal Code.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.07.110 Recycling Facilities.

- (a) No person shall establish or operate a recycling facility within the City of Dana Point without first obtaining the approval or permit required by this Section. Recycling facilities permitted by this Section shall comply with all applicable criteria and standards as follows and any additional conditions which may be established by the Planning Commission:

- (1) Reverse Vending Machines. Reverse vending machines occupying up to fifty (50) square feet of floor area within or directly adjacent to a commercial structure maybe approved by the Director of Community Development when the machines:

- (A) Are established in conjunction with a primary use which is in compliance with the Zoning, Building, Fire and Health Codes of the City and County;

- (B) Are located within thirty (30) feet of the entrance to the primary use, and do not obstruct pedestrian or vehicular circulation;

- (C) Do not occupy parking spaces required by the primary use;

- (D) Do not require additional parking spaces;

- (E) Are not more than eight (8) feet in height;

- (F) Are constructed and maintained with durable waterproof and rustproof material;

- (G) Are clearly marked with operating instructions and the telephone number of a responsible person to call if the machine is out of order;

- (H) Are maintained in a clean, attractive, and litter free condition on a daily basis;

- (I) Are illuminated to ensure comfortable and safe operation;

- (J) Are usable at least as long as the operating hours of the primary use.

- (2) Small Collection Recycling Facilities and Mobile Recycling Units. Small collection facilities and mobile recycling units occupying less than five hundred (500) square feet of floor area may be approved by the Planning Commission pursuant to a Conditional Use Permit when the facilities or units:

- (A) Are established in conjunction with a primary use which is in compliance with the zoning, building, fire and health codes of the City and County;
 - (B) Occupy no more than three (3) of the parking spaces required for the primary use, not including spaces required for the periodic removal of containers or materials;
 - (C) Do not obstruct pedestrian or vehicular circulation;
 - (D) Accept only glass, metals, plastic containers, and paper. Other reusable materials may be permitted if reviewed and deemed appropriate by the Planning Commission;
 - (E) Use no power driven equipment other than that required to operate reverse vending machines;
 - (F) Are constructed and maintained with durable waterproof and rustproof material;
 - (G) Are secure when the site is not attended;
 - (H) Are of sufficient capacity to accommodate materials collected and the proposed collection schedule;
 - (I) Are maintained in a clean, attractive, and litter free condition on a daily basis;
 - (J) Are clearly marked with operating instructions and a telephone number of a responsible person to call if the facility is out of order;
 - (K) Require no additional parking spaces;
 - (L) Are attended during their hours of operation, which should be as least as long as those of the primary use(s) to which they are appurtenant, and are operated in a manner so as not to disrupt the activities of the primary use(s) or nearby residential properties.
 - (M) Such facilities shall only provide recycling services for resident household recyclers. Such facilities shall not provide recycling services and shall not accept deposits from merchant or vendor recycling services.
- (3) Large Collection Recycling Facilities. Large collection recycling facilities covering more than five hundred (500) square feet of floor area or established independent of an existing commercial use may only be permitted by approval of a Conditional Use Permit, pursuant to Chapter 9.65, when the facilities:
- (A) Maintain a three hundred (300) foot distance from property zoned for residential use;
 - (B) Are maintained in a clean, attractive, and litter-free condition on a daily basis;

- (C) Provide covers, secure containers for the exterior storage or material;
- (D) Provide one parking space for each five hundred (500) square feet of floor area, plus one space for each employee and one space for each commercial vehicle operated by the facility;
- (E) Are attended during their hours of operation, which shall be limited to the hours of 8:00 a.m. to 5:00 p.m. daily, and are operated in a manner so as not to disrupt the activities of the primary use(s) to which they are appurtenant or nearby residential properties;
- (F) Operate using only such power-driven processing equipment as may be approved by the Planning Commission.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.07.120 Outdoor Display, Sales or Storage.

The following restrictions shall apply to the outdoor display, sales, or storage of goods and materials in non-residential districts:

- (a) Only goods and materials associated with on-site uses may be stored, sold, or displayed.
- (b) No outdoor display, sales, or storage shall exceed six (6) feet in height except as approved by a Site Development Permit or Temporary Site Development Permit as outlined in Chapters 9.71 and 9.39, respectively.
- (c) Outdoor display, sales, and storage of garden equipment and supplies, and building materials may only be permitted as an accessory use within the side or rear yards of properties zoned for such uses.
- (d) No outdoor display, sales, or storage shall occupy any part of a required parking area or encroach upon the public right-of-way.
- (e) Outdoor display, sales, or storage shall not violate sight visibility area standards of Section 9.05.090 of this Code.
- (f) Outdoor Red Box, Amazon facility, Donation Bins, or similar facilities shall be allowed with the approval of a Minor Conditional Use Permit as outlined in Chapter 9.65 of this code.

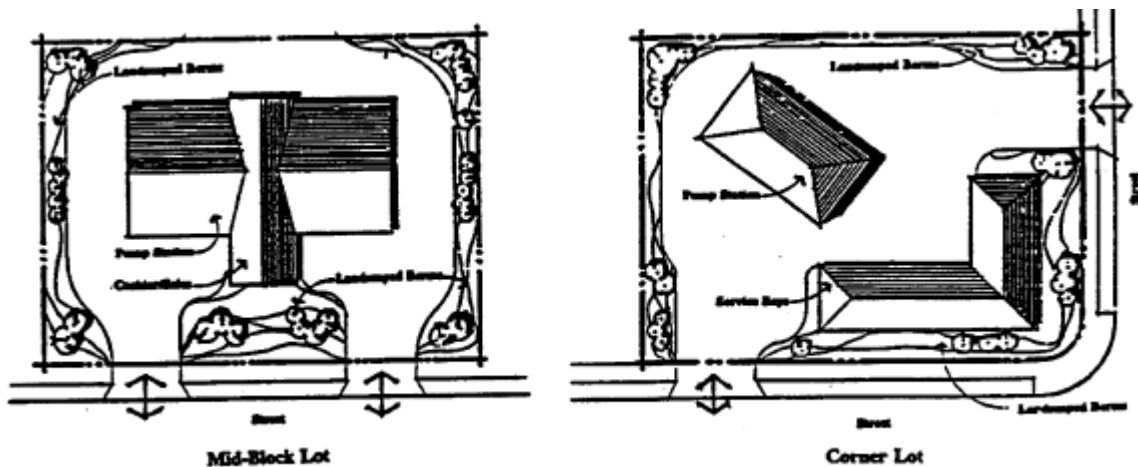
(Added by Ord. 93-16, 11/23/93;)

9.07.130 Service Stations.

(a) Public Services. All service stations shall provide the following facilities and services to the public free of charge:

- (1) Restrooms maintained in a clean and sanitary condition.
- (2) Water and air shall be made available 24 hours per day in a convenient, conspicuous and well-lit location. All air hoses shall be equipped with operating and accurately calibrated gauges.

(b) Facility Design. The site design of any new service station shall be in substantial conformance with the design concepts illustrated below. This requirement shall also apply to the remodeling of any existing service station where more than fifty (50) percent of the floor area of the existing structure is demolished or remodeled.



(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96)

9.07.140 Solid Waste Disposal Facilities.

A solid waste disposal facility may only be permitted by approval of a Conditional Use Permit pursuant to Chapter 9.65. The Conditional Use Permit shall establish appropriate conditions of approval to address the following development standards and operational controls:

- (a) Visual Screening. The facility shall be provided with visual screening, appropriate to the size, location, and orientation of the site, to prevent public view of facility operations.
- (b) Noise. The facility shall not include any operations or machinery that would violate the City Noise Ordinance.

- (c) Odor Control. The facility shall employ whatever means necessary to eliminate and contain odors on site.
- (d) Buffer Areas. Buffer areas to provide sufficient separation between the facility and adjacent uses. The buffer area shall include solid walls or fencing and landscaping.
- (e) Hours of Operation. The hours of operation of the facility shall be limited so as not to disturb adjacent uses. In no case may the facility be operated during the hours between 6:00 p.m. and 7:00 a.m.

(Added by Ord. 93-16, 11/23/93)

9.07.150 Trash and Recycling Storage Areas.

- (a) Purpose.
 - (1) The California Solid Waste Reuse and Recycling Access Act (Act) was adopted to meet the urgent need for state and local agencies to address access to solid waste for source reduction, recycling, and composting activities. In accordance with the California Integrated Waste Management Act of 1989 (AB 939), the City of Dana Point must divert fifty (50) percent of all solid waste by January 1, 2000, through source reduction, recycling, and composting activities. As such, diverting fifty (50) percent of all solid waste will require the participation of residential, commercial, industrial, and public sectors.
 - (2) The lack of adequate areas for collecting and loading recyclable materials that are compatible with surrounding land uses is a significant impediment to diverting solid waste and constitutes an urgent need for the City to address access to solid waste for source reduction, recycling, and composting activities.

This Section has been developed to meet that need and comply with Public Resources Code Section 42911. This Section will fulfill the requirements of State Law, while being tailored to address issues specific to the City of Dana Point

- (b) Definitions. The following definitions shall apply to the language contained in this Section:
 - (1) "Development project" means any of the following:
 - (A) A project for which a building permit is required for a commercial, office, industrial, institutional, or residential building, where solid waste is collected and loaded. At a minimum, this includes all new development projects, and any single alternation of an existing development project requiring a building permit

(B) Any new public facility where solid waste is collected and loaded and any improvements for areas of a public facility used for collecting and loading solid waste.

(2) “Recycling Area” or “Area for Recycling” means space allocated for collecting and loading of recyclable materials.

(c) General Requirements.

(1) Any new development project for which an application for a building permit is submitted on or after the effective date of this Section shall include adequate, accessible, and convenient areas for collecting and loading recyclable materials. A plan shall be submitted to the Director of Community Development that shows the location, materials, and size of such facilities. Such plan shall be approved prior to issuance of grading or building permits.

(2) Any improvements for areas of a public facility used for collecting and loading solid waste shall include adequate, accessible, and convenient areas for collecting and loading recyclable materials.

(3) Any existing project for which an application for a building permit is submitted on or after the effective date of this Section for modifications that meet one or both of the conditions below shall include adequate, accessible and convenient areas for collecting and loading recyclable materials according to the size and design standards as defined in subsection (d).

(A) A single alteration which is subsequently performed that adds thirty (30) percent or more to the existing floor area of the development project; or

(B) Multiple alterations which are conducted within a twelve (12) month period which collectively add thirty (30) percent or more to the existing floor area of the development project.

(d) Size and Design Standards. Facilities for recycling shall be designed in accordance with the following standards.

(1) Size Standards. Areas for recycling shall be adequate in capacity, number, and distribution to serve the uses and development where the project occurs. Refer to the City’s Recycling Guidelines for the recommended sizes for recycling facilities.

(2) Design Standards.

(A) Bin-type trash, recyclable and green waste storage areas shall be screened with an enclosure.

(B) The design and construction of recycling areas shall not prevent security of any recyclable materials placed therein.

- (C) Recycling containers or facilities shall provide protection against weather or other conditions which might render the collected materials unmarketable.
 - (D) Bin-type trash, recycling and green waste storage facilities shall have the ability to be accessed at all times by collection vehicles and personnel. Minimum clearance required by the collection methods and vehicles utilized by the hauler shall be utilized.
 - (E) Bin-type trash, recycling and green waste storage facilities shall have a maximum one (1) square foot sign, clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein. The sign shall be posted adjacent to all points of access to the recycling areas.
 - (F) Developments and transportation corridors adjacent to recycling areas shall be adequately protected from any adverse impacts.
 - (G) The property owner shall be responsible for the upkeep and care of the trash, recyclable and green waste storage areas, gates, and enclosures so that it shall remain in a clean and working condition.
 - (H) Each trash, recycling and green waste container shall be covered. Container lids may act as suitable cover, provided that they remain fully closed.
 - (I) The design of the trash enclosure shall compliment the architectural style of the primary building onsite, and be appropriately designed to prohibit trash and debris from spilling or littering outside of the enclosure, and include a locking mechanism for safety. All trash enclosures shall be covered and subject to the height and setback requirements pursuant to Section 9.05.280, Accessory Buildings and Structures.
- (3) Recycling Guidelines. Applicants should refer to the City's Recycling Guidelines for assistance in designing facilities for recycling.

(e) Location.

- (1) The exterior trash, recycling and green waste storage area may be located on the outside or the exterior of a structure/building, or in a designated interior area with access such as a garage, or in rear yards and interior side yards. Except as noted in subsection (4), Exceptions to Location Standards below, the exterior storage area shall not be located in any required front yard setback, un-fenced street side yard, required parking, open space or landscaped areas. The trash, recycling and green waste storage containers shall not be visible from any public right-of-way.
- (2) Trash, recycling and green waste areas shall not be located in any area required by the Municipal Code to be constructed and/or maintained as

unencumbered, according to fire and other applicable building and/or public safety laws.

- (3) Within multiple residential developments there shall be a trash, recycling and green waste storage area located no greater than two hundred fifty (250) feet from each living unit.
- (4) Exceptions to Location Standards. The primary goal of this Section is to require and/or encourage a well-designed and attractive trash, recycling and green waste collection facility at each property while minimizing undue hardships for the property owner(s). Hardships are recognized based upon the unique features inherent to each existing developed property that may interfere with the goal of siting the recyclable storage area. Trash, recycling and green waste storage areas proposed in areas other than those permitted by subsections (1) through (3) above, may be approved if properly designed. Also, the screening of trash containers, when properly designed, may exceed the height limitations in Section 9.05.120. Property owners may submit an application for approval of a minor Conditional Use Permit in order to vary from locational standards or the height of screening for the trash containers. Applications for such proposals are required to include a letter and site plan explaining the locational hardship, and payment of applicable fees.

The Director of Community Development may approve the minor Conditional Use Permit pursuant to Chapter 9.65. In approving a minor Conditional Use Permit for altering the location standards or screening height for a trash storage area, the Director of Community Development must make the following findings:

- (A) That the nature, condition, and development of adjacent uses, buildings, and structures have been considered, and the proposal will not adversely affect or be materially detrimental to the adjacent uses, buildings, or structures.
- (B) That this request is made on the basis of a hardship condition and not as a matter of convenience.
- (C) That trash, recycling and green waste containers shall be aesthetically pleasing and adequately screened so as not to be seen from the public right-of-way.

(f) Amortization Of Non-Conforming Development

- (1) Unless an extension is granted by the City in accordance with subsection (f)(2) below, within ninety (90) days for residential land uses and one (1) year for non-residential land uses, following the date of adoption of this Section, whether or not existing developed properties obtain a building or grading permit for improvements as noted in subsection (c), all existing

developed properties shall provide for trash, recycling and green waste storage areas in accordance with the requirements of this Section.

(2) Time Extension. Prior to the expiration of the ninety (90) day or one (1) year period, a written request may be made to the Community Development Department for an extension in accordance with the following:

(A) Time Period. The Planning Commission may approve a time extension for a period deemed appropriate, up to one (1) year.

(B) Application and Fee. An application shall be submitted on a form provided by the Director of Community Development and accompanied by a fee set by a Resolution of the City Council. The application shall include a letter from the property owner indicating why the amortization period would create a hardship.

(C) Findings. The Planning Commission shall make the following finding in approving an extension of time for the amortization period:

1. That due to special circumstances, immediate installation will result in hardship for the applicant

(g) Inconsistent Provisions. This Section shall supersede any inconsistent provisions of the Dana Point Municipal Code and any other ordinance or regulation to the extent that such regulation is less restrictive than the provisions hereof. This Section shall not affect the requirements of any ordinance or regulation to the extent that such regulation is more restrictive than the provisions of this Section.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94;)

9.07.160 Single Room Occupancy.

All single room occupancy (SRO) projects shall comply with the following provisions:

(a) General Provisions.

(1) A Conditional Use Permit shall be required for all SRO projects.

(2) All units in a SRO project shall be for rent only.

(3) The rates for the rental of units in a SRO project shall be restricted so that fifty (50) percent of the units in the project are affordable to persons of very low income and thirty (30) percent of the units are affordable to persons of low income, as defined under Affordable Housing. Twenty (20) percent of the units may be unrestricted.

(4) Affordable units must be rented on a monthly basis. Unrestricted units can be rented on a daily, weekly or monthly basis.

(5) A transient occupancy tax of five (5) percent shall be charged on all stays of less than thirty-one (31) days and transmitted to the City of Dana Point.

(b) Unit Requirements.

(1) Unit Size. Units in a SRO project shall comply with the following size requirements:

	<u>Minimum Size</u>	<u>Maximum Size</u>
One-person unit	150 sf	225 sf
Two-person unit	250 sf	350 sf

The average size of all units within a SRO project may not exceed three hundred (300) square feet

(2) Maximum Occupancy. Units of two hundred twenty-five (225) square feet or less may not be occupied by more than one person. No more than two persons shall occupy any unit which is greater than two hundred fifty (250) square feet

(3) Furnishings. Each unit within a SRO project shall be furnished with a bed, chair, table, and telephone.

(4) Facilities. Full or partial kitchens, bathrooms and laundry facilities must be provided in every SRO project. Such facilities may be enclosed within each unit or provided in a common area. Laundry facilities may be deleted if the project is located within one thousand (1,000) feet of an existing laundromat

(c) Project Requirements.

(1) Number of Units. All proposed SRO projects shall contain at least ten (10) SRO units, not including the required on-site manager's unit.

(2) Manager's Unit. All SRO projects shall include a dwelling unit for an on-site manager. Said unit shall be at least five hundred (500) square feet but shall not exceed eight hundred (800) square feet. Said unit shall be located on the ground floor of the project and shall be adjacent to the lobby of the project

(3) Entryway/Lobby Design. All SRO projects shall have one controlled entryway into a main lobby area. The lobby area shall include a front desk with facilities for a receptionist to monitor activity in the lobby. The lobby shall include mailboxes located either behind the front desk or in the common area. Other facilities which should be considered for areas adjacent to the lobby are storage facilities, laundry facilities and vending machines. The lobby area shall be monitored by video cameras.

- (4) Parking. Each SRO project shall provide three parking stalls plus .5 parking stalls for every one-person unit and .8 parking stalls for every two-person unit. In addition, each SRO project shall provide .4 secure bicycle stalls for each unit excluding the on-site manager's unit.
- (5) Common Areas. Each SRO project shall provide a minimum of four hundred (400) square feet of common recreational space. An additional fifty (50) square feet of common recreational space shall be required for each SRO unit over 10. The required space may be provided in multiple areas, however no area less than two hundred (200) square feet may be counted toward this requirement.
- (6) Building Code Compliance. All SRO projects shall comply with the most recently adopted City Building, Plumbing, Mechanical, Electrical, Fire and Housing Codes.

(d) Management Plan.

- (1) A management plan shall be submitted for review and approval along with the submittal for the Conditional Use Permit. The plan shall address all management and operations policies, security programs, emergency procedures, rental procedures, resident rules, proposed rental rates and maintenance programs. The plan shall also include a provision for an annual report to be submitted to the City detailing the operations of the facility.
- (2) The management plan shall include a provision for an on-site, twenty-four (24) hour manager.
- (3) The management plan shall include a security plan which includes a comprehensive video monitoring system, secured entrances and exits, and should include other regulations which would serve to promote the safety of the project tenants.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.07.170 Demolition of Structures.

(Pending)

9.07.180 Timeshare Development and Operations Standards.

(Pending)

9.07.190 Keeping of Animals in Residential Districts.

The keeping of animals in residential districts shall be 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.
- (c) 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
- (5) Commercial breeding and sales of animals.

(Added by Ord. 94-09, 5/24/94; amended by Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96)

9.07.200 Tattoo Parlors.

The operation of any tattooing establishment, as defined in Section 9.75.270, within the City of Dana Point shall be in compliance with the applicable provisions of Chapter 6 of the Dana Point Municipal Code. Tattoo parlors may only be permitted subject to the issuance of a conditional use permit pursuant to Chapter 9.65. (Added by Ord. 94-09,5/24/94; amended by Ord. 96-10,8/13/96; Ord. 96-13, 11/26/96)

9.07.210 Second Dwelling Units

- (a) Purpose and Intent This Section provides standards and procedures for the development of second dwelling units. These standards are established so that second dwelling units may be evaluated under conditions that will assure their compatibility and enhancement to the site and surrounding land uses, and provide a safe, desirable and affordable living environment.
- (b) Development Standards. Where a single family dwelling unit exists on a lot zoned for such purposes, the property owner may apply for a Conditional Use Permit (Chapter 9.65) to establish a second dwelling unit from the same lot. In approving a Conditional Use Permit, the Planning Commission shall ensure the following standards have been met:
 - (1) The second unit may be occupied by an individual adult or two senior adults, and may be attached to or detached from the primary single family unit, but may not be sold as a separate dwelling unit;
 - (2) The second dwelling unit shall not exceed thirty (30) percent of the living area of the primary residence when attached or one thousand two hundred (1,200) square feet when detached;
 - (3) Second dwelling units whether attached or detached shall not encroach into any setback area required for the primary structure;
 - (4) An additional parking stall, in accordance with the standards described in Chapter 9.35, shall be provided for the second dwelling unit;

- (5) The second dwelling unit shall be compatible in height, setback and architectural design with the primary structure and the surrounding land uses;
- (6) Second dwelling units must be affordable to persons of low and moderate income, and remain affordable for the life of the project. The life of the project shall be determined as the length to time the second dwelling unit is occupied;
- (7) A Conditional Use Permit for a second dwelling unit and all conditions of approval shall be recorded with the County Recorder; and
- (8) Each second dwelling unit shall have adequate storage and private open space.

(Added by Ord. 94-21, 12/13/94; amended by Ord. 96-10, 8/13/96)

9.07.220 Mobilehomes.

(a) Purpose and Intent. This Section provides standards and procedures for the development and expansion of mobilehome parks and individual mobilehomes on individual lots in areas zoned for single family residential development. The following regulations shall apply to all new mobilehomes and mobilehome developments, and to the modification of existing mobilehomes or mobilehome developments. These regulations are established so that mobilehome development may be evaluated under conditions that will ensure their compatibility with other surrounding permitted uses, create a safe and desirable living environment for mobilehome residences, and address land use compatibility.

(b) Mobilehome Parks.

- (1) Conditional Use Permit Required. The development of a new mobilehome park or the modification or expansion of an existing mobilehome park requires the approval of a Conditional Use Permit and Site Development Permit by the Planning Commission as described in Chapters 9.65 and 9.71.
- (2) Development Standards. The general mobilehome park development standards are described in Chapter 9.09. In addition to those general standards, the following design criteria apply to mobilehome parks.
 - (A) Circulation. Vehicular and pedestrian circulation ways shall be separate. Adequate sight distance and warning information shall be maintained wherever such circulation ways intersect.
 - (B) Trash and Recycling Storage. Where individual trash and recycling pick-up is not provided, common trash and recycling storage area(s) shall be provided within a totally walled and roofed structure with a roof not exceeding twelve (12) feet in height. The enclosure or enclosures shall be located within two hundred (200) feet of all mobilehomes within the park.

(C) Perimeter Landscaping and Walls. A perimeter wall of six (6) feet in height shall be provided along the perimeter of the mobilehome park. A minimum of five (5) feet of landscaped area shall be provided along each side of the required perimeter wall when such wall is adjacent to an existing or proposed public or private street. A minimum ten (10) foot landscape area shall be provided between the perimeter wall and mobilehomes where the perimeter wall is not adjacent to an existing or proposed public or private street.

(c) Individual Manufactured Homes on Individual Lots. In compliance with California Government Code Sections 65852.3, et seq., individual manufactured home installation in individual lots zoned for single family residential development shall comply with the following standards in addition to those of the base zoning district. For purposes of this Section, “manufactured home” shall mean mobilehome or modular home.

- (1) Each manufactured home installation shall at a minimum, comply with the site development standards for the applicable RSF-2, -3, -4, -7, -8, -12, -14, or -22 zoning districts and for the RD-14 and RMF-7, -14, -22, -30 zoning districts. Manufactured homes shall also adhere to the development standards that are applicable to a conventional single-family dwelling. These are the only zoning districts in which individual manufactured homes may be placed on individual lots.
- (2) Each manufactured home shall be placed on a foundation system consisting of a solid concrete or masonry wall under the outside perimeter of the manufactured home; or piers or other open construction meeting the requirements of the currently effective City Building Code, combined with skirting placed around the outside of the manufactured home in such a manner that the exterior siding appears to start at ground level.
- (3) The exterior siding of the manufactured home shall be similar in appearance to siding material customarily used in conventionally-built single family dwellings. Matte-finish wood, vinyl or aluminum siding which are typically used in the construction of single family dwellings are permitted siding materials. High-gloss finishes and peeling, dented or damaged siding materials are not permitted.
- (4) Roof pitch shall be similar to roofs of the same type and material on single family dwellings in the neighborhood. Flat roofs are only permitted if they are the predominant roof pitch in the neighborhood. Otherwise, a minimum roof pitch of 3:12 is required.
- (5) Roofing material shall be consistent in color and texture with the roofs of existing single family dwellings in the neighborhood. Roofs made of corrugated metal, or rolled aluminum or fiberglass materials are not permitted.

- (6) Roofs shall have an eave overhang of at least sixteen (16) inches, measured perpendicularly from the vertical side of the manufactured home.
- (7) The exterior siding, roof materials and roof pitch of the garage shall be the same as the manufactured home siding, roof materials and roof pitch, and consistent with the siding, roof materials and roof pitch of existing single family dwellings in the neighborhood.
- (8) Manufactured homes which are more than ten (10) years old are not permitted on single family residential lots. Proof of the date of manufacture of the manufactured home shall be required at the time of building plan check submittal.
- (9) Manufactured homes are not permitted on single family residential lots which are located within the immediate vicinity of any place, building, structure or other object having special character or special historical interest or value which is listed on the National Register of Historic places, pursuant to California Government Code Section 37361.
- (10) The permanent placement of a manufactured home on a single family lot shall comply with all required procedures from the California Health and Safety Code Section 18551.

(Added by Ord. 94-21, 12/13/94; amended by Ord. 96-10, 8/13/96; Ord. 00-07, 10/24/00)

9.07.230 Massage Establishments.

The establishment and operation of any massage-establishment, as defined in Section 9.75.270, within the City of Dana Point shall be in compliance with the applicable provisions of Chapter 5.20 of the Dana Point Municipal Code. (Added by Ord. 96-10, 8/13/96)

9.07.240 Drive Through Uses.

(a) Purpose and Intent. This section provides standards and procedures for the development of non-restaurant drive through uses. These standards are established so that proposed drive through uses may be designed in such a manner to assure their compatibility and enhancement to the site and surrounding land uses, and to provide a safe and desirable living environment.

(b) Use Restrictions.

(1) Drive through uses shall only be permitted to sites that are developed entirely with commercial uses.

(2) Kiosks shall be prohibited.

(c) Development Standards.

- (1) All forms of speaker amplification shall be prohibited.
- (2) The hours of operation shall be limited from 7 a.m. to 10 p.m.
- (3) On site parking.
 - (A) Drive Through uses shall comply with the parking standards of Section 9.35.080(e) for “General Retail”.
 - (B) The total amount of required off-street parking may be reduced if justified by a parking demand study and an alternative parking design is submitted for review and approval by the Planning Commission to accommodate the total required off-street parking assuming the entire building contains retail uses.
- (4) The drive through use shall be designed to minimize conflicts with on-site circulation and to preclude impacts to the public roadways. The on-site circulation shall be reviewed and approved by the Traffic Engineering Department
- (5) The drive through aisles shall be properly screened with landscaping to help minimize the potential visual impact.

(Added by Ord. 99-07, 8/10/99)

9.07.250 Historic Resources.

- (a) Purpose and Intent.
 - (1) To provide a voluntary program that aides property owners that wish to preserve historic properties within the community by providing fiscal benefits or zoning and code incentives to preserve their properties.
- (b) Definitions. The following definitions shall apply to the language contained in this Section:
 - (1) “Alteration” means any change or modification, through public or private action, to the character-defining or significant exterior physical features of properties affected by this chapter. Such changes may be changes to or modification of structure, architectural details, or visual characteristics, grading, surface paving, the addition of new structures, and the placement or removal of any significant objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings, and landscape accessories affecting the significant visual and/or historical qualities of the property.
 - (2) “Demolition” means any act or process that destroys in part or in whole and individual historic resource or an historic resource or other structure within an historic district.
 - (3) “Designated Historic Resource” means a parcel or part thereof on which an historic resource is or has been situated, and any abutting parcel or part thereof constituting part of the premises on which the historic resource is situated, and

which has been designated an historic resource in the Dana Point Historical Resource Register.

(4) “Historic Resource” means improvements, buildings, structures, signs, or other objects of scientific, aesthetic, educational, cultural, architectural, or historical significance to the owner citizens of the City and the State of California, the Southern California region, or the nation which may be eligible for local designation for historic preservation by the City pursuant to the provisions of this Section. A historical resource is either included in the Inventory or may be added in accordance with Section 9.07.250(f)(2).

(5) “Improvement” means any building, structure, place, fence, gate, landscaping, tree, wall, parking facility, work of art, or other object constituting a physical feature of real property, or any part of such feature.

(6) “Inventory” refers to the 1997 City of Dana Point Historic Resources Inventory which identifies resources in the City which may be considered historical. Owners of property which were included in the Inventory are eligible to apply to be included on the City’s Historic Resources Register.

(7) “Ordinary Maintenance and Repair” means any work, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration of or damage to a structure or any part thereof and to restore the same to its condition prior to the occurrence of such deterioration or damage.

(8) “Preservation” means the identification, study, protection, restoration, or acquisition of historic resources.

(9) “Register” refers to the City of Dana Point Historic Resource Register. Inclusion on the Register results from submittal of an application to the Community Development Department by the property owner, with exception of the two structures in the City which are eligible for listing on the National Register of Historic Places.

(10) “Secretary of the Interior Standards for Rehabilitation” means the guidelines prepared by the National Park Service for Rehabilitating Historic Buildings and the Standards for Historic Preservation Projects prepared by the National Park Service with Guidelines for Applying the Standards.

(11) “Significant Feature” means the natural or man-made elements embodying style or type of historic resource, design, or general arrangement and components of an improvement, including but not limited to, the kind, color, and texture of the building materials, and the type and style of all windows, doors, lights, signs, and other fixtures appurtenant to such improvement.

(c) City of Dana Point Historic Architectural Resources Inventory.

(1) The 1997 City of Dana Point Historic Architectural Resources Inventory (Inventory) identifies resources in the City which may be considered historical. The Inventory was developed based on the National Register of Historic Places Guidelines for determining historical resources. Meeting criteria “j” and at least two of other criteria were utilized to determine the significance of a property.

However, in most instances, at least four criteria applied. The criteria utilized in developing the Inventory is detailed below:

- (A) Buildings, structures, or places that are important key focal or pivotal points in the visual quality or character of an area, neighborhood, or survey district.
 - (B) Structures that help retain the characteristics of the town that was 50 years ago.
 - (C) Structures that contribute to the unique urban quality of a downtown.
 - (D) Structures contributing to the architectural continuity of the street.
 - (E) Structures that are identified with a person or person who significantly contributed to the culture and/or development of the city, state, or nation.
 - (F) Structures that represent an architectural type or period and/or represent the design work of known architects, draftsmen, or builders whose efforts have significantly influenced the heritage of the city, state, or nation.
 - (G) Structures that illustrate the development of California locally and regionally.
 - (H) Buildings retaining the original integrity of and/or illustrating a given period.
 - (I) Structures unique in design or detail, such as, but not limited to, materials, windows, landscaping, plaster finishes, and architectural innovation.
 - (J) Structures that are at least 50 years old or properties that have achieved significance within the past 50 years if they are of exceptional importance.
- (2) The Inventory identified two (2) structures which may be eligible for listing on the National Register of Historic Places. As such, this section shall provide additional protection to these structures. The two structures are the Dolph Mansion located at 34000 Capistrano by the Sea and a single-family Palisades home located at 35101 Camino Capistrano.
- (3) The Inventory also identified sixty-one (61) properties which have potential to be considered historically significant and included on the City of Dana Point Historic Resources Register (Register).
- (4) Resources are not subject to any provisions of this Section as result of being included in the Inventory. The intent of the Inventory is only to identify resources which are eligible for inclusion in the City's Register. Resources are included in the Register only upon request of the property owner, with exception of the two structures which may be eligible to be listed on the National Register of Historic Places.
- (5) Properties identified in the Inventory shall not be prejudiced in any form as result of being included in the Inventory.
- (d) Dana Point Historic Resources Register.

(1) A structure or resource becomes locally designated and included in the Dana Point Historic Resources Register only as result of the property owner submitting a Historical Preservation Application to the Community Development Department and approved by the Historic Preservation Commission. Procedures for applying for designation are defined in Section 9.07.250(f).

(2) The two structures eligible for listing in the National Register of Historic Places shall be designated by the City as historically significant and, as such, included in the local Register.

(3) Requests to delete a designated historic resource from the Register shall be submitted in writing to the Community Development Director who shall remove the property from the Register. The Community Development Director shall report the removal of resources from the Register to the Commission, when deemed necessary by the Director. See Section 9.07.250(g) for additional details related to removing structures from the Register.

(4) Requests to delete the two structures eligible for listing in the National Register of Historical Places for the purpose shall be subject review of the Historic Preservation Commission.

(5) The Community Development Director shall periodically propose and process for deletion from the Dana Point Register those designated historic resources which have been lawfully removed, demolished or disturbed to such an extent that, in the Community Development Director's opinion, they no longer qualify for placement on the Register.

(6) The Register shall be maintained by the Community Development Director or his/her designee.

(7) Owners which place their historical resource in the Register are eligible for incentives detailed in Section 9.07.250(i).

(e) Historic Preservation Commission.

(1) There is hereby established that the members of the City of Dana Point Planning Commission shall act as the Historic Preservation Commission, hereinafter referred to as the "Commission".

(2) A quorum of the Commission shall be defined as three voting members.

(3) Powers and Duties. The Commission shall have the following powers and duties:

(A) Adopt procedural rules for the conduct of its business in accordance with the provisions of this chapter.

(B) Recommend in accordance with the criteria set forth in section (e) the designation of historic resources including historic districts, landmark sites, and landmarks within the City including all information required for each designation.

(C) Maintain a local register of historic resources consistent with the National Register of Historic Places criteria including historic districts,

landmark sites, and landmarks within the City including all information required for each designation.

(D) Adopt prescriptive standards to be used by the Commission in reviewing applications for permits to construct, change, alter, modify, remodel, remove, or significantly affect any historic resource.

(E) Make recommendations to the City Council on the use of various federal, state, local, or private funding sources and mechanisms, such as the Mills Act and State Historic Building Code, available to promote historic resource preservation in the City.

(F) Approve or disapprove, in whole or in part, or approve with conditions, applications for permits pursuant to Section 9.07.250(h).

(G) Review all applications for permits, environmental assessments, environmental impact reports, environmental impact statements, and other similar documents, as set forth in this Section, pertaining to designated and potential historic resources. The Community Development Department shall forward such documents to the Commission for review as appropriate.

(H) Review and comment on actions and environmental documentation associated with City-sponsored actions, programs, capital improvements, or activities as they relate to designated and potential historic resources.

(I) Cooperate with local, county, state, and federal governments in the pursuit of the objectives of historic resource preservation.

(J) Provide opportunity for direct public participation in historic resource preservation responsibilities. Commission meetings shall be open to the public with published agenda and minutes in accordance with the California Open Meeting Act. The published agenda shall be mailed in advance of meetings to individuals and citizen organizations interested in the Commission's activities.

(K) Confer recognition upon the owners of landmarks or property or structures within historic districts by means of certificates, plaques, or markers, and from time to time issue commendations to owners of historic resources who have rehabilitated their property in an exemplary manner.

(L) Undertake any other action or activity necessary or appropriate to the implementation of its powers or duties to fulfill the objectives of historic resource preservation.

(f) Historic Resource Designation Procedures.

(1) Property owners of resources identified in the 1997 City of Dana Point Historic Architectural Resources Inventory may request placement on the City of Dana Point Historic Resources Register in the following manner:

(A) Owner(s) of resources included in the City's Inventory may request inclusion in the Register by submitting a Historical Resource Application to the Community Development Department.

(B) Owner(s) of structures which were identified in the Inventory as being potentially eligible for the National Register of Historic Places are, upon adoption of this ordinance, considered locally significant and are included in the City's Register. National designation may also be requested for these structures.

(C) Historic Resource Applications shall be made to the Community Development Director or his/her designee, who shall within 30 days of receipt of a completed application, prepare and make recommendations on the contents of the contract for consideration by the Historic Preservation Commission. No fees are required to process the application.

(D) The Commission shall determine at a regular public meeting based on the documentation provided as to whether the nomination application is appropriate for and shall by motion approve the application in whole or in part, or shall by motion disapprove it in its entirety.

(E) The Director, Planning Commission or City Council may also initiate such proceedings on their own motion for resources on public property.

(2) Property owners not identified in the Inventory, upon demonstrating achievement of criteria "j" and two other criteria listed in Section 9.07.250(c)(1), may submit a Historical Resource Application requesting inclusion in the Register.

(g) Deletion From Dana Point Historic Resources Register.

(1) The procedure for deletion of a designated historic resource from the Dana Point Register shall be as follows:

(A) The owner(s) of a designated historic resource may request deletion of the listed resource from the Dana Point Register.

(B) Requests to delete a designated historic resource from the Register shall be submitted in writing to the Community Development Director who shall remove the property from the Register. The Community Development Director shall report the removal of resources from the Register to the Commission, as deemed necessary by the Director.

(C) Requests to delete the two structures which are eligible for National designation shall be subject to review by the Historic Preservation Commission. If deletion is requested for the purpose of demolishing the structure, a conditional use permit shall be required. Procedures for applying for a conditional use permit are detailed in Section 9.65 of the City's Zoning Code.

(D) The Community Development Director shall periodically propose and process for deletion from the Dana Point Register those designated historic resources which have been lawfully removed, demolished or disturbed to such an extent that, in the Community Development Director's opinion, they no longer qualify for placement on the Register.

(E) Requests to delete a designated historic resource that has benefited from any of the incentives identified in Section 9.07.250(i) shall be forwarded to

the Commission for review and action, and may be subject to penalties deemed appropriate by the Commission based on the significance of the resource at the time of the proposed deletion.

(F) The Commission shall not recommend that a resource be removed from the City's list of designated historic resources unless it is discovered that the information relied on by the Commission and the City Council in making the original designation was erroneous or false, or that circumstances wholly beyond the owner's control have rendered the resource ineligible for designation based on the criteria listed in Section 9.07.250(e) and it would be unfeasible to restore the resource.

(h) Exterior Alteration Of Designated Historic Resources.

(1) Review Process. All applications for a building permit for exterior alteration to any designated historic resource shall be reviewed as follows:

(A) Community Development Department staff shall review and approve minor exterior alterations. Minor exterior alterations are those alterations which the Community Development Director or his/her designee determines will not adversely affect the exterior architectural characteristics nor the historical or aesthetic value of the historic structure, its site or surroundings including window replacement, routine maintenance, residential additions less than 250 square feet, and the replacement of minor non-historic architectural features with materials and detailing consistent with existing historical features of the structure.

(B) The Commission shall review and approve applications involving major modifications to any designated historic resource. Major alterations include substantial additions, alterations, and restorations to a designated historic resource.

(2) Application Process. Requests to conduct exterior alterations to a structure included on the Register shall be subject to a Site Development Permit. Minor alterations shall be reviewed by the Community Development Director while major alterations are to be reviewed by the Commission. The process and timeframe for submitting the Site Development Permit are detailed in Chapter 9.61 of the City's Zoning Code.

(3) Standards of Review. In evaluating applications, the review bodies shall consider the architectural style, design, arrangement, texture, materials and color, and any other pertinent factors. The prime concern should be the exterior appearance of the building site. The proposed alterations should not adversely affect the exterior architectural characteristics nor the historical or aesthetic value of the building and its site.

(4) Appeals. Any action by the Director may be appealed to the Commission. Any action by the Commission may be appealed by any interested party to the City Council. Appeal procedures shall follow those detailed in Chapter 9.61 of the City Zoning Code.

(5) Structures on Septic Systems. Applicants proposing alterations who are on a septic system and are located within 100-feet of a main sewer line shall include with their application plans for linking the property to the main sewer line. Properties in excess of 100-feet of the main sewer line are exempt from this provision and may continue operating on a septic system provided that the septic system is safe and operable.

(i) Preservation Incentives.

(1) The Commission is authorized to develop and implement preservation incentive programs that are consistent with this Chapter. Incentives shall be made available for properties listed on the Register that undergo maintenance or alteration consistent with the Secretary of the Interior Standards for Rehabilitation.

(A) State Historic Building Code. The Building Official is authorized to use and shall use the California State Historic Building Code (SHBC) for projects involving designated historic resources. The SHBC provides alternative building regulations for the rehabilitation, preservation, restoration, or relocation of structures designated as historic resources. The SHBC shall be used for any designated historic resource in the City's building permit procedure.

(B) Fee Waivers. Any permit fees for minor or major exterior modifications to historic resources done in accordance with the Secretary of the Interior Standards for Rehabilitation shall be waived provided that the work is consistent with the historic criteria under which the property was designated an historic resources.

(C) Development Standard Flexibility.

1. Parking Standards.

a. Designated residential structures may add additional floor area and bedrooms without providing additional parking provided that such additions do not exceed more than 50 percent of the original square footage of the structure and that at least two covered parking spaces have been provided on-site. This incentive is not available when second units are proposed.

b. Designated historic commercial structures with limited off-street parking may be granted a conditional use permit to allow a reduction in parking requirements to a maximum of 50 percent when supported by documentation that demonstrates that the use will not adversely affect parking availability to surrounding properties.

c. Designated historic commercial structures may add up to 15 percent of the existing floor area, not to exceed 500 square feet, without providing additional parking and without bringing any existing nonconformity into compliance with the current zoning regulations, subject to review and approval by the Commission.

The addition must be removed if the historic building is demolished.

d. The Commission may establish a parking in-lieu fee for the adaptive re-use of designated historic commercial structures that have no or limited off-street parking.

2. Setbacks.

a. Additions to designated historic resources shall be allowed to maintain legal non-conforming front, side and rear yard setbacks up to the line of existing encroachment, provided that all setbacks as required by the Uniform Building Code are maintained.

(D) Mills Act Contracts.

1. Mills Act contracts granting property tax relief shall be made available by the City of Dana Point only to owners of properties listed in the Dana Point Historic Resources Register, as well as properties located within the City of Dana Point that are listed in the National Register of Historic Places or the California Register of Historical Places. Properties that have been previously listed on the above-mentioned register(s), but that have been removed from the register(s) and are no longer listed, shall not be eligible for a Mills Act contract with the City.

2. Mills Act contracts shall be made available pursuant to California law. The Community Development Department shall make available appropriate Mills Act application materials. The Mills Act application may be processed with the Historic Resource Application.

3. Mills Act contract applications shall be made to the Community Development Director or his/her designee, who shall within 30 days of receipt of a completed application, prepare and make recommendations on the contents of the contract for consideration by the City Council. A fee of \$40 for the application will be required, to cover all or portions of the costs of the preparation of the contract or an amount set by City Council Resolution may be charged.

4. The City Council shall, in public hearing, resolve to approve, approve with conditions, or deny the proposed contract. Should the City Council fail to act on the proposed contract within one year of its receipt of the proposal, the proposal shall be deemed denied.

5. A Mills Act contract application that has failed to be approved by the City Council cannot be resubmitted for one year from the date of City Council action, or where the Council fails to take action, within one year from the date that the application is deemed denied pursuant to (4) above.

(E) Preservation Easements. Preservation easements on the facades of buildings designated as an historic resource may be acquired by the City or

nonprofit group through purchase, donation, or documentation pursuant to California Civil Code 815.

(F) Official Recognition/Awards. The Commission, on an annual basis, may recognize those projects involving designated historic resources that have demonstrated a high level of commitment to maintaining or restoring the historic integrity of the resource. The Community Development Department may nominate all projects implemented within a calendar year for award consideration by the Commission.

(j) Duty To Keep In Good Repair.

(1) The owner, occupant, or other person in actual charge of a designated historic resource or an improvement, building, or structure shall keep in good repair all of the exterior portions of such improvement, building, or structure, all of the interior portions thereof when subject to control as specified in the designating ordinance or permit, and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature.

(2) Accordance with the Secretary of the Interior Standards for Rehabilitation.

(3) It shall be the duty of the Community Development Director to enforce this Section.

(k) Ordinary Maintenance And Repair.

(1) Nothing in this subsection shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this Section that does not involve a change in design, material, or external appearance thereof, nor does this ordinance prevent the construction, reconstruction, alteration, restoration, demolition, or removal of any such architectural feature when the Community Development Director certifies to the Commission that such action is required for the public safety due to an unsafe or dangerous condition which cannot be rectified through the use of the California State Historic Building Code and when such architectural feature can be replaced according to the Secretary of the Interior's Standards.

(l) Enforcement And Penalties.

(1) Any person who violates a requirement of this Section or fails to comply with a condition of approval of any certificate or permit issued under this Section shall be guilty of a misdemeanor and subject to provisions of Section 1.01.200 of the Dana Point Municipal Code.

(2) Any person who constructs, alters, removes, or demolishes a designated historic resource in violation of this Section shall be required to restore the building, object, site, or structure to its appearance or setting prior to the violation. Any action to enforce this provision may be brought by the City of Dana Point or any other interested party. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty and other remedy provided by law.

Chapter 9.09

RESIDENTIAL DISTRICTS

Sections:

- 9.09.010 Intent and Purpose.**
- 9.09.020 Permitted Uses, Accessory Uses, Temporary Uses and Conditional Uses.**
- 9.09.030 Development Standards.**
- 9.09.040 Special Development Standards.**

9.09.010 Intent and Purpose.

The residential zoning districts are intended to permit a range of residential densities and dwelling types, in an organization and pattern consistent with the General Plan Land Use Policy Map. All residential zoning districts provide for high quality, attractive, and liveable residential neighborhoods.

- (a) **Very Low Density.** Very low density residential districts have a maximum density of 3 dwelling units per acre. Districts in this classification include Residential Single Family 2 and 3 (RSF 2 and RSF 3). The RSF 2 and RSF 3 districts provide for very low density, single family residential neighborhoods. These districts include single family detached residential dwellings at a maximum density of 2 and 3 dwellings per net acre of land, respectively.
- (b) **Low Density.** Low density residential districts have a maximum density of 7 dwelling units per acre. Districts in this classification include Residential Single Family 4 and 7 (RSF 4 and RSF 7) and Residential Multiple Family 7 (RMF 7). The RSF 4 and RSF 7 districts provide for low density, single family residential neighborhoods. These districts include single family detached and attached residential dwellings at a maximum density of 4 and 7 dwellings per net acre of land, respectively. The Residential Multiple Family 7 (RMF 7) district provides for low density, multiple family residential neighborhoods. This district includes multiple family development at a maximum density of 7 dwellings per net acre of land.
- (c) **Medium Density.** Medium density residential districts have a maximum density of 14 dwelling units per acre. Districts in this classification include Residential Single Family 12 (RSF 12), Residential Beach Road 12 (RBR 12), Residential Duplex 14 (RD 14) and Residential Multiple Family 14 (RMF 14). The RSF 12 and RBR 12 districts provide for medium density single family residential development. These districts include single family detached and attached residential dwellings at a maximum density of 12 dwellings per net acre of land. Residential Duplex 14 (RD 14) district provides for medium density residential development consisting of duplexes at a maximum density of 14 dwellings per net acre of land. Residential Multiple Family 14 (RMF 14) districts provide for medium density multiple family residential neighborhoods. These districts include multiple family residential development at a maximum density of 14 dwellings per net acre of land.

- (d) High Density. High Density Residential Districts have maximum density of 30 dwelling units per acre. Districts in this classification include Residential Beach Road Duplex (RBRD 18), Residential Single Family 22 (RSF 22), Residential Multiple Family 22 and 30 (RMF 22, RMF 30). The Residential Beach Road Duplex 18 (RBRD 18) district provides for moderate density residential development consisting of duplexes at a maximum density of 18 dwellings per net acre of land. The Residential Multiple Family 22 and 30 (RMF 22 and RMF 30) districts provide for high density, multiple family residential neighborhoods. These districts include multiple family residential development at a maximum density of 22 and 30 dwellings per net acre of land, respectively.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 96-10, 8/13/96)

9.09.020 Permitted Uses, Accessory Uses, Temporary Uses and Conditional Uses.

- (a) Several classes of uses are allowed in Residential Districts. Each of these classes must promote the residential character of the individual districts. These classes of uses are:
 - (1) Permitted Use — allowed by right if no discretionary review is required. Certain permitted uses, indicated by P*, are also regulated by provisions contained in Chapter 9.07.
 - (2) Accessory Use — allowed by right if accessory to a dwelling unit or a residential development, indicated by A*, are also regulated by provisions contained in Chapter 9.07.
 - (3) Temporary Use — allowed on a temporary basis in accordance with the provisions of Chapter 9.39.
 - (4) Conditional Use — allowed subject to the approval of a Conditional Use Permit in accordance with the provisions of Chapter 9.65. Certain conditional uses, indicated by a C*, are also regulated by provisions contained in Chapter 9.07.
 - (5) Prohibited Use — not allowed in the subject residential district
- (b) The following Table lists the classification of allowable uses in the Residential Districts. Any use not expressly allowed is prohibited.

SECTION 9.09.020(b)
RESIDENTIAL DISTRICTS

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8
Accessory Living Quarters	A	A	A	A	A
Communal Housing	X	X	X	X	X
Dwelling, Multiple Family	X	X	X	X	X
Dwelling, Single Family	P	P	P	P	P
Dwelling, Duplex	X	X	X	X	X
Employees' Quarters	C	C	C	C	C
Game Courts	A	A	A	A	A
Home Occupation	P*	P*	P*	P*	P*
Manufactured Home	P*	P*	P*	P*	P*
Mobilehome Park	C*	C*	C*	C*	C*
Mobilehome Subdivision	C*	C*	C*	C*	C*
Model Home Complex	T*	T*	T*	T*	T*
Open Space	P	P	P	P	P
Park, Public	P	P	P	P	P
Recreational Facilities, Private	A	A	A	A	A
Religious Uses	C*	C*	C*	C*	C*
Second Dwelling Units	C*	C*	C*	C*	C*
Senior Citizen Housing	X	X	X	X	X
Single Room Occupancy	X	X	X	X	X
Temporary Uses	T*	T*	T*	T*	T*
Trails, Riding and Hiking	P	P	P	P	P

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
X = Prohibited Use A = Accessory Use

A* = Accessory Use subject to special use standards (see Chapter 9.07)

SECTION 9.09.020(b)
RESIDENTIAL DISTRICTS
(continued)

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8
Adult Day Care Facility	C	C	C	C	C
Adult Day Health Care	C	C	C	C	C
Adult Day Health Center	C	C	C	C	C
Community Care Facility	C	C	C	C	C
Community Treatment Facility	C	C	C	C	C
Congregate Care Facility	C	C	C	C	C
Congregate Living Health Facility	C	C	C	C	C
Convalescent Facility	C	C	C	C	C
Day Care Center	C	C	C	C	C
Day Treatment Facility	C	C	C	C	C
Emergency Shelter	C	C	C	C	C
Family Day Care Home, Large	C	C	C	C	C
Family Day Care Home, Small	P	P	P	P	P
Foster Family Home	P	P	P	P	P
Group Dwelling	C	C	C	C	C
Group Home	P	P	P	P	P
Intermediate Care Facility	C	C	C	C	C
Residential Care Facility for the Elderly	C	C	C	C	C
Residential Facility	C	C	C	C	C
Small Family Home	P	P	P	P	P
Social Day Care Facility	C	C	C	C	C
Social Rehabilitation Facility	C	C	C	C	C

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use
 A* = Accessory Use subject to special use standards (see Chapter 9.07)

SECTION 9.09.020(b)
RESIDENTIAL DISTRICTS
(continued)

LAND USES	RBR 12	RBRD 18	RD 14	RSF 22
Accessory Living Quarters	C	C	C	C
Communal Housing	X	X	X	X
Dwelling, Multiple Family	X	X	X	X
Dwelling, Single Family	P	P	P	P
Dwelling, Duplex	X	P	P	X
Employees' Quarters	C	C	X	X
Game Courts	A	A	A	A
Home Occupation	P*	P*	P*	P*
Manufactured Home	P*	P*	P*	P*
Mobilehome Park	X	X	C*	X
Mobilehome Subdivision	X	X	C*	X
Model Home Complex	X	X	X	T*
Open Space	P	P	P	P
Park, Public	P	P	P	P
Recreational Facilities, Private	A	A	A	A
Religious Uses	C*	C*	C*	C*
Second Dwelling Units	C	C	X	C
Senior Citizen Housing	X	X	X	C
Single Room Occupancy	X	X	X	X
Temporary Uses	T*	T*	T*	T*
Trails, Riding and Hiking	P	P	P	P

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
X = Prohibited Use A = Accessory Use
A* = Accessory Use subject to special use standards (see Chapter 9.07)

SECTION 9.09.020(b)
RESIDENTIAL DISTRICTS
(continued)

LAND USES	RBR 12	RBRD 18	RD 14	RSF 22
Adult Day Care Facility	C	C	C	C
Adult Day Health Care	C	C	C	C
Adult Day Health Center	C	C	C	C
Community Care Facility	C	C	C	C
Community Treatment Facility	C	C	C	C
Congregate Care Facility	C	C	C	C
Congregate Living Health Facility	C	C	C	C
Convalescent Facility	C	C	C	C
Day Care Center	C	C	C	C
Day Treatment Facility	C	C	C	C
Emergency Shelter	C	C	C	C
Family Day Care Home, Large	C	C	C	C
Family Day Care Home, Small	P	P	P	P
Foster Family Home	P	P	P	P
Group Dwelling	C	C	C	C
Group Home	P	P	P	P
Intermediate Care Facility	C	C	C	C
Residential Care Facility for the Elderly	C	C	C	C
Residential Facility	C	C	C	C
Small Family Home	P	P	P	P
Social Day Care Facility	C	C	C	C
Social Rehabilitation Facility	C	C	C	C

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
X = Prohibited Use A = Accessory Use
A* = Accessory Use subject to special use standards (see Chapter 9.07)

SECTION 9.09.020(b)
RESIDENTIAL DISTRICTS
(continued)

LAND USES	RMF 7	RMF 14	RMF 22	RMF 30
Accessory Living Quarters	X	X	X	X
Communal Housing	X	X	X	X
Dwelling, Multiple Family	P	P	P	P
Dwelling, Single Family	P	P	P	P
Dwelling, Duplex	P	P	P	P
Employees' Quarters	X	X	X	X
Game Courts	A	A	A	A
Granny Flat	X	X	X	X
Home Occupation	P*	P*	P*	P*
Manufactured Home	P*	P*	P*	P*
Mobile Home Park	C*	C*	C*	C*
Mobile Home Subdivision	C*	C*	C*	C*
Model Home Complex	T*	T*	T*	T*
Open Space	P	P	P	P
Park, Public	P	P	P	P
Recreational Facilities, Private	A	A	A	A
Religious Uses	C*	C*	C*	C*
Second Dwelling Units	X	X	X	X
Senior Citizen Housing	C	C	C	C
Single Room Occupancy	C	C	C	C
Temporary Uses	T*	T*	T*	T*
Trails, Riding and Hiking	P	P	P	P

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
X = Prohibited Use A = Accessory Use
A* = Accessory Use subject to special use standards (see Chapter 9.07)

SECTION 9.09.020(b)
RESIDENTIAL DISTRICTS
(continued)

LAND USES	RMF 7	RMF 14	RMF 22	RMF 30
Adult Day Care Facility	C	C	C	C
Adult Day Health Care	C	C	C	C
Adult Day Health Center	C	C	C	C
Community Care Facility	C	C	C	C
Community Treatment Facility	C	C	C	C
Congregate Care Facility	C	C	C	C
Congregate Living Health Facility	C	C	C	C
Convalescent Facility	C	C	C	C
Day Care Center	C	C	C	C
Day Treatment Facility	C	C	C	C
Emergency Shelter	C	C	C	C
Family Day Care Home, Large	C	C	C	C
Family Day Care Home, Small	P	P	P	P
Foster Family Home	P	P	P	P
Group Dwelling	C	C	C	C
Group Home	P	P	P	P
Intermediate Care Facility	C	C	C	C
Residential Care Facility for the Elderly	C	C	C	C
Residential Facility	C	C	C	C
Small Family Home	P	P	P	P
Social Day Care Facility	C	C	C	C
Social Rehabilitation Facility	C	C	C	C

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
X = Prohibited Use A = Accessory Use
A* = Accessory Use subject to special use standards (see Chapter 9.07)

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94;)

9.09.030 Development Standards.

The following Table provides the minimum acceptable standards for development within the Residential Districts necessary to assure quality development and attractive local residential areas. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.09.040. Parking standards are provided in Chapter 9.35.

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**SECTION 9.09.030
RESIDENTIAL DEVELOPMENT STANDARDS**

DEVELOPMENT STANDARDS (1)	RESIDENTIAL ZONING DISTRICTS			
	RSF 2	RSF 3	RSF 4	RSF 7
(a) Minimum Lot Size: (2)	17, 500 sf	12,000 sf	8,700 sf	5,000 sf
(b) Minimum Lot Width - (2)				
Standard Lot:	70 ft	50 ft	50 ft	50 ft
Cul-De-Sac Lot (at front building setback line):	30 ft	30 ft	30 ft	30 ft
Flag Lot (for access extension):	20 ft	20 ft	20 ft	20 ft
(c) Minimum Lot Depth: (2)	100 ft	80 ft	75 ft	75 ft
(d) Maximum Lot Coverage:	35%	35%	45%	60%(12)
(e) Minimum Land Area Per Unit: (3)	17,500 sf	11,667 sf	8,750 sf	5,000 sf
Maximum Density Per Acre (16)	2	3	4	7
(f) Maximum Height:	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories
(g) Minimum Front Yard Setback – (5)				
From Ultimate Public Street ROW line:	20 ft	10 ft	20 ft	20 ft
Flag Lot (from connection with access extension):	10 ft	10 ft	10 ft	10 ft
(h) Minimum Side Yard Setback – (5)				
Interior Side:	10 ft	8 ft	5 ft	5 ft
Exterior Side:	15 ft	10 ft	10 ft	10 ft
Flag Lot: (6)	10 ft	8 ft	5 ft	5 ft
(i) Minimum Rear Yard Setback – (5)			(7)	
Standard Lot:	30 ft	25 ft (7)	25 ft	25 ft
Flag Lot and Cul-De-Sac Lot:	30 ft	25 ft (7)	25 ft	25 ft
Adjacent to Alley (13)	20 ft	20 ft	15 ft	15 ft
(j) Minimum Open Space (Private):	N/A	N/A	N/A	N/A
(k) Minimum Landscape Coverage: (14)	25%	25%	25%	25%
Front Yard Setback Minimum Landscape Coverage: (15)	35%	35%	35%	35%
(l) Minimum Building Separation (between primary and accessory buildings, and/or primary to primary buildings on the same lot):	10 ft	10 ft	10 ft	10 ft

* See footnotes on Page 9.09-14

SECTION 9.09.030
RESIDENTIAL DEVELOPMENT STANDARDS
(continued)

DEVELOPMENT STANDARDS (1)	RESIDENTIAL ZONING DISTRICTS		
	RSF 12	RBR 12	RBRD 18
(a) Minimum Lot Size: (2)	3,000 sf	4,200 sf	4,800 sf
(b) Minimum Lot Width - (2)			
Standard Lot:	40 ft	45 ft	45 ft
Cul-De-Sac Lot (at front building setback line):	30 ft	N/A	N/A
Flag Lot (for access extension):	20 ft	10 ft	10 ft
(c) Minimum Lot Depth: (2)	60 ft	50 ft	50 ft
(d) Maximum Lot Coverage:	60%(12)	N/A	N/A
(e) Minimum Land Area Per Unit: (3)	2,917 sf	2,917 sf	1,945 sf
Maximum Density Per Acre (16)	12	12	18
(f) Maximum Height:	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories (8)	28 ft/ (4) 2 stories (8)
(g) Minimum Front Yard Setback: (5)			
From Ultimate Public Street ROW line:	20 ft	20 ft (10)	20 ft (10)
Flag Lot (from connection with access extension):	10 ft	N/A	N/A
(h) Minimum Side Yard Setback – (5)			
Interior Side:	5 ft	3.5 ft	3.5 ft
Exterior Side:	10 ft	3.5 ft	3.5 ft
Flag Lot: (6)	5 ft	5 ft	5 ft
(i) Minimum Rear Yard Setback – (5)			
Standard Lot:	15 ft	(9)	(9)
Flag Lot and Cul-De-Sac Lot:	15 ft	(9)	(9)
Adjacent to Alley (13)	10 ft	(9)	(9)
(j) Minimum Open Space (Private):	N/A	N/A	N/A
(k) Minimum Landscape Coverage: (14)	25%	10% (11)	10% (11)
Front Yard Setback Minimum Landscape Coverage: (15)	35%	5%	5%
(l) Minimum Building Separation (between primary and accessory buildings, and/or primary to primary buildings on the same lot):	10 ft	10 ft	10 ft

* See footnotes on Page 9.09-14

**SECTION 9.09.030
RESIDENTIAL DEVELOPMENT STANDARDS
(continued)**

DEVELOPMENT STANDARDS (1)	RESIDENTIAL ZONING DISTRICTS		
	RSF 22	RD 14	RMF 7
(a) Minimum Lot Size: (2)	2,000 sf	5,000 sf	15,000 sf
(b) Minimum Lot Width - (2)			
Standard Lot:	40 ft	45 ft	60 ft
Cul-De-Sac Lot (at front building setback line):	25 ft	30 ft	30 ft
Flag Lot (for access extension):	N/A	25 ft	25 ft
(c) Minimum Lot Depth: (2)	50 ft	100 ft	100 ft
(d) Maximum Lot Coverage:	60%(12)	50%	50%
(e) Minimum Land Area Per Unit: (3)	1,591 sf	2,500 sf	5,000 sf
Maximum Density Per Acre (16)	22	14	7
(f) Maximum Height:	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories
(g) Minimum Front Yard Setback – (5)			
From Ultimate Public Street ROW line:	7.5 ft	20 ft	20 ft
Flag Lot (from connection with access extension):	7.5 ft	15 ft	15 ft
(h) Minimum Side Yard Setback – (5)			
Interior Side:	4 ft	4 ft	5 ft
Exterior Side:	4 ft	10 ft	10 ft
Flag Lot: (6)	4 ft	4 ft	5 ft
(i) Minimum Rear Yard Setback – (5)			
Standard Lot:	7.5 ft	15 ft	15 ft
Flag Lot and Cul-De-Sac Lot:	7.5 ft	15 ft	15 ft
Adjacent to Alley (13)	7.5 ft	10 ft	10 ft
(j) Minimum Open Space (Private and Common):	Private:	N/A	20% ac
	Common:	N/A	N/A
(k) Minimum Landscape Coverage: (14)	20%	15%	25%
Front Yard Setback Minimum Landscape Coverage: (15)	35%	35%	35%
(l) Minimum Building Separation (between primary and accessory buildings, and/or primary to primary buildings on the same lot):	8 ft	10 ft	10 ft

* See footnotes on Page 9.09-14

SECTION 9.09.030
RESIDENTIAL DEVELOPMENT STANDARDS
(continued)

DEVELOPMENT STANDARDS (1)	RESIDENTIAL ZONING DISTRICTS		
	RMF 14	RMF 22	RMF 30
(a) Minimum Lot Size: (2)	7,500 sf	4,800 sf	4,800 sf
(b) Minimum Lot Width - (2)			
Standard Lot:	45 ft	45 ft	45 ft
Cul-De-Sac Lot (at front building setback line):	25 ft	25 ft	25 ft
Flag Lot (for access extension):	25 ft	25 ft	25 ft
(c) Minimum Lot Depth: (2)	100 ft	90 ft	90 ft
(d) Maximum Lot Coverage:	60%	60%	60%
(e) Minimum Land Area Per Unit: (3)	2,500 sf	1,591 sf	1,167 sf
Maximum Density Per Acre (16)	14	22	30
(f) Maximum Height:	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories
(g) Minimum Front Yard Setback – (5)			
From Ultimate Public Street ROW line:	20 ft	20 ft	20 ft
Flag Lot (from connection with access extension):	15 ft	15 ft	15 ft
(h) Minimum Side Yard Setback – (5)			
Interior Side:	5 ft	10 ft	15 ft
Exterior Side:	10 ft	10 ft	15 ft
Flag Lot: (6)	15 ft	10 ft	15 ft
(i) Minimum Rear Yard Setback – (5)			
Standard Lot:	15 ft	20 ft	20 ft
Flag Lot and Cul-De-Sac Lot:	15 ft	N/A	N/A
Adjacent to Alley (13)	10 ft	15 ft	15 ft
(j) Minimum Open Space (Private and Common):	Private:	200 sf/du	200 sf/du
	Common:	30% ac	25% ac
(k) Minimum Landscape Coverage: (14)	25%	20%	15%
Front Yard Setback Minimum Landscape Coverage: (15)	35%	35%	35%
(l) Minimum Building Separation (between primary and accessory buildings, and/or primary to primary buildings on the same lot):	10 ft	10 ft	10 ft

* See footnotes on Page 9.09-14
Footnotes for Section 9.09.030:

(1) See Chapter 9.75 for definitions and illustrations of development standards.

- (2) Development standard applies to any proposed subdivision of land. These standards do not apply to existing lots where no subdivision is proposed nor to proposed condominiums or other common lot subdivisions.
- (3) Land Area per Dwelling Unit may not be rounded up. (Example: 14,250 square feet/2,500 square feet of land per dwelling unit = 5.7 dwelling units which equals 5 dwelling units, not 6 dwelling units.)
- (4) Subject to the measurement and design criteria in Section 9.05.110(a).
- (5) For existing lots less than the width and depth requirements of the underlying zone as specified in Section 9.09.030 see Section 9.05.190 for reduced front, side and rear building setbacks.
- (6) If the side yard of a flag lot is adjacent to the rear yard of a residentially zoned lot, that side yard setback shall be a minimum of ten (10) feet.
- (7) Additional rear yard building setback from a bluff top may be required by Section 9.27.030.
- (8) For RBR 12 and RBRD 18, maximum building height is twenty-eight (28) feet as measured eighteen (18) inches above the Flood Plain Overlay 3 (FP-3) requirement or Beach Road which ever is higher. Mezzanines may be allowed subject to compliance with the applicable provisions of the Uniform Building Code.
- (9) See Section 9.09.040(a) for special building setbacks and standards for maximum projections into required yards applicable to properties on Beach Road.
- (10) Setback for the first floor as measured from the right-of-way line of Beach Road. The second floor may project a maximum of five (5) feet into the required front yard setback.
- (11) A minimum of ten (10) percent of that portion of the lot area bounded by the side property lines, the Beach Road property line and the structure stringline.
- (12) The maximum lot coverage standard for hillside lots, as defined in Section 9.05.110(a)(4)(A) of this Title, within the RSF7, RSF12 and RSF22 Zoning Districts shall be no greater than fifty percent (50%).
- (13) Subject to standards in Section 9.35.040(e) for garage setbacks.
- (14) Landscaping may also include small amounts of accessory (25% or less of the required landscape coverage) decorative outdoor landscape elements such as ponds, fountains, artificial turf, mulch, 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.
- (15) A reduction in Front Yard landscaping may be approved through an Administrative Modification of Standards pursuant to requirements of Zoning Code Section 9.61.090.

(16) Maximum Density shall be calculated per acre consistent with the General Plan Land Use Element Land Use Intensity/Density provisions.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96; Ord. 96-13, 11/26/96; amended during 8/99 supplement;)

9.09.040 Special Development Standards.

(a) Development in the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD 18) Zoning Districts shall comply with the following standards.

(1) The following Table provides the requirements for structural stringlines, patio stringlines, and front yard setbacks for properties in the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD 18) Districts.

SECTION 9.09.040(a)(1)

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)
35051	Block 2, Lot 133	102/102	120/120
35055	132	102/102	120/120
35057	131	102/101	120/118
35061	130	101/101	118/116
35065	129	101/101	116/116
35067	128	101/105	116/120
walkway (d)			
35071	Block 2, 127	107/112	121/126
35075	126	112/116	126/131
35077	125	116/116	131/131
35081	124	116/116	131/128
35083	123	116/116	128/128
35087	122	116/115	128/125
35091	121	115/114	125/122
35093	120	114/114	122/119
35095	119	114/113	119/120
35097	118	113/112	120/123
35099	117	112/112	123/126
35101	116	112/111	126/130
35105	115	111/111	130/129
35107	114	111/111	129/129
35111	113	111/111	129/129
35115	112	111/111	129/129
35119	111	111/111	129/129
35121	110	111/112	129/129
walkway (d)			
35125	Block 2, 109	112/112	129/128
35127	108	112/113	128/128
35131	107	113/113	128/128

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)
35135	106	113/113	128/128
35141	105, NWLY ½ 104	113/114	128/128
35145	103, SELY ½ 104	114/115	128/128
35147	102, NWLY ½ 101	115/115	128/127
35155	100, SELY ½ 101	115/116	127/127
35157	99	116/116	127/127
35161	98	116/117	127/125
35165	97	117/116	125/124
35167	96	116/115	124/123
35171	95	115/115	123/122
35175	94	115/114	122/121
35177	93	114/113	121/120
35181	92	113/113	120/119
35185	91	113/112	119/118
35189	90	112/112	118/118
35191	89	112/111	118/118
35195	88	111/110	118/118

* See footnotes on Page 9.09-19

**SECTION 9.09.040(a)(1)
(continued)**

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)	Front Setback (Ground Floor) (e)(f)
35197	Block 2, 87	110/109	118/117	20
35201	86	109/108	117/117	20
35205	85	108/107	117/116	20
35211	84	107/106	116/116	20
35215	83	106/105	116/115	20
35221	82	105/104	115/115	20
35225	81 and 80	104/102	115/114	20
35235	79	102/103	114/113	20
35241	78	103/104	113/115	20
walkway (d)				
35245	Block 2, 77	104/106	115/116	20
35251	76	106/107	116/117	20
35255	75	107/108	117/118	20
35261	74	108/110	118/119	20
35265	73	110/109	119/118	20
walkway (d)				
35271	Block 2, 72	108/103	118/115	20

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)	Front Setback (Ground Floor) (e)(f)
35275	71	103/99	115/113	20
35283	70	99/99	113/113	20
35285	69	99/98	113/111	20
35291	68	98/97	111/110	20
35295	67	97/96	110/108	20
35301	66	96/95	108/106	20
35305	65	95/93	106/104	20
35311	64	93/93	104/104	20
35315	63	93/94	104/106	20
35321	62	94/96	106/107	20
35325	61	96/97	107/108	20
35331	60	97/98	108/110	20
35335	59	98/99	110/111	20
35341	58	99/100	111/112	20
35345	57	100/101	112/114	20
35351	56	101/103	114/115	20
35355	55	103/104	115/116	20
walkway (d)				
35361	Block 2, 54	104/104	117/117	20
35365	53	104/103	117/117	20
35371	52	103/102	117/117	20
35375	51	102/101	117/116	20
35381	50	101/100	116/116	20
35385	49	100/99	116/116	20
walkway (d)				
35391	Block 2, 48	99/98	116/116	20
35395	47	98/98	116/116	20
35401	46	98/98	116/115	20
35405	45	98/97	115/114	20
35411	44	97/97	114/113	20
35415	43	97/97	113/112	20
35425	42	97/97	112/111	20
walkway (d)				

* See footnotes on Page 9.09-19

**SECTION 9.09.040(a)(1)
(continued)**

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)	Front Setback (Ground Floor) (e)(f)
35431	Block 2, 41	97/97	111/110	20
35435	40	97/96	110/109	20
35441	39	96/96	109/108	20
35445	38	96/96	108/107	20
35451	37	96/96	107/106	20
35455	36	96/96	106/106	20
35461	35	96/98	106/108	20

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)	Front Setback (Ground Floor) (e)(f)
35465	34	98/99	108/110	20
35471	33	99/101	110/113	20
35475	32	101/102	113/115	20
35481	31	102/104	115/117	20
35485	30	104/106	117/120	20
35491	29	106/107	120/122	20
35495	28, NWLY 1/3 27	107/109	122/125	20
35505	26, SELY 2/3 27	109/112	125/129	20
walkway (d)				
35507	Block 2, 25	112/114	129/131	20
35511	24	114/115	131/134	20
35515	23	115/116	134/136	20
35521	22	116/116	136/137	20
35525	21	116/116	137/139	20
35527	20	116/116	139/141	20
35531	19	116/116	141/142	20
walkway (d)				
35535	Block 2, 18	115/115	143/144	20
35537	17	115/114	144/143	20
(g)				20
35541	16	119/115	147/145	20
35545	15	115/112	145/143	20
35551	14	112/109	143/140	20
35555	13	109/106	140/138	20
35557	12	106/106	138/134	20
35561	11	106/101 (h)	134/132	20
35565	10	101/101 (h)	132/131	20
35567	9	101/104 (h)	131/128	20
35571	8	104/103	128/124	20
35575	7	103/98	124/121	20
35577	6	98/93	121/118	20
walkway (d)				
35581	Block 2, 5	91/85	117/113	18 (9)
35585	4	85/80	113/110	18 (9)
35587	3	80/78	110/107	18 (9)
35591	2	78/77	107/103	18 (9)
35595	1	77/77	103/100	18 (9)
walkway (d)				

* See footnotes on Page 9.09-19

SECTION 9.09.040(a)(1)
(continued)

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)	Front Setback (Ground Floor) (e)(f)
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Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)	Front Setback (Ground Floor) (e)(f)
35601	Block 1, 69	76/70	99/95	18 (9)
35605	68	70/69	95/91	18 (8)
35611	67	69/66	91/90	18 (8)
35615	66	66/64	90/89	18 (8)
35621	65	64/62	89/87	18 (8)
35625	64	62/59	87/86	18 (8)
35631	63	59/57	86/84	18 (8)
35635	62	57/55	84/83	18 (8)
35641	61	55/52	83/81	18 (8)
35645	60	52/50	81/80	18 (7)
35651	59	50/47	80/78	18 (6)
walkway (d)				
35655	Block 1, 58	48/50	78/76	18 (6)
35657	57	50/51	76/74	18 (7)
35661	56	51/50	74/73	18 (7)
35665	55	50/51	73/73	18 (7)
35667	54	51/51	73/72	18 (7)
35671	53	51/51	72/71	18 (7)
35675	52	51/50	71/69	18 (7)
35677	51	50/49	69/71	18 (6)
35679	50	49/49	67/65	18 (6)
35685	49	49/48	65/63	18 (6)
35687	48	48/47	63/61	18 (6)
walkway (d)				
35691	Block 1, 47	47/47	60/60	18 (6)
35695	46	47/47	60/60	18 (6)
35697	45	47/48	60/60	18 (6)
35701	44	48/48	60/61	18 (6)
35705	43	48/49	61/61	18 (6)
walkway (d)				
35707	Block 1, 42	49/50	61/62	18 (6)
35711	41	50/50	62/62	18 (7)
35715	40	50/51	62/62	18 (7)
35721	39	51/51	62/63	18 (7)
35725	38	51/52	63/63	18 (7)
35731	37	52/51	63/62	18 (7)
35735	36	51/55	62/64	18 (8)
35737	35	55/55	64/65	18 (8)
35741	34	55/54	65/67	18 (8)
walkway (d)				
35745	Block 1, 33	54/53	67/68	18 (8)
35747	32	53/52	68/70	18 (7)
35751	31	52/51	70/71	18 (7)
35755	30	51/51	71/73	18 (7)
35757	29	51/51	73/74	18 (7)
35761	28	51/58	74/74	18 (8)
35765	27	58/56	74/74	18 (8)
35767	26	56/58	74/74	18 (8)
35771	25	58/60	74/74	18 (8)
35775	24	60/62	74/74	18 (8)
35777	23	62/64	74/74	18 (8)

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)	Front Setback (Ground Floor) (e)(f)
35781	22	64/64	74/78	18 (8)
35785	21	64/66	78/82	18 (8)

* See footnotes on Page 9.09-19

SECTION 9.09.040(a)(1)
(continued)

Beach Road Address	Tract 889 Lot Number	Measurement from roadside property line to structure stringline along: west property line/ east property line (a)	Measurement from roadside property line to patio stringline along: west property line/ east property line (b)	Front Setback (Ground Floor) (e)(f)
35787	Block 1, 20	67/69	83/87	18 (8)
35791	19	69/72	87/90	18 (9)
35795	18	72/74	90/94	18 (9)
35797	17	74/76	94/97	18 (9)
35801	16	76/78	97/101	18 (9)
35805	15	78/80	101/104	18 (9)
35807	14	80/80	104/106	18 (9)
35811	13	80/83	106/107	18 (9)
walkway (d)				
35815	Block 1, 12	84/88	107/107	18 (9)
35817	11	88/91	107/107	18 (9)
35821	10	91/94	107/109	20
35825	9	94/97	109/110	20
35827	8	97/101	110/111	20
35831	7	101/104	111/113	20
35835	6	104/107	113/114	20
35837	5	107/108	114/115	20
35841	4	108/106	115/115	20
35845	3	106/104	115/116	20
35845	2	104/103	116/116	20
35851	1	103/102	116/116	20
35855	P.M. 142-10 Parcel 1 (i)	102/102	116/116	20
35857	P.M. 142-10 Parcel 2 (i)	102/102	116/116	20

Footnotes for Section 9.09.040(a)(1):

- (a) No enclosed portion of any structure shall extend seaward of a straight line drawn between the structure stringline measurements set forth in this section for the east and west property lines of the subject property.
- (b) No patio or unenclosed portion of any structure shall extend seaward of a straight line drawn between the patio stringline measurements set forth in this section for the east and west property lines of the subject property. Where vertical displacement exists between the

lowest level patio and sandy beach, a stairway may encroach seaward of the patio stringline no more than three (3) feet. Where the patio stringline lies inland of an ocean protective device (OPD), an accessway from the patio to the OPD may be constructed as necessary to link the lowest level patio with a stairway to the beach.

- (c) Deleted by Ord. 99-05,4/27/99.
- (d) Location of a twelve (12) foot wide walkway extending from Beach Road to the beach. According to Tract Map No. 889, walkways are for the use of the property owners within the Capistrano Bay Community.
- (e) May be reduced to the figure shown in parenthesis. If the setback on the ground floor is less than eighteen (18) feet, three parking spaces must be provided perpendicular to Beach Road.
- (f) The second floor of any structure may project a maximum of five (5) feet into the required front setback for the first floor, but no closer than five (5) feet to the ultimate right-of-way line for Beach Road.
- (g) The roadside line from which measurements are taken juts five (5) feet inland at this turnaround point. For properties directly seaward of the turnaround, the roadside measurement line is not necessarily their property line.

Footnotes for Section 9.09.040(a)(1) (continued):

- (h) A modification has been made that applies to the three indicated lots only. A control value of 101 feet shall extend from the midpoint of the lot at 35561 across 35565 to the midpoint of the lot at 35567. Therefore, any construction on the eastern half of 35561, on any portion of 35565 or on the western half of 35567 may extend no further than 101 feet. Any construction on the western half of 35561 or the eastern half of 35567 may extend no further than the control values established for their western and eastern property lines respectively.
- (i) This parcel is not a part of Tract No. 889. The stringline measurements set forth in this section for this parcel are based upon a line twenty (20) feet seaward of and parallel to the inland property line.

(2) Maximum Projections into Required Yards. The following Table provides the requirements for allowable projections into required yards for properties in the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD 18) Districts.

SECTION 9.09.040 (a)(2)
MAXIMUM PROJECTION INTO REQUIRED YARDS

Item	Maximum Projection			Minimum Distance From Property Lines (B)	Maximum Projection Above District Height Limit	Other Limitations
	Front Yard Area	Seaward Of Structure Stringline	Side Yard Area (A)			
(a) Antennas (C)	NP	NP	NP	N/A	Not Permitted (D)	2 maximum
(b) Architectural Projections: (i.e.. Eaves, Cornices and Roof Overhangs)	2' 6"	2' 6"	2' 6"	2' 0"	NP	None
(c) Balconies	5' 0"	8' 0"	NP	6' 0"	NP	(E)(F)
(d) Barbecues and Other Appliances	N/A	To patio stringline	To PL	0' 0"	N/A	(G)(H)
(e) Basements	NP	NP	NP	N/A	N/A	None
(f) Bay Windows	2' 6"	NP	NP	3' 0"	NP	(1)
(g) Chimneys (J)	2' 0"	NP	6"	3' 0"	3' 0"	(E)(K)
(h) Decks, Patios and Walks (between Front Yard Setback and Structure Stringline)	N/A	N/A	To PL	0' 0"	N/A	Horizontal surface to a maximum height of 18" above FP-3 elevation for the site. (I)(L)(M)

* See Footnotes on Page 9.09-22

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SECTION 9.09.040(a)(2)
 MAXIMUM PROJECTION INTO REQUIRED YARDS
 (continued)

Item	Maximum Projection			Minimum Distance From Property Lines (B)	Maximum Projection Above District Height Limit	Other Limitations
	Front Yard Area	Seaward Of Structure Stringline	Side Yard Area (A)			
(i) Decks, Patios and Walk (between Structure Stringline and Patio Stringline)	N/A	To patio stringline (Except as provided in Section 9.09.040(a)(1), Footnote (b))	To PL	0'0"	N/A	The surface must be the lower of: 1) 18" above FP-3 elevation for the site; or 2) 30" above the average pre-graded/existing elevation at the structure stringline; or 3) 4 feet above Beach Road at the centerline of the site. (I)(L)(M)
(j) Detached Accessory Structures	NP	To patio stringline (N)	None	None (N)	None	(O)
(k) HVAC, Mech. Equip. and Window Mounted Air Conditioners	NP	NP	1'6"	2'0"	NP	(P)
(l) Patio Covers	NP	8'0"	NP	6'0"	NP	(Q)
(m) Planter Boxes	2'0"	2'0"	NP	10'0"	N/A	(R)
(n) Pool Equipment	NP	N/A	2'6"	2'0"	N/A	(P)(S)
(o) Roof Decks	NP	NP	NP	3'0"	NP	None
(p) Second Stories	5'0"	NP	NP	N/A	NP	(T)
(q) Stairways and Stairway Landings	2'6"	NP (Except as provided in Section 9.09.040(a)(1) Footnote (b))	NP	5'0"	NP	(E)

Item	Maximum Projection			Minimum Distance From Property Lines (B)	Maximum Projection Above District Height Limit	Other Limitations
	Front Yard Area	Seaward Of Structure Stringline	Side Yard Area (A)			
(r) Swimming Pools and Spas	NP	NP	N/A	3'0" (U)	N/A	(V)

NP = Not Permitted N/A = Not Applicable PL = Property Line

Footnotes for Section 9.09.040(a)(2):

- (A) On a corner lot, projections permitted in a front yard setback also apply to a street side yard.
- (B) In any instance where there is a conflict between the allowable maximum projection and the minimum distance from property line standard, the minimum distance from property line standard shall rule.
- (C) For radio antennas, only see Section 9.07.020 for satellite dish antennas.
- (D) This provision shall not apply to television and radio antennas used to receive UHF, VHF, FM and AM signals. Such antennas may exceed the district height limit by up to ten (10) feet. FCC licensed amateur ham radio operators may apply for a Conditional Use Permit for a radio tower greater than the maximum height limit, but not exceeding seventy (70) feet
- (E) The total horizontal length of all projections (marked by this footnote) on a given building elevation shall not exceed the maximum percentage of building elevation length as specified below: (Note: Building elevation length is measured at the first floor and not adjusted for multiple storied buildings.)

<u>BUILDING ELEVATION:</u>	<u>Front:</u>	<u>Side:</u>	<u>Rear:</u>
<u>MAX % OF BUILDING ELEVATION LENGTH:</u>	60%	40%	80%

The above stated maximum percentages have been established as a measure to control the overuse or abuse of the projection provisions in this Table. The maximum percentages will help prevent aesthetically inappropriate architectural facades or features that would pose a detriment to adjacent properties. At the discretion of the Director of Community Development, the total length of all projections on a given elevation may be reduced to below the indicated maximums in order to implement this intent

- (F) Column supports for balconies may be a maximum of twelve (12) inches square, and may be no closer than six (6) feet from a side property line. Balcony guard rails may be three (3) feet above the 2nd floor, or as required by the Uniform Building Code.
- (G) Outdoor appliances or permanent deck structures alongside property lines or the rear stringline limit cannot exceed forty-two (42) inches above the lowest patio elevation permitted by Chapter 931 "Floodplain Overlay Districts."

- (H) Outdoor appliances or permanent deck structures may utilize tempered glass for wind deterrence, as permitted by Section 9.09.040(a)(3), to a maximum of five (5) feet above the lowest permitted patio elevation, or two (2) feet above the outdoor appliance.
- (I) Including deck railings or deck structures.
- (J) A maximum of two chimneys may project into required yards *or* above the height limit.
- (K) Maximum horizontal dimension of three (3) feet when above the height limit.
- (L) Provided district landscape requirements are met.
- (M) Those portions of deck, patios, or walks that are attached to the main structure and within three (3) feet of the side property line must meet UBC requirements for fire resistance.
- (N) Subject to the applicable provisions of the Uniform Building Code and Uniform fire Code.
- (O) Maximum Height Twelve (12) feet
- (P) Pool equipment may be placed adjacent to the rear or side property line subject to a minor Site Development Permit which shall include, but not be limited to, an acoustics report demonstrating compliance with the City's Noise Ordinance. (Amended per city's instructions, based on Ord. 97-12, 11/12/97 and Ord. 97-13, 11/25/97)
- (Q) The height of a patio cover in the patio stringline area may not exceed ten (10) feet above the lowest permitted deck elevation.
- (R) Only allowed on the 2nd floor as an extension of second floor framing; and may be a maximum of three (3) feet in height.
- (S) No higher than the height of the deck, patio, or walk.
- (T) No support columns permitted.
- (U) As measured from the edge of the water within the swimming pool or spa.
- (V) See Section 9.31.060(0)(10) regarding the construction of pools and spas in floodplain zones.

(3) Walls, Fences, Windscreens, and Railings. The following standards shall apply to the construction of:

- (A) Walls, fences, windscreens and railing between the front setback and the structure stringline:

Materials—any material that conforms with local ordinance, including UBC requirements for fire resistive construction, as applicable.

Height — a maximum of six (6) feet higher than the finished floor of the adjacent walk, deck, balcony, or patio allowed in Section 9.09.040(a)(2).

In the case of elevated sideyard decks, walks, or patios, the railing may extend down to the finished grade forming a fence. This fence may be higher than eight (8) feet above the finished grade of the adjoining property in cases where the structure on the subject property has been appropriately elevated to the FP-3 level and the structure on the adjacent property has not been so elevated.

- (B) Walls, fences, windscreens and railings between the structure stringline and the patio stringline:

Material — clear tempered glass with uprights and railings as required by City Code and not exceeding the following maximum finished dimensions:

Vertical posts: 6” x 6”

Horizontal railings: 3” x 6”

Height — a maximum of six (6) feet higher than the finished floor of the adjacent deck, balcony, or patio allowed in Section 9.09.040 (a)(2).

- (4) Offers to dedicate easements for public pedestrian access laterally along the beach at Capistrano Beach will be required as a condition of any new development project, as defined in public access ordinance (Section 9.27.030(a)(2)(A) of this Zoning Code), requiring a coastal development permit along Beach Road, consistent with the requirements of the public access ordinance (Section 9.27.030(a) of this Zoning Code).

- (b) Condominium, Stock Cooperative, and Community Apartment Conversions.

- (1) Purpose and Intent. This Section provides standards and criteria for converting multiple family dwellings, including dwelling units in a rental mobilehome park to residential condominium, stock cooperative and community apartment types of ownership. The standards and criteria promote the retention of affordable housing and promote design quality.

- (2) Development Standards. The conversion shall comply with all applicable development standards of the zoning district in which it is located. In addition, the following standards shall apply:

- (A) Conversion projects shall provide high quality urban design by the provision of architectural enhancement, high quality landscaping, high quality construction, and improvements to the function of the site and project signage.

- (B) Privacy between residential units shall be enhanced through urban design, insulation, and other means.

- (C) Individual gas and/or electrical metering systems shall be provided for each dwelling unit.
 - (D) Where individual trash and recycling pick-up is not provided, common trash and recycling storage shall be provided within a totally walled and roofed structure with a roof not exceeding twelve (12) feet in height. All enclosures shall be located within two hundred (200) feet of all dwelling units.
- (3) Conditional Use Permit and Tentative Tract or Parcel Map Required. Conversion requires approval of a Conditional Use Permit and Tentative Tract or Parcel Map by the Planning Commission as described in Chapter 9.65 and Title 7. The application for conversion must also include the following additional information.
- (A) A detailed report by licensed certified professionals describing the condition of all structural, electrical, plumbing, and mechanical elements of the existing development, including noise insulation, and the estimated cost of repair or improvement, if any, in a form acceptable to the City.
 - (B) A complete and current mailing list and two sets of addressed stamped envelopes of all tenants occupying the subject property as specified by the Department of Community Development shall be submitted and utilized to provide notice of the public hearing for consideration of the application for conversion.
 - (C) A housing program which includes, at a minimum, the following:
 1. The means by which the provision or expansion of affordable housing opportunities will be achieved by the conversion consistent with the goals and policies of the General Plan.
 2. A study of the balance of housing in the City, including vacancy rates, other available housing of similar type and rent; the current rents and estimated monthly payments and fees of the units to be converted, and all improvements and/or renovations contemplated;
 3. For mobilehomes, the estimated costs for movement of each mobilehome to an available reasonably comparable space;
 4. A current survey of existing tenants as to their length of occupancy and the number of those who will purchase one of the units; and
 5. A relocation plan which comprehensively identifies all the steps which will be taken to assure the successful proposed relocation of each tenant with the minimum disruption to their lives. The relocation plan shall also state what specific relocation assistance existing tenants will be given, including the cost of physical moving, first and last months' rent, security and cleaning deposits, phone connection and utility deposits. Particular consideration shall be given to the elderly, handicapped, families with

children, and other tenants who may encounter difficulty in finding a new residence.

- (4) Tenant Provisions. Each application for conversion shall include assurance that the following provisions will be or have been satisfied.
- (A) By certified mail or other verifiable means the property owner shall provide tenants a ninety (90) day preemptive right to purchase a unit or right of exclusive occupancy upon more favorable terms and conditions than those on which such unit or share will be initially offered to the general public. Such right shall be in writing and shall be irrevocable for a period of ninety (90) days after the commencement of sales and notification of the tenant of such right.
 - (B) By certified mail or other verifiable means, the property owner shall provide, in writing, all tenants a minimum of one hundred and eighty (180) days advance notice of termination of their tenancy due to an approved conversion plan, except that a one (1) year notice shall be provided for dwelling units in a mobilehome park conversion.
 - (C) “Art-in-Public-Places” Program. All new development projects located in the zoning districts described in this Chapter are subject to the provisions of the “Art-in-Public Places” Program as described in Section 9.05.240.

(Added by Ord. 93-16,11/23/93; amended by Ord. 94-09,5/24/94; Ord. 94-13,8/23/94; Ord. 94-21, 12/13/94; Ord. 97-05, 9/9/97; Ord. 97-12, 11/12/97; Ord. 97-13, 11/25/97; Ord. 99-05, 4/27/99;)

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Chapter 9.11

COMMERCIAL DISTRICTS

Sections:

- 9.11.010 Intent and Purpose.**
- 9.11.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.**
- 9.11.030 Development Standards.**
- 9.11.040 Special Development Standards.**

9.11.010 Intent and Purpose.

The commercial districts permit a range of commercial uses to support the commercial and service needs of residents, visitors, and the City's workforce.

- (a) Neighborhood Commercial District. The Neighborhood Commercial (NC) district provides for a limited range of smaller-scale business activities which serve the needs of residents who live nearby. Typical businesses include, but are not limited to, small food and drug stores, child care, clothing stores, neighborhood serving convenience stores, professional and business offices. These regulations are intended to ensure that development within the Neighborhood Commercial zone is compatible with the surrounding area with respect to the type of use scale, intensity of development, architectural character, and other impacts upon the community, and that the activities serve the needs of the adjoining residential neighborhoods.
- (b) Community Commercial/Pedestrian District. The Community Commercial/Pedestrian (CC/P) district provides for medium intensity commercial uses that serve community-wide needs in a pedestrian-oriented environment. The Community Commercial/Pedestrian District provides for the high quality design of commercial areas that include, but are not limited to, commercial services, professional business offices, retail sales, child care, restaurants, entertainment uses, and community facilities. The regulations promote integrated commercial districts which are designed to encourage positive pedestrian activity and minimize pedestrian and vehicular conflicts. These regulations promote architecturally pleasing commercial structures, with human scale and pedestrian character including efficient internal access, ingress and egress, and pedestrian amenities such as plazas, courtyards, and attractive landscaping.
- (c) Community Commercial/Vehicular District. The Community Commercial/Vehicular (CC/V) District provides for higher intensity commercial uses that serve community and subregional needs with an emphasis on convenient automobile access while incorporating efficient, safe, and attractive pedestrian circulation. The Community Commercial/Vehicular District provides for the high quality design of commercial areas that include, but are not limited to, larger commercial uses such as department stores, furniture and appliances stores, grocery stores, drug stores, and automotive related uses. The regulations promote integrated commercial developments which are designed to accommodate high volume retail businesses with appropriate facilities for the access,

circulation, and parking of cars. These regulations promote architecturally pleasing commercial structures situated and designed to facilitate the efficient circulation of motor vehicles.

- (d) Visitor/Recreation Commercial (V/RC) District. The Visitor/Recreation Commercial (V/RC) District provides for visitor-serving uses such as resorts, hotels, motels, restaurants, conference facilities, commercial-recreation uses, specialty and convenience shops, and recreation/open space uses. Supporting uses include, but are not limited to, community facilities, such as museums and theaters. Secondary uses may include offices, personal services, clinical services and similar uses provided they are not the primary use on the site and do not occupy the first floor of the structure. Development within this district shall provide visitor-serving facilities in a manner which promotes fiscal stability and has minimal negative impact on surrounding land uses. Commercial uses shall provide high quality design of sites and structures with extensive landscaping, open space and public and private recreational opportunities.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.11.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.

- (a) Several classes of uses are allowed in the Commercial Districts. Each of these classes must promote the commercial character of the individual districts. These classes of uses are:
 - (1) Permitted Use — allowed by right if no discretionary review is required. Certain permitted uses, indicated by a P*, are also regulated by provisions contained in Chapter 9.07.
 - (2) Accessory Use—allowed by right if accessory to a permitted or conditional commercial development
 - (3) Temporary Use — allowed on a temporary basis in accordance with the provisions of Chapter 9.39.
 - (4) Conditional Use — allowed subject to the approval of a Conditional Use Permit in accordance with the provisions of Chapter 9.65. Certain conditional uses, indicated by a C*, are also regulated by provisions contained in Chapter 9.07.
 - (5) Prohibited Use — not allowed in the subject commercial district
- (b) The following Table lists the classification of allowable uses in Commercial Districts. Any use not expressly allowed is prohibited.

SECTION 9.11.020(b)
COMMERCIAL DISTRICTS

LAND USES	NC	CC/P	CC/V	V/RC
Administrative Office Uses	P	P	P	C
Adult Businesses	X	X	P*	P*
Adult Day Health Care	X	C	C	X
Alcohol Beverage Manufacturer	C*	C*	C*	C*
Alcoholic Beverage Outlets	P*/C*	P*/C*	P*/C*	P*/C*
Animal Hospital	X	P	P	X
Animal Shelter	X	C	C	X
Automotive Sales and Rental Uses	X	C*	C*	C*
Bed and Breakfast Inn	X	P	X	P
Building Materials Sales and Service Uses	X	P	P	C
Business Service Uses	P	P	P	X
Caretaker's Residence	X	C	C	C
Clinical Services	P	P	P	P
Commercial Antennas	C*	C*	C*	C*
Commercial Entertainment Uses	C	P	P	C
Commercial Recreation Uses	C	P	P	C
Construction and Maintenance Services	P	P	P	X
Cultural Uses	P	P	P	P
Dance Halls/Clubs	C	C	C	C
Day Care Centers	P	P	P	C
Drinking Establishments	P*/C*	P*/C*	P*/C*	P*/C*
Drive - Through Uses	C	C	C	C
Drug Abuse Recovery or Treatment Facility	X	C	C	X
Educational Uses	C	P	P	C
Emergency Shelter	C	C	C	X

LEGEND:

P = Permitted Use
C = Conditional Use
T = Temporary Use
X = Prohibited Use

P* = Permitted Use subject to special use standards (see Chapter 9.07)
C* = Conditional Use subject to special use standards (see Chapter 9.07)
T* = Temporary Use subject to special use standards (see Chapter 9.39)
A = Accessory Use

SECTION 9.11.020(b)
COMMERCIAL DISTRICTS
(continued)

LAND USES	NC	CC/P	CC/V	V/RC
Family Day Care Home, Large	X	C	C	X
Family Day Care Home, Small	X	C	C	X
Food Services Uses, Specialty	P	P	P	P
Fortune Telling	X	C*	C*	C*
Furniture Store	P	P	P	C
Hookah Lounges	X	X	X	X
Hospital, Acute Psychiatric	X	C	C	X
Hospital, Chemical Dependency Recovery	X	C	C	X
Hospital, General Acute Care	X	C	C	X
Hospital, Special	X	C	C	X
Hotel	X	P	P	P
Institutional Uses	X	C	P	X
Kennel	C	P	P	X
Live Entertainment Uses	C*	C*	C*	C*
Major Automotive Uses	X	C	C	X
Marine Uses	P	P	P	P
Massage Establishments	X	P*	P*	P*
Medical Office Uses	P	P	P	X
Membership Organizations	X	P	P	C
Minor Automotive Uses	X	X ¹	C	X
Minor Repair Service Uses	P	P	P	X
Motel	X	X	P	P
Open Space	P	P	P	P
Park, Public	P	P	P	P

¹ NOTE: All minor automotive uses existing prior to (final action date), or applications for such uses which were deemed complete prior to that date, shall be considered legal conforming uses and shall be exempt from the provisions of Chapter 9.63.

LEGEND:

P = Permitted Use
C = Conditional Use
T = Temporary Use
X = Prohibited Use

P* = Permitted Use subject to special use standards (see Chapter 9.07)
C* = Conditional Use subject to special use standards (see Chapter 9.07)
T* = Temporary Use subject to special use standards (see Chapter 9.39)
A = Accessory Use

SECTION 9.11.020(b)
COMMERCIAL DISTRICTS
(continued)

LAND USES	NC	CC/P	CC/V	V/RC
Personal Service Uses	P	P	P	P
Photographic, Reproduction and Graphic Service Uses	P	P	P	P
Professional Office Use -On the second floor or above, or below street level -Street Level	P P	P P	P P	P C
Recreational Uses	C	P	P	P
Recycling Facilities	P*	P*	P*	X
Religious Uses	X	C*	C*	X
Research and Development Uses	C	P	P	X
Residential Care Facility for the Elderly	C	C	C	X
Residential Facility	C	C	C	X
Restaurant	P	P	P	P
Restaurant, Drive-Through	C	C	P	P
Restaurant, Fast Food	C	C	P	P
Restaurant, Take-Out	P	P	P	P
Restaurant, Walkup	C	P	P	P
Retail Sales Uses	P	P	P	P
Single Room Occupancy	X	C	C	C
Skilled Nursing Facility	X	C	C	X
Social Rehabilitation Facility	X	C	C	X
Tattoo Parlors	X	C*	C*	C*
Temporary Uses	T*	T*	T*	T*
Timeshares	X	X	X	X
Transportation Uses	X	X	P	P
Video Arcades or Game Rooms	C	C	C	C

LEGEND:

P = Permitted Use
C = Conditional Use
T = Temporary Use
X = Prohibited Use

P* = Permitted Use subject to special use standards (see Chapter 9.07)
C* = Conditional Use subject to special use standards (see Chapter 9.07)
T* = Temporary Use subject to special use standards (see Chapter 9.39)
A = Accessory Use

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-02, 1/11/94; Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96; Ord. 97-05, 9/9/97; Ord. 97-12, 11/12/97; Ord. 97-13, 11/25/97;)

9.11.030 Development Standards.

The following general development standards Table provides the minimum acceptable standards for development within the commercial districts necessary to assure quality development and attractive local commercial areas. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.11.040. Parking standards are provided in Chapter 9.35.

**SECTION 9.11.030
COMMERCIAL DEVELOPMENT STANDARDS**

DEVELOPMENT STANDARDS (1)	COMMERCIAL ZONING DISTRICTS			
	NC	CC/P	CC/V	V/RC
(a) Minimum Lot Size: (2)	5,000 sf	5,000 sf	15,000 sf	15,000 sf
(b) Minimum Lot Width (2)	40 ft	50 ft	100 ft	100 ft
(c) Minimum Lot Depth (2)	100 ft	80 ft	120 ft	150 ft
(d) Minimum Lot Coverage	35%	60%	45%	40%
(e) Maximum Height	31-35 ft(3) 3 stories(4)	31-35 ft(3) 3 stories(4)	31-35 ft(3) 3 stories (4)	31-35 ft(3) 3 stories (4)
(f) Standard Floor Area Ratio (5)	.35:1	.6:1	.5:1	.5:1
(g) Minimum Front Yard Setback (6)				
From Ultimate Public Street R/W Line	20 ft	10 ft (7)	20 ft	5 ft
(h) Minimum Side Yard Setback				
Interior Side	10 ft	0 ft	0 ft	5 ft
Street Side (6)	15 ft	5 ft	10 ft	5 ft
(i) Minimum Rear Yard Setback				
Standard (8)	15 ft	0 ft	15 ft	15 ft
Adjacent to Alley or Street (6)	10 ft	5 ft	10 ft	10 ft
(j) Minimum Landscape Coverage (6)	10%	10%	15%	20%
(k) Minimum Building Separation	10 ft	10 ft	10 ft	10 ft

NOTE: See Footnotes on Page 9.11-7.

Footnotes for Section 9.11.030:

- (1) See Chapter 9.73 for definitions and illustrations of development standards.
- (2) Development standard applies to proposed subdivisions of land through a SDP. The standards may be modified by the Planning Commission when necessary to accommodate the parcel configuration for an integrated commercial development subject to the approval of a Conditional Use Permit pursuant to Chapter 9.65.
- (3) Subject to the measurement and design criteria in Section 9.05.110(b).
- (4) A maximum of 3 stories may only be permitted in accordance with Section 9.05.200.
- (5) A maximum FAR of 1.75:1 may be permitted in accordance with Section 9.05.210.
- (6) All setback areas adjacent to public streets must be landscaped.
- (7) A zero setback may be allowed if the structure is designed to occupy no more than sixty (60) percent of the front 10 feet of the parcel and with an increase in minimum landscape coverage to fifteen (15) percent
- (8) Twenty (20) feet adjacent to residential use or district

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94)

9.11.040 Special Development Standards.

- (a) Accessory Uses and Structures. Setbacks for detached accessory buildings or structures shall be in compliance with Section 9.05.280.
- (b) Sign Programs. Multi-tenant commercial development shall be required to obtain approval for a project sign program pursuant to Chapter 9.37.
- (c) “Art-in-Public-Places” Program. All new development projects located in the zoning districts described in this Chapter are subject to the provisions of the “Art-in-Public-Places” Program as described in Section 9.05.240.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-13, 8/23/94;)

Chapter 9.13

MIXED USE DISTRICTS

Sections:

- 9.13.010 Intent and Purpose.**
- 9.13.020 Permitted Uses, Accessory Uses, Temporary Uses and Conditional Uses.**
- 9.13.030 Development Standards.**
- 9.13.040 Special Development Standards.**

9.13.010 Intent and Purpose.

The mixed use districts provide for the compatible and beneficial mixture of commercial, office and residential uses in a single structure or on a single site. These districts are designed to achieve a convenient business and residential environment in areas where multiple activities and an increased degree of pedestrian orientation are considered to be desirable. The districts also provide a transitional or buffering zone between exclusive non-residential and residential districts. Residences in the Mixed Use District provide housing near sources of employment or commercial and professional services— an alternative to exclusively residential districts. This alternative housing is intended to add to the City’s supply of affordable housing, reduce commutes between home and work, and promote a strong, stable, and desirable pedestrian-oriented business environment.

- (a) Commercial/Residential (C/R). The Commercial/Residential (C/R) district provides for compatible mixtures of commercial and office uses, and residential units in the same building or on the same parcel. Allowable commercial and office uses include those that are typically permitted in the Community Commercial (CC) districts. These uses provide for a commercially-oriented environment that also offers compatibility for residential uses. The only projects allowed in this district are commercial or mixed use (commercial/residential) projects. Residential development is only permitted in conjunction with commercial development as part of a mixed use project.
- (b) Residential/Commercial-18 (R/C-18). The Residential/Commercial-18 (R/C-18) district provides for a mixture of residential uses with commercial and office uses in the same building or on the same parcel. Allowable commercial and office uses include those which are visitor serving in nature and at the same time are compatible with residential uses such as bed and breakfast inns, restaurants, specialty and convenience shops and recreation/open space uses such as coastal recreation equipment, rental shops and environmental education facilities related to coastal ecology. This district provides for a residential density of eighteen (18) units per acre. New development within Residential/Commercial-18 shall be sited in a manner that minimizes the residential development residents’ vehicle miles traveled (VMT). VMT siting considerations shall include, but not be limited to: close proximity of the new development to existing or planned transit stops (efforts should be made to site residential development within one-half mile to existing or planned transit stops); walkability to commercial development like restaurants, grocery stores and cultural venues; and close proximity to, and/or provision of, bicycle amenities like bicycle racks and bicycle lanes or dedicated bicycle pathways. It implements the State’s

Mello Act and the City's goals, objectives and policies for production of affordable housing by requiring that any project of new construction with more than ten residential units, which is located within the Coastal Overlay District, shall be required to provide a minimum ten percent (10%) of the total housing units as "affordable units," as defined in the Housing Element of the City's General Plan and pursuant to the provisions of the aforementioned State's Mello Act. The only projects allowed in this district are mixed use (residential/commercial) projects. The gross floor area for commercial uses is limited to a maximum of ten percent (10%) of the total site area. Properties fronting Pacific Coast Highway are required, at a minimum, to provide visitor serving commercial uses on the ground floor of all the buildings fronting Pacific Coast Highway, for a minimum depth of forty (40) feet. (Visitor serving uses are those allowed under the Visitor/Recreation Commercial (V/RC) zoning designation in Sections 9.11.010 and 9.11.020(b)).

- (c) Professional/Residential (P/R). The Professional/Residential (P/R) district includes a mixture of professional offices and residential use in the same building or on the same parcel. Allowable professional uses typically include those that are permitted in the Professional/Administrative (P/A) district. These uses provide for a professional office-oriented environment that also offers compatibility for residential uses. The only projects allowed in this district are professional or mixed use (professional/residential) projects. Residential development is only permitted in conjunction with professional development as part of a mixed use project

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94, Ord. 09-06, 7/27/09)

9.13.020 Permitted Uses, Accessory Uses, Temporary Uses and Conditional Uses.

- (a) Several classes of use are allowed in Mixed Use Districts. Each of these classes must promote the mixed use character of the districts. These classes of uses are:
 - (1) Permitted Use — allowed by right if no discretionary review is required. Certain permitted uses, indicated by a P*, are also regulated by provisions contained in Chapter 9.07.
 - (2) Accessory Use — allowed by right if accessory to a permitted or conditional use.
 - (3) Temporary Use — allowed on a temporary basis in accordance with the provisions of Chapter 9.39.
 - (4) Conditional Use — allowed subject to the approval of a Conditional Use Permit in accordance with the provisions of Chapter 9.65. Certain conditional uses, indicated by a C*, are also regulated by provisions contained in Chapter 9.07.
 - (5) Prohibited Use — not allowed in the subject mixed use district.
- (b) Certain uses other than permitted uses may not be suitable or desirable in every location within Mixed Use Districts and, therefore require a Temporary Use Permit as described in Chapter 9.39, or discretionary review through the Conditional Use Permit process described in Chapter 9.65.
- (c) The following Table lists the classification of allowable uses in Mixed Use Districts. Any use not expressly allowed is prohibited.

SECTION 9.13.020(c)
MIXED USE DISTRICTS

LAND USES	C/R	R/C-18	P/R
Administrative Office Uses	P	P	P
Adult Day Care Facility	C	X	C
Alcohol Beverage Manufacturer	C*	C*	X
Alcoholic Beverage Outlet	P*/C*	P*/C*	P*/C*
Automotive Sales and Rental Uses	C* (1)	C* (1)	X
Bed and Breakfast Inn		C	
Business Service Uses	P	X	P
Caretaker's Residence	C	C	C
Civic Uses	C	C	P
Clinical Service Uses	P	C	P
Commercial Antenna	C	C	C
Community Care Facility	C	X	C
Congregate Care Facility	C	X	C
Congregate Living Health Facility	C	X	C
Convalescent Facility	C	X	C
Cultural Uses	P	P	P
Day Care Centers	P	X	C
Day Treatment Facility	C	X	C
Drinking Establishments	P*/C*	P*/C*	X
Drive Through Uses	C (5)	X	X
Drug Abuse Recovery or Treatment Facility	C	X	C
Dwelling Unit, Multiple Family	A (2)	P (3)	C (2)
Dwelling Unit, Single Family	P (4)	P (4)	C (2)
Educational Uses	X	X	C
Family Day Care Home, Large	C	C	C
Family Day Care Home, Small	C	C	C
Food Service Uses, Specialty	P	P	C
Group Dwelling/Group Home	C	X	C
Hookah Lounges	X	X	X
Hospital, Acute Psychiatric	C	X	C

LAND USES	C/R	R/C-18	P/R
Hospital, Chemical Dependency Recovery	C	X	C
Hospital, General Acute Care	C	X	X
Hospital, Special	C	X	C
Intermediate Care Facility	C	X	C
Live Entertainment Uses	C*	C*	X
Medical Office Uses	P	P	P
Membership Organizations	P	P	C
Minor Repair Service Uses	P	C	P
Mixed Use Center	P	P	P
Mobilehome Park	P (6)	X	X
Open Space	P	P	P
Park, Public	P	P	P
Personal Service Uses	P	P	P
Photographic, Reproduction and Graphic Service Uses	P	P	P
Professional Office Uses	P	P	P
Public Utility Uses	C	X	X
Recreational Uses	C	C	C
Religious Uses	C*	C*	C*
Research and Development Uses	P	X	P
Residential Care Facilities for the Elderly	C	X	C
Residential Facility	C	X	C
Restaurant	P	P	C
Restaurant, Take-Out	P	P	C
Restaurant, Walkup	P	P	C
Retail Sales Uses	P	P	C
Sanitarium, Health	X	X	C
Sanitarium, Mental	X	X	C
Senior Citizen Housing	C	C	C
Single Room Occupancy	C	C	C
Skilled Nursing Facility	C	X	C
Small Family Home	C	X	C
Social Day Care Facility	C	X	C

LAND USES	C/R	R/C-18	P/R
Social Rehabilitation Facility	C	X	C
Temporary Uses	T*	T*	T*

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
X = Prohibited Use A = Accessory Use

Footnotes for Section 9.13.020(c):

- (1) Accessory repair or service of motor vehicles is prohibited, but the incidental installation of parts or accessories, excluding mechanical components, is permitted.
- (2) Permitted only in a mixed use project and located on the second floor only.
- (3) Permitted only as part of a mixed use project. In compliance with the Mello Act, new construction projects of more than ten residential units which are located within the Coastal Overlay District are required to provide a minimum ten percent (10%) of the units as “affordable units.”
- (4) A single family detached unit may only be permitted to replace an existing nonconforming single family residence. The replacement residence shall be developed in accordance with the development standards of the RSF 7 district. Single family attached units may be constructed as an accessory use in a mixed use project.
- (5) Permitted with a Conditional Use Permit which shall be reviewed and approved by the Planning Commission and precludes restaurant/food uses, and liquor establishments, and permits such uses, but not limited to, dry cleaners, banks and pharmacies. (See Section 9.07.240)
- (6) Only those mobilehome parks in existence as of November 23, 1993 shall be permitted.

(Added by Ord. 93-16, 11/23/93; Ord. 94-02, 1/11/94; Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-11, 8/27/96; Ord. 99-07, 8-10-99; Ord 09-06 7/27/09;)

9.13.030 Development Standards.

The following general development standards Table provides the minimum acceptable standards for development within the mixed use districts necessary to assure quality development and attractive local mixed use areas. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.13.040. Parking standards are provided in Chapter 9.35.

SECTION 9.13.030
MIXED USE DEVELOPMENT STANDARDS

Development Standards (1)	Mixed Use Zoning Districts			
	C/R	R/C-18	P/R	
(a) Minimum Lot Size (2)	5,000 sf	5,000 sf	5,000 sf	
(b) Minimum Lot Width (2)	50 ft	50 ft	50 ft	
(c) Minimum Lot Depth (2)	100 ft	100 ft	100 ft	
(d) Maximum Lot Coverage	40%	40%	35% (3)	
(e) Maximum Residential Density	10 du/net ac	18 du/net ac	10 du/net ac	
(f) Maximum Height	31-35 ft (4) 3 stories (5)	31-35 ft (4) 3 stories (5)	31ft 2 stories	
(g) Standard Floor Area Ratio (nonresidential) (6)	.5:1	N/A	.5:1	
(h) Standard Floor Area Ratio for Mixed Use Projects (6)	.7:1	N/A	.5:1	
(i) Minimum Front Yard Setback				
From Ultimate Public Street R/W Line	5 ft	5 ft	0 ft	
(j) Minimum Side Yard Setback				
Interior Side	0 ft	5 ft	0 ft	
Street Side	5 ft	5 ft	5 ft	
(k) Minimum Rear Yard Setback				
Standard Lot	15 ft	15 ft	15 ft	
Adjacent to Alley or Street	10 ft	10 ft	10 ft	
(l) Minimum Open Space (required for residential portion of development only)	Private:	100 sf per du	100 sf per du	100 sf per du
	Common:	100 sf per du	100 sf per du	100 sf per du
(m) Minimum Landscape Coverage (7)	10%	15% (8)	15% (8)	
(n) Minimum Building Separation	10 ft	10 ft	10 ft	
(o) Minimum lockable, enclosed storage per residential unit provided in garage or carport area	250 cubic feet	250 cubic feet	250 cubic feet	
(p) Separate trash and recycling facilities areas shall be provided for the residential component and the nonresidential component of C/R and P/R developments	Yes	Yes	Yes	

Footnotes for Section 9.13.030:

- (1) See Chapter 9.75 for definitions and illustrations of development standards.
- (2) Development standard applies to proposed subdivisions of land. The standards may be waived by the Planning Commission when necessary to accommodate the parcel configuration for an integrated commercial development subject to approval of a Conditional Use Permit pursuant to Chapter 9.65.
- (3) An increase in lot coverage may be permitted with a Site Development Permit (pursuant to Chapter 9.71) provided that the development demonstrated exceptional design quality and improvements.
- (4) Subject to the criteria in Section 9.05.110(b)(4).
- (5) A maximum of 3 stories may be permitted in accordance with Section 9.05.200.
- (6) A maximum FAR of 1.5:1 may be permitted in accordance with Section 9.05.210.
- (7) All residential units shall be provided with twenty (20) square feet of private landscaped area which shall not be calculated in the minimum landscape coverage.
- (8) A decrease in landscape coverage may be permitted with a Site Development Permit with an approved landscape plan.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord 09-06, 7/27/09;)

9.13.040 Special Development Standards.

- (a) **Maximum Density.** The maximum residential density in the mixed use districts is subject to the following requirements:

When residential dwelling units are combined with office, or retail commercial uses in a single building or on the same parcel, the maximum density shall be ten (10) dwelling units per net acre. The Floor Area Ratio requirements do not apply to the residential portion(s) of the structure.

The maximum residential density in the R/C-18 district shall be eighteen (18) dwelling units per acre. Proposed development does not have any presumptive development right or “entitlement” to the maximum residential density of eighteen (18) dwellings units per acre; the actual development allowed may be less than the maximum density due to localized conditions identified during the development review process. Projects of new construction with more than ten (10) residential units, which are located within the Coastal Overlay District and in the R/C-18 district, are also required to provide a minimum ten percent (10%) of the total housing units as “affordable units” in compliance with the Mello Act. Any affordable housing units provided pursuant to Government Code Section 65590(d) shall be counted toward compliance with affordable housing requirements of this Zoning district and the City’s General Plan. The affordable housing units are not counted in the density calculations of a project.

- (b) **Accessory Uses and Structures.** Accessory buildings or structures are subject to the same height and setback requirements described for primary buildings and structures in Section 9.13.030 except as modified by Section 9.05.080, Maximum Projections into Required Yard Areas.
- (c) **Design Compatibility.** New improvements or uses to the site or structure shall be sensitive to the fact that the new improvement or use will be within a district that may

act as a transition or buffer between intensive non-residential districts and residential neighborhoods. The new structure or use shall be designed so that it does not impact the adjacent uses, yet enhances the site's use as a buffer or transition.

The new improvement or use shall recognize internal compatibility and create mutual enhancement with adjacent uses on site. In order to properly mix residential and non-residential uses on the same site, potential noise, odors, glare, excessive pedestrian traffic, or other significant impacts shall be reduced to a level of insignificance. New improvements shall be subject to the following additional standards:

- (1) **Sound Mitigation.** All residential dwellings shall be designed to be sound attenuated against present and future project noise. New projects, additions to existing projects, or new non-residential uses in existing projects shall, under the discretion of the Director of Community Development, prepare an acoustical analysis report (by a City-certified acoustical engineer) describing the acoustical design features of the structure required to satisfy the exterior and interior noise standards (65db CNEL in outdoor living areas and an interior standard of 45db CNEL). The report shall include satisfactory evidence that the measures specified in the report(s) have been, or will be, incorporated into the design of the project.
- (2) **Lighting Compatibility.** All new projects, additions to existing projects, and new non-residential uses, shall mitigate any light and glare impacts that may be directed towards on-site residential units. This may require, at the discretion of the Director of Community Development, the preparation of a photometric study which addresses the potential lighting impacts upon the residential units, any proposed mitigation measures, and evidence that the measures will be incorporated into the design of the project
- (3) **Design Standards.** The design of the structure and site shall encourage integration of the street pedestrian environment with the non-residential uses through the use of plazas and street furniture, yet use its design to hinder the street pedestrian from direct access to the on-site residential units.

The design of a mixed-use project shall ensure that the residential units are of residential character, creating a home and not simply a place to live. The design of the project shall ensure that privacy between other residential units and between other uses on site shall be maintained.

For projects in the R/C-18 zone, the ground floor area of any building fronting Pacific Coast Highway, for a minimum depth of forty (40) feet, is restricted to visitor serving commercial uses. Projects are also encouraged to coordinate visual and circulation linkages between adjacent developments to create design continuity. Emphasis should be on pedestrian orientation and pedestrian opportunities through widened sidewalks and street facing plazas, courtyards and richly planted landscape focus points oriented to the street. Appropriate landscape buffers should be provided between street and pedestrians and building sites.

- (4) **Parking Standards.** Parking areas for mixed use projects shall incorporate the following provisions:

- (A) Reserved parking stalls and appropriate signage indicating so, shall be required for each residential unit. This provision shall be included within the association bylaws.
 - (B) Each residential unit shall be assigned a minimum 45 cubic foot exterior storage space and bicycle locker capable of securing two bicycles.
 - (C) All parking areas shall be well lighted at all times.
 - (D) The design of the structure will incorporate safe passages from the parking areas to the units. Enclosed corridors for pedestrian access between parking areas and residential units, in excess of ten (10) feet long, shall be prohibited.
 - (E) Surface parking shall not be located to front Pacific Coast Highway.
- (5) Hours of Operation/Performance. In mixed use projects, non-residential uses shall be restricted from operation between the hours of 10:00 p.m. to 7:00 a.m.
- (6) Joint Owners' Association. A joint resident/commercial/office owner's association shall be formed in all mixed use projects to ensure the well-being of each tenant on site. The association shall be formed of equal voting rights according to type of use (i.e. residential, commercial, office). The association's bylaws shall at a minimum shall include the following: determination of the maintenance and landscaping responsibilities, trash facility responsibilities, parking facility maintenance responsibility, assignment of parking spaces per each use, relationship between uses regarding association representation, voting procedures, and ways that problems are solved between the different on-site uses. The association bylaws shall be subject to review and approval by the Director of Community Development and City Attorney.
- (7) Signage Standards. All site signage shall minimize potential impacts of light, glare and noise, upon the on-site residential units. Signage for all uses shall be compatible with each other, and appropriately integrated into the structure/site design. All proposed signage shall conform to Chapter 9.37, Sign Regulations.
- (d) Sign Programs. Multi-tenant mixed use developments shall be required to obtain approval for a project sign program pursuant to Chapter 9.37.
- (e) "Art-in-Public-Places" Program. All new development projects located in the zoning districts described in this Chapter are subject to the provisions of the "Art-in-Public-Places" Program as described in Section 9.05.240.
- (f) In addition to the Special Development Standards located above, the following shall also apply to the site located at 34202 Del Obispo Street:
- (1) There shall be at least a twenty-five (25) foot setback from the property line adjacent to the San Juan Creek Bike Trail. Only development necessary to provide landscape features, pedestrian and bicycle uses and for passive park purposes are allowed within this setback area.
 - (2) Public pedestrian and bicycle access to the San Juan Creek Bike Trail shall be provided on-site.

(3) All streets and pedestrian and bicycle accessways shall be ungated and available to the general public for parking, vehicular, pedestrian, and bicycle access. All public entry controls (e.g., gates, gate/guard houses, guards, signage, etc.) and restrictions on use by the general public (e.g., preferential parking districts, resident-only parking periods/permits, etc.) associated with any streets, on-street parking areas, or pedestrian and bicycle accessways shall be prohibited.

(4) An adequate buffer shall be established during the development review process between the South Orange County Wastewater Authority (SOCWA) parcel and development located on the subject parcel. The buffer must be located on the subject parcel and not the SOCWA parcel. Where necessary to accommodate an adequate buffer, the amount/density of residential development on-site shall be reduced and/or eliminated, as opposed to reducing the amount/density of allowed commercial/visitor serving uses on-site.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-13, 8/23/94; Ord. 09-06, 7/27/09)

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Chapter 9.15

PROFESSIONAL/ADMINISTRATIVE DISTRICT

Sections:

9.15.010 Intent and Purpose.

9.15.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.

9.15.030 Development Standards.

9.15.040 Special Development Standards.

9.15.010 Intent and Purpose.

The Professional/Administrative (P/A) district permits a range of office uses in areas which compliment adjacent residential, commercial, or industrial business districts. The P/A district is designed to be compatible with and buffer residential neighborhoods from commercial, industrial, business and other intensive land uses.

- (a) Professional/Administrative Office District. The Professional/Administrative (P/A) district provides for concentrations of single tenant or multi-tenant offices and supporting uses throughout the community. The district provides office services and employment including legal, medical services, financial institutions, corporate and governmental offices, and community facilities. Small convenience or service commercial districts are supporting uses that are included to meet the needs of residents, visitors, and business employees working within the district.

(Added by Ord. 93-16, 11/23/93)

9.15.20 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.

- (a) Several classes of uses are allowed in the Professional/Administrative district Each of these classes must promote the professional/administrative character of the district. These classes of uses are:
 - (1) Permitted Use — allowed by right if no discretionary review is required.
 - (2) Accessory Use — allowed by right if accessory to a permitted or conditional use.
 - (3) Temporary Use — allowed on a temporary basis in accordance with the provisions of Chapter 9.39.
 - (4) Conditional Use — allowed subject to the approval of a Conditional Use Permit in accordance with the provisions of Chapter 9.65.
 - (5) Prohibited Use — not allowed in the Professional/Administrative District.
- (b) The following Table lists the classification of allowable uses in Professional/Administrative District Any use not expressly allowed is prohibited.

SECTION 9.15.020(b)
PROFESSIONAL/ADMINISTRATIVE DISTRICT

LAND USES	P/A
Administrative Office Uses	P
Business Service Uses	P
Civic Uses	P
Clinical Service Uses	P
Commercial Antennas	C
Construction and Maintenance Service Uses	P
Cultural Uses	P
Educational Uses	P
Hospital, Acute Psychiatric	C
Hospital, Chemical Dependency Recovery	C
Hospital, General Acute Care	C
Hospital, Special	C
Intermediate Care Facility	C
Medical Office Uses	P
Open Space	P
Personal Service Uses	P
Photographic, Reproduction and Graphic Service Uses	P
Professional Office Uses	P
Recreational Uses	C
Research and Development Uses	P
Residential Care Facility for the Elderly	C
Sanitarium, Health	C
Sanitarium, Mental	C
Skilled Nursing Facility	C
Small Family Home	C
Social Rehabilitation Facility	C
Temporary Uses	T*

LEGEND:

P = Permitted Use C = Conditional Use

X = Prohibited Use T* = Temporary Use subject to special use standards (see Chapter 9.39)

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-02, 1/11/94; Ord. 94-09, 5/24/94)

9.15.30 Development Standards.

The following general development standards Table provides the minimum acceptable standards for development within the Professional/Administrative districts necessary to assure quality development and attractive local Professional/Administrative areas. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.15.040. Parking standards are provided in Chapter 9.35.

**SECTION 9.15.030
PROFESSIONAL/ADMINISTRATIVE DEVELOPMENT STANDARDS**

Development Standards (1)	Professional/ Administrative Zoning District
	P/A
(a) Minimum Lot Size (2)	10,000 sf
(b) Minimum Lot Width (2)	60 ft
(c) Minimum Lot Depth (2)	100 ft
(d) Maximum Lot Coverage	35%
(e) Maximum Height	31 - 35 ft (3)/3 stories (4)
(f) Standard Floor Area Ratio (5)	.7:1
(g) Minimum Front Yard Setback	
From Ultimate Street R/W Line	10 ft
(h) Minimum Side Yard Setback	
Interior Side	10 ft
Street Side	15 ft
(i) Minimum Rear Yard Setback	
Standard Lot	20 ft
Adjacent to Alley or Street	15 ft
(j) Minimum Landscape Coverage	15%
(k) Minimum Building Separation	10 ft

Footnotes for Section 9.15.030:

- (1) See Chapter 9.75 for definitions and illustrations of development standards and uses.
- (2) Development standard applies to proposed subdivisions of land. The standards may be waived by the Planning Commission when necessary to accommodate the parcel configuration for an integrated commercial development
- (3) Subject to the measurement and design criteria in Section 9.05.110(b)(4)
- (4) A maximum of three stories may only be permitted in accordance with Section 9.05.200.
- (5) A maximum FAR of 1.1:1 may be permitted in accordance with Section 9.05.210.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.15.40 Special Development Standards.

- (a) Accessory Uses and Structures. Accessory buildings and structures are subject to the same height and setback requirements described for primary buildings and structures in Section 9.15.030 except as modified by Section 9.05.080, Maximum Projections into Required Yard Areas.
- (b) Sign Programs. Multi-tenant professional/administrative developments shall be required to obtain approval for a project sign program pursuant to Chapter 9.37.
- (c) “Art-in-Public-Places” Program. All new development projects located in the zoning districts described in this Chapter are subject to the provisions of the “Art-in-Public-Places” Program as described in Section 9.05.240.

(Added by Ord. 93-16,11/23/93; amended by Ord. 94-13, 8/23/94)

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Chapter 9.17

INDUSTRIAL/BUSINESS DISTRICT

Sections:

- 9.17.010 Intent and Purpose.**
- 9.17.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.**
- 9.17.030 Development Standards.**
- 9.17.040 Special Development Standards.**

9.17.010 Intent and Purpose.

The Industrial/Business district permits a range of light industrial, business, and marine oriented uses. The district also allows the potential for affordable housing as a conditional use.

- (a) Industrial/Business District The Industrial/Business (I/B) district promotes the development of attractive, well-planned light industrial and business uses to serve the needs of the community, the City's coastal resources and a stable and vital local economy. Uses include, but are not limited to, marine-related businesses, auto supplies and services, home furnishings and appliances, lumber yards, home improvement centers, wholesale businesses, light manufacturing, research and development, and support activities for the City's commercial and office districts. The district provides for the development of an efficient and attractive industrial/business area that includes adequate circulation and landscaping, attractive buildings, and coordinated signage.

(Added by Ord. 93-16, 11/23/93)

9.17.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.

- (a) Several classes of uses are allowed in Industrial/Business district Each of these classes must promote the industrial/business character of the district. These classes of uses are:
 - (1) Permitted Use — allowed by right if no discretionary review is required.
 - (2) Accessory Use — allowed by right if accessory to a permitted or conditional use.
 - (3) Temporary Use — allowed on a temporary basis in accordance with the provisions of Chapter 9.39.
 - (4) Conditional Use — allowed subject to the approval of a Conditional Use Permit in accordance with the provisions of Chapter 9.65.
 - (5) Prohibited Use — not allowed in the Industrial/Business District
- (b) The following Table lists the classification of allowable uses in Industrial/Business district. Any use not expressly allowed is prohibited.

SECTION 9.17.020(b)
INDUSTRIAL/BUSINESS DISTRICT

LAND USES	I/B
Administrative Office Uses	P
Adult Businesses	P*
Alcohol Beverage Manufacturer	P*
Automotive Sales and Rental Uses	C*
Building Materials Sales and Service Uses	P
Business Service Uses	P
Caretaker's Residence	C
Commercial Antenna	C
Communal Housing	C
Construction and Maintenance Service Uses	P
Drive-Through Uses	C
Educational Uses	P
Hazardous Waste Facility	C*
Heavy Industrial Uses	C
Kennel	P
Light Industrial Uses	P
Major Automotive Uses	P
Medium Industrial Uses	P
Minor Automotive Uses	P
Minor Repair Service Uses	P
Open Space	P
Photographic, Reproduction and Graphic Service Uses	P
Public Utility Uses	P

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use

SECTION 9-17.020(b)
INDUSTRIAL/BUSINESS DISTRICT
(continued)

LAND USES	I/B
Recreational Uses	C
Recycling Facilities	C*
Research and Development Uses	P
Restaurant	P
Restaurant, Drive-Through	C
Sanitary Sewer Facility	P
Single Room Occupancy	C
Solid Waste Disposal Facility	C*
Storage Yard Uses	C
Temporary Uses	T*
Transportation Uses	P
Warehouse and Storage Uses	P

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
X = Prohibited Use A = Accessory Use

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-02, 1/11/94; Ord. 94-09, 5/24/94; Ord. 96-10, 8/13/96;)

9.17.030 Development Standards.

The following general development standards Table provides the minimum acceptable standards for development within the Industrial/Business Districts necessary to assure quality development and attractive local Industrial/Business areas. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.17.040. Parking standards are provided in Chapter 9.35.

**SECTION 9.17.030
INDUSTRIAL/BUSINESS DEVELOPMENT STANDARDS**

Development Standards (1)	I/B
(a) Minimum Lot Size (2)	20,000 sf
(b) Minimum Lot Width (2)	100 ft
(c) Minimum Lot Depth (2)	150 ft
(d) Maximum Lot Coverage	50%
(e) Maximum Height	31-35 ft (3) 3 stories (4)
(f) Standard Floor Area Ratio (5)	.5:1
(g) Minimum Front Yard Setback	
From Ultimate Public Street R/W Line	20 ft
(h) Minimum Side Yard Setback	
Interior Side	10 ft
Street Side	20 ft
(i) Minimum Rear Yard Setback	
Standard Lot	25 ft
Adjacent to Alley or Street	20 ft
(j) Minimum Landscape Coverage	20%
(k) Minimum Building Separation	10 ft

Footnotes for Section 9.17.030:

- (1) See Chapter 9.75 for definitions and illustrations of development standards.
- (2) Development standard applies to proposed subdivisions of land. The standards may be waived by the Planning Commission when necessary to accommodate the parcel configuration for an integrated commercial development
- (3) Subject to the measurement and design criteria in Section 9.05.110(b)(4).
- (4) A maximum of 3 stories may only be permitted in accordance with Section 9.05.200.
- (5) A Maximum FAR of .75:1 may be permitted in accordance with Section 9.05.210.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.17.040 Special Development Standards.

- (a) Accessory Uses and Structures. Accessory buildings and structures are subject to the same height and setback requirements described for primary buildings and structures in Section 9.13.030 except as modified by Section 9.05.080, Maximum Projections into Required Yard Areas.
- (b) Sign Programs. Multi-tenant Industrial/Business developments shall be required to obtain approval for a project sign program pursuant to Chapter 9.37.
- (c) “Art-in-Public-Places” Program. All new development projects located in the zoning districts described in this Chapter are subject to the provisions of the “Art-in-Public-Places” Program as described in Section 9.05.240.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-13, 8/23/94)

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Chapter 9.19

COMMUNITY FACILITIES DISTRICT

Sections:

- 9.19.010 Intent and Purpose.**
- 9.19.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.**
- 9.19.030 Development Standards.**
- 9.19.040 Special Development Standards.**

9.19.010 Intent and Purpose.

The Community Facilities District provides for public, quasi-public, and private community uses to serve the needs of residents, visitors, property owners, employers and employees of businesses in the City. The District includes both public and private community uses such as civic buildings, schools, churches, hospitals, cultural, recreational facilities and sanitary sewer facilities, and other public facilities. Development within this District should serve to create public places and city landmarks, which contribute to City design. The District also allows multifamily housing at a density of thirty (30) units per acre to permit high density residential projects in compliance with the adopted Housing Element. (Added by Ord. 93-16, 11/23/93)

9.19.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.

- (a) Several classes of uses are allowed in Community Facilities district. Each of these classes must promote the community character of the district. These classes of uses are:
 - (1) Permitted Use — allowed by right if no discretionary review is required.
 - (2) Accessory Use — allowed by right if accessory to a permitted or conditional use.
 - (3) Temporary Use — allowed on a temporary basis in accordance with the provisions of Chapter 9.39.
 - (4) Conditional Use — allowed subject to the approval of a Conditional Use Permit in accordance with the provisions of Chapter 9.65.
 - (5) Prohibited Use — not allowed in the Community Facilities District.
- (b) The following Table lists the classification of allowable uses in Community Facilities district Any use not expressly allowed is prohibited.

SECTION 9.19.020(b)
COMMUNITY FACILITIES DISTRICT

LAND USES	CF
Adult Day Care Facility	C
Adult Day Health Care	C
Animal Shelter	C
Athletic Field	P
Cemetery	C
Civic Uses	P
Commercial Antennas	C
Community Center	P
Congregate Care Facility	C
Congregate Living Health Facility	C
Convalescent Facility	C
Cultural Uses	P
Day Care Centers	P
Day Treatment Facility	C
Drug Abuse Recovery or Treatment Facility	C
Dwelling, Multiple Family	P
Educational Uses	P
Emergency Shelters (Maximum 20 beds)	P
Family Day Care Home, Large	C
Family Day Care Home, Small	C
Group Home	C
Hospital, Acute Psychiatric	C
Hospital, Chemical Dependency Recovery	C
Hospital, General Acute Care	C

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use

SECTION 9.19.020(b)
COMMUNITY FACILITIES DISTRICT
(continued)

LAND USES	CF
Hospital, Special	C
Institutional Uses	C
Intermediate Care Facility	C
Open Space	P
Park, Public	P
Public Land Uses	C
Public Utility Uses	C
Recreational Uses	C
Recycling Facilities	C*
Religious Uses	C
Residential Care Facility for the Elderly	C
Residential Facility	C
Sanitarium, Health	C
Sanitarium, Mental	C
Sanitary Sewer Facilities	P
Skilled Nursing Facility	C
Small Family Home	C
Social Day Care Facility	C
Social Rehabilitation Facility	C
Solid Waste Disposal Facility	C*
Temporary Uses	T*
Transportation Uses	C

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
X = Prohibited Use A = Accessory Use

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94;)

9.19.030 Development Standards.

The following general development standards Table provides the minimum acceptable standards for development within the Community Facilities Districts necessary to assure quality development and attractive local community facilities. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.19.040. Parking standards are provided in Chapter 9.35.

**SECTION 9.19.030
COMMUNITY FACILITIES DEVELOPMENT STANDARDS**

Development Standards (1)	CF	For Residential Projects only
(a) Minimum Lot Size (2)	5,000 sf	4,800 sf
(b) Minimum Lot Width (2)	50 ft	
Standard Lot:		45 ft
Cul-De-Sac Lot (at front setback line):	N/A	25 ft
Flag Lot (for access extension):	N/A	25 ft
(c) Minimum Lot Depth (2)	100 ft	90 ft
(d) Maximum Lot Coverage	35%	60%
(e) Maximum Height	31-35 ft (3) 3 stories (4)	31-35 ft (3) 3 stories (4)
(f) Standard Floor Area Ratio (5)	.4:1	N/A
(g) Minimum Front Yard Setback (8)		
From Ultimate Public Street R/W Line	20 ft	20 ft
Flag Lot (from connection with access extension):	N/A	15 ft
(h) Minimum Side Yard Setback (8)		
Interior Side	10 ft	10 ft
Street Side	15 ft	10 ft
Flag Lot: (6)	N/A	10 ft
(i) Minimum Rear Yard Setback (8)		
Standard Lot	20 ft	20 ft
Adjacent to Alley or Street (7)	15 ft	15 ft
(j) Minimum Landscape Coverage	20%	20%
(k) Minimum Open Space		
Private	N/A	200 sf/du
Common	N/A	25% ac
(l) Minimum Building Separation	10 ft	10 ft

Footnotes for Section 9.19.030:

- (1) See Chapter 9.75 for definitions and illustrations of development standards.
- (2) Development standard applies to proposed subdivisions of land. These standards do not apply to existing lots where no subdivision is proposed nor to proposed condominiums or other common lot subdivisions. The standards may be waived by the Planning Commission when necessary to accommodate the parcel configuration for an integrated commercial development.
- (3) Subject to the design and measurement criteria in Section 9.05.110(b)(4) and Section 9.05.110(a) for residential projects.
- (4) A maximum of 3 stories may only be permitted in accordance with Section 9.05.200.
- (5) A maximum of 1:1 may be permitted in accordance with Section 9.05.210.
- (6) If the side yard of a flag lot is adjacent to the rear yard of a residentially zoned lot, that side yard setback shall be a minimum of ten (10) feet.
- (7) Subject to standards in Section 9.35.040(e) for garage setbacks.
- (8) For existing lots less than fifty (50) feet wide and/or less than one hundred (100) feet deep, see Section 9.05.190 for reduced front, side, and rear building setbacks for residential projects.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94;)

9.19.040 Special Development Standards.

- (a) Accessory Uses and Structures.
 - (1) Height and Setbacks. Accessory buildings and structures are subject to the same height and setback requirements described for primary buildings and structures in Section 9.19.030, except as modified by Section 9.05.080, Maximum Projections into Required Yard Areas.
 - (2) Accessory uses that do not add gross floor area such as clock towers, flag poles, and monuments (and do not contain signage) may be allowed to exceed the maximum building height by up to fifteen (15) feet through approval of a Conditional Use Permit. Allowance to exceed the building height shall be based on findings of the decision-making body that such accessory use promotes a positive community identity that contributes to City design.
- (b) Emergency Shelters. The purpose of these standards is to ensure the development of emergency shelters do not adversely impact adjacent parcels or the surrounding neighborhood, and shall be developed in a manner which protects the health, safety, and general welfare of the nearby residents and businesses, while providing for the housing needs of homeless population of the community. The following performance standards shall apply to emergency shelters.
 - (1) Emergency shelters which are setup as an accessory use to churches are limited to a maximum of 10 beds/persons facility.
 - (2) Emergency shelters in the Community Facilities Zone are limited to a maximum of 20 beds/persons facility.
 - (3) Emergency shelters shall provide on-site waiting and intake areas screened from public view to the satisfaction of the Director of Community Development. The

intake is allowed between the hours of 5 p.m. to 8 p.m. or at dusk, whichever is sooner, and the discharge hours shall be from 8 a.m. to 10 a.m.

(4) Emergency shelters shall provide on site management with security during operational hours only.

(5) Emergency shelters shall be well lit during operational hours with adequate external lighting for security purposes. The lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of intensity compatible with the neighborhood to the satisfaction of the Director of Community Development.

(6) Emergency shelters shall provide laundry facilities or services adequate for the number of residents. This requirement may be waived for emergency shelters which are set up as accessory use to churches by the Director of Community Development.

(7) Emergency shelters may provide one or more of the following specific common facilities for the exclusive use of the residents and staff:

(a) Central cooking and dining room(s).

(b) Recreation room.

(c) Counseling Center.

(8) For the purposes of noise abatement in residential districts, organized outdoor activities may only be conducted between the hours of 8 a.m. and 10 p.m.

(9) Emergency shelters shall provide a trash enclosure that is completely enclosed with masonry walls not less than five feet high with a solid gated opening to accommodate a standard sized trash bin, or other enclosures as approved by the Director of Community Development. The trash enclosure shall be accessible to trash collection vehicles.

(10) The provider/management of an emergency shelter shall have a written management plan including, as applicable, provisions for staff training, neighborhood outreach, security, screening of residents to insure compatibility with services provided at the facility, and for training, counseling, and treatment programs for residents.

(11) The provider shall not discriminate in any services provided and shall not require participation by residents in any religious or philosophical ritual, service, meeting or rite as a condition of eligibility.

(12) Emergency shelters shall abide by all applicable development standards of the Community Facilities District and with Parking Standards as set forth in Chapter 9.35 of this Code.

(13) No more than one Emergency Shelter shall be permitted within a radius of 300 feet from another such shelter.

- (c) “Art-in-Public-Places” Program. All new development projects located in the zoning districts described in this Chapter are subject to the provisions of the “Art-in-Public-Places” Program as described in Section 9.05.240.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-13, 8/23/94)

Chapter 9.21

RECREATION, OPEN SPACE AND CONSERVATION DISTRICTS

Sections:

- 9.21.010 Intent and Purpose.**
- 9.21.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.**
- 9.21.030 Development Standards.**
- 9.21.040 Special Development Standards.**

9.21.010 Intent and Purpose.

The Recreation, Open Space, and Conservation Districts provide a range of public and private uses to meet the recreation and open space uses needs of City residents, visitors, and employees; and to conserve the City's significant natural resources.

- (a) Recreation District. The Recreation (REC) district permits a wide range of higher intensity public and private active recreational uses. These uses are primarily outdoor and activity orientated. Recreation district uses include community facilities, outdoor athletic facilities, golf courses/health clubs, public parks and similar uses.
- (b) Open Space District. The Open Space (OS) district provides for a more limited range of public and private open space areas for low intensity, passive recreational purposes and related uses. The primary use within the Open Space district is passive recreation, such as trails, picnic areas, and other non-intensive or structured recreational activities.
- (c) Conservation District. The Conservation (CONS) district is intended for those lands that should remain in a natural state. Some minor intrusions from passive recreational uses may be appropriate if the primary goal of conservation and protection is achieved and there is a demonstrated need for such recreational uses. For areas within the coastal zone designated as the CONS district, "passive recreational uses" shall be limited to hiking, viewing of scenic areas, limited picnicking, and nature study.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.21.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.

- (a) Several classes of uses are allowed in Recreation, Open Space, and Conservation Districts. Each of these classes must promote the recreational, open space, or conservation character of the districts. These classes of uses are:
 - (1) Permitted Use — allowed by right if no discretionary review is required.
 - (2) Accessory Use — allowed by right if accessory to a permitted or conditional use.
 - (3) Temporary Use — allowed on a temporary basis in accordance with the provisions of Chapter 9.39.
 - (4) Conditional Use — allowed subject to the approval of a Conditional Use Permit in accordance with the provisions of Chapter 9.65.

- (5) Prohibited Use — not allowed in the Recreation, Open Space, or Conservation District
- (b) The following Table lists the classification of allowable uses in Recreation, Open Space, and Conservation Districts. Any use not expressly allowed is prohibited.

SECTION 9.21.020(b)
RECREATION/OPEN SPACE/CONSERVATION DISTRICTS

LAND USES	REC	OS	CONS
Agriculture		C	
Animal Shelter	C	C	X
Athletic Reid	P	P	X
Camp, Public	C	C	X
Caretaker's Residence	C	C	X
Cemetery	C	C	X
Commercial Antennas	C	C	X
Commercial Recreational Uses	C	C	X
Community Center	P	P	X
Cultural Uses	P	P	X
Equestrian Facility	P	P	X
Food Services Uses, Specialty	C	X	X
Open Space	P	P	C
Open Space Uses	P	P	P
Park, Public	P	P	C
Public Land Uses	P	P	C
Public Utility Uses	C	C	C
Recreational Uses	P	C	X
Recreational Vehicle Park	C	X	X
Restaurant, Walkup	C	X	X
Stable, Private	P	C	X
Stable, Public	P	C	X
Temporary Uses	T*	T*	X
Trails, Riding and Hiking	P	P	P

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
X = Prohibited Use A = Accessory Use

(Added by Ord. 93-16, 11/23/93; amended by Ord. 96-10, 8/13/96; Ord. 97-05, 9/9/97)

9.21.030 Development Standards.

The following general development standards Table provides the minimum acceptable standards for development within the Recreation, Open Space, and Conservation Districts necessary to assure quality development and attractive local Recreation, Open Space, and Conservation areas. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.21.040. Parking standards are provided in Chapter 9.35.

**SECTION 9.21.030
RECREATION/OPEN SPACE/CONSERVATION DEVELOPMENT STANDARDS**

Development Standards (1)	Recreation/Open Space/ Conservation Districts		
	REC	OS	CONS
(a) Minimum Lot Size (2)	10,000 sf	N/A	N/A
(b) Maximum Building Coverage	20%	10%	N/A
(c) Maximum Height (3)	31 - 35 ft (4) 2 stories	18 ft/1 story	N/A
(d) Standard Floor Area Ratio (5)	.1:1	.1:1	N/A
(e) Minimum Setbacks			
From Ultimate Street R/W Line	50 ft	50 ft	N/A
From Adjoining Property Lines	25 ft	25 ft	N/A
(f) Minimum Open Space and Landscaping	80%	90%	100%

Footnotes for Section 9.21.030:

- (1) See Chapter 9.75 for definitions and illustrations of development standards.
- (2) Development standard applies to proposed subdivisions of land. The standards may be waived by the Planning Commission when necessary to accommodate the parcel configuration for an integrated community development.
- (3) The maximum height limit shall not apply to lighting standards providing illumination for recreational fields or parking facilities.
- (4) Subject to the design and measurement criteria in Section 9.05.110(b)(4).
- (5) A maximum FAR of .2:1 may be permitted in accordance with Section 9.05.210.

N/A — Development standard not applicable to this zoning district

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.21.040 Special Development Standards.

- (a) Accessory Uses and Structures. Accessory buildings and structures are subject to the same height and setback requirements described for primary buildings and structures in Section 9.21.030, except as modified by Section 9.05.080, Maximum Projections into Required Yard Areas.
- (b) Design Compatibility. Every new building or structure addition to an existing building or structure and site improvement shall result in a unified site design and architectural style that creates compatibility and an enhanced relationship.

The primary design objective in the recreation, open space, and conservation districts is to convey and achieve a sense and presence of public open space. Design within the District should strive to achieve visual, and where appropriate, physical public access. Where appropriate, the site should be lushly landscaped. Signage within the District should be clear but subdued and clearly indicate the use of a particular site.
- (c) “Art-in-Public-Places” Program. All new development projects located in the zoning districts described in this Chapter are subject to the provisions of the “Art-in-Public-Places” Program as described in Section 9.05.240.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-13, 8/23/94)

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Chapter 9.23

TRANSPORTATION CORRIDOR DISTRICT

Sections:

- 9.23.010 Intent and Purpose.**
- 9.23.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.**
- 9.23.030 Development Standards.**
- 9.23.040 Special Development Standards.**

9.23.010 Intent and Purpose.

The Transportation Corridor (TC) District includes land within the public rights-of-way for streets, highways, rail lines and other transportation corridors and facilities that are part of the General Plan Circulation Element Railroad rights-of-way shall be deemed to be in the TC district and shall be permitted to be used solely for the purpose of accommodating tracks, signals, other operative devices, and the movement of rolling stock. The District also includes open space areas adjacent to or included in the rights-of-way, public or private parking areas, and transit facilities. The District designates these major components of the City's circulation system and ensures these components are an efficient and aesthetic part of the community. (Added by Ord. 93-16, 11/23/93)

9.23.020 Permitted Uses, Accessory Uses, Temporary Uses, and Conditional Uses.

- (a) Several classes of uses are allowed in the Transportation Corridor district. Each of these classes must promote the transportation character of the district. These classes of uses are:
 - (1) Permitted Use — allowed by right if no discretionary review is required.
 - (2) Accessory Use — allowed by right if accessory to a permitted or conditional use.
 - (3) Temporary Use — allowed on a temporary basis in accordance with the provisions of Chapter 9.39.
 - (4) Conditional Use — allowed subject to the approval of a Conditional Use Permit in accordance with the provisions of Chapter 9.65.
 - (5) Prohibited Use — not allowed in the Transportation Corridor district.
- (b) The following Table lists the classification of allowable uses in Transportation Corridor district. Any use not expressly allowed is prohibited.

SECTION 9.23.020(b)
TRANSPORTATION CORRIDOR DISTRICT

LAND USES	TC
Roads, Streets and Highways	P
Transportation Uses	C

LEGEND:

P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use

(Added by Ord. 93-16, 11/23/93)

9.23.030 Development Standards.

The following general development standards Table provides the minimum acceptable standards for development within the Transportation Corridor District necessary to assure quality development. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.23.040. Parking standards are provided in Chapter 9.35.

SECTION 9.23.030
TRANSPORTATION CORRIDOR DEVELOPMENT STANDARDS

Development Standards (1)	TC
(a) Minimum Lot Size (2)	5,000 sf
(b) Maximum Lot Coverage	10%
(c) Maximum Height (3)	31 - 35 ft (4) 2 stories
(d) Standard Floor Area Ratio (5)	.1:1
(e) Minimum Setbacks	
From Ultimate Street R/W Line	10 ft
From Adjoining Property Lines	10 ft
(f) Minimum Open Space and Landscaping	15%

Footnotes for Section 9.23.030:

- (1) See Chapter 9.75 for definitions and illustrations of development standards.
- (2) Development standard applies to proposed subdivisions of land. The standards may be waived by the Planning Commission when necessary to accommodate the parcel configuration for an integrated commercial development.

Footnotes for Section 9.23.030 (continued):

- (3) Maximum height may be exceeded as necessary for utility poles, traffic signal towers, and other accessory structures that are related to the principal uses in the district.
- (4) Subject to the design and measurement criteria in Section 9.05.110(b)(4).
- (5) A maximum FAR of .2:1 may be permitted in accordance with Section 9.05.210.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.23.40 Special Development Standards.

The Special Development Standards contained in this section apply to lots outside the travel way of transportation corridors.

- (a) Accessory Uses and Structures. Accessory buildings and structures are subject to the same height and setback requirements described for primary buildings and structures in Section 9.23.030 except as modified by Section 9.05.080, Maximum Projections into Required Yard Areas.

(Added by Ord. 93-16, 11/23/93)

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Chapter 9.25

DANA POINT HARBOR ~~PLANNED COMMUNITY~~ DISTRICT

Sections:

9.25.010 Dana Point Harbor Revitalization Plan and District Regulations

9.25.010 Dana Point Harbor Revitalization Plan and District Regulations.

The land use and development regulations for this area are contained in the Dana Point Harbor Revitalization Plan and District Regulations included as Appendix C of the Dana Point Zoning Code.

(Amended by Ord. 06-08, 9/27/06; Ord. 10-02, 2/22/10; Ord. 11-03, 7/25/11)

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Chapter 9.27

COASTAL OVERLAY DISTRICT

Sections:

- 9.27.010 Intent and Purpose.**
- 9.27.020 Permitted, Accessory and Conditional Uses.**
- 9.27.030 Development Standards.**

9.27.010 Intent and Purpose.

The Coastal Overlay (CO) District preserves and protects the coastal resources within Dana Point, and implements the California Coastal Act (Division 20 of the Public Resources Code) and the General Plan coastal policies which constitute the Land Use Plan portion of the certified Local Coastal Program for the City of Dana Point. The CO District is an overlay district which shall be combined with any other zoning district that lies within the Coastal Zone of the City of Dana Point. A Coastal Development Permit subject to the standards of the specific zoning designation is required for all “development”, as defined in Section 9.75.040. Procedures and regulations in Chapter 9.61 “Administration of Zoning”, Chapter 9.69 “Coastal Development Permit” and this Chapter constitute additional minimum standards for all development within the Coastal Zone. In the Coastal Overlay District, the standards in this Chapter shall take precedence over other standards in the Zoning Code. The standards in this Chapter shall be applied in a manner which is most protective of coastal resources and public access. (Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.27.020 Permitted, Accessory and Conditional Uses.

Permitted, accessory, temporary and conditional uses within the Coastal Overlay district are the same uses as those allowed within the underlying base zoning districts, with the exceptions listed below. Refer to Chapter 9.69 for Coastal Development Permit requirements.

- (a) Beach area development in areas other than the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD 18) Districts, is limited to public lifeguard towers, public restrooms, public piers, shoreline protective works, public access structures, campgrounds, beach concessions, and recreational equipment;
- (b) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:
 - (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
 - (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
 - (3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411 of the California Coastal Act as amended, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating

facilities, including berthing spaces, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

- (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
- (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
- (6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive habitat areas.
- (7) Restoration purposes.
- (8) Nature study, aquaculture, or similar resource dependent activities.
- (c) Coastal bluffs are limited to public coastal access or public park structures, bluff repair, and erosion control projects and structures that may include retaining and non-retaining walls, fences, and landscaping.
- (d) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (e) Any use or development in conflict with the General Plan coastal policies shall not be allowed.
- (f) Public Recreation. Salt Creek County Beach Park shall be a public park which is primarily geared towards passive recreational use. Limited active recreational use or educational use may be permitted provided the use is temporary, as defined in Coastal Commission guidelines for temporary events;

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.27.030 Development Standards.

In addition to the development standards for the base zoning districts described in Chapters 9:09-9.25, the following standards apply to all applicable projects within the CO District

- (a) Coastal Access.
 - (1) The purpose of this section is to achieve the basic state goals of maximizing public access to the coast and public recreational opportunities, as set forth in the California Coastal Act; to implement the public access and recreation policies of Chapter 3 of the Coastal Act; and to implement the certified land use plan of the Local Coastal Program which is required by Section 30500(a) of the Coastal Act to include a specific public access component In achieving these purposes, the provisions of this subsection shall be given the most liberal construction possible so that public access to the navigable waters shall always be provided and protected consistent with the goals, objectives and policies of the California Coastal Act and Article X, Section 4, of the California Constitution.
 - (2) Definitions.
 - (A) New Development. For purposes of implementing the public access requirements of Public Resources Code Section 30212, the City of Dana

Point certified land use plan, including Land Use Element Policy 3.12, and of this ordinance, “new development” includes “development” as defined in Section 9.75.040 of this zoning code except the following:

1. Structures destroyed by natural disaster. The replacement of any structure, other than a public works facility, destroyed by a disaster, provided that the replacement structure conforms to applicable existing zoning requirements, is for the same use as the destroyed structure, does not exceed either the floor area, height, or bulk of the destroyed structure by more than 10%, and is sited in the same location on the affected property as the destroyed structure. As used in this section, “disaster” means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owners.
 2. Demolition and Reconstruction. The demolition and reconstruction of a single-family residence; provided that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.
 3. Improvements. Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height or bulk of the structure by more than 10 percent, which do not block or impede access, and which do not result in a seaward encroachment by the structure.
 4. Repair and Maintenance. Repair or maintenance activity which, pursuant to Public Resources Code Section 30610, requires no permit unless the activity will have an adverse impact on lateral public access along the beach.
 5. Reconstruction and Repair. The reconstruction or repair of any seawall; provided that the reconstructed or repaired seawall is not seaward of the location of the former structure. As used in this section, “reconstruction or repair” of a seawall shall not include replacement by a different type of structure or other modification in design or construction which results in different or greater impacts to shoreline resources than those of the existing structure.
- (B) The five (5) types of coastal public access (lateral, bluff top, vertical, trail, and recreational) are defined in Section 9.75.030 of this Zoning Code.
- (C) Character of Accessway Use.
1. Pass and repass. Refers to the right of the public to walk and run along an accessway. Because this use limitation can substantially restrict the public’s ability to enjoy adjacent publicly owned tidelands by restricting the potential use of lateral accessways, it will be applied only in connection with vertical access or other types of access where the findings required by Sections 9.27.030(a)(5) and 9.27.030(a)(5)(D) establish that the limitation is necessary to protect

natural habitat values, topographic features (such as eroding bluffs), or privacy of the landowner.

2. Passive recreational use. As used in this section, “passive recreational use” refers to the right of the public to conduct activities normally associated with beach use, such as walking, swimming, jogging, sunbathing, fishing, surfing, picnicking, but not including organized sports, campfires, or vehicular access other than for emergencies or maintenance.
3. Active recreational use. As used in this section, “active recreational use” refers to the right of the public to conduct the full range of beach-oriented activities, not including horseback riding and use of motorized vehicles unless specifically authorized.

(3) Applicability.

- (A) Access Required. As a condition of approval and prior to issuance of a permit or other authorization for any class of new development as identified in Sections 9.27.030(a)(3)(A)1 through 9.27.030(a)(3)(A)4. below, except as provided in Section 9.27.030(a)(3)(B), an offer to dedicate an easement (or other legal mechanism pursuant to Section 9.27.030(a)(4)(J)2. for one or more of the types of access identified in Sections 9-27.030(a)(2)(D)1. through 9.27.030(a)(2)(D)5. shall be required and shall be supported by findings required by Sections 9.27.030(a)(5)(A) through 9-27.030(a)(5)(C); provided that no such condition of approval for coastal access shall be imposed if the analysis required by Sections 9.27.030(a)(5)(A)1. through 9.27.030(a)(5)(A)4. establishes that the development will not adversely affect, either individually or cumulatively, the ability of the public to reach and use public tidelands and coastal resources or that the access dedication requirement will not alleviate the access burdens identified.
 1. New development on any parcel or location specifically identified in the certified land use plan or in the LCP zoning districts.
 2. New development between the nearest public roadway and the sea.
 3. New development on any site where there is substantial evidence of a public right of access to the sea acquired through use or a public right of access through legislative authorization.
 4. New development on any site where trail, blufftop access or other recreational access is necessary to mitigate impacts of the development on public access.
- (B) Exceptions. Section 9.27.030(a)(3)(A) above shall apply to all new development except in the following instances:
 1. Projects excepted from the definition of “new development” in Section 9.27.020(a)(2).
 2. Where findings required by Sections 9.27.030(a)(5)(A) and 9.27.030(a)(5)(B) establish any of the following:
 - a. Public access is inconsistent with the public safety, military security needs, or protection of fragile coastal resources; or
 - b. Adequate access exists nearby.

- (C) Exceptions identified in Section 9.27.030(a)(3)(B) shall be supported by written findings required by Section 9.27.030(a)(5)(C) of this Chapter.
- (4) Standards For Application Of Access Conditions. The public access required pursuant to Section 9.27.030(a)(3)(A) shall conform to the standards and requirements set forth in Section 927.030(a)(4) herein.
 - (A) Lateral Public Access (Minimum Requirements).
 1. A condition to require lateral access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 927.030(a)(3)(A) shall provide the public with the permanent right of lateral public access and passive recreational use along the shoreline (or public recreational area, bikeway, or blufftop area, as applicable); provided that in some cases controls on the time, place and manner of uses may be justified by site characteristics including sensitive habitat values or fragile topographic features, or by the need to protect the privacy of residential development located immediately adjacent to the accessway.
 2. Active recreational use may be appropriate in many cases where the development is determined to be especially burdensome on public access. Examples include cases where the burdens of the proposed project would severely impact public recreational use of the shoreline, where the proposed development is not one of the priority uses specified in Public Resources Code Section 30222 and the policies of the certified land use plan, where active recreational uses reflect the historic public use of the site, where active recreational uses would be consistent with the use of the proposed project, and where such uses would not significantly interfere with the privacy of the landowner. In determining the appropriate character of public use, findings shall be made on the specific factors enumerated in Section 9.27.030(a)(5)(B). Lateral access shall be legally described as required in Section 927.030(a)(4)(G).
 - (B) Vertical Public Access (Minimum Requirements).
 1. A condition to require vertical public access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of access, either (1) located in specific locations identified in the certified Local Coastal Program for future vertical access, or (2) located in a site for which the City of Dana Point has reviewed an application for a development permit and has determined a vertical accessway is required pursuant to the access and recreation policies of the Coastal Act or the applicable provisions of the Local Coastal Program.
 2. A condition to require vertical access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of vertical access and be limited to

the public right of passive recreational use unless another character of use is specified as a condition of the development. In determining whether another character of use is appropriate, findings shall be made on the specific factors identified in Section 9.27.030(a)(5)(B).

3. Each vertical accessway shall extend from the road to the shoreline (or bluff edge) and shall be legally described as required in Section 9.27.030(a)(4)(G). The access easement shall be a minimum of 10 feet wide. If a residential structure is proposed, the accessway should not be sited closer than 10 feet (or another distance if specified in the certified land use plan) to the structure.

(C) Bluff Top Access (Minimum Requirements).

1. A condition to require public access along a bluff top as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of scenic and visual access from the bluff top to the public tidelands; provided that in some cases controls on the time, place and manner of uses may be justified by site characteristics including sensitive habitat values or fragile topographic features, or by the need to protect the privacy of residential development located immediately adjacent to the accessway.
2. The bluff top access shall be limited to passive recreational use and coastal viewing purposes unless another character of use is specified as a condition of development. In determining the appropriate character of use findings shall be made on the specific factors identified in Section 9-27.030(a)(5)(B).
3. Each bluff top accessway shall be described in the conditions of approval of the coastal development permit as an area beginning at the current bluff edge extending 25 feet inland, or an area which allows for 50 years of bluff erosion, or another standard determined to be necessary for public safety and/or geologic stability, whichever results in the greatest width of the bluff top accessway. However, the accessway shall not extend any closer than 10 feet from an occupied residential structure. Due to the potential for erosion of the bluff edge, the condition shall include a mechanism that will cause the accessway to be adjusted inland as the edge recedes. Any permanent improvements should be set back from the accessway by a distance derived by multiplying the annual rate of blufftop retreat by the life expectancy in years of the permanent improvements.
4. The accessway shall be legally described as required in Section 9.27.030(a)(4)(G), with the furthest inland extent of the area possible referenced as a distance from a fixed monument in the following manner.

“Such easement shall be [insert appropriate distance as described in Section 9.27.030(a)(4)(C)3 above] feet wide located along the bluff top as measured inland from the daily bluff edge. As the daily bluff

top edge may vary and move inland, the location of this right of way will change over time with the then current bluff edge, but in no case shall it extend any closer than [specify distance] feet from [specify a fixed inland point, such as for example the centerline of the nearest public road].”

- (D) Trail Access (Minimum Requirements). A condition to require public access as a condition of approval of a coastal development permit (or other authorization to proceed with development) required pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of access and active recreational use, either (1) along a designated alignment of a coastal recreational path or trail in specific locations including those identified in the certified LCP for implementation of trail access, or (2) in locations where it has been determined that a trail access is required to link recreational areas to the shoreline or provide alternative recreation and access opportunities pursuant to the access and recreation policies of the LCP and Coastal Act, consistent with other provisions of this chapter; provided that in some cases controls on the time, place and manner of uses may be justified by site characteristics including sensitive habitat values or fragile topographic features, or by the need to protect the privacy of residential development located immediately adjacent to the accessway. In determining if another character of use is appropriate, findings shall be made on the specific factors enumerated in Section 9.27.030(a)(5)(B). The trail access shall be legally described as required by Section 9.27.030(a)(4)(G).
- (E) Recreational Access (Minimum Requirements). A condition to require public recreational access as a condition of approval of a coastal development permit required pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of access and use within a designated recreational access area. Conditions required pursuant to this section shall specify the location and extent of the public access area. The form and content should take the form of requirements in Sections 9.27.030(a)(4)(A), 9.27.030(a)(4)(B), 9.27.030(a)(4)(C), and 9.27.030(a)(4)(D) as applicable. The accessway shall be legally described as required in Section 9.27.030(a)(4)(G).
- (F) Protection of Historic Public Use.
 - 1. Substantial Evidence Determination. Substantial evidence that the area used by the public has been impliedly dedicated shall be determined based on evidence of all of the following:
 - a. The public must have used the land for a period of five years or more as if it were public land,
 - b. Without asking for or receiving permission from the owner,
 - c. With the actual or presumed knowledge of the owner,
 - d. Without significant objection or bona fide attempts by the owner to prevent or halt the use, and
 - e. The use must be substantial, rather than minimal, and

- f. The applicant must not have demonstrated that the law has prevented the property from being impliedly dedicated.
 2. Siting and Design Requirements. Development shall be sited and designed in a manner which does not interfere with or diminish any public right of access which may have been established based on historic public use. Only when site constraints are so severe that siting of the accessway or recreational use area in its historic location would significantly impair the proposed development and alternative development siting is not feasible, development may be sited in the area of public right of access based on historic use provided that the applicant provides an equivalent area of public access or recreation to and along the same destination and including the same type and intensity of public use as previously existed on the site. Mechanisms for guaranteeing the continued public use of the area or equivalent area shall be required in accordance with Sections 9.27.030(a)(4)(A) through 9.27.030(a)(4)(E) above.
 3. Minimum Requirements. An access condition shall not serve to extinguish or waive public prescriptive rights. In permits where evidence shows the possibility of such prescriptive rights, the following language shall be added to the access condition:

“Nothing in this condition shall be construed to constitute a waiver of any prescriptive rights which may exist on the parcel itself or on the designated easement.”
- (G) Legal Description of an Accessway (Recordation).
 1. An access dedication required pursuant to Section 9.27.030(a)(3)(A) shall be described in the condition of approval of the permit in a manner that provides the public, the property owner, and the accepting agency with the maximum amount of certainty as to the location of the accessway. As part of the condition of approval, easements shall be described as follows:
 - a. for lateral access: along the entire width of the property from the mean high tide line to (as applicable): the toe of the bluff, the toe of the seawall, or other appropriate boundary such as structural and patio stringlines as described in Section 9.09.040(a)(1) of this Zoning Code (the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD) Zoning Districts).
 - b. for blufftop access or trail access; extending inland from the bluff edge or along the alignment of a recreational trail.
 - c. for vertical access: extending from the road to the shoreline (or bluff edge). A privacy buffer provided pursuant to Section 9.27.030(a)(4)(I) shall be described, as applicable.

2. Prior to the issuance of the coastal development permit, the landowner shall execute and record a document in a form and content acceptable to the Director of Community Development, consistent with provisions of Section 9.27.030(a)(6), irrevocably offering to dedicate to a public agency, non-profit organization, or private association approved by the Coastal Commission an easement for a specific type of access as described in Section 9.27.030(a)(2)(D) and a specific character of use as described in Section 9.27.030(a)(2)(E), as applicable to the particular condition.
 3. The recorded document shall provide that the offer to dedicate shall not be used or construed to allow anyone, prior to acceptance of the dedication, to interfere with any rights of public access acquired through use which may exist on the property.
 4. The recorded document shall include legal descriptions of both the applicant's entire parcel and the easement area and a map to scale. The offer shall be recorded free of prior liens and any other encumbrances which the Coastal Commission [or local agency authorized by the Commission] determines may affect the interest being conveyed. The offer to dedicate shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.
- (H) Management Plan (Minimum Requirements). A management plan may be required in conjunction with a dedication of public access in any case where there is substantial evidence of potential conflicts between public access use and other uses on or immediately adjacent to the site. Examples include access in areas of sensitive habitats, agricultural resources, or significant hazards, or adjoining residential neighborhoods or military security areas. The plan shall be prepared by the accepting agency and approved by the City of Dana Point prior to the opening of the access to public use. Where applicable, the plan should specify management controls on time and intensity of use, standards for privacy buffers, and requirements for maintenance of aesthetic values through such measures as litter control.
- (I) Privacy Buffers (Minimum Requirements). Separation between a public accessway and adjacent residential use may be provided when necessary to protect the landowner's privacy or security as well as the public's right to use of the accessway. Any such buffer shall be provided within the development area. Access should not be sited closer to any residential structure than the distance specified in the certified LUP amendment, or where there is no distance specified, no closer than 10 feet. The buffer can be reduced where separation is achieved through landscaping, fences or grade separation.
- (J) Implementation.
1. A dedicated accessway shall not be required to be opened to public use until a public agency, non-profit organization, or private

association approved in accordance with Section 9.27.030(a)(4)(G) agrees to accept responsibility for maintenance and liability of the access, except in cases where immediate public access is implemented through a deed restriction.

2. In any case where the size and character of a development would impose very substantial burdens on public access, such as a large resort development on the shoreline, and where the applicant has the capacity to operate and maintain the accessway or recreation area, a deed restriction may be required instead of an offer to dedicate in order to assure immediate public use of the area and maintenance of the area by the applicant and successors in interest in any such case, all other applicable provisions of this ordinance shall apply.
 3. Access facilities constructed on access easements (e.g., walkways, paved paths, boardwalks, etc.) should be no wider than necessary to accommodate the numbers and types of users that can reasonably be expected. Width of facilities can vary for ramps or paved walkways, depending on site factors such as the need for privacy buffers, public safety needs, and the need to protect natural resource areas from overuse.
- (K) Title Information. As a requirement for any public access condition, prior to the issuance of the permit or other authorization for development, the applicant shall be required to furnish a tide report and all necessary subordination agreements. Tide insurance may also be required where easements are being granted. The amount of insurance shall reflect the estimated cost to acquire an equivalent accessway or recreational use elsewhere in the vicinity. All offers shall be made free of all encumbrances which the approving authority pursuant to Section 9.27.030(a)(4)(G) determines may affect the interest being conveyed. If any such interest exists which could erase the access easement, it must be subordinated through a written and recorded agreement.
- (5) Required Findings And Supporting Analysis For Public Access Dedications.
- (A) Required Overall Findings. Written findings of fact, analysis and conclusions addressing public access must be included in support of all approvals, denials or conditional approvals of projects between the first public road and the sea (whether development or new development) and of all approvals or conditional approvals of projects (whether development or new development) where an access dedication is included in the project proposal or required as a condition of approval. Such findings shall address the applicable factors identified by Section 9.27.030(a)(5)(B) and 9.27.030(a)(5)(C) and shall reflect the specific level of detail specified, as applicable. Findings supporting all such decisions shall include:
1. A statement of the individual and cumulative burdens imposed on public access and recreation opportunities based on applicable factors identified pursuant to Section 9.27.030(a)(5)(B). The type of affected public access and recreation opportunities shall be clearly described.

2. An analysis based on applicable factors identified in Section 9.27.030(a)(5)(B) and 927.030(a)(5)(C) of the necessity for requiring public access conditions to find the project consistent with the public access provisions of the Coastal Act
 3. A description of the legitimate governmental interest furthered by any access condition required.
 4. An explanation of how imposition of a public access dedication requirement alleviates the access burdens identified and is reasonably related to those burdens in both nature and extent
- (B) Required. Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the City of Dana Point shall evaluate and document in written findings the factors identified in Sections 9.27.030(a)(5)(B)1. through 9.27.030(a)(5)(B)4. below, to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the City of Dana Point and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the dedication will alleviate or mitigate the adverse effects which have been identified and is reasonably related to those adverse effects in both nature and extent As used in this section, “cumulative effect” means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning. The following factors shall be analyzed:
1. Project Effects On Demand For Access And Recreation:
 - a. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development
 - b. Analysis of the project’s effects upon existing public access and recreation opportunities.
 - c. Analysis of the project’s cumulative effects upon the use and capacity of the identified public access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative buildout
 - d. Projection of the anticipated demand and need for increased coastal access and recreation opportunities for the public.
 - e. Analysis of the contribution of the project’s cumulative effects to any such projected increase.
 - f. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas.

diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development

(C) Findings for Projects Involving Historic Public Use/Prescriptive Rights:

1. Where an issue as to the existence of public prescriptive rights has been raised during the course of reviewing a coastal development permit application, one of the following findings shall be made:
 - a. Substantial evidence does not warrant the conclusion that public prescriptive rights exist;
 - b. Substantial evidence of public prescriptive rights exist, but development will not interfere with those rights;
 - c. There is an unresolved controversy as to the existence of public prescriptive rights which requires denial of a coastal development permit because of interference with those rights.
 - d. There is an unresolved controversy as to the existence of public prescriptive rights, but the applicant's dedication of a public access protects the rights of the public and allows an agreement to accept the actual dedication in exchange for giving up the contested claim of implied dedication.
2. In determining any requirement for public access based on historic public use/prescriptive rights, including the type of access and character of use, the City of Dana Point shall evaluate and document in written findings the factors identified in Sections 9.27.030(a)(5)(C)2.a. through 9.27.030(a)(5)(C)2.e. below, to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the City of Dana Point and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the dedication will alleviate or mitigate the adverse effects which have been identified and is reasonably related to those adverse effects in both nature and extent. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning. The following factors shall be analyzed:
 - a. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal).
 - b. Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc. and for passive and/or active recreational use, etc.).
 - c. Identification of any agency (or person) who has maintained and/or improved the area subject to historic

- public use and the nature of the maintenance performed and improvements made.
 - d. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts.
 - e. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use).
- (D) Required Findings For Public Access Exceptions. Any determination that one of the exceptions of Section 9.27.030(a)(3)(B) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:
 - 1. The type of public access potentially applicable to the rite involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected or the public safety concern which is the basis for the exception, as applicable.
 - 2. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that fragile coastal resources or public safety, as applicable, are protected.
 - 3. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an accessway on the subject land.
- (E) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:
 - 1. Identification and protection of specific habitat values including the reasons supporting the conclusion that such values must be protected by limiting the hours, seasons, or character of public use.
 - 2. Topographic constraints of the development site.
 - 3. Recreational needs of the public.
 - 4. Rights of privacy of the landowner which could not be mitigated by setting the project back from the accessway or otherwise conditioning the development.
 - 5. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access.
 - 6. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.
- (6) Section 9.69.080(b) contains standards for the review of recorded documents for access.
- (7) Public Access in Private Development The hotel originally known as the Ritz Carlton Laguna Niguel at the time it opened for business, located on the promontory situated above Salt Creek County Beach Park, shall be operated as a hotel facility open to the general public and shall not be converted to a private

resort facility. Existing public access through the hotel site, and signage visible to the public acknowledging the public access, shall be preserved and maintained.

- (b) **Wetland Resources.** To protect and maintain the City's coastal wetland resources, a minimum 100-foot buffer area around all identified wetlands shall be provided as part of all allowable development within or adjacent to wetlands, unless both the California Department of Fish and Game and the U.S. Fish and Wildlife Service provide a written determination that a lesser buffer will provide adequate protection.
- (1) To minimize the disturbance to a wetland from adjacent development, the following minimum requirements shall be incorporated into the design of a buffer area:
- (A) Fences and/or natural barriers shall be provided to control the entry of humans and non-wetlands animal species into the wetland. The buffer shall also provide for visual screening in those cases where resident or migratory wetland species are particularly sensitive to human impacts. Development adjacent to wetlands shall be sited and designed to avoid excessive light or noise, where feasible. The use of walls, berms and other barriers shall be considered where excessive artificial light or noise is unavoidable.
- (B) Buffers shall be designed, where necessary, to help minimize the effects of erosion, sedimentation, and pollution arising from urban and industrial activities. Any pollution control devices within the buffer area shall be maintained.
- (C) Buffers shall provide habitat for species residing in the transitional zone between wetlands and uplands. The design of buffers should consider the movement of food and energy between habitats as well as the life cycles of organisms that feed or reproduce in the wetland but generally reside outside the wetland. Any revegetation work in the buffer area shall use native species from local sources.
- (2) **Uses Within Buffer Areas.** Necessary pollution control devices and passive recreational uses shall be allowed within buffer areas but only if it can be shown that these uses will not have significant adverse impacts on the wetland ecosystem or the buffer's function as described in the above criteria. These uses shall be limited to bird watching, walking, jogging, and bike riding, and may include the construction of paths and interpretive signs and display. Any paths constructed shall minimize adverse impacts to plants and animals in the buffer area.
- (c) **Development Adjacent to Coastal Bluffs.** Development adjacent to coastal bluffs shall minimize hazards to owners, occupants, property, and the general public; be environmentally sensitive to the natural coastal bluffs; and protect the bluffs as a scenic visual resource. The minimum setback from the bluff edge of a coastal bluff shall be established by the underlying zoning district. However, in no case shall the minimum setback be less than 25 feet or one which provides for 50 years of erosion, whichever is most restrictive.

In addition, should the geotechnical report indicate bluff stabilization is required to ensure proposed development is safe from a threat of erosion and bluff failure for

fifty years, additional setbacks will be required. Any approved slope stabilization measures shall be the least environmentally damaging feasible alternative and shall be designed to minimize alteration of the bluffs and be subordinate to the natural character of the bluffs.

Development setbacks from coastal bluff edges may not be the same due to varying geologic conditions and environmental conditions. The following provisions detail the items required for filing, the means by which coastal bluff edges are measured, criteria for review, development standards, and the potential development that may be permitted within the coastal bluff setback area.

- (1) Coastal Bluff Edge Measurement.
 - (A) The applicant shall provide an aerial photograph and contour map of the site clearly delineating the current coastal bluff edge, existing topography and the outline of the development proposed.
 - (B) The applicant shall provide a geotechnical report prepared within one year of the date of the application submittal, which specifically addresses the coastal bluff edge and delineates the bluff edge on a graphic exhibit on both the grading plan and site plan. The report shall specifically address the methodology used to support the conclusions of the report
 - (C) The Director of Community Development and Director of Public Works or their designee shall conduct an on-site survey of the property and compare the geotechnical report's conclusions with that of actual on-site terrain and bluff top patterns.
- (2) Criteria for Review. At a minimum, the following will be required for each application for development adjacent to coastal bluff edges:
 - (A) Development plans shall be prepared and wet stamped by a State Certified Engineering Geologist knowledgeable in coastal engineering and engineering geology.
 - (B) A geotechnical report shall address the factors which directly or indirectly cause, promote, or encourage bluff erosion or failure either on site or on adjacent properties, and the measures to control these factors. The report shall include, but shall not be limited to, the following information:
 1. Bluff geometry, site topography, and any other condition which may affect the site.
 2. Historic, current, and foreseeable bluff erosion. A minimum of fifty (50) years of historic erosion and fifty (50) years of future erosion should be analyzed.
 3. Geologic conditions including, but not limited to, soils, sediment, bedrock, drainage patterns, and structural features such as fault lines and joints. Soils borings to bedrock and the limits and depth of alluvial removal shall be addressed to the satisfaction of the Director of Public Works.
 4. Evidence of past and potential landslides and the implication of such conditions on the structural integrity of the proposed development as well as the proposed development's potential effect on landslide activity.

5. Impact of construction activity on the stability of the site and adjacent area. This shall include, but not be limited to, remedial grading, the impact of grading machinery, or other vibration inducing factors on the bluff stability.
 6. Ground and surface water conditions or variations caused by the development, such as the alteration in surface/subsurface drainage, irrigation systems, and proposed drains and subdrains.
 7. Mitigation measures proposed to be used to ensure minimized erosion problems during and after construction.
 8. Any other facts that might affect slope stability, including but not limited to the effects of marine erosion on coastal bluffs, and related mitigation measures for potential impacts.
 9. Any proposed development, either main structures or minor development, shall be addressed in the report. Said structures and development shall be evaluated with respect to impact on the stability of the bluff to ensure that structures and development are reasonably safe from failure and erosion given a minimum 50-year physical life.
 10. Any other information as deemed necessary by the Director of Community Development or Director of Public Works.
 11. A bibliography of all information sources, including, but not limited to, dates of site visits.
- (3) Development Standards.
- (A) Drainage. All surface and subsurface run-off shall be directed to a public street or an approved drainage facility to the satisfaction of the Director of Public Works. Transportation of said run-off may require area drains, roof drains, reductions in grading, appropriate pumping mechanisms, and other similar measures. Where feasible, said run-off shall be directed to sewer systems rather than storm drains which lead directly to the ocean.
 - (B) Landscaping. All landscaping shall be native or drought tolerant which minimizes irrigation requirements, and reduce potential slide hazards due to over watering. Irrigation and the use of turf grass, ice plant and similar shallow-rooted plants within the bluff setback shall be specifically prohibited on blufftop developments. Landscaping shall be maintained and installed so as to ensure that, during growing stages as well as at maturity, the landscaping will not obstruct public views.
- (4) Requirements for Setback Deviation. A State Licensed Civil Engineering Geologist shall prepare a site specific geotechnical and soils report to address and explain any proposed deviation from the minimum setbacks from the coastal bluff edge in the Zoning Map, and the Draft Dana Point General Plan Coastal Erosion Technical Report dated July 11, 1990. The report shall include:
- (A) An explanation and calculation of the deviations, if any, in the setback from the coastal bluff edge.
 - (B) If caissons are not recommended, the report shall explain why caissons are not needed. If caissons are recommended in the report, the following additional information shall be provided:
 1. Indicate the angle of repose.

2. Depth of caisson required for the structure and limits of caissons.
- (C) Requirements for Setback Deviation. Should an analysis of the geotechnical report conclude that a greater or lesser setback may be necessary than that required by this Code, the Planning Commission can make a finding that it is in the interest of the public safety to approve an additional or lesser setback as recommended. However, in no case shall a setback of less than 25 feet or less than 50 years of bluff erosion, whichever is most restrictive, be permitted.

- (5) Permitted Development within the Coastal Bluff Edge Setback. Precautions are required to ensure that the integrity of the bluff is not threatened. Development within the coastal blufftop setback area shall minimize landform alteration, be subordinate to the natural character of the bluff, and is limited to structures that may include retaining and non-retaining walls, fences, and drought-tolerant landscaping which conform to the setback requirements of this Chapter. Swimming pools and sunken spas are prohibited within the setback area. Additional setbacks shall be required if recommended in a geotechnical report submitted for the minor development.

Minor development and improvements are defined as:

- (A) Those generally not requiring a building or grading permit and not attached to the main structure; and
- (B) Those developments which protect natural resources or ensure public safety such as fences and low walls.

A Coastal Development Permit pursuant to Chapter 9.69 shall be required prior to any minor development. Minor development may only be approved if the approved geotechnical reports support such development and conclude that the development will not have an impact on bluff stability. All minor development shall be environmentally sensitive to the natural bluff line and public view.

Grading on the coastal bluff shall be kept to a minimum. Raising of the natural grade shall be limited to that level needed to provide a maximum of one (1) percent of fall to the existing top of curb in the street in order to facilitate piping of all bluff drainage to the street by gravity.

A study which details the potential impact of any proposed grading on the coastal bluff may be required at the discretion of the Director of Community Development or the Director of Public Works as the circumstances of the individual lot warrant. The study shall be prepared to address the impacts identified by the City to the satisfaction of the Director of Community Development and/or the Director of Public Works.

- (6) Development at the Base of Coastal Bluffs. Development proposed at the base of coastal bluffs shall be required to submit appropriate geotechnical reports which provide a detailed assessment of the ultimate stability of the bluffs above the subject site. The report(s) shall document the ultimate profile (section) of the bluff face, delineate the buildable portion of the site and shall include recommendations for adequate protective structures for the project as well as

recommendations for alternatives which do not require landform alteration of the bluff face nor bluff stabilization. The report(s) shall address all topics relevant to the geologic condition of the subject site and adjacent bluffs and shall be prepared to the satisfaction of the Director of Public Works. Proposals for shoreline protective devices at the base of coastal bluffs shall be consistent with the requirements of Section 9.27.030(f) below.

- (7) Development on the face of Coastal Bluffs. New private staircases, the replacement of fifty percent (50%) or more of existing private staircases, or additions to/expansion of existing private staircases, which descend down bluff faces shall be prohibited. Public staircases down bluff faces shall only be permitted if geologic instability would not result, if landform alteration would be minimized, and the staircase would be visually subordinate to the natural character of the bluff face.
- (d) Environmentally Sensitive Habitat Areas.
 - (1) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
 - (2) Development adjacent to an environmentally sensitive habitat area (ESHA) shall be required to submit a biological assessment which shall include, at a minimum, a survey of the types and quantities of sensitive species present in the ESHA, the impacts of the development on the ESHA, alternatives to the development, and mitigation measures for unavoidable impacts on the ESHA resulting from the development. Evaluations of the development's impact to the ESHA shall be sought from appropriate state and federal resources agencies.
- (e) Grading. Grading activity shall be conducted in a manner that minimizes landform alteration and erosion and ensures geologic stability and structural integrity.
 - (1) Landform Alteration.
 - (A) Man-made slopes shall be designed so that they can be conveniently maintained so as to minimize erosion, slope failure and unsightly conditions.
 - (B) Man-made slopes shall be designed to resemble natural terrain where feasible, with a minimum of long, flat, inclined plane surfaces and acute angles.
 - (C) Man-made slopes shall be no steeper than two (2) feet horizontal to one (1) foot vertical.
 - (2) Erosion Control. Appropriate mitigation measures shall be employed, including but not limited to prompt revegetation of graded areas with similar types of vegetation which previously existed on-site prior to the commencement of grading activities, and avoiding grading during the rainy season from October 15 through April 15.

Each building pad at or above street level shall drain directly to the street. Where any lot is designed in such a manner that it will not drain with a minimum one percent (1%) grade directly to a street or common drainage facility, it shall be designed in a manner that will conform to the following criteria:

- (A) Lots shall be designed in such a manner that man-made slopes are not subject to sheet flow or concentrated runoff from either the same or an adjacent lot. All slopes shall be protected from surface runoff by berms, interceptor ditches, or similar measures.
 - (B) All water flowing off man-made slopes shall be constrained within an approved drainage device.
- (f) Shoreline Protective Devices. Seawalls, revetments, and other such shoreline protective devices or construction that alters natural shoreline processes shall be permitted only if non-structural alternatives are found to be infeasible, and when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures or shoreline protective devices causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible. Any shoreline protective device which may be permitted shall be placed so that no part of a new shoreline protective device is built further onto the beach than a line drawn between the nearest adjacent corners of the nearest adjacent shoreline protective devices.

Seawalls in the northern portion of the Capistrano Bay District private community along Beach Road (north of Pines Park located in the inland bluffs above the community), when permitted in accordance with the other requirements of this Chapter, shall have a scour blanket consisting of rip-rap stone placed at the seaward toe of the seawall to minimize beach erosion.
- (g) Water Quality. All drainage facilities shall be designed to carry surface runoff to the nearest practical street or storm drain approved by the City and/or other appropriate governmental agency as the proper place to deposit such waters. Where feasible, structural and non-structural Best Management Practices including, but are not limited to, first flush diversion, detention/retention basins, infiltration trenches/basins, porous pavement, oil/grease separators, street sweeping, and grass swales, and other measures as may be required by State water quality agencies, shall be implemented. All drainage improvements intended or required to convey storm runoff shall be designed and installed or constructed in accordance with the applicable National Pollutant Discharge Elimination System requirements.
- (h) Fire Hazards. Fuel modification within environmentally sensitive habitat areas shall be minimized to the extent feasible. Fuel modification plans shall, where feasible, employ selective thinning by hand rather than mass clear-cutting within environmentally sensitive habitat areas.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

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Chapter 9.29

PLANNED RESIDENTIAL DEVELOPMENT OVERLAY DISTRICT

Sections:

- 9.29.010 Purpose and Intent**
- 9.29.020 Permitted Uses, Accessory Uses, Temporary Uses and Conditional Uses.**
- 9.29.030 Procedure and Submittal Requirements.**
- 9.29.040 Adoption Requirements.**
- 9.29.050 Development Standards Modified by Planned Residential Development Overlay District**
- 9.29.060 Planned Residential Development Standards.**
- 9.29.070 Notification.**
- 9.29.080 Existing Planned Residential Developments.**

9.29.010 Purpose and Intent.

The Planned Residential Development Overlay (PRDO) District provides a method to allow deviation to zoning district standards to create superior designs for residential development. To achieve this, a PRDO District establishes zoning requirements that are in addition to, in combination with, or in place of the underlying residential base zoning requirements in Chapter 9.09 of this Code. The PRDO district requires exceptional design features, and sensitive and enhanced site planning to produce an integrated and stable residential development which is compatible and enhances existing and planned surrounding land uses.

The PRDO district allows flexibility for development to achieve additional public, common or private open spaces; minimize environmental impact and achieve a superior living environment and implementation of the General Plan. Planned Residential Development projects must conform with the density limitations, parking, open space, and other minimum or maximum standards of the underlying residential zoning district, except as otherwise described in this Chapter. Planned Residential Development projects must conform with the requirements of all applicable overlay districts.

The regulations of the Planned Residential Development Overlay District are intended to only apply to Planned Residential Developments that are proposed after the effective date of this Code. Residential developments physically existing prior to the effective date of this Code, but which are not currently identified as a Planned Residential Development by this Chapter, could be identified as a Planned Residential Development (Added by Ord. 93-16, 11/23/93)

9.29.020 Permitted Uses, Accessory Uses, Temporary Uses and Conditional Uses.

Permitted, accessory, temporary and conditional uses within the Planned Residential Development Overlay District are the same as those allowed within the applicable underlying base residential zoning districts. (Added by Ord. 93-16, 11/23/93)

9.29.030 Procedure and Submittal Requirements.

The procedure for establishing the Planned Residential Development Overlay District to any site shall be in accordance with zoning amendments in Chapter 9.61. Application for the Planned Residential Development Overlay District does not modify the underlying base zoning district(s) until a Site Development Permit and a Planned Residential Development District for

the site are adopted. An application for a Planned Residential Development Overlay shall include:

- (a) A detailed explanation of surrounding, existing, and planned land use and why the proposed overlay district achieves a development that meets the highest standards of the General Plan, creating a more desirable living environment in the surrounding area.
- (b) A proposed Zoning Map at one (1) inch = five hundred (500) feet indicating the base zoning for the area and showing the letters 'PRD' with a space for the PRD number for the site within parentheses followed by the base zoning. This map shall also show the zoning districts for one thousand (1,000) feet surrounding the site.
- (c) All the proposed changes to the base zoning requirements.
- (d) An application for a Site Development Permit which also clearly shows the existing standards and how the proposed Planned Residential Development Overlay District deviates from them.
- (e) A schematic Site Plan complying with the existing zoning regulations to allow the Planning Commission an opportunity to compare and evaluate the benefits of the proposed Planned Residential Development.

(Added by Ord. 93-16, 11/23/93)

9.29.040 Adoption Requirements.

The Ordinance adopting the approval of a Planned Residential Development Overlay shall contain the following:

- (a) Language which clearly identifies all the modifications to the base zoning district requirements. Only those standards clearly and expressly modified by the Ordinance approving the PRDO District shall be effective.
- (b) Language which clearly references the Site Development Permit for the project.
- (c) Language which clearly indicates the modification to the Zoning Map and the inclusion of all the PRDO standards as an appendix within the Zoning Code.
- (d) The findings included in an ordinance to adopt a Planned Residential Development Overlay District shall be as follows:
 - (1) That the proposal will result in an integrated, compatible development which will be consistent with the General Plan and in harmony with existing and proposed development in the surrounding neighborhood.
 - (2) That the proposal will result in a project that is clearly superior to what would be developed in accordance with the regulations of the base zoning district.
 - (3) That the unique development standards proposed are not contrary to the public health, safety, and general welfare.
 - (4) That the proposal exceeds the development standards of the base zoning district and provides improved use of common areas, open space, and off-street parking facilities.
 - (5) That the proposal is consistent with the intent of the underlying zoning designation.

(Added by Ord. 93-16, 11/23/93)

9.29.050 Development Standards Modified by Planned Residential Development Overlay District.

The following development standards of Chapter 9.09 may be modified through the approval of a Planned Residential Development Overlay District:

- Minimum lot size
- Minimum lot width
- Minimum lot depth
- Maximum lot coverage
- Minimum front yard setback
- Minimum side yard setback
- Minimum rear yard setback
- Minimum garage setback
- Maximum floor area ratio

The location and configuration of individual lots within a project site shall be determined by the Planned Residential Development Overlay Standards and implemented by an approved Site Development Permit for the entire Planned Residential Development Overlay District (Added by Ord. 93-16, 11/23/93)

9.29.060 Planned Residential Development Standards.

In addition to the development standards of the base zoning district described in Chapter 9.09 and other applicable provisions of this Code, new Planned Residential Development Overlay Districts shall meet the following standards:

- (a) Minimum Area for a Planned Residential Development. The area of a Planned Residential Development shall be a clearly definable geographical area subject to the approval of the Planning Commission.
- (b) Maximum Lot Coverage. The overall building coverage in a Planned Residential Development shall not exceed that of the base zoning district
- (c) Maximum Density. The maximum density shall be less than or equal to the maximum density of the base zoning district
- (d) Minimum Open Space. The minimum open space standards of the base zoning district shall be exceeded by a Planned Residential Development.
- (e) Building and Development Location. For Planned Residential Developments, building and development location need not satisfy the minimum regulations of the underlying zoning district, except those regulations relating to shorelines, coastal bluffs, or other overlay district regulations, or those required by the City Building Code, or by other requirements necessary to mitigate environmental impact and satisfy specific safety requirement associated with physical conditions of the individual building site. Actual development locations, distances between development or buildings, distances from streets and distances from other features will be identified by an approved Site Development Permit as referenced by the Planned Residential Development Overlay District.

(Added by Ord. 93-16, 11/23/93)

9.29.070 Notification.

Title reports for dwelling units shall include notification that the unit is within a Planned Residential Development and is subject to the PRDO and the Site Development Permit requirements. (Added by Ord. 93-16, 11/23/93)

9.29.080 Existing Planned Residential Developments.

An index detailing the locations and development standards of all Planned Residential Developments acknowledged by this Code is contained in the appendix. (Added by Ord. 93-16, 11/23/93)

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Chapter 9.31

FLOODPLAIN OVERLAY DISTRICT

Sections:

- 9.31.010 Intent and Purpose.**
- 9.31.020 General Provisions.**
- 9.31.030 Permitted, Accessory, Temporary, and Conditional Uses.**
- 9.31.040 Prohibited Uses and Structures.**
- 9.31.050 Administration.**
- 9.31.060 Provisions for Flood Hazard Reduction.**
- 9.31.070 Exception Procedure.**

9.31.010 Intent and Purpose.

The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Dana Point does hereby adopt the following floodplain management regulations.

The three (3) Floodplain Overlay (FP) districts protect the public health, safety, and general welfare from flood hazards by assuring proper use and development.

The FP-1 district is applied to areas shown as “floodway” areas on the FEMA Flood Insurance Rate Map (FIRM), as “floodway” on the other areas in which the City has determined that a floodway exists.

The FP-2 district is applied to “areas inundated by 100 year flood” which are shown as “A,” “A1” through “A30,” “AO,” “AH,” “A99,” and “M” on FEMA Flood Insurance Rate Maps and areas in which the City has determined to be a special flood hazard area.

The FP-3 district is applied to coastal areas subject to wave action, which are specifically shown as “AE,” “E,” “VE,” “V,” and “VI” through “V30” on the FEMA Flood Insurance Rate Maps and areas in which the City has determined to be a coastal high hazard area.

The Floodplain Overlay districts are overlay districts which may be combined with any other zoning district. The floodplain overlay districts provide use, development and permit requirements that are applied in addition to the underlying zoning district and the requirements of other overlay districts. In the event of conflicting provisions between the underlying district and the overlay districts, the more restrictive requirements shall prevail.

The purposes of the Floodplain Overlay Districts include:

- (a) The Floodplain Overlay districts and the flood hazard areas of the City of Dana Point are subject to periodic inundation which may result in loss of life and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and when inadequately flood proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

- (c) It is the purpose of this Chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed:
 - (1) To protect human life and health;
 - (2) To minimize expenditure of public money for costly flood control projects;
 - (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (4) To minimize prolonged business interruptions;
 - (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone; and sewer lines, streets and bridges located in areas of special flood hazard;
 - (6) To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
 - (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and
 - (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions on the property.
- (d) In order to accomplish its purposes, this Chapter includes methods and provisions for:
 - (1) Restricting or prohibiting uses within the Floodplain Overlay Districts which are dangerous to health, safety, and property due to water or erosion hazards or which result in damaging increases in erosion or flood heights or velocities;
 - (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
 - (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
 - (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 19-01, 4/2/19)

9.31.020 General Provisions.

- (a) Lands to Which this Chapter Applies. This Chapter shall apply to all areas of special flood hazards, areas of flood-related erosion hazards, and areas of mudslide (i.e., mudflow) hazards within the jurisdiction of the City of Dana Point.
- (b) Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazards, areas of flood-related erosion hazards, and areas of mudslide fix., mudflow) hazards identified by the Federal Emergency Management Agency (FEMA) or the Federal Insurance Administration in a scientific and engineering report entitled “Flood Insurance Study” for Orange County, California, and incorporated areas dated September 15,1989, and February 5,1992, with accompanying Flood Insurance Rate Map (FIRM) and all subsequent revisions are hereby adopted by reference and incorporated in this Chapter. This Flood Insurance Study is on file at the City of Dana Point This Flood Insurance Study is the minimum area of applicability of this Chapter and may be supplemented by studies for other areas which allow implementation of

this Chapter and which are recommended to the City Council by the Floodplain Administrator.

- (c) Compliance. No structure or land shall be constructed, located, extended, converted, or altered without full compliance with the leans of this Chapter and other applicable regulations. Violation of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the City Council horn taking such lawful action.as is necessary to prevent or remedy any violation.
- (d) Abrogation and Greater Restrictions. This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this Chapter and another Ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (e) Interpretation. In the interpretation and application of this Chapter, all provisions shall be:
 - (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the governing body; and
 - (3) Deemed neither to limit nor repeal any other powers granted under State Law.
- (f) Warning and Disclaimer of Liability. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards, areas of flood-rated erosion hazards, and areas of mudslide (i.e., mudflow) hazards, or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City of Dana Point, any officer or employee thereof, for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

(Added by Ord. 93-16, 11/23/93)

9.31.030 Permitted, Accessory, Temporary, and Conditional Uses.

- (a) The following uses are permitted in the Floodplain Overlay districts provided they are in compliance with the applicable provisions of this Chapter.
 - (1) Public flood control and utility facilities;
 - (2) Commercial extraction related to flood control purposes;
 - (3) Accessory uses and structures which may be required by this Chapter.
- (b) Other permitted, accessory, temporary and conditional uses shall be allowed as set forth in the underlying base zoning district, except as specifically prohibited or regulated by this Chapter.

(Added by Ord. 93-16, 11/23/93)

9.31.040 Prohibited Uses and Structures.

The following uses and structures are specifically prohibited in the Floodplain Overlay Districts:

- (a) Structures and uses which would increase flood elevations during the occurrence of a base flood.
- (b) Landfills, excavations, and grading or the storage of materials and equipment that would result in any diversion or increase in erosion, flood levels, or hazards to people or property, except as may be necessary for the periodic dealing of the mouth of San Juan Creek which incorporate appropriate protections for coastal resources.
- (c) Storage or disposal of floatable substances or materials, or of chemicals, explosives, or toxic materials.
- (d) FP-3 District only:
 - (1) The use of fill for structural support of structures or decks.
 - (2) The placement of mobilehomes, except in an approved mobilehome park or subdivision.
 - (3) Seawalls, revetments, and shoreline ocean protective devices or construction that alters natural shoreline processes, unless required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and only when positioned, designed and constructed to eliminate adverse impacts on local shoreline sand supply as provided for in Section 9.27.030(f) of this Zoning Code. Seawalls, revetments, and other shoreline protective devices or construction that alters natural shoreline processes shall only be permitted as a last resort protective device for coastal areas. Shoreline protective devices need not be subject to the elevation requirements of the FP-3 district.
 - (4) Swimming pools and spas below the base flood elevation.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.31.050 Administration.

- (a) Site Development Permit Required. A Site Development Permit according to Chapter 9.71 of this Code shall be obtained before construction or development begins within any area of special flood hazards, areas of flood-related erosion hazards, or areas of mudslide (i.e., mudflow) hazards established in or pursuant to Section 9.31.020. Application for a Site Development Permit shall be made on forms furnished by the Director of Community Development and may include, but not be limited to:
 - (1) Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing and proposed structures; structure occupancy, topography, landscape and hardscape, drainage and utility facilities, and the storage of materials;
 - (2) A certificate from a registered civil engineer stating that the information in the application is correct;
 - (3) Proposed elevation in relation to mean sea level of the lowest floor including the basement of all structures; in Zone AO, AE, or VE, V, and VI through V30, elevation of highest adjacent grade and proposed elevation of lowest floor of all Structures;
 - (4) Proposed elevation in relation to mean sea level to which any structure will be flood proofed;
 - (5) All appropriate certifications listed in Section 9.31.050 of this Chapter;
 - (6) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and

- (7) A statement that the standards in Section 9.31.060 have been satisfied.
- (b) Director of Community Development. The Director of Community Development is hereby appointed to administer and implement this Chapter by granting or denying Site Development Permits in accordance with this Code. Appeals are covered in Section 9.31.070(a). The duties and responsibilities of the Director of Community Development shall include, but not be limited to:
- (1) Permit Review. Review all development permits to determine that:
 - (A) The permit requirements of this Chapter have been satisfied;
 - (B) All other required State and Federal permits have been obtained;
 - (C) The site is reasonably safe from flooding;
 - (D) The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this Chapter, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development which will not increase the water surface elevation of the base flood more than one (1) foot at any point.
 - (E) For the FP-3 District, the development satisfies the design criteria of the Coastal Floodplain Development Study.
 - (2) Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 9.31.020, the Director of Community Development shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, in order to administer this Chapter. Any such information shall first be submitted to the City Council for adoption.
 - (3) Alteration or Relocation of Watercourses. Whenever a watercourse is to be altered or relocated, the Director of Community Development shall:
 - (A) Notify adjacent communities and the California Department of Water Resources prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;
 - (B) Require that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.
 - (4) Base Flood Elevation changes due to physical alterations:
 - (A) Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).
 - (B) All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

- (4 ~~5~~) Maintain Certifications. Obtain and maintain for public inspection and make available as needed:
- (A) The certification required in Section 9.31.060(a)(3)(A) (floor elevations);
 - (B) The certification required in Section 9.31.060(a)(3)(B) (elevations in areas of shallow flooding);
 - (C) The certification required in Section 9.31.060(a)(3)(C)3 (elevation or flood proofing of non-residential structures);
 - (D) The certification required in Section 9.31.060(a)(3)(D) or 9.31.060(a)(3)(D)2 (wet flood proofing standard);
 - (E) The certified elevation required in Section 9.31.060(c)(2) (subdivision standards);
 - (F) The certification required in Section 9.31.060 (e)(1) (floodway encroachments); and
 - (G) The information required in Section 9.31.060(f)(6) (coastal high hazard construction standards).
- (~~5~~ 6) Interpretations. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards, areas of flood-related erosion hazards, or areas of mudslide (i.e., mudflow) hazards, for example, where there appears to be a conflict between a mapped boundary and actual field conditions. Any person contesting such interpretation may appeal as provided in Section 9.31.070.
- (~~6~~ 7) Remedy Violations. Take action to remedy violations of this Chapter as specified in Section 9.31.020 (c) herein.
- (~~7~~ 8) Act on Site Development Permits. Approve, conditionally approve, or deny Site Development Permits.
- (c) Nonconforming Uses and Structures in the Floodplain Overlay Districts. Any use or structure lawfully existing on any premises that is made nonconforming by the application of this Chapter, or by any amendment of this Chapter, shall be subject to the provisions of Chapter 9.63, Nonconforming Uses and Structures, except as follows:
- (1) Any nonconforming structure located outside the coastal zone may be expanded, enlarged, reconstructed or structurally altered without conforming to the standards of this Chapter, provided that such expansion, enlargement, reconstruction or structural alteration does not constitute a substantial improvement. Any substantial improvement to a nonconforming structure shall be subject to all the regulations of this Chapter.
 - (2) Any nonconforming structure located outside the coastal zone which sustains substantial damage shall be subject to all the regulations of this Chapter.
 - (3) The following regulations shall apply to nonconforming uses and structures located in Floodplain Overlay Districts in the coastal zone:
 - (A) No nonconforming use or structure shall be enlarged, expanded, reconstructed or structurally altered, with the limited exception of a one-time, ten percent (10%) square footage improvement that may be allowed on the inland side or within the sideyard setback areas of an existing residence, unless the entire structure is made to conform with the

development standards contained in this Chapter (excepting the provisions contained in subsections (c)(1) and (c)(2) above). In addition, that work done in any period of twelve (12) months on ordinary alterations or replacement of walls, fixtures or plumbing not exceeding ten percent (10%) of the value of the building, as determined by the Director of Community Development, shall be permitted provided that the cubical contents of the building, as it existed at the time this subsection or amendments thereto take effect, are not increased.

- (B) If any nonconforming use or structure shall be destroyed or damaged to any extent by flood or wave action or accident, then said use or structure and the land on which said use or structure was located or maintained shall be allowed up to a fifty percent (50%) building valuation increase without any change in the structure's footprint once in a twelve month period. (Coastal Act/30600(e)).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99; Ord. 19-01, 4/2/2019)

9.31.60 Provisions for Flood Hazard Reduction.

- (a) Standards of Construction. In all areas of special flood hazards, the following standards are required:
 - (1) Anchoring.
 - (A) All new constructions and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - (B) All manufactured homes shall meet the anchoring standards of Section 9.31.060(d).
 - (2) Constructions Materials and Methods.
 - (A) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (B) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - (C) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (D) Within Zones A, AH, AO, AE, or VE, adequate drainage paths around structures on slopes shall be installed to guide flood waters around and wary from proposed structures.
 - (3) Elevation and Flood proofing.
 - (A) New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. Nonresidential structures may meet the standards in Section 9.31.060(a)(3)(C). Upon the completion of the structure of the elevation of the lowest floor, including basement, such structure shall be

certified by a registered professional engineer or surveyor and verified by the City Building Inspector to be properly elevated. Such certification shall be provided to the Director of Community Development

- (B) New construction and substantial improvement of any structure in Zone AO or A shall have the lowest floor, including basement, elevated about the highest adjacent grade at least as high as the depth number specified in feet on the FIRM, or at least two (2) feet if no depth number is specified. Nonresidential structures may meet the standards in Section 9.31.060(a)(3)(C). Upon the completion of the structure, the elevation of the lowest floor, including basement, such structure shall be certified by a registered professional engineer or surveyor and verified by the City Building Inspector to be properly elevated. Such certification shall be provided to the Director of Community Development
 - (C) Nonresidential construction shall either be elevated in conformance with Section 9.31.60(a)(3)(A) or 9.31.060(a)(3)(B) or shall conform to the following requirements together with attendant utility and sanitary facilities:
 - 1. Be flood proofed so that below the base flood level the structure is watertight with walls substantial impermeable to the passage of water;
 - 2. Have structural components capable of resisting hydrostatic and hydronamic loads and effects of buoyancy; and
 - 3. Be certified by a registered professional engineer or architect that the standards of this Subsection are satisfied. Such certification shall be provided to the Director of Community Development
 - (D) New construction and substantial improvements of any structure with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - 1. Either a minimum of two openings having a total net area of not less than one (1) square inch for every square foot enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screen louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; or
 - 2. Be certified to comply with a local flood proofing standard approved by the Federal Insurance Administration.
 - (E) Manufactured homes shall also meet the standards in Section 9.31.060(d).
- (b) Standards for Utilities.
- (1) All new and replacement water supply and sanitary sewage systems shall be designed to eliminate or minimize infiltration of flood water into the system and discharge from systems into flood waters.

- (2) On-site waste disposal systems shall be located to avoid impairment or contamination during flooding.
- (c) Standards for Subdivisions.
 - (1) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.
 - (2) All final subdivision plans shall provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the Director of Community Development.
 - (3) All subdivision proposals shall be consistent with the need to minimize flood damage.
 - (4) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
 - (5) All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.
- (d) Standards for Manufactured Homes. All new and replacement manufactured homes and additions to manufactured homes shall:
 - (1) Be elevated so that the lowest floor is at or above the base flood elevation; and
 - (2) Be securely anchored to a permanent foundation system to resist flotation, collapse, or lateral movement.
- (e) Standards for Recreational Vehicles.
 - (1) All recreational vehicles placed in Zones A1-30, AH, AE, V1-30 and VE will either:
 - (A) Be on the site for fewer than 180 consecutive days; or
 - (B) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - (C) Meet the permit requirements of Section 9.31.050 of this ordinance and the elevation and anchoring requirements for manufactured homes in Section 9.31.060(d).
 - (2) Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of Section 9.31.060(e)(1) and Section 9.31.060(g).
- (f) Floodways. Lands located within an Area of Special Flood Hazard established in Section 9.31.020(b) are designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions shall apply:
 - (1) Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- (2) If Section 9.31.060(e)(1) is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of Section 9.31.060.
- (g) Coastal High Hazard Areas. Within coastal high hazard areas established in Section 9.31.020(b), the following standards shall apply:
- (1) All new construction and substantial improvements shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor excluding the pilings or columns is elevated to or above the base flood elevation.
 - (2) All new construction shall be located on the landward side of the reach of mean high tide.
 - (3) All new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls. Such temporarily enclosed space shall not be used for human habitation.
 - (4) Fill shall not be used for structural support of structures or decks.
 - (5) Man-made alteration of sand dunes which would increase potential flood damage is prohibited.
 - (6) The Director of Community Development shall obtain and maintain the following records:
 - (A) Certification by a registered engineer or architect that the proposed structure complies with Section 9.31.060(f)(1).
 - (B) The elevation (relation to mean sea level) of the bottom of the lowest structural member of the lower floor (excluding pilings or columns) of all new and substantially improved structures and whether such structures contain a basement.
 - (7) Satisfy the design criteria of the Coastal Floodplain Development Study and provide the required wave calculations prepared by a qualified registered Civil Engineer experienced in coastal engineering.
 - (8) Decks shall be constructed to meet the following criteria:
 - (A) Wood and raised concrete decks shall be constructed and adequately anchored on caissons or piles installed below the scour elevation and shall be designed by a structural Civil Engineer to withstand the forces of breaking waves and uplift forces to the satisfaction of the Building Official.
 - (B) Concrete decks constructed on existing ground do not require caissons or pile systems.
 - (C) All decks shall be designed to allow wave run-up to go over and under the deck without obstructions.
 - (9) Accessories, such as awnings, patio covers, or trellises, shall be adequately anchored and constructed on caisson or pile footing installed below the scour elevation.
 - (10) Spas shall be constructed to allow wave run-up under the spa without obstructions. Swimming pools and spas located below the base flood elevation are prohibited.

- (11) The standards for seawalls, revetments, and other shoreline protective devices or construction that alters natural shoreline proas&5 are contained in Section 9.31.040(d)(3) and in Section 9.27.030(f)
 - (12) Garages may be constructed at the existing beach elevation and below the base flood elevation if they are anchored on pilings or columns and designed with breakaway panel walls. Subterranean garages are prohibited.
- (h) Mudslide (i.e., Mudflow)-Prone Areas.
- (1) The Director of Community Development shall review permits for proposed construction or other development to determine if it is located within a mudslide area.
 - (2) Permits shall be reviewed to determine whether the proposed development is reasonably safe from mudslide hazards. Factors to be considered in making this determination include, but are not limited to:
 - (A) The type and quality of soils;
 - (B) Evidence of ground water or surface water problems;
 - (C) The depth and quality of any fill;
 - (D) The overall slope of the site; and
 - (E) The weight that any proposed development will impose on the slope.
 - (3) Within areas which have mudslide hazards, the following requirements shall apply:
 - (A) A site investigation and timber review shall be made by persons qualified in geology and soils or engineering;
 - (B) The proposed grading, excavation, new construction, and substantial improvements shall be adequately designed and protected against mudslide damages;
 - (C) The proposed grading excavation, new constructions, and substantial improvements do not aggravate the existing hazard by creating either on-site or off-site disturbances; and
 - (D) Drainage planting, watering, and maintenance shall not endanger slope stability.
- (i) Flood Related Erosion-Prone Areas.
- (1) The Director of Community Development shall require permits for proposed construction and other development within all flood-related erosion-prone areas as known to the City.
 - (2) Such permits shall be reviewed to determine whether the proposed site alterations and improvements will be reasonable safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing hazard.
 - (3) If a proposed construction or development is found to be in the path of flood-related erosion or would increase the erosion hazard, such construction or development shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.
 - (4) Within Zone "E" on the Flood Insurance Rate Maps, a setback is required for all new development from the ocean, lake, bay, riverfront, or other body of water to create a safety buffer consisting of a natural vegetative or contour strip. This buffer shall be designated according to the flood-related

erosion hazard and erosion rate, in relation to the anticipated “useful life” of structures, and depending upon the geologic, hydrologic, topographic, and climatic characteristic of the land. The buffer may be used for suitable open space purposes such as for agricultural, forestry, outdoor recreation, and wildlife habitat areas, and for other activities using temporary and portable structures only.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97; Ord. 19-01, 4/2/19)

9.31.070 Exception Procedure.

(a) Appeal Board.

- (1) The City Council of the City of Dana Point shall hear and decide appeals from the requirements of this Chapter.
- (2) The City Council shall hear and decide appeals when it is alleged there is an error in any requirements, decision, or determination made by the Director of Community Development in the enforcement and administration of this Chapter.
- (3) In acting upon such appeals, the City Council shall consider all technical evaluations, all relevant factors, standards specified in this Chapter, and:
 - (A) The danger that materials may be swept onto other lands to the injury of others;
 - (B) The danger of life and property due to flooding or erosion damage;
 - (C) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (D) The importance of the services provided by the proposed facility to the City;
 - (E) The necessity to the facility of a waterfront location, where applicable;
 - (F) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (G) The compatibility of the proposed use with existing and anticipated development;
 - (H) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (I) The safety of access to the property in time of flood for ordinary and emergency vehicles;
 - (J) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
 - (K) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (4) Generally, exemptions may be issued for new constructions and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided Sections 9.31.050 and 9.31.060 have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the exemption increases.

- (5) Upon consideration of the factors of Section 931.070(a)(4) and the purposes of this Chapter, the City Council may attach such conditions to the granting of exemptions as it deems necessary to further the purposes of this Chapter.
 - (6) The Director of Community Development shall maintain the records of all appeal actions and report any exemptions to the Federal Insurance Administration request.
- (b) Conditions for Exemption.
- (1) Exemptions may be issued for the reconstruction, rehabilitation, or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, without regard to other conditions set forth herein.
 - (2) Exemptions shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result
 - (3) Exemptions shall only be issued upon a determination that the exemption is the minimum necessary, considering the flood hazard, to afford relief.
 - (4) Exemptions shall only be issued if the Zoning Map includes property within a Floodplain Overlay District of that property does not meet the purpose and intent for that district The determination to exempt a property shall be based on a study of topographic and design flood elevation contours on the subject property and on such additional information as he finds necessary or appropriate.
 - (5) Exemptions shall only be issued if flood protection or floodproofing work adequate to protect against the design flood, and in compliance with City and other applicable flood control and flood protection standards and policies, has been completed. The finding of exemption shall confirm that any stream, channel, storm drain, or landfill improvements fully offset flood surface elevations established by the applicable map and that if the property is included on a Flood Insurance Rate Map or a Flood Boundary and Floodway Map, all such flood protection or flood control work has been approved by the appropriate Federal agency and the property removed from the floodplain designation on such maps.
 - (6) Exemptions shall only be issued upon:
 - (A) A showing of good and sufficient cause;
 - (B) A determination that failure to grant the exemption would result in exceptional hardship to the applicant; and
 - (C) A determination that the granting of an exemption will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
 - (7) Exemptions may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that all the provisions of Sections 9.3L070 are satisfied and that the structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
 - (8) Any applicant to whom an exemption is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor

elevation. A copy of the notice shall be recorded by the Floodplain Board in the Office of the County of Orange County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 19-01, 4/2/19)

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Chapter 9.33

SPECIFIC PLAN DISTRICT

Sections:

- 9.33.010 Intent and Purpose.**
- 9.33.020 Specific Plan District Initiation.**
- 9.33.030 Cost of Preparation and Processing.**
- 9.33.040 Procedure for Establishing the Specific Plan District.**
- 9.33.050 Specific Plan Adoption.**
- 9.33.060 Specific Plan Requirements.**
- 9.33.070 Amendments.**
- 9.33.080 Adopted Specific Plans.**

9.33.010 Intent and Purpose.

The purpose of the Specific Plan (SP) District is to provide for the orderly, systematic, detailed, and enhanced implementation of the General Plan for designated areas of the City. Preparation and processing of Specific Plans shall be in accordance with the applicable provisions of State Law and this Chapter. (Added by Ord. 93-16, 11/23/93)

9.33.020 Specific Plan District Initiation.

The City Council shall identify those portions of the City where application of the Specific Plan District is appropriate. The City Council shall initiate the preparation of all Specific Plans. At the discretion of the City Council, specific plans may be prepared by the City or by persons representing affected property owners. (Added by Ord. 93-16, 11/23/93)

9.33.030 Cost of Preparation and Processing.

When the City Council finds that a specific plan is an appropriate method of planning for the future development of property and implementing the General Plan, the cost for preparation of the specific plan shall be borne by such property owner. The method for determining costs of preparation and making payment shall be as specified in a resolution adopted at the time of initiation of the specific plan and the final amounts shall be fixed upon adoption of the Specific Plan. (Added by Ord. 93-16, 11/23/93)

9.33.040 Procedure for Establishing the Specific Plan District

The procedure to establish a Specific Plan District shall be those described in Section 9.61.070 of this Code. Establishment of the Specific Plan District before the adoption of the Specific Plan prohibits the issuance of grading permits, building permits, or land use permits, unless such permits or entitlements are for the restoration or remedial maintenance and do not in any way predispose land use or development, prior to the adoption of a Specific Plan. (Added by Ord. 93-16, 11/23/93)

9.33.050 Specific Plan Adoption.

A Specific Plan shall be adopted by the City Council in accordance with the provisions of Chapter 9.61 of this Code. Adoption shall be by Ordinance, however, the non-regulatory portions of the Specific Plan may be adopted by Resolution. Adoption of the Specific Plan shall include findings by the City Council that the Specific Plan is consistent with, and provides for the orderly, systematic, and specific implementation of the General Plan. (Added by Ord. 93-16, 11/23/93)

9.33.060 Specific Plan Requirements.

Adoption of the Specific Plan shall include amendment of the Zoning Map to identify the Specific Plan area and its corresponding Specific Plan number, and inclusion of the Specific Plan as an appendix to the Zoning Code. Where the Specific Plan specifically addresses changes in the Zoning Code, the Specific Plan shall supersede those land use regulations applicable to the subject property, including the previously adopted ordinances, standards, and guidelines. Specific plans may either supplement or supersede all land use regulations applicable to the subject property including all previously adopted ordinances, standards and guidelines.

- (a) **Scope of Specific Plan.** Each specific plan ordinance shall include the specific land uses, standards and criteria necessary for the development, maintenance, and use of the subject property, in compliance with the policies and programs of the General Plan. Each Specific Plan shall clearly specify how and to what extent the plan is to improve upon, supplement or supersede any adopted ordinances, regulations, and standards. Where not otherwise specifically referenced and addressed by a Specific Plan, all adopted ordinances, regulations, standards, and guidelines of the City of Dana Point are applicable.

Each Specific Plan shall include standards and a financing program for the installation of public facilities and utilities, schools, flood control and transportation facilities, and other public and private improvements and facilities related to the specific plan. Each Specific Plan shall address the applicable portions of the California Government Code related to the preparation of a Specific Plan.

- (b) **Designation on Zoning Map.** Adoption of a Specific Plan shall include adoption of an appropriate zoning map amendment according to Chapter 9.61 of this Code. Each Specific Plan shall be numbered and named. The zoning map shall not indicate zoning for the area within the Specific Plan, but shall show the letters "SP" within a circle and applicable application number. Thereafter, all land use, development and improvements shall conform to the provisions of the adopted Specific Plan.
- (c) **Inclusion of Specific Plan Text and Maps.** Adoption of a Specific Plan shall include the incorporation of the Specific Plan text and maps as an appendix to the Zoning Code.

- (d) Reference of Specific Plan Text and Maps. Adoption of a Specific Plan shall include the incorporation by reference of the Specific Plan in Section 9.33.080 of this Chapter.

(Added by Ord. 93-16, 11/23/93)

9.33.070 Amendments.

Any Specific Plan may be amended or replaced by the same procedure as the Specific Plan is adopted. Prior to adoption of the repeal of a Specific Plan, the City Council shall find that the Specific Plan is no longer necessary, and no longer provides for the orderly and systematic implementation of the General Plan. The adoption of a repealing ordinance shall include provisions for the immediate application of appropriate zoning to the area covered by the repealed Specific Plan. (Added by Ord. 93-16, 11/23/93)

9.33.080 Adopted Specific Plans.

As of the date of this Zoning Code, the following Specific Plans have been adopted by the City of Dana Point. Complete Specific Plans are provided as a separate appendix to this Code.

Adopted Specific Plans		
SP Number and Name	Zoning Code Appendix	City Council Resolution #
SP91-01 Monarch Beach Resort	D	92-02-25-3

(Added by Ord. 93-16, 11/23/93)

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Chapter 9.35

ACCESS, PARKING AND LOADING

Sections:

- 9.35.010 Intent and Purpose.**
- 9.35.020 Applicability.**
- 9.35.030 Site Plan and Building Permit Required.**
- 9.35.040 General Provisions.**
- 9.35.050 Access.**
- 9.35.060 Parking Requirements.**
- 9.35.070 Dimensions of Parking Facilities.**
- 9.35.080 Minimum Number of Required Parking Stalls.**
- 9.35.090 Loading Facility Standards.**
- 9.35.100 Combined Parking and Loading Facilities.**
- 9.35.110 Alternatives to Parking and Loading Standards.**
- 9.35.120 Parking Structure Design Standards.**

9.35.010 Intent and Purpose.

The access, parking, and loading regulations ensure that all land uses provide safe access and on-site circulation along with adequate off-street parking and loading facilities. The regulations also ensure that the use of land does not negatively affect the safety, use of, or vehicular circulation within public rights-of-way.

(Added by Ord. 93-16, 11/23/93)

9.35.020 Applicability.

- (a) The minimum standards of this section shall apply to all proposed land uses, buildings, and structures.
- (b) The minimum standards of this section shall also apply to all proposed additions, enhancements and changed modifications to existing land use structures. At the time a building or structure is added onto, enlarged, or modified, parking and loading spaces shall be provided for both the existing units and the modified or enlarged portions so as to conform to provisions of this Chapter.

(Added by Ord. 93-16, 11/23/93)

9.35.030 Site Plan and Building Permit Required.

- (a) A site plan shall be submitted for all required parking facilities. The plan shall consist of a detailed layout of the existing and proposed parking facilities,

including the site, grades, drainage, utilities, all structures, landscaping, parking stalls, drive aisles, and ingress and egress drives. The plan shall be accurately and thoroughly dimensioned. The site plan shall be submitted and reviewed in conjunction with any application for a permit required by Chapters 9.65, 9.67, 9.69, or 9.71, subdivisions of land pursuant to Title 7 or building permits pursuant to Title 8.

- (b) Permits in accordance with the applicable provisions of the Dana Point Municipal Code shall be obtained prior to the development of any access, parking, or loading facilities. (Added by Ord. 93-16, 11/23/93)

9.35.040 General Provisions.

- (a) Accessibility/Usability.
 - (1) Required access, parking and loading facilities shall be made available and permanently maintained for access, parking and loading for the permitted and intended use(s).
 - (2) Required off-street parking stalls shall be designed, located, constructed and maintained so as to be fully and independently usable and accessible at all times.
 - (3) Required off-street parking facilities, and driveways providing access to such facilities, shall not be used for any purpose which at any time would preclude the use of the area for the temporary storage of motor vehicles, except as may be permitted through approval of a temporary site development permit
 - (4) Inoperable motor vehicles shall not be parked in driveways or carports.
- (b) Exclusivity of Facilities. Unless otherwise provided through an approved discretionary permit, no owner or tenant shall lease, rent or otherwise make the required off-street parking stalls unavailable to the intended users. The joint use of parking and loading stalls may be permitted subject to the approval of a Site Development Permit pursuant to Chapter 9.71., and as provided for by Section 9.35.060(c)(3).
- (c) Encroachment into Right-of-Way Prohibited. Land within the right-of-way of a proposed street or highway, or within the planned ultimate right-of-way on a street or highway proposed to be widened, shall not be used to provide required off-street parking and loading facilities.
- (d) Parking Facility Development Standards.
 - (1) Paving Materials. All required access, parking, and loading spaces shall be paved with:

- (A) Decorative paving, concrete, or asphalt-type surfacing as per City standards and requirements for all non-residential parking facilities. Pervious paving may be utilized for non-residential development if all water quality requirements are met, and the aesthetics are in keeping with other improvements on-site subject to approval by the Director of Community Development, Public Works Director, and approval of a Minor Conditional Use Permit pursuant to section 9.65.040.
 - (B) Decorative paving or concrete for all driveways, parking areas, parking maneuvering areas, and parking stalls providing access and parking for all newly constructed single family detached and attached residential projects.
- (2) Lighting. Lighting of outdoor parking areas shall be designed and maintained in a manner to prevent glare or direct illumination from intruding into any off-site areas.

Lighting fixtures shall be provided in accordance with the following specifications for

- (A) Uncovered access, parking and loading areas:

The following minimum lighting requirements shall apply to all common uncovered parking facilities.

General Use Areas		High Use Areas	
Footcandles (Minimum on Pavement)	Footcandles Uniformity Ratio (Average/Min)	Footcandles (Average on Pavement)	Footcandles Uniformity Ratio (Average/Min)
.4	4:1	1	3:1

As determined by the Director of Community Development, high use areas include: vehicular entries and exits, parking accessways, pedestrian areas, passenger loading areas, areas of higher intensity vehicular movement; areas of concentrated pedestrian and vehicular movement, and where added security is desired.

- (B) Covered access, parking and loading areas:

The following minimum lighting requirements shall apply to all parking structures:

Parking Structure lighting Standards (in Footcandles)

Area	Day	Night
General and pedestrian areas	5	5
Ramps, aisles, and corridors	10	7
Parking storage areas	4	4
Entrance areas	60	7
Elevator areas, walkways and cashiers booths	20	20
Stairwells	30	20

- (3) Landscaping Requirements. Parking lot landscaping should be designed and installed to comply with the applicable provisions contained in the Urban Design Guidelines,
- (e) Garage Setbacks. The vehicular entry to a garage must be located at least twenty (20) feet from:
 - (1) The back edge of the existing or ultimate sidewalk, whichever is further from the centerline of the street; or
 - (2) Five (5) feet from the back edge of the existing or ultimate curb line, whichever is further from the centerline of the street, where there is no sidewalk; or
 - (3) The property line if it is less than five (5) feet from the existing or ultimate curb line where there are no sidewalks, whichever is closest to the garage.

(Added by Ord. 93-16, 11/23/93; Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94;)

9.35.050 Access.

- (a) Roadways:
 - (1) Access to Circulation Element Roadways:
 - (A) Wherever access to parking is from a secondary arterial of two (2) lanes, or higher rated roadway designated on the Circulation Element of the General Plan, parking stalls and parking maneuvering areas shall be designed so that vehicles enter the roadway traveling in a forward direction.
 - (B) Vehicular access to roadways designated on the Circulation Element of the General Plan will be permitted only in accordance with the driveway locations and access design specifically approved by the Director of Public Works.

- (2) The width of roadways providing access to parking facilities for all residential projects, including attached or detached single family or multiple family dwellings, shall be in accordance with the following standards, unless otherwise approved by the Director of Public Works:

Number of Dwelling Units Accessed by Roadway:	Curb-to-Curb Roadway Width for Access on Streets With:		
	No Parking:	Parking on One Side:	Parking on Two Sides:
1 — 20 units	Less than 28 feet	28 feet	36 feet
21 — 50 units	28 feet	28 feet	36 feet
51 — 120 units	28 feet	30 feet	40 feet
121 + units	28 feet	30 feet	40 feet

Access to residential and commercial property can be provided from an alley.

- (3) Access to on-street parking stalls is direct from the traffic lanes of the public right-of-way. The inclusion of on-street parking is restricted in accordance with the following street width standards:

Curb-to curb Street Width	Parking Allowed
Less than 28'	None, unless in bays outside the curb-to curb width. Bays may include either perpendicular or parallel stalls.
> 28' but < 36'	Parallel stalls on one side only
36' or more	Parallel stalls on both sides

- (4) A five (5) foot sidewalk along at least one side of the roadway is required.
- (5) On private roadways, sidewalks may be deleted if alternative pedestrian circulation is provided and approved subject to a Site Development Permit. In approving a Site Development Permit that includes the deletion of required sidewalks, the Planning Commission must make the following finding:
That a safe and adequate alternative pedestrian circulation system has been provided.
- (b) Driveways. Driveways are intended to provide access from public roadways to private, off-street parking facilities. Entry driveways provide direct ingress or egress from a street, alley, or public right-of-way to a parking aisle, internal driveway or parking maneuvering area. Internal driveways provide interior circulation between parking aisles. Except as is customary in single family residential districts, no parking is permitted in an entry driveway and no parking

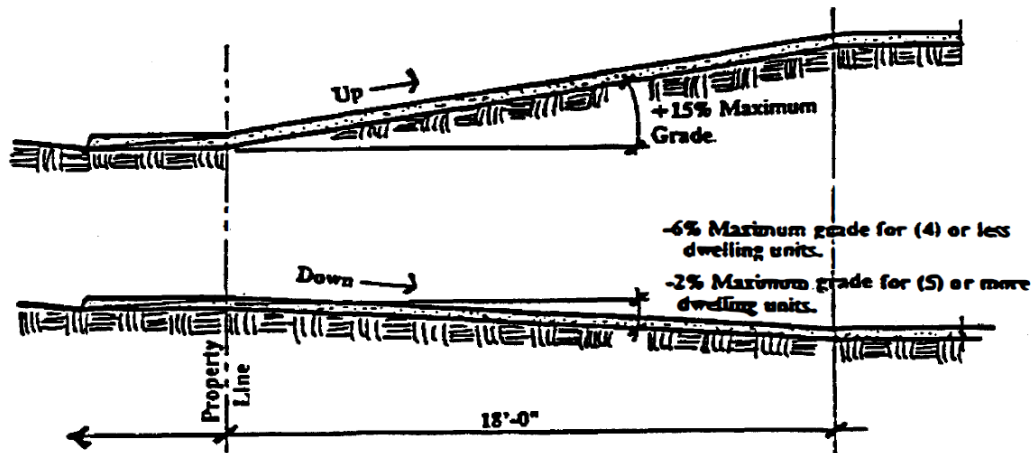
stall shall take direct access from any driveway. In multiple family residential and non-residential districts, neither entry driveways or internal driveways may provide direct access to any parking stall.

- (1) Location of Driveway on a Comer Lot: When a building she abuts two (2) intersecting streets and a driveway or multiple driveways are proposed, the driveway shall be located on the street frontage that allows the driveway to be farthest from the intersection of the two (2) streets, and on the street that carries the least volume of traffic. If one of the intersecting streets is a Circulation Element roadway, the driveway shall be located on the other street subject to approval by the Director of Public Works.
- (2) Driveway Spacing:
 - (A) All Driveways: Driveways shall be located a minimum of four (4) feet apart. In addition, the space between driveways shall not exceed eight (8) feet unless the space is at least twenty-two (22) feet. This standard shall apply only to the development of new subdivisions and, where feasible, to the installation of new driveways in areas of existing development.
 - (B) Driveway spacing standards for non-residential land uses and residential land uses with five (5) or more dwellings shall be as follows:
 1. The centerline of a driveway shall be a minimum of one hundred ten (110) feet away from the centerline of any other driveway as measured along the ultimate right-of-way lines of an abutting street; and
 2. The centerline of a driveway shall be a minimum of two hundred (200) feet away from the centerline of any other street opening. In the Neighborhood Commercial and Residential Districts, the minimum distance between the centerline of a driveway and the centerline of any other street opening may be reduced to one hundred fifty (150) feet subject to approval of the Director of Public Works.
 - (C) If the standards of (b)(2)(A) and (b)(2)(B) above cannot be achieved, a minimum distance of twenty-two (22) feet, as measured along the ultimate property line, may be provided subject to the approval of the Director of Public Works.
- (3) Driveway Grades, Unless Otherwise Approved By the Director of Public Works:
 - (A) Entry Driveways:

1. Four (4) or Less Residential Dwellings. Whenever access is taken from a street, alley, or driveway to off-street parking serving four (4) or less dwelling units, the driveway shall have a maximum grade of plus fifteen (15) percent or minus six (6) percent, measured from the street, alley, or driveway grade along the driveway centerline, for a distance of not less than eighteen (18) feet from the ultimate street, alley, or driveway right-of-way line. Exhibit 9.35-1 illustrates these specifications.

2. Non-residential Land Use or Five (5) or More Residential Dwellings. Whenever access is taken from a street, alley or driveway to an off-street parking area serving non-residential land use or five (5) or more dwelling units, the driveway shall have a maximum grade of plus fifteen (15) percent or minus two (2) percent, measured from the street, alley or driveway grade along the driveway centerline for a distance of not less than eighteen (18) feet from the ultimate street, alley, or driveway right-of-way line. If the driveway is constructed below the street elevation, adequate drainage facilities to avoid flooding shall be provided. Exhibit 9.35-1 illustrates these specifications.

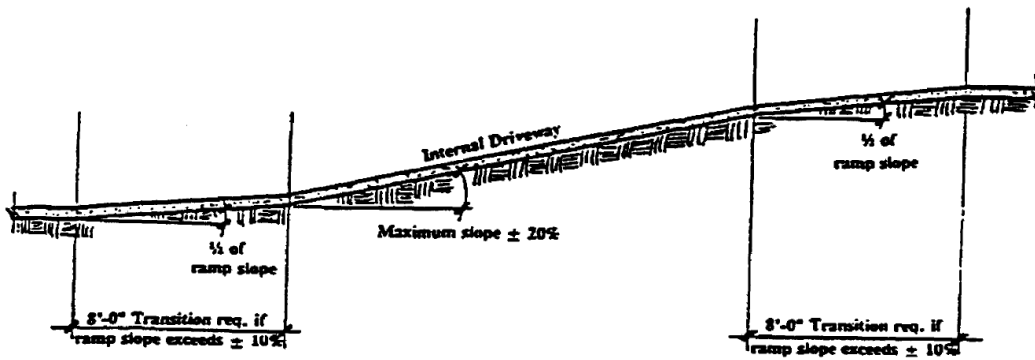
**EXHIBIT 9.35-1
MAXIMUM ENTRY DRIVEWAY GRADES**



3. If any entry drive exceeds fifty (50) feet in length, the first eighteen (18) feet of the access may not exceed an eight (8) percent grade.
- (B) Internal Driveways. Driveways located beyond eighteen (18) feet from the ultimate right-of-way line of a street, alley, or driveway

which provides vehicular access within the interior of a parking area are internal driveways and shall have a maximum slope of plus twenty (20) percent or minus twenty (20) percent. When the slope of an internal driveway exceeds plus or minus ten (10) percent, the internal driveway design shall include transitions on each end, no less than eight (8) feet in length, which have gradients equal to one-half (1/2) the slope of the ramp. If the driveway is constructed below the street elevation, adequate drainage facilities to avoid flooding shall be provided. Exhibit 9.35-2 illustrates these specifications.

**EXHIBIT 9.35-2
INTERNAL DRIVEWAY GRADES**



(4) Driveway Widths.

(A) Residential Driveways.

1. The minimum driveway width between the public right-of-way and parking stall maneuvering area shall be as follows, unless otherwise approved by the Director of Public Works:

Number of Dwelling Units	One-Way Circulation	Two-Way Circulation
1 ⁽¹⁾	10 feet	10 feet
2 - 4 ⁽²⁾	12 feet	20 feet
5-19 ⁽³⁾⁽⁴⁾	14 feet	24 feet
20 +	14 feet	28 feet

- (1) A single family residence driveway shall be paved to a minimum of ten (10) feet in width from access street or alley to the parking stall maneuvering area.

- (2) Except when a wider width is required for parking stall maneuvering area according to this Chapter or as required by the Director of Public Works for a transition to a driveway approach.
- (3) Where a one-stall garage has an interior width in excess of ten (10) feet and a garage door wider than eight (8) feet, the driveway width may be reduced by up to two (2) feet.
- (4) Where a two-stall garage has a garage door at least sixteen (16) feet wide, the parking stall maneuvering area width may be reduced by up to two (2) feet.

2. Limit on Residential Driveways. For all residential uses, the driveway must lead directly to a garage, carport, or other approved parking facility. The number of permitted driveways shall be one per fifty (50) feet of lot frontage, or fraction thereof, not to exceed a total of two driveways.

(B) Non-Residential Driveways.

- 1. A one-way driveway shall have a minimum width of fifteen (15) feet unless it is a fire lane which requires a minimum width of twenty (20) feet where one-way driveways exist, pavement graphics and directional signage and arrows shall be provided. If the driveway is more than one-hundred fifty (150) feet long, a fire apparatus turning radii may be required.
- 2. The width of a two-way driveway from any roadway shall be designed in accordance with the following standards, unless otherwise approved by the Director of Public Works:

Project Size (by number of parking stalls):	Minimum Driveway Width:
1 — 100 parking stalls	28 feet
101 — 350 parking stalls	32 feet
351 + parking stalls	35 feet (with curb returns)

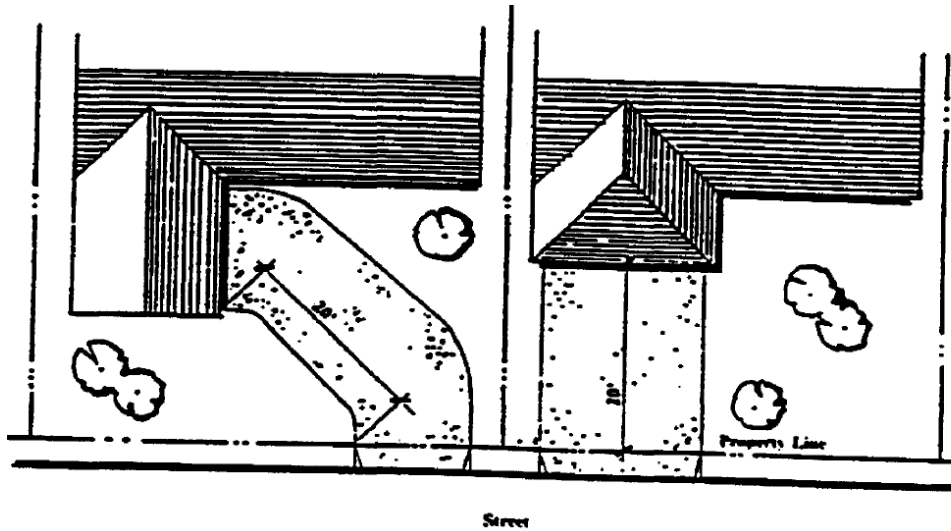
(5) Driveway Lengths.

(A) Residential Uses:

1. Providing Access to a Garage:

- a. Single Family Detached and Attached. A driveway with a minimum length of twenty (20) feet, as measured from the back of sidewalk, five (5) feet from the back of the existing or ultimate curb where there is no sidewalk, or property line if it is less than five (5) feet from the existing or ultimate curb line where there are no sidewalks to the parking stall or parking stall maneuvering area, whichever is closest. Exhibit 9.35-3 illustrates this requirement.

**EXHIBIT 9.35-3
RESIDENTIAL DRIVEWAY TO A GARAGE**



- b. Single family detached on lots which are both shallow and narrow: (less than fifty (50) feet wide and one hundred (100) feet deep):

A driveway with a minimum length of five (5) feet and a maximum length of nine (9) feet, measured from the back of sidewalk or back of curb where there is no sidewalk to the parking stall or parking maneuvering area, whichever is further. An automatic garage door opener and roll-up garage door, kept in operating condition, shall be used on garages located on such lots.

2. Providing Access to a Parking Structure or Uncovered Parking. The length of driveways providing access to a parking structure or to any area of uncovered parking shall be in accordance with the following standards:

Number of Dwelling Units Served	Minimum Driveway Length
1 — 19 dwelling units	20 feet
20 — 49 dwelling units	30 feet
50 + dwelling units	40 feet

(B) Non-Residential Uses or Five (5) or more Residential Dwellings:

1. The length of a driveway from any roadway shall be designed in accordance with the following standards as measured from the ultimate right-of-way to the first intersecting parking aisle, internal driveway or parking stall:

Project Size	Minimum Internal Driveway Length	
	Primary Driveway:	Secondary Driveway:
1 — 50 parking stalls	Subject to Director of Public Works	Subject to Director of Public Works
51 — 100 parking stalls	20 feet	20 feet
101 — 200 parking stalls	30 feet	20 feet
201 — 350 parking stalls	50 feet	40 feet
351 — 450 parking stalls	70 feet	50 feet
451 + parking stalls	90 feet	60 feet

2. Driveways from non-circulation Element roadways shall not be less than twenty (20) feet in length as measured from the ultimate public right-of-way.

(6) Driveway Widths. The width of any driveway from any roadway shall be designed in accordance with the following standards, unless otherwise approved by the Director of Public Works:

Project Size:	Minimum Driveway Width:
0 — 100 parking stalls	28 feet
101 — 350 parking stalls	32 feet
351 + parking stalls	35 feet with curb returns

(Added by Ord. 93-16, 11/23/93; amended by 94-09, 5/24/94;)

9.35.060 Parking Requirements.

- (a) Parking Facilities.
 - (1) Parking Aisles. A parking aisle is a paved area designed to provide access to parking stalls.
 - (2) Parking Stall Maneuvering Area. A parking stall maneuvering area is the paved area behind a parking stall that allows a vehicle to back out and enter a parking aisle or driveway. Parking stall maneuvering areas many times are also parking aisles of public rights-of-way. For example, a parking stall maneuvering area for the garage of a typical single family detached home is the driveway and public street.
 - (3) Parking Stall. An area intended for the temporary parking of motor vehicles.
 - (4) Parking Structure. A parking structure is either an above-ground, below-ground, or at-grade parking facility which is partially enclosed and which contains structural elements, such as columns or other supports, to create a multi-level parking facility.
- (b) Access to Parking Facilities. Vehicular access to off-street parking facilities shall be provided in accordance with the following provisions:
 - (1) Fully accessible, adequate, and safe ingress and egress shall be provided between a parking area and a street, highway, alley or driveway as determined by the Director of Public Works.
 - (2) Where feasible, required parking facilities shall be designed so as to allow vehicular access to other areas of the parking facility or adjacent parking facilities without entering the public right-of-way.
 - (3) Except for single family detached or attached projects of four units or less, access facilities shall be arranged so that any vehicle can leave the parking area and enter into an adjoining vehicular right-of-way traveling in a forward direction.
 - (4) When a parking aisle containing seven (7) or more stalls dead ends, a turnaround area shall be provided which allows a vehicle entering the dead end parking aisle to exit the dead end parking aisle in a forward direction to the satisfaction of the Director of Public Works. The insertion or positioning of a landscape finger in a dead end parking aisle with more than seven (7) parking stalls in it will not eliminate the requirement for a turnaround. For 90° parking from a dead end parking aisle, the last

parking stall for the aisle shall be deleted and designated as a turnaround area.

Any required garage, covered parking stall, or parking stall located more than one hundred (100) feet from the street or highway from which access is taken, and served by a driveway or parking aisle less than twenty (20) feet wide, shall have an adjacent vehicle turnaround area with a minimum size equal to a standard nine (9) foot by eighteen (18) foot parking stall. The turnaround area shall be located so that it can physically accommodate a vehicular turnaround without excessive vehicular movements, subject to approval by the Director of Public Works. Larger turnaround areas may be required to accommodate larger vehicles as deemed necessary by the Director of Public Works.

- (5) Tandem parking is prohibited, except as indicated below, subject to the approval of a minor conditional use permit:
- (A) For duplexes, pursuant to Section 9.35.080(e)(4) and Exhibit 9.35-10; or
 - (B) For “employee only” parking areas of existing commercial structures; or
 - (C) For valet parking areas of existing commercial structures.
 - (D) Minor Conditional Use Permits may only be issued under subsections (B) and (C) above, when the Director of Community Development can make the following findings:
 - 1. That the proposed type of tandem parking (employee or valet) is appropriate for the proposed use; and
 - 2. That surrounding properties will not be adversely affected by the proposed tandem parking facilities; and
 - 3. That adequate off-street (or acceptable on-street) parking for the patrons of the business will be available for the proposed use; and
 - 4. That appropriate conditions have been imposed to address the maintenance and safety of the tandem parking area.
 - 5. That the proposed use demonstrates unusually high quality, character and/or exhibits characteristics which are highly consistent with community objectives as stated in a specific General Plan goal(s) or policy(ies).

6. That the tandem parking program includes provisions for periodic monitoring and reporting to identify any issues associated with the program and to adjust the program as necessary to address any such issues.

Pedestrian access through off-street parking facilities shall be provided in accordance with the following provisions:

- (6) Parking lots with eighty (80) or more uncovered parking stalls shall be designed to incorporate a safe and identifiable pedestrian circulation system which links the on-site parking lot and the off-site pedestrian circulation to the on-site structure(s)/uses. The system shall be provided in accordance with the following criteria:
 - (A) The pedestrian linkage should be designed so as to be readily evident to the pedestrian as the safest pathway to the on-site use or structure. Vertical elements such as lighting, trees, arbors, or porticos may be used to enhance identification of the linkage.
 - (B) The pedestrian linkage should be routed and designed so as to provide maximum integration with the required parking lot landscaping and the maximum degree of separation between pedestrian and vehicular circulation.
 - (C) The pedestrian linkage shall be physically separated from vehicular circulation aisles except as necessary to provide a perpendicular crossing of such an aisle. Where the linkage crosses any vehicular circulation aisle, special treatments, including lights, signage, or enhanced pavement treatments such as pavers or brickwork, shall be provided to identify the crosswalk.

(c) Location of Parking and Loading Facilities.

- (1) Location of Residential Parking Stalls.
 - (A) Required parking facilities for residential districts shall be located on the same lot or parcel of land as the use the parking facilities are intended to serve. The facilities shall be conveniently and safely located on the site, required parking to be within one hundred fifty (150) feet of the primary entrance to a dwelling unit. Required parking facilities provided by a given project shall be used exclusively for parking purposes by that project or residence, and shall not be leased, sold, or utilized by other projects or entities.

By approval of a Variance pursuant to Chapter 9.67, the Planning Commission may approve alternate parking facilities when it finds vehicular access to a garage, carport, or other

required automobile storage space on the same lot or parcel of land is not possible from any street, highway, or alley. Such restrictions to access may be due to topographical or other physical conditions. Access may be so difficult to achieve that to require such access may be determined unreasonable in the opinion of the Planning Commission.

(B) Covered and Assigned Stalls:

1. Covered and assigned stalls within a garage shall be located on-site and at least twenty (20) feet from the ultimate right-of-way, except for lots which are both shallow and narrow (less than fifty (50) feet wide and one hundred (100) feet deep) and duplexes on narrow lots which may be setback in accordance with Section 9.05.190 or Section 9.35.080(e).
2. Covered and assigned stalls within a parking structure shall be located on-site and within one hundred (100) feet of the dwelling unit they serve.
3. Covered and assigned stalls shall be designated as to the dwelling unit to which they are assigned on all plans submitted for permits. The plans shall show how the assigned stalls are designated.

(C) Uncovered and Unassigned Stalls:

Uncovered and unassigned stalls shall be located on-site and within two hundred (200) feet of the dwelling units they serve, and shall be marked "visitor parking."

(2) Location of Non-Residential Parking Stalls. Required parking for non-residential uses shall be located:

- (A) On the same lot or parcel of land as the use which the facilities serve; or
- (B) On an adjoining lot or parcel of land under the same ownership as the lot supporting the use the parking facilities serve, provided that the adjoining lot is merged with the property containing the primary use for which the parking is required; or
- (C) On a lot or parcel of land separated only by an alley (twenty (20) feet wide or less) from the lot or parcel supporting the use the parking facilities serve, provided:
 1. That said lots or parcels are under the same ownership; and

2. That said lots or parcels would be contiguous if not separated by the alley; and
 3. That direct vehicular and pedestrian passage between said lots or parcels would be possible if the alley were vacated; and
 4. That the parking is located not more than two hundred (200) feet from the property it is intended to serve; or
 5. That the parking and vehicular access on said lots or parcels can be designed to ensure safe pedestrian movement between the parking and the property containing the primary use it is intended to serve.
 6. That the lots or parcels are bound for the purpose of development by a covenant for easement pursuant to Chapter 9.45.
- (D) On a non-adjacent lot on the same block as the lot supporting the use the parking facilities serve, provided that the non-adjacent lot is under the same ownership.
- (E) Required parking for non-residential uses may be located on residentially designated lots or parcels subject to the requirements described above through approval of a Conditional Use Permit pursuant to Chapter 9.65.
- (3) Joint Use of Parking Facilities. Multiple uses on multiple building sites may establish joint use parking facilities within one or more parking areas located within such multiple building sites, provided the following requirements are met
- (A) A detailed joint use parking plan shall be approved by a Minor Site Development Permit issued by the Director of Community Development pursuant to Chapter 9.71. The plan shall show and explain all parking facilities, uses and structures that will use the parking and the pedestrian access from the parking facilities to the uses and structures.
 - (B) The boundary of the parking facilities shall be within ¼ mile of the uses they serve and connected to the site by an adequate pedestrian path or sidewalk to the satisfaction of the Director of Community Development
 - (C) Adequate assurance, to the satisfaction of the Director of Community Development shall be provided to guarantee that required parking will continue to be maintained in compliance with

applicable provisions of this Chapter. This assurance shall be recorded in the office of the Orange County Recorder on all properties utilizing the joint use parking facilities.

- (4) Shared Parking Program. A shared parking program is the shared use of an on-site common parking facility between various land uses according to a program that assures adequate parking is continually provided.

Approval of a shared parking program shall be by:

- (A) A minor Conditional Use Permit approved by the Director of Community Development pursuant to Chapter 9.65 if the shared parking program meets City parking requirements according to the standards of subsection 3 below; or

A Conditional Use Permit approved by the Planning Commission pursuant to Chapter 9.65 for all other proposed shared parking programs.

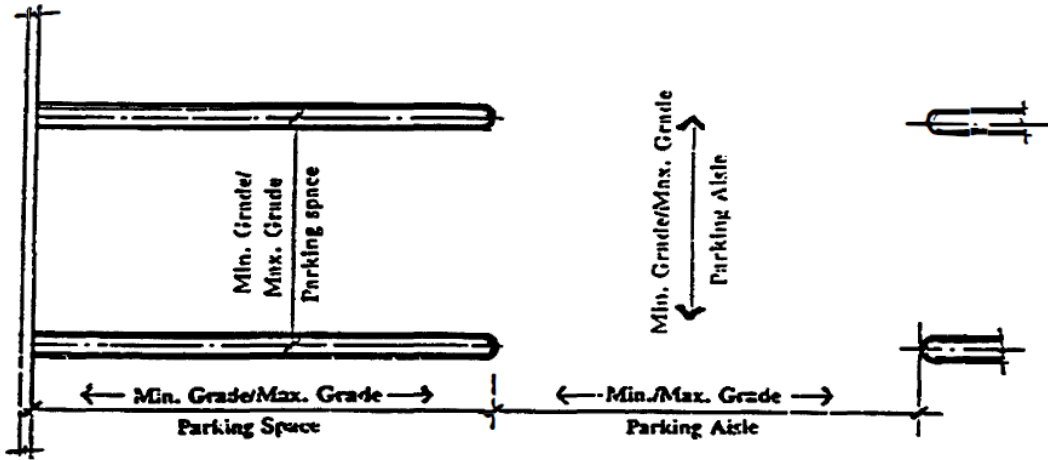
- (B) Findings for approval of a shared parking program shall be that the shared parking program provides a reasonable, accountable, and enforceable means for all uses to share common parking and that the City's minimum requirements assure parking demand is continually met.

- (C) The property owner shall submit the shared parking program to the Director of Community Development for review and approval. The shared parking program shall include:

1. Written verification from property owner and tenants and all future property owners know of and will comply with the requirements of the shared parking program; and making known the shared parking program to all future property owners, tenants, and government agencies.
2. A site plan showing all parking spaces, building square footage and tenant spaces.
3. A shared parking matrix(s) with the following information:
 - a. The number of parking stalls available on-site (parking supply).
 - b. Project building and tenant addresses.
 - c. Gross square footage of all building and tenant spaces.

- d. The name, type of use, and the days and hours of operation for each tenant
 - e. The number of parking stalls required by this Chapter for each tenant based on each tenant's gross square footage and type of use.
 - f. The hourly parking demand for all tenants on: Weekdays (M—F), Saturday, Sunday.
 - g. The comparison between hourly parking demand and the parking supply which shows hourly parking demand will not exceed hourly parking supply according to this Chapter.
4. Written acknowledgement from the property owner and tenants that shared parking is contingent upon the efficient implementation of the shared parking program by the property owner and the tenant, and that if the shared parking program is not implemented efficiently as determined by the Director of Community Development, the City shall have the right to deny issuance of tenant improvements or other permits for use or development on the site.
 5. After signing any lease agreement with future tenants, or purchase agreement with a future owner, the owner shall submit an updated shared parking program to the Director of Community Development for review and approval. The submittal shall indicate the new tenant or property owner, the tenant's required parking, and agreement with the Shared Parking Program as evidenced through a signed letter. The submittal shall be accompanied with a services fee in an amount equal to the hourly billing rate of a Planning Technician for one (1) hour, according to the most current "City of Dana Point — Schedule of Service Fees." The City of Dana Point may withhold permits of any kind for the site until such documentation and fee is provided, reviewed, and approved.
- (d) Required Grades. Parking stalls, loading spaces, parking aisles, and parking stall maneuvering areas shall have a minimum grade of one-half (0.5) percent for concrete and one (1) percent for all other types of pavement; and a maximum grade of two (2) percent for retail commercial and five (5) percent for all other uses. Said grade may be measured across the parking space and the abutting parking aisle in any direction. Exhibit 9.35-4, on the following page, illustrates these requirements.

**EXHIBIT 9.35-4
REQUIRED PARKING FACILITY GRADES**



(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 95-14, 7/25/95)

9.35.070 Dimensions of Parking Facilities.

- (a) **Parking Aisles.** Parking aisles, interior circulation drives, and other maneuvering areas shall have minimum dimensions, as specified in the following table.

Parking Stall Orientation to Parking Aisle	Minimum Parking Aisle Width	
	One-Way Circulation	Two-Way Circulation
Parallel	14 feet	24 feet
45°	14.5 feet	24 feet
60°	17 feet	24 feet
90°	24 feet	24 feet

- (b) **Parking Stall Maneuvering Areas.** Parking stall maneuvering areas for access into and out of parking stalls shall be as wide as the parking stall or parking stalls and as long as follows:

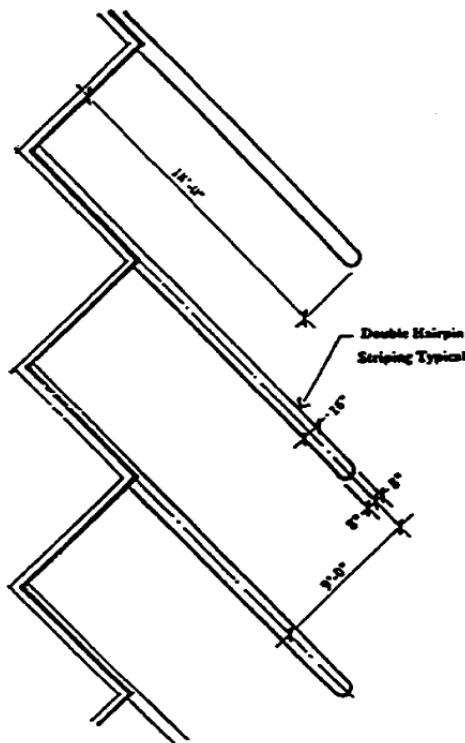
- (1) Garages twenty four (24) feet of unobstructed pavement measured from the garage door.
- (2) Parking structures twenty-four (24) feet of unobstructed pavement measured from the open end of the parking stall.
- (3) Uncovered parking twenty-four (24) feet of unobstructed pavement measured from the open end of the parking space.

(c) Parking Stalls.

(1) General Design Provisions.

- (A) Parking Stall Delineation. Each parking stall, except for a parking stall within a single family garage, shall be clearly marked with double striping having a minimum width of four (4) inches centered around the minimum parking stall width. The outside dimension of the double striping shall not exceed sixteen (16) inches. Exhibit 9.35-5 illustrates this provision.

**EXHIBIT 9.35-5
REQUIRED PARKING STALL DELINEATION**

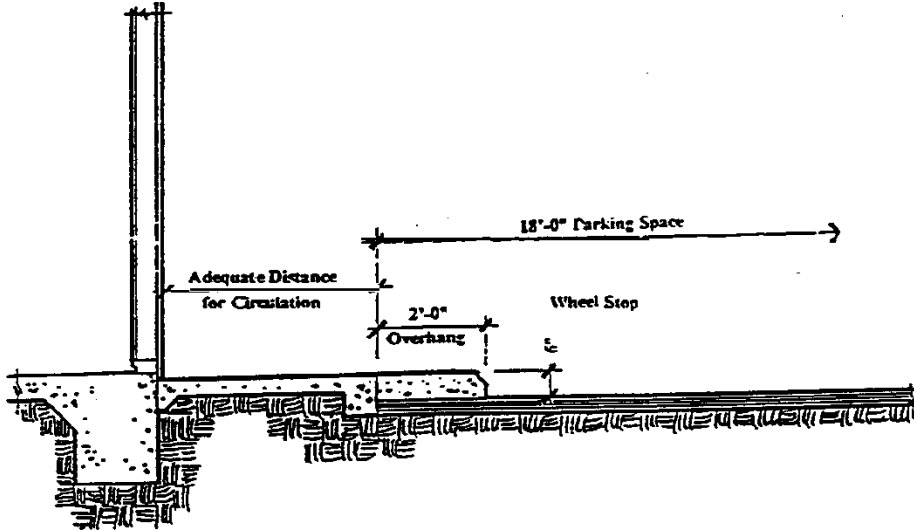


- (B) Parking Stall Curbing and Wheel Stops. A continuous six (6) foot by six (6) foot concrete curb shall be provided for any uncovered parking stall adjacent to a pedestrian walkway, accessway or driveway, landscape planter, street or alley, as illustrated in Exhibit 9.35-6, to ensure that vehicles will not encroach into these areas. Limited encroachment of a parking stall into landscape planters or pedestrian walkways is permitted pursuant to Section 9.35.070(c)(2)(C).

Wheel stops are discouraged in favor of concrete curbing with landscaping or sidewalk extending two (2) feet into the parking stall. Wheel stops should only be used to protect

buildings, walls, pedestrians, or landscaping from contact by motor vehicles when there is no alternative measure of protection.

**EXHIBIT 9.35-6
CURBING AND WHEEL STOPS**



(2) Minimum Parking Stall Dimensions.

(A) General Stall Dimensions. All parking stalls shall be designed to meet the following minimum dimensional standards, as illustrated in Exhibit 9.35-7:

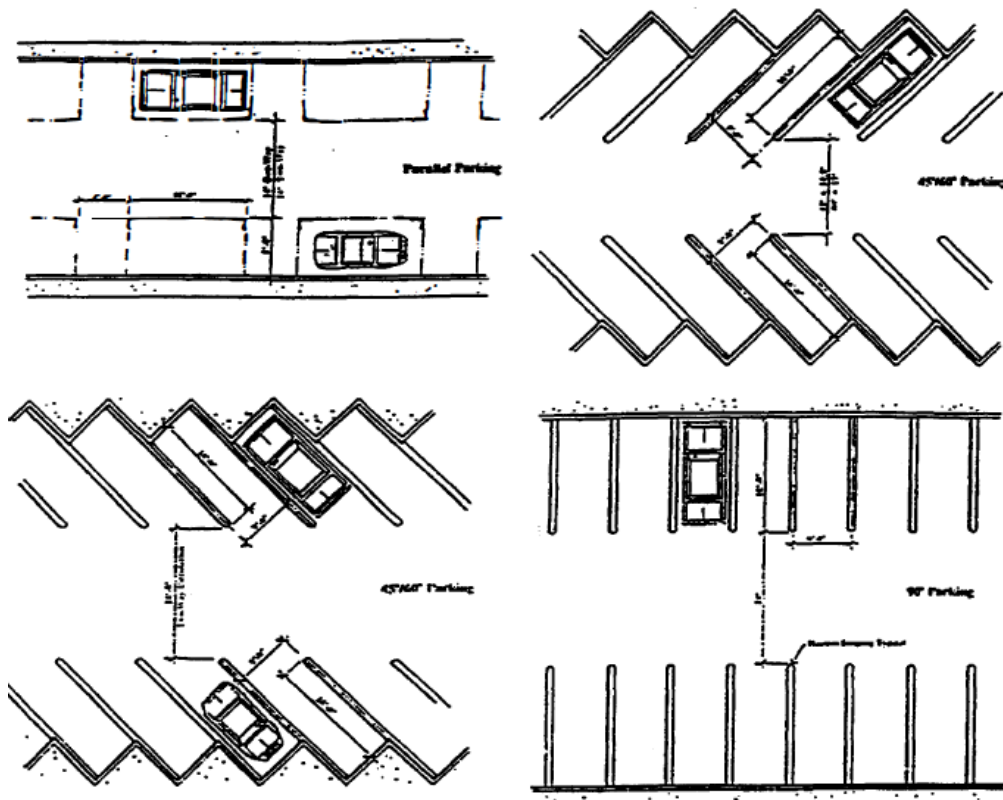
	Standard Parking Stalls (1)	Handicapped Parking Stalls (1)
Uncovered Stalls In a Parking Lot -		
Parallel:	8' x 22'	14' x 22'(2)
45, 60 or 90 degree:	9' x 18'	14' x 18'(2)
Covered Stalls Inside a Garage or Carport -	10' x 20'	14' X 20' (2)
Covered Stalls Inside a Parking Structure -		
Parallel:	8' x 22'	14' x 22'(2)
45, 60 or 90 degree:	9' x 18'	14' x 18'(2)

(1) Excepting stalls in the garage of a single family residence, when a parking stall abuts a building, fence, support column or other vertical obstruction which would interfere in any way with access to a motor vehicle, the required width of the stall shall be increased by two (2) feet.

- (2) One (1) in every eight handicapped parking stalls, and always at least one handicapped stall, shall have a minimum dimension of seventeen (17) feet by eighteen (18) feet (nine (9) foot wide parking stall and eight (8) foot wide access area by eighteen (18) feet deep) and shall have appropriate signage designating the stall “van accessible.”

All parking stalls shall maintain unobstructed vertical clearance in accordance with the provisions of Section 9.35.070(c)(2)(B).

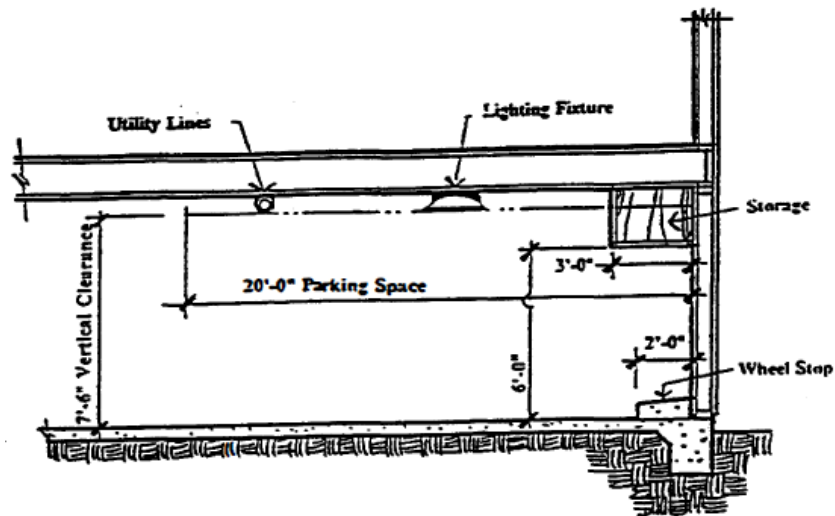
**EXHIBIT 9.35-7
PARKING AISLE AND PARKING STALL DIMENSIONS**



- (B) Unobstructed Vertical Clearance. Unobstructed vertical clearance means the area above the parking stall that is clear of any overhead

intrusions such as structural supports, conduits, pipelines, signage or lighting fixtures. Such intrusions and overhead storage compartments may be permitted within the required unobstructed vertical clearance area along the wall, within the first three (3) feet at the head of the stall subject to the approval of the Director of Community Development. Exhibit 9.35-8 illustrates the requirements and exceptions for unobstructed vertical clearance.

EXHIBIT 9.35-8 UNOBSTRUCTED VERTICAL CLEARANCE



- (C) Parking Stall Encroachment. When the head of a parking stall abuts a landscape planter or pedestrian walkway, the depth of the stall may be reduced by up to two (2) feet subject to the following provisions:

In either condition, the parking stall shall be provided with curbing that will limit vehicle encroachment to a maximum of two (2) feet.

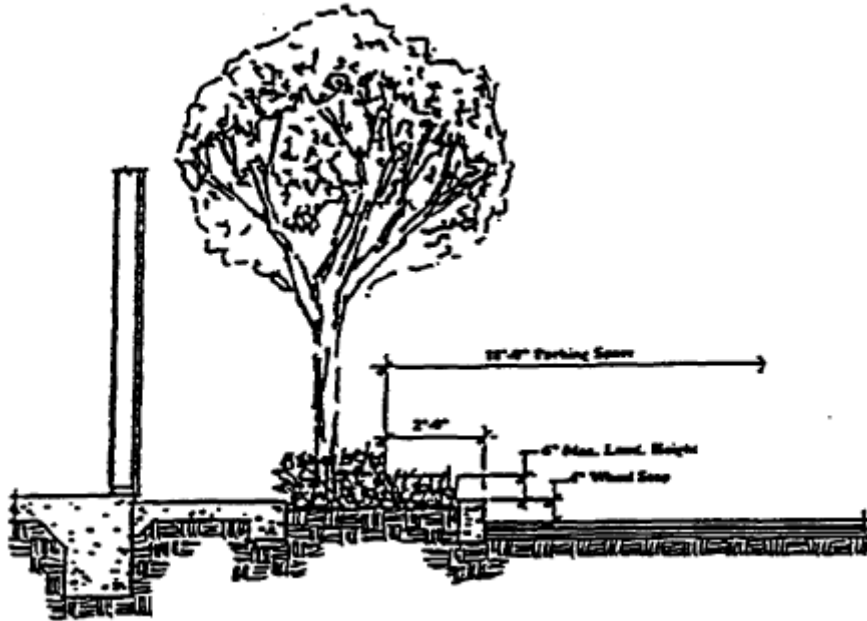
For encroachment into landscaped areas, planting material in the encroachment area shall be of a type that does not normally grow above six (6) inches tall with routine maintenance. The depth of encroachment should be limited so that the remaining portion of landscaped area will satisfy the minimum required planter width referenced in Section 9.35.040(d)(3). The portion of

the landscaped area that is encroached upon shall not be included in the calculation for minimum parking lot landscaping requirements.

For encroachment into pedestrian walkways, the amount of encroachment shall be limited so that the remaining portion of the walkway will be of an appropriate width to provide adequate pedestrian circulation.

Exhibit 9.35-9 illustrates the requirements and limitation for parking stall encroachments.

EXHIBIT 9.35-9 PARKING STALL ENCROACHMENTS



(Added by Ord. 93-16, 11/23/93; Ord. 94-21, 12/13/94)

9.35.080 Minimum Number of Required Parking Stalls.

- (a) Calculation of Minimum Parking Requirements. The requirement for a use not specifically mentioned in subsection (e) shall be the same as for a specified use which has the most similar traffic or parking generation characteristics. The Director of Community Development shall determine what constitutes similar traffic or parking generation characteristics. When the calculation of required parking stalls results in a fractional number, the number of required stalls shall be rounded up to the next whole number when the fraction is equal to or greater than .5 and may be rounded down to the next whole number when the fraction is less than .5. The number of required stalls shall be adequate to service the proposed

use. Notwithstanding the table in subsection (e) below, the Director of Community Development may require additional parking stalls. Subsection (e) specifies the number of off-street parking stalls required for specific uses.

(b) Calculation of Gross Floor Area. Where required parking calculations are based on gross floor area, gross floor area shall be calculated by measuring to the exterior of the building walls. The following areas shall be included in the calculation:

- (1) Restrooms, closets and storage or mechanical rooms;
- (2) Exterior patios which are intended to be occupied;
- (3) Elevator shafts and stairwells (may be counted once);

The following areas may be excluded from the calculation:

- (4) Interior building floor space which is devoted to parking, circulation to subgrade parking or landscaping;
- (5) Exterior breezeways, hallways and balconies.

(c) Handicapped Parking. The following table establishes the number of handicapped parking stalls required:

Total Number of Parking Stalls in Parking Lot or Garage	Minimum Number of Required Handicapped Parking Stalls
1 — 25	1
26 — 50	2
51 — 75	3
76 — 100	4
101 — 150	5
151 — 200	6
201 — 300	7
301 — 400	8
401 — 500	9
501 — 1000	2% of total stalls
1001 and over	20, plus 1 for each 100 or fraction thereof over 1001 stalls

(d) Allowance for Bicycle Stalls. For projects with a minimum parking requirement of fifty (50) or more parking stalls, up to eight (8) percent of the required stalls may be provided as bicycle stalls in a properly secured and located rack.

- (e) Minimum Number of Required Stalls by Use. The minimum amount of parking provided for each use in a project shall be in accordance with the following ratios:

SECTION 9.35.080(e)
MINIMUM NUMBER OF REQUIRED PARKING STALLS BY USE

Residential Uses	
Use	Required Number of Stalls
(1) Age Restricted Single or Multiple Family Project	Same as single-family and multiple family listed above
(2) Convalescent Hospital	1 stall for every 4 beds plus parking for on-site employee housing
(3) Duplex	4-car garage (with minimum 40' x 20' interior floor space) and 1 additional stall per duplex. The requirement for the additional stall may be waived with the approval of a Minor Site Development Permit provided the project satisfies the required findings detailed in Section 9.71.050.

(4) Duplex on lot less than 50' wide	<p>Two (2) covered and assigned parking stalls within a garage per dwelling unit; or</p> <p>A tandem parking design providing the required four (4) covered parking spaces shall be approved, subject to the approval of a minor Conditional Use Permit by the Planning Commission and in accordance with the following standards:</p> <ol style="list-style-type: none"> a. Prior to issuance of building permits, the recordation of a tandem parking agreement and management plan with the title for the property shall be provided to the satisfaction of the Director of Community Development. b. Prior to issuance of Certification of Occupancy, at least one 24-inch box tree shall be planted in the front yard setback or other alternative decorative paving and landscaping to screen the street views. c. The setback and design of the garage and the driveway shall provide adequate articulation and structural details to the garages and front elevation.
(5) Fraternity, Sorority or Rooming House	1 unassigned stall per bedroom, plus 2 covered and assigned stalls for the resident manager
(6) Granny Flat	1 covered (non-tandem)

SECTION 9.35.080(e)
MINIMUM NUMBER OF REQUIRED PARKING STALLS BY USE
(continued)

Residential Uses (continued)	
Use	Required Number of Stalls
(7) Mobilehome Park	1 covered and assigned stall, plus ½ visitor stall per d.u.

(8) Multiple family units (including Timeshare): 1 bedroom or less 2 bedrooms 3 bedrooms more than 3 bedrooms	Stalls per Unit:		
	<u>Covered</u> ⁽¹⁾	<u>Uncovered</u> ⁽¹⁾	<u>Visitor</u>
	1.0	0.5	0.2
	1.0	1.0	0.2
	2.0	0.5	0.2
	2.0	0.5 ⁽²⁾	0.2
	(1) Covered stalls shall be assigned; uncovered stalls shall not be assigned.		
	(2) Plus 0.5 uncovered stall per additional bedroom in excess of 3.		
(9) Senior Citizen Housing Complex	1 covered and assigned stall, plus ½ guest stall per dwelling unit, plus 1 stall for the resident manager		
(10) Senior Congregate Care Facilities	1.25 stalls per unit (may be reduced to .67 stall per unit subject to Conditional Use Permit to reflect presence of special transportation services or other unique characteristics)		
(11) Single-family, attached	Two (2) assigned and covered parking stalls within a garage or parking structure, plus .3 stalls unassigned per dwelling unit		
(12) Single-family, detached: up to 5 bedrooms over 6bedrooms	2 stalls in a garage 2 stalls in a garage + 1 covered stall for every two bedrooms over 4 bedrooms		
(13) Single-family, detached on shallow or narrow lots (less than 50 feet wide and 100 feet deep)	Two (2) assigned and covered stalls within a garage per dwelling; or Two (2) assigned and covered stalls within a garage (setback 5 to 9 feet) per dwelling. The garage must be equipped with a garage door opener and a roll-up garage door.		

SECTION 9.35.080(e)
MINIMUM NUMBER OF REQUIRED PARKING STALLS BY USE
(continued)

Community Uses	
Use	Required Number of Stalls
(14) Church, chapel, religions finality, cemetery, mortuary, public assembly	1 stall/3 fixed seats (or 72" of bench seating), or 1 stall/25 SF-GFA where there are no fixed seats
(14a) Emergency Shelters	1 space per 10 beds/persons
(15) College or University	1 stall/employee, plus 1 stall/2 students based on maximum student capacity

(16) Convalescent Hospital, Rest Homes or Sanitariums	1 stall/3 beds, plus if employee residence facilities are provided onsite, additional parking in accordance with applicable residential requirements
(17) Day Care and Nursery Schools	1 stall/2 employees, plus 1 stall/5 children, based on facility capacity
(18) Elementary Schools and Junior High Schools	1.5 stalls/classroom, plus 1 stall/5 fixed seats in auditorium, gymnasium or similar public assembly facility (35 SF = 5 fixed seats)
(19) High Schools	1.5 stalls/classroom, plus 1 stall/3 students based on maximum student capacity
(20) Hospitals and Medical Centers (providing acute care, clinical, surgical, teaching, research and office services)	2 stalls/patient bed or 1 stall/300 SF-GFA, whichever is greater
(21) Libraries	1 stall/200 SF-GFA
(22) Museums, Art Galleries	1 stall/250 SF-GFA
(23) Public Utility Facilities	1 stall/2 employees in the largest shift, plus 1 stall for each vehicle used in connection with the use
(24) Theaters: Movie — Multiple Screen Movie — Single Screen Live Performance	1 stall/4 seats, plus 10 stalls for employees 1 stall/4 seats, plus 6 stalls for employees 1 stall/4 fixed seats
(25) Trade School, Business School or Adult Education	1 stall/1.5 people based on maximum number of students and staff, or 1 stall/35 SF of GFA
(26) Union Halls, Lodges and Clubs	1 stall/50 sq. ft. of gross floor area

SECTION 9.35.080(e)
MINIMUM NUMBER OF REQUIRED PARKING STALLS BY USE
(continued)

Industrial Uses	
Use	Required Number of Stalls
(27) General Manufacturing and Processing Uses (not including buildings used exclusively for	1 stall/400 SF of industrial/manufacturing area, plus 1 stall/250 SF of office use, plus 1 stall/1,000 SF of warehouse area
(28) Mini-Storage Warehouse	1 stall/2,000 SF-GFA

(29) Recreational Vehicle and Boat Storage	5 stalls or, 1 stall/10,000 SF of storage area, whichever is greater
(30) Research and Development	1 stall/250 SF-GFA
(31) Warehouses (used exclusively for storage)	1 stall/1,500 SF of warehouse area, plus 1 stall/250 SF of office use
Office Uses	
Use	Required Number of Stalls
(32) Business and Professional Office (except medical)	1 stall/300 SF-GFA
(33) Financial Services (banks, savings and loans, credit unions)	1 stall/250 SF-GFA
(34) Medical and Dental Office	1 stall/150 SF-GFA
(33) Veterinary Office	1 stall/200 SF-GFA
Commercial Uses — Retail and Service	
Use	Required Number of Stalls
(36) Art Galleries	1 stall/500 SF-GFA
(37) Automobile/Truck/RV Sales	1 stall/400 SF indoor GFA plus 1 stall/4,000 sf outdoor retail area
(38) Automotive Service and Repair	2 stalls, plus 3 stalls/service bay (service bays do not count as stalls)
(39) Bed and Breakfast	2 covered and assigned stalls, plus 1 stall/guest room
(40) Car Wash	6 stalls per tunnel (plus additional stacking and drying areas as necessary to match capacity)

SECTION 9.35.080(e)
MINIMUM NUMBER OF REQUIRED PARKING STALLS BY USE
(continued)

Commercial Uses — Retail and Service	
Use	Required Number of Stalls
(41) Furniture Stores	1 stall/500 SF-GFA
(42A) General Retail:	

Individual use on a separate lot	1 stall/300 SF-GFA
Multi-tenant with less than 25,000 SF-GFA	1 stall/220 SF-GFA ¹
Multi-tenant with more than 25,000 SF-GFA	1 stall/250 SF-GFA ¹
	¹ If restaurant space occupies more than 20% of the total GFA, or if an individual restaurant contains more than 2,000 SF, then additional parking stalls shall be provided for all restaurant space above the 20% or the 2,000 SF, whichever is greater. The additional parking shall be calculated at the applicable restaurant
(42B) Personal Services	1 stall/300 SF-GFA
(43) Laundromat	1 stall/3 washing machines
(44) Outdoor Sales, including Lumber Yards, and Salvage Yards	1 stall/1,000 SF gross outdoor retail area, plus additional parking as required for indoor sales area, service facilities and other uses
(45) Plant Nurseries	1 stall/1,000 SF indoor GFA, plus 1 stall/2,000 SF gross outdoor retail areas
(46) Resorts, Hotels and Motels	1 stall/guest room plus additional parking as required for accessory use
(47A) Restaurants:	
Dine-in (< 4,000 SF-GFA):	1 stall/100 SF-GFA
4,000 SF-GFA+:	40 stalls, plus 1 stall/50 SF-GFA above 4,000 sf-GFA
Fast Food:	10 stalls, or 1 stall/50 SF-GFA, whichever is greater
Take-Out:	1 stall/250 SF-GFA
Outdoor dining areas in excess of 16 seats:	1 stall for 150 SF of entire outdoor dining area (Note: Outdoor seating areas with 16 or less seats need not provide additional parking)

<p>(47B) Alcohol Manufacturing</p> <p>(c) Alcohol Manufacturing Area</p> <p>(d) Tasting Room/Tap Room/Outdoor Patio with a kitchen</p>	<p>1 stall/400 SF-GFA</p> <p>Pursuant to Subsections 47A and 42A above, whichever is applicable</p>
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SECTION 9.35.080(e)
MINIMUM NUMBER OF REQUIRED PARKING STALLS BY USE
(continued)

Commercial Recreation Uses	
Use	Required Number of Stalls
(48) Self Service Car Wash	2.5 stalls/wash bay (wash bays do not count as stalls)
(49) Arcades, Pool Halls and Bingo Halls	1 stall/150 SF-GFA
(50) Bowling Alley	4 stalls/lane, plus other uses calculated separately
(51) Dance Halls	1 stall/7 SF dance floor
(52) Driving Range	1 stall/tee, plus other uses calculated separately
(53) Golf Courses - (Regulation and Pitch and Putt)	9 stalls/hole, plus other uses calculated separately
(54) Gyms, Spas, Health Clubs, and Yoga Studios	1 stall/100 SF-GFA
(55) Handball and Racquetball Courts	3 stalls/court, plus other uses calculated separately
(56) Miniature Golf	13 stalls/hole, plus other uses calculated separately
(57) Skating Rink - Ice or Roller	1 stall/100 SF of rink, plus other uses calculated separately
(58) Swimming Pool - Commercial	10 stalls, or 1 stall/1,000 SF of lot area, plus 1 stall/2 employees, whichever is greater

(59) Tennis Courts	3 stalls/court plus other uses calculated separately
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Footnotes for Section 935.080(e):

d.u. = dwelling unit SF = square feet GFA = gross floor area

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(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96;)

9.35.090 Loading Facility Standards.

Off-street loading facilities shall be provided for all commercial, office, industrial, mixed use and warehousing land uses. The following provisions shall apply to all required loading facilities.

- (a) **Location.** Loading facilities shall be located on the same site as the use or building served; or within one hundred (100) feet of the use or building served, as approved by a Site Development Permit approved by the Director of Community Development according to Chapter 9.71. Such off-site loading facilities shall provide a covenant for easement in accordance with Chapter 9.45. Loading facilities shall not in any way block vehicular movement to or from a street, driveway, drive aisle, or parking stall. Loading facilities shall be located so that they may be accessed and utilized without maneuvering in the public right-of-way.
- (b) **Minimum Dimensions.** The minimum dimensions for any required loading space shall be ten (10) feet wide and twenty-five (25) feet long, with fourteen (14) feet of unobstructed vertical clearance.
- (c) **Number of Loading Spaces Required.** A minimum number of loading spaces shall be required for all commercial, industrial, office and warehouse uses as follows:

Building Size (SF-GFA)	Minimum Number of Loading Spaces
Less than 10,000 sf	None Required
10,001 - 20,000 sf	1 space
20,001 - 50,000 sf	2 spaces
50,001 sf or more	3 spaces

- (d) **Turning Radius.** Access to all loading areas shall have an adequate turning radius to enable vehicles to maneuver without backing into a Circulation Element roadway or to access the loading area without backing into the area from a Circulation Element roadway.
- (e) **Screening.** All loading spaces shall be screened from adjacent residential zoning districts and uses by landscaping no less than six (6) feet in height.

(Added by Ord. 93-16, 11/23/93)

9.35.100 Combined Parking and Loading Facilities.

- (a) For Uses on Separate Lots or Parcels. Required parking facilities may be provided collectively for two or more buildings or uses located on separate contiguous lots or parcels of land, provided that the combined parking and loading facilities meet or exceed all minimum requirements for the buildings or uses. Combined parking and loading facilities shall provide a covenant for easement in accordance with Chapter 9.45.
- (b) For Separate Uses on the Same Lot or Parcel. In instances where two or more uses are located on the same parcel of land, all parking and loading facilities, shall equal the sum total requirements for all the various individual uses calculated separately.

(Added by Ord. 93-16, 11/23/93)

9.35.110 Alternatives to Parking and Loading Standards.

The City recognizes that many uses and sites are unique and that certain components of parking and loading may be tailored to better comply with these standards based on factors such as awkward site shape and unique types or combinations of uses. As such, the City may consider modifications to certain provisions of the parking and loading standards to achieve safe and adequate parking and loading facilities, subject to the review and approval by the Planning Commission.

- (a) Procedures for Alternative Standards. Alternative standards for certain elements of parking and loading standards may be permitted subject to the approval of the appropriate application as follows:
 - (1) A minor Conditional Use Permit shall be required for a shared parking program utilizing the City's model program, as outlined in Section 9.35.060(c)(4).
 - (2) A major Conditional Use Permit shall be required for a shared parking program not utilizing the City's model program.
 - (3) A Site Development Permit shall be required for any modification to:
 - (A) The location, height and/or amount of landscaping in the parking area; or
 - (B) The setback of a parking area from property lines; or
 - (C) The required driveway "throat" length, drive aisle width and accessway width; or
 - (D) Number of loading spaces required; or

(E) Lighting standards; or

(F) Allow the use of car lifts to meet minimum parking requirements.

(4) A Variance shall be required for any modification to the Number of parking stalls. Per Government Code Section 65906.5, Variances for reduced parking may be granted in order that some or all parking spaces be located off-site, or that in-lieu fees or facilities be provided.

(b) Alternative Parking Standard Findings. Alternative parking and loading standards may be approved provided the Planning Commission makes the following findings:

(1) Conditional Use Permits:

(A) That the applicable parking and loading requirements are excessive or inappropriate due to either the nature of the specific use(s) involved or because of special circumstances applicable to the site; and

(B) That the proposed parking and loading facilities, as conditioned, comply with the intent and purpose of the parking and loading regulations.

(C) That the provisions of the proposed shared parking program are reasonable, accountable and enforceable.

(2) Site Development Permits:

(A) That the proposed modifications to the parking and loading standards result in a project which is of a superior design quality and functionality as compared to the project which could have been built under the existing regulations; and

(B) That the proposed parking and loading facilities, as conditioned, comply with the intent and purpose of the parking and loading regulations.

(3) Variances:

(A) That there are special circumstances applicable to the subject property which, when the applicable parking and loading regulations are strictly applied, deprive the subject property of privileges enjoyed by other property in the vicinity and subject to the same parking and loading regulations; and

(B) That approval of a Variance for the subject property will not constitute a grant of special privileges which are inconsistent with

the limitations placed upon other properties in the vicinity and subject to the same parking and loading regulations, when the specified conditions are complied with.

- (C) That approval of the Variance will be an incentive to, and a benefit for, the nonresidential development (Government Code Section 65906.5).
- (D) That approval of the Variance will facilitate access to the nonresidential development by patrons of public transit facilities, particularly guideway facilities (Government Code Section 65906.5).

(Added by Ord. 93-16, 11/23/93)

9.35.120 Parking Structure Design Standards.

Parking structures, including underground or subterranean structures, shall require a Site Development Permit and shall be designed to meet the following standards and guidelines:

- (a) **Minimum Driveway Width.** Any driveway providing access to a parking structure shall have a minimum width of twenty-eight (28) feet. If a toll or fee booth is located in the driveway area, the driveways on either side of the booth shall have a minimum width of fourteen (14) feet. A sidewalk with a minimum width of six (6) feet shall be provided adjacent to the entrance driveway.
- (b) **Maximum Parking Aisle Length.** Three hundred (300) feet shall be the maximum length of a parking aisle without being intersected by another parking aisle or driveway.
- (c) **Location of Support Columns.** The edge of structure support columns shall be located a minimum of two (2) feet and a maximum of four (4) feet from the parking aisle and shall not be located within the area of a parking stall.
- (d) **Increase in Parking Stall Width.** When the side of any parking stall abuts a building, fence, wall, support column or other obstruction which would interfere in any way with access to a motor vehicle, the width of the stall shall be increased to at least eleven (11) feet.
- (e) **Internal Circulation.** Where possible, the internal circulation of vehicles in a parking structure shall be designed to flow in a counter-clockwise direction.
- (f) **Minimum Floor Heights.** The minimum height from the floor to the lowest ceiling structure, support beam, or overhead fixture, such as a conduit, pipeline, signage, lighting, or any other obstruction mounted on the ceiling shall be:
 - (1) Eight (8) feet two (2) inches for areas providing access to handicap parking; or

- (2) Eight (8) feet for all other parking areas; or
 - (3) As determined by the Director of Public Works for areas providing access to loading areas.
- (g) **Parking Structure Setbacks.** The setbacks for the exterior walls of any underground or subterranean parking structure shall not encroach into the minimum above grade building setbacks unless approved through the Site Development Permit process pursuant to Chapter 9.71.

All underground or subterranean parking structures permitted by a Site Development Permit to have lesser setbacks than the minimum above grade building setback shall be designed to have adequate soil depth above the parking structure to ensure healthy tree and landscape growth based on the evaluation and recommendation of a licensed landscape architect.

Where an underground or subterranean parking structure is proposed in an area with sensitive or unstable soils, the minimum setback of the parking structure shall be based on the evaluation and recommendations of a licensed geotechnical engineer.

- (h) **Integral Design.** Parking structures should be designed as an integral component of the coordinated site plan and architectural theme.
- (i) **Interior Treatment** The interior treatment of a parking structure shall be of a light color. The treatment shall include a coordinated interior sign program designed to identify parking levels and locate stairwells, elevators, phones, exits and other interior features. Parking structures shall have an attractive interior treatment pursuant to the Urban Design Guidelines.
- (j) **Parking Floor and Ramp Grades.** The parking areas of sloped floor parking structures shall not exceed a grade of five (5) percent as measured across the width of a 90 degree parking stall. The grade of a straight internal ramp shall not exceed fifteen (15) percent. The grade of a circular ramp shall not exceed twelve (12) percent as measured at the outside ramp wall.
- (k) **Ramp Transitions.** All ramps shall be provided with transition zones at the top and bottom of the ramp. Ramps with a grade of ten (10) percent or less shall have a transition zone at least eight (8) feet in length. Ramps with a grade of greater than ten (10) percent shall have transition zones at least twelve feet twelve (12) feet in length. The grade of a transition zone shall not exceed 1/2 the grade of the ramp it serves.
- (l) **Ramp Widths.** A straight one-way ramp shall be at least fourteen (14) feet in width. A two-way ramp shall be at least twenty-four (24) feet in width. The minimum outside wall radius of a circular ramp shall be thirty-six (36) feet.
- (m) **Elevators.** Parking structures of three stories or more shall incorporate at least two passenger elevators. Additional elevators are required for a structure

accommodating 500 or more parking stalls subject to approval by the Director of Community Development.

- (n) Lighting. Adequate lighting shall be provided for all parking structures in accordance with the following provisions:

Area:	Required Lighting:
Entrances and Exits	50 footcandles
Stairways	20-50 footcandles
Cashiering/Security Areas	20 footcandles
Travel Lanes and Ramps	10 footcandles
Elevators	10 footcandles
Parking Areas	3-5 footcandles

- (o) Mirrors for Sight Distance. Blind corners shall be provided with viewing mirrors maintained in a position and condition to provide adequate sight distance.

(Added by Ord. 93-16, 11/23/93)

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Chapter 9.37

SIGNS AND ADVERTISING DEVICES

Sections:

9.37.010	Intent and Purpose.
9.37.020	Definitions.
9.37.030	Administration and Enforcement.
9.37.040	Permits Required.
9.37.050	Permit Application.
9.37.060	Neon Sign Review.
9.37.070	Sign Programs.
9.37.080	Signs Requiring a Variance.
9.37.090	Permit Fees.
9.37.100	Permit Issuance.
9.37.110	Exemptions.
9.37.120	Political Signs.
9.37.130	Location and Height.
9.37.140	Materials, Design and Construction.
9.37.150	Permitted Signs.
9.37.160	Special Use Sign Permits.
9.37.170	Prohibited Signs.
9.37.180	Unsafe and Unauthorized Signs.
9.37.190	Nonconforming Signs.
9.37.200	Inventory and Abatement of Illegal or Abandoned Signs.
9.37.210	Historical Signs.
9.37.220	Maintenance and Operation.
9.37.230	Use of Product or Manufacturer Names in Signs.

9.37.010 Intent and Purpose.

The intent of this Chapter is:

- (a) To recognize that the primary purpose of signage is to identify, locate, and encourage businesses and events.
- (b) To encourage well designed consistent signage that is pleasing in appearance and compatible with community character while providing latitude for a variety of signage.
- (c) To eliminate potential traffic and safety hazards to motorists and pedestrians.
- (d) To maintain the attractiveness of the community and to enhance the character of the City as a place in which to live, work, play, and visit.
- (e) To promote the public health, safety, and general welfare of the citizens and business community of the City through quality sign standards.
- (f) To promote a high quality business environment by assuring signage is complementary to the City's urban design.

The purpose of the provisions of this Chapter is to provide a reasonable and equitable system for regulation of the location, size, type, content, illumination, and number of signs, integrated as a part of the Zoning Code as

set forth by this Chapter. (Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.020 Definitions.

(a) "A" Definitions.

Abandoned Sign-A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity.

Advertising Device – Any object, person, or animal including but not limited to banners, balloons, statues, flags, pennants, lights, portable signs, signs or landscaping, used to attract attention for the purpose of drawing attention to a site or promoting the sale of goods or services.

A-Frame Sign – A sign generally not securely attached or fixed to the ground or to a permanent structure used as a stationary advertising device and usually supported by two upright sign faces (also known as a "sandwich board").

Aggregate Area – The total area of sign and/or advertising device surface.

Alteration – Any change of copy, sign face, color, size, shape illumination, position, location, construction, or support of any sign or advertising device.

Animated Sign – A sign designed and constructed to attract attention through the movement of the whole or any part of the sign.

Area of Sign (for):

Attached Sign – Sign area for an attached sign shall be considered the entire area within which a single continuous perimeter of not more than eight (8) straight lines enclose the extreme limits of any writing, representation, emblem, or any figure or similar character together with any material or color forming any integral part of the display or used to differentiate such sign against which it is placed. Necessary supports or uprights on which the sign may be placed are excluded unless supports or uprights are designed in such a manner as to form an integral background or part of the display. When a sign has two or more faces, the area of all faces shall be included in determining the area of the sign except where two such faces are placed back to back. When a five (5) foot space or greater is provided between two advertising devices, sign area shall be calculated as two separate signs (Exhibit 9.37-1).

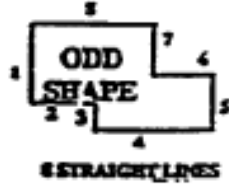
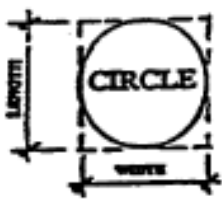
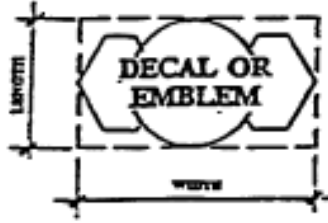
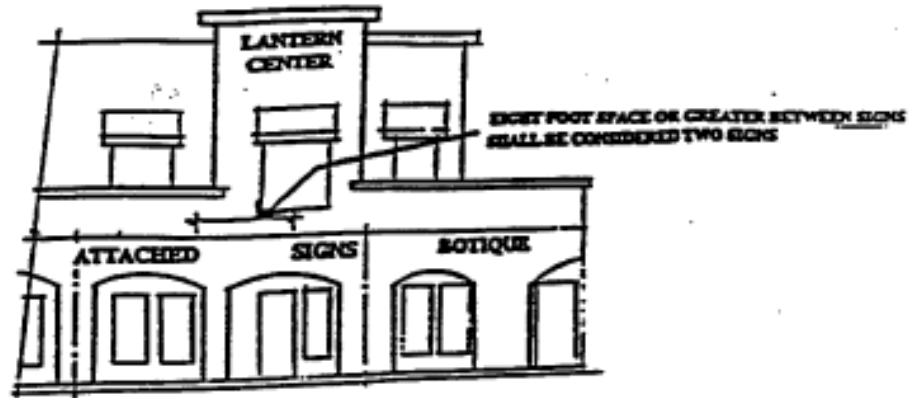
Detached Sign – Sign area for a detached sign shall be considered the entire area within which a single continuous perimeter of not more than eight (8) straight lines enclose the extreme limits of representation, emblem, or figure or similar characters. Necessary supports or uprights shall be excluded from sign area unless such uprights are designed in such a manner so as to form an integral part of the background or display. When a sign has two or more faces, the area of all faces shall be included in determining the area of the sign except where two such faces are placed back to back (see Exhibit 9.37.2).

Attached Sign – Any sign or advertising device attached to a structure or building other than a freestanding pole, flag, or monument sign.

Awning – See Canopy.

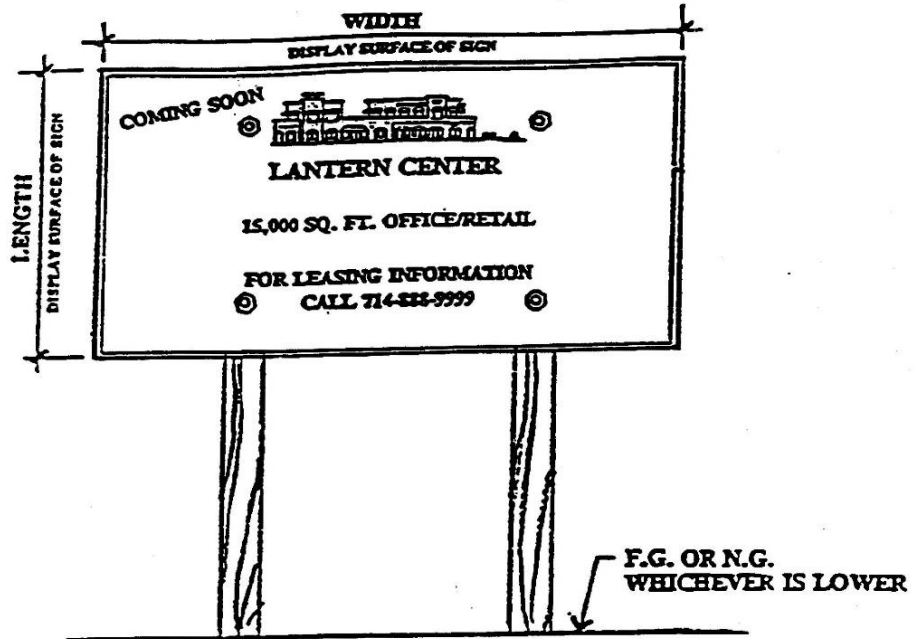
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EXHIBIT 9.37-1
 AREA OF ATTACHED SIGNS

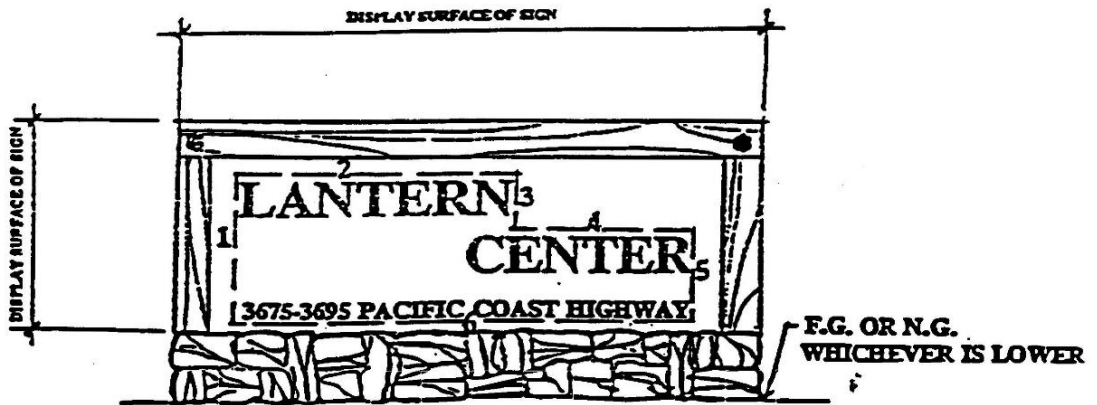


SIGN AREA = LENGTH x WIDTH OR AREA CALCULATED WITHIN NOT MORE THAN EIGHT STRAIGHT LINES

EXHIBIT 9.37-2
 AREA OF DETACHED SIGNS



SIGN AREA = LENGTH x WIDTH



SIGN AREA = AREA WITHIN NOT MORE THAN 8 STRAIGHT LINES

(b) “B” Definitions.

Balloon – A spherical, flexible, non-porous bag or similar object capable of being filled with air or gas such as helium

Banner – A sign usually constructed of cloth, paper, or other lightweight material used for the purposes of advertising a business, organization, service, product, or event.

Bench – A seat usually located upon or adjacent to the public right-of-way for the purpose of persons resting and which is capable of displaying a sign or advertising device.

Billboard – A freestanding or attached outdoor advertising sign capable of having interchangeable messages (generally related to off-site advertising).

Blade Sign- A sign, other than a wall or projecting sign, which hangs from a building or wall fixture and extends perpendicular from the face of a building. Blade signs shall be designed consistent with the recommendations of the Dana Point Sign Guidelines.

Building Identification Sign – A sign which contains only the name of a building and/or the address of the building.

(c) “C” Definitions.

Campaign Sign – Campaign sign usually refers to a political sign but may include any advertising device or sign, not otherwise prohibited by this Section, which is designed to influence the passage or defeat of any measure on the ballot or designed to influence the voters with respect to the nomination, election, defeat, or removal of a candidate from public office at any national, state, or local election.

Canned Monument Sign-A freestanding sign supported by a sign structure with an acrylic, fiberglass, plastic or bare aluminum face, or material that exhibits a reflection similar to these materials.

Canopy – A fixed structure of any material projecting from and connected to a building, column, or post or supported by a frame extending from a building and/or posts.

Canopy Sign – Any form of advertising or illumination attached, painted, or constructed for a canopy.

Center – A center can be commercial, industrial, or professional use, consisting of one or more buildings sharing common facilities such as off-street parking, access, or landscaping. In each case, a center will consist of two or more retail stores or businesses, but may not necessarily be under a single ownership.

Center Identification Sign – Any freestanding sign or wall mounted sign which identifies the name or address or directs attention to a center but that does not identify an individual

business or activity and which does not contain trademarks, trade names, logos, symbols, or any form of art that can be construed as a name of a single business.

Changeable Copy Sign – An advertising device which is capable of changeable text or graphics, regardless of method of attachment, which advertises events, services, or products.

Civic Activity Sign – A bulletin board or other similar advertising device incident to places of worship, hospitals, libraries, museums, and other similar public or non-profit institutions.

Construction Sign – A temporary sign on the premises listing the development, architect, engineer, planner, contractor, or other person or firm participating in the development, construction or financing of a development.

(d) “D” Definitions.

Detached Sign – Any freestanding sign or advertising device used to attract attention, including pole, flag and monument signs.

Directional Sign – Any on-site freestanding, non-flashing sign which is designed, erected, and maintained to serve as a public convenience in directing pedestrian and vehicular traffic, but not used for the purpose of advertising uses and activities on site.

(e) “E” Definitions.

Eave Line – That part of a roof which projects over or meets the wall.

Electric Sign – Any sign utilizing electricity to illuminate its surface.

Electronic Message Sign – A directly illuminated sign which presents variable advertising message displayed by electronically controlled lighting pattern against a contrasting background, and which may be programmed to change the message display periodically.

Externally Illuminated Sign – A sign illuminated from an exterior light source.

(f) “F” Definitions.

Facade — The entire building front including the parapet.

Fascia – A broad well defined horizontal member of color or material having the form of a flat band between the top of a wall and the eaves of a roof. The area used for identification over the front of a shop.

Flag – Cloth or other lightweight material of distinctive size, color, and design, used as a symbol, standard, signal, emblem, or a device used to attract attention.

Flag Sign – A permanent freestanding sign with its advertising device suspended by a post and beam support.

Flashing Sign – Any electric sign which intermittently flashes on and off, changes in intensity, or creates the illusion of flashing, in any manner.

Freestanding Sign – A sign that is not attached to any building, but is securely attached and fixed to the ground.

Frontage, Building – The lineal measurement of a building facade which fronts on a street, landscaped area, and/or a parking area and is used to determine the maximum sign area and number of signs permitted for a given use.

Frontage, Street – The linear measurement of a lot along a public or private right-of-way but not including the lineal measurement along an alley, railroad, beach, freeway, or parking lot.

Fuel Price Identification Sign – A permanent sign, usually of a monument type, containing the prices and grades of fuel for sale at an automobile service station.

Future Facility Sign – A temporary sign denoting sale, lease, or rental of a site that is under construction.

Future Tenant Sign – A temporary sign denoting center name, tenant name, and type of use for a site that is constructed.

(g) “G” Definitions.

Garage Sale Sign – A temporary sign announcing the limited sale, from a private resident, of goods, furniture, clothing, or other similar articles.

(h) “H” Definitions.

Height of Sign – Sign height is calculated by measuring the vertical distance from the uppermost point of the sign to the ground directly beneath.

Historical Sign – A sign, which because of its character, age, or influence, is of historic significance to the community.

(i) “I” Definitions.

Identification Sign – A sign which serves to identify only the name, address, or trade of a business and sets forth no other advertising.

Illegal Sign – A sign not permitted or exempted by this Code.

Illuminated Sign – A sign with an artificial light source for the purpose of decorating, outlining, accentuating or brightening the sign area.

Inflatable Sign – See Balloon.

Interior Sign – A sign located within the inside of a business which is not visible from any area outside the building which is open to the public.

Internally Illuminated Sign - A sign illuminated from an interior light source contained within the sign cabinet.

(j) “J” Definitions.
None.

(k) “K” Definitions.
Kiosk – A freestanding, round or multiple-sided structure whose main purpose is to display signs or information.

(l) “L” Definitions.

Legal Nonconforming Sign - Any permanent sign which was legally established and maintained in conformance with the ordinance in effect at the time of original installation, but does not comply with subsequently enacted sign restrictions and regulations.

Linear Frontage – The horizontal measurement of a building face or site.

Logo – A name, symbol, feature, or trademark that represents a business, enterprise, group, or activity.

(m) “M” Definitions.

Major Tenant – Any tenant in a multi-tenant commercial center which either: occupies thirty (30) percent or more of the leasable square footage of the center; or has 5 or more locations in the region, state or nation.

Marquee – A permanent structure attached to and supported by a building and projecting over public or private right-of-way usually using changeable copy.

Mansard – A roof system having a steep slope, normally on all building sides, often used to screen roof top equipment.

Menu Board Sign – Sign displaying food items sold on the premises.

Mixed-Use Districts – Areas with land use and zoning designations for which both residential and non-residential uses are the primary permitted uses.

Monument Sign – A freestanding sign directly supported by a sign structure that is not narrower than the display surface of the sign.

Multi-Tenant Identification Sign – A single sign identifying each tenant or business individually.

Mural – A display or illustration painted on a building or wall within public view.

(n) “N” Definitions.

Neon Sign – An electric sign consisting of gas-filled tubing exposed to view.

Nonconforming Sign – A sign, billboard, or other advertising device which does not conform to the sign regulations as set forth in this Section or applicable zone or land use district.

Non-Residential Districts – Areas with land use and zoning designations for which commercial, industrial or recreational uses are the primary permitted uses.

(o) “O” Definitions.

Off-Site Sign – Any sign which is not located on the business or activity site it identifies or advertises.

Open House Sign – A sign contain the only words “Open House” and the name of the owner of the sign, shaped and placed in a manner which provide direction to interested parties.

On-Site Sign – Any sign which directs attention to an occupancy, business, service, or activity conducted, sold, or offered upon the premises where the sign is located.

(p) “P” Definitions.

Parapet – A low wall, railing, or screen to protect the edge of a platform or roof.

Pole Sign – Except for a flag sign, a freestanding sign directly supported by a sign structure that is narrower than the display surface of the sign.

Political Sign – Political signage usually refers to campaign signs, but may include any sign, not otherwise prohibited by this Section, pertaining to the conduct of government in general.

Portable Sign – Any sign not designed to be permanently attached to a building or permanently anchored to the ground.

Projecting Sign – A sign which projects from a wall more than six (6) inches.

Public/Quasi-Public Uses – Uses of a community-serving nature such as civic centers, churches, parks, hospitals, schools, etc.

Pump Sign – Signs displayed upon service station gas pumps for the purpose of advertising the sale of products incidental to the sale of gas and oil or other automobile service provided on the premises.

(q) “Q” Definitions.

None.

(r) “R” Definitions.

Real Estate Sign – A sign advertising the sale, lease, or rental of the premises on which the sign is located and maintained, excluding construction, future facility, and future tenant signs.

Residential Districts – Areas with land use and zoning designations for which residential uses are the primary permitted uses.

Roof – The upper covering of a building for weather protection or any architectural feature resembling the covering in design or material.

Roof Sign – Any sign which is erected, constructed, or maintained on or above a roof system, roof line, or parapet of any building. For purposes of this definition, a sign placed upon a mansard roof which does not exceed above the roof line shall not be considered a roof sign if no wall area exists on which to place the sign, subject to review and approval of the Community Development Department.

(s) “S” Definitions.

Sandwich Board – See A-Frame Sign.

Service Station – A lot or a portion of a lot used for the servicing of motor vehicles including gas stations.

Sign — any representation used to convey information, or to identify, announce, or otherwise direct attention to a business, profession, commodity, service, or entertainment and placed on, suspended from, or in any way attached to, any structure, vehicle, or feature of the natural or man-made landscape.

Sign Program – A program intended to provide incentive, latitude, and variety in order to achieve aesthetically appealing and compatible signage for shopping and professional office centers and industrial parks with two or more occupants. A sign program may also be applicable for a single business proposing two or more signs.

Sign Structure – The supports, uprights, braces, cables, framework, and display surface of a sign.

“Snipe” Sign – Any sign made of cloth, paper, cardboard, poster material, plastic, metal or other material affixed to or upon fences, posts, trees, buildings, people, or other structures or surfaces usually found off-site.

(t) “T” Definitions.

Temporary Sign – Any sign constructed of paper, cloth, canvas, fabric, cardboard, or other materials, including but not limited to flags, streamers, pennants, banners, and balloons, not intended for permanent display.

Time and Temperature Device – A device that displays the time or temperature whether or not it displays any advertising or establishment identification.

Transportation Shelter – A structure constructed for the use of persons waiting for transportation.

(u) “U” Definitions.

Under-Canopy Sign – A pedestrian-oriented sign which is perpendicular to the building and the pedestrian path, and is suspended from, or projects from the wall below a canopy or covered arcade. An Under-Canopy sign does not project beyond the canopy or covered arcade.

(v) “V” Definitions.

Vehicle Mounted Sign – Any sign or advertising device attached to any vehicle for the purposes of advertisement.

(w) “W” Definitions.

Wall Sign – Any sign or advertising device permanently attached to a building. A sign attached to a parapet shall be considered a wall sign.

Window Sign – Any sign exposed to public view, attached, painted, posted, or displayed, either permanently or temporarily, on or within one (1) foot of the interior or exterior surface of a window.

(x) “X” Definitions.

None.

(y) “Y” Definitions.

None.

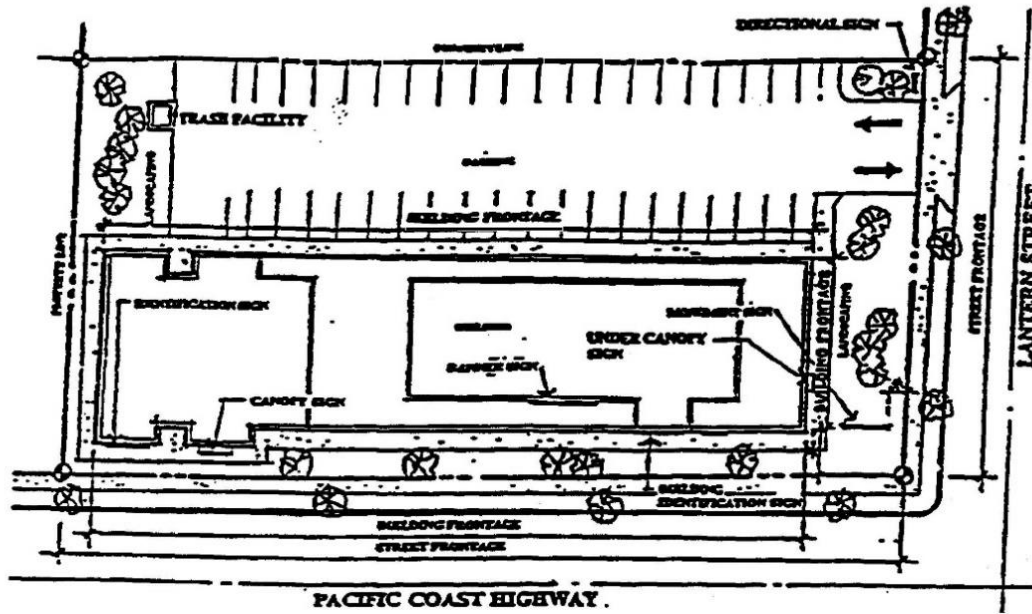
(z) “Z” Definitions.

None.

Exhibits 9.37-3 through 9.37-9 depict many of the sign types described above and in the Permitted Sign Matrix, Section 9.37.150(a) through 9.37.150(f).

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**EXHIBIT 9.37-3
SIGN TYPES**



**EXHIBIT 9.37-4
SAMPLE SIGN LOCATION ELEVATION**

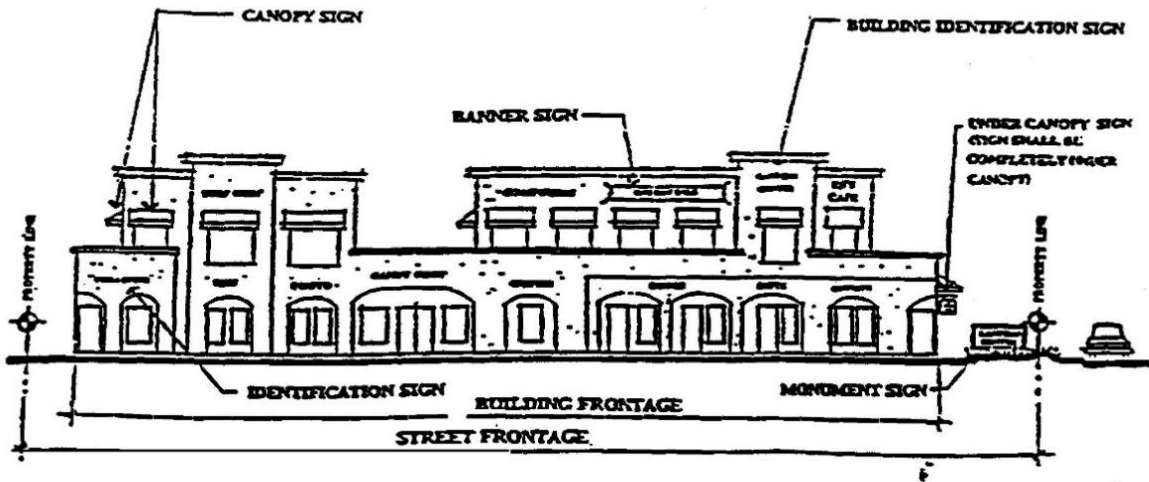
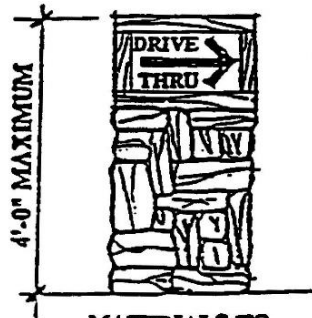
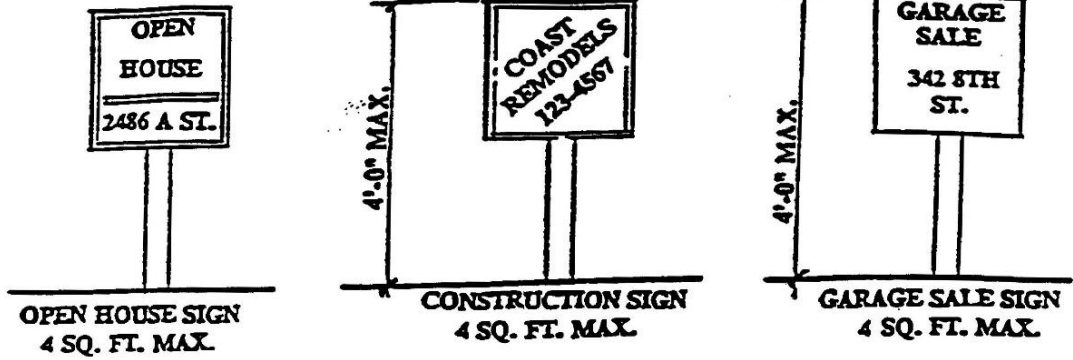


EXHIBIT 9.37-5
DIRECTIONAL SIGNS



MATERIALS TO
MATCH STRUCTURE
CONUMENT. TO BE APPROVED
AS PART OF A SIGN PROGRAM.

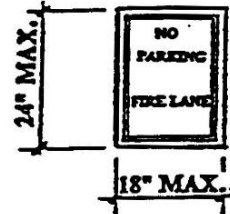
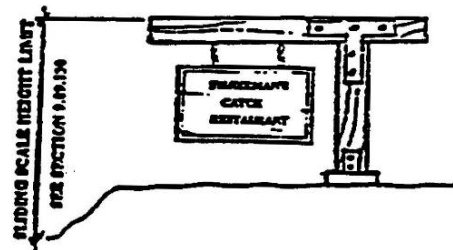
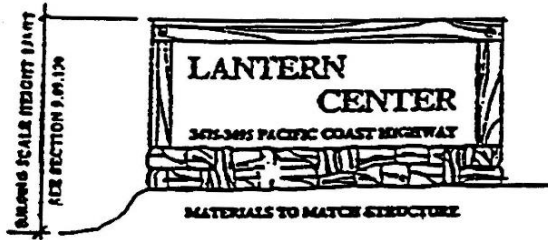
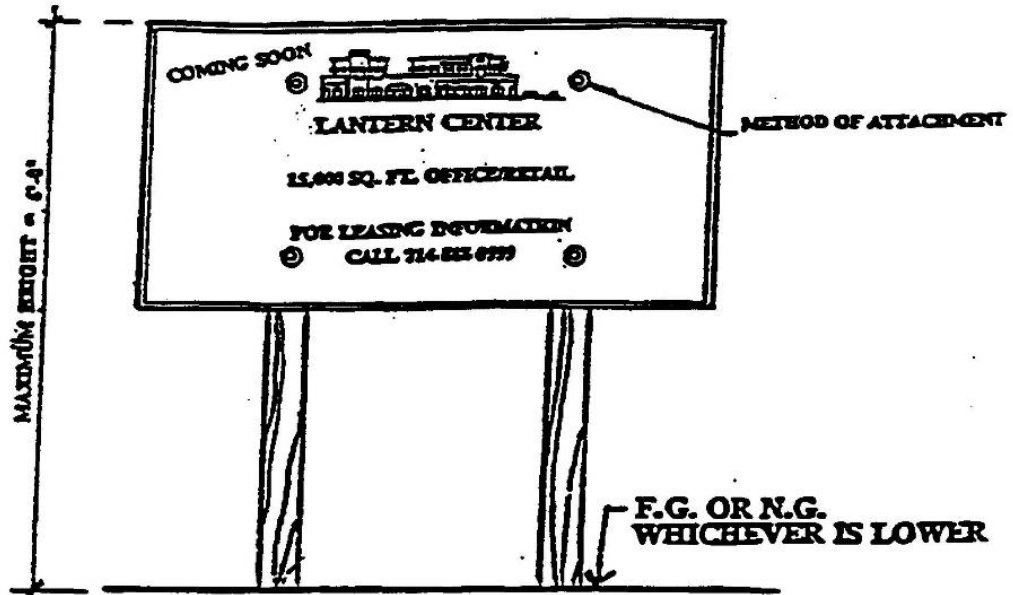


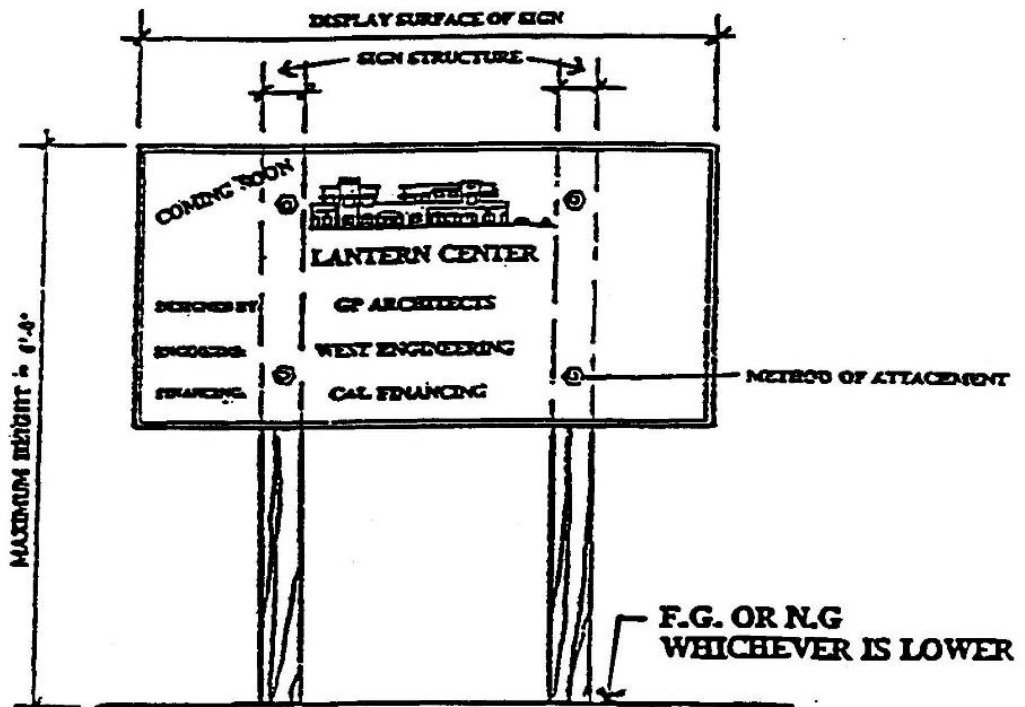
EXHIBIT 9.37-6
CENTER/TENANT IDENTIFICATION SIGNS
(FREESTANDING)



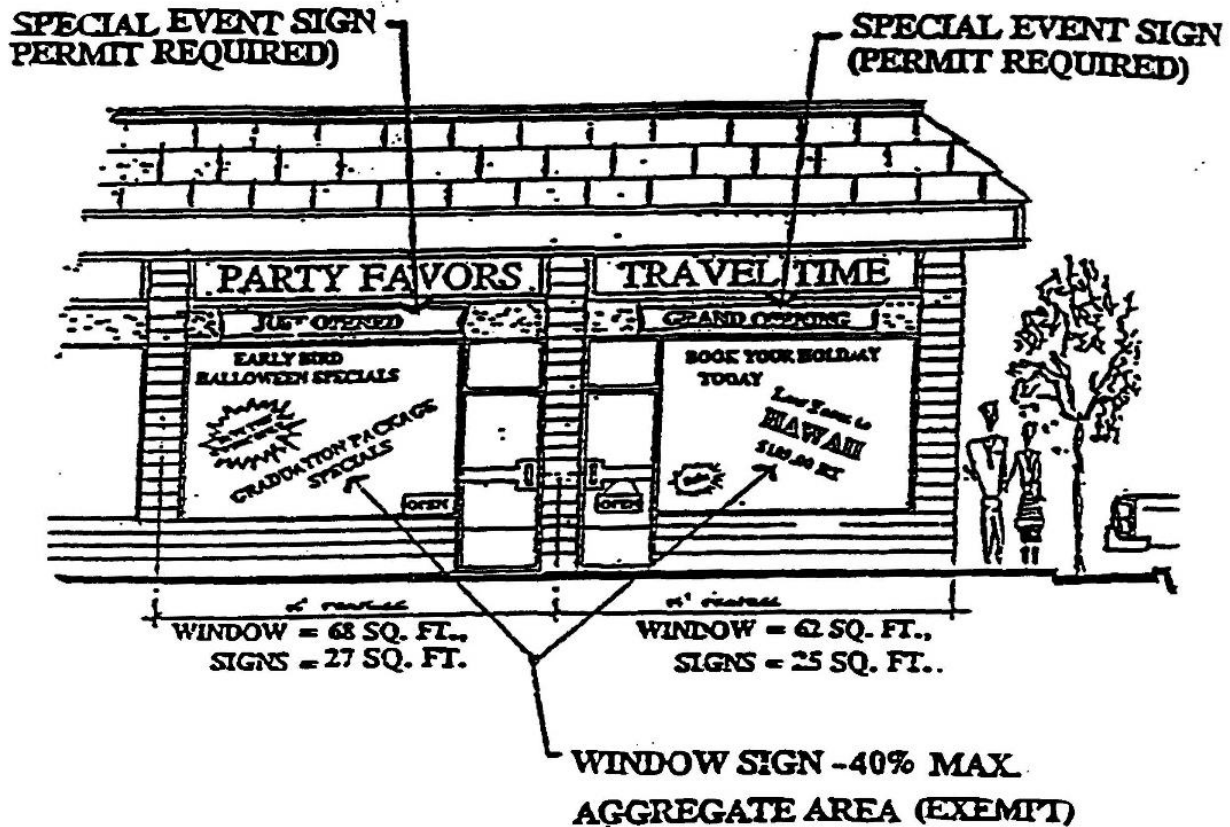
**EXHIBIT 9.37-7
TEMPORARY FUTURE FACILITIES SIGN**



**EXHIBIT 9.37-8
TEMPORARY CONSTRUCTION SIGN**



**EXHIBIT 9.37-9
TEMPORARY SIGNS**



(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94; Ord. 94-09, 5/24/94;)

9.37.030 Administration and Enforcement.

The Director of Community Development or his authorized designee shall have the authority to enforce all the provisions of this Chapter and the applicable provisions of the City of Dana Point Municipal Code.

Sign permits shall be reviewed in the following manner:

- (e) Administrative Approval. Sign applications deemed by the Community Development Department to be in substantial compliance with Dana Point Sign Guidelines may be approved administratively by the Director of Community Development or their authorized designee.
- (f) After review of the Dana Point Sign Guidelines, if the Director of Community Development or his authorized designee determines that the sign application is not in conformance with the said Guidelines, then the sign application may be forwarded by the Director of Community Development to the Planning Commission for formal review.

- (g) If submitted to the Planning Commission, the sign application shall be processed as a Minor Site Development Permit, as shown in Section 9.71.034.
- (h) The Planning Commission may approve, deny, or approved with conditions the Minor Site Development Permit for the sign application. The Planning Commission shall consider the following findings for the sign application:
 - (3) Suitability of the site for the proposed sign; and
 - (4) Sign design that is appropriate for the site and compatible with the character of the surrounding area.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94;)

9.37.040 Permits Required.

No signs shall be erected, constructed, or altered except for maintenance or repair, except as provided for in this Section and unless a permit has been issued by the Director of Community Development. A separate permit shall be required for each sign or group of signs in one location. In addition to the requirements set forth in this Chapter, all applicable building and electrical permits shall be obtained in accordance with the Uniform Building Code and the Uniform Electrical Code. A tag issued by the City indicating the sign permit number shall be affixed to the sign so as to be readily visible. (Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.050 Permit Application.

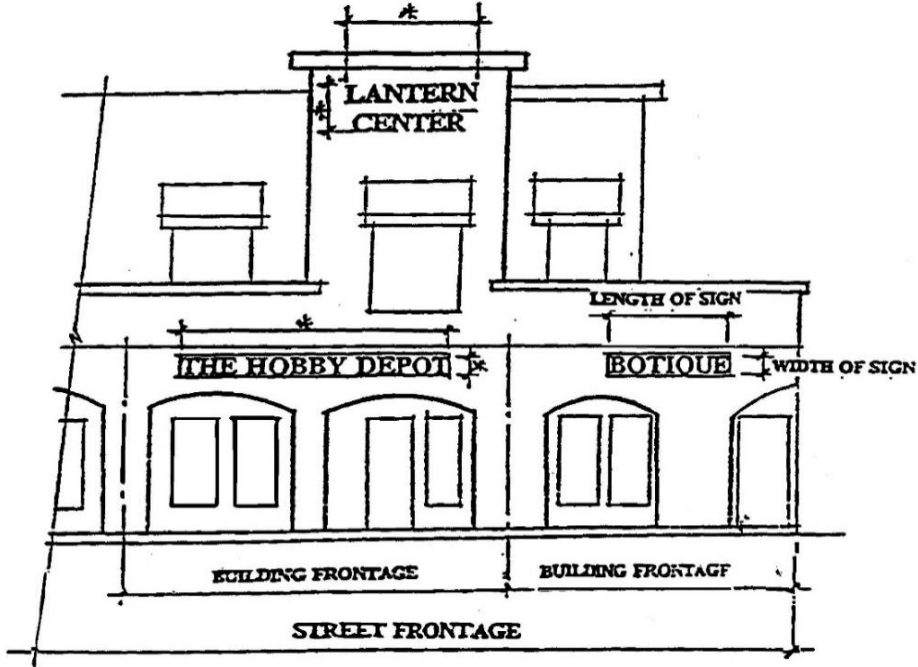
An application for a sign permit shall be made in writing upon forms provided by the Department of Community Development. The application shall be signed either by the owner, lessee, or authorized agent of the premises on which the sign is located.

Permit application requirements shall include:

- (a) A completed application form.
- (b) Plans, drawn to scale, to include the following:
 - (1) All sign details including sign area, dimensions, colors, materials, letter style, proposed copy, letter height and method of illumination.
 - (2) A site plan indicating the location of all existing and proposed signs with sign area, dimensions, colors, materials, letter style, proposed copy, letter height, and method of illumination.
 - (3) All building elevations with the proposed signs depicted on the elevations (see Exhibit 9.37-10).
 - (4) A deposit/fee as required by a Resolution of the City Council.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

**EXHIBIT 9.37-10
SAMPLE ELEVATION REQUIRED FOR
SUBMITTAL OF PERMITS**



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9.37.060 Neon Sign Review.

Prior to the issuance of a sign permit, neon signs shall be subject to review and approval by the Director of Community Development. The Director shall assure the neon sign is an aesthetic enhancement to the site signage, site design and surrounding area; and does not create visual incompatibility. Pursuant to this title, the Director's decision may be appealed to the Planning Commission. (Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.070 Sign Programs.

The purpose and intent of a Sign Program is to integrate signs with building and landscape design into a unified architectural statement. Sign programs may also be used to consider signage alternatives for developments which have unique tenant visibility problems, such as obscured lease space or complex access patterns. A Sign Program shall be subject to the review of the design, placement, size, content, and compatibility of the proposed signage by the Director of Community Development through a Minor Site Development Permit and shall be in substantial compliance with Section 9.37.150 of this Chapter.

(a) Sign Program Required. A Sign Program shall be required for any new or upgrading center with two (2) or more tenants on a site; for any new or upgrading single enterprise which proposes three (3) or more signs on a site; for any new multiple-unit residential project (attached or detached) which proposes two (2) or more signs on the project site; or for any sign proposal deemed necessary by the Director of Community Development and in the interest of the public health, safety and general welfare. A Sign Program may also be submitted for the consideration of sign proposals which are designed to address centers with limited tenant visibility. A Sign Program may vary from the requirements of Section 9.37.150, but in no event shall any sign 'identified as prohibited in Section 9.37.170 be permitted.

A Sign Program shall not be required for an existing single- or multi-tenant commercial establishment, unless initiated by the property owner and/or tenants as part of an overall aesthetic upgrading of the building or center. However, new signage for sites without a Sign Program must conform with all other provisions of this Chapter.

(b) Application Requirements. An application for any Sign Program shall be submitted for review and approval by the Director of Community Development through a Minor Site Development Permit pursuant to Dana Point Zoning Code Section 9.71.034.

Sign Program application requirements shall include:

- (1) A completed application form.
- (2) Plans, drawn to scale, including the following:
 - (A) All sign details including sign area, dimensions, colors, materials, letter style, proposed copy, letter height and method of illumination.
 - (B) A site plan indicating the location of all existing and proposed signs with sign area, dimensions, colors, materials, letter style, letters height and

method of illumination; and definition of type of signage, such as center identification signage or tenant identification signage.

(C) All building elevations with sign area and location depicted.

(3) A deposit or fee as required by a Resolution of the City Council.

(4) A letter of justification delineating how the proposed Sign Program is consistent with the intent of this Chapter.

(5) Any other information as may be required by the Director of Community Development.

(c) Findings. Approval of a Sign Program shall be subject to the following findings (Section 9.71.050, Basis for Approval, Conditional Approval, or Denial of a Site Development Permit shall not apply):

(1) That the design, placement, size, and materials of the proposed signage is compatible with the project architecture.

(2) That the Sign Program is in general conformance with the Dana Point Sign Guidelines, and the Permitted Sign Types pursuant to Chapter 9.37 in the City of Dana Point Zoning Code.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94; Ord. 94-09, 5/24/94; Ord. 96-10, 8/13/96)

9.37.080 Signs Requiring a Variance.

Any proposed sign which deviates from any development standard set forth in this Chapter, except as may be permitted through a Sign Program pursuant to Section 9.37.070, shall require approval of a Variance in accordance with Chapter 9.67 of the Dana Point Municipal Code. However, the use or establishment of a sign or device which is prohibited pursuant to Section 9.37.170 shall not be permitted by a Variance. (Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94; Ord. 96-10, 8/13/96)

9.37.090 Permit Fees.

A sign permit and plan check fee for each sign permit shall be paid to the Community Development Department prior to the issuance of a sign permit in accordance with the schedule of fees established by a resolution of the City Council. (Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.100 Permit Issuance.

The Director of Community Development shall determine whether the proposed sign and related discretionary approvals with respect to construction, location, and materials conform to all applicable City ordinances, regulations, and the provisions of this Chapter. Any permit may be revoked in accordance with Section 9.61.110 of the Dana Point Municipal Code should any of

the provisions set forth in this Chapter, any provision of this Code, or other applicable regulations and ordinances be violated by the permittee. (Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.110 Exemptions.

The provisions and regulations of this Chapter shall not apply to the following signs, nor shall the area of such signs be counted toward the maximum allowable sign area for any premises or use.

- (a) Directional or informational signs provided they are:
 - (1) Each no more than two and one-half (2½) square feet in area;
 - (2) Contain no advertising message; and
 - (3) Are located entirely on the business premises.
- (b) Four (4) Real Estate Open House or Garage Sale directional signs per intersection provided they are:
 - (1) Each no more than four (4) square feet in area;
 - (2) Contain no advertising message;
 - (3) Are located entirely on private property; and
 - (4) Not in excess of one per public street corner, per direction.
- (c) Signs for the convenience of the public, such as signs identifying restrooms, public telephones, walkways, and similar features or facilities, provided such signs are:
 - (1) Each no more than one and one-half (1½) square feet in area;
 - (2) Contain no advertising message; and
 - (3) Are located entirely on the business premises.
- (d) Memorial signs on tablets or plaques (intended to convey historical connotations), including names of buildings or sites, and dates of erection when cut into or attached to the surface or the facade of the building. Said signs and size may be exempted if deemed a memorial sign by the Director of Community Development.
- (e) Signs exclusively regulated by the state, traffic or municipal signs, signs required by law, railroad crossing signs, legal notices, and emergency or danger notices; provided such signs:

Shall not exceed twelve (12) square feet in area unless otherwise specified by law;

Contain no advertising message; and

Shall not be more than one (1) sign per street frontage unless otherwise required by law.

- (f) Emergency, temporary, and non-advertising signs as may be authorized by the City Council, including City-sponsored seasonal and promotional banners.
- (g) Signs of public utility companies and private contractors indicating danger or which serve as an aid to public safety, or which show the location of underground facilities.
- (h) One (1) real estate sign per street frontage provided such sign:

Is located entirely on the property offered for sale or lease; or on private property;

Does not exceed six (6) feet in height;
Does not exceed four (4) square feet in area; and
Is removed upon the close of escrow or when the rental or lease has been accomplished, whichever event occurs first.

(i) Street addressing, house numbers, nameplates, “No Trespassing,” “No Parking,” and other warning signs consistent with City Codes, provided the signs:

Do not exceed two and one-half (2½) square feet in area; and
Are located entirely on-site.

(j) Signs located in the interior of any building which are not visible from any public or private right-of-way.

(k) One of each of the following flags:

- (1) United States of America;
- (2) State of California; and
- (3) One other flag.
- (4) Additional flags and banners may be permitted pending approval of a minor Conditional Use Permit. See Section 9.65.040 for application procedures.

(l) Temporary, removable non-illuminated, window signs with the following provisions:

- (1) The signs do not exceed twenty-five (25) percent of the total exposed window area of each individual window;
- (2) If maximum allowable sign area is met, window signage shall not exceed 10% of the total exposed area of each individual window;
- (3) The signs complement the building and permanent signage; and
- (4) Additional signage shall be subject to the provisions of Section 9.37.160;
- (5) Window signs shall complement the building and permanent signage. The use of fluorescent, day-glow, and neon shall be limited;
- (6) No more than three (3) signs per establishment;
- (7) Open/closed sign not to exceed four (4) square feet in area may be displayed in the window of each business establishment;
- (8) One sign, not more than one square foot, listing hours of operation may be displayed in the window of each business establishment; and
- (9) Credit card, club and association affiliation stickers do not exceed one square foot per entrance.

(m) Traditional Christmas signs and lights within any commercial and residential zone so long as they meet City Fire Codes, do not cause a detriment to the public health, safety, or welfare, and are displayed only between November 1st and January 10th, inclusive.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.120 Political Signs.

Political signs, as defined in Section 9.37.020, including their supporting structures shall be permitted in all zones, provided that:

- (a) No sign shall be permitted on or to extend over any public property, public easement, or in the public right-of way;
- (b) Political signs shall not be posted in a manner which obstructs traffic or street signs or devices. In addition, all political signs shall be posted in a manner which preserves the lines of sight as set forth in Section 9.05.090;
- (c) All political signs pertaining to a particular election shall be removed within ten (10) days after the date of the election;
- (d) The candidate, committee, or any other authorized person posting political signs shall insure that all signs include the name, address and the required committee identification number of the campaign or political organization, if any.
- (e) If the Director of Community Development finds that any political sign has been posted or is being maintained in violation of the provisions of this Section, the Director may cause said sign to be removed without prior notice. Any political sign that remains posted for more than fourteen (14) days after the election to which it pertains shall be deemed abandoned. The Director may also cause such abandoned signs and any signs which constitute an immediate peril to persons or property to be removed summarily and without prior notice. (Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94; Ord. 94-09, 5/24/94)

9.37.130 Location and Height.

- (a) All signs, unless otherwise provided for in this Chapter, shall be erected upon the premises occupied by the person or business sought to be identified by such signs.
- (b) No sign shall be located upon or project over a public right-of-way, except, projecting signs and signs promoting civic and non-profit activities sponsored by the civic and non-profit organizations subject to the review and approval of the Director of Community Development and in accordance with Section 9.37.160 (Special Use Sign Permits).
- (c) No sign shall be attached to any public utility pole or public property except non-advertising signs or public notices of public utility companies as may be required in their operations which provide service for the health and welfare of the general public or as required by any Federal or State law or agency thereof.
- (d) No sign shall be placed in such a manner that the visibility of a sign on adjacent properties is obscured as viewed from a public or private right-of-way.
- (e) No sign shall extend above the eave line or parapet of the building on which it is located, with the exception of signs located on mansard roofs of buildings without wall area for signage, provided that the sign does not exceed the roofline.
- (f) Signs shall be placed at or near the entrance to a building or site to indicate the most direct access to the business.
- (g) The maximum height of permanent detached signs is six (6) feet. The Community Development Director has the discretion to grant up to a twenty-five (25) percent increase in allowable height, if the Director finds the sign design to be extraordinary creative and significantly contributing to the character of Dana Point and that the site characteristics warrant the additional height.

Sign height shall be measured from the ground (finished grade) directly surrounding the sign to the top of the sign. When signs are constructed on hillsides or embankments where the sign supports are at varying lengths, height shall be measured from the horizontal mid-point of the sign. Signs may exceed the maximum height if approved in conjunction with a variance in accordance with Section 9.37.080.

(h) Signs located within any required building setback, access intersection or street intersection area shall be located in accordance with the sight distance requirements of Section 9.05.090. No sign shall be located so as to promote a safety hazard as determined by the Director of Community Development.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94; Ord. 94-09, 5/24/94)

9.37.140 Material, Design and Construction.

(a) All signs, with the exception of monument signs, shall be constructed of permanent materials, including but not limited to, metal, wood, acrylic or other comparable durable weatherproof materials. No material more combustible than treated wood shall be used in the construction of any permanent sign.

(b) It is acceptable and desirable to utilize the following high quality materials and/or methods for monument signs:

1. Natural materials such as wood (hand carved, sand-blasted, painted or routed), stone, brick or some other natural material that is of a high quality.
2. Ceramic tile either painted or sand blasted.
3. Sign face, supports and standards trimmed with moldings and letter of similar high quality design and material.

(c) It is not acceptable to utilize the following materials for monument signs: finished materials such as acrylic, fiberglass, plastic or bare aluminum face, or material that exhibits a reflection similar to these materials. Canned signs are not permitted.

(d) Any sign support used in the construction of any permanent sign shall be reviewed as part of the sign application. Brackets or other structural elements that contribute to the architecture or in any way contribute to the advertisement of a business shall be calculated as part of the aggregate area of signage permitted for the site.

(e) Design, color, and scale of the sign shall be in keeping with the design elements in the General Plan, respective Specific Plan or Planning Area, and/or with the existing and surrounding architecture.

(f) Signs may be externally illuminated. Signs, with the exception of monument signs, may be internally illuminated. Internal illumination is from the interior of a sign, behind letters (back lighting), channel lighting, or other internal lighting source. Letter and logos may be internally lit but the sign background shall be opaque. Where the only portion of the signs that is illuminated is the actual letterings and/or a registered trademark or logo. Monument signs are permitted to be externally illumination only. External illumination is located outside of the sign and is focused to illuminate the exterior of the sign. External lighting shall be designed so as not to reflect glare or visually disturb surrounding land uses or function. Illumination shall be considered excessive when it prevents the normal perception of

buildings or structures beyond or in the vicinity of the sign or when it is disruptive to residential zones or any public or private right-of-way.

(g) Sign colors and materials should be selected to be compatible with the existing building designs and should contribute to legibility and design integrity. The architectural design of the building's façade shall be considered in selecting sign materials that complement the design.

(h) Sign colors and materials should be selected to be compatible with the existing building designs and should contribute to legibility and design integrity.

(fi) Sign colors and materials should be selected that provide a contrast between the background color(s) and the lettering.

(j) Colored lights shall not be used at a location or in a manner so as to be confused or construed as traffic control devices.

(k) Light sources shall utilize energy-efficient fixtures to the greatest extent possible.

(l) Sign removal or replacement shall ensure all brackets, poles, and other structural elements that supported the sign shall also be removed. Affected building surfaces shall be restored to match the adjacent portion of the structure.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.150 Permitted Signs.

The following table identifies the signs permitted in each land use district. In addition to the following regulations, all signs must be in compliance with all other provisions of this Chapter.

All signs shall be governed by the following matrix, except if specifically addressed elsewhere in this Chapter. Where contradictory, the more restrictive standards will apply. The matrix lists standards for the type, maximum number, aggregate area, maximum height of signs, and additional standards. In addition to the listed standards, each sign shall comply with the requirements set forth in each specific district or zone, and all other applicable City standards and ordinances. Consideration shall also be given to the overall appearance of the property and the surrounding neighborhood. The Planning Commission may adopt separate sign standards or provisions for specific sites or areas.

(a) Permitted Temporary Signs in Residential Districts.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA ¹	MAXIMUM HEIGHT ²	ADDITIONAL STANDA RDS ³
(1) Construction Sign	Freestanding or Wall	Yes	One per building site or street frontage	32 sq. ft.	6 feet	<p>(A) Copy shall be limited to the name of the project and may denote firms such as architectural, engineering, or construction firms engaged in work on the site.</p> <p>(B) A legal building permit must be issued for the site prior to sign erection.</p> <p>(C) Sign shall be removed upon issuance of the first certificates of use and occupancy.</p> <p>(D) A construction and future facility sign may</p>

						be permitted simultaneously as long as the total signage does not exceed 50 square feet.
(2) Future Facility	Freestanding or Wall	Yes	One per building site or street frontage	32 sq. ft.	6 feet	<p>(A) Sign shall be removed prior to occupancy of 50% of the buildings on site.</p> <p>(B) Copy may include sale, lease, or rental of the property on which the sign is located in lieu of a real estate sign.</p> <p>(C) Sign permits shall be valid for one year. However, prior to expiration of time period, the City may grant an extension of not more than one year.</p>

						(D) A future facility sign may only be permitted upon removal of a construction sign, unless the combined area of the construction and future facility signs does not exceed 50 square feet.
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Note: See footnotes on Page 9.37-29.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA ¹	MAXIMUM HEIGHT ²	ADDITIONAL STANDARDS ³
(3) Open House Sign	Freestanding	No, unless proposed in conjunction with a temporary sales facility	One sign per corner per direction, plus one sign per site	4 sq. ft.	4 feet	<p>(A) Open house signs may be displayed only until dusk and when the property is available for inspection.</p> <p>(B) Placement shall be permitted on private property only.</p> <p>(C) Signs shall be placed so that they do not obscure and are not attached to fire hydrants, traffic signals/signs or otherwise inhibit or interfere with vehicular or pedestrian traffic.</p> <p>(D) No wind signs (flags, ballons) shall be</p>

						displayed. However, one flag shall be permitted on site.
(4) Remodeling Sign	Freestanding or Wall	No	One per building	4 sq. ft.	6 feet	(A) Copy limited to name of firm engaged in home repairs, remodels, pool installation, etc. (B) Sign shall be removed upon completion of work and prior to final inspection.
(5) Real Estate Sign	Freestanding or Wall	No	One per street frontage	4 sq. ft.	6 feet	(A) Copy may include only information relating to the sale, lease or rental of the premises on which the sign is located. (B) Signs shall be removed upon close of escrow or when lease or rental has been

						accomplished.
(6)Garage/Yard Sale Sign	Wall, Window or Freestanding	Yes	One per intersection; maximum of four (4) signs	4 sq. ft.	4 feet	(A) Placement shall be permitted on private property only. (B) See Section 4.20.010 in the Municipal Code for additional regulations related to conducting garage sales.

Note: See footnotes on Page 9.37-29.

(b) Permitted Permanent Signs in Residential Districts.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA ¹	MAXIMUM HEIGHT ²	ADDITIONAL STANDARDS ³
(1) Tract Identification	Freestanding or Wall	Yes, Minor Site Development Permit	One per street frontage or one on each side of an entrance	1 sq. ft. per lineal foot of street frontage up to 100 square feet maximum or as defined by an approved sign program and/or Minor Site Plan Permit	Wall: 6 feet Freestanding 5 feet	(A) Signs shall be affixed to a perimeter wall or placed within a landscaped planter. (B) Copy shall be limited to 18 inches in height. (C) Location to be determined at time of sign program approval and/or Minor Site Plan Permit. (D) Freestanding signs shall be of a monument type. (E) Signs may be seven feet in height if height includes a two-foot high landscaped overall berm.
(2) Rent /Leasing Identific	Freestanding or Wall	Yes	One per complex or entrance	12 sq. ft.	Wall: Below the eave	(A) Signage shall be approved as part of a comprehensive sign program.

ation Signage (Apartm ent complex es only)					line Freesta nding: 5 feet	(B) Signs may be seven feet in height if overall height includes a two-foot high landscaped berm.
(3) Dire ctional	Freesta nding or Wall	No	Minimum number necessary to provide adequate information and direction	2½ sq. ft. per sign	Wall: Below the eave line Freesta nding 4 feet	(A) Copy limited to directional signage as defined in this Section. (B) Signage to be included with a comprehensive sign program.
(4) Site Director y / Occupan t Listing (Condom inium Complex)	Freesta nding or Wall	Yes	One per site, or as dictated by the sign program	24 sq. ft., or as defined by the sign program	6 feet	(A) Signs to be approved in conjunction with the approved sign program.

Note: See footnotes on Page 9.37-29.

(c) Permitted Temporary Signs in Mixed Use and Non-Residential Districts.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA ¹	MAXIMUM HEIGHT ²	ADDITIONAL STANDARD S ³
(1) Construction Sign	Freestanding or Wall	Yes	One per building or leased parcel, or one per sheet frontage	32 sq. ft.	6 feet	(A) Copy shall be limited to the name of the project and may denote firms such as architectural, engineering, or construction firms engaged in work on the site. (B) A legal building permit must be issued for the site prior to sign erection. (C) Sign shall be removed upon issuance of the first certificates of use and occupancy.
(2) Future Facility	Freestanding or Wall	Yes	One per building or street frontage	32 sq. ft.	6 feet	(A) Sign shall be removed prior to occupancy of 50% of the buildings on site. (B) Copy may include sale, lease, or rental of the property on which the

						<p>sign is located in lieu of a real estate sign.</p> <p>(C) Sign permits shall be valid for one year. However, prior to expiration of time period, the City may grant an extension of not more than one year.</p> <p>(D) A future facility sign may only be permitted upon removal of a construction sign, unless the combined area of the construction and future facility signs does not exceed 50 square feet.</p>
(3) Future Tenant	Freestanding	Yes	One per building site or street frontage	32 sq. ft.	6 feet	<p>(A) Only permitted in lieu of a construction/future facility sign.</p> <p>(B) Copy shall be limited to center name, tenant name, and type of use.</p> <p>(C) Sign shall be removed at time of installation of</p>

						permanent sign for a single business on a separate parcel or when a comprehensive sign program is approved for a multiple tenant site.
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Note: See footnotes on Page 9.37-29.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA ¹	MAXIMUM HEIGHT ²	ADDITIONAL STANDA RDS ³
(4) Real Estate	Freestanding or Wall	Yes	One per street frontage	12 sq. ft.	Wall : Below the eave line Freestanding: 6 feet	(A) Copy shall pertain only to the sale, rent, or lease of the building property. (B) Sign shall be removed upon close of escrow or when lease or rental has been accomplished. (C) Sign may only be erected in lieu of a construction and/or future facility sign.
(5) Special Event Sign	Wall	Yes	One per site or as deemed appropriate with a special event permit	Banners not to exceed 24 sq. ft.	Below the eave line	(A) A special event permit is required pursuant to Section 9.37.160(a), Special Use Sign Permits, and Section 9.39.070 ₂ , Special

						Events. (B) Special event signs are to be removed on or before date of permit expiration.
(6) Remodeling Sign	Freestanding or Wall	No	One per building site	4 square feet	Wall: 6 feet Ground: 4 feet	(A) Copy limited to name or firm engaged in repairs, remodels, installations, etc. (B) Signs shall be removed upon completion of work and prior to final inspection.

Note: See footnotes on Page 9.37-29.

9.37.150(d) Permitted Permanent Signs In Mixed Use and Non-Residential Districts (for Commercial Centers).

Note: Total of all allowable signage is based on total street frontage unless otherwise noted.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA ¹	MAXIMUM HEIGHT ¹	ADDITIONAL STANDARDS ³
(1) Center Identification Sign	Freestanding or wall sign	Yes, Minor Site Development Permit	Two: (One freestanding or wall sign allowed for each street frontage)	1/3 of allowable sign area for the site up to 25 square feet. Up to 25 percent of additional sign area may be granted by the Community Development Director	6 feet. See Section 9.37.130(g) (or as determined by an approved Sign Program) If a wall sign is requested, shall be determined through Minor Site Development Permit process	(A) Sign shall contain the name of the center (if any) and/or the name(s) of major tenant(s). Inclusion of other tenants may be permitted with an approved minor Conditional Use Permit. See Section 9.37.160(d) for development standards and Section 9.65.040 for procedures and application requirements for a minor Conditional Use Permit. (B) Sign shall may include the address of the site. Telephone numbers shall not be permitted. (C) A sign Program may be required (see Section 9.37.070) (D) Sign shall be of a monument type.
(2) Tenant Identification Sign	Wall or Window	Yes	Four: (One sign allowed for each street frontage,	1 sq. ft. per lineal foot of building frontage on a public right-of-	Below the eave line	(A) Signs may be located on building elevations with street frontage or

			parking lot frontage or interior courtyard frontage)	way, parking lot or interior courtyard		main public entrance. (B) Signs installed above the first floor may be installed adjacent to the entrance. (C) Two or more tenants requires approval of a Sign Program. (D) Under canopy signs shall be centered above a window or entrance.
(3) Directional Signage	Freestanding or Wall	No	Minimum number necessary to provide adequate information and direction	2½ sq. feet per sign	Wall: Below the eave Freestanding: 4 feet	(A) Copy limited to directional signage as defined. (B) Signage to be included with a comprehensive sign program.
(4) Menu Board	Freestanding or Wall	Yes	One per drive through lane	20 sq. ft.	6 feet	(A) Shall be approved as part of a comprehensive sign program. (B) Shall not be readily visible from any public right-of-way. (C) Sound shall not exceed 45 dBA at any point within 20 feet of the sign. (D) Shall include independent speaker pedestal or order placing/confirmation equipment.
(5) Tenant Identification	Projecting	Yes	One: (per tenant)	9 square feet. Shall not project more than 4-feet from the building and	7-foot vertical clearance from sidewalk	(A) Contingent upon the sign owner obtaining and maintaining in force liability

				shall not extend beyond the curb.		insurance if the projecting sign projects above a public right-of-way. (B) Projecting signs shall not be internally illuminated.
(6) Window Sign	Affixed to window only	No	Three (3) signs per business	25% of exposed window area of each individual window. If allowable sign area is maximized signs shall not exceed 10% of exposed window area of each individual window.	N/A	(E) The signs shall complement the building and permanent signage. The use of fluorescent, day-glo, and neon colors shall be limited. (F) Permanent window signage shall be included in the maximum aggregate area allowed for the business. (G) Text of permanent window signage shall be limited to business name and brief message identifying the product or service or pertinent information. (H) Window signage shall conform to the provisions of Section 9.37.110(1).

Note: See footnotes on Page 9.37-29.

9.37.150(e) Permitted Permanent Signs in Mixed Use and Non-Residential Districts (for Single Tenant Sites).

Note: Total of all allowable signage is based on total street frontage unless otherwise noted.

CLASS	TYPE	PERMIT	MAXIMUM	AGGREGATE	MAXIMUM	ADDITIONAL
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		REQUIRED	NUMBER	AREA ¹	HEIGHT ²	STANDARDS ³
(1) Tenant Identification Sign	Wall, Canopy, or Window	Yes	Four: (One sign allowed for each street frontage, parking lot frontage or interior courtyard frontage)	1 sq. ft. per lineal ft. of building frontage on any public right-of-way, parking lot or interior courtyard	Wall: Below the eave line	(A) Signs may be located on building elevations with street frontage or main public entrances. (B) Signs installed above the first floor may be installed adjacent to the entrance. (C) Three or more signs may requires approval of a Sign Program. (See Section 9.37.070) (D) Under canopy signs shall be centered above a window or entrance.
(32) Directional Signage	Freestanding	No	Minimum number necessary to provide adequate information and direction	2½ square feet per sign	Wall: below the eave Freestanding: 4 feet	(A) Copy limited to directional signage as defined. (B) If a Sign Program is otherwise required, the directional signage shall be included.
(43) Menu Board	Freestanding or Wall	Yes	One per drive through lane	20 sq. ft.	6 feet	(A) Shall be approved as part of a comprehensive sign program. (B) Shall not be readily visible from any public right-of-way. (C) Sound shall not exceed 45 dBA at any point within 20 feet of the sign. (D) Shall include independent speaker pedestal or order placing/confirmation equipment.
(5) Tenant Identification	Projecting	Yes	One: (per tenant)	9 square feet. Shall not project more than 4-feet from the building and shall not extend beyond the curb.	7-foot vertical clearance from sidewalk	(A) Contingent upon the sign owner obtaining and maintaining in force liability insurance if the projecting sign projects above a public right-of-way.

						(B) Projecting signs shall not be internally illuminated.
(6) Window Sign	Affixed to window only	No	Three (3) signs per business	25% of exposed window area. If allowable sign area is maximized signs shall not exceed 10% of exposed window area	N/A	(E) The signs shall complement the building and permanent signage. The use of fluorescent, day-glo, and neon colors shall be limited. (F) Permanent window signage shall be included in the maximum aggregate area allowed for the business. (G) Text of permanent window signage shall be limited to business name and brief message identifying the product or service or pertinent information. (H) Window signage shall conform to the provisions of Section 9.37.110(1).

Note: See footnotes on Page 9.37-29.

(f) Special Sign Requirements for Service Stations.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA ¹	MAXIMUM HEIGHT ²	ADDITIONAL STANDARDS ³
(1) Identification Sign	Freestanding	Yes	One per site	20 square feet if sign contains only identification and no changeable copy panels for pricing. If price information is incorporated in the identification	4 feet	(A) Service stations with an associated convenience store shall be limited to a 20 square foot identification sign.

				sign, the total square footage may be 32 square feet.		(B) Signs shall be located within a landscape planter and may not be located closer than five (5) feet to the property line.
(2) Fuel Price Information	Freestanding	Yes	One per street frontage	12 square feet per sign	4 feet	(A) Price signs shall advertise fuel prices only and no other products available. (B) Signs shall be completely located within a landscape planter area. (C) Signs shall only be permitted in lieu of the provisions of a 32 square foot identification sign. (D) The total square footage of sign including attached or detached signs shall not exceed an

						aggregate of 100 square feet in area.
(3) Attached	Wall or Canopy	Yes	One per street frontage	1 sq. ft. per lineal foot of building frontage	Wall – below the roof line Canopy – confined to canopy fascia, canopy columns or other structural elements below the canopy	(A) The total square footage of sign including attached or detached signs shall not exceed aggregate of 100 square feet in area.

Note: See footnotes on Page 9.37-29.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA ¹	MAXIMUM HEIGHT ²	ADDITIONAL STANDARDS ³
(4) Information / Instruction Signs	Attached to island column	No	One per canopy column	3 square feet	10 feet	(A) No other signs shall be permitted on the canopy or columns. (B) Signs encompassed within a fuel pump or required by State or Federal Government shall not be regulated by this

						Code. (C) No signs shall be permitted to be displayed on top of attachment to or suspended from any pump.
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(g) Special Sign Requirements for Public/Quasi-Public Uses.

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA ¹	MAXIMUM HEIGHT ²	ADDITIONAL STANDARDS ³
(1)Identification (Detached)	Freestanding or Wall	Yes	One per site	1 square foot per lineal foot of street frontage not to exceed 50 square feet per street	4 feet	(A) Sign shall be located within a landscaped planter. (B) Additional signage may be permitted subject to a sign program (i.e., booster signage for baseball diamonds).
(2)Identification (Attached)	Wall	Yes	One per use or building frontage	1 square foot per lineal foot of building frontage not to exceed 24 square feet	Below the entire line	

Footnotes for Section 9.37.150(a) through 9.37.150(g):

- 1) The maximum site sign area is 1 square foot of sign area per linear foot of building site frontage on a public street, up to a maximum of 100 square feet for all signs (monument and wall). A greater maximum site sign area may be allowed for multi-tenant commercial developments subject to approval of a Sign Program and based on building frontage. Replacing of existing signs at a multi-tenant development shall not require a Sign Program if the sign was originally legally constructed.

- 2) The maximum allowable height of a sign must also comply with the height/setback requirements of Section 9.37.130(g).
- 3) Illuminated signs located in residential districts may only be externally illuminated.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94; Ord. 94-09, 5/24/94; Ord. 94-21 , 12/13/94; Ord. 96-10, 8/13/96)

9.37.160 Special Use Sign Permits.

The purpose of the Special Use Sign Permits section is to permit and regulate the use of: temporary banners, pennants, and flags in conjunction with special events; and off-site directional signage for visitor-serving land uses.

(a) **Special Event Sign Permit.** The use of banners, pennants, flags, and other temporary signage which are used to promote or advertise special events, civic activities, grand openings, and special sales are permitted when erected in an approved location and only upon obtaining a Temporary Site Development Permit as defined in Chapter 9.71 of the Dana Point Municipal Code; the provisions as set forth in this Section; and, where applicable an encroachment permit. Applications for special event banners, pennants, and flags shall be filed with the Department of Community Development on forms furnished by the Department.

Special events held outdoors in tents, unfinished structures, or in occupancies not approved for general use shall comply with the provisions as set forth in this Section and Chapter 9.39 of the Dana Point Municipal Code.

- (1) Grand Opening/Liquidation/Special Sales.** On-site grand opening or liquidation sale banners, pennants, or flags in connection with the opening of a business, a major remodel, new ownership, or closure of a business may be permitted and approved by the Director of Community Development, subject to the provisions listed below. If approved, a certificate of approval shall be issued including the expiration date.
 - (A) Banners, pennants, and flags shall be permitted for sixty (60) days within a 12 month period unless extended by the Director of Community Development. This can be accrued in any multiple or consecutive days up to sixty (60) days;
 - (B) Banners, pennants, and flags shall not exceed a total aggregate area of more than one (1) square foot per lineal foot of building frontage on a public street; such banners, pennants, and flags shall not exceed an aggregate area of twenty-four (24) square feet.
 - (C) Copy shall be limited to usual wording such as “Going Out of Business Sale,” “Liquidation Sale,” or “Grand Opening,” or wording related to special sale items. The business name may be used if the

banner is used to temporarily advertise a new business prior to obtaining permanent signage.

- (D) Any banner, pennant, or flag shall not be displayed within or on a window, be ground-mounted, or placed in trees. Banners, pennants, and/or flags shall be placed only on the building in which the event is to occur. No off-site banners, pennants or flags shall be permitted.
 - (E) Pennants and flags proposed in conjunction with the use of a banner and window signage shall be limited in size and number subject to the discretion of the Director of Community Development.
 - (F) Temporary banners, pennants, flags, and window signage shall compliment rather than detract from the site and permanent signage and shall comply with Section 9.37.140(e) and (f) of this Chapter.
 - (G) Total temporary signage for each site shall not exceed three different forms of banners, pennants, and/or flags.
- (2) Non-Profit Organizations. Temporary banners, pennants, and flags advertising a special event, on- or off-site, including civic, public, religious, educational, or philanthropic events, may be granted a special event sign permit for no longer than one (1) month per occurrence unless extended by the Director of Community Development. Temporary banners, pennants, and flags shall be appropriate for the event and shall not have an adverse affect on adjacent land uses. The sign copy may contain names, logos, or corporate sponsors but such names, logos, or corporate sponsors may not exceed one-third (1/3) of the aggregate area of signage. Advertising signage area, specific locations, colors, and materials shall be submitted for review by the Director of Community Development. If approved, a certificate of approval shall be issued including the expiration date.
- (3) Fee. A fee and deposit shall be required as approved by a Resolution of the City Council to guarantee the removal of temporary banners, pennants, and flags at the end of the permit period. If temporary banners, pennants, or flags are not removed at the end of the permit period, the applicant shall forfeit the deposit and excess days will be debited against any potential future permit time. Fees for non-profit organizations may be waived by the Director of Community Development. The applicant shall retain a copy of an approved permit on-site to be presented upon request by an authorized City Official.

(b) Off-Site Sign Permit

(1) Eligibility Criteria. The intent of this Section is to provide adequate off-site directional signage for visitor-serving land uses which are not readily visible or accessible from major public roadways. To be eligible for consideration of an off-site sign permit, a business or activity must be:

(A) A visitor-serving use as defined in the Zoning Code to include resorts, hotels, motels, restaurants, conference facilities, commercial-recreation uses, specialty and convenience shops, and recreation/open spaces uses; and

(B) Located on a site not immediately adjacent to or taking access from a Circulation Element roadway of primary or higher classification.

Businesses and activities which do not meet both of these criteria are not eligible for off-site signage.

(2) Location. Off-site signs must be placed entirely on development, private, non-residential property with the approval of the property owner. Only one (1) off-site sign is permitted per business or activity, although more than one (1) business or activity may be identified on an off-site sign in conformance with subsection (3)(D) below. All off-site signs must be located within a one thousand foot (1,000') radius of the business or activity advertised.

(3) Design. In order to present a unified appearance and avoid visual clutter, off-site signs shall comply with the following design criteria:

(A) Maximum height of forty-two inches (42"), which may be increased up to a maximum of sixty-six inches (66") if the sign is mounted on a twenty-four inch (24") landscaped berm.

(B) Maximum sign area of twenty-four (24) square feet.

(C) Minimum and maximum character size of eight inches (8") and twelve inches (12"), respectively. Character size may be increased to a maximum of sixteen inches (16") at the discretion of the Director of Community Development.

(D) Maximum of three (3) businesses and/or activities advertised per sign.

(E) Sign copy limited to the name of the business or activity and a simple directional arrow.

(F) Sign color, materials, method of illumination and design to be consistent with the architecture and existing on-site signage for the site where it will be located.

(G) Sign placement to comply with the provisions of Section 9.37.130 of this chapter.

(H) The sign shall not displace any required parking stall or other required feature or element of the subject site plan.

(I) The sign shall be integrated with the site design of the subject property, including landscaping.

(J) The sign shall be calculated with the sign budget of the site it is located and shall not exceed the allowed sign budget as defined in the Zoning Code.

(4) Review and Administration. Off-site signs may be permitted subject to the approval of a minor Conditional Use Permit as a consent action by the Planning Commission. In approving an off-site sign, the Planning Commission must find:

(A) That the business or activity meets the eligibility criteria from Section 9.37.160(c)(1); and

(B) That the proposed off-site sign will improve the accessibility and visibility of the businesses or activities advertised; and

(C) That the placement and design of the proposed off-site sign will not create visual confusion, clutter, or traffic hazards.

As a condition of approval for off-site signs, the applicant shall provide evidence of an agreement between the applicant and the owner of the property where the sign will be located for the placement and maintenance of the sign.

(c) Multi-Tenant Identification Sign. This Section contains criteria to allow multi-tenant centers to include all tenant names on the centers identification sign.

(1) Design. In order to assure legibility, multi-tenant identification signs shall comply with the following design criteria:

(A) The sign shall be monument design and comply with the monument design standards detailed in this Chapter.

(B) Sign shall contain the name of the center (if any) and/or the name(s) of tenants. The name of the center shall be the prominent title either by using larger characters, different color, or other design technique.

(C) Copy is easily readable from passing vehicles and character size is not more than eight inches (8") in height.

(D) Sign color, materials, method of illumination and design to be consistent with the architecture and existing on-site signage for the site where it will be located and comply with Section 9.37.140.

(E) Sign placement and height to comply with the provisions of Section 9.37.130 of this Chapter.

(F) Size of sign shall comply with the provisions of Section 9.37.150(d) of this Chapter.

(G) The sign shall not displace any required parking stall or other required feature or element of the subject site plan.

(H) The sign shall be integrated with the site design of the subject property, including landscaping.

(I) In order to assure aesthetic compatibility, additional conditions may be required to maintain continuity and harmony of the signage on the site.

(2) Review and Administration. Multi-tenant center identification signs may be permitted subject to the approval of a minor Conditional Use Permit by the Planning Commission. In approving a multi-tenant center identification sign, the Planning Commission must find:

(A) That the business or activity meets the eligibility criteria from Section 9.37.160(d)(1); and

(B) That the proposed multi-tenant center identification sign will improve the accessibility and visibility of the businesses or activities advertised; and

(C) That the placement and design of the proposed multi-tenant center identification sign will not create visual confusion, clutter, or traffic hazards.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94; amended by Ord. 95-02, 1/24/95; Ord. 95-04, 2/14/95; Ord. 96-04, 3/26/96; Ord. 96-05, 4/9/96)

9.37.170 Prohibited Signs.

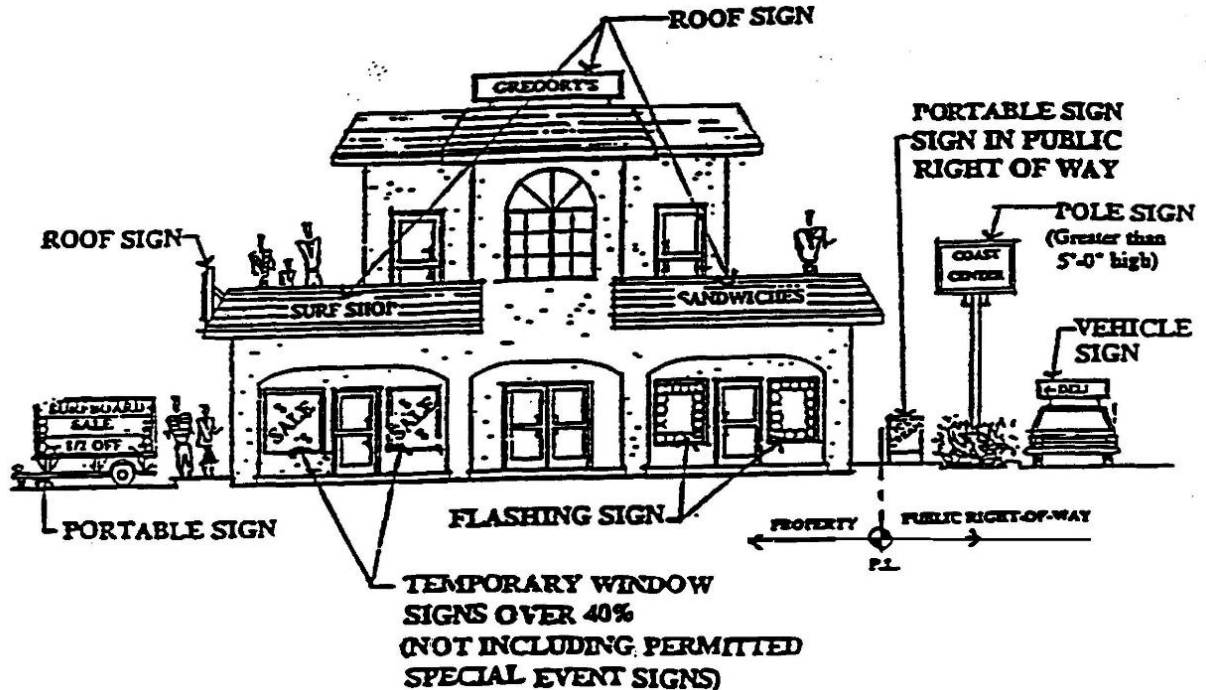
Except as otherwise expressly permitted in this Chapter, all signs are expressly prohibited, including, but not limited to the following:

- (a) Flashing, moving, animated and intermittently lighted signs and advertising devices including animals and human beings, excluding public service signs such as time and temperature signs and traditional barber shop poles.
- (b) Roof signs as defined in Section 937.020(r).

- (c) Signs which project over public right-of-way or adjacent private property, except for Blade Signs approved as part of a Sign Program subject to Section 9.37.070.
- (d) Changeable copy signs with the exception of signs intended for the advertisement of civic activities and menu board signs.
- (e) Banners, flags, pennants, balloons, and other temporary signage except as may be permitted by Section 937.160 in conjunction with a Temporary Site Development Permit or Section 9.37.110(k).
- (f) Off-site signs and other similar signs installed for the purpose of advertising a project, subject, or business, unrelated to the premises upon which the sign is located, inclusive of “snipe” signs and billboards, but exclusive of garage/yard sale and open house signs.
- (g) Vehicular signs including signs attached by any means to automobiles, trucks, trailers, or other vehicles on private or public property for the purpose of advertising, identifying, or providing direction to a use or activity not related to the lawful use of the vehicle for rendering service or delivering merchandise.
- (h) Obscene or unlawful signs.
- (i) Signs in the public right-of-way and public property except those signs that are provided for in this Chapter.
- (j) Permanent pole signs exceeding five (5) feet in height, not including flag signs, with open space from ground level to the bottom of the sign exceeding thirty-five (35) percent of the overall height.
- (k) Audible signs or advertising devices.
- (l) Inflatable signs and advertising devices.
- (m) Canned monument signs
- (n) Portable signs which include A-Frame or sandwich board signs.
- (o) Internally illuminated monument signs

Exhibit 9.37-11 depicts many of the prohibited sign types described above.

**EXHIBIT 9.37-11
PROHIBITED SIGNS**



(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.180 Unsafe and Unauthorized Signs.

For any sign or other advertising device regulated in this Chapter that is deemed by the Director of Community Development to be unsafe or hazardous to the public health, safety, and welfare or that has been constructed, erected, or maintained in violation of this provisions as set forth in this Chapter or other applicable code, the permittee or property owner shall be given written notice to correct and/or remove the sign violation. If the permittee or property owner fails to alter or remove the structure to comply with the regulations set forth in this Code within ten days, such sign violation may be removed or altered by the City at the expense of the permittee or owner. Any sign or advertising device which presents an immediate threat to the public safety may be removed without notice.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.190 Nonconforming Signs.

A legal nonconforming sign is any permanent sign which was legally established and maintained in conformance with the ordinance in effect at the time of original installation, but because of size, height, location, design, construction, or other circumstance is not in conformance with the requirements of this Code. The provisions of this section shall apply to all nonconforming signs.

- (a) General Provisions. A nonconforming sign shall be properly maintained in accordance with Section 9.37.190(c), but may not be:
- (1) Changed to another nonconforming sign either due to a change in text, cosmetically or structurally;
 - (2) Structurally or electrically expanded or altered unless such alteration brings the sign into conformance with all current provisions of this Chapter;
 - (3) Relocated to another site on the same property;
 - (4) Re-established after discontinuance for ninety (90) days or more;
 - (5) Re-established after damage or destruction of more than fifty (50) percent of its original valuation.
- (b) Removal. Existing signs which are determined to be nonconforming on the effective date of this Chapter (December 26, 1991) shall be modified or removed to comply with all provisions of this Chapter within seven (7) years of the initial date of first written notice from the Director of Community Development, unless extended as permitted in this Section. Such written notice shall be recorded with the Orange County Recorder and mailed to the property owner. The owner shall be given written notice to correct or remove the nonconforming sign within the 7-year amortization period. If the property owner fails to alter or remove the structure to comply with the regulations set forth in this Chapter within ten (10) days following the final date of the amortization period, such sign may be removed or altered by the City at the expense of the permittee or owner. Signs which were erected or altered without a required permit or signs which did not comply with the applicable regulations when erected shall be immediately removed by the owner upon written notice from the City.
- (1) Window signs. Any window sign that does not conform to this chapter, shall be abated or made to conform within one hundred twenty (120) days of the property or business owner receiving written notice that the sign is nonconforming.
- (c) Maintenance. All signs shall be maintained in good repair and functioning properly, to the satisfaction of the Director of Community Development. Signs shall be free from all defects including but not limited to cracking, peeling, and rusting. Signs that are not properly maintained shall be deemed a public nuisance and may be abated upon proper notice.

- (d) **Minor Repairs and Repainting.** Legal nonconforming signs may be removed for the purpose of repairing or repainting and may be replaced upon obtaining a sign permit. Legal nonconforming signs may be replaced if the identical sign and text is replaced within sixty (60) days of its removal.
- (e) **Change of Ownership.** Upon change of ownership of the business advertised by the nonconforming sign, the sign as originally approved, including text, may remain on site for seven (7) years from the date of written notice from the Director of Community Development in accordance with procedure of Section 9.37.190(b).
- (f) **Change in Property Size or Configuration.** If any size or configuration of a parcel or building is changed by the subdivision of the property, building addition or demolition, signs for the property shall be made to conform to the sign regulations applicable to the newly created parcel or building at the time such change becomes effective.
- (g) **Time Extension.** Prior to the expiration of the seven (7) year period provided in Section 9.37.190(b), a written request may be made to the Planning Commission for an extension. No time extension shall be approved for any sign unlawfully erected.
- (1) **Time Period.** The Planning Commission may approve a time extension for a period deemed appropriate, up to one (1) year.
- (2) **Application and Fee.** An application shall be submitted on a form provided by the Director of Community Development and accompanied by a fee set by a Resolution of the City Council.

Submittal requirements shall include:

- (A) An exhibit showing all signs currently on site;
- (B) The date the sign was constructed and located on the site;
- (C) The remaining economic life of the sign, which may or may not be less than the actual physical life of the sign;
- (D) Any unusual circumstances concerning the size, height, and location of the sign;
- (E) The manner in which the sign violated the sign regulations as provided in this Section;
- (F) A letter of justification showing how the immediate removal or alteration of the sign, as required by this Section, would create unnecessary hardship on the

- applicant, and which hardship may be inconsistent with the purpose and intent of the sign regulations.
- (3) Findings. The Commission shall find the following in approval of an extension of time for a nonconforming sign:
- (A) Due to special circumstances, immediate removal of the sign will result in a substantial hardship for the applicant.
 - (B) The sign is not detrimental to the surrounding properties or the general health, safety, and welfare.
 - (C) The sign does not constitute an obstruction to vehicular or pedestrian traffic or visibility and is not a hazardous distraction.
- (4) Conditions. Subject to approval of the time extension, the Planning Commission may require reasonable modification or alteration to the sign to improve appearance or its compliance with this Section. Modification that would extend the useful life of the sign shall not be permitted.
- (h) Discretionary Review of Existing Nonconforming Signs. Nonconforming signs in existence at the time these provisions are adopted by the City Council may apply for a sign Exception Permit to legalize the subject sign as an alternative to removing or modifying the sign to comply with the requirements of this Chapter. Applications to request a Sign Exception Permit shall be submitted to the Community Development Department within ninety (90) days from the date the Sign Ordinance amendment is adopted. Nonconforming signs as defined above, for which applications have not been received by this date shall be removed.
- (5) The Planning Commission, at a noticed public hearing, may grant a Sign Exception Permit, provided the following findings can be made:
- (A) Enforcement of regulations of the Sign Code would result in unnecessary physical hardship which would preclude visual access of the proposed sign;
 - (B) There are exceptional circumstances to subject property which do not apply to other properties;
 - (C) Enforcement of regulations would deprive the applicant of privileges enjoyed by other properties with the same constraints;
 - (D) Sign Exception Permit would not result in a grant of special privilege;
 - (E) Request is based on hardship and not as a matter of convenience;
 - (F) Granting of the Sign Exception Permit would not result in conditions which would be detrimental to public health, safety, or welfare to properties in the vicinity;
 - (G) Approval places suitable conditions to protect surrounding properties;
 - (H) Approval would not result in adverse impacts, either cumulatively or individually, to coastal access, public recreation opportunities, or coastal resources, and development would be consistent with Local Coastal Program;

- (I) The sign is visually appealing, currently in good working order and well maintained, and does not currently have a sight-line or other vehicular or electrical problem that creates a public health, safety, or welfare issue;
 - (J) The site has a physical or functional constraint that effectively limits the ability of the business to advertise its location to the general public through the placement of a conforming sign.
- (6) The property owner shall submit the Sign Exception Permit application to the Community Development Department within 90 days from the date the Ordinance is adopted. The application shall include:
- (A) Discretionary Application forms;
 - (B) Letter of justification addressing findings identified in subsection (1), above;
 - (C) Colored site photos of all signs on subject property;
 - (D) Site plan including dimensions of subject sign; and
 - (E) Planning fees, plus CEQA fee
- (7) The Planning Commission's denial of a request for a Sign Exception Permit shall designate the sign as illegal. As an illegal sign it shall be removed within 30 days once the decision is final.
- (8) The Planning Commission's approval of a Sign Exception Permit shall render the sign legal nonconforming which shall be subject to the provisions of this Section except shall not require removal under Subsection (b) of this section.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94; Ord. 00-06, 10/24/00)

9.37.200 Inventory and Abatement of Illegal or Abandoned Signs.

- (a) Within six (6) months after the adoption of the ordinance codified in this title, the Director of Community Development shall authorize an inventory and identification of illegal and abandoned signs shall be made of all signs within the City. Illegal or abandoned signs shall be abated in accordance with the provision of this Section.
- (b) The Director of Community Development shall require the removal or abatement of all illegal or abandoned signs. If signs are not removed by the owner, abatement shall commence after sixty (60) days of the final inventory of illegal or abandoned signs.
- (c) Any unlawful signs located within the public right-of-way or on public property may be removed, without notice, by the Director of Community Development. Abated signs shall be retained at City Hall for a period of not less than three (3) working days, after which the signs may be discarded.
- (d) Should the City be required to remove any illegal or abandoned signs, the reasonable cost of such removal shall be assessed against the owner of such signs. The cost of removal shall be established by a Resolution of the City Council.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.210 Historical Signs.

An existing sign, which because of character, age, influence, cultural or historic significance, may be exempted from the standards of this Chapter. All such signs shall be subject to approval of a minor Conditional Use Permit by the Planning Commission.

- (a) Historical signage criteria may include:
 - (1) Date in which the sign was erected;
 - (2) Documentation of originality of historic or cultural value;
 - (3) Documentation showing that the sign has been maintained in original form and significant text as when it was originally constructed.

- (b) Findings. In approving a historical sign, the Planning Commission shall determine:
 - (1) That the sign contributes to the positive architectural, cultural, or historical character of the City of Dana Point, County of Orange, State of California, or the United States;
 - (2) That the sign would not create confusion to the public or to public safety officials in response to emergencies; and
 - (3) That the sign would not adversely affect the health, safety, or welfare of the community.
 - (4) That documentation of the history of the sign and site has been provided to the City for archive purposes.

(Added by Ord. 91-17, 11/26/91; amended by Ord. 94-03, 1/11/94)

9.37.220 Maintenance and Operation.

- (a) All time and/or temperature signs shall be continually maintained and calibrated to display the correct time and accurate temperature. Within three (3) days of the bi-annual time change, signs displaying the time shall be adjusted accordingly.

- (b) All signs shall be maintained in good repair and functioning properly to the satisfaction of the Director of Community Development. Signs shall be free from all defects including but not limited to cracking, peeling, and rusting. Signs that are not properly maintained shall be deemed a public nuisance and may be abated upon proper notice.

(Added by Ord. 94-09, 5/24/94)

9.37.230 Use of Product or Manufacturer Names in Signs.

- (a) Product or manufacturer names are permitted on temporary banner signs. Product or manufacturer names may be allowed in tenant identification signage under the following conditions:

(1) The registered name of the business (dba) includes the product or manufacturer name; or

(2) The product or manufacturer name is associated with a product which, when new, has a manufacturer's suggested retail price exceeding one thousand dollars (\$1,000.00).

(b) If a product and/or manufacturer name is used in a tenant identification sign, the following restrictions shall apply:

(1) The product and/or manufacturer name portion of the sign may not exceed twenty (20) percent of the total sign area; and

(2) A maximum of one (1) product name and one (1) manufacturer name may be included in the sign except as provided in subsection (c).

(c) Exceptions from subsection (b)(2) may be permitted subject to the approval of a minor Conditional Use Permit by the Director of Community Development.

(Added by Ord. 94-21, 12/18/94)

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Chapter 9.39

TEMPORARY USES AND STRUCTURES

Sections:

- 9.39.010 Intent and Purpose.**
- 9.39.020 Temporary Real Estate Offices.**
- 9.39.030 Temporary Construction Office.**
- 9.39.040 Continued Use of an Existing Building During Construction.**
- 9.39.050 Seasonal Commercial Activities.**
- 9.39.060 Public Display of Fireworks.**
- 9.39.070 Special Events.**
- 9.39.080 Film, Video and Still Photography.**
- 9.39.090 Seasonal Fruit Sales.**

9.39.010 Intent and Purpose.

The purpose of this Chapter is to establish uniform standards in order to control the location, design, and duration of temporary uses and structures within the City of Dana Point.

The temporary uses listed in Sections 9.39.020 through 9.39.070 may be permitted in any district unless otherwise specifically prohibited. A Temporary Site Development Permit shall be required subject to the approval of the Director of Community Development as described in Chapter 9.71, Site Development Permits. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.39.020 Temporary Real Estate Offices.

Temporary real estate offices and related signs may be established within the area of an approved tentative tract to be used solely for the first sale of homes in projects of twenty (20) or more units within the same tract, subject to the following provisions:

- (a) Building Site not Required. The parcel of land on which a temporary real estate office is established is not required to be a building site provided the parcel is described on a final subdivision map.
- (b) Permitted Structures and Facilities. The following structures and facilities are permitted in conjunction with the establishment of a temporary real estate office.
 - (1) Model homes, garages, detached/accessory buildings, recreational facilities, and other permanent development that is in compliance with the zoning regulations and land use approvals applicable to the properties that are being sold.

- (2) Temporary real estate office buildings dedicated to the properties being sold. Such offices shall have a current General Plan, Zoning Map, and project approval prominently displayed to inform potential purchasers of the planned land uses surrounding the development.
 - (3) Temporary and permanent fencing, walks and structural amenities.
 - (4) Accessways and parking to provide security, safety, access, and off-street parking as necessary for employees and guests.
- (c) The Temporary Site Development Permit shall include those conditions and requirements deemed to be necessary or advisable to protect the public safety and the general welfare and adequate guarantees that the structures and facilities will be removed or made consistent with applicable zoning regulations within ninety (90) days after the expiration of the permit. In addition to those findings required for the approval of a Temporary Site Development Permit, any approving action for a temporary real estate office shall also include the following findings:
- (1) That the access parking and circulation facilities will not result in excess traffic congestion or traffic safety hazards.
 - (2) That the operation of the temporary real estate office and associated activities will not conflict with adjacent and nearby residential uses.
- (d) Time limitation. A Temporary Site Development Permit application for a temporary real estate office may be approved for a maximum time period of two (2) years from the date of approval. Subsequent extensions of one (1) year each may be granted at the discretion of the Director of Community Development for the continued first sale of homes. Within sixty (60) days of the completion of the sale of the last home in the development, the temporary real estate office and its appurtenant structures shall either be removed or converted to an approved permanent use or structure.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.39.030 Temporary Construction Office.

The temporary use of a construction office during the construction of a site, structure, or building on the same site or adjoining site may be permitted upon the following conditions.

A temporary construction office shall be removed or shall be converted to a permitted use prior to the use and occupancy for the main building or buildings. If the construction is phased over a length of time, the temporary construction office shall be removed prior to certificates of use and occupancy being issued for seventy (70) percent of the site, structures or buildings.

(Added by Ord. 93-16, 11/23/93)

9.39.040 Continued Use of an Existing Building During Construction.

The use of an existing, lawfully established building may continue during construction or relocation of another building on the same building site, in compliance with the following provisions:

- (a) Conformity with Regulations. Prior to occupancy of a new building, the existing building shall be brought into conformity with any additional regulation rendered applicable by the placement of any new building on the site. Conformity shall be accomplished by removal, reconstruction, relocation, conversion, change of use or any combination thereof.
- (b) Guarantee of Completion. The Director of Community Development shall require the landowner to provide a guarantee including, but not limited to, a bond to ensure full compliance with the zoning regulations upon completion of the new building or sooner if, in the Director's opinion, work pertaining to the completion of all facilities required by law is not being diligently pursued.

(Added by Ord. 93-16, 11/23/93)

9.39.050 Seasonal Commercial Activities.

Seasonal commercial activities are temporary commercial uses which are associated with cultural or historical events including, but not limited to, Halloween pumpkin sales and Christmas tree sales. Unless prohibited by the regulations of the specific zoning district, seasonal commercial activity associated with cultural events shall be permitted in any commercial or industrial district, any church or school site, or any vacant residential district property which abuts a primary or higher rated roadway as designated in the General Plan. All seasonal commercial activities associated with cultural events shall be subject to the following requirements:

- (a) Temporary Site Development Permit. All seasonal commercial activities shall require approval of a Temporary Site Development Permit pursuant to Chapter 9.71.
- (b) Date of Opening. The date of opening for any seasonal commercial activity shall be specified in the Temporary Site Development Permit, except that the date of opening for designated uses shall be as follows:
 - (1) Halloween pumpkin sales shall not be open prior to October 1 each year.
 - (2) Christmas tree sales shall not be open prior to Thanksgiving each year.

- (c) Merchandise to be Sold. Seasonal commercial activity shall not engage in the sale of any merchandise not directly related to the associated cultural or historical event, as determined by the Director of Community Development.
- (d) Electrical Permit. If the facility is to be energized, the applicant shall secure an electrical permit and building permit, as applicable, from the City.
- (e) Removal of Facility. Upon completion of the seasonal commercial activity, all facilities used for such activities shall be removed and the site shall be cleared of all debris and restored to the pre-event condition. Unless otherwise permitted in the Temporary Site Development Permit, the removal of facilities and clearing of the site shall be complete within three (3) calendar days of the close of the activity, except that the date of removal for designated uses shall be as follows:
 - (1) Halloween Pumpkin Sales, November 14
 - (2) Christmas Tree Sales, January 8
- (f) Fire Prevention Standards. The facility shall comply with fire prevention standards as approved and enforced by the City's Fire Chief.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.39.060 Public Display of Fireworks.

Public displays of fireworks may be permitted in any district or specific plan area subject to the approval of a Temporary Site Development Permit, pursuant to Chapter 9.71. Permits may be issued at any time of the year, but in no case may any more than three (3) such permits will be issued between June 30 and July 7 for displays in celebration of the fourth of July. Such permits may include the accessory sales by nonprofit organizations of food, beverages and merchandise. All such displays shall be subject to the provisions of the permits required by the Fire Protection Services Department. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94)

9.39.070 Special Events.

A special event is a temporary use which requires special consideration due to an increase in traffic, parking, noise, light and glare, vibration, odor, visual impact, or other affects incidental to the operation of a temporary use and the effects that such uses may have on the health, safety and welfare of the neighborhood or the community as a whole. In granting a special event permit, the Director of Community Development may require certain safeguards and establish certain conditions of approval to protect the health, safety and general welfare of the community.

- (a) Definition. A special event is defined as any activity which temporarily intensifies the impacts (i.e., parking, traffic, noise, light and glare, etc.) of an existing permitted use or which create a potential conflict among land uses. Normal sales or

functions which are incidental to the existing permitted use (i.e., sales conducted within the structure of an existing retail use, live entertainment if currently permitted under a Conditional Use Permit, etc.) shall not be considered a special event. Typical activities that would be considered a special event would include, but not be limited to, auctions (outdoor), farmers markets, open air markets and swap meets.

(b) Permitted Uses. The following temporary uses are permissible in any zone in the City pursuant to the provisions of this Section and subject to the granting of a Temporary Site Development Permit per Chapter 9.71.

(1) Retail sales events such as grand openings or special sales; or

(2) Outdoor gatherings and events of a temporary or seasonal nature which may include, but not be limited to, outdoor entertainment, community events, holiday or seasonal activities, or similar activities of religious, charitable, fraternal, or educational organizations or associations.

(c) Duration of Special Events. Any event exceeding twenty-one (21) consecutive days in a calendar year shall not be considered a temporary use and shall be processed in accordance with the applicable permits and procedures for such permanent use.

(d) Types of Permits. There are three types of Temporary Site Development Permits that may be issued for special events:

(1) Individual Temporary Site Development Permit — a permit for any one (1) event within a calendar year subject to administrative review and approval by the Director of Community Development. A public hearing shall be required if the event is determined to be a major event.

(2) Comprehensive Temporary Site Development Permit — a permit for up to eight (8) separate, non-consecutive events within a calendar year subject to administrative review and approval by the Director of Community Development. A public hearing shall be required if the event is determined to be a major event.

(3) Master Temporary Site Development Permit — a permit for nine (9) or more non-consecutive events within a calendar year or for any continuous activity or use of a property which constitutes a special event as defined above. Master special event permits are subject to review and approval by the Planning Commission. A public hearing is required for consideration of a master special event permit.

(e) Basis for Approval, Conditional Approval of a Special Event Permit. The approval, conditional approval or denial of any Individual Temporary Site Development Permit, Comprehensive Temporary Site Development Permit, or Master Temporary Site Development Permits shall be based upon the following factors and principles:

- (1) That the proposed temporary use is a special event permitted under this Section.
 - (2) That the special event is consistent with the Zoning Code and will not be incompatible with the General Plan.
 - (3) That the site for the special event is adequate in size, shape, and access to accommodate additional demands generated by the proposed use.
 - (4) That the special event as proposed and/or conditioned will protect the safety and general welfare of the community; and will not cause significant noise, traffic, or other conditions or situations that may be detrimental or incompatible with other permitted uses in the vicinity.
 - (5) That any unimproved, vacant, privately owned property proposed for a special event shall be deemed “improved” for the duration of the special event so as to comply with the provisions of Dana Point Municipal Code Section 12.08.016(n). Signage shall be placed upon the subject property indicating that the property is being utilized under an approved Temporary Site Development Permit, and shall indicate the duration of the event.
- (f) Filing of Application. The items required for filing shall include:
- (1) A complete application form;
 - (2) An application fee as specified in the current structure of service fees, except that fees for non-profit organizations and associations may be waived by the Director of Community Development;
 - (3) A site plan showing the layout of the proposed activity. The number of copies required shall be as follows:
 - (A) Individual or Comprehensive Permit:
 - Five (5) copies for administrative review
 - Fifteen (15) copies for public hearing (as determined below)
 - (B) Master Permit:
 - Fifteen (15) copies
 - (4) A letter of authorization from the property owner(s) if different than the applicant;
 - (5) A letter of explanation signed and dated by the applicant demonstrating how the request meets the four (4) findings required for approval of a Temporary Use Permit for a special event;

(6) Notification materials as provided below.

(g) Notification Requirements.

(1) Single Event. No notification for a public hearing shall be required unless deemed necessary in the interest of the public safety and welfare of the surrounding community. Such determination shall be made by the Director of Community Development based on the following factors:

(A) The likelihood that the proposed special event will create noise beyond the boundaries of the property where the event is being held which may constitute a nuisance to property owners or residents;

(B) The likelihood that the proposed special event will require parking off-site from where the special event is being held;

(C) The time of day and day of the week during which the proposed special event is to be held;

(D) The property on which the special event is proposed to be held abuts residential property, school, nursing home, hospital, or similar facility; or

(E) The scope and magnitude of the proposed special event is such that notice should be provided and a public hearing should be held.

Events which have the potential to impact adjacent property as described within these criteria shall be considered major events.

(2) Major Events and Master Permits. For major events and master permits, the following notification materials shall be submitted:

(A) An assessor's map showing the subject site and indicating all properties within a three hundred (300) foot radius of the subject site.

(B) A list of the names of the property owners, their addresses and the assessor parcel numbers within a three hundred (300) foot radius of the subject site.

(C) Addressed envelopes with postage for each property owner within three hundred (300) feet of the subject site.

(h) Consideration of an Application.

(1) An application for a major event or master event permit shall be submitted to the Director of Community Development no later than ninety (90) days before the first day of the proposed event, unless otherwise determined by the Director of Community Development.

- (2) The application shall be acted upon by the Director of Community Development/Planning Commission no later than forty five (45) days after the application is accepted as complete and at least forty five (45) days before the first day of the proposed event.
- (3) The Director of Community Development may require the applicant to provide verification of initial public notice for a major event. The decision of the Director of Community Development on initial public notice shall be sent to the applicant within five (5) days of the application submittal. Legal notice of a public hearing before the Planning Commission on the subject application shall be provided pursuant to Section 9.61.050 of the Dana Point Zoning Code.
- (4) Activities conducted on property owned by or leased to the City, or any public road rights-of-way may require an encroachment permit issued by the City of Dana Point, or other affected agency. The applicant shall be responsible for any fees or surety required for the use of public property.
- (5) Application for any Temporary Site Development Permit for a special event shall be referred by the Director of Community Development to other affected agencies as may be appropriate for review and comment.
- (6) Related issues including, but not limited to, police/security, food and water supply, use of tents and canopies, sanitation facilities, medical services, noise, signage, fire protection, and traffic control shall be adequately addressed to the satisfaction of the Director of Community Development, Public Works Director, Sheriff, or Health Officer in their administration of other City codes. Such other codes may require the applicant to obtain permits such as building electrical, health or tent permits.
- (7) The Director of Community Development/Planning Commission shall approve, conditionally approve, or deny any application and shall state findings and reasons for such decision. The Director of Community Development/Planning Commission, as appropriate, shall have the authority to attach conditions which directly relate to or further the protection of the public health, safety, and general welfare and ensure the fulfillment and intent of the City's Municipal Code.
- (8) If an application is granted subject to conditions, the Temporary Site Development Permit shall become effective only after the conditions have been fulfilled or after the applicant has provided reasonable and sufficient guarantees that the conditions will be satisfied. The applicant shall satisfy or provide sufficient guarantee for the satisfaction of the conditions at least fifteen (15) days prior to the first day of the special event.
- (9) Advertisement of a special event which requires approval of a Temporary Site Development Permit prior to issuance of such permit by the Director of Community Development/Planning Commission may be done at the

applicant's own risk. Advertising of the subject special event prior to the event does not guarantee that Temporary Site Development Permit will be approved.

- (10) Written approval from the owners of all properties used during the special event is required upon application submittal. A minimum of \$1,000,000 in liability insurance and indemnification is required for all owners, the City and other agencies, as determined by the Director of Community Development.
 - (11) Sales of prepared food, food stuffs, and merchandise (other than Christmas trees or Halloween pumpkins) shall be permitted only as specifically defined in the Temporary Site Development Permit.
 - (12) Informal swap meets and other street comer vending operations are not permitted through this Section.
- (i) Special Event Monitoring and Security.
- (1) The Director of Community Development or the Planning Commission, as a condition of approval, may require monitoring of the special event by appropriate City Departments and/or third parties. Such monitoring shall be at the expense of the applicant, with any associated payment required in full at least fifteen (15) days prior the first day of the subject event.
 - (2) Facility use deposits will be considered on a case-by-case basis to evaluate potential damage to city streets, parks, or other public property. The Director of Community Development shall evaluate the potential for damage and may require a cash bond or other guarantee for removal of the temporary use, cleanup, repair and restoration of the activity site within seven (7) days of the conclusion of the special event Said guarantee shall be in an amount which is sufficient to cover the estimated costs of administration, steam cleaning, sidewalk repair, storm drain cleanout and other associated cleanup or repair operations. All facility use deposits shall be at the expense of the applicant with any associated payment required in full at least fifteen (15) days prior the first day of the subject event.
- (j) Consumption of Alcoholic Beverages at Special Events.
- (1) The service or sale of alcoholic beverages at a special event requires approval of a Conditional Use Permit by the Planning Commission at a public hearing. Verification of permits from the State Department of Alcoholic Beverage Control (ABC) is required for the temporary service or sale of alcoholic beverages at a special event. Such verification shall be provided by the applicant at least fifteen (15) days prior the first day of the subject event.
 - (2) The applicant shall attend a City-approved training program on the responsible service of alcoholic beverages and California law regarding the service and sale of alcoholic beverages. The applicant will be responsible for

disseminating all information from such programs to all servers. In addition, servers will be required to read the City's policies and procedures, as well as sign a server responsibility statement. The statement must be submitted to the Director of Community Development at least fifteen (15) days prior to the first day of the subject event.

- (3) All other requirements of the City of Dana Point Alcohol Policy must be met to the satisfaction of the Director of Community Development.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96)

9.39.080 Film, Video and Still Photography.

(a) Purpose. The purpose of this Section is to establish a streamlined permit procedure for professional film, video and still photography within the City of Dana Point.

(b) Definitions. The following definitions shall apply to the language contained in this Section:

- (1) "Charitable films" shall mean any and all activities described under subsection (b)(2) carried out by a non-profit organization which qualifies under Section 501(c)(3) of the Internal Revenue Code as a charitable organization. No person shall receive a profit, directly or indirectly, from the marketing and production of the film or from showing the film, videotape or photographs.
- (2) "Film, video and still photography" shall mean and include all activity attendant to staging or shooting commercial motion pictures, television shows or programs, commercial advertisements, commercial promotion and training films, and professional still photography for promotional or advertising purposes.
- (3) "Regular activities of the news media" shall mean the filming, videotaping or photographing for the purpose of spontaneous, unplanned television news broadcast or reporting for print media by reporters, press photographers or news cameramen.
- (4) "Student films" shall mean any and all activities described under subsection (b)(2) carried out by students enrolled in a course or course of study at a college, university or other school for which the completion of a student film is a component of course or graduation requirements.
- (5) "Studio" shall mean a fixed place of business where filming activities (motion or still photography) are regularly conducted upon the premises.

(c) General Requirements.

- (1) Applicability. Film, video and still photography shall be permitted as a temporary use in all zoning districts, unless otherwise specifically prohibited, subject to the approval of a temporary Site Development Permit by the Director of Community Development. All filming activities are subject to the provisions of this section unless specifically exempted under subsection (d) below.
- (2) Cost. The fees related to a temporary Site Development Permit for film, video and still photography shall be as established by the City Council pursuant to the most current Schedule of Service Fees. The fees charged for permits for filming activities shall not exceed the actual costs incurred by the City. A cancellation fee of twenty (20) percent of the permit cost shall be incurred if an applicant cancels the permit after 3:00 p.m. on the last business day before the scheduled shoot
- (3) Permit Processing Time Requirements. The processing of temporary Site Development Permits for filming activities shall adhere to the following time schedule:
 - (A) Two (2) working days for approval and issuance of “typical” permits;
 - (B) Four (4) working days for approval and issuance of permits involving traffic control exceeding three (3) minutes, stunts or special physical effects;
 - (C) Ten (10) working days for approval and issuance of permits involving road closures.
- (4) Jurisdiction. The City of Dana Point reserves the authority to issue permits for professional film, video and still photography on all public and private property within the City, with the following exceptions:
 - (A) The County of Orange retains permit authority for County property within the City; and
 - (B) The State of California retains permit authority for State property within the City.
- (d) Exemptions. The following film, video and still photography activities are exempt from the provisions of this Section:
 - (1) Filming activities solely for personal, noncommercial use;
 - (2) The regular activities of the news media concerning those persons, locations or occurrences which are in the news and of general public interest;
 - (3) Charitable films (fee exempt only);
 - (4) Student films (fee exempt only); and

- (5) Filming activities conducted at and entirely within a studio.
- (e) Permit Application and Issuance. The following information shall be included in the application for a temporary Site Development Permit for film, video, and still photography.
 - (1) The name of the owner(s), address(es) and telephone number(s) of the place(s) at which the activity will be conducted;
 - (2) The specific location(s) at said address(es) or place(s);
 - (3) The inclusive hours and dates such activity will transpire;
 - (4) A general statement of the character or nature of the proposed filming activity;
 - (5) The name(s), address(es) and telephone number(s) of the person(s) in charge of such activity;
 - (6) The exact number of personnel to be involved;
 - (7) A description of any use of animals, pyrotechnics or special physical effects to be involved; and
 - (8) The exact number and type of vehicles and equipment to be involved.

Applications for temporary Site Development Permits shall be processed in a timely manner in conformance with the requirements specified in subsection (c)(3) above.

- (f) Findings. In approving a temporary Site Development Permit for film, video or still photography, the Director of Community Development shall make the following findings:
 - (1) The filming activity requested falls within the scope of City Council Policy No. 501 and the provisions of this Section.
 - (2) The filming activity as proposed and conditioned is not inconsistent with the City's Zoning Code and is not incompatible with the City's General Plan.
 - (3) The site is adequate in size, shape, and access to accommodate additional demands generated by the proposed filming activity.
 - (4) The filming activity as proposed and conditioned will not create significant noise, traffic, or other conditions that will be detrimental or incompatible with other permitted uses within the vicinity.

- (5) Any unimproved, vacant, privately-owned property used for filming activity shall be deemed “improved” for the duration of the permit so as to comply with the provisions of Dana Point Municipal Code Section 12.08.016(n) regarding parking on unimproved, vacant, privately owned property.

(g) Conditions of Approval.

- (1) Standard Conditions. The following standard conditions of approval shall be included in all temporary Site Development Permits for film, video and still photography:

- (A) Prior to the issuance of a temporary Site Development Permit, the applicant shall provide a letter of indemnification to the City, agreeing to hold the City harmless for any events or actions which may occur during or as a result of the activities authorized by this permit

- (B) Prior to the issuance of a temporary Site Development Permit, the applicant shall provide proof of liability insurance to the satisfaction of the Director of Community Development Said insurance shall list the City of Dana Point as additional insured for a minimum of \$1,000,000 per occurrence.

- (C) Any vacant, unimproved, privately owned property which is proposed to be used for off-street parking purposes shall be posted with signs indicating that the parking is reserved for filming activity parking only; and specifying the dates of the filming activity.

- (D) The applicant shall ensure that no activities will occur that are contrary to the public health, safety, or welfare.

- (E) The applicant shall be responsible for the restrictions and conditions set forth in this permit. A copy of this permit shall be on site at all times. Any deviations from the provisions as set forth in this permit without written authorization from the City of Dana Point shall deem this permit null and void, and shall be taken into consideration for future requests of this type.

- (2) Special Conditions. The following special conditions of approval shall be included, when applicable, in all temporary Site Development Permits for film, video and still photography:

- (A) Site Clean-Up. The applicant shall conduct all operations in an orderly fashion with continuous attention to the storage of equipment not in use and the clean-up of trash and debris. The site used shall be cleaned of trash and debris upon completion of shooting at the scene and restored to the original condition before leaving the site. The applicant may be required to post a refundable faithful performance bond or security deposit prior to permit issuance to ensure clean-up and restoration of the site.

- (B) Filming on Private Property. The applicant shall provide evidence, to the satisfaction of the Director of Community Development, that activities taking place on private property are done with the approval of the property owner.
- (C) Filming in Public Right-of-Way. The applicant shall obtain the appropriate encroachment permits for the use of public rights-of-way, including sidewalks, medians and parkways. This includes permission to string cable across rights-of-way from generator to service point. Temporary “No Parking” signs shall be posted by the appropriate jurisdiction if the applicant will be parking vehicles or equipment in zones which do not otherwise permit parking.
- (D) Filming in Flood Control Channels. The applicant shall vacate any flood control channel where filming is taking place as required to allow releases of water. The applicable flood control agency or district shall be named as an additional insured on the applicant’s liability insurance for filming in or on flood control properties.
- (E) Filming on Beaches. Scenes requiring a fire or campfire on the beach shall utilize a gas jet. No fires other than gas jets will be permitted unless the beach is equipped with fire rings. Access roads to beaches which serve as an emergency service road may not be obstructed in any way at any time. No relocation, alteration or moving of beach structures will be permitted without prior approval from the permitting jurisdiction.
- (F) Filming in City Parks. The applicant shall reserve the use of City parks through the Community Services Department. A security deposit for use of City parks shall be required prior to the issuance of a temporary Site Development Permit for filming activities.
- (G) Use of Public Parking Lots. The applicant may be billed according to the current rate schedule established by the applicable jurisdiction for the use of public parking lots.
- (H) Traffic Control. The applicant shall be required to use California Highway Patrol or Orange County Sheriff personnel for all traffic control of any nature or duration. The applicant shall submit a traffic control plan for the permit which includes the following:
 - 1. The applicant shall furnish and install advance warning signs and any other traffic control devices necessary in conformance with the current CALTRANS Manual of Traffic Controls for Construction and Maintenance Work Zones. All appropriate safety precautions must be taken.

2. Traffic may be restricted to one 12-foot lane of traffic and/or stopped intermittently. The period of time that traffic may be restricted will be determined by the permitting jurisdiction, based upon location, time of day, and time of year.
3. Traffic may not be detoured across a double-yellow line without prior approval from the permitting jurisdiction.
4. Unless otherwise authorized, camera cars must be driven in the direction of traffic and must observe all traffic laws.
5. Any emergency road work or construction by City or County crews and/or private contractors, under permit or contract to the appropriate jurisdiction, shall have priority over filming activities.

(I) Reimbursement for Personnel. The applicant shall be responsible for the reimbursement of any City or County personnel (i.e., police, fire, etc.) provided for the purpose of assisting the production.

(h) Permit Amendment and Validity. Once issued, a temporary Site Development Permit for filming activities may be amended with written attachments detailing minor changes to the permit, or “riders.” There is no limit on the number of riders to a permit. However, a permit cannot be extended or amended by rider after the end of the permit period or the completion of filming activity, whichever occurs first.

Permits shall be valid for the dates, times and locations specified in the permit. The City of Dana Point reserves the right, upon showing good cause, to change the date for which the permit has been issued provided established limitations are complied with in respect to time and location. Permits may be canceled by the applicant with a full refund at any time up to 3:00 p.m. of the last business day before the commencement of filming activity. Any violation of the provisions of the permit or of this Section shall deem the permit null and void.

(Added by Ord. 94-19, 11/22/94)

9.39.090 Seasonal Fruit Sales.

Seasonal produce sales are temporary commercial uses which occur during the particular local growing period of certain fruits or vegetables. Unless prohibited by the regulations of the specific zoning district, seasonal produce sales shall be permitted only on fully developed property in any commercial district

- (a) Temporary Site Development Permit. Seasonal produce sales shall require approval of a Temporary Site Development Permit pursuant to Chapter 9.71.
- (b) Operator Requirements.

- (1) Seasonal produce sales are limited to growers with current Department of Agriculture certification.
 - (2) Seasonal produce sales operators must conspicuously display a current Certified Producer's Certificate issued by the State of California.
 - (3) Seasonal produce sales operators must obtain property owner approval.
- (c) Locational and Parking Requirements.
- (1) All seasonal produce sales must be located within a parking lot or other acceptable paved area of an existing and operative development. No such sales shall be permitted on any vacant lot or abandoned development.
 - (2) The operator must demonstrate sufficient available parking in conjunction with all other on-site uses.
 - (3) No seasonal produce sales shall occur within one thousand (1,000) feet of another seasonal produce stand, excepting those associated with other approved temporary uses such as a farmers market, fairs or festivals.
- (d) Merchandise to be Sold.

Seasonal produce sales shall not duplicate existing produce sold on-site by current tenants unless authorized by the property owner and approved by the Director of Community Development.

- (e) Duration of Sales.

Seasonal produce sales shall be limited to a maximum of 120 consecutive days at any one site.

- (f) Removal of Facility.

Upon completion of seasonal produce sales, all facilities used for such activities shall be removed and the site restored to the pre-event condition. Unless otherwise permitted in the Temporary Site Development Permit, the removal of facilities and clearing of the site shall be complete within three (3) calendar days of the close of the activity.

(Added by Ord. 96-10, 8/13/96)

Chapter 9.41

HAZARDOUS WASTE FACILITIES

Sections:

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- 9.41.010 Purpose and Intent**

This Chapter establishes uniform standards to control the location, design, and maintenance of hazardous waste facilities and protect the health, quality of life, and the environment of the residents of the City of Dana Point

The City Council hereby adopts the following policies:

- (a) The City of Dana Point prioritizes hazardous waste management strategies in order of priority as follows: source reduction (top priority), on-site recycling, off-site recycling, on-site treatment off-site treatment and disposal (last priority).
- (b) Public participation shall be a high priority throughout the process of siting hazardous waste facility projects.
- (c) The City of Dana Point will cooperate fully with other local, State, and Federal agencies to efficiently regulate the management of hazardous materials and hazardous waste.
- (d) Transportation of hazardous waste shall be minimized, and regulated where possible, to avoid environmentally sensitive areas and populated, congested, and dangerous routes.
- (e) Regulations governing pretreatment of hazardous wastes before discharge into sewer systems will be strictly followed. Discharge of hazardous wastes into storm drains is prohibited.
- (f) The City of Dana Point shall cooperate with the County of Orange with respect the proper management of household hazardous wastes. The City's General Plan addresses the types and quantities of household hazardous waste generated in the City, options and strategies for managing these wastes, and a program for

educating the residents as to identification and proper management of household hazardous waste.

(Added by Ord. 93-16, 11/23/93)

9.41.020 Modification of Zoning Codes to Regulate Hazardous Waste Facilities.

The following shall apply to all applications for a land use decision regarding hazardous waste facility projects:

- (a) All hazardous waste facility projects and specified hazardous waste facility projects shall require a conditional use permit pursuant to Chapter 9.65. A Coastal Development Permit shall also be required if a Coastal Development Permit is otherwise required for development of the site by City Ordinance or State Law. A Coastal Development Permit shall also be required if such Coastal Development Permit is otherwise required for development of the site by City Ordinance or State law. The local permitting process is intended to assure protection of public health and the environment without imposing undue restrictions on projects.
- (b) All hazardous waste facility projects and specified hazardous waste facility projects must meet the criteria herein unless the City Council determines that one or more criteria should be relaxed to meet an overriding public need.
- (c) Specified hazardous waste facility projects and hazardous waste storage and disposal facilities shall be sited only in industrial zones. Hazardous waste facility projects, other than specified hazardous waste facility projects and hazardous waste storage and disposal facilities shall be sited in the following zoning designations: business park or community commercial zones only. All such uses shall be subject to a Conditional Use Permit and Coastal Development Permit, when a Coastal Development Permit is otherwise required.

(Added by Ord. 93-16, 11/23/93)

9.41.030 Procedural Requirements for Specified Hazardous Waste Facilities.

- (a) General. All applications for specified hazardous waste facility projects must follow the procedures set forth in Health and Safety Code Sections 25199 et seq. Public Resources Code Sections 21000—21177, and Government Code Sections 65920 et seq.; this Chapter and the following:
 - (1) Conflict of Interest. The person, or entity, preparing the documents required by the California Environmental Quality Act shall not be the same person, or entity, which acts as a consultant to the Local Assessment Committee.
 - (2) Public Education Plan. Every application for a specified hazardous waste facility project shall contain a proposed public education/participation

program to be employed during the local land use decision making process. Such plan shall be mutually agreeable to the project proponent and the Director of Community Development.

- (3) Property Value Impact Study. An application for a specified hazardous waste facility shall include an independent study of the impact of the facility on real property values within the City. The study shall have been funded by the applicant. The City shall select and control the work of the consultant conducting the study. The property value impact study shall be completed and filed with the application.
- (4) Employment Impact Study. The project proponent shall pay to the City, in advance, a fee in an amount sufficient to pay for the City's costs in conducting and reviewing an independent study of anticipated changes in employment in the City of Dana Point if the facility is sited. The City shall hire and control the work of the consultant conducting the study. Said study shall be completed prior to action on the application by the Local Assessment Committee.

- (b) Local Assessment Committee Comments. The Local Assessment Committee shall provide comments on the draft environmental impact report or proposed negative declaration, as appropriate, for specified hazardous waste facility projects:

(Added by Ord. 93-16, 11/23/93)

9.41.040 Processing Applications.

Every application for a hazardous waste facility project or a specified hazardous waste facility project shall be processed in accordance with the following procedures in addition to, and consistent with, Public Resources Code Sections 21000—21177 and Government Code Sections 65920 et seq. In the event of inconsistencies between the foregoing statutes and this Chapter, the provisions of this Chapter shall govern, to the extent they are not preempted by operation of law.

- (a) Determination by Director of Community Development. The Director of Community Development shall determine whether an application is complete for filing not later than thirty (30) calendar days after the application is submitted for filing.
- (b) Planning Commission Hearing. The Planning Commission shall hold a hearing on the application within sixty (60) calendar days after the application is accepted as or deemed complete.
- (c) Consistency Determination. At the request of the applicant, the Director of Community Development shall issue an initial written determination on whether the project is consistent with the General Plan, applicable zoning ordinances, the environmental guidelines of the City for implementing the California

Environmental Quality Act (“CEQA”), and the County of Orange Hazardous Waste Management Plan in effect on the date the application was accepted as or deemed complete. This determination, which shall be issued within sixty (60) calendar days after the application has been accepted as or deemed complete, will not prohibit the City from making a different determination when the final decision is made if such decision is based on information which was not considered when the initial determination was made.

(d) City Council Hearing. A public hearing on the application shall be held by the City Council not later than 180 days after the application is complete when the Director of Community Development, upon the advice of the City Attorney, has determined:

- (1) That the application complies with all ordinance requirements;
- (2) That all procedures required by the City of Dana Point with regard to the California Environmental Quality Act have been met;
- (3) That all State and Federal permits for the facility have been obtained; and
- (4) That the applicant, not later than thirty (30) days prior to any public hearing scheduled by the City, has provided three (3) sets of stamped envelopes addressed to all owners of record as shown on the latest County Equalized Assessment Roll that lie within a one-mile radius of the boundary of the facility and three (3) sets of mailing labels indicating all residents, tenants, and businesses within a one-mile radius of the boundary of the facility.

(Added by Ord. 93-16, 11/23/93)

9.41.050 Contents of Application.

Every application for a hazardous waste facility project or a specified hazardous waste facility project shall be made in writing to the Director of Community Development on the forms provided by the Community Development Department and accompanied by a filing fee as set by Resolution of the City Council. An application must include fifteen (15) copies of the application, site plans, elevation, floor plans, and landscape plans all drawn to scale, and the following information:

- (a) Name and Address. Name and address of the applicant;
- (b) Ownership Evidence that the applicant is the owner of the premises involved or that it has written permission of the owner to make such application;
- (c) Plot and Development Plans. Plot and development plans drawn in sufficient detail as determined by the Director of Community Development and the City Engineer to clearly describe the following:

- (1) Physical dimensions of the property and structures,
 - (2) Location of existing and proposed structures,
 - (3) Proposed setbacks and landscaping,
 - (4) Proposed methods of circulation and parking,
 - (5) Existing and proposed drainage patterns,
 - (6) Proposed ingress and egress,
 - (7) Proposed storage and processing areas,
 - (8) Utilization of property under the requested land use permit,
 - (9) The distance from the project property line to the nearest adjacent structure, and a description and location of such structure,
 - (10) Proximity of the project to one hundred (100) year flood prone areas,
- (d) Earthquake Fault Zones. Proximity of the project to any known earthquake fault zones;
- (e) Groundwater. The relationship of the proposed project to all above groundwater supplies and all known underground aquifers that might be threatened with contamination;
- (f) Topography. Topographic description of the property and surrounding area;
- (g) Geological Study. A preliminary geological study of the property and surrounding area which comprehends as deep a soils analysis as there are known aquifers, regardless of the potability of those aquifers;
- (h) Utilities. Existing and proposed utilities which service or will be required to service the facility;
- (i) Map. A vicinity map which indicates, at a minimum proximity of the project to schools, parks, and other community facilities within the City of Dana Point.
- (j) Routes. Proposed haul route for trucks taking hazardous waste and hazardous substances to and from site and the City limits;
- (k) Wastewater. Identification of all wastewater, treated and untreated, generated by the proposed facility and the method and place of final discharge shall be included with any application filed pursuant to the provisions of this Chapter;

- (l) Visual, Noise and Odors. An analysis of any visual, noise, or olfactory impacts associated with the project and recommended mitigation measures shall be included with any application filed pursuant to the provisions of this Chapter;
- (m) Air Quality. An analysis of all anticipated air quality impacts associated with the project. and proposed mitigation measures to ensure no degradation of air quality shall be included with any application filed pursuant to the provisions of this Chapter;
- (n) Endangered Species. Identification of any rare or endangered or candidate rare or endangered species of plant or animals or habitats of such species within the project site and recommended impact mitigation measures;
- (o) Quantities of Hazardous Waste. Identification of the amounts (in tons), sources, and types of hazardous wastes to be treated, stored, or disposed of at the proposed facility; the ultimate disposition of the wastes, and anticipated life of the facility. This information shall be based on an actual survey of the industries to be served and, thereby, be representative of the wastes that will be processed at the facility;
- (p) Risk Assessment. A risk assessment which analyzes, in detail, all probabilities and effects of releases or spills, at the site, transportation related accidents from the point of origin to the facility, and any other probabilities requested by either the Director of Community Development Director of Public Works, Planning Commission, or the City Council. Such analyses shall identify mitigation measures to reduce the identified risks. The risk assessment shall identify the most probable routes for transporting hazardous wastes to the facility. The risk assessment must also detail the maximum credible accident from the facility operations and its impact on all immobile populations in the City. The study must appropriately address the quantity and types of wastes that could be received at the facility. It must also include consideration of the design features and planned operational practices at the facility. Additionally, the study must provide an estimate of the distance over which the effects of a spill or emergency situation would carry, options for reducing the risks, and procedures for dealing with such spills or emergency situations;
- (q) Monitoring Program. A plan that identifies an ongoing monitoring program of air, soil, surface water, and groundwater. This plan shall include any monitoring requirements imposed by other permitting agencies such as, but not limited to, the South Coast Air Quality Management District, Regional Water Quality Control Board, Department of Health Services, or their successors in interest;
- (r) Alternative Sites. A designation of reasonable alternative sites which shall be reviewed pursuant to the California Environmental Quality Act;
- (s) Environmental Information. An Environmental Information Form in sufficient detail to enable the City to complete an Initial Study pursuant to the California

Environmental Quality Act for the preparation by a qualified environmental consulting firm of an Environmental Impact Report or Negative Declaration, with all costs to be born by the applicant; and

- (t) Emergency Response Plan. An emergency response plan consistent with all applicable County, regional and City emergency response plans and all City, County, State and Federal regulatory requirements regarding emergency response procedure, including the following:
 - (1) Detailed procedures to be employed at the time of emergency for each and every type of chemical substance and emergency, including contingency procedures;
 - (2) Anticipated impacts on local fire, police, and medical services; and
 - (3) Names, home and business addresses, and home and business telephone numbers of all management personnel at the facility, if known, and a detailed description of uncontrolled release and release reporting procedures.

(Added by Ord. 93-16, 11/23/93; Ord. 94-09, 5/24/94)

9.41.060 Standards and Locational Criteria for Specified Hazardous Waste Facilities.

All specified hazardous waste facility projects in the City of Dana Point must comply with the provisions of this Chapter, including the locational criteria of Sections 9.41.080 through 9.41.320, inclusive. (Added by Ord. 93-16, 11/23/93)

9.41.070 Proximity to Populations.

- (a) Residuals repositories, as defined in Health and Safety Code Section 25204 must be a minimum of two thousand (2,000) feet from the closest residence.
- (b) Treatment and storage facilities, as those terms are defined in Health and Safety Code Section 25205.1 shall comply with zoning setback requirements for industrial facilities, unless a greater distance is justified pursuant to a risk assessment.

(Added by Ord. 93-16, 11/23/93)

9.41.080 Capability of Emergency Services.

All facilities shall be located in areas where fire departments are able to immediately respond to hazardous waste emergencies, where mutual aid and immediate aid agreements are established, and where demonstrated emergency response times are the same or better than those recommended by the National Fire Prevention Association and the Orange County Fire Department including a call response time for eighty (80) percent of the service area with the first fire engine and paramedics unit to reach the site within five

(5) minutes. In addition, hazardous materials accident response services at the facility may be required based on the type of wastes handled or the location of the facility. (Added by Ord. 93-16, 11/23/93)

9.41.090 Flood Hazard Areas.

- (a) Residuals repositories and hazardous waste storage facilities are prohibited in areas subject to inundation by floods with a one hundred (100) year return frequency, and shall not be located in areas subject to flash floods and debris flows.
- (b) All other facilities shall avoid locating in floodplains or areas subject to flash floods and debris flows unless they are designed, constructed, operated, and maintained to prevent migration of hazardous wastes in the event of inundation.

(Added by Ord. 93-16, 11/23/93)

9.41.100 Proximity to Active or Potentially Active Faults.

All facilities are required to have a two hundred (200) foot setback from a known active earthquake fault. (Added by Ord. 93-16, 11/23/93)

9.41.110 Slope Stability/Subsidence/Liquefaction.

Residuals repositories and storage facilities are prohibited in areas of potential rapid geologic change. (Added by Ord. 93-16, 11/23/93)

9.41.120 Dam Failure Inundation Areas.

All specified hazardous waste management facilities shall locate outside a dam failure inundation area. (Added by Ord. 93-16, 11/23/93)

9.41.130 Aqueducts and Reservoirs.

All facilities shall locate in areas posing minimal threats to the contamination of drinking water supplies contained in reservoirs and aqueducts. (Added by Ord. 93-16, 11/23/93)

9.41.140 Discharge of Treated Effluent.

Facilities generating wastewater shall be located in areas with adequate sewer capacity to accommodate the expected wastewater discharge. If sewers are not available, the site should be evaluated for ease of connecting to a sewer or for the feasibility of discharge directly into a stream or the ocean. (Added by Ord. 93-16, 11/23/93)

9.41.150 Proximity to Supply Wells and Well Fields.

- (a) A residual repository shall be located away from the cone of depression created by pumping a well or well field ninety (90) days. Location is preferred where the saturated zone predominately discharges to non-potable water without any intermediate withdrawals for public water supply.
- (b) All other hazardous waste facilities shall locate outside the cone of depression created by pumping a well field for ninety (90) days unless an effective hydrogeologic barrier to vertical flow exists.

(Added by Ord. 93-16, 11/23/93)

9.41.160 Depth to Groundwater.

- (a) Residuals repositories and facilities with subsurface storage and/or treatment are prohibited in areas where the highest anticipated elevation of underlying groundwater is five (5) feet or less from the lowest subsurface point of the facility.
- (b) At all facilities, the foundation of all containment structures at the facility must be capable of withstanding hydraulic pressure gradients to prevent failure due to settlement, compression, or uplift as certified by a California Registered Civil Engineering Geologist.

(Added by Ord. 93-16, 11/23/93)

9.41.170 Groundwater Monitoring.

- (a) Residuals repositories and facilities with subsurface storage and/or treatment must develop a program that successfully satisfies the Regional Water Quality Control Board (RWQCB) permit requirements for groundwater monitoring.
- (b) Facilities which handle liquids should be located where groundwater flow is in one direction with no vertical interformational transfer of water.

(Added by Ord. 93-16, 11/23/93)

9.41.180 Major Aquifer Recharge Area.

- (a) Residuals repositories are prohibited within any area known to be, or suspected of, supplying principal recharge to a regional aquifer.
- (b) Facilities with subsurface storage or treatment must be located at least one mile away from potential drinking water sources.
- (c) All other facilities located in areas known to be, or suspected of, providing recharge to an existing water supply well shall provide for increased spill containment and inspection measures.

(Added by Ord. 93-16, 11/23/93)

9.41.190 Soil Permeability.

- (a) Soil permeability requirements for disposal and subsurface treatment and storage facilities shall conform to those required by the State Water Resources Control Board. All other above ground facilities shall have engineered structural design features common to other types of industrial facilities. These features shall include spill containment and monitoring devices.
- (b) All other facilities may be located in areas where surficial materials are principally highly permeable materials if adequate spill containment and inspection measures are employed.

(Added by Ord. 93-16, 11/23/93)

9.41.200 Existing Groundwater Quality.

- (a) Residuals repositories are allowed only where the uppermost water-bearing zone or aquifer is presently mineralized (by natural or human-induced conditions) to the extent that it could not reasonably be considered for beneficial use.
- (b) All other facilities located in areas where existing groundwater quality is Class 1 or Class 2 should provide increased spill containment and inspection measures as specified by the Director of Community Development in accordance with standards designed to provide maximum protection to groundwater.

(Added by Ord. 93-16, 11/23/93)

9.41.210 Non-Attainment Areas.

All facilities with air emissions located in non-attainment areas and emitting air contaminants in excess of established limits will require pre-construction review under new source review requirements, and must obtain a permit to construct and a permit to operate from the South Coast Air Quality Management District (Added by Ord. 93-16, 11/23/93)

9.41.220 Prevention of Significant Deterioration (PSD) Areas.

All facilities with air emissions locating in the region which are classified under the PSD regulations as major stationary sources will be required to submit to pre-construction review and apply best available control technology. (Added by Ord. 93-16, 11/23/93)

9.41.230 Wetlands.

- (a) Facilities are prohibited from locating in wetlands without a Section 404 Clean Water Act. Permit, unless:
 - (1) Industrial usage is permitted,
 - (2) No filling is required; and

(3) Fish, plant and wildlife resources can be maintained and enhanced on a portion of the site, or preserved elsewhere in the area.

(b) Approval of Permits for facilities in wetlands areas shall be conditioned upon issuance of a Section 404 permit.

(Added by Ord. 93-16, 11/23/93)

9.41.240 Proximity of Habitats of Threatened and Endangered Species.

Facilities are prohibited in habitats of threatened or endangered species or candidate threatened or endangered species unless the applicant obtains approval for a Habitat Conservation Plan meeting the requirements of the U.S. Fish and Wildlife Service and the California Department of Fish and Game. (Added by Ord. 93-16, 11/23/93)

9.41.250 Agricultural Lands.

(a) Facilities shall not be located in areas zoned for agricultural uses.

(b) Incinerators shall not be located in areas where the emissions from the facility could directly impact food crops.

(Added by Ord. 93-16, 11/23/93)

9.41.260 Recreation, Cultural, or Aesthetic Areas.

All facilities shall be prohibited in areas of recreation, cultural, or aesthetic value as determined by the Director of Community Development, Planning Commission or City Council. (Added by Ord. 93-16, 11/23/93)

9.41.270 Areas of Potential Mineral Deposits.

(a) Residuals repositories shall not be located on or near lands classified as containing mineral deposits of significance by California's Mineral Land Class Maps and Reports.

(b) All other facilities shall avoid locating on or near lands classified as containing mineral deposits of significance if the use or preservation of the mineral deposit would be restricted or prevented.

(Added by Ord. 93-16, 11/23/93)

9.41.280 Proximity to Areas of Waste Generation.

Subject to other standards and criteria described herein, all facilities shall be located in areas best suited for providing services to the hazardous waste generators of the City of Dana Point. Facilities which will primarily serve generators from outside the City must

demonstrate why the facility cannot be located closer to the points of hazardous waste generation to be serviced. (Added by Ord. 93-16, 11/23/93)

9.41.290 Distance from Major Transportation Routes.

Distance traveled on minor roads shall be kept to a minimum. Facility proponents shall be required to pay user fees to ensure proper road construction and maintenance necessary to accommodate the anticipated increase in traffic due to the facility. (Added by Ord. 93-16, 11/23/93)

9.41.300 Structures Fronting Minor Routes.

- (a) Facilities shall be located such that any minor routes to and from state or interstate divided highways to or from the facility are used primarily by trucks, and the number of nonindustrial structures (homes, hospitals, schools, etc.) along such routes is minimal.
- (b) The facility proponent shall evaluate the “population at risk” based on the Federal Highway Administration’s Guidelines for applying criteria to designate routes for transporting hazardous materials. The “population at risk” factor should not exceed that for existing facilities. Sites with lower factors are preferred.

(Added by Ord. 93-16, 11/23/93)

9.41.310 Access Roads.

The changes in the ratio of route capacity to average annual peak hour traffic shall be negligible after calculating the number of trucks on the major and minor routes expected to service the facility. To determine if a change in average annual peak hour traffic is negligible, the same standards of significant/insignificant impact utilized in the California Environmental Quality Act shall be used. (Added by Ord. 93-16, 11/23/93)

9.41.320 Consistency With the General Plan.

The proposed facility shall be consistent with all General Plan requirements, the Zoning Code, and other planning actions or policies that were in place at the time the application was deemed complete. (Added by Ord. 93-16, 11/23/93)

9.41.330 Direct Revenue to Local Jurisdictions.

The City may, at its discretion explore, review, and impose appropriate taxes, user fees, application filing fees, review fees, emergency response plan review fee and other revenue or compensation measures. (Added by Ord. 93-16, 11/23/93)

9.41.340 Safety and Security.

- (a) The owner or operator shall prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons, livestock, or wild animals onto any portion of the facility.
- (b) The operator shall provide a twenty-four (24) hour surveillance system which continuously monitors and controls entry onto the facility.
- (c) Perimeter fencing shall be constructed which meets the requirements of the regulations, implementing the Resource Conservation and Recovery Act, if applicable to the Project, or to the Director of Community Development's satisfaction.
- (d) Signs with the legend "DANGER HAZARDOUS WASTE AREA—UNAUTHORIZED PERSONNEL KEEP OUT," shall be posted at each entrance to the facility, and at other appropriate locations. The legend shall be written in English and Spanish and shall be legible from a distance of at least twenty-five (25) feet.

(Added by Ord. 93-16, 11/23/93)

9.41.350 Monitoring.

- (a) Upon reasonable notice, and for the purpose of ensuring compliance with all standards, conditions, and other requirements which the City of Dana Point is authorized to enforce under its police power. City officials or their designated representatives may enter the premises on which a hazardous waste facility permit has been applied for or granted.
- (b) The owner or operator of a facility shall report quarterly to the Community Development Department the amount, type, and disposition of all wastes processed by the facility. Included in the report will be copies of all manifests showing the delivery and types of hazardous wastes and include a map showing the exact location (coordinates and elevation) of quantities and types of materials placed in repositories or otherwise stored or disposed of on-site.
- (c) The owner or operator of a hazardous waste facility shall immediately send copies of all complaints as to facility operations and copies of all inspection reports made by other Local, State or Federal Agencies to the Director of Community Development.
- (d) The emergency response plan shall be updated annually, signed by all management personnel at the facility, and distributed to all local emergency response agencies and the Director of Community Development.

(Added by Ord. 93-16, 11/23/93)

9.41.360 General Conditions.

The City may impose, as necessary, conditions and standards other than those presented in Sections 9.41.020 to 9.41.240 above in order to achieve the purposes of this Chapter and to protect the health, safety, or general welfare of the community. In addition to the conditions and standards imposed pursuant to this Section, the standards and conditions in Sections 9.41.250 to 9.41.310 of this Chapter shall also apply. (Added by Ord. 93-16, 11/23/93)

9.41.370 Excess Volume.

No hazardous waste facility shall be sited if such facility will manage a volume or type of hazardous waste in excess of that generated within the City of Dana Point and not currently being managed by a facility located in Dana Point unless satisfactory compensation is made to the City or a joint powers agreement provides otherwise. (Added by Ord. 93-16, 11/23/93)

9.41.380 Modifications.

Any modifications of the types and quantities of hazardous waste to be managed at the facility which were not included in the approved application for land use, including the Conditional Use Permit and Coastal Development Permit if required, must be approved by the City through an amendment to the Conditional Use Permit and Coastal Development Permit if required, before such modifications occur at the facility. (Added by Ord. 93-16, 11/23/93)

9.41.390 Contingency Operation Plan.

Every hazardous waste facility project must have a contingency operation plan approved by the California Department of Health Services (“DHS”). The facility owner or operator shall maintain a current copy of the contingency plan approved by DHS at the Hazardous Waste Facility and provide current copies of the contingency plan to the Chief of Police, Fire Chief, each hospital within ten miles, and the Orange County Department of Environmental Health. (Added by Ord. 93-16, 11/23/93)

9.41.400 Closure Plan.

The owner or operator of a hazardous waste facility project, prior to the local land use decision, shall submit to the Community Development Department a written closure plan approved by the Department of Health Services. All revisions to such closure plans shall also be submitted to the Community Development Department. (Added by Ord. 93-16, 11/23/93)

9.41.410 Financial Responsibility.

Prior to issuance of an “Occupancy Permit” to begin the use identified in the land use decision, the applicant shall submit, to the City Manager/designee, proof that it has met all of the financial responsibility requirements imposed by the Department of Health Services and any other Federal or State Agency. (Added by Ord. 93-16, 11/23/93)

9.41.420 Indemnification.

By submitting an application pursuant to the provisions of this Chapter, the applicant agrees to protect, indemnify, defend, and render harmless the City of Dana Point and its City Council, City Attorney, Planning Commission, and all officers, employees and agents of the City against and from all claims, actions, or liabilities relating to the land use decision or arising out of its implementation at the site. (Added by Ord. 93-16, 11/23/93)

9.41.430 Hazardous Waste Minimization.

No specified hazardous waste facility project will be approved if it significantly undercuts incentives for waste minimization by hazardous waste generators. (Added by Ord. 93-16, 11/23/93)

9.41.440 Emergency Response Procedures.

Owners/operators of all facilities shall prepare and submit an annual emergency response preparedness report to the Director of Community Development. Such report shall be initialed by each person at the facility who has emergency response responsibilities. (Added by Ord. 93-16, 11/23/93)

9.41.450 Environmental Monitoring Report.

Owners/operators of all facilities shall submit an annual air, soil, and groundwater monitoring report to the Director of Community Development. (Added by Ord. 93-16, 11/23/93)

9.41.460 Release Response Costs.

The facility owner/operator shall be responsible for all costs incurred by the City of Dana Point and its officers, agents, employees, or contractors, for responding to a release of hazardous wastes at or enroute to or from the facility. (Added by Ord. 93-16, 11/23/93)

9.41.470 Extremely Hazardous Wastes.

Any storage, treatment, disposal or transportation of “extremely hazardous waste” as defined in Section 25115 of the Health and Safety Code, by the facility owner/operator shall be reported to the Director of Community Development at least forty-eight (48) hours prior to such storage, treatment, disposal, or transportation. (Added by Ord. 93-16, 11/23/93)

9.41.480 Compliance Costs.

All costs of compliance with this Chapter shall be borne by the facility owner/operator. (Added by Ord. 93-16, 11/23/93)

9.41.490 Enforcement.

The City of Dana Point may employ any and all methods permitted by a law to enforce any and all provisions of this Chapter. (Added by Ord. 93-16, 11/23/93)

9.41.500 Findings.

(a) The findings specified in this Section shall be made in writing prior to making a land use decision which will allow the siting of a hazardous waste facility project:

- (1) The project will be consistent with the General Plan, when adopted.
- (2) The Project will not be detrimental to the health, safety, or general welfare of the community.
- (3) The Project Site is or will be served by roads and other public or private service facilities.
- (4) The Project has met or exceeded each requirement of this Chapter.

(5) The environmental impacts identified in the Environmental Impact Report or Proposed Negative Declaration have been adequately mitigated and a Mitigation Reporting and Monitoring Program has been established for each mitigation measure.

(Added by Ord. 93-16, 11/23/93)

9.41.510 Duration of Land Use Decision.

The life of the land use decision shall be determined at the time of approval and shall not exceed ten (10) years. The project proponent shall commence substantial construction of the facility within two (2) years of the land use decision and such construction must be pursued diligently to completion. (Added by Ord. 93-16, 11/23/93)

9.41.520 Appeal of Land Use Decision.

Appeal of decisions by the City Council pertaining to specified hazardous waste facilities projects shall be filed with the Office of the Governor of the State of California in accordance with Health and Safety Code Section 25199.9 et seq. The decision entered by the City Council for all other facilities shall be deemed final (Added by Ord. 93-16, 11/23/93)

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Chapter 9.43

TRANSPORTATION DEMAND MANAGEMENT

Sections:

- 9.43.010 Intent and Purpose.**
- 9.43.020 Policy.**
- 9.43.030 Applicability.**
- 9.43.040 Facility Standards.**
- 9.43.050 Property Owner Responsibility.**
- 9.43.060 Enforcement and Penalties.**
- 9.43.070 Chapter Definitions.**

9.43.010 Intent and Purpose.

This Chapter meets the requirements of Section 65089(b)(3) of the California Government Code requiring the development of a trip reduction and travel demand element to the Congestion Management Plan and Section 650893(a)(2) of the California Government Code which requires adoption and implementation of a trip reduction and travel demand ordinance. (Added by Ord. 93-16, 11/23/93)

9.43.020 Policy.

New commercial, industrial, and mixed-use development including employment centers of one hundred (100) persons or more may adversely impact existing transportation and parking facilities, resulting in increased motor vehicle emissions, deteriorating levels of service, and possibly significant additional capital expenditures to augment and improve the existing transportation system. In order to more efficiently utilize the existing and planned transportation system and to reduce vehicle emissions, it is the policy of the City to:

- (a) Reduce the number of peak-period vehicle trips generated in association with additional development;
- (b) Promote and encourage the use of alternative transportation modes such as ridesharing, carpools, vanpools, public bus and rail transit, bicycles and walking, as well as those facilities that support such modes;
- (c) Achieve related reductions in vehicle trips, traffic congestion, and public expenditure and achieve air quality improvements through utilization of existing local mechanisms and procedures for project review and permit processing;
- (d) Promote coordinated implementation of strategies on a county-wide basis to reduce transportation demand;

- (e) Achieve the most efficient use of local resources through coordinated and consistent regional and/or local TDM programs.

(Added by Ord. 93-16, 11/23/93)

9.43.030 Applicability.

- (a) The provisions of this Chapter shall apply to all new development projects that are estimated to employ a total of one hundred (100) or more persons as determined by the methodology in Section 9.43.030(b).
- (b) For purposes of determining whether a new development project is subject to this Chapter, the total employment figure shall be determined as follows:
 - (1) Employment projections developed by the project applicant, subject to approval by the City; or
 - (2) Employment projections developed by the City using the following employee generation factors by type of use.

Land Use Category	Gross Sq.Ft./Employee
Commercial:	
Regional	500
Community	500
Neighborhood	500
Office/Professional	250
Industrial	525
Hotel	0.8 – 1.2/room

- (3) The employment projection for a development of mixed or multiple uses shall be calculated on a case-by-case basis based upon the proportion of development devoted to each type of use.

(Added by Ord. 93-16, 11/23/93)

9.43.040 Facility Standards.

All applicable developments shall be subject to the Facility Standards as specified in this Section and shall include in the project Site Development Plan's provision to provide each of the improvements identified in either Option "A" or Option "B" below:

- (a) Option "A" Facility Improvements.
 - (1) Preferential Parking for Carpool Vehicles.

- (A) At least fifteen (15) percent of the employee parking spaces shall be reserved and designated for carpool vehicles by marking such spaces “Carpool Only.”
- (B) Carpool spaces shall be used only by carpool vehicles in which at least two of the persons will be employees or tenants of the proposed project, or where a Reciprocal Preferential Carpool Parking Agreement with other developments has been established.
- (C) Such carpool spaces shall be located near the building’s employee entranced) or at other preferential locations within the employee parking areas as approved by the Director of Public Works and Director of Community Development or their designees.
- (D) The total number of employee parking spaces shall be determined by using the following factors by type of use as specified in the City of Dana Point Municipal Code:

Type of Use	Percentage of Total Parking Devoted to Employee Parking
Commercial	30%
Office/Professional	85%
Industrial	90%
Hotel	20%

(2) Bicycle Parking and Shower Facilities.

- (A) Bicycle parking and locker facilities shall be provided in a secure location for use by employees or tenants who commute to the site by bicycle. The number of facilities/racks to be provided shall be at the rate of at least five (5) racks for every one hundred (100) employees or fraction thereof.
- (B) A minimum of two (2) shower, changing, and locker facilities shall be provided, one each for men and women.

(3) Information on Transportation Alternatives.

- (A) A commuter information area shall be provided that offers employees appropriate information on available transportation alternatives to the single-occupancy vehicle. This area shall be centrally located and accessible to all employees or tenants.

- (B) Information in the area shall include, but not be limited to, the following:
 - 1. Current maps, routes and schedules for public transit;
 - 2. Ridesharing match lists;
 - 3. Available employee/tenant incentives;
 - 4. Ridesharing promotional material supplied by commuter-oriented organizations.
- (4) Rideshare Vehicle Loading Areas.
 - (A) The need for, design, and location of passenger loading areas to embark and disembark passengers from rideshare vehicles shall be reviewed by the Director of Public Works and the Director of Community Development or their designees.
 - (B) Passenger loading areas shall be of a size large enough to accommodate the number of waiting vehicles equivalent to the rate of at least five (5) Stalls for every one hundred (100) required parking spaces for the project.
 - (C) The passenger loading areas shall be located as close as possible to the building's employee entrance(s), and should be designed in a manner that does not impede vehicular circulation in the parking area.
- (5) Vanpool Vehicle Accessibility.
 - (A) The design of all parking facilities shall incorporate provisions for access and parking of vanpool vehicles.
 - (B) Where applicable, vanpool vehicle accessibility shall provide a minimum of seven (7) feet two (2) inches vertical clearance for those parking spaces and ramps to be used by such vehicles.
 - (C) Vanpool parking spaces shall be located near the building's employee entrance(s) or other preferential locations as approved by the Director of Public Works and the Director of Community Development or their designees.
 - (D) The number of accessible vanpool parking stalls shall be at the rate of at least two stalls per every one hundred (100) employee parking stalls as determined in Section 9.43.040(a)(1)(D) above.
- (6) Bus Stop Improvements.

(A) Bus stop improvements including bus pullouts, bus pads, and right-of-way for bus shelters shall be required for all applicable developments located along high traffic volume streets and established bus routes.

(B) Bus stop improvements shall be determined in conformance with standard traffic engineering principles including, but not limited to, the following:

1. The frequency and relative impact of blocked traffic due to stopped buses;
2. The level of transit ridership at the location.

(b) Option “B” Facility Improvements. Any combination of similar or alternate facilities, improvements or programs designed to achieve a reduction in transportation demand comparable to that effected by measures required under Option “A.” A report documenting the comparable performance of the substitute methods shall be submitted for review and approval by the Director of Community Development. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.43.050 Property Owner Responsibility.

The property owner shall be responsible for complying with the provisions of this Chapter either directly or by delegating such responsibility to an employer or tenant. (Added by Ord. 93-16, 11/23/93)

9.43.060 Enforcement and Penalties.

For purposes of ensuring that applicable developments comply with all the provisions of this Chapter, the City shall, following written notice to subject property owner or designee (employer or tenant), initiate enforcement action(s) which may include, but not be limited to, the following:

- (a) Withholding issuance of a building permit;
- (b) Withholding issuance of a certificate of use and occupancy; or
- (c) Issuance of stop work orders).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 02-09, 7/23/02)

9.43.070 Chapter Definitions.

For purposes of this Chapter, the following terms have been defined:

- (a) “Alternative Transportation Modes” means any mode of travel that serves as an alternative to the single occupant vehicle. This can include all forms of

ridesharing such as carpooling or vanpooling, as well as public transit, bicycling or walking.

- (b) “Applicable Development** means any new development project that is determined to meet or exceed the employment threshold using the criteria contained in Section 9.43.030 of this Chapter.
- (c) “Developer” means the builder who is responsible for the planning, design, and construction of an applicable development project A developer may be responsible for implementing the provisions of this Chapter as determined by the property owner.
- (d) “Employee” means any person employed by a firm, person(s), business, educational institution, non-profit agency or corporation, government agency or other entity which employs one hundred (100) or more persons at a single worksite.
- (e) “Employer” means any person(s), firm, business, education institution, government agency, non-profit agency or corporation, or other entity which employs one-hundred (100) or more persons at a single worksite, and may either be a property owner or tenant of an applicable development project
- (f) “Facility(ies)” means the total of all buildings, structures, and grounds that encompass a worksite, at either single or multiple locations, that comprises or is associated with an applicable development project.
- (g) “New Development Project” means any non-residential project being processed where some level of discretionary action by a decision-making body is required.
- (h) “Property Owner” means the legal owner of the applicable development project who serves as the lessor to an employer or tenant
- (i) “Tenant” means the lessee of facility space at an applicable development project who also serves as an employer.
- (j) “Worksite” means a building, or grouping of buildings located within the jurisdiction which are in actual physical contact or separated by a private or public roadway or other private or public right-of-way, and which are owned or operated by the same employer (or by employers under common control).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 02-09, 7/23/02)

Chapter 9.55

WATER EFFICIENT LANDSCAPE STANDARDS AND REQUIREMENTS

Sections:

- 9.55.010 Intent and Purpose,**
- 9.55.020 Applicability.**
- 9.55.030 General Provisions.**
- 9.55.040 Procedures.**
- 9.55.050 Landscape Design Standards.**
- 9.55.060 Irrigation System Design.**
- 9.55.070 Definitions**

9.55.010 Intent and Purpose.

This Chapter promotes and encourages high quality landscape improvements in Dana Point that recognize and respect the limited availability of water in the State of California. These provisions are intended to effect landscapes that can be maintained with low water use serviced by irrigation systems which will not overuse or waste the available water supply. This Chapter requires the consideration of water conservation measures through the appropriate design, installation and maintenance of landscape and irrigation systems in accordance with Governor Brown's April 1, 2015 Drought Executive Order (B-19-25)

The purpose of the City's Water Efficient Landscape Ordinance is to establish an alternative model acceptable under Executive Order No. B-19-25 as being at least as effective as the State Model Water Efficient Landscape Ordinance in the context of conditions in the City in order to:

- (2) Promote the benefits of consistent landscape ordinances with neighboring local and regional agencies;
- (2) Promote the values and benefits of landscapes while recognizing the need to invest water and other resources as efficiently as possible;
- (3) Establish a structure for planning, designing, installing, and maintaining and managing water efficient landscapes in new construction and rehabilitated projects;
- (4) Establish provisions for water management practices and water waste prevention for existing landscapes;
- (5) Use water efficiently without waste by setting a Maximum Applied Water Allowance (MAWA) as an upper limit for water use and reduce water use to the lowest practical amount; and

- (6) Encourage the use of economic incentives that promote the efficient use of water, such as a budget-based tiered-rate structure, providing rebate incentives and offering educational programs.

(Added by Ord. 93-16, 11/23/93)

9.55.020 Applicability.

- (a) Beginning February 1, 2016, and consistent with Executive Order No. B-29-15 all planting, irrigation, and landscape-related improvements shall comply with this chapter and a landscape permit shall be required for the following types of landscape permit shall be required for the following types of landscape projects:
 - (1) New landscape projects with an aggregate landscape area equal to or greater than 500 square feet, requiring a building or landscape permit, plan check, or a discretionary permit;
 - (2) Rehabilitated landscape projects with an aggregate landscaped area, equal to or greater than 2,500 square feet, requiring a building or landscape permit, plan check or discretionary permit;
 - (3) New or rehabilitated landscape projects with an aggregate of 2,500 square feet or less may comply with the performance requirements of this ordinance or conform to the prescriptive measures contained in Appendix A of the Submittal Requirements and Guidelines;
 - (4) New or rehabilitated projects using treated or untreated graywater or rainwater capture on site, any lot or parcels within the project that has less than 2,500 square feet of landscape area and meets the lot or parcel's landscape water requirement (Estimated Total Water Use - ETWU) entirely with the treated or untreated graywater or though stored rainwater capture on site is subject only to Appendix A of the Submittal Requirements and Guidelines.
 - (5) At cemeteries, Sections 2.9, 2.10, and Appendix C of the Submittal Requirements and Guidelines shall apply to new landscape installations and Sections 2.9, 2.10, and C of the Submittal Requirements and Guidelines shall apply landscape rehabilitation projects.
- (b) Section 9.55.050(b) of the Landscape Water Use Standards of this Chapter shall apply to:
 - (1) All landscaped areas, weather installed prior to or after January 1, 2010;
 - (2) All landscaped areas installed after February 1, 2016 to which Section 9.55.020(a) is applicable.

- (c) This Chapter does not apply to:
- (1) Registered local, state, or federal historical sites;
 - (2) Ecological restoration projects that do not require a permanent irrigation system;
 - (3) Mined-land reclamation projects that do not require a permanent irrigation system; or
 - (4) Plant collections, as part of botanical gardens and arboretums open to the public.

(Added by Ord. 93-16, 11/23/93)

9.55.030 General Provisions.

- (a) Landscape design and construction shall emphasize water conservation through the appropriate use and groupings of plant materials that are well adapted to particular sites and to local climatic, geological, or topographical conditions.
- (b) All landscape plan approvals are subject to and dependent upon the applicant complying with all applicable City ordinances, codes, regulations, adopted policies, and the payment of all applicable fees.
- (c) All landscape areas shall be maintained in an orderly, attractive and healthy condition. This shall include proper pruning, mowing of turf areas, weeding, removal of litter, fertilization, replacement of plants when necessary and the regular application of appropriate quantities of water to all landscape areas.
- (d) All irrigation systems shall be maintained in proper operating condition. Water line breaks, head/emitter ruptures, overspray or runoff conditions and other irrigation system failures shall be repaired immediately.

(Added by Ord. 93-16, 11/23/93)

9.55.040 Procedures.

The submittal, review, revision and approval of all required landscape and irrigation plans shall be in compliance with the following provisions:

- (II) Prior to the issuance of grading permits or building permits, whichever occurs first, a Landscape Documentation Package shall be submitted to the City for review and approval and a landscape permit shall be issued for all landscape projects subject to the provisions of this Chapter. Any Landscape Documentation Package submitted to the City shall comply

with the provisions of the Submittal Requirements and Guidelines.

- (III) The Landscape Documentation Package shall include a certification by a professional appropriately licensed to prepare landscape and irrigation plans in the State of California stating that the landscape design and water use calculations have been prepared by or under the supervision of the licensed professional and are certified to be in compliance with the provisions of this Chapter and the Submittal Requirements and Guidelines.
3. Landscape and irrigation plans shall be submitted to the City for review and approval with appropriate water use calculations. Water use calculations shall be consistent with calculations contained in the Submittal Requirements and Guidelines and shall be provided to the local water purveyors, as appropriate, under procedures determined by the City.
 4. Verification of compliance of the landscape installation with the approved plans shall be obtained through a Certification of Completion in conjunction with a Certificate of Use and Occupancy or Permit Final process, as provided in the Submittal Requirements and Guidelines. The Certification of Completion shall be prepared by the record professional that prepared the landscape design certification required in Section 9.55.040(a) and in accordance with the provisions of Submittal Requirements and Guidelines.
- (c) Conceptual landscape and irrigation plans shall be required for all projects subject to this Chapter pursuant to Section 9.55.020, which also require discretionary approval. Conceptual landscape and irrigation plans shall be included as part of the application package submitted to the Community Development Department, and required for discretionary permits, and shall incorporate the principles of this Chapter. Final landscape and irrigation plans shall be required for all projects subject to this Chapter pursuant to Section 9.55.020.
 - (d) All required landscape and irrigation plans shall be prepared in accordance with the Submittal Requirements and Guidelines available from the Community Development Department.
 - (e) All final landscape and irrigation plans shall be prepared by a professional appropriately licensed in the State of California.
 - (f) Conceptual landscape and irrigation plans shall be acted upon in conjunction with the specific discretionary approval application.
 - (g) Final landscape and irrigation plans shall be submitted for review, and approved, by the Community Development Department prior to the issuance of grading permits or building permits, whichever occurs first.

- (h) Any modification to an approved final landscape or irrigation plan must first be approved by the Director of Community Development prior to the installation of the subject landscaping or irrigation.

(Add by Ord. 93-16, 11/23/93)

9.55.050 Landscape Water Use and Design Standards.

The design and installation of all proposed landscape improvements subject to this Chapter shall be in compliance with the following general provisions:

- (a) For applicable landscape installation or rehabilitation projects subject to Section 9.55.020(a) of this Water Efficient Landscape Ordinance, the ETWU allowed for the landscape area shall not exceed the MAWA calculated using an ET adjustment factor of 0.7 except for special landscape areas where the MAWA is calculated using an ET adjustment factor of 1.0; or the design of the landscaped area shall otherwise be shown to be equivalently water efficient in a manner acceptable to the City; as provided in the Submittal Requirements and Guidelines.
- (b) Irrigation of all landscape areas shall be conducted in a manner conforming to the Submittal Requirements and Guidelines, and shall be subject to penalties and incentives for water conservation and water waste prevention as determined and implemented by the local water purveyors or as mutually agreed by local water purveyors and the City.
- (c) Landscape design shall illustrate a concern for aesthetic elements such as balance, scale, texture, form and unity.
- (d) Landscape design shall address the functional aspects of landscaping such as grading, drainage, erosion control, minimal runoff, erosion prevention, wind barriers, provisions for shade and reduction of glare.
- (e) Landscape design shall provide for the planting of all unpaved areas with an effective combination of trees, ground cover, turf, shrubbery and/or approved dry landscape materials including but not limited to accessory decorative outdoor landscape elements such as ponds, fountains, artificial turf, and paved or decorated surfaces, and sculptural elements.

(Added by Ord. 93-16, 11/23/93)

9.55.060 Delegation.

The City may delegate to, or enter into a contract with, a local agency to implement, administer, and/or enforce any of the provisions of this Chapter on behalf of the City.

9.55.070 Definitions

The following definitions are applicable to this Chapter:

“Aggregate landscape area” areas related to production home neighborhoods, *common interest developments*, or other situations where multiple parcels are undergoing landscape development as one project, but may eventually be individually owned or maintained.

"Applied water" means the portion of water supplied by the irrigation system to the landscape.

"Budget-based tiered-rate structure" means tiered or block rates for irrigation accounts charged by the retail water agency in which the block definition for each customer is derived from lot size or irrigated area and the evapotranspiration requirements of landscaping.

"Ecological restoration project" means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

"Estimated Total Applied Water Use" (ETWU) means the average annual total amount of water estimated to be necessary to keep plants in a healthy state, calculated as provided in the Submittal Requirements and Guidelines. It is based on the reference evapotranspiration rate, the size of the landscape area, plant water use factors, and the relative irrigation efficiency of the irrigation system.

"ET adjustment factor" or "ETAF" is equal to the plant factor divided by the irrigation efficiency factor for a landscape project, as described in the Submittal Requirements and Guidelines. The ETAF is calculated in the context of local reference evapotranspiration, using site-specific plant factors and irrigation efficiency factors that influence the amount of water that needs to be applied to the specific landscaped area.

A combined plant mix with a site-wide average plant factor of 0.5 (indicating a moderate water need) and average irrigation efficiency of 0.71 produces an ET adjustment factor of $(0.7) = (0.5/0.71)$, which is the standard of water use efficiency generally required by this Chapter and the Submittal Requirements and Guidelines, except that the ETAF for a special landscape area shall not exceed 1.0.

"Hardscapes" means any durable material or feature (pervious and non-pervious) installed in or around a landscaped area, such as pavements or walls, Pools and other water features are considered part of the landscaped area for water usage calculation and not considered hardscapes for purposes of this Chapter,

"Irrigation efficiency" means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices, The irrigation efficiency for purposes of this Chapter are 0.75 for overhead spray devices and 0.81 for drip systems.

"Landscaped area" means all the planting areas including: xeriscape (drought tolerant landscape design), turf areas, and water features in a landscape design plan subject

to the Maximum Applied Water Allowance and estimated applied water use calculations. The landscaped area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, artificial turf, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation),

"Landscape contractor" means a person licensed by the State of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

"Landscape Documentation Package" means the documents required to be provided to the City for review and approval of landscape design projects, as described in the Submittal Requirements and Guidelines.

"Landscape Permit" means a permit issued by the Community Development Department for the purposes of meeting the landscape area thresholds and design requirements under Section 9.55.020 of this Chapter and the corresponding Submittal Requirements and Guidelines.

"Landscape project" means total area of landscape in a project, as provided in the definition of "landscaped area," meeting the requirements under Section 9.55.020 of this Chapter.

"Local agency" means a city, or county, including a charter city or charter county, that is authorized to implement, administer, and/or enforce any of the provisions of this Chapter. The local agency may be responsible for the enforcement or delegation of enforcement of this Chapter including, but not limited to, plan check, issuance of permits, and inspection of a landscape project.

"Local water purveyor" means any entity, including a public agency, district, city, county, or private water company that provides retail water service.

"Maximum Applied Water Allowance" or "MAWA" means the upper limit of annual applied water for the established landscaped area as specified in Section 2.2 of the Submittal Requirements and Guidelines. It is based upon the area's reference evapotranspiration, the ET Adjustment Factor, and the size of the landscape area. The Estimated Water Use shall not exceed the maximum applied water allowance. $MAWA = (ET_o) (0.62) [(ETAF \times LA) + ((1-ETAF) \times SLA)]$

"Mined-land reclamation projects" means any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

"New construction" means, for the purposes of this Chapter, a new building with a landscape or other new landscape such as a park, playground, or greenbelt without an associated building.

"Non-pervious" means any surface or natural material that does not allow for the passage of water through the material and into the underlying soil.

"Pervious" means any surface or material that allows the passage of water through the material and into the underlying soil.

"Plant factor" or "plant water use factor" is a factor, when multiplied by ETo, that estimates the amount of water needed by plants. For purposes of this Chapter, the plant factor range for very low water use plants is 0 to 0.1; the plant factor range for low water use plants is 0.1 to 0.3; the plant factor range for moderate water use plants is 0.4 to 0.6; and the plant factor range for high water use plants is 0.7 to 1.0. Plant factors cited in this Chapter are derived from the publication "Water Use Classification of Landscape Species." Plant factors may also be obtained from horticultural researchers from academic institutions or professional associations as approved by the California Department of Water Resources (DWR).

"Recycled water" or "reclaimed water" means treated or recycled waste water of a quality suitable for non-potable uses such as landscape irrigation and water features. This water is not intended for human consumption.

"Reference evapotranspiration" or "ETo" means a standard measurement of environmental parameters which affect the water use of plants. ETo is given expressed in inches per day, month, or year as represented in Appendix A of the Submittal Requirements and Guidelines, and is an estimate of the evapotranspiration of a large field of four-to seven inch tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis of determining the Maximum Applied Water Allowances.

"Rehabilitated landscape" means any re-landscaping project that meets the applicability criteria of Section 9.55.020(a), where the modified landscape area is greater than 2,500 square feet.

"Smart irrigation controller" means an automatic irrigation controllers utilizing either evapotranspiration or soil moisture sensor data with non-volatile memory shall be required for irrigation scheduling in all irrigation systems, recommending U.S. EPA WaterSense labeled devices as applicable.

"Special landscape area" means an area of the landscape dedicated solely to edible plants such as orchards and vegetable gardens, areas irrigated with recycled water, water features using recycled water, and recreational areas dedicated to active play such as parks, sports fields, golf courses, and where turf provides a playing surface.

"Submittal Requirements and Guidelines" refers to the Submittal Requirements and Guidelines for Implementation of this Chapter, as adopted by the City. Which describes procedures, calculations, and requirements for landscape projects subject to this Water Efficient Landscape Ordinance.

"Turf" means a ground cover surface of mowed grass. Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses. Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, and Buffalo grass are warm- season grasses.

"Valve" means a device used to control the flow of water in an irrigation system.

"Water feature" means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied). The surface area of water features is included in the high water use hydrozone of the landscaped area. Constructed wetlands used for on-site wastewater treatment, habitat protection or storm water best management practices that are not irrigated and used solely for water treatment or storm water retention are not water features and, therefore, are not subject to the water budget calculation.

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Chapter 9.61

ADMINISTRATION OF ZONING

Sections:

- 9.61.010 Intent and Purpose.**
- 9.61.020 Interpretation, Administration and Enforcement**
- 9.61.030 Penalty for Violation of the Code.**
- 9.61.040 Procedures for Applications Requiring Discretionary Action.**
- 9.61.050 Notice and Conduct of Public Hearings.**
- 9.61.060 Fees and Deposits.**
- 9.61.070 Procedure for Withdrawal of an Application.**
- 9.61.080 Amendments.**
- 9.61.090 Administrative Modification of Standards.**
- 9.61.100 Preliminary Review.**
- 9.61.110 Appeal Procedures.**
- 9.61.120 Revocations and Modifications.**
- 9.61.130 Expiration and Extensions.**
- 9.61.140 General Plan Consistency Requirements.**
- 9.61.150 Substantial Compliance with Discretionary Approval.**

9.61.010 Intent and Purpose.

The intent and purpose of this Chapter is to establish regulations for the effective and efficient implementation of this Code. This Chapter contains the procedures for the interpretation of the Code, criteria for acceptance of applications for discretionary actions, standards for processing of applications and requirements for the notice and conduct of public hearings. In combination, the provisions of this Chapter provide for a system of development review that is open to the public and responsive to the needs of the community. This Chapter will work to the benefit of all in the community by providing for the comprehensive management and implementation of this Code. Where the standards in this Chapter and Chapter 9.69 "Coastal Development Permit" differ, the standards of Chapter 9.69 shall be used for purposes of processing coastal development permits. (Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.61.020 Interpretation, Administration and Enforcement

- (a) Authority and Procedure for Interpretations.
 - (1) The Director of Community Development is hereby charged with the duty of providing interpretations of the Zoning Code.
 - (2) The interpretations of the Director of Community Development are subject to the policy directives of the Planning Commission and City Council.

- (3) Any appeal of decisions by the Director of Community Development shall be made pursuant to Section 9.61.110, Appeal Procedures.
- (4) All interpretations of the Code made by the Director shall be recorded in writing. The record of interpretations made by the Director shall be kept on file in the Community Development Department and shall be available to the public upon request. These interpretations shall be incorporated into the Zoning Code pursuant to the provisions of Section 9.61.080, at such time as is deemed appropriate by the Director.
- (b) Planning Commission Administration of Code. The Planning Commission of the City of Dana Point is responsible for administering the Zoning Code, making recommendations to the City Council on matters governed by the Code, and initiating amendments to the Code when necessary to promote the public health, safety, or welfare.
- (c) Procedure for Enforcement. When any use or structure is found to be in violation of the provisions of this Code, the City Council may direct the City Attorney to commence appropriate civil, administrative, or criminal proceedings for the discontinuation or removal of the illegal use or structure in the manner prescribed by law.
- (d) Investigation or Inspection of Property. Any duly authorized city official may enter any premises, building, or structure at any reasonable hour, after either obtaining the consent of the owner or other responsible individual or pursuant to an inspection warrant, for investigation or inspection of such premises, building, or structure to determine whether said building, premises, or structure is in violation of this Code. Every person who denies, prevents, obstructs or attempts to deny, prevent, or obstruct such access pursuant to an inspection warrant is guilty of a misdemeanor.

(Added by Ord. 93-16, 11/23/93)

9.61.030 Penalty for Violation of the Code.

Penalty for violation of the Code is described in Dana Point Municipal Code, Title 1, Section 1.01.200. (Added by Ord. 93-16, 11/23/93)

9.61.040 Procedures for Applications Requiring Discretionary Action.

- (a) Legislative and Judicial Actions. Legislative action, implemented by adoption of an Ordinance by the City Council, is required for General Plan Amendments, Local Coastal Program Amendments, Specific Plans, Zone Change Amendments, and Zone Text Amendments. General Plan Amendments and Specific Plan Amendments may only be initiated in accordance with Section 9.61.080(b). Judicial action, implemented by adoption of a Resolution by the Planning

Commission, is required for Specific Plan Amendments, Conditional Use Permits, Variances, Site Development Permits, and Tentative Tract/Parcel Maps.

- (b) Initiation of an Application. Applications requiring discretionary or judicial action may be initiated by the City Council, Planning Commission, any person who is able to demonstrate an ownership interest in the proposed application and the subject property, or the authorized agent of any person with an ownership interest in the subject property.
- (c) Acceptance of Applications.
 - (1) When a final action on any given application is a denial and conditions surrounding that application have not substantially changed, the Director of Community Development shall reject any new applications for any identical or substantially similar proposal for a period of twelve (12) months from the final action date on the original application.
 - (2) Upon submittal of a development application by an applicant, in accordance with the Permit Streamlining Act, Government Code Section 65920 et seq., the Director of Community Development shall have thirty (30) days to review the development application to determine if the application is complete pursuant to subsection (d). Prior to the end of that thirty (30) day period, the City shall notify the applicant in writing of any deficiencies in the application which make the application incomplete. This provision shall not apply to legislative actions by the City.
 - (3) If an applicant is notified in writing that a development application is incomplete, the applicant shall have three (3) months from the date of notification to revise and resubmit the application. If the applicant fails to revise and resubmit the application within the said three (3) month period, the application shall be deemed withdrawn. Thereafter, a resubmittal of an application for the same site shall constitute a new development application subject to the payment of new fees and commencing a new timeline for City action on the project.
 - (4) The Director of Community Development upon written request by the applicant or by the exercise of appropriate discretion, may provide a one-time extension of the three-month timeline for the revision and resubmittal of an incomplete application. Such extension shall not exceed sixty (60) days.
 - (5) The Director of Community Development or designee may send a courtesy notice to the applicant that if an incomplete application is not rectified by the submittal of additional information necessary to make the application complete, that the application will be deemed to be withdrawn. However, this notice is strictly a courtesy to an applicant and failure by the City to send, or the applicant to receive such notice shall not operate to negate the effective withdrawal of the application.

- (6) The provisions of Government Code Section 65920 et seq., are applicable to City actions in processing development applications but are not applicable to legislative actions of the City.
- (d) Time Limit for Final Action on Development Project Applications.
- (1) Applications Requiring an Environmental Impact Report Those applications accepted as complete and requiring an Environmental Impact Report pursuant to the California Environmental Quality Act, (CEQA), the State Guidelines and the City of Dana Point CEQA Guidelines, shall be scheduled for a public hearing so that final action may be taken within one (1) year of the acceptance of the complete application unless the applicant requests, or consents to, an extension of time.
 - (2) All Other Applications. All other development applications accepted as complete by the Director of Community Development, shall be scheduled for public hearing so that final action may be taken within six (6) months of the date the application was deemed complete, unless the applicant requests, or consents to, an extension of time.
 - (3) Conflicts with Other Provisions. When the time limits established by other provisions of this Code (except for Chapter 9.69 “Coastal Development Permit” are in conflict with the time limits established by this Section, the provision with the shorter duration shall apply.
- (e) Requirements for Complete Applications.
- (1) Applications shall be made on a form prescribed by the Director of Community Development and shall contain the following information and other information as requested by the Director. The accuracy of all information, maps, and lists submitted shall be the responsibility of the applicant The Director may reject any application that does not supply, at a minimum, the following information:
 - (A) The name and address of the applicant and property owners.
 - (B) Evidence that the applicant
 1. Is the owner of the premises involved; or
 2. Has written permission of the owner or owners to make the application; or
 3. Is or will be the plaintiff in an action of eminent domain to acquire the premises involved; or

4. Is a public agency negotiating to acquire a portion of the premises involved; and
 5. Has paid the required application fees and deposits or is exempt from such fees and deposits.
- (C) The location of the subject property (address or vicinity).
- (D) The legal description of the subject property and two (2) copies of a recent (within 6 months of the submittal date) preliminary title report for the subject property.
- (E) A detailed written description of the nature and specifics of the development proposal or requested action.
- (F) Two (2) self-addressed, stamped envelopes to be used for notification of application completeness and final action on the application.
- (2) The following submittals are required for any application for a Conditional Use Permit, Variance, Site Development Permit, Coastal Development Permit, or other discretionary entitlements.
- (A) All required written information and colors/materials boards shall be submitted in eight and one-half (8½) inch by eleven (11) inch format.
- (B) All required plans shall be submitted in a format no smaller than eight and one-half (8½) by eleven (11) inches and no larger than twenty-four (24) inches by thirty-six (36) inches. Larger plans must be folded to eight and one-half (8½) inches by eleven (11) inches. The twenty-four (24) inch by thirty-six (36) inch size plans are preferred.
- (C) Indicate in writing and with graphics the nature, situation, and development of existing uses, buildings, and structures within one hundred (100) feet of the subject property and the effect the proposed application may have on those uses, buildings, and structures.
- (D) Explain how the requested application will not cause negative impacts, endanger, or otherwise imperil the public health, safety, or general welfare, and will be compatible with and an enhancement to the subject site, surrounding properties and the City (one copy).
- (E) Provide a detailed site plan indicating the existing and proposed area and dimensions of a project site; all existing features (streets, alleys, driveways, buildings, vegetation) within fifty (50) feet of the project boundary; the location, dimension, grades and descriptions of all existing and proposed uses, structures, yards, walls, fences, parking and loading facilities, landscaping, easements, utilities, dedications, and any

other use and development features relevant to the application. All site plan drawings shall be drawn to an engineering scale between 1":10' and 1":40', or other scale appropriate to the project and acceptable to the Director of Community Development (12 sets).

- (F) All existing and proposed building and structural elevations, and the materials and colors of all existing and proposed structural and surface components. All architectural elevations shall be drawn to an architectural scale of either 1":8' or 1":4', or other scale appropriate to the project and acceptable to the Director of Community Development (12 sets).
- (G) Floor plans for each existing and proposed floor indicating the size (dimension and area) and use of each room or area. All floor plans shall be drawn to an architectural scale of either 1":8' or 1":4' or other scale appropriate to the project and acceptable to the Director of Community Development (12 sets).
- (H) The required site plan shall indicate the dimensions and state of improvement of the existing and proposed streets or easements providing access to the subject site. The plans shall include all access features on, and within fifty (50) feet of the subject site. Applications which propose access from a Circulation Element roadway shall provide plans showing all access features within one hundred fifty (150) feet of the subject site as determined by the Director of Public Works.
- (I) A written list and description of other existing or proposed permits or approvals for the subject site (one copy).
- (J) Such other information as the Director of Community Development or designee may request in writing to clearly identify the conformity of the application to the General Plan and/or the Dana Point Municipal Code.
- (K) Ownership information as follows:
 - 1. Two (2) copies of the most recent County Assessor map, drawn to scale, showing the location of all properties included in the application; the location of all highways, streets, and alleys; and the location and dimensions of all lots or parcels of land within a five hundred (500) foot radius of the exterior boundaries of the subject property. If the subject property is located in the Coastal Zone, a coastal development permit is required, and the map shall also illustrate all lots or parcels of land within a one hundred (100) foot radius of the exterior boundaries of the subject property.

2. A list of the names and addresses of all persons who are shown on the most recent assessment roll of the County of Orange as owners of properties within a five hundred (500) foot radius of the exterior boundaries of the subject property. If the subject property is located in the Coastal Zone, the applicant shall also submit a second list of the addresses of all dwelling units within one hundred (100) feet of the exterior boundaries of the subject property.
 3. Two (2) complete sets of stamped (first class postage) No. 10 business envelopes which are addressed to the property owners on the above list. If the subject property is located in the Coastal Zone, a coastal development permit application is required, and the applicant shall also submit two (2) complete sets of stamped envelopes which are addressed to the residents of dwelling units within one hundred (100) feet of the subject property. Both sets of envelopes shall also include envelopes addressed to the property owner, the owner's agent, the project architect and project engineer.
- (3) Submittal requirements for General Plan Amendments, Zoning Text Amendments, Local Coastal Program Amendments shall be the same as in Sections 9.61.040(e)(1) and (2)(I), (J), and (K) above, and shall include a written statement describing how the proposed amendment will be consistent with the General Plan, beneficial to the surrounding neighborhood and the community as a whole and in keeping with the protection of the public health, safety, and general welfare.
- (4) Additional Specific Information.
- (A) An application for a Conditional Use Permit shall also include evidence to substantiate the basis for approval as provided in Section 9.65.040, Basis for Approval, Conditional Approval or Denial of a Conditional Use Permit
 - (B) An application for a Variance shall also include evidence proposed to substantiate the basis for approval as provided in Section 9.67.040, Basis for Approval, Conditional Approval or Denial of a Variance.
 - (C) An application for a Coastal Development Permit shall also include evidence proposed to substantiate the basis for approval as provided in Section 9.69.060, Basis for Approval, Conditional Approval or Denial of a Conditional Use Permit.
 - (D) An application for Site Development Permit shall also include evidence proposed to substantiate the basis for approval as provided in

Section 9.71.040, Basis for Approval, Conditional Approval or Denial of a Site Development Permit.

- (f) Procedure for Applications Made Prior to Code Amendment When an application is filed, and deemed complete, prior to the adoption of an amendment to the Code (or prior to effective certification of the Code amendment by the Coastal Commission for development in the Coastal Zone), processing of the application may continue exempt from the provisions of the pending amendment Applications filed or deemed complete after- a code amendment is adopted (or after effective certification of the Code amendment by the Coastal Commission for development in the Coastal Zone), shall proceed pursuant to the applicable provisions of the amended Code.
- (g) Recommendation by the Director of Community Development. The Director of Community Development shall review the application in accordance with the regulations and standards of this Code and relevant adopted plans and ordinances of the City and transmit a recommendation on the application to the Planning Commission.
- (h) Action by the Planning Commission.
 - (1) A public hearing shall be scheduled before the Planning Commission and notice given pursuant to Section 9.61.040.
 - (2) The Planning Commission may refer the application back to the Director of Community Development for further review. Such referral shall be accompanied with clear directives for recommended changes to the site plan or design features of the project.
 - (3) If the application is not referred back to the Director of Community Development, the Planning Commission shall approve, conditionally approve, or deny an application for discretionary approval Action on the application may be continued to a future meeting pursuant to the applicable provisions of Article 5, Chapter 4.5 of the California Government Code. If applicable, the decision approving or conditionally approving the application shall state the period of time for which the approval shall be valid.
 - (4) The applicant or any interested party may file an appeal of the Planning Commission action pursuant to Section 9.61.110. The appeal hearing shall be noticed as provided in Section 9.61.050.
 - (5) When a public hearing is required, notice of the hearing shall be given in accordance with the provisions of Section 9.61.050 of this Code.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 97-05, 9/9/97)

9.61.050 Notice and Conduct of Public Hearings.

(a) Notice of Hearings for Review of Applications. No less than fourteen (14) calendar days prior to the date of a public hearing on development applications, the Director of Community Development shall give notice including the time and the place at which the application will be heard, the identity of the hearing body or officer, nature of the application (including but not limited to the date of filing of the application, the name of the applicant, the file number assigned to the application, and a description of the development), a brief description of the general procedure of the City of Dana Point concerning the conduct of hearing and local actions, and the general location of the property under consideration. If the application is for a coastal development permit which is appealable to the Coastal Commission, the notice shall indicate this fact and shall describe the process for local and Coastal Commission appeals, including any local fees required. (14 Cal. Code of Regulations/13565, 13568). The Director shall observe the following notice requirements;

- (1) The notice shall be posted in three (3) places in the City of Dana Point designated by Resolution of the City Council.
- (2) The notice shall be advertised in a newspaper circulated within the City of Dana Point.
- (3) The notice shall be mailed via first class mail to the applicants); to the property owners) or the property owner's agent(s); to all persons listed as owners of property within five hundred (500) feet of the exterior boundary of the subject property on the notification list required in Section 9.61.040, and if the subject property is located in the Coastal Zone, to the office of the Coastal Commission having jurisdiction over the City of Dana Point and to all persons listed as occupants of dwelling units within one hundred (100) feet of the exterior boundary of the subject property on the notification list required in Section 9.61.040.

Notice shall also be provided to anyone filing a written request and paying the cost for notification and to such other persons whose property might, in the Director's judgment, be affected by the proposed application. For coastal development permit applications, the Director shall also provide notice by first class mail free of charge to all persons who have requested to be on the mailing list for that development project or the mailing list for all coastal decisions within the City of Dana Point.

- (4) For all non-residential projects requiring a public hearing, at least fourteen (14) calendar days prior to the date of public hearing, the applicant shall post at the project site three (3) notices of public hearing in conspicuous places, with at least two (2) of the notices located adjacent and facing the public right-of-way so that they may be visible to both pedestrians and vehicular traffic. The required public notices will be provided by the Planning Division to the

applicant, and the applicant shall provide visual evidence and a signed affidavit of posting.

- (5) If the Director finds that the posting and mailing of notices prescribed in this Section may not give sufficient notice to the affected property owners, then additional notices may be posted at locations which are best suited to reach the attention of, and properly inform those persons who may be affected.
- (6) When the proposed entitlement affects more than 1,000 (one thousand) property owners, the required notice may be provided by placing a 1/8 page display advertisement in a newspaper circulated within the City of Dana Point. Such notice shall be considered an acceptable substitute for the published notice required in subsection (2) and the mailed notice required in subsection (3). However, in the case of coastal development permit applications, newspaper notice shall not substitute for the mailed notice required in subsection (3) above.
- (7) The notice shall be sent to public officers, departments, bureaus, or agencies which, in the determination of the Director of Community Development, could be affected by the application or otherwise require noticing.
- (8) When a Negative Declaration is recommended for adoption pursuant to the California Environmental Quality Act (CEQA), notice of intent to adopt a Negative Declaration shall be published no less than twenty-one (21) days prior to the hearing date, or thirty (30) days prior to the hearing date for applications which require circulation of the Negative Declaration to the State Clearinghouse.
- (9) Notice for Timeshare Properties.
 - (A) If a timeshare property falls within the one hundred (100) foot occupant-notification radius for Coastal Development Permits described in (8) above, all shareholders shall be notified as described in subsection (3) above.
 - (B) If a timeshare property falls outside the one hundred (100) foot occupant-notification radius described in subsection (8) above, but within the five hundred (500) foot property owner-notification radius described in subsection (3) above, notices shall be sent to the property manager/sales agent for the timeshare, the shareholders association for the timeshare where one exists, and one notice to each physical unit in the timeshare, addressed to "Occupant."
- (b) Notice for General Plan Amendments. Prior to any amendment to the General Plan, the Community Development Department shall forward the proposed action to the following entities:

- (1) Any City or County within or abutting the area covered by the proposal, and any special district which may be significantly affected by the proposed action.
 - (2) Any elementary, high school, or unified school district within the area covered by the proposed action.
 - (3) The Local Agency Formation Commission.
 - (4) Any area-wide planning agency whose operations may be significantly affected by the proposed action.
 - (5) Any Federal Agency if its operations or land within its jurisdiction may be significantly affected by the proposed action.
- (c) Notice of Public Hearings for Revocations. The Director of Community Development, in giving notice of a public hearing to revoke a Conditional Use Permit, Variance, or Site Development Permit, Coastal Development Permit, or other entitlement, shall observe the noticing requirements set forth as follows:
- (1) Notification shall be provided as prescribed in Section 9.61.050; and
 - (2) The Director shall serve the owner of the premises involved written notice of such hearing, by registered or certified mail, return receipt requested and by posting a copy of said notice in a conspicuous location on the property.
- (d) Continuances. If, for any reason, testimony on a case cannot be heard or completed at the time set for such hearing, the Planning Commission may continue or extend the hearing to another time. Before adjournment or recess, the Planning Commission chairman shall publicly announce the time and place at which the hearing will be continued.
- (e) Failure To Receive Notice. The failure of any person or entity to receive notice required pursuant to this Section shall not constitute grounds to invalidate the proceedings or actions of the City in regards to the item for which the notice was given.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94; Ord. 97-05, 9/9/97)

9.61.060 Fees and Deposits.

- (a) Filing Fees and Deposits. Each applicant for an Amendment, Zone Changes, Conditional Use Permit, Variance, Site Development Permit, Coastal Development Permit or other entitlement or relief provided for in this Code shall pay the fees and costs established by Resolution of the City Council upon the filing of an application such entitlement or relief. Said Resolution may be periodically amended by resolution to reflect the cost of processing such applications.

- (b) Waiver of Fees. For special circumstances, the City Council may provide for the waiver or reduction of filing fees or deposits that have been established by Resolution of the City Council. The special circumstances may include, but not be limited to, cases of excessive hardship, projects that provide exceptional benefits to the public, projects sponsored by a non-profit applicant, or projects that provide very low, low, or moderate income housing,
- (c) Deficiencies and Refunds. The following provisions apply when full payment has not been made for an application or when an application is withdrawn:
 - (1) If any application is withdrawn, as provided in Section 9.61.070, within thirty (30) days from the date the application is filed, but prior to the publication of the notice of hearing, the City shall refund fifty (50) percent of the fees paid.
 - (2) If any application is withdrawn, as provided in Section 9.61.070 after thirty (30) days from the date the application is filed, but prior to the publication of the notice of hearing, the City shall refund twenty-five (25) percent of the fees paid.
 - (3) No refund shall be made after the notice of hearing has been published.
 - (4) If the application fee is a deposit based on an hourly rate, the refund, will be the difference between the time expended by the City and the amount of the deposit.

(Added by Ord. 93-16, 11/23/93)

9.61.070 Procedure for Withdrawal of an Application.

Any application for Amendment, Zone Change, Conditional Use Permit, Variance, Site Development Permit, Coastal Development Permit, Appeal or other application for permit, entitlement, or relief provided for in this Code may be withdrawn at any time prior to a public hearing by filing with the Director of Community Development a written request for withdrawal. The request for withdrawal shall be signed by all persons who signed the original application or their designated agents or successors. Any such application or petition may be withdrawn after commencement of a public hearing thereon, with consent of the hearing body. The Director of Community Development shall provide to the Coastal Commission written notice of the withdrawal of a coastal development permit application. (Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.61.075 Amendment and Modifications to Discretionary Permits.

An approved discretionary permit, variance or other entitlement may be amended or modifies as long as the amendment is found to further the purpose of the Zoning Ordinance. An amendment request shall be filed prior to the expiration date of the previously approved permit. The Director of Community Development shall make one of the following determinations regarding the request:

- (a) Minor Amendments. If requested amendments are found to be minor in nature by the Director of Community Development, the amendments may be approved administratively.

- (b) Major Amendments. If the Director of Community Development determines that the requested amendments are significant enough to require a discretionary review, then the amendments shall be referred to the original decision making authority. If the original application for the project required a public hearing, then the original decision making authority's review of amendments shall require a public hearing in accordance with Section 9.61.050, Notice and Conduct of Public Hearings.

9.61.080 Amendments.

- (a) Scope of Amendments. Amendments may be proposed to change zoning districts, modify district boundaries or to revise the provisions of Title 9 to add, remove, or modify regulations pursuant to the provisions of the Government Code. Amendments may be filed to add, remove, or modify the goals and policies of the General Plan or to change the land use designations therein. Amendments to Title 9 and to the Land Use Element, Urban Design Element, and Conservation/Open Space Element of the General Plan shall not be effective in the coastal zone for local coastal program purposes unless and until effectively certified by the Coastal Commission as an amendment to the Local Coastal Program. An amendment to the Local Coastal Program shall be processed pursuant to the provisions of Section 9.61.080(e) below.

- (b) Amendment Initiation. The City Council, the Planning Commission, or staff may initiate an amendment to the text of the Zoning Code. Amendments involving a change in zoning district boundaries or a rezoning of property may only be initiated by the City Council, the Planning Commission, or the owner of the subject property. Only the City Council may initiate General Plan Amendments. Initiation of an amendment by the City Council or the Planning Commission may be directed at a regular meeting of either body. Following initiation of the amendment, the procedural steps identified in Sections 9.61.080(g) and 9.61.050 will be followed.

- (c) General Plan Amendments.
 - (1) Frequency of Amendments. No mandatory Element of the General Plan shall be amended more frequently than four (4) times during any calendar year. This limitation on frequency does not apply to amendments to the General Plan requested and necessary for a single development of residential units, at least twenty-five (25) percent of which will be occupied or available to persons or families of low or moderate income.

 - (2) Planning Commission Recommendation. The Planning Commission shall hold at least one public hearing and make a written recommendation on the

adoption of an amendment to the General Plan. The Planning Commission shall forward its recommendation to the City Council.

- (3) Public Hearing. A General Plan Amendment requires a public hearing before the City Council. Any proposed amendment to the General Plan not excluded by (1) above, requires application and noticing as outlined in this Chapter.
 - (4) Amendment by Resolution. The City Council shall adopt amendments to the General Plan by Resolution. The City Council may approve, modify, or disapprove the recommendation of the Planning Commission. Any substantial changes proposed by the City Council not previously considered by the Planning Commission shall first be referred to the Planning Commission for its consideration.
- (d) Zoning Code Amendments.
- (1) Types of Amendments. There are two types of amendments to the Zoning Code including:
 - Zone Text Amendment — a revision, correction, addition or modification to the text of the Zoning Code, including changes to development standards, use regulations or procedures.
 - Zone Change — a change to the zoning designation of a property or properties on the Zoning Map.
 - (2) Planning Commission Recommendation. The Planning Commission shall hold at least one public hearing and make a written recommendation on the adoption of a Zone Text Amendment or Zone Change. Such recommendation shall include the reasons for the recommendation and the relationship of the proposed amendment to the General Plan. The Planning Commission shall send its recommendation to the City Council.
 - (3) City Council Consideration. The City Council shall hold at least one public hearing for any Zoning Code amendment. The City Council may approve, modify, or disapprove the recommendations of the Planning Commission; provided that any modifications to the proposed amendment are referred to the Planning Commission for report. The Planning Commission is not required to hold a public hearing to review the modifications sent by the City Council. No further City Council action is required when the Planning Commission has recommended disapproval of a Zoning Code amendment.
 - (4) Amendment by Ordinance. The City Council shall adopt amendments to the Zoning Code by Ordinance.
- (e) Local Coastal Program Amendments. A Local Coastal Program Amendment (LCPA) is required for modifications to the policies text, figures, tables, charts,

and graphs, or land use designations, or land use and development standards contained in the portions of the General Plan Land Use Element, Land Use Map, Zoning Code or the Zoning Map effectively certified by the Coastal Commission as the LCP, for any property in the Coastal Zone. Amendments to the existing certified Dana Point Specific Plan/Local Coastal Program shall be processed in accordance with the procedures contained in that LCP. Amendments shall be processed in accordance with the following provisions:

- (1) Frequency of Submittals of LCP Amendments to the Coastal Commission. No more than three (3) submittals of “major” LCP As to the Coastal Commission are permitted per calendar year, although there is no limit to the number of changes which can be included in each submittal. There is also no limit on the number of submittals of “minor” LCPAs which may be submitted to the Coastal Commission. Coastal Act/30514(b))
- (2) Types of Amendments.
 - (A) “Major Amendments”. A major amendment is any amendment which does not meet the criteria for a “minor” or a “de minimis” amendment as listed below.
 - (B) “Minor Amendments”. A “minor” amendment to an LCP includes but is not limited to the following:
 1. Amendments to address the certification of zoning ordinances, zoning district maps or other implementing actions for newly-annexed or detached territory, when either of the following occur:
 - a. The certified land use plan and zoning designations of the City of Dana Point and the previous or new jurisdiction(s) of the geographic area are equivalent, or;
 - b. The Coastal Commission has certified proposed pre-annexation zoning for the City of Dana Point.
 2. Wording changes in the implementation program which make a use as designated in the zoning ordinances, zoning district maps or other implementing actions more specific without changing the type, location, or intensity of use and which are found by the Executive Director of the Coastal Commission or the Coastal Commission to be consistent with the land use plan as certified by the Coastal Commission.
 3. Changes in the kinds, location, intensity or density of uses covering areas specifically certified by the Coastal Commission as acceptable alternative land uses that become effective upon occurrence of

specified events (such as the availability of sewer service) as authorized in the Land Use Plan.

4. For the Land Use Plan only:
 - a. The correction, reorganization, revisions, or deletion of certified language which when taken together does not change the kind, location, intensity or density of use or modify the resource protection measures for any area or property.
 - b. Additions or revisions to certified policies which impose further conditions, restrictions or limitations on any use which might adversely affect the resources of the coastal zone, if those amendments do not conflict with any policy of Chapter Three of the (Coastal Act or with any other certified land use plan policy.
5. Change in the notification and hearing procedures that is consistent with the requirements of the Coastal Act. (Coastal Act/30501, 30514(c); 14 Cal. Code of Regulations/13554, 13555)

(C) “De Minimis Amendments”.

1. The Executive Director of the Coastal Commission may determine that a proposed local coastal program amendment is de minimis if the Executive Director determines that a proposed amendment would have no impact, either individually or cumulatively, on coastal resources, is consistent with the policies of Chapter 3 of the Coastal Act (commencing with Section 30200), and meets the following criteria:
 - a. The City of Dana Point, at least twenty-one (21) days prior to the date of submitting the proposed amendment to the Executive Director, has provided public notice, and provided a copy to the Coastal Commission, which specifies the dates and places where comments will be accepted on the proposed amendment, contains a brief description of the proposed amendment, and states the address where copies of the proposed amendment are available for public review, by one of the following procedures:
 - i. Publication, not fewer times than required by Section 6061 of the Government Code, in a newspaper of general circulation in the area affected by the proposed amendment. If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.

- ii. Posting of the notice by the local government both onsite and offsite in the area affected by the proposed amendment
 - iii. Direct mailing to the owners and occupants of contiguous property shown on the latest equalized assessment roll.
 - b. The proposed amendment does not propose any change in land use or water uses or any change in the allowable use of property.
 - 2. At the time that the City of Dana Point submits the proposed amendment to the Executive Director, the City of Dana Point shall also submit to the Executive Director any public comments that were received during the comment period provided pursuant to subparagraph a. of paragraph 1. above.
 - 3. Determination of De Minimis.
 - a. The Executive Director shall make a determination as to whether the proposed amendment is de minimis within 10 working days of the date of submittal by the City of Dana Point. If the proposed amendment is determined to be de minimis, the proposed amendment shall be noticed in the agenda of the next regularly scheduled meeting of the Coastal Commission, in accordance with Section 11125 of the Government Code, and any public comments forwarded by the City of Dana Point shall be made available to the members of the Coastal Commission.
 - b. If three members of the Coastal Commission object to the Executive Director's determination that the proposed amendment is de minimis the proposed amendment shall be set for public hearing in accordance with the procedures for either a major or minor amendment, as determined by the Executive Director, or, at the request of the City of Dana Point, returned to the City. If set for public hearing as a major amendment, the time requirements set by Sections 30512 and 30513 of the Coastal Act shall commence from the date on which the objection to the de minimis designation was made.
 - c. If three or more members of the Coastal Commission do not object to the de minimis determination, the de minimis local coastal program amendment shall become part of the City's certified local coastal program 10 days after the date of the Coastal Commission meeting. (Coastal Act/30514(d)).
- (3) Required Findings for Submittal of LCPAs to the Coastal Commission.

- (A) That the public and affected agencies have had ample opportunity to participate in the LCPA process.
 - (B) That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act, including that the land use plan as amended is in conformance with and adequate to carry out the Chapter Three policies of the Coastal Act.
 - (C) 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.
 - (D) That the level and pattern of development proposed is reflected in the Land Use Plan, Zoning Code, and Zoning Map.
 - (E) That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after certification of the LCPA.
 - (F) That zoning measures are in place (prior to or concurrent with the LCPA) which are in conformance with and adequate to carry out the coastal policies of the Land Use Plan.
- (4) Notice/Public Participation Standards. In addition to Notice standards contained in Section 9.61.050, the following notice provisions shall apply (except for De Minimis LCP amendments in which case the notice provisions provided for in Section 9.61.080(e)(2)(C) above shall apply):
- (A) Notice of hearings on LCP documents shall be given general publication and shall be transmitted not less than ten (10) working days before the hearing. Notice of availability of public review drafts of LCPA materials and transmittal of said documents shall be made as soon as public drafts are available, but at a minimum at least six (6) weeks prior to any final action on the documents by the City. Public review drafts shall also be made readily available for perusal in local libraries, at the offices of the Community Development Department and/or other appropriate location at City Hall, and at the Coastal Commission district office having jurisdiction over the City of Dana Point.
 - (B) At a minimum, notices of public hearings, public review sessions, availability of public review drafts, studies, or other relevant documents or actions pertaining to the preparation and approval of LCPAs must be mailed free of charge by first class mail to:
 1. Members of the public requesting such notices, including those on a list for all coastal decisions in the City;

2. Contiguous and affected local governments and special districts;
 3. State and Federal agencies specified in Appendix A of Local Coastal Program Manual of the California Coastal Commission or other regional, state and federal agencies that may have an interest in or be affected by the LCPA, including the Coastal Commission itself; and
 4. Local libraries and media. (14 Cal. Code of Regulations/13515).
- (5) Planning Commission Recommendation. The Planning Commission shall hold at least one public hearing on the proposed LCPA and make a written recommendation on the adoption of an amendment to a local coastal program. Such recommendation shall include the reasons for the recommendation and the relationship of the proposed Ordinance or amendment to the Coastal Act, and applicable General Plan and/or Specific Plan policies. The Planning Commission shall send its recommendation to the City Council.
- (6) City Council Resolution.
- (A) The LCPA shall be submitted to the California Coastal Commission, after public hearing, pursuant to a Resolution adopted by the City Council. The Resolution shall include the following:
1. A statement certifying that 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. (Coastal Act/30510, 30605; 14 Cal. Code of Regulations/13551(a))
 2. The Resolution shall include an exact description of the nature of the amendment, including but not limited to whether the amendment is to the land use plan, implementing actions, or both, and the nature of the proposed changes.
 3. Resolutions for amendments involving changes to the land use plan shall certify that the City has found that the land use plan as amended is in conformity with and adequate to carry out the Chapter Three policies of the Coastal Act.
 4. Resolutions for amendments involving changes to the implementing actions shall certify that the City has found that the implementing actions as amended are in conformity with and adequate to carry out the provisions of the certified land use plan.
 5. The Resolution shall include the numbers of the General Plan, Zone Text, Zone Change, or other amendment(s) being submitted to the Coastal Commission to amend the certified local coastal program.

6. The Resolution shall include a statement certifying that the amendment will be submitted to the Coastal Commission for review and approval.
 - (B) The City Council Resolution may provide that the amendment will take effect automatically upon Coastal Commission approval, or as an amendment that will require formal approval by Resolution of the City Council after approval by the Coastal Commission. (Coastal Act/30501, 30512, 30513, 30519, 30605; 14 Cal. Code of Regulations/13551(b))
 - (C) Under either alternative in subsection 9.61.080(e)(6)(B) above, the requirements of Section 13544 or 13544.5 of the California Code of Regulations as amended must be fulfilled following Coastal Commission approval of the amendment, including that the City Council acknowledges receipt of the Coastal Commissions' certification of the amendment including any terms or modifications which may have been suggested for final certification and agrees to such terms or modifications. (Coastal Act/30501, 30605; 14 Cal. Code of Regulations/13551(b))
- (7) Contents of an LCPA Submittal to the Coastal Commission. At a minimum, the following shall be included in an LCPA submittal:
 - (A) A summary of the measures taken to provide the public and affected agencies and districts maximum opportunity to participate in the LCP amendment process, including;
 1. A listing of members of the public, organizations, and agencies appearing at any hearing or contacted for comment on the LCP amendment, and copies of speaker slips for all persons testifying at said hearing(s);
 2. Copies or written summaries of significant comments received and of the City's response to those comments;
 3. Copies of hearing notices for all public hearings at which the LCPA was discussed or scheduled for discussion;
 4. Proof of publication.
 - (B) A summary of the measures taken to provide the public and affected agencies and districts maximum opportunity to participate in the LCP amendment process; a listing of members of the public, organization, and agencies appearing at any hearing or contacted for comment on the LCP amendment; and copies or summaries of significant comments received and of the City's response to the comments.

- (C) All policies, plans, standards, objectives, diagrams, drawings, maps, photographs, and supplementary data, related to the amendment in sufficient detail to allow review for conformity with the requirements of the Coastal Act. Written documents should be readily reproducible. An amendment to the “land use plan” portion of the LCP shall include, where applicable, a readily identifiable public access component.
 - (C) A written discussion of the LCPA’s relationship to and effect on the other sections of the certified LCP.
 - (D) An analysis that meets the requirements of Section 13511 or alternatively Section 13514 of the California Code of Regulations as amended. As part of the analysis, the Chapter Three policies of the Coastal Act shall be applied to determine the kind, location and intensity of land and water uses that would be in conformity with the Chapter Three policies.
 - (E) Any environmental review documents, pursuant to the California Environmental Quality Act, required for all or any portion of the LCPA.
 - (F) An indication of the zoning measures that will be used to carry out the amendment to the land use plan (unless submitted at the same time as the amendment to the land use plan). (Coastal Act/30501; 14 Cal. Code of Regulations/13552).
 - (G) Copies of City staff reports for all public hearings at which the LCPA was discussed or scheduled for discussion.
 - (H) Copies of final, adopted Ordinances and Resolutions approving the LCPA.
 - (I) Copies of final, approved minutes of all public hearings at which the LCPA was discussed or scheduled for discussion.
- (f) Specific Plan Amendments.
- (1) Planning Commission Recommendation. The Planning Commission shall hold at least one public hearing and make a written recommendation on the adoption of an amendment to a Specific Plan. The Planning Commission shall forward its recommendation to the City Council.
 - (2) City Council Public Hearing. Any proposed amendment to a Specific Plan requires application and noticing as outlined in this Chapter. One City Council public hearing is required.
 - (3) Amendment by Resolution and Ordinance. The City Council may adopt amendments to Specific Plans by Resolution and Ordinance. The City

Council may approve, modify, or disapprove the recommendation of the Planning Commission. Any substantial changes proposed by the City Council not previously considered by the Planning Commission shall first be referred to the Planning Commission for its consideration.

- (g) Procedural Duties Regarding Amendments.
- (1) When an application for an amendment is filed in accordance with Section 9.61.040, or when the City Council or Planning Commission has initiated an amendment, the Director of Community Development shall schedule the proposed amendment for a public hearing pursuant to Section 9.61.050 of this Code.
 - (2) The Planning Commission, upon receiving the recommendation of the Director of Community Development, shall hold a public hearing to ensure consistency with the General Plan or to provide for the public health, safety, and welfare of the citizens, visitors, and workers in the City of Dana Point.
 - (3) The Planning Commission shall transmit a written recommendation on the proposed amendment to the City Council. The recommendation of the Planning Commission may be for approval, conditional approval or denial except when the proposed amendment is a Zone Change, in which case the recommendation shall be for approval or denial.
 - (4) The Commission may continue a hearing in order to consider new or revised information as it deems necessary. A continuance shall not extend the period of time within which State law requires the City to render a final decision, unless the applicant requests, or consents to, a continuance beyond that period of time.
 - (5) Upon receiving the recommendation of the Planning Commission, the City Council shall hold a public hearing and shall make a determination and take final action on the amendment. This action shall take place within the time period specified in Section 9.61.040 of this Code.
 - (6) The Director of Community Development shall maintain an index of all approved amendments to this Code in order to insure that the Code is properly updated.
 - (7) For amendments in the Coastal Zone, the Director of Community Development shall provide notice of the amendment hearings and action to the California Coastal Commission.
- (h) Decision of the City Council. The City Council may approve or deny an application for an amendment. Except for Local Coastal Program Amendments, the action of the City Council shall be final.

- (i) Basis for Denial of Amendments. Amendments to the General Plan, Zoning Code, Zoning Map, Local Coastal Program, or Specific Plan may be denied if they are found to be:
 - (1) Inconsistent with the General Plan;
 - (2) Inconsistent with a goal or policy of the General Plan;
 - (3) Inconsistent with the provisions of the Coastal Act;
 - (4) Inconsistent with mandatory findings required by State law or by this Code;
or
 - (5) A threat to the public health, safety, and welfare.

Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94; Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

9.61.090 Administrative Modification of Standards.

- (a) Intent and Purpose. Standards may be administratively modified by the Director of Community Development to permit development on property which is constrained due to lot size, shape, location, access restrictions, physical constraints or other constraints. Administrative modifications are used only when deviations from Code standards are truly minor and no potential impact will occur to the health, safety or general welfare of adjacent persons or properties will occur.
- (b) Authority of the Director of Community Development. The Director of Community Development shall have the authority to approve, conditionally approve, or deny an application for an administrative modification pursuant to the following limitations:
 - (1) Reduction of required lot area, minimum floor area, setbacks, courts or open areas, or landscaped areas, distance between buildings or size and location of parking areas required by the Zoning Code;
 - (2) Increases in the height of both retaining and non-retaining side or rear yard fences, walls, or hedges by not more than ten (10) percent of the maximum permitted height. No administrative modification may be granted for any fence, wall or hedge that is located in the required front yard.
- (c) Procedure for Administrative Modifications.
 - (1) An application shall be filed with the Community Development Department pursuant to Section 9.61.040.
 - (2) The Director of Community Development shall review the application and shall determine whether the application is complete as described in

Section 9.61.040 and whether the application qualifies as an administrative modification within thirty (30) days of the application date.

- (3) Notice of the administrative modification shall be provided to owners of the abutting properties.
 - (4) When in the public interest and agreed to by the applicant, the Director of Community Development may consider and render decisions on administrative modifications without a public hearing.
 - (5) If the application qualifies as an administrative modification, the Director of Community Development shall render a decision on the request within thirty (30) days of the application being deemed complete and qualified. If the application does not qualify as an administrative request, the Director shall notify the applicant, and the application may be withdrawn as described in Section 9.61.070.
 - (6) Appeals of the Director's decision may be made pursuant to the provisions of Section 9.61.110.
- (d) Basis for Approval or Denial of Administrative Modifications.
- (1) The Director of Community Development may impose such conditions as are deemed necessary to protect the public health, safety, and general welfare and assure compliance with the provisions and standards included in this Zoning Code.
 - (2) In making such determination, the Director of Community Development shall find that the proposed administrative modification meets the following criteria:
 - (A) That there are practical difficulties or unnecessary hardships created by strict application of the Zoning Code due to physical characteristics of the property; and
 - (B) The administrative modification does not constitute a grant of special privileges which are not otherwise available to surrounding properties in similar conditions and will not be materially detrimental to the public welfare or to the property of other persons located in the vicinity; and
 - (C) The administrative modification places suitable conditions on the property to protect the public health, safety, and welfare and surrounding properties.
 - (D) For development within the coastal zone, that the administrative modification would not result in significant adverse impacts either individually or cumulatively to coastal access/recreation opportunities or

coastal resources, and the development would be consistent with the policies of the Local Coastal Program certified land use plan.

- (e) Notice of Action. The Director of Community Development shall transmit a written Notice of Action to the applicant by first class mail.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.61.100 Preliminary Review.

A preliminary review is a request for a pre-submittal evaluation of a project. The preliminary review will assess the site and architectural design of the proposed project. In addition, this review will consider General Plan consistency, development standards, land use compatibility and community values. The objective of this exercise is to provide the applicant with a sense of the issues that need to be addressed in the formal application. The preliminary review process is not intended and cannot be used as a process to determine the ultimate decision on the formal application. Information gathered through this process can be used to determine whether a formal application should be filed.

- (a) Review Levels. There are two levels of preliminary review available to a prospective applicant, described as follows:
 - (1) Staff Level Review. Staff level review involves an informal assessment of the proposed project by the Community Development and Public Works Staff. These reviews are conducted during the regular weekly staff meetings. This review provides the applicant with an opportunity to receive preliminary comments from the departments who will ultimately make recommendations on a formal application. Staff will provide comments on the preliminary review within five (5) working days of the staff meeting.
 - (2) Planning Commission Review. Preliminary review by the Planning Commission is a more formal option available to the applicant. This process is more appropriate for projects which may involve more significant issues of sensitivity or compatibility, or qualitative interpretations of City policy. Through this process, a brief assessment will be prepared by staff to identify the issues pertinent to the proposed project. The applicant will have the opportunity to present the proposal directly to the Planning Commission. Preliminary reviews are considered by the Planning Commission under “New Business” at regular meetings. The Planning Commission is legally limited in the type and amount of input they can provide at this level. Typically, comments are focused on the identification of potential issues which may be raised during consideration of a formal submittal. General feedback on how key issues or policies might apply to the project may also be provided.
- (b) Fees. Staff level preliminary reviews require no fee. A fee in accordance with those set forth in an annual resolution of the City Council shall apply to an application for preliminary review by the Planning Commission.

- (c) Required Submittals.
 - (1) Staff Level Review. One (1) copy of the conceptual site plan, floor plan(s) building elevations, and any other relevant exhibits.
 - (2) Planning Commission Review.
 - (A) Ten (10) copies of the conceptual site plan, floor plan(s), building elevations and any other relevant exhibits;
 - (B) A letter which provides a brief explanation of the proposed project and justification for the project based on General Plan policies and Zoning Code provisions;
 - (C) A completed planning application form;
 - (D) A filing fee as required by Section 9.61.100(b).

(Added by Ord. 94-09, 5/24/94)

9.61.110 Appeal Procedures.

- (a) Decisions May Be Appealed. Any decision rendered by the Director of Community Development may be appealed by the applicant, the Planning Commission, the City Council, any property owner or resident of property within a five hundred (500) foot radius of the subject property, or any group or individual. Appeals of decisions by the Director of Community Development shall be heard by the Planning Commission as a DeNovo (new) hearing.

Any decision rendered by the Planning Commission may be appealed by the applicant, the City Council, any property owner or resident of property within a five hundred (500) foot radius of the subject property, or any group or individual. Appeals of decisions by the Planning Commission shall be heard by the City Council as a DeNovo (new) hearing.
- (b) Filing of Appeals. Appeals to the Planning Commission and City Council must be made no later than fifteen (15) calendar days after the rendering of the decision being appealed. Appeals to the Planning Commission shall be filed with the Director of Community Development Appeals to the City Council shall be filed with the City Clerk.
- (c) Appeal Contents. Appeals filed in writing with the Director of Community Development or the City Clerk shall specifically cite the basis of the appeal, including how the person filing the appeal is negatively impacted by the deciding body's determination to approve, conditionally approve, or deny an application.
- (d) Appeals of Coastal Development Permit. After the exhaustion of the appeal procedures described in Section 9.61.100(a) through (c) above, except as provided

for in Section 9.69.090(a)(1) of this Zoning Code, the City's final action on a coastal development permit for development that is appealable, as described in Section 9.69.090, may be appealed to the Coastal Commission in accordance with the procedures specified in Section 9.69.090.

- (e) Notice of Appeal Hearings. Notice of an appeal hearing shall conform to the requirements of Section 9.61.050 for the original application. The appellant shall be responsible for all noticing materials required in the original application.
- (f) Effective Date of Appealed Actions. A decision rendered by the Director of Community Development appealed to the Planning Commission shall not become final until upheld by the Commission. A decision rendered by the Planning Commission appealed to the City Council shall not become final until upheld by the Council.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96; Ord. 97-05, 9/9/97)

9.60.120 Revocations and Modifications.

- (a) Revocation or Modification of Entitlements. The Planning Commission, on its own motion or by direction from the City Council, may recommend, and the City Council may approve the revocation and/or modification of any previously approved application or granted entitlement, after holding a properly noticed public hearing on the matter where any of the following findings are made:
 - (1) That the approved application or entitlement was obtained by fraud; or
 - (2) That the approved application or entitlement is not being exercised; or
 - (3) That the approved application or entitlement has ceased or has been suspended for a period of time and is causing detriment to the public health, safety and welfare or constitutes a public or private nuisance; or
 - (4) That the use for which the approved application or entitlement was granted or permitted is being or has been operated or used contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law, or regulation; or
 - (5) If any provision of an approved application or entitlement is held or declared invalid, the approved application or entitlement shall be void and all privileges granted thereunder shall lapse.
- (b) Notice of Action.
 - (1) Notice of the action taken by the City Council at a hearing for a revocation or modification of an approved application or entitlement shall be sent by

certified mail, return receipt requested, to the person owning and operating the property, structure, or use.

- (2) Notification of the action by the City Council shall be made by serving a notice in the manner required by law.
- (c) Effective Date of Revocations and Modifications. An order by the City Council revoking or modifying an entitlement shall become effective immediately.

(Added by Ord. 93-16, 11/23/93)

9.61.130 Expiration and Extensions.

- (a) Expiration. When the activity for which a discretionary permit such as Conditional Use Permit, Coastal Development Permit or Site Development Permit was granted is not implemented or utilized within the time frame specified in the permit or within two (2) years if no timeframe is specified in the permit the discretionary permit shall become null and void and of no effect unless the permit is extended as provided below.
- (b) Extensions. A discretionary permit may be extended in accordance with the following provisions:
 - (1) An application, consisting of a letter requesting an extension, shall be submitted to the Community Development Department prior to the expiration date of the subject discretionary permit
 - (2) A fee, in accordance with the annual fee resolution adopted by the City Council shall be submitted with the letter.
 - (3) A maximum of two extensions may be granted. Action on the first extension request may be taken administratively by the Director of Community Development. The Director may grant a one-time extension for a maximum of twelve (12) months. Second extension requests must be presented to the Planning Commission for action. The Planning Commission may grant the second extension for a maximum of twelve (12) months.
 - (4) The action of the Director of Community Development or Planning Commission on a request for extension may be appealed in accordance with Section 9.61.110.
 - (5) A request for extension may be approved, conditionally approved or denied. An action to conditionally approve or deny a request for extension may be based on the existence of new requirements or standards which were not in effect at the time of the original approval. Such requirements or standards may be contained in the City's Zoning Code or in the Municipal Code, including the Health, Safety and Building Codes.

- (6) While the discretionary permit is deemed active during the consideration of an extension request, if the expiration date has passed, the permit may not be implemented unless and until the extension request has been approved.
- (c) Exception. Where a proposal to acquire land for a governmental enterprise in conjunction with a discretionary permit has been approved, no time limit shall apply to the utilization of said permit, provided that within one (1) year of the date of approval, the subject governmental agency has either acquired the subject property or has commenced legal proceedings for its acquisition.

(Added by Ord. 94-09, 5/24/94)

9.61.140 General Plan Consistency Requirements.

- (a) Projects involving the acquisition, dedication, disposition, vacation, or abandonment of real property shall not be authorized until the location, purpose, and extent of the action has been submitted to and reported upon by the Planning Commission for consistency with the adopted General Plan. The following actions are exempt from this requirement:
 - (1) The disposition of the remainder of a larger parcel which was acquired and used in part for street purposes;
 - (2) Acquisitions, dispositions, or abandonments for street widening; or
 - (3) Alignment projects, providing such dispositions for street purposes, acquisitions, dispositions, or abandonments for street widening or alignment projects are of a minor nature.
- (b) Applications for a General Plan Consistency finding shall be subject to review by the Planning Commission. At the discretion of the Director of Community Development, such applications may be processed in accordance with Section 9.61.040, Procedures for Applications Requiring Discretionary Action.
- (c) The Planning Commission shall render a report as to conformity of the project with the General Plan within forty (40) days after the application for the matter was deemed complete.

9.61.150 Substantial Compliance with Discretionary Approval.

- (a) Approval of a request for Substantial Compliance with Discretionary Approval can occur, provided the following findings can be made:
 - (1) The proposed changes comply with the provisions, spirit, and intent of the original approvals.
 - (2) That the action would have been the same for the modifications as for the approved plan.

(b) Decisions on Substantial Compliance with Discretionary Approval applications shall be made administratively by the Director of Community Development. The Director shall include a determination of findings and additional conditions of approval as appropriate.

(c)Effective Date of Substantial Conformance.

(1) Any substantial conformance determination issued by the Director of Community Development shall be reported in writing on the Consent Calendar to the Planning Commission at their first regularly scheduled meeting after the substantial conformance is approved. The Director of Community Development shall prepare a report in writing with sufficient description of the substantial conformance and basis for the determination to allow the Planning Commission to understand the modifications to an approved project. Such report shall be available at the meeting and mailed free of charge to all persons wishing to receive such notification at the time of the regular mailing of notice of the Planning Commission meeting. The fifteen (15) calendar day appeal period, set forth in Section 9.61.110, shall begin the day after the Community Development Director's determination is reported to the Planning Commission.

(Added by Ord. 93-16, 11/23/93)

Chapter 9.63

NONCONFORMING USES AND STRUCTURES

Sections:

- 9.63.010 Intent and Purpose.**
- 9.63.020 Land Uses Permitted.**
- 9.63.030 Expansion, Improvement, and Maintenance of Nonconforming Structures**
- 9.63.035 Expansion, Improvement, and Maintenance of Nonconforming Uses.**
- 9.63.040 Destruction and Restoration of Nonconformance**
- 9.63.050 Notice.**
- 9.63.060 Right of Further Appeal.**
- 9.63.070 Public Nuisance.**
- 9.63.080 Substitution of a Nonconforming Use.**
- 9.63.090 Termination—Violation of Law.**

9.63.010 Intent and Purpose.

This Chapter provides for the regulation of nonconforming uses and structures. This Chapter recognizes the legal status nonconforming uses and structures have. It is the intent of this Chapter to promote and encourage the ultimate conversion of nonconforming uses and structures to uses and structures that are conforming to this Code. The Chapter recognizes that until such conversion, the improvement of nonconforming uses and structures which promote compatibility and enhancement to surrounding land uses and which do not increase in nonconformity are permitted. (Added by Ord. 93-16, 11/23/93)

9.63.020 Land Uses Permitted.

No property in the City of Dana Point shall be used for any purposes except those permitted by this Code. (Added by Ord. 93-16, 11/23/93)

9.63.030 Expansion, Improvement, and Maintenance of Nonconforming Structures.

Nonconformities may be continued subject to the following conditions.

- (a) Expansion of Nonconforming Structures Conforming as to Use. Except as provided for in the Floodplain Overlay District, nonconforming structures which are conforming as to use may be expanded provided that the proposed expansion meets the current requirements of this code and positively contributes to the neighborhood. An expansion of ten (10) percent or less of the existing gross floor area is allowed by right. An expansion of more than ten (10) percent of the existing gross floor area may be approved by the Director as a minor Site Development Permit or forwarded by the Director for review by the Planning Commission.

- (b) Improvements to and Maintenance of Nonconforming Structures Conforming as to Use. Nonconforming structures which are conforming as to use may be, and are encouraged to be, maintained and aesthetically improved in compliance with the Dana Point Municipal Code. Maintenance and aesthetic improvement includes repainting and resurfacing, reroofing, recarpeting and reflooring, relandscaping, and other minor cosmetic improvements. Maintenance and aesthetic improvements shall not serve to expand the nonconforming structure in any way.

- (c) Expansions, Improvements, and Maintenance of Nonconforming Structures Conforming to Use in Doheny Village. Expansions, improvements, and maintenance of Nonconforming Structures conforming to use shall be permitted. All expansions, improvements, and maintenance shall be compliant to current Zoning and Building Code requirements, including the provisions in Chapter 9.31, Floodplain Overlay District. The provisions of this subsection (c) shall only be applicable to the geographic area shown in Figure 9.63.030 below, and shall expire December 31, 2025.

(Added by Ord. 93-16, 11/23/93)

Figure 9.63.030
Doheny Village Area



9.63.035 Expansion, Improvement, and Maintenance of Nonconforming Uses.

Nonconforming uses shall not be enlarged or expanded except as provided herein.

- (b) Expansion of Nonconforming Residential Uses. A one-time expansion of ten (10) percent or less of the gross floor area of the structure containing the nonconforming residential use may be permitted and conditioned by the Director of Community Development subject to a consent approval of a minor Conditional Use Permit by the Planning Commission. Any expansion greater than ten (10) percent requires approval of a Conditional Use Permit by the Planning Commission. The expansions may be subject to conditions to promote neighborhood compatibility and enhancement.
- (b) Expansion of Nonconforming Non-Residential Uses. A one-time expansion of a nonconforming non-residential use is allowed subject to the approval of a Conditional Use Permit by the Planning Commission. Expansions which substantially bring the use into better conformance with this Code are encouraged. The expansion shall result in compliance with the signage and landscaping regulations of this Code. The area of expansion is required to comply with current parking standards.
- (c) Maintenance of Structures Containing Nonconforming Uses. The repair, maintenance, replacement, and aesthetic improvement of structures containing nonconforming uses which promote neighborhood enhancement, and which does not enlarge or expand the nonconforming use, as determined by the Director of Community Development shall be permitted and encouraged. Repair, maintenance, replacement, and aesthetic improvements typically include painting, landscaping, paving, the replacement and addition of skylights, windows, doors, open spaces, and other features which promote the livability and usability of the structure and its compatibility with and enhancement to the neighborhood.
- (d) Expansions, Improvements, and Maintenance of Structures Containing Nonconforming Uses in Doheny Village. Expansions, improvements, and maintenance of Nonconforming Residential and Non-Residential Uses located in the geographical area shown in Figure 9.63.030 shall be permitted and exempt from the one-time expansion limitation provided that all expansions, improvements, and maintenance are compliant to current Zoning and Building Code requirements. The provisions of this subsection (d) shall only be applicable to the

geographic area shown in Figure 9.63.035 below, and shall expire December 31, 2025.

- (2) Properties located in the geographical area shown in Figure 9.63.030 and located within the Floodplain Overlay District, shall also comply with the provisions of Chapter 9.31. The provisions of this subsection (d)(1) shall only be applicable to the geographic area shown in Figure 9.63.030, and shall expire December 31, 2025.

(Added by Ord. 93-16, 11/23/93)

9.63.040 Destruction and Restoration of Nonconformance

- (a) Damage to Nonconforming Structures due to Accidents.**

Excluding properties in the Floodplain Districts, any nonconforming structure that is lawfully existing at the time of adoption of this Code which is accidentally destroyed by fire, flood, explosion, earthquake, landslide, act of God, or act of the public enemy, may be restored and reconstructed to the limits of the pre-existing nonconformity, provided that all such construction and repair work commence within a period of five (5) years from the date of the accidental damage. Any reconstruction of a nonconforming structure must comply with current building and related codes.

- (b) Voluntary Demolition of Nonconforming Structures.**

- (1) If any nonconforming portion of a structure is removed, that portion shall be reconstructed in conformance with current requirements of this Code.

- (2) Any nonconforming structure lawfully existing at the time of adoption of this Code which is demolished beyond fifty (50) percent of the total linear length of all walls, shall be reconstructed to conform to the current requirements of this Code.

- (3) Any nonconforming structure lawfully existing at the time of adoption of this Code located in the geographic area as shown in Figure 9.63.030 which is demolished beyond seventy-five (75) percent of the total linear length of all walls, shall be reconstructed to conform to the current requirements of this Code. The provisions of this subsection (3) shall expire December 31, 2025.

- (c) Damage to Structures Containing Nonconforming Uses due to Accidents.** When a Structure containing a nonconforming use is destroyed due to fire, flood, explosion, earthquake, landslide, act of God, or act of the public enemy, the nonconforming use may be re-established and the structure rebuilt to the limits of the pre-existing nonconformity. Any reconstruction of the structure must comply with current building and related codes.

(f) Voluntary Demolition of Structures containing Nonconforming Uses. When a structure containing a nonconforming use is voluntarily demolished beyond fifty (50) percent of the total linear length of all walls, that structure shall be reconstructed to conform to the requirements of this Code and the nonconforming use shall be converted to a use which conforms to the current zoning designation of the site.

(1) Voluntary Demolition of Structures containing Nonconforming Uses in Doheny Village. When a structure containing a nonconforming use in the geographic area shown in Figure 9.63.030 is voluntarily demolished beyond seventy-five (75) percent of the total linear length of all walls, that structure shall be reconstructed to conform to the requirements of this Code and the nonconforming use shall be converted to a use which conforms to the current zoning designation of the site. The provisions of this subsection (1) shall expire December 31, 2025.

(g) Abandonment of Nonconforming Uses. When a nonconforming use is abandoned or discontinued for more than 365 consecutive calendar days, the use shall be converted to conform to the current requirement of this code.

(Added by Ord. 93-16, 11/23/93)

9.63.050 Notice.

- (a) Upon determination that the provisions of this Chapter apply to a given nonconforming use, the Director of Community Development shall send a notice thereof by certified mail, return receipt requested, to the property owner thereof as shown on the last equalized assessment roll, shall cause such property to be posted with a similar notice, and shall publish such notice at least once in a newspaper of general circulation.
- (b) The notice provided for in this Section shall state that the property in question contains a nonconforming use, shall state the date of abatement established in Section 9.63.040 and shall state that the date of abatement may be appealed to the Planning Commission within thirty (30) days of the date appearing on the notice.

(Added by Ord. 93-16, 11/23/93)

9.63.060 Right of Further Appeal.

- (a) Any interested person may appeal the decision of the Planning Commission to the City Council within 15 days of service or the order upon the owner. The appeal hearing shall be noticed in the same manner as the original hearing before the Planning Commission.
- (b) Each appeal shall be accompanied by such other documents and information the Director of Community Development deems to be necessary to adequately explain and to provide proper notification for the appeal. Each appeal shall set

forth specifically and in detail the grounds for the appeal. The City Council may refuse to consider issues not raised in the written appeal.

- (c) When an appeal has been accepted, the Director of Community Development shall forward to the City Council all documents and information on file pertinent to the appeal, together with the minutes or official action of the approving authority, and a report on the basis of the decision and the appropriateness of the appeal.
- (d) The City Council shall consider the appeal at a public hearing, including all information and evidence submitted with the original application, and any additional information and evidence the appellant may submit which the City Council finds to be pertinent.
- (e) The action of the City Council shall be to sustain, deny, conditionally sustain, or refer the appeal back to the Planning Commission with the directions, all in compliance with the same requirements and procedures that were applicable to the Commission.

(Added by Ord. 93-16, 11/23/93)

9.63.070 Public Nuisance.

Any nonconformity continuing beyond the date for abatement as established by this Chapter or as extended by the Planning Commission or City Council is a public nuisance. (Added by Ord. 93-16, 11/23/93)

9.63.080 Substitution of a Nonconforming Use.

Subject to Planning Commission approval of a Conditional Use Permit pursuant to Chapter 9.65, a nonconforming use may be replaced by another nonconforming use, provided that such substitute use is less detrimental to the public welfare and to the property of persons located in the vicinity thereof than is the original conforming use. Any such change of use shall not extend the termination date established for the original nonconforming use. (Added by Ord. 93-16, 11/23/93)

9.63.090 Termination—Violation of Law.

Any of the following violations of the Municipal Code shall immediately terminate the right to operate a nonconformity, except as otherwise provided in this Chapter

- (a) Changing a nonconforming use to a use not permitted in the zoning district;
- (b) Increasing or enlarging the area, space or volume occupied by or devoted to a nonconformity;
- (c) The addition to a nonconforming use of another use not permitted in the zoning district.

(Added by Ord. 93-16, 11/23/93)

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Chapter 9.65

CONDITIONAL USE PERMITS

Sections:

- 9.65.010 Intent and Purpose.**
- 9.65.020 Authority of Planning Commission.**
- 9.65.030 Procedural Requirements.**
- 9.65.040 Minor Conditional Use Permits.**
- 9.65.050 Notice.**
- 9.65.060 Basis for Approval, Conditional Approval, or Denial of a Conditional Use Permit.**
- 9.65.070 Notice of Action Taken.**
- 9.65.080 Effective Date.**
- 9.65.090 Continuing Validity.**
- 9.65.100 Performance of Imposed Conditions.**
- 9.65.110 Expiration and Extension of a Conditional Use Permit.**
- 9.65.120 Termination of a Conditional Use Permit.**
- 9.65.130 Maintenance of a Nuisance Prohibited.**

9.65.010 Intent and Purpose.

The intent and purpose of this Chapter is to recognize that certain uses, although suitable for inclusion in the list of uses allowable in a zoning district, are not always appropriate in every location and circumstance, due to their particular characteristics, nature, intensity or size. Uses requiring a Conditional Use Permit are considered to have a moderate to high potential for adverse impacts to the subject site or surrounding community due to their nature of the use or its operational characteristics.

This Chapter establishes the procedures, findings and enforcement measures for those uses listed as conditional uses in the individual zoning districts. The Conditional Use Permit process provides a means to evaluate such proposals to determine the compatibility of the proposed conditional use with surrounding uses at the given location and to establish appropriate controls and/or design features to ensure compatibility. (Added by Ord. 93-16, 11/23/93)

9.65.020 Authority of Planning Commission.

The Planning Commission shall have the authority to approve, conditionally approve, or deny an application for a Conditional Use Permit (Added by Ord. 93-16, 11/23/93)

9.65.030 Procedural Requirements.

Uses, programs or development standard modifications with a relatively moderate potential for adverse impacts are considered minor Conditional Use Permits. Uses with a relatively high potential for adverse impacts are considered major Conditional Use Permits.

Major Conditional Use Permits shall be processed in accordance with Section 9.61.040. Minor Conditional Use Permits shall be processed in accordance with Section 9.65.040. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.65.040 Minor Conditional Use Permits.

- (a) Applications for minor Conditional Use Permits are restricted to the following requests:
 - (1) Shared parking programs.
 - (2) Beer/wine/liquor licenses.
 - (3) Live Entertainment Uses.
 - (4) Animal permits pursuant to Section 9.07.190.
 - (5) Modifications to certain development standards as may be specified by this Code.
 - (6) Other modifications which, in the determination of the Director of Community Development, have a moderate potential for adverse impacts to the subject site and the surrounding community.
- (b) The submittals required for a minor Conditional Use Permit application shall be the same as those required in Section 9.61.040(e).
- (c) Decisions on minor Conditional Use Permit applications shall be made administratively by the Director of Community Development. The Director shall include a determination of findings and appropriate conditions in the decision. The basis for approval, conditional approval, or denial of a minor Conditional Use Permit shall be as specified in Section 9.65.060.
- (d) Subject to a determination by the Director of Community Development a minor Conditional Use Permit application may be placed on the Planning Commission agenda for review.
- (e) Subject to a determination by the Director of Community Development the noticing requirements for a minor Conditional Use Permit may be reduced from the standard five hundred (500) foot radius requirement to a notification of adjacent property owners only.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.65.050 Notice.

Notice for a public hearing to consider a Conditional Use Permit shall be provided pursuant to Section 9.61.050. (Added by Ord. 93-16, 11/23/93)

9.65.060 Basis for Approval, Conditional Approval, or Denial of a Conditional Use Permit

- (a) The Planning Commission shall consider applications for a Conditional Use Permit and may, with such conditions as are found necessary, approve the use, provided the use will not jeopardize, adversely affect endanger, or otherwise constitute a menace to the public health, safety, or general welfare, or be materially detrimental to the property of other persons located in the vicinity of such use.
- (b) In making such determination, the Planning Commission, or City Council on appeal, shall make the following findings:
 - (1) That the proposed conditional use is consistent with the General Plan.
 - (2) That the nature, condition, and development of adjacent uses, buildings, and structures have been considered, and the proposed conditional use will not adversely affect or be materially detrimental to the adjacent uses, buildings, or structures.
 - (3) That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping, and other land use development features prescribed in this Code and required by the Commission or Council in order to integrate the use with existing and planned uses in the vicinity.
- (c) Conditions imposed by the Planning Commission for a conditional use may involve any pertinent factors affecting the establishment, operation, or maintenance of the requested use, including, but not limited to:
 - (1) Open space and buffer areas.
 - (2) Fences and walls.
 - (3) Parking facilities, including vehicular ingress and egress, and the surfacing of parking areas and driveways.
 - (4) Public facilities, dedications and improvements.
 - (5) Landscaping and maintenance.
 - (6) Regulation of nuisance factors associated with the particular use and situation.
 - (7) Regulation of operating hours or activities.
 - (8) Additional regulation of signs or advertisement

- (9) A specified time period within which development or use must begin and end.
 - (10) Provisions for surety that the conditional use will be removed on or before a specified date or under specific situations.
 - (11) A specific expiration date for the Conditional Use Permit
 - (12) Provision of appropriate pedestrian amenities.
 - (13) Screening and proper orientation of objectionable elements of the use.
 - (14) Aesthetic treatments as necessary to integrate the use into the surrounding community.
 - (15) Any other conditions deemed necessary to provide for the orderly and efficient development or operation of the conditional use in accordance with the goals and policies of the General Plan.
- (d) The Planning Commission shall deny the requested Conditional Use Permit where the evidence indicates:
- (1) That the requested use will be detrimental to, or incompatible with, the property located in the vicinity or will pose a threat to the public health, safety, or general welfare; and
 - (2) That there are no reasonable restrictions or conditions which could be imposed that would permit the establishment of the proposed use in a manner that would prevent the detriment, incompatible or threatening conditions.

(Added by Ord. 93-16, 11/23/93)

9.65.070 Notice of Action Taken.

Notice of the Planning Commission's decision shall be filed with the City Clerk not more than fifteen (15) days following the Commission's decision, and a copy of the decision shall be sent to the applicant by certified mail, return receipt requested. (Added by Ord. 93-16, 11/23/93)

9.65.080 Effective Date.

An order by the Planning Commission granting or denying a major or minor Conditional Use Permit shall become effective immediately. (Added by Ord. 93-16, 11/23/93)

9.65.090 Continuing Validity.

A major Conditional Use Permit or minor Conditional Use Permit that is valid and in effect and granted pursuant to the provisions of this Code shall run with the land and shall continue to be valid upon change of ownership of the land or any lawfully existing building or structure on the land unless a time limitation for the permit is specified as a condition of approval. (Added by Ord. 93-16, 11/23/93)

9.65.100 Performance of Imposed Conditions.

Whenever a major Conditional Use Permit or minor Conditional Use Permit is granted or modified and is subject to one (1) or more conditions, the Planning Commission may require that the applicant to whom the permit was granted file with the City a surety bond, a corporate surety bond, a deposit of money, savings and loan certificates, or other surety in an amount prescribed for the purpose of guaranteeing the faithful performance of the condition(s). Any such deposits or guarantees shall be subject to and in compliance with the provisions and conditions of the Municipal Code of the City. The applicant shall also record the granting of the major or minor Conditional Use Permit and its conditions with the County Recorder and shall provide proof of that recordation to the Director of Community Development (Added by Ord. 93-16, 11/23/93)

9.65.110 Expiration and Extension of a Conditional Use Permit

The expiration and extension of any minor or major Conditional Use Permit shall be in accordance with the limitations and procedures specified in Section 9.61.130. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.65.120 Termination of a Conditional Use Permit

- (a) A major or minor Conditional Use Permit shall be subject to revocation or modification as described in Section 9.61.120.
- (b) A major or minor Conditional Use Permit shall cease to be of any force or effect if the use, development improvement or operation has ceased for any consecutive period of six (6) months.

(Added by Ord. 93-16, 11/23/93)

9.65.130 Maintenance of a Nuisance Prohibited.

Neither the provisions of this Code nor the granting of any major or minor Conditional Use Permit authorizes or legalizes the maintenance of a nuisance. (Added by Ord. 93-16, 11/23/93)

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VARIANCES

- 9.67.010 Intent and Purpose.**
- 9.67.020 Authority of Planning Commission.**
- 9.67.030 Procedural Requirements.**
- 9.67.040 Notice.**
- 9.67.050 Basis for Approval, Conditional Approval, or Denial of a Variance.**
- 9.67.060 Notice of Action Taken.**
- 9.67.070 Effective Date.**
- 9.67.080 Continuing Validity.**
- 9.67.090 Performance of Imposed Conditions.**
- 9.67.100 Expiration and Extension of a Variance.**
- 9.67.110 Termination of a Variance.**
- 9.67.120 Maintenance of a Nuisance Prohibited.**

9.67.010 Intent and Purpose.

The intent and purpose of this Chapter is to provide the City with a procedure to permit appropriately mitigated developments on property which is constrained, because of size, shape, topography, or other constraining factors, and where strict interpretation of the Code would deny the applicant property development rights which are granted to other properties within the same zoning district under similar physical conditions. (Added by Ord. 93-16, 11/23/93)

9.67.020 Authority of Planning Commission.

The Planning Commission shall have the authority to approve, conditionally approve, or deny an application for a Variance. (Added by Ord. 93-16, 11/23/93)

9.67.030 Procedural Requirements.

An application for a Variance shall be processed in accordance with Section 9.61.040. (Added by Ord. 93-16, 11/23/93)

9.67.040 Notice.

Notice of a public hearing to consider a Variance shall be provided pursuant to Section 9.61.050. (Added by Ord. 93-16, 11/23/93)

9.67.050 Basis for Approval, Conditional Approval, or Denial of a Variance.

- (a) The Planning Commission may grant a Variance, with such conditions as are found necessary to protect the public health, safety, and general welfare and assure compliance with the provisions and standards included in this Code, provided the following findings can be made:

- (1) That the strict or literal interpretation and enforcement of the specified regulation(s) would result in practical difficulty or unnecessary physical hardships inconsistent with the objectives of this Chapter; and
- (2) That there are exceptional or extraordinary circumstances or conditions applicable to the subject property or to the intended use of the property which do not apply generally to other properties in the same zoning district; and
- (3) That the strict or literal interpretation and enforcement of the specified regulation(s) would deprive the applicant of privileges enjoyed by the owners of other properties in the same zoning district with similar constraints; and
- (4) That the granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the same zoning district with similar constraints; and
- (5) That the Variance request is made on the basis of a hardship condition and not as a matter of convenience; and
- (6) That the granting of the Variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity;
- (7) That the Variance approval places suitable conditions on the property to protect surrounding properties and does not permit uses which are not otherwise allowed in the zone;
- (8) For a Variance to regulations for off-street parking facilities or off-street loading facilities, the following additional findings shall be made:
 - (A) That neither the present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require the strict or literal interpretation and enforcement of the specified regulation(s).
 - (B) That the granting of the Variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets.
 - (C) That the granting of the Variance will not create a safety hazard or any other condition inconsistent with the objectives of this Chapter.

- (9) That granting of the Variance would not result in adverse impacts, either individually or cumulatively, to coastal access, public recreation opportunities, or coastal resources, and the development would be consistent with the policies of the Local Coastal Program certified land use plan.
- (b) Conditions imposed by the Planning Commission for a Variance may involve any pertinent factors affecting the establishment, operation, or maintenance of the requested use, including, but not limited to:
 - (1) Open spaces and buffer areas.
 - (2) Fences and walls.
 - (3) Parking facilities, including vehicular ingress and egress, and the surfacing of parking areas and driveways.
 - (4) Public facilities, dedications, and improvements.
 - (5) Landscaping maintenance.
 - (6) A specified time period within which the variance must be utilized or implemented.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.67.060 Notice of Action Taken.

Notice of the Planning Commission's decision shall be filed with the City Clerk not more than 15 days following the Commission's decision, and a copy of the decision shall be sent to the applicant by certified mail, return receipt requested. (Added by Ord. 93-16, 11/23/93)

9.67.070 Effective Date.

A decision by the Planning Commission granting or denying a Variance shall become effective immediately, subject to the appeal procedures set forth in Section 9.61.110. (Added by Ord. 93-16, 11/23/93)

9.67.080 Continuing Validity.

A Variance that is valid and in effect and granted pursuant to the provisions of this Code shall run with the land and shall continue to be valid upon change of ownership of the land or any lawfully existing building or structure on the land. (Added by Ord. 93-16, 11/23/93)

9.67.090 Performance of Imposed Conditions.

Whenever a Variance is granted or modified and is subject to one or more conditions, the Commission may require that the applicant to whom the Variance was granted file with the City a surety bond, a corporate surety bond, a deposit of money, savings and loan certificates, or other surety in an amount prescribed for the purpose of guaranteeing the faithful performance of the conditions. Any such deposits or guarantees shall be subject to and in compliance with the provisions and conditions of the Municipal Code of the City. (Added by Ord. 93-16, 11/23/93)

9.67.100 Expiration and Extension of a Variance.

The expiration and extensions of any Variance shall be in accordance with the limitations and procedures specified in Section 9.61.130.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.67.110 Termination of a Variance.

A Variance shall be subject to revocation or modification as described in Section 9.61.120. (Added by Ord. 93-16, 11/23/93)

9.67.120 Maintenance of a Nuisance Prohibited.

Neither the provisions of this Code nor the granting of any Variance authorizes or legalizes the maintenance of a nuisance, either public or private. (Added by Ord. 93-16, 11/23/93)

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Chapter 9.69

COASTAL DEVELOPMENT PERMIT

Sections:

- 9.69.010 Intent and Purpose.**
- 9.69.020 Coastal Development Permit Required.**
- 9.69.030 Authority to Grant Permit.**
- 9.69.040 Exemptions.**
- 9.69.050 Application for Coastal Development Permit**
- 9.69.060 Notice and Public Hearing.**
- 9.69.070 Basis for Action on Coastal Development Permit Applications.**
- 9.69.080 Decision by the Director of Community Development or Planning Commission.**
- 9.69.090 Appeals to the Coastal Commission.**
- 9.69.100 Notice of Final Action to Coastal Commission.**
- 9.69.110 Administrative Coastal Development Permit.**
- 9.69.120 Expiration of Coastal Development Permits.**
- 9.69.130 Amendments to Coastal Development Permits.**
- 9.69.140 Extension of Time.**
- 9.69.150 Emergency Permits.**
- 9.69.160 De Minimis Project Waivers from Coastal Development Permit Requirements.**
- 9.69.170 Enforcement**
- 9.69.180 Format and Content of Coastal Development Permits.**

9.69.010 Intent and Purpose.

The intent and purpose of this Chapter is to establish procedures for the processing of Coastal Development Permits within the City's Coastal Zone, consistent with the City's certified Local Coastal Program and pursuant to Division 20 of the Public Resources Code and Division 5.5 of Title 14 of the California Code of Regulations (commencing with Section 13001).

The procedures established by this Chapter shall govern the issuance of coastal development permits by the City of Dana Point pursuant to Section 30600 of the Coastal Act.

The procedures described in this Chapter shall take precedence over other Chapters of the Zoning Code in the coastal zone, except in those areas regulated by the Dana Point Specific Plan/Local Coastal Program. The existing certified Dana Point Specific Plan/Local Coastal Program remains in effect in those areas covered by the Dana Point Specific Plan/Local Coastal Program for local coastal program purposes. The procedures in this Chapter shall be applied in a manner which is most protective of coastal resources

and public access. (Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

9.69.020 Coastal Development Permit Required.

A Coastal Development Permit shall be required for all development, as defined in Section 9.75.040, located within the Coastal Overlay District, except for development specifically exempted pursuant to Section 9.69.040. Coastal Development Permits may be required for development which does not require any other approvals, discretionary or otherwise, from the City. A Coastal Development Permit shall also be required for any proposed development in the area of "Coastal Commission Permit Jurisdiction" as delineated on the Dana Point Local Coastal Program Post Certification Permit and Appeal Jurisdiction Map, filed with the City, or as subsequently amended, in which case the coastal development permit shall be obtained directly from the California Coastal Commission. (Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.69.030 Authority to Grant Permit.

All development undertaken after November 8, 1972, within the coastal zone as defined in the Coastal Initiative of 1972, or after January 1, 1977, within the coastal zone as defined by the Coastal Act of 1976, shall have a valid coastal development permit issued by the California Coastal Commission or by the City pursuant to provisions of the certified Local Coastal Program. (Coastal Act/30600(a)).

- (a) The Director of Community Development shall have the authority to approve, conditionally approve, or deny coastal development permits without a public hearing for the following types of administrative coastal development permit applications for development not located in uncertified areas or in the "Coastal Commission Permit Jurisdiction" area (Pursuant to Section 30519 of the Coastal Act and Section 9.69.030(c) of this Zoning Code) or in the appeals area (Pursuant to Section 30603(a) of the Coastal Act and as defined in Section of this Zoning Code):
 - (1) Applications or a modification to an application for individual single family residences which are not located within the appeals area of the Coastal Overlay District.
 - (2) Applications or a modification to an application for improvements to existing structures which are not located within the appeals areas of the Coastal Overlay District.
 - (3) Applications for any development, not located within the appeals area of the Coastal Overlay District, which is not a division of land and is specifically authorized as a principal permitted use in the certified local coastal program and does not require a conditional use permit, site development permit, variance, or any other discretionary permit.

- (4) Applications for any other development not in excess of one hundred thousand dollars (\$100,000).

All decisions of the Director of Community Development are subject to appeal, as described in Section 9.69.090, to the Planning Commission within ten (10) days of the decision. The Director of Community Development may refer any application for a Coastal Development Permit to the Planning Commission for consideration.

- (5) Notwithstanding the specific uses listed in Sections 9.69.030(a)(1) through 9.69.030(a)(4) above, administrative coastal development permits shall not be processed for any of the following types of development, which shall instead be processed through the regular coastal development permit process as specified in this Chapter:

- (A) Any division of land, including but not limited to subdivision pursuant to the Subdivision Map Act, lots splits and lot-line adjustments.
- (B) Any development involving a structure or similar integrated physical construction which lies partly inside and partly outside the Coastal Commission's appeal area.
- (C) Any development involving a structure or similar integrated physical construction which lies partly inside and partly outside the Coastal Commission's area of retained permit jurisdiction.

The Director of Community Development shall process applications for administrative coastal development permits in accordance with the procedures set forth in Section 9.69.110 of this Zoning Code. If the Director of Community Development receives an application for an administrative coastal development permit, and if the Director of Community Development finds that the application does not qualify as such within the criteria established in Sections 9.69.030(a)(1) through 9.69.030(a)(4) above, she or he shall notify the applicant that the permit application cannot be processed administratively and must comply with the procedures for regular coastal development permits provided in this Chapter. The Director of Community Development, with the concurrence of the applicant, may accept the application for filing as a regular coastal development permit and shall adjust the application fees accordingly.

- (b) The Planning Commission shall have the authority to approve, conditionally approve, or deny Coastal Development Permits for the following types of coastal development permit applications not located in uncertified areas or in the "Coastal Commission Permit Jurisdiction" area.

- (1) Applications or a modification to an application for an individual single family residence located within the appeals area of the Coastal Overlay District.
- (2) Applications or a modification to an application for more than one single family residence or multiple family residences located within the Coastal Overlay District
- (3) Applications or a modification to an application for non-residential structures located within the Coastal Overlay District which do not fall into one of the classes of development specified in Sections 9.69.030(a)(1) through 9.69.030(a)(4) above.

All decisions of the Planning Commission are subject to appeal, as described in Section 9.69.090, to the City Council within ten (10) days of the decision. The Planning Commission may refer any application for a Coastal Development Permit to the City Council for a final decision.

- (c) The Coastal Commission retains the authority to approve, conditionally approve, or deny Coastal Development Permits for development proposed in uncertified areas of the City of Dana Point, and in the “Coastal Commission Permit Jurisdiction” area delineated on the Dana Point Local Coastal Program Post Certification Permit and Appeal Jurisdiction Map prepared by the Coastal Commission and a copy of which is filed with the City, or as subsequently amended. The areas of Coastal Commission Permit Jurisdiction includes all tidelands, submerged lands, and public trust lands, whether filled or unfilled within the coastal zone. (Coastal Act/30519(b)).

However, coastal development permit authority has been delegated to the City for certain public trust lands that have been determined by the Coastal Commission to be filled and developed and which are located within an area which is committed to urban uses. Coastal development permits issued by the City in these areas are appealable to the Coastal Commission. (Coastal Act/30613(a)).

- (1) Where a proposed development lies partially within the area of “Coastal Commission Permit Jurisdiction” and partially within the Coastal Overlay District, and the development is physically integrated, the Coastal Commission shall be the responsible agency for the issuance of any Coastal Development Permit for the entire development. That portion of the development that lies within the Coastal Overlay District shall be deemed to be within an area of deferred certification and the Commission shall approve a coastal development permit if the entire development is consistent with the policies of Chapter 3 of the Coastal Act. In addition, the Coastal Commission has the authority to approve, conditionally approve, or deny coastal development permits for developments approved by the City but which have been appealed to the Coastal Commission consistent with the requirements of this Zoning Code. Where an appealed development is a physically integrated

development that lies both within and without the appeals area shown on the Post Certification Permit and Appeal Jurisdiction Map, the Coastal Commission shall have the authority to act on the entire development on appeal. (Coastal Act/30519, 30603).

- (2) The following shall apply to all proposed development in the uncertified Laguna Niguel/Monarch Beach segment of the City of Dana Point for which approval of a coastal development permit application is pending at the time of certification of this Local Coastal Program:

- (A) Applications Pending before the California Coastal Commission.

1. Any coastal development permit application for development in an uncertified area that was submitted to the Coastal Commission prior to effective certification of a Local Coastal Program and is not filed complete as of the date of effective certification shall be withdrawn and resubmitted to the City. The standard of review for such application shall be the requirements of the certified Local Coastal Program and, for development between the sea and the first public road paralleling the sea, the Chapter 3 public access and recreation policies of the Coastal Act. Any application fee paid to the Coastal Commission shall be refunded to the applicant.
2. Any coastal development permit application for proposed development within the currently uncertified areas of the City which the City preliminarily approved before effective certification of the Local Coastal Program and for which an application has been filed complete with the Coastal Commission may, at the option of the applicant, remain with the Coastal Commission for completion of review and action. Coastal Commission review of any such application shall be based solely upon the requirements of this certified Local Coastal Program and, for development between the sea and the first public road paralleling the sea, the Chapter 3 public access and recreation policies of the Coastal Act. Alternatively, the applicant may resubmit the proposal to the City through an application for a coastal development permit pursuant to the requirements of this certified Local Coastal Program. The standard of review for such application shall be the requirements of this certified Local Coastal Program and, for development between the sea and the first public road paralleling the sea, the Chapter 3 public access and recreation policies of the Coastal Act Under this option, any application fee paid to the Coastal Commission shall be

refunded to the applicant. (Coastal Act/30501, (14 Cal. Code of Regulations/13546).

- (B) Applications Pending before the City of Dana Point. The standard of review for any coastal development permit application pending before the City of Dana Point for proposed development located within the certified areas of the City shall be the requirements of the certified Local Coastal Program. The requirements contained in an amendment to the certified Local Coastal Program shall not be effective in the certified area until the amendment has been effectively certified by the Coastal Commission.
- (3) Prior Coastal Commission Approval.
- (A) In the case of a coastal development permit which was approved by the Coastal Commission, whether or not it has been vested prior to the date of effective certification of the Local Coastal Program, a separate coastal development permit from the City for the same development shall not be required except that:
 - 1. No material change may be made in any such development previously approved by the Coastal Commission without Coastal Commission approval of an amendment to the Coastal Commission's coastal development permit; and
 - 2. If the coastal development permit approved by the Coastal Commission expires, a new coastal development permit for the same development shall be obtained from the City.
 - (B) Development authorized by a coastal development permit issued by the Coastal Commission either prior to effective certification of a Local Coastal Program or on appeal after certification remains under the jurisdiction of the Coastal Commission for the purposes of condition compliance, amendment, extension, reconsideration and revocation.
 - (C) Ritz Cove. The Coastal Commission approved Coastal Development Permit 5-85-94 for the subdivision of 101 residential lots, and the construction of a home on each of those lots, provided the homes are constructed in accordance with the adopted codes, covenants, and restrictions. Therefore, separate coastal development permits are not required for the construction of each of the individual 101 homes, since the construction of the homes is already approved under Coastal Development Permit 5-85-94.
 - (D) Coastal Development Permit P-79-5539. Development authorized by Coastal Development Permit P-79-5539, including both development approved on condition that an additional coastal development permit be

obtained, and development approved on condition of the submission of additional plans for the review and approval of the Executive Director of the Coastal Commission, remains under the jurisdiction of the Coastal Commission for purposes of condition compliance and amendment. Condition compliance includes both obtaining a coastal development permit from the Coastal Commission for development that was approved on condition that a separate coastal development permit be approved, and obtaining approval from the Executive Director of the Coastal Commission for plans for development that was approved on condition of the submission of final plans. Coastal development permits, or approval of plans by the Executive Director of the Coastal Commission, for development authorized by Coastal Development Permit P-79-5539 shall be obtained from the California Coastal Commission.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 95-11, 6/13/95; Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

9.69.040 Exemptions.

The types of development listed below are exempt from the requirement to obtain a Coastal Development Permit. A current record of all projects which are exempt from Coastal Development Permits shall be available for review by the public and shall be sent to the Coastal Commission and shall include the following information: name of applicant, location of the project, and brief description of the project.

- (a) Development projects included in any categorical exclusion list adopted pursuant to Sections 30610(e) and 30610.5 of the Public Resources Code and Subchapter 5 of Title 14 of the California Code of Regulations (Sections 13240 et. seq.) after certification of the Local Coastal Program.
- (b) Improvements to an existing structure which do not changed the use of the structure are exempt, except the types of improvements listed below, which are not exempt:

For purposes of this subsection, structures on the property normally associated with a single-family residence, such as garages, swimming pools, fences, and storage sheds, but not including guest houses or self-contained residential units, shall be considered part of an existing single-family residence. Further, for purposes of this subsection, landscaping on the lot, and all structures directly attached to the structure being subjected to improvements, shall be considered part of the subject structure, whether the existing structure is residential or not.

- (1) Improvements to any structure located on a beach, wetland, or seaward of the mean high tide line or where the structure or proposed improvement would encroach within fifty (50) feet of the edge of a coastal bluff as described in Chapters 9.27 and 9.75.

- (2) Improvements to any structure located between the sea and the first public road paralleling the sea or within three hundred (300) feet of the inland extent of a beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, or within significant scenic resources areas as designated by the certified Local Coastal Program or the Coastal Commission when such improvements would constitute or result in any of the following:
 - (A) An increase of ten percent (10%) or more of the internal floor area of the structure;
 - (B) An increase in the floor area in any amount when improvements to the structure have previously been exempted in compliance with this subsection;
 - (C) The construction of an additional story or a loft or any increase in height of more than ten (10) percent of the existing height of the structure (for single-family residential improvements, increases in the height of significant non-attached structures such as garages, fences, shoreline protective devices or docks are subject to this provision also);
 - (D) The construction, placement, or establishment of any detached structure; or
 - (E) The demolition of more than 50 percent of the exterior walls of an existing structure.
- (3) Any significant alteration of land forms including removal or placement of vegetation in the following areas; on a beach, wetland, or sand dune; in an area of natural vegetation designated by the City of Dana Point by resolution as significant natural habitat; within one hundred (100) feet or, for a single family dwelling, within fifty (50) feet of the edge of a coastal bluff, as described in Chapter 9.27; or, for structures other than single-family residences, within one hundred (100) feet of streams.
- (4) Expansion or construction of a water well or septic system.
- (5) Improvements in an area which the Coastal Commission has determined to have critically short water supply that must be maintained for the protection of coastal resources or public recreational use, when such improvement would be a major water using development (not essential to residential use if for a single-family or multiple-family residence) including, but not limited to, swimming pools or the construction or extension of landscape irrigation systems.

- (6) Any improvement when the Coastal Development Permit issued for the original structure indicated that future additions/improvements would require a Coastal Development Permit.
- (7) Improvements to any structure or change in occupancy which would result in a change in the intensity of the uses on the building site.
- (8) Improvements pursuant to a conversion of existing structures (other than single-family residences and their associated structures) from a multiple unit rental use or visitor serving commercial use to a condominium, stock cooperative, or time share project
- (9) Improvements made to a public works facility. (Coastal Act/30333, 30610(a) and 30610(b); 14 Cal. Code of Regulations/13250 and 13253).

The improvements listed above which are not exempt require a the coastal development permit in accordance with the requirements of this Chapter.

- (c) Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers, or to a disposal facility, area or site within the Coastal Zone for which an approved coastal development permit has been issued or for which a federal consistency determination has been approved by the Coastal Commission. However, Section 9.69.040(d)(2) of this Zoning Code below specifies certain types of dredging which are not exempt (Coastal Act/30333; 30610(c)).
- (d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of such repair or maintenance activities, except the following types of development which are not exempt:
 - (1) Repair or maintenance of a seawall, revetment, bluff retaining wall, breakwater, groin, culvert, outfall or similar shoreline work which involves one or more of the following;
 - (2) The placement, whether temporary or permanent, of rip rap, or artificial berms of sand, or any other form of solid material, on a beach or in coastal waters, streams, wetlands, estuaries, or on shoreline protective works.
 - (3) The replacement of twenty (20) percent or more of the materials of an existing structure with materials of a different kind.
 - (4) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area or bluff or within twenty (20) feet of coastal waters or streams.

- (5) Any method of routine maintenance dredging that involves;
 - (A) The dredging of one hundred thousand (100,000) cubic yards or more within a twelve (12) month period;
 - (B) The placement of dredged spoils of any quantity on any sand area, within fifty (50) feet of the edge of a coastal bluff as described in Chapter 9.27, within an environmentally sensitive habitat area, or within twenty (20) feet of coastal waters or streams;
 - (C) The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the Coastal Commission has declared by Resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use. (Coastal Act/30610(d); 14 Cal. Code of Regulations/13252(a)(2))
- (6) Any repair or maintenance to facilities or structures or work located in any sand area, within fifty (50) feet of the edge of a coastal bluff as described in Chapter 9.27, within fifty (50) feet of or in an environmentally sensitive habitat area; or within twenty (20) feet of any coastal waters or streams that include:
 - (A) The placement or removal, whether temporary or permanent, of riprap, rocks, sand or other beach materials or any other forms of solid materials;
 - (B) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sandy area.
- (7) Unless destroyed by natural disaster, the replacement of fifty (50) percent or more of a seawall, revetment, bluff retaining wall, breakwater, groin or similar protective work under one ownership is not repair and maintenance according to this subsection but instead constitutes a replacement structure requiring a coastal development permit (Coastal Act/30610(d); 14 Cal Code of Regulations/13252).
- (e) The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this Chapter. (Coastal Act/30610(f)).
- (f) The replacement of any structure, other than a public works facility, destroyed by natural disaster, provided such replacement structure conforms to applicable current zoning regulations; is designed and intended for the same use as the destroyed structure; does not exceed the floor area, height or bulk of the destroyed structure by more than ten (10) percent; and is sited in the same location on the same building site as the destroyed structure. As used in this subsection:

- (1) “Disaster” means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.
 - (2) “Bulk” means total interior cubic volume as measured from the exterior surface of the structure.
 - (3) “Structure” includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster. (Coastal Act/30610(g)).
- (g) Notwithstanding the above provisions, the Director of Community Development shall have the discretion to exempt the ongoing routine repair and maintenance activities of local governments, state agencies, and public utilities (such as railroads) involving shoreline works protecting transportation roadways, as well as the activities described in the “Repair, Maintenance, and Utility Hook-Up Exclusion from Permit Requirements” adopted by the Coastal Commission on September 5, 1978. (Coastal Act/30610(d); 14 Cal. Code of Regulations/13252(c)).
- (h) Interior modifications to an existing structure that do not result in the enlargement or expansion of the cubic area of the structure, except that a change in the intensity or density of use of the structure, or the reconstruction of fifty (50) percent or more of the exterior walls of the existing structure, is not exempt. Such modifications shall comply with the applicable sections of Chapter 8.06 of the Zoning Code and of this Chapter 9.69.
- (i) Notwithstanding the provisions of Chapter 9.39 “Temporary Uses,” temporary events consistent with guidelines adopted by the Coastal Commission may be exempt from coastal development permit requirements.
- (j) A coastal development permit is not required for any of the following projects, except that notification by the agency or public utility performing any of the following projects shall be made to the City within 14 days from the date of the commencement of the project:
- (1) Immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.
 - (2) Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire,

flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. This paragraph does not exempt any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide from the requirement to obtain a coastal development permit from the City.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 96-10, 8/13/96; Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

9.69.050 Application for Coastal Development Permit.

For all development proposed to be located within the Coastal Zone or Coastal Overlay District, an application for a Coastal Development Permit shall be made to the Director of Community Development in accordance with the following procedures, except in those areas designated as “Coastal Commission Permit Jurisdiction” in which case an application shall be made to the California Coastal Commission or its successor agency.

- (a) The application shall be made by the property owner of record, the owner’s authorized agent, or any person with a legal right, interest or other entitlement to use the property for the proposed development or said person’s authorized agent. A signed affidavit from the property owner of record may serve as proof of the legal right to use property for a proposed development. Prior to the issuance of a building permit, the applicant shall demonstrate the legal ability to comply with all conditions of approval of the coastal development permit. (Coastal Act/30601.5).
- (b) Application for a Coastal Development Permit shall be made on forms provided by the Community Development Department, and shall include, at a minimum, the following information:
 - (1) A location map showing the area to be developed in relation to nearby lots, streets, highways, any major natural features such as the ocean, beaches, wetlands, streams, and other major landforms.
 - (2) A site plan, drawn to scale, which is in sufficient detail to illustrate the compliance of the project with the certified Local Coastal Plan. The site plan shall, at a minimum, provide the following information:
 - (A) Site topography, including existing and proposed elevations.
 - (B) The location of existing and proposed buildings and structures.
 - (C) The lot lines and dimensions of the building site.

- (D) The location of existing and proposed circulation facilities, including streets, alleys and pedestrian accessways.
 - (E) The height, material and location of existing and proposed walls.
 - (F) Existing and proposed off-street parking.
 - (G) Tabulations of lot area, proposed gross floor area and proposed lot coverage.
- (3) Where the application includes proposed construction, the application shall also include the submittal of the following additional information:
- (A) Building elevations with dimensions to indicate the proposed finished floor levels and building height.
 - (B) Proposed building setbacks.
 - (C) A landscape plan.
 - (D) Site Development Permit application and certifications for properties located in a Floodplain Zone.
- (4) Where the application includes proposed demolition, the application shall also include the submittal of the following:
- (A) A description of the existing structure(s), including but not limited to building height, enclosed and non-enclosed floor area, number of stories, and number of parking spaces.
 - (B) Building plans of the existing structure(s), if available.
- (5) A dated signature by or on behalf of each of the applicants, attesting to the truth, completeness and accuracy of the contents of the application and, if the signer of the application is not the applicant, written evidence that the signer is authorized to act as the applicant's representative and to bind the applicant in all matters concerning the application.
- (6) A declaration signed by the applicant certifying that the applicant has posted a notice of the coastal development permit application in accordance with Section 9.69.090(a), and that the applicant will make a good faith effort to maintain, and replace if necessary, the posting until the application has been acted on by the City.
- (7) The following additional, current information (which may be in both written and graphic form), specific to the subject site, shall be required if applicable. In addition, plans to mitigate adverse impacts, plans to monitor the mitigation, and an alternatives analysis shall be required where applicable.

- (A) For sites adjacent to, containing, or potentially containing wetland resources and/or environmentally sensitive habitat areas, a wetlands determination, biological assessment shall be required. Evaluations of the proposed development's impact on the wetland resources shall be sought from appropriate state and federal resources agencies, including but not limited to the California Department of Fish and Game, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service.
- (B) For sites adjacent to, containing or potentially containing cultural resources, an archaeological and/or paleontological survey prepared by a licensed archaeologist/paleontologist shall be required.
- (C) For sites adjacent to, containing or potentially containing areas of geologic instability, a geotechnical report prepared by a licensed geologic engineer shall be required.
- (D) For proposed shoreline protective devices, a study on the effects to shoreline sand supply resulting from the device, impacts to public access/recreation and sensitive habitat, effects on adjacent properties, and justification of the necessity for the proposed device, monitoring plans, and the factors described in Section 9.27.030(a)(5)(B)2. of this Zoning Code, prepared by a licensed coastal engineer shall be required.
- (E) For proposed development which would provide less parking than required in Chapter 9.35 of this Zoning Code, either a joint use parking plan prepared pursuant to Section 9.35.060(c)(3) or a shared parking program prepared pursuant to Section 9.35.060(c)(4) of this Zoning Code.
- (F) For proposed development which would result in significant adverse impacts to public views, a visual impact study prepared pursuant to the requirements of the Urban Design Element of the General Plan.
- (G) For proposed development which would result in water quality impacts, a plan shall be submitted to meet state and federal requirements regarding water quality. Such a plan should include, at a minimum, the following: structural and non-structural "best management practices", stormwater pollution prevention plans, drainage plans, and direction of runoff to the sewer system where possible rather than into storm drains which ultimately empty into rivers or the ocean.
- (H) A plan to mitigate any unavoidable significant adverse impacts to any of the above coastal resources which reasonably would be known to result from the proposed development shall be submitted.

- (8) A written description of the proposed development including any feasible alternatives or any feasible mitigation measures available which would substantially lessen any significant adverse impact which the development may have on the environment Any approved documents prepared pursuant to the California Environmental Quality Act (commencing with Section 21000 of the Public Resources Code as amended) shall be submitted. Additional environmental impact analysis may be required to make the necessary findings required by the certified Local Coastal Program. For purposes of this subsection, the term “significant adverse impact on the environment” shall be defined as contained in the California Environmental Quality Act and the Guidelines adopted pursuant thereto.
 - (9) Any additional information determined by the Director of Community Development to be necessary for evaluation of the proposed development.
 - (10) The application form shall also provide notice to applicants that failure to provide truthful and accurate information necessary to review the permit application or to provide public notice as required by these regulations may result in a delay in processing the application or may constitute grounds for revocation of the coastal development permit. (Coastal Act/30333; 14 Cal. Code of Regulations/13053.5, 13054(b)).
- (c) Prior to, or concurrently with the filing of the application, the applicant shall pay to the City a fee or deposit equal to the estimated cost of processing said application. The fee or deposit may be adjusted periodically by the City Council by resolution.
- (d) Determination of Class of Development/Appeal Jurisdiction.
- (1) At the time an application for a proposed development in the coastal zone is submitted, the Director of Community Development (or his/her designee) shall determine and inform the applicant that the proposed development is one of the following:
 - (A) Within the area of “Coastal Commission Permit Jurisdiction” and thus the applicant must obtain a coastal development permit directly from the Coastal Commission;
 - (B) Appealable to the Coastal Commission pursuant to Section 9.61.100(d)(2) and requires a coastal development permit from the City;
 - (C) Not appealable to the Coastal Commission pursuant to Section 9.61.100(d)(2) and requires a coastal development permit from the City;

- (D) Exempt or categorically excluded and does not require a coastal development permit pursuant to Section 9.69.040 of this Zoning Code.
- (2) The determination that a proposed development is exempt, categorically excluded, non-appealable or appealable shall be based on the certified Local Coastal Program, including any maps, categorical exclusions, land use designations, and zoning ordinances which are adopted as part of the certified Local Coastal Program.
- (3) Where an applicant, interested person, or the City of Dana Point has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is exempt, categorically excluded, non-appealable, or appealable:
 - (A) The Director of Community Development shall make the determination as to what type of development is being proposed (Le. exempt, categorically excluded, non-appealable, or appealable) and shall inform the applicant of the notice and hearing requirements for that particular development.
 - (B) If the determination of the Director of Community Development is challenged by the applicant or an interested person, or if the City of Dana Point wishes to have a Coastal Commission determination as to the appropriate designation, the City shall notify the Coastal Commission by telephone of the dispute/question and shall request an Executive Director's opinion;
 - (C) The Executive Director shall, within two (2) working days of receipt of the City's request (or upon completion of a site inspection where such inspection is warranted), transmit his or her determination as to whether the development is categorically excluded, non-appealable or appealable;
 - (D) If the Executive Director's determination is not in accordance with the determination of the Director of Community Development, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation for the development. The Coastal Commission shall schedule the hearing on the determination for the next Coastal Commission meeting in Southern California following the Executive Director's determination. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13569).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.69.060 Notice and Public Hearing.

For coastal development permit applications requiring a public hearing, the Planning Commission, City Council on appeal, other approving body as may be specified pursuant to Section 9.69.030, or Director of Community Development shall conduct a noticed public hearing in accordance with the provisions of Section 9.61.050. If any of the notice and public hearing requirements of Section 9.69.060 conflict with the requirements of Section 9.61.050, the requirements of Section 9.69.060 shall take precedence for purposes of coastal development permit applications.

- (a) **Posting of Site.** At the time the application is submitted for filing, the applicant must post, at a conspicuous place, easily read by the public and as close as possible to the site of the proposed development, notice that an application for a permit for the proposed development has been submitted to the City of Dana Point. Such notice shall contain a general description of the nature of the proposed development. The City shall furnish the applicant with a standardize form to be used for such posting. If the applicant fails to submit a signed declaration of posting as required by Section 9.69.050(6), the City shall refuse to file the application.
- (b) **Conduct of Public Hearing.** Public hearings on coastal development permits shall be conducted in accordance with the provisions of Section 9.61.050; provided that interested persons are given a reasonable opportunity to appear before and present their viewpoints to the approving authority holding the public hearing, either orally or in writing. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13566).
- (c) **Notice of City Action when Hearing Continued.** If a decision on a development permit is continued by the local government to a time which is neither previously stated in the notice provided pursuant to Section 9.61.050 of this Zoning Code, nor announced at the public hearing as being continued to a time certain, the City of Dana Point shall provide notice of the further hearings (or action on the proposed development) in the same manner, and within the same time limits, as established within Section 9.61.050 of this Zoning Code. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13567).
- (d) A public hearing is not required for the coastal development permits issued by the Director of Community Development pursuant to Section 9.69.030(a).
- (e) **Waiver of Public Hearing Requirements.**
 - (1) The requirement for a public hearing on a coastal development permit application for “minor development” as defined in Section 9.69.060(e)(2) below, may be waived only if both of the following occur. A Notice of intent to waive the public hearing requirement containing the information identified below in Section 9.69.060(e)(3) is provided to all persons who would otherwise be required to be notified of a public hearing pursuant to Section 9.61.50 and 9.69.060 of this Zoning Code as well as any other

persons known to be interested in receiving such notice. For purposes of this section only, “any person” means anyone, whether a neighbor or not.

- (A) No written request for a public hearing on the coastal development permit application in question is received by the Director of Community Development within fifteen (15) working days from the date of sending the notice pursuant to Section 9.69.060(e)(1)(A) above.
- (2) For purposes of this section only, “minor development” means a development which both meets the definition of “development” as defined in Section 9.75.040 of this Zoning Code and which the Director of Community Development determines satisfies all of the following requirements:
- (A) Is consistent with the certified local coastal program as defined in Chapter 9.75 of this Zoning Code, including but not limited to the land use designation for the site and all applicable land use plan resource protection policies and related implementing Zoning Code provisions and standards;
 - (B) Requires no discretionary approvals other than a coastal development permit; and
 - (C) Has no adverse effect either individually or cumulatively (as “cumulatively” is defined in Section 9.75.030 of this Zoning Code) on coastal resources or public access to the shoreline or along the coast.
- (3) Content of Notice for Waiver of Public Hearing Requirements. The notice of intent to waive public hearing requirements for a coastal development permit pursuant to this section shall include, at a minimum, the following:
- (A) The date of the notice.
 - (B) An indication that the coastal development permit either is or is not appealable to the Coastal Commission pursuant to Section 9.69.090 of this Zoning Code.
 - (C) The last date, which shall be no less than fifteen (15) working days from the date of the notice, to submit a written request for a public hearing.
 - (D) The date the coastal development permit may be granted alter the fifteen (15) working day notice period, if a public hearing is not requested in writing within the fifteen (15) working day notice period.
 - (E) The last date to submit written comments other than a request for a public hearing.

- (F) A statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal to the Coastal Commission any action taken by the Planning Commission on a coastal development permit application which is appealable to the Coastal Commission.
- (G) All other information required in a hearing notice pursuant to Section 9.61.050 of this Zoning Code.
- (4) If a written request for a public hearing on the subject coastal development permit application is received during the fifteen (15) working day notice period, a noticed public hearing pursuant to Chapters 9.61 and 9.69 of this Zoning Code shall be conducted.
- (5) All findings required pursuant to Section 9.69.050 of this Zoning Code shall be made for any coastal development permit application approved through Section 9.69.060(e).
- (6) A Notice of Final Action pursuant to Section 9.69.100 of this Zoning Code shall be distributed for any coastal development permit application approved through Section 9.69.060(d). (Coastal Act/30624.9).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.69.070 Basis for Action on Coastal Development Permit Applications.

Approval, conditional approval, or denial of any Coastal Development Permit by the City of Dana Point or the Coastal Commission on appeal shall be based upon compliance with the provisions of the certified Dana Point Local Coastal Program and, for development between the sea and the first public road paralleling the sea, the public access and recreation policies of Chapter 3 of the Coastal Act.

- (a) Approvals of Coastal Development Permits. In order for a Coastal Development Permit to be approved, all the following findings must be made, in writing, in addition to the findings required to approve other applications being considered concurrently:
 - (1) That the proposed development is in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code. (Coastal Act/30333, 30604(b); 14 Cal. Code of Regulations/13096).
 - (2) That the proposed development, if located between the nearest public roadway and the sea or shoreline of any body of water, is in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act. (Coastal Act/30333, 30604(c); 14 Cal. Code of Regulations/13096).

- (3) That the proposed development conforms with Public Resources Code Section 21000 and following and that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment. (Coastal Act/30333; 14 Cal. Code of Regulations/13096).
- (b) Denials of Coastal Development Permits. In order for a Coastal Development Permit to be denied, all the following findings must be made, in writing, in addition to the findings required to deny other applications being considered concurrently:
 - (1) That the proposed development is not in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code. (Coastal Act/30333, 30604(b); 14 Cal. Code of Regulations/13096).
 - (2) That the proposed development, if located between the nearest public roadway and the sea or shoreline of any body of water, is not in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act (Coastal Act/30333, 30604(c); 14 Cal. Code of Regulations/13096).
- (c) Additional findings for public access are found in Section 9.27.030(a) of the Zoning Code.
- (d) That the proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources.
- (e) That the proposed development will minimize the alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards.
- (f) That the proposed development will be visually compatible with the character of surrounding areas, and, where feasible, will restore and enhance visual quality in visually degraded areas.
- (g) That the proposed development will conform with the General Plan, Zoning Code, applicable Specific Plan, Local Coastal Program, or any other applicable adopted plans and programs.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.69.080 Decision by the Director of Community Development or Planning Commission.

- (a) A copy of the notice of decision shall be filed with the City Clerk. If the decision on a coastal development permit application by the Director of Community Development is not appealed to the Planning Commission, or the decision of the Planning Commission on a coastal development permit application is not appealed to the City Council, in accordance with the appeal provisions of Section 9.61.100(a), then a Notice of Final Action shall be sent to the Executive Director of the Coastal Commission and any person requesting such notice in accordance with the provisions of Section 9.69.100 of this Chapter.
- (b) In approving an application for a Coastal Development Permit or other authorization for development, the Director of Community Development or Planning Commission (or City Council on appeal) may impose any conditions necessary to enable the required findings of fact to be fairly made and/or to be sustained in their validity. Such conditions may include, but need not be limited to, provision for public access and open space or conservation easements and the relocation and/or redesign of proposed site improvements. When conditions requiring the recordation of legal documents are imposed, notification of such action shall be submitted to the Executive Director of the Coastal Commission in accordance with the following:
 - (1) A copy of the coastal development permit conditions, findings of approval, and drafts of any legal documents proposed to implement the required conditions pertaining to public access and open space or conservation easements shall be forwarded to the Executive Director of the Coastal Commission for review and approval of such legal documents prior to the issuance of the Coastal Development Permit.

The Executive Director shall have fifteen (15) working days from the receipt of the documents to review:

- (A) The legal adequacy of the document(s) to carry out the purposes of the permit conditions or certified land use plan;
 - (B) The uniform application of the documents) with other documents required throughout the coastal zone; and
 - (C) The document's consistency with the requirements of potential participating agencies.
- (2) The Coastal Development Permit shall be issued fifteen (15) working days after the date of receipt of such documents by the Executive Director of the Coastal Commission, unless the Executive Director has notified the Director of Community Development within the fifteen (15) working days that any such legal documents are inadequate.

- (3) If the Executive Director has notified the Director of Community Development that the legal documents are inadequate, the Coastal Development Permit shall not be issued until the Director of Community Development has been notified by the Executive Director in writing that the inadequacies have been resolved to the satisfaction of the Executive Director.
- (4) The Coastal Development Permit shall not be issued to the applicant until the required documents have been recorded and verification of such recordation has been sent to, and receipt acknowledged by, the Executive Director.
- (5) Alternatively, only in the case of public access dedications/easements or dedications/easements for open space/conservation areas, the Director of Community Development may request that the Coastal Commission delegate, to the Director of Community Development, the authority to process the recordation of the necessary legal documents, subject to the following:
 - (A) The Director of Community Development identifies the City department, other public agency, or private or non-profit association that has the resources and authorization to accept, open, operate, and maintain the public accessways and/or open space/conservation areas required as a condition of approval of coastal development permits; and
 - (B) Upon completion of the recordation of the documents, the Director of Community Development shall forward a copy of the coastal development permit conditions and findings of approval and copies of the legal documents pertaining to the public access and open space/conservation conditions to the Executive Director of the Coastal Commission. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13574).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.69.090 Appeals to the Coastal Commission.

The final action by the City, as described in Section 9.69.100(a), on a coastal development permit which is appealable to the Commission as described in Section 9.69.090(b), may be appealed in accordance with the procedures described in this Section.

- (a) Exhaustion of Local Appeals. An appellant shall be deemed to have exhausted local appeals where the appellant has pursued his or her appeal to the Planning Commission and/or City Council, as described in the City of Dana Point appeal procedures in Sections 9.61.100(a) through (c) of this Zoning Code; except that exhaustion of all local appeals shall not be required if any of the following occur:

- (1) The City of Dana Point requires an appellant to appeal to more local appellate bodies than have been certified as appellate bodies for permits in the Coastal Zone, in the implementation section of the local coastal program.
 - (2) An appellant was denied the right of the initial local appeal by a local ordinance which restricts the class of persons who may appeal a local decision.
 - (3) An appellant was denied the right of local appeal because local notice and hearing procedures for the development did not comply with the provisions of this Chapter.
 - (4) The City of Dana Point charges an appeal fee for the filing or processing of appeals. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13111).
- (b) A final action taken by the City of Dana Point on a coastal development permit application may be appealed to the Coastal Commission for only the types of development defined in Section 9.75.010 of the Zoning Code under “Appealable Development, Coastal”. (Coastal Act/30603(a)).
- (c) Grounds for appeal to the Coastal Commission.
- (1) The grounds for an appeal of a coastal development permit approved by the City of Dana Point for a development listed in Section 9.69.090(b) above shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in Chapter Three of the Coastal Act (Coastal Act/30603(b)(1)).
 - (2) The grounds for any appeal of a coastal development permit denied by the City of Dana Point for a major public works facility or a major energy facility, as such facilities are defined in Section 9.75.130 of the Zoning Code, shall be limited to the allegation that the development conforms to the standards set forth in the certified local coastal program and the public access policies set forth in Chapter Three of the Coastal Act. (Coastal Act/30603(b)(2)).
- (d) Filing of an Appeal to the Coastal Commission.
- (1) An appellant may contact the Coastal Commission for the appropriate forms and instructions to file an appeal. An appeal must contain the following information:
 - (A) The name and address of the permit applicant and appellant;
 - (B) The date of the local government action;

- (C) A description of the development;
 - (D) The name of the governing body having jurisdiction over the project area;
 - (E) The names and addresses of all persons who submitted written comments or who spoke and left his or her name at any public hearing on the project, where such information is available;
 - (F) The names and address of all other persons known by the appellant to have an interest in the matter on appeal;
 - (G) The specific grounds for appeal which shall be limited to those stated in Section 9.69.090(c);
 - (H) A statement of facts on which the appeal is based;
 - (I) A summary of the significant question raised by the appeal.
- (2) The appeal must be received in the Coastal Commission district office with jurisdiction over the City of Dana Point before the close of business on the tenth (10th) working day after receipt of the Notice of Final Action (as described in Section 9.69.100 of this Chapter) by the Coastal Commission.
- (3) The appellant shall notify the applicant, any persons known to be interested in the application, and the City of Dana Point of the filing of the appeal. Notification shall be by delivering a copy of the completed Notice of Appeal to the domiciled), office(s), or mailing address(es) of said parties. In any event, such notification shall be by such means as may reasonably advise said parties of the pendency of the appeal. Unwarranted failure to perform such notification may be grounds for dismissal of the appeal by the Coastal Commission. (Coastal Act/30333/30620.6; 14 Cal. Code of Regulations/13111).
- (e) Any final action by the City on a coastal development permit for development identified in Section 9.69.090(b) above shall become effective at the close of business on the tenth working day from the date of receipt by the Coastal Commission of the Notice of Final Action required in Section 9.69.100 of this Chapter below, unless an appeal is filed within that time, pursuant to Section 9.69.090(d)(2). (Coastal Act/30603(c)).
- (f) If an appeal of a final action on an appealable development is filed with the Coastal Commission, the operation and effect of that action shall be stayed pending a decision by the Coastal Commission on the appeal. (Coastal Act/30623).

- (g) Persons Who May Appeal. A decision of the Director of Community Development, Planning Commission or City Council on a Coastal Development Permit for development which is appealable to the Coastal Commission pursuant to Section 9.69.090(b) above, may be appealed to the Coastal Commission, after the exhaustion of all local appeals as provided for in Section 9.69.090(a) above, by the following persons:
- (1) The applicant.
 - (2) Any “aggrieved person” as defined in Section 9.75.010 of this Zoning Code.
 - (3) Any two members of the Coastal Commission.

Where a project is appealed by any two (2) members of the Coastal Commission, there shall be no requirement of exhaustion of appeals to the Planning Commission or the City Council. In the event that the local appeal process was not exhausted, the Planning Commission or City Council, whichever would have been the next higher appellate body for the project in question, may adopt and transmit to the Coastal Commission a resolution requesting that it receive a copy of the Coastal Commissioner appeals. The Coastal Commissioners’ appeal may be suspended pending a decision on the merits of the project by the appropriate appellate body. If the decision of the subject appellate body modifies or reverses the decision of the lower approving authority, the Coastal Commissioners shall be required to file a new appeal from the decision of the Planning Commission or City Council. (Coastal Act 30333/30620; 14 Cal. Code of Regulations/13573).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.69.100 Notice of Final Action to Coastal Commission.

- (a) The City’s decision on the Coastal Development Permit application shall be considered final when both 1) all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified local coastal program and, where applicable, with the public access and recreation policies of Chapter Three of the Coastal Act; and 2) all rights to appeals before the Planning Commission and City Council, as described in Section 9.61.110 of the Zoning Code, have been exhausted, or the fifteen (15) calendar day appeals period to the Planning Commission and City Council, as described in Section 9.61.110(b) of the Zoning Code, expires without an appeal being filed. (Coastal Act/30333, 30620; 14 Cal Code of Regulations/13570).
- (b) Notice of Final City Action.

- (1) Within seven (7) calendar days of the final City action as described in Section 9.69.100(a) of this Section above, a notice of the final City action shall be sent by first class mail free of charge to:
 - (A) The Coastal Commission office having jurisdiction over the City of Dana Point; and
 - (B) To any person or group requesting notice of such action.
- (2) Contents of Notice:
 - (A) The notice shall contain the date on which the appeal period from the approving authority to the next local appellate body expired.
 - (B) The notice shall include all conditions of approval and written findings as described in Section 9.69.100(a) of this Section above, Section 9.69.110(e)(3)(C) below, or Section 9.69.160(c) below.
 - (C) For decisions on developments which are appealable to the Coastal Commission, the notice shall indicate that the City's final action is appealable to the Coastal Commission and shall include attached the procedures described in Section 9.69.090 for appeal of the City decision on the coastal development permit to the Coastal Commission. (Coastal Action/30333, 30620; 14. Cal Code of Regulations/13571 (a))
- (c) Failure to Act—Notice. A coastal development permit application is deemed approved by operation of law under Government Code Sections 65950 through 65957. The Director of Community Development shall, within seven (7) calendar days of such determination, notify the Coastal Commission and any persons or group entitled to receive notice pursuant to Section 9.61.050(a)(3) of this Zoning Code that the application has been approved by operation of law pursuant to Government Code Sections 65950-65957.1 and, if applicable, that the application may be appealed to the Coastal Commission pursuant to Section 9.69.090 of this Chapter. This section shall apply equally to a determination by the City that the development has been approved by operation of law and to a judicial determination that the development has been approved by operation of law. (Coastal Act/30333; 30620; 14. Cal Code of Regulations/13571(b)(2)).
- (d) Effective Date of City Action. The City's final action as described in Section 9.69.100(a) above shall not become effective if either of the following occur during the appeal period described in Section 9.69.090(e):
 - (1) An appeal is filed in accordance with Section 9.69.090 of this Zoning Code; or
 - (2) The notice of final City action does not meet the requirements of Section 9.69.100(b) above.

When either of the circumstances described in Section 9.69.100(d)(1) or 9.69.100(d)(2) above occur, the Executive Director of the Coastal Commission shall, within five (5) calendar days of receiving notice of that circumstance, notify the City that the operation and effect of the final City action has been stayed.

When the circumstance described in Section 9.69.100(d)(2) above occurs, the City shall then transmit a revised notice of final action which meets the requirements of Section 9.69.100(b) above. When the Coastal Commission office having jurisdiction over the City of Dana Point receives the revised notice of final action, and the Executive Director has determined that the revised notice of final action meets the requirements of Section 9.69.100(b) above, the appeal period shall commence. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13572)

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

9.69.110 Administrative Coastal Development Permit.

- (a) The Director of Community Development may, without a public hearing, process as an administrative permit any coastal development permit application for the classes of development identified in Section 9.69.030(a)(1) of this Chapter according to the procedures set forth in this section below.
- (b) Content of Application. The application requirements for an administrative coastal development permit are those set forth in Section 9.69.050 of this Chapter.
- (c) Notice.
 - (1) Notice shall be posted at the site of the proposed development in accordance with the procedures set forth in Section 9.69.060(a) of this Chapter. The City shall revoke the administrative coastal development permit pursuant to the procedures set forth in Section 9.69.160 of this Chapter if it determines that the administrative coastal development permit was granted without proper notice having been given, and that proper notice would have had the potential of altering the decision of the Director of Community Development to act differently in issuing said permit.
 - (2) Notice of administrative coastal development permits shall also be mailed by first class mail to the Coastal Commission and to persons known to be interested in the proposed development in accordance with the procedures set forth in Section 9.61.050 of this Zoning Code.
- (d) Action of Administrative Coastal Development Permits. The Director of Community Development may deny, approve, or conditionally approve applications for administrative coastal development permits on the same grounds as contained in Section 9.69.070 of this Chapter for a regular coastal development

permit application and may include reasonable terms and conditions necessary to bring the project into consistency with the certified local coastal program. Administrative coastal development permits issued shall be governed by the procedures used in approving regular coastal development permits pursuant to the provisions of this chapter relative to format, receipt, and acknowledgment of permit.

- (e) Effective Date of Administrative Permit.
- (1) Any administrative coastal development permit issued by the Director of Community Development shall be reported in writing to the Planning Commission at their first regularly scheduled meeting after the permit is approved. The Director of Community Development shall prepare a report in writing with sufficient description of the work authorized by the administrative coastal development permit to allow the Planning Commission to understand the development to be undertaken. Such report shall be available at the meeting and mailed free of charge to all persons wishing to receive such notification at the time of the regular mailing of notice for the Planning Commission meeting and any person who requested to be on the mailing list for the project as described in Section 9.69.110(d) above.
 - (2) If one-third or more of the full membership of the Planning Commission so request, the issuance of an administrative coastal development permit shall not become effective, but shall, if the applicant wishes to pursue the application, be treated as a regular coastal development permit application subject to all provisions of this Chapter.
 - (3) A decision on an administrative coastal development permit shall not be deemed final and effective until all the following have occurred:
 - (A) The Director of Community Development has made a decision on the application;
 - (B) The Planning Commission review of the administrative coastal development permit is complete, and the Planning Commission did not object, as provided for in Section 9.69.110(e)(2) above, to the decision of the Director of Community Development;
 - (C) All required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified LCP; and
 - (D) When all rights of appeal under City ordinances, including Section 9.69.090 of this Chapter and Section 9.61.100 of this Zoning Code, have been exhausted.

- (E) Notice of Final Action prepared in accordance with Section 9.69.100 of this Zoning Code has been received by the Coastal Commission.
- (f) Amendment to Administrative Coastal Development Permits.
 - (1) Amendments to administrative coastal development permits issued by the Director of Community Development may be approved by the Director of Community Development upon the same criteria and subject to the same reporting requirements and procedures, including public notice and appeals, as provided for the issuance of administrative coastal development permits in Sections 9.69.110(a) through 9.69.110(f) inclusive.
 - (2) If any amendment would, in the opinion of the Director of Community Development, change the nature of the approved project, or change or delete a previously imposed condition of approval, so that it no longer meets the criteria established for treating the application as an administrative coastal development permit pursuant to Section 9.69.030(a), then the application shall thereafter be treated in the manner prescribed in Section 9.69.130 of this Chapter dealing with amendments to permits other than administrative coastal development permits. (Coastal Act/30624; 14 Cal. Code of Regulations/13165).
- (g) The Director of Community Development shall not approve amendments to administrative permits issued by the Executive Director of the Coastal Commission.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

9.69.120 Expiration of Coastal Development Permits.

Any Coastal Development Permit granted herein shall be conditioned upon the privileges being exercised within 24 months after the effective date thereof, except as otherwise provided within a phasing program contained in: 1) a development agreement entered into between the City and the owners of the subject property; 2) a specific plan applicable to the subject property; or 3) as otherwise provided by resolution approved by the City Council upon recommendation of the Planning Commission. Failure to exercise such permit within such period will automatically cause the coastal development permit to expire, unless an extension of time has been granted as set forth in Section 9.69.140. De Minimis Waivers issued pursuant to Section 9.69.200 of this Chapter have no expiration date, since they are not permits.

Construction must actually be commenced within the stated period and must be diligently pursued to completion.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.69.130 Amendments to Coastal Development Permits.

- (a) The Director of Community Development or the Planning Commission (or City Council on appeal), may grant an amendment to a valid Coastal Development Permit issued by the City if, after considering facts presented in the application, by interested parties, and at the hearing (if a hearing is held), the Director or Commission makes all the findings set forth in Section 9.69.070.
- (b) An application for an amendment to a Coastal Development Permit shall be in writing and shall include an adequate description of the proposed amendment, including but not limited to maps or drawings where appropriate. The amendment application shall be filed by the owner of record of the property covered by the permit, the owner's agent, any person with a legal right, interest, or other entitlement to use the property covered by the permit for the proposed development, or said person's authorized agent, in accordance with the provisions of Section 9.69.050(a) of this Chapter. The application shall be filed with the Director of Community Development.
- (c) An application for an amendment shall be rejected if, in the opinion of the Director of Community Development, the proposed amendment would lessen or avoid the intended effect of a partially approved or conditioned coastal development permit unless the applicant presents newly discovered material information which could not, with reasonable diligence, have been discovered and produced before the permit was granted.
- (d) In the case of all amendments, the noticing and public hearing requirements of Section 9.69.60 shall apply. The decision of the Director of Community Development or Planning Commission shall contain the findings required in Section 9.69.070 of this Zoning Code made to support that decision.
- (e) The decision of the Director of Community Development or Planning Commission may be appealed pursuant to the procedures specified in Section 9.69.090 of this Chapter and Section 9.61.100 of this Zoning Code. (Coastal Act/30333; 14 Cal. Code of Regulations/13166).
- (f) Amendments to coastal development permits approved by the Coastal Commission, either prior to certification of the local coastal program or on appeal after certification of the local coastal program, shall not be processed by the City and instead shall be processed by the Coastal Commission. (Coastal Act/30333, 30519(a); 14 Cal. Code of Regulations/13166)

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

9.69.140 Extension of Time.

- (a) The expiration and extension of any Coastal Development Permit shall be in accordance with the limitations and procedures specified in Section 9.61.130.

- (b) An application for an extension of time shall be in writing and shall be filed, prior to the expiration date of the permit, by the record owner or by any other person(s) who can demonstrate a legal right, interest, or other entitlement to use the property covered by the permit. The request shall be filed with the Director of Community Development, who may require a public hearing on such application if there is indication of sufficient public interest. The Director shall hold a public hearing, in accordance with the provisions of Section 9.61.050 of this Zoning Code, if the Director determines that there has been a material change of circumstances which may affect the approved project's consistency with the certified Local Coastal Program since the original granting of the permit. In the case of all extensions, the noticing and public hearing requirements of Section 9.69.060 shall apply. If one-third or more of the full membership of the Planning Commission objects to the granting of the permit extension on the grounds that the proposed development may not be consistent with the certified Local Coastal Program, the application shall be set for a new hearing of the Planning Commission as though it were a new coastal development permit application, in accordance with the provisions of this Chapter. The decision of the Director of Community Development or the Planning Commission shall contain the findings of fact relied upon in reaching the decision.
- (b) The decision of the Director of Community Development or Planning Commission may be appealed pursuant to the procedures specified in Section 9.61.100(d) of this Zoning Code. (Coastal Act/30333; 14 Cal. Code of Regulations/13169).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97)

9.69.150 Emergency Permits.

- (a) This subsection shall govern procedures for processing an Emergency Coastal Development Permit to perform work to resolve problems resulting from an emergency situation as defined in Section 9.75.050 of this Zoning Code. In the event of a verified emergency, temporary emergency coastal development permit authorization to proceed with remedial measures may be given by the Director of Community Development or his/her designee until such time as a regular coastal development permit application is filed pursuant to Section 9.69.050 of this Zoning Code. Applications for an Emergency Coastal Development Permit shall be made by letter to the Director of Community Development, or in person or by telephone if time constraints do not allow either of the first two alternatives to be used. (Coastal Act/30333, 30624; 14 Cal. Code of Regulations/13136, 13138).
- (b) The following information, to be reported at the time of the emergency (if it is possible to do so), or no later than within three days after the emergency, shall be included in the application to the Director of Community Development:
- (1) Nature of emergency;

- (2) Cause of emergency, insofar as this can be established;
 - (3) Location of emergency;
 - (4) Remedial, protective, or preventative work required to deal with the emergency; and
 - (5) Circumstances during the emergency that appeared to justify the course(s) of action taken or to be taken, including probable consequences of failing to take emergency action. (Coastal Act/30333, 30624; 14 Cal. Code of Regulations/13139).
- (c) Verification. The Director of Community Development shall verify the facts, including the existence and nature of the emergency action, insofar as time allows. (Coastal Act/30333, 30624; 14 Cal. Code of Regulations/13140).
- (d) Granting an Emergency Coastal Development Permit.
- (1) The Director of Community Development shall grant the emergency coastal development permit with reasonable terms and conditions, including an expiration date and the necessity for a regular permit application later, where the Director finds that:
 - (A) An emergency exists that requires action more quickly than would be permitted by the normal procedures for acquiring a Coastal Development Permit pursuant to this Chapter, and the development can and will be completed within 30 days unless otherwise specified by the terms of the emergency coastal development permit.
 - (B) Public comment on the proposed emergency action has been solicited and reviewed to the extent feasible.
 - (C) The proposed emergency work would be consistent with the certified Local Coastal Program.
 - (2) The Director of Community Development shall provide public notice of the emergency work, with the extent and type of notice determined by the nature and time constraints of the emergency. If the nature of the emergency does not allow sufficient time for public notice to be given before the emergency work begins, the Director of Community Development shall provide public notice of the action taken, or being taken, as soon as is practical. Public notice of the nature of the emergency and the remedial actions to be taken shall be mailed by first class mail to the Coastal Commission and to all persons whom the Director of Community Development has reason to know would be interested in such action. (Coastal Act/30333, 30624; 14 Cal. Code of Regulations/13142).

- (e) Expiration. An emergency coastal development permit shall be valid for sixty (60) days from the date of issuance by the Director of Community Development. Prior to expiration of the emergency coastal development permit, the permittee shall submit an application for a regular coastal development permit, pursuant to Section 9.69.050 of this Chapter, for the emergency development performed. If the emergency development performed is to be temporary and to be removed after the emergency has passed, the removal of the emergency development shall be included as part of the regular coastal development permit application.
- (f) Report to Planning Commission and Coastal Commission. The Director of Community Development shall report in writing the granting of the emergency coastal development permit to the Planning Commission at its next scheduled meeting, and to the Coastal Commission. The report shall include a description of the nature of the emergency, the development involved, and the person or entity undertaking the development. Copies of the report shall be available at the meeting and shall be mailed to the Coastal Commission and to all persons requesting notification of coastal development permit decisions.
- (g) Limitations.
 - (1) The Director of Community Development shall not grant an emergency coastal development permit for any development that falls within either the area of “Coastal Commission Permit Jurisdiction” or the Appeals Area, as shown generally on the Post-Certification Jurisdiction Map. In such areas and for such development, a request for an emergency authorization must be made to the Coastal Commission. Further, a waiver from coastal development permit requirements may also be obtained directly from the Executive Director of the Coastal Commission for development in the Appeals Area that is required to protect life or public property in accordance with Section 30611 of the Coastal Act.
 - (2) For emergency permits issued by the Coastal Commission in the appeals area pursuant to Section 30624 of the Coastal Act, an application for the required follow-up regular coastal development permit for the emergency work shall be submitted to the City, in accordance with the requirements of Section 9.69.050 of this Zoning Code, no later than 60 days from the date of issuance of the emergency permit granted by the Executive Director of the Coastal Commission. The City may process the follow-up regular coastal development permit application concurrently with the Coastal Commission proceeding of the emergency permit application.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

9.69.160 De Minimis Project Waivers from Coastal Development Permit Requirements.

A coastal development permit application is required for all development as defined in Section 9.75.040 of this Zoning Code, including any development for which a “de minimis” permit waiver is requested even if no other local discretionary approvals are required. For a proposed development that is de minimis as defined in Section 9.69.160(a)(2) below and Section 30624.7 of the Coastal Act, the Director of Community Development may issue a waiver from the coastal development permit requirements of this Chapter subject to all of the provisions of this section.

(a) Limit of Applicability.

- (1) A proposed development is de minimis only if the Director of Community Development determines that it involves no potential for any adverse effects either individually or cumulatively, on coastal resources and public access and that it will be consistent with the certified local coastal program and the public access policies of Chapter Three of the California Coastal Act. The determination shall be made in writing and based upon factual evidence.
- (2) A Waiver for De Minimis Development shall be granted only for development that:
 - (A) Does not fall in a class of appealable development set forth in Section 9.69.090(b) of this Chapter or as defined in Section 9.75.010 of this Zoning Code;
 - (B) Is not located adjacent to a public accessway, public recreation areas, or sensitive coastal resource areas;
 - (C) Does not fall within an area in which the Coastal Commission retains direct permit review under Section 9.69.030(c) of this Chapter, or for any work that is appealable to the Coastal Commission under Section 9.69.090 of this Chapter; nor
 - (D) Involves a structure or similar integrated physical construction which lies partly in and partly outside the appeal area.
- (3) A De Minimis Waiver application may be combined with other local discretionary actions. Since a waiver is not an actual coastal development permit, however, conditions of approval cannot be imposed on the waiver.

(b) Notice.

- (1) The applicant shall post at the site in compliance with Section 9.69.060(a) of this Chapter.
- (2) Within ten (10) calendar days of accepting an application for a De Minimis waiver or at least seven (7) calendar days prior to the decision on the application, the Director of Community Development shall provide notice,

by first class mail, of the pending waiver of permit requirements. This notice shall be provided to all persons who have requested to be on the mailing list for that development project or site or for coastal decisions within the local jurisdiction, to all property owners and residents within one hundred (100) feet of the perimeters of the parcel on which the development is proposed, and to the Coastal Commission.

- (3) The notice shall contain the following information:
 - (A) The information listed in Sections 9.69.060(b)(1) through 9.69.060(b)(4) inclusive of this Chapter;
 - (B) The date of the hearing at which the De Minimis waiver may become effective;
 - (C) The general procedures concerning the submission of public comments either in writing or orally prior to the decision; and
 - (D) A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held prior to the decision.
 - (E) A note or a numbering system which clearly distinguishes the application as being for a De Minimis Waiver and not a coastal development permit.
- (c) Findings. The Director of Community Development may only issue a waiver of coastal development permit requirements only if the following written findings are made:
 - (1) That the waiver falls within the criteria of Section 9.69.160(a) above;
 - (2) The proposed development has no potential for any adverse impacts, either individually or cumulatively, on public access, public recreation, or coastal resources; and
 - (3) The proposed development would be consistent with the certified local coastal program.
- (d) Issuance of Waiver: Effective Date.
 - (1) A De Minimis waiver of coastal development permit requirements shall not take effect unless the site has been posted and until the waiver has been reported to the Planning Commission, and the Planning Commission has not objected to the issuance of the De Minimis Waiver. If one-third or more of the full membership of the Planning Commission request that the waiver not be effective, the applicant shall be advised that a coastal development permit is required, subject to the provisions for regular coastal development permits

of Chapter 9.69 of this Zoning Code, if the applicant wishes to proceed with the development.

- (2) A decision on De Minimis waivers shall not be deemed final and effective until all required findings described in Section 9.69.160(c) above have been adopted.

(e) Compliance.

- (1) Any deviation from the application and plans on file in the Department of Community Development shall constitute grounds for the City of Dana Point to revoke the De Minimis waiver authorization and to require a coastal development permit for the entire project as well as possible enforcement action and penalties subject to Section 9.69.210 of the Zoning Code.
- (2) Within seven (7) calendar days of the Planning Commission review of the issuance of a De Minimis waiver, the Director of Community Development shall notify the Coastal Commission and any persons who specifically requested notice of such action by mailing, via first class mail, a Notice of Final Action prepared pursuant to Section 9.69.100 of this Zoning Code describing the issuance and effectiveness of the De minimis waiver.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97; Ord. 99-05, 4/27/99)

9.69.170 Enforcement.

In addition to the enforcement provisions contained in this Chapter, the provisions of Chapter 9 of Division 20 of the Public Resources Code shall also apply with respect to violations and enforcement. (Added by Ord. 97-05, 9/9/97)

9.69.180 Format and Content of Coastal Development Permits.

- (a) Coastal development permits shall include the following:
 - (1) The applicant's name;
 - (2) The project location;
 - (3) The project description;
 - (4) The permit number;
 - (5) A statement setting out the reasons for the City's approval of the permit, including the findings required in Section 9.69.070;
 - (6) Any other language or drawings, in full or incorporated by reference, that are consistent with the decision to approve the permit, and are required to clarify or facilitate carrying out the intent of the City's action;

- (7) Any conditions approved by the City;
 - (8) Such standard provisions as approved by resolution of the City;
 - (9) The signature of the Director of Community Development, and
 - (10) The time for commencement of the approved development except that where the City on original hearing or on appeal has not imposed any specific time for commencement of construction pursuant to a permit, the time for commencement shall be two years from the date of the final vote by the local body on the coastal development permit application. Each coastal development permit shall contain a statement that any request for an extension of the time of commencement must be applied for prior to expiration of the permit. (Coastal Act/30333; 14 Cal. Code of Regulations/13156).
- (b) Coastal development permits approved by the Planning Commission or City Council may be in the form of a resolution, provided that all the items described in Section 9.69.180(a) above are contained in the resolution.
- (c) Notice of Receipt and Acknowledgment
- (1) No building permits shall be issued for development approved by a coastal development permit until the City receives a written acknowledgment signed by the authorized permittee(s) or agent(s) stating that they have received a copy of the coastal development permit and understand and accept its contents, including all conditions of approval.
 - (2) The signed acknowledgment should be returned within ten (10) working days following issuance of the coastal development permit but in any case prior to issuance of the building permits. (Added by Ord. 97-05, 9/9/97)

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Chapter 9.71

SITE DEVELOPMENT PERMITS

Sections:

- 9.71.010 Intent and Purpose.**
- 9.71.020 Site Development Permit Required.**
- 9.71.030 Procedural Requirements for Site Development Permits.**
- 9.71.034 Minor Site Development Permits.**
- 9.71.040 Procedural Requirements for Temporary Site Development Permits.**
- 9.71.050 Basis for Approval, Conditional Approval, or Denial of a Site Development Permit**
- 9.71.060 Expiration and Extension of a Site Development Permit**
- 9.71.070 Notice of Hearing.**
- 9.71.080 Notice of Action.**

9.71.010 Intent and Purpose.

This Chapter establishes a process to promote superior aesthetics, design compatibility and high quality site planning. The Site Development Permit process provides for the effective and efficient review of development proposals to ensure compatible and enhanced site and building design throughout the community. This process provides a means to implement the Urban Design Element of the General Plan and the City's Urban Design Guidelines. Through Site Development Permits the City can achieve excellence and innovation in the design of development projects. (Added by Ord. 93-16, 11/23/93)

9.71.020 Site Development Permit Required.

- (a) When no other discretionary permit is required, a Site Development Permit shall be required for all residential development except single-family homes on previously subdivided lots, and for all non-residential developments exceeding two thousand (2,000) gross square feet.
- (b) Applications for Conditional Use Permits, Variances, Coastal Development Permits and other permits and entitlements of this Code will be reviewed with the same attention to design as Site Developments Permits. All such applications are subject to Site Development Permit requirements, except that all coastal development permit applications shall satisfy all requirements of Chapters 9.27 "Coastal Overlay District" and 9.69 "Coastal Development Permit".
- (c) A Temporary Site Development Permit shall be required for all uses so identified in Chapter 9.39 pursuant to the provisions of Section 9.71.040.
- (d) The Director of Community Development may require that a Site Development Permit be filed for any proposal determined by the Director not to be in clear compliance with General Plan policies.

- (e) A Minor Site Development Permit is required for residential projects of two to four units on a previously subdivided parcel as well as other developments pursuant to Section 9.71.034.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 97-05, 9/9/97;)

9.71.030 Procedural Requirements for Site Development Permits.

- (a) Application for Site Development Permits shall be processed in accordance with Section 9.61.040.
- (b) When a Site Development Permit application is performed in conjunction with another discretionary permit review, the Director of Community Development shall conduct the review and shall make a recommendation to the Planning Commission.
- (c) When an application for a Site Development Permit proposes more than ten thousand (10,000) gross square feet of non-residential building area or five or more residential dwelling units, the application must be reviewed by the Planning Commission at a public hearing. All other applications may be processed in accordance with the provisions of Section 9.71.034.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 99-04, 3/9/99)

9.71.034 Minor Site Development Permits.

- (a) Application for Minor Site Development Permits are restricted to the following requests:
 - (1) Development with less than ten thousand (10,000) gross square feet of new residential building floor area.
 - (2) Four (4) or less residential dwelling units.
 - (3) Temporary uses and structures as described in Chapter 9.39.
 - (4) Any multi-family projects where a minimum twenty percent (20%) of total units are restricted to be affordable to lower income households or at least forty percent (40%) of total units are restricted to be affordable to moderate income households (for a period of time equal to provisions under State Density Bonus Law (California Government Code Section 65915)).
 - (5) Sign Programs pursuant to Section 9.37.070.
 - (6) Certain types of improvements as may be specified by this Code.

- (b) The submitted requirements for a Minor Site Development Permit application shall be the same as those required in Section 9.61.040 (e).
- (c) Decisions on Minor Site Development Permit applications shall be made administratively by the Director of Community Development. The Director shall include a determination of findings and appropriate conditions in the decision. The basis for approval, conditional approval, or denial of a Minor Site Development Permit shall be as specified in Section 9.71.050.
- (d) Subject to a determination by the Director of Community Development, a Minor Site Development Permit application may be placed on the Planning Commission agenda for review.
- (e) Subject to a determination by the Director of Community Development, the noticing requirements for a Minor Site Development Permit may be reduced from the standard five hundred (500) foot radius requirement to a notification of adjacent property owners only. If the item is reviewed by the Planning Commission, then a 300-foot radius noticing shall be provided.

(Added by Ord. 99-04, 3/9/99)

9.71.040 Procedural Requirements for Temporary Site Development Permits.

- (a) Filing of Application. The items required for filing shall include:
 - (1) A complete Application Form.
 - (2) An application fee as specified in the current structure of service fees.
 - (3) A Site Plan showing the layout of the proposed activity, use, or structure, preferably drawn to scale (five (5) copies).
 - (4) A letter of authorization from the property owner(s), if different than the applicant.
 - (5) A letter of explanation signed and dated by the applicant demonstrating how the request meets the following criteria for granting a Temporary Site Development Permit.
 - (A) That the temporary use applied for is a special event permitted under this Policy.
 - (B) That the special event is consistent with the City Zoning Code and will not be incompatible with the City's future General Plan.
 - (C) That the site for the special event is adequate in size, shape, and access to accommodate additional demands generated by the proposed use.

- (D) That the special event as proposed will protect the safety and general welfare of the community and will not create significant noise, traffic, or other conditions or situations that may be detrimental or incompatible with other permitted uses in the vicinity.
- (6) Submittal requirements for special events shall be as specified in Section 9.39.070(d).
- (b) Noticing. No notice shall be required for Temporary Site Development Permits unless the Director of Community Development determines that such notice is necessary. In making a determination to require noticing, the Director shall specify the form and scope of the required notice. Noticing for special events shall be provided in accordance with the provisions of Section 9.39.070(e).
- (c) Consideration of Application.
 - (1) An application shall be submitted to the Director of Community Development no later than thirty (30) days prior to the date of the proposed event.
 - (2) The application shall be acted on by the Director of Community Development no later than thirty (30) days from the date the application is accepted for filing.
 - (3) The Director of Community Development in consideration shall approve, conditionally approve, or deny any application and shall state findings and reasons for such decision. The Director of Community Development, as appropriate, shall have the authority to attach conditions which directly relate or further the public health, safety, and general welfare and ensure the fulfillment and intent of the City's Municipal Code.
 - (4) If an application is granted subject to conditions, the permit shall become effective only after the conditions have been fulfilled or after the applicant has provided reasonable and sufficient guarantees that the conditions will be fulfilled.
- (d) Appeals.
 - (1) Any applicant or affected party may appeal any determination of conditions established by the Director of Community Development.
 - (2) Any appeal of the Director's decision shall be governed by Section 9.61.110.
- (e) Revocation. A Temporary Site Development Permit may be revoked in accordance with Section 9.61.120 or if the permitted use is conducted in a manner

which is detrimental to the public peace, health, safety, and welfare of the City, or constitutes a public nuisance.

When a Temporary Site Development Permit has been revoked, no other Temporary Site Development Permit shall be issued under this policy to the same permittee within one (1) calendar year of the date of revocation.

- (f) Exemptions. The following are specifically exempt from the provisions of this Section:
- (1) Any use which is subject to any other discretionary approval shall not be considered under the provisions of this Section.
 - (2) Private events conducted on private residential property which are typical activities ancillary to residential uses shall not be subject to the provisions of this Section but shall be governed by any and all other applicable provisions of the Dana Point Municipal Code and all other applicable laws.
 - (3) Non-profit organizations and associations which endorse activities, community events, or fund raisers for non-commercial profit may be exempt from the fees established in this Section, but shall submit the remaining application filing requirements for review and approval by the Director of Community Development Applicants claiming non-profit status shall include a notice of participation and expected return from all participating non-profit organizations or agencies.
 - (4) Any temporary use, structure, or activity which clearly does not intensify the existing permitted use and is ancillary or incidental to the approved use, structure, or activity, shall be exempt from both the filing fee and application requirements. If it is unclear if such an event should be subject to the requirements of this Section, the Director of Community Development shall determine if a proposed use necessitates a Temporary Site Development Permit

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.71.050 Basis for Approval, Conditional Approval, or Denial of a Site Development Permit

Approval, conditional approval, or denial of any Site Development Permit application shall be based upon the following factors and principles:

- (a) Compliance of the site design with development standards of this Code.
- (b) Suitability of the site for the proposed use and development

- (c) Compliance with all elements of the General Plan and all applicable provisions of the Urban Design Guidelines.
- (d) Site and structural design which is appropriate for the site and function of the proposed use(s), without requiring a particular style or type of architecture.

(Added by Ord. 93-16, 11/23/93)

9.71.060 Expiration and Extension of a Site Development Permit

The expiration and extension of any site development permit shall be in accordance with the limitations and procedures specified in Section 9.61.130.

(Added by Ord. 94-09, 5/24/94)

9.71.070 Notice of Hearing.

Notice of a public hearing to consider a Site Development Permit shall be provided pursuant to Section 9.61.050.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.71.080 Notice of Action.

- (a) For those applications decided by the Director of Community Development the Director shall notify the applicant in writing, of the action taken within fifteen (15) days of the decision.
- (b) For those applications decided by the Planning Commission, the Director of Community Development shall notify the applicant in writing, of the action taken within fifteen (15) days of the Planning Commission decision.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

Chapter 9.73

DEVELOPMENT AGREEMENTS

Sections:

- 9.73.010 Authority and Scope.**
- 9.73.020 Intent and Purpose.**
- 9.73.030 Application Forms.**
- 9.73.040 Fees.**
- 9.73.050 Qualified Applicant.**
- 9.73.060 Proposed Agreement**
- 9.73.070 Filing and Review of Application.**
- 9.73.080 Notice.**
- 9.73.090 Processing.**
- 9.73.100 Notice of Intention and Public Hearing.**
- 9.73.110 Failure to Receive Notice.**
- 9.73.120 Hearing and Findings of the Planning Commission.**
- 9.73.130 Hearing by the City Council.**
- 9.73.140 Decision by the City Council.**
- 9.73.150 Approval of Development Agreement**
- 9.73.160 Amendment and Cancellation.**
- 9.73.170 Recordation.**
- 9.73.180 Periodic Review.**
- 9.73.190 Modification or Termination.**
- 9.73.200 Irregularity in Proceedings.**

9.73.010 Authority and Scope.

This Chapter is adopted pursuant to Government Code Section 65864 et seq. All development agreements entered into after the effective date of this Chapter shall be processed in accordance with the provisions of this Chapter. (Added by Ord. 93-16, 11/23/93)

9.73.020 Intent and Purpose.

The State Legislature has authorized cities to enter into development agreements which provide greater certainty to developers to proceed with approved projects according to local policies and regulations. A development agreement should include public benefits that extend beyond those already forthcoming through project approvals. The Planning Commission and City Council shall make a finding at the time of consideration for the development agreement that the above purpose has been achieved. (Added by Ord. 93-16, 11/23/93)

9.73.030 Application Forms.

(a) The Director of Community Development shall prescribe the form of each application, notice and document provided for or required under this Chapter for the preparation, processing and implementation of development agreements. The application shall include as separate documents, and/or concurrent land use actions and supporting documents by reference, the following information:

- (1) Duration of the agreement;
- (2) The permitted uses of the property;
- (3) The density or intensity of use of the property;
- (4) The maximum height and size of proposed buildings;
- (5) Provisions for reservation of dedication of land for public purposes;
- (6) Fiscal impact statement;
- (7) Phasing and project completion date;
- (8) A list of proposed public benefits;
- (9) An assessment of how the development agreement will address the applicable provisions of the City's Growth Management Element which require that the project will maintain a balance with the required infrastructure needs of the project;
- (10) Consistency with the General Plan and any applicable Specific Plan.

(b) The Director of Community Development may require an applicant for a development agreement to submit such information and supporting data as the Director of Community Development deems necessary to process the application.

(Added by Ord. 93-16, 11/23/93)

9.73.040 Fees.

The City Council shall establish, and from time to time amend by resolution, a schedule of fees imposed for the filing and processing of each application and document required by this Chapter. The fee may be waived in whole or in part by the City Council.

(Added by Ord. 93-16, 11/23/93)

9.73.050 Qualified Applicant.

An application for a development agreement may only be filed by a person who has a legal or equitable interest in the real property for which a development agreement is sought or the authorized representative of such a person. (Added by Ord. 93-16, 11/23/93)

9.73.060 Proposed Agreement.

Each application shall be accompanied by the development agreement proposed by the applicant (Added by Ord. 93-16, 11/23/93)

9.73.070 Filing and Review of Application.

The Community Development Department shall endorse on the application the date it is received. The Director of Community Development shall review the replication and determine the additional requirements necessary to complete the agreement. The Director may reject the application if it is not completed in the manner required by this Chapter. After receiving the required information, the Director of Community Development shall prepare a staff report. The staff report shall analyze the proposed development and shall contain a recommendation as to whether or not the development agreement proposed, or in an amended form, would be consistent with the General Plan and any applicable Specific Plan. (Added by Ord. 93-16, 11/23/93)

9.73.080 Notice.

The Director of Community Development shall give Notice of Intention to consider adoption of the development agreement and any other public hearing required by law or this Chapter. Notice of Intention to consider adoption of the development agreement may be given concurrently and as a part of the required public hearing notice for consideration of related land use proposal(s). The development agreement may include all or a part of the concurrent approved land use proposal(s). (Added by Ord. 93-16, 11/23/93)

9.73.090 Processing.

The Planning Commission shall consider the proposed development agreement and make a recommendation thereon to the City Council in the manner set forth in this Chapter. The Planning Commission shall forward its recommendations to the City Council within thirty (30) days of the time specified for the public hearing in the Notice of Intention. (Added by Ord. 93-16, 11/23/93)

9.73.100 Notice of Intention and Public Hearing.

All notice required by this Chapter shall be given in the following manner.

- (a) Mailing or delivery to the applicant and to all persons, including businesses, corporations or other public or private entities, shown on the last equalized assessment roll as owning real property within five hundred (500) feet of the property which is the subject of the development agreement or by publication as authorized by Section 65854(b) of the Government Code.

- (b) Mailing by first class mail to any person who has filed a written request therefor with the Director of Community Development.
- (c) Publication at least once in a newspaper of general circulation published and circulated in the City.

(Added by Ord. 93-16, 11/23/93)

9.73.110 Failure to Receive Notice.

The failure to receive notice by any person entitled thereto by law or this Chapter does not affect the authority of the City to enter into a development agreement. (Added by Ord. 93-16, 11/23/93)

9.73.120 Hearing and Findings of the Planning Commission.

The Planning Commission shall hold a public hearing on the proposed development agreement at the time and place specified in the Notice of Intention. The Planning Commission shall make its recommendation to the City Council in writing. The Planning Commission must make the following findings in order to recommend approval of any development agreement:

- (a) That the proposed development agreement is consistent with the objectives, policies, general land uses and programs specified in the General Plan and any applicable Specific Plan;
- (b) That the proposed development agreement is consistent with the City's Growth Management Element and adequately provides for the installation and operation of the infrastructure required to service each phase of the subject development;
- (c) That the development proposed in association with the subject development agreement is compatible with the uses authorized in the district in which the real property is located;
- (d) That the proposed development agreement is in conformity with the public necessity, public convenience, general welfare, and good land use practices;
- (e) That the proposed development agreement provides for public benefits to a degree which warrants any concessions granted by the City;
- (f) That the proposed development agreement will in no way be detrimental to the public health, safety, and general welfare;
- (g) That the proposed development agreement will not adversely affect the orderly development of property;

- (h) That the proposed development agreement will have a positive fiscal impact on the City. (Added by Ord. 93-16, 11/23/93)

9.73.130 Hearing by the City Council.

After the recommendation of the Planning Commission or after the expiration of the time period specified in Section 9.73.090, the Director of Community Development shall give notice of a public hearing before the City Council in the manner provided for in Section 9.73.080. (Added by Ord. 93-16, 11/23/93)

9.73.140 Decision by the City Council.

- (a) After completing the public hearing and consideration of the recommendation, if any, of the Planning Commission, the City Council may accept, modify, or disapprove the proposed development agreement. The City Council may, but need not, refer the matters not previously considered by the Planning Commission during its hearing, back to the Planning Commission for report and recommendation. The Planning Commission shall not be required to hold a public hearing on matters referred back to it by the City Council.
- (b) The development agreement may not be approved unless the City Council can make the findings listed in Section 9.73.120.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.73.150 Approval of Development Agreement.

The development agreement shall be approved by the adoption of an ordinance. Upon the adoption of the ordinance, the City shall enter into the development agreement by the execution thereof by the City Manager. (Added by Ord. 93-16, 11/23/93)

9.73.160 Amendment and Cancellation.

- (a) The City shall retain the authority to impose new obligations on the part of the developer if it is found that infrastructure deficiencies are found during the life of the development agreement.
- (b) Either the City or the applicant or successor in interest thereto may propose an amendment or cancellation in whole or in part of the development agreement.
- (c) The procedure for proposing and approving an amendment to or cancellation in whole or in part of the development agreement shall be the same as the procedure for entering into a development agreement.
- (d) Except as provided for in Section 9.73.180, the development agreement may only be amended or canceled in whole or in part by the mutual consent of all parties to the development agreement.

(Added by Ord. 93-16, 11/23/93)

9.73.170 Recordation.

- (a) No later than ten (10) days after the City enters into the development agreement the City Clerk shall record with the County Recorder a copy of the development agreement.
- (b) If the parties to the agreement or their successors in interest amend or cancel the agreement, or if the City terminates or modifies the agreement for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the City Clerk shall cause notice of such action to be recorded with the County Recorder.

(Added by Ord. 93-16, 11/23/93)

9.73.180 Periodic Review.

- (a) The City Council shall review the development agreement at least every twelve (12) months from the date the development agreement is entered into until expiration of the term of the agreement.
- (b) The Director of Community Development shall give the applicant or successor in interest thereto at least thirty (30) days' advance notice of the time at which the City Council will review the development agreement.
- (c) The City Council may refer the matter to the Planning Commission for further proceedings or for a report and recommendation.
- (d) The applicant or successor in interest thereto shall demonstrate good faith compliance with the terms of the development agreement.
- (e) If, as a result of such periodic review the City Council finds and determines, on the basis of substantial evidence, that the applicant or successor in interest thereto has not complied in good faith with the terms or conditions of the development agreement, the City Council may commence proceedings to enforce, modify, or terminate the development agreement.

(Added by Ord. 93-16, 11/23/93)

9.73.190 Modification or Termination.

- (a) If, upon a finding under Section 9.73.170(e), the City Council determines to proceed with modification or termination of the development agreement, the City Council shall give notice to the applicant or successor in interest thereto of its intention to do so. The notice shall contain:

- (1) The time and place of the hearing;
 - (2) A statement as to whether or not the City Council proposes to modify or terminate the development agreement;
 - (3) Any proposed modification to the development agreement;
 - (4) Other information which the City Council considers necessary to inform the applicant or successor in interest thereto of the nature of the hearing.
- (b) At the time set for the hearing on the modification or termination, the City Council may refer the matter back to the Planning Commission for further proceedings or for report and recommendation. The City Council may take such action as it deems necessary to protect the interests of the City. The decision of the City Council shall be final.

(Added by Ord. 93-16, 11/23/93)

9.73.200 Irregularity in Proceedings.

No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission as to any matter pertaining to the application, notice, finding, record, hearing, report, recommendation, or any other matters of procedure whatsoever unless after an examination of the entire record the court is of the opinion that the error complained of was prejudicial and that a different result would have been probable if the error had not occurred or existed. (Added by Ord. 93-16, 11/23/93)

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Chapter 9.75

DEFINITIONS AND ILLUSTRATIONS OF TERMS*

Sections:

9.75.010	“A” Definitions and Illustrations.
9.75.020	“B” Definitions and Illustrations.
9.75.030	“C” Definitions and Illustrations.
9.75.040	“D” Definitions and Illustrations.
9.75.050	“E” Definitions and Illustrations.
9.75.060	“F” Definitions and Illustrations.
9.75.070	“G” Definitions and Illustrations.
9.75.080	“H” Definitions and Illustrations.
9.75.090	“I” Definitions and Illustrations.
9.75.100	“J” Definitions and Illustrations.
9.75.110	“K” Definitions and Illustrations.
9.75.120	“L” Definitions and Illustrations.
9.75.130	“M” Definitions and Illustrations.
9.75.140	“N” Definitions and Illustrations.
9.75.150	“O” Definitions and Illustrations.
9.75.160	“P” Definitions and Illustrations.
9.75.170	“Q” Definitions and Illustrations.
9.75.180	“R” Definitions and Illustrations.
9.75.190	“S” Definitions and Illustrations.
9.75.200	“T” Definitions and Illustrations.
9.75.210	“U” Definitions and Illustrations.
9.75.220	“V” Definitions and Illustrations.
9.75.230	“W” Definitions and Illustrations.
9.75.240	“X” Definitions and Illustrations.
9.75.250	“Y” Definitions and Illustrations.
9.75.260	“Z” Definitions and Illustrations.
9.75.270	Definitions of Use.

* For general terminology used throughout the Zoning Code, see Section 9.01.100. For terminology used in the Zoning Code, but not defined in this Chapter or in Section 9.01.100, see the Uniform Building Code or accepted dictionaries of the English language. The Director of Community Development shall interpret all definitions in this Code and Chapter.

9.75.010 “A” Definitions and Illustrations.

Abandoned — the cessation of use and maintenance of a property by the owner thereof with no intention of resuming the use of the property. Vacant properties offered for sale or rental, but effectively maintained in an orderly manner shall not be construed to be abandoned.

Abutting Land — a parcel of land having a common boundary with another parcel of land including parcels which have no common boundary other than a common corner.

Accessory Building or Structure — a building or structure which is incidental to the principal structure, and not designed for human habitation. Such structures may be attached to or detached from the primary structure. Typical accessory buildings or structures would include garages, gazebos, workshops, sheds and patios.

Accessory Living Quarters — See Section 9.75.270.

Accessory Use — a use of a portion of land or building which is clearly incidental and subordinate and less than 50% of the principal use operation and/or the land or building which is located on the same lot as such principal use. Accessory uses typically are very small in proportion to the principal use and associated structures exceed six (6) feet in height.

Acreage, Gross — the total land area within a defined lot or parcel of land before the exclusion of public rights-of-way, public parks and public school sites.

Acreage, Net — the total area of a site or lot minus any and all required dedications for public streets and rights-of-way, public parks, school sites, and other facilities.

Action — the decision made by the review authority on a land use application, including appropriate findings, environmental determination and conditions of approval, where applicable.

Addition — any construction that is attached to an existing building or facility and which increases the size or capacity of a building or facility in terms of site coverage, height, length, width, or gross floor area.

Adult Bookstore — See Section 9.75.270.

Adult Business — See Section 9.75.270.

Adult Cabaret — See Section 9.75.270.

Adult Day Care Facility — See Section 9.75.270.

Adult Day Health Care — See Section 9.75.210.

Adult Day Health Center — See Section 9.75.270.

Adult Hotel Motel — See Section 9.75.270.

Adult Modeling Studio — See Section 9.75.270.

Adult Picture Arcade — See Section 9.75.270.

Adult Theater — See Section 9.75.270.

Affordable Housing — housing which is rented or sold for an amount that is limited by a set percentage of the County median income, adjusted for family size, as reported and updated annually by the Department of Housing and Community Development (HCD). Affordable housing is divided into three (3) categories — Very Low, Low, and Moderate defined as follows:

Very Low — Housing which rents for an amount not exceeding thirty (30) percent of the total monthly household income for a very low income household; or housing with a total purchase price not exceeding two and one-half (2½) times the annual household income for a very low income household. A very low income household is defined as a household with an annual income of not more than fifty (50) percent of the County median income.

Low — Housing which rents for an amount not exceeding thirty (30) percent of the total monthly household income for a low income household; or housing with a total purchase price not exceeding two and one-half (2½) times the annual household income for a low income household. A low income household is defined as a household with an annual income of not more than eighty (80) percent of the County median income.

Moderate — Housing which rents for an amount not exceeding thirty (30) percent of the total monthly household income for a moderate income household; or housing with total purchase price not exceeding two and one-half (2½) times the annual household income for a moderate income household. A moderate income household is defined as a household with an income of not more than one hundred twenty (120) percent of the County median income.

Agent — any person authorized to act for the owner of a property by virtue of a notarized statement of authorization, a proof of contract to purchase, or a lease to the property.

Aggrieved Person — any person who, in person or through a representative, appeared at a public hearing of the Coastal Commission or City of Dana Point in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing, informed the Coastal Commission or City of Dana Point of the nature of his or her concerns or who for good cause was unable to do either. “Aggrieved person” includes the applicant for a permit and, in the case of an approval of a local coastal program for the City of Dana Point, the City of Dana Point. (Coastal Act/30801).

Alcoholic Beverage Outlet, Off Sale — See Section 9.75.270.

Alcoholic Beverage Outlet, On Sale — See Section 9.75.270.

Alley — a narrow vehicular service way, either public or private, which provides a permanently reserved means of vehicular access to a private or public property. Alleys are typically located along rear property lines.

Alteration — any change or rearrangement in the supporting members of an existing building, structure, or improvement such as bearing walls, columns, beams, girders or interior partitions, as well as any change in doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or change in the exterior appearance of any building or structure, or the moving of a building or structure from one location to another.

Alteration, Structural — any change in the supporting members of a structure such as bearing walls, partitions, columns, beams or girders, floor joists or roof joists, roof rafters, foundations, piles, or similar components.

Amateur Radio Antenna — any antenna used to receive and/or transmit radio signals on the amateur radio band, as designated by the Federal Communications Commission.

Amenity — a natural or man-made feature which provides a visual or recreational enhancement for a particular property.

Animal — unless otherwise stated for a specific situation, “animal” includes birds, fish, mammals, and reptiles.

Animal Hospital — See Section 9.75.270.

Animal Shelter — See Section 9.75.270.

Antenna — an electronic device comprised of one or more integrated elements which receives and transmits radio waves to provide commercial and non-commercial wireless telecommunication services.

Antenna Facility — see “Commercial Wireless Telecommunication Antenna Facility.”

Antenna Use Permit — a discretionary land use permit specifically for the entitlement of commercial wireless telecommunication antenna facilities within the City of Dana Point.

Apartment — two or more rooms with private bath and kitchen facilities comprising an independent self-contained dwelling unit in a building containing more than two dwelling units for rent.

Apartment Building — a structure containing two (2) or more apartment units which is intended for rental purposes.

Appeal in the Floodplain Districts — a request for a review of the Floodplain Administrator’s interpretation of any provision of this Chapter or a request for an exemption.

Appealable Development, Coastal — The following types of development may be appealed to the Coastal Commission pursuant to procedures described in Section 9.69.090:

- (1) Developments approved by the City of Dana Point between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
- (2) Developments approved by the City of Dana Point not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, within 300 feet of the top of the seaward face of any coastal bluff.
- (3) Developments approved by City of Dana Point not included within paragraph (1) or (2) that are located in a sensitive coastal resource area.
- (4) Any development which constitutes a major public works project or a major energy facility, as defined in Section 9.75.130 of this Zoning Code. (Coastal Act/30603(a)).

Appealable Development — any Coastal Development Permit application that may be appealed to the California Coastal Commission pursuant to the Coastal Act of 1976, as amended. (Coastal)

Applicant — the owner(s) or lessee(s) of property, or their authorized agents, or person(s) who have contracted to purchase property contingent upon their ability to obtain the required entitlements, who requests in writing and on the appropriate forms, the approval of a permit, license, certificate, or other entitlement from the City.

Applicant, Coastal — the person, trust, partnership, corporation, other legal entity, or state or local government agency or special district applying for a coastal development permit. (Coastal).

Application — the form and information fees submitted by an applicant for purposes of requesting an entitlement from a public agency.

Aquaculture — a form of agriculture that is devoted to the controlled growing and harvesting of fish,” shellfish, and plants in marine, brackish, and freshwater. (Coastal Act/30100.2).

Area of Shallow Flooding — any area designated AO, AH or VO Zone on the Flood Insurance Rate Map (FIRM). In such zones, the base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

Area of Special Flood-Related Erosion Hazard — the area subject to severe flood-related erosion losses. The area is designated as Zone E on the Flood Insurance Rate Map (FIRM).

Area of Special Flood Hazard — an area having special flood or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, VO, V1-V30, VE, or V.

Area of Special Mudslide (i.e. Mudflow) Hazard — the area subject to severe mudslides (i.e., mudflows). The area is designated as Zone M on the Flood Insurance Rate Map (FIRM).

Athletic Field — See Section 9.75.270.

Carrier — a commercial enterprise licensed by the Federal Communications Commission to provide wireless telecommunication services.

Automobile Wrecking — See Section 9.75.270.

Awning — a roof-like cover that is attached to, and projects from, the wall of a building for the purpose of shielding from the elements. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98)

9.75.020 “B” Definitions and Illustrations.

Balcony — a platform that projects from the wall of a building, typically above the first level, and is surrounded by a rail, balustrade, or parapet.

Base Flood — the flood having a one (1) percent chance of being equaled or exceeded in any given year (also called the 100-year flood).

Basement — living or storage area which is constructed wholly underground, meaning below the exterior finished grade on all sides, with no more than 20% percent of the lineal footage of the exterior wall broken by light wells, no light well wider than four feet and no light well within six feet of another light well. An exception to these provisions, subject to a Minor Site Development Permit, would allow adequate day lighting of one wall to provide vehicular ingress and egress, to a residential/nonresidential garages which shall be considered a basement. Any structural area meeting this definition shall not be considered a story.

Basement in the Floodplain Overlay Districts — the area of the building having its floor subgrade (below ground level on all sides).

Bay Window — a window or group of windows projecting from a room.

Beach — a sandy or gravelly portion of land along the edge of the ocean.

Bed and Breakfast Inn — See Section 9.75.270.

Bedroom — any habitable room other than a bathroom, kitchen, dining room or living room with a closet.

Berm — a mound of earth, usually two (2) to six (6) feet in height.

Bicycle Lane (Class II facility) — a corridor expressly reserved for bicycles, existing on a street or roadway in addition to any lanes for use by motorized vehicles.

Bicycle Path (Class I facility) — a paved path not on a street or roadway and expressly reserved for bicycles traversing an otherwise unpaved area. Bicycle paths may parallel roads but typically are separated from them by landscaping.

Bicycle Route (Class III facility) — a facility shared with motorists and identified only by signs, a bicycle route has no pavement markings or lane stripes.

Bikeway — a term that encompasses bicycle lanes, bicycle paths, and bicycle routes.

Block — a unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to the continuity to development.

Bluff — see “Coastal Bluff.”

Body or Hearing Body — the individual or group duly authorized by this Code to take action, grant changes to, relief from, or special consideration under this Code.

Body Painting Studio — See Section 9.75.270.

Breakaway Wall — any type of wall, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building materials which are not part of the structural support of the building and which are designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. Breakaway walls shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

- (a) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
- (b) The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

Buffer Area — an area of land separating two (2) distinct land uses that acts to soften or mitigate the effects of one land use on the other, generally located on the site of the offending land use.

Building — any structure used or intended for supporting or sheltering any use or occupancy.

Building Height, Non-Residential — the vertical distance, by which the uppermost portion of a building extends above the existing grade, finished grade, finished pad elevation (excluding subterranean parking structure finished pad elevation), ceiling of uppermost level of subterranean parking structure, or eighteen (18) inches above the flood protection level, whichever is lower, to the top of the roof. Refer to Section 9.05.110 for clarification.

Building Height, Residential — the vertical distance, by which the uppermost portion of the roof of a structure extends above the existing grade, finished pad elevation (excluding basement finished pad elevation), ceiling of a maximum ten (10) foot high basement, or eighteen (18) inches above the flood protection level, whichever is lower, to the top of the roof. Refer to Section 9.05.110 for clarification.

Building, Historic — a building listed individually on the National Register of Historic places by a State or County agency charged with recognition or preservation of historic structures, or by resolution of the City Council as having significant local or regional historical importance and value to the community.

Building Pad — the level area of a lot designed for the construction of buildings and structures.

Building, Primary — a building within which the principal use or occupancy of a site is conducted.

Building Site — a lot or contiguous lots of land which provides the area and open spaces required for construction of a building or buildings, and which abuts a public or private street, alley or easement.

Bus Turnout — a paved indentation in the curb of a roadway designed to allow buses to pull off to the side and stop while picking up and dropping off passengers. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 96-10, 8/13/96; Ord. 97-05, 9/9/97)

9.75.030 “C” Definitions and Illustrations.

California Coastal Act (or) Coastal Act — the California Coastal Act of 1976, Division 20 of the Public Resources Code (commencing with Section 30000), as amended.

Camp, Public — See Section 9.75.270.

Car lift-A machine by which automobiles are hoisted above or below the level utilized for access onto the lift in order to provide access to other areas or additional parking.

Caretaker’s Residence — See Section 9.75.270.

Cemetery — See Section 9.75.270.

Carport — a roofed structure providing space for the parking or storage of motor vehicles and enclosed on less than four sides.

Cellar — see “Basement.”

Centerline — the centerline of a street as referred to in this Code shall mean the right-of-way centerline as established by the County Engineer of the County, by the Director of Public Works of the City, or by the State Division of Highways of the State; in any case in which the foregoing definition is not applicable, the Planning Commission shall designate the centerline.

Certificate of Occupancy — a document issued to allow a building to be occupied or used and certifying that the building or structure has been constructed, or will be used, in compliance with all the applicable municipal codes and ordinances.

Certified Coastal Land Use Plan — a land use plan which has been effectively certified by the Coastal Commission pursuant to Section 30512 of the Coastal Act as amended. (See definition of “Land Use Plan (LUP amendment). Coastal” in Section 9.75.120 of this Zoning Code). (Coastal).

Certified Local Coastal Program (LCP) — a local coastal program which has been effectively certified by the California Coastal Commission pursuant to Section 30512 and 30513 of the Coastal Act as amended. (See definition of “Local Coastal Program” in Section 9.75.120 of this Zoning Code). (Coastal).

Chapter Three Policies or Chapter 3 Policies — those policies of the Coastal Act contained in Chapter Three, commencing with Section 30200, which constitute the standards by which the adequacy of local coastal programs and the permissibility of proposed development subject to the provisions of the Coastal Act is determined.

Child Day Care Facility — See Section 9.75.270.

Chimney — a vertical masonry structure extending vertically above the roof of a building for the purpose of carrying off heat smoke, soot and/or ash.

Church — See Section 9.75.270.

Circulation System Master Plan — the plan which identifies the adopted and proposed routes for all Circulation Element roadways and bikeways within the City.

Cluster Development — a development in which a number of dwelling units are placed in closer proximity than usual, or are attached, with the purpose of retaining a significant amount of open space area.

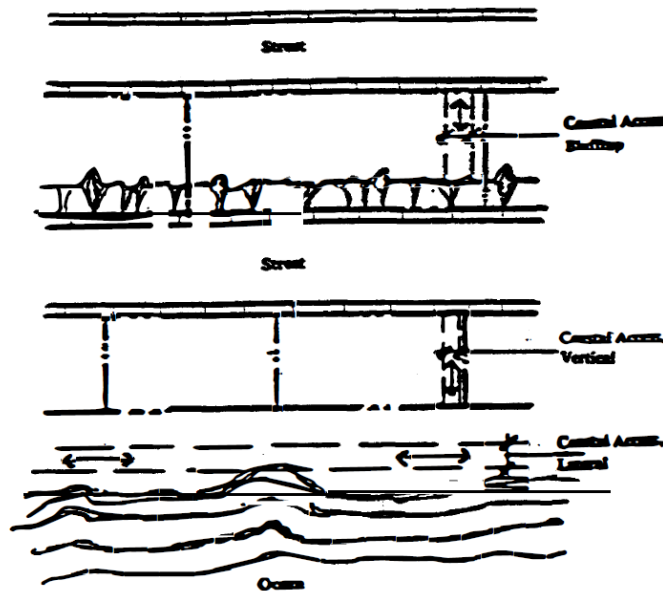
Coastal Access, Bluff Top — provides public access for public viewing of the shoreline along a coastal bluff top area.

Coastal Access, Lateral — provides public access and use along the shoreline or parallel to the sea.

Coastal Access, Recreational — provides public access to coastal recreational resources through means other than those provided by bluff top, lateral, trail and/or vertical coastal access, including but not limited to parking facilities, viewing platforms and bluff top parks.

Coastal Access, Trail — provides public access through a coastal recreational path, including to and along lakes, rivers, streams, freshwater marshes, significant habitat and open space areas or similar resource areas, and which also may link inland recreational facilities to the shoreline.

Coastal Access, Vertical — provides a public access connection between the first public road, public use area nearest the sea, or trail and the publicly owned tidelands or established lateral access.



Coastal Bluff — within the Coastal Zone, coastal bluffs are: (1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and (2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified as an Appealable Area. (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(h).

Coastal Bluff, Bottom — the lower point of a coastal bluff, subject to determination by the Director of Community Development, where there is a distinct or general transition from the vertical edge (bluff face) to a horizontal plain which is the base of the bluff.

Coastal Bluff Edge — the upper termination of a coastal bluff. When the top edge of the coastal bluff is rounded away from the face of the coastal bluff, the edge shall be defined as that point nearest the coastal bluff beyond which the downward gradient of the

land surface increases more or less continuously until it reaches the general gradient of the coastal bluff. In a case where there is a step-like feature at the top of the coastal bluff, the landward edge of the top-most riser shall be considered the bluff edge. The termini of the bluff edge along the seaward face of the bluff shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(h)).

Coastal Bluff, Face — the portion of a coastal bluff between the top and bottom of the coastal bluff.

Coastal Bluff, Top — the upper portion of a coastal bluff, subject to determination by the Director of Community Development, where there is a transition from the vertical edge (bluff face) a horizontal plain which is the plateau, or upper elevation of the bluff.

Coastal Commission — the California Coastal Commission or its successor agency as created pursuant to Division 20 of the Public Resources Code as amended. Whenever the term California Coastal Zone Conservation Commission appears in any law, it means the California Coastal Commission. (Coastal).

Coastal Commission Permit Jurisdiction Area — all tidelands, submerged lands, and public trust lands (whether filled or unfilled) within the Coastal Zone. (Coastal Act/30519(b)).

Coastal Dependent Development — any development or use which requires a site on, or adjacent to, the sea to be able to function at all. (Coastal Act/30101).

Coastal Dependent Use — Any use which requires a site on, or adjacent to, the sea to be able to function at all. (Coastal Act/30101).

Coastal Development Permit — any license, certificate, approval, or other entitlement for use granted or denied by any public agency which is subject to the provisions of Division 20 of the Public Resources Code as amended. (Coastal Act/30110).

Coastal Flood Plain Development Study — a report which contains technical criteria and standards necessary to provide protection of property from the ocean along the coastal plain.

Coastal High Hazard Area — the area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE, V, or AE and is also designated as FP-3.

Coastal High Hazard Incorporated Area — the area subject to ocean related hazards, including but not limited to high waves, storms, hurricane wave wash, and tsunamis. (Coastal)

Coastal-Related Development — any development or use that is dependent on a coastal-dependent development or use. (Coastal Act/30101.3).

Coastal Plan — the California Coastal Zone Conservation Plan prepared and adopted by the California Coastal Zone Conservation Commission and submitted to the Governor and the Legislature on December 1, 1975, pursuant to the California Coastal Zone Conservation Act of 1972 (commencing with Section 27000). (Coastal).

Coastal Zone — that land and water area of the City of Dana Point, specified on the maps identified and set forth in Section 17 of that chapter of the Statutes of the 1975-76 Regular Session enacting the California Coastal Act of 1976, extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea. (Coastal Act/30103(a)).

Co-Location — the locating of two or more antenna facilities operated by more than one service provider at a single location and mounted to a common antenna structure, wall, roof or other parts of a building.

Commercial Antenna — an antenna used for commercial enterprise, including, but not limited to, cellular antennas, microwave relay stations, AM/FM broadcasting antennas and UHF/VHF broadcasting antennas.

Commercial Vehicle — a vehicle customarily used as part of a business for the transportation of goods or people.

Commercial Wireless Telecommunication Antenna Facility — a facility consisting of one or more antennas that is secured at a fixed and specified location, including any structure designed to support such antenna, which is used for commercial enterprise to provide radio communication services, including, but not limited to, paging services, wireless data services, cellular telephone services, enhanced special mobile radio services (ESMR), personal communication services (PCS), microwave relay stations, AM/FM broadcasting antennas and UHF/VHF broadcasting antennas. Types of antenna facilities include, but are not limited to, rooftop-mounted, wall-mounted and freestanding antenna structure (also known as an "Antenna Facility").

Commercial Wireless Telecommunication Services — those wireless telecommunication services offered by commercial carriers licensed by the Federal Communication Commission, including, but not limited to, paging services, wireless data services, cellular telephone services, enhanced special mobile radio services (ESMR), personal communication services (PCS), microwave relay stations, AM/FM broadcasting antennas and UHF/VHF broadcasting antennas.

Common Area — land in a development held by an association in common or single ownership which is not reserved for the exclusive use or benefit of an individual tenant or owner.

Common Facility — a non-commercial use established primarily for the benefit and enjoyment of the residential community in which it is located, typically recreation, utility, or service use oriented.

Communal Housing — See Section 9.75.270.

Community Care Facility — See Section 9.75.270.

Community Center — See Section 9.75.270.

Community Treatment Facility — See Section 9.75.270.

Conditional Use — a use permitted on a particular site and within a zoning district only upon finding that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in the Code and authorized by the Commission.

Conditional Use Permit — a permit issued to a property owner allowing a particular use or activity not allowed as a matter of right within a particular district or zone.

Condominium — an undivided interest in common in a portion of real property coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan, in sufficient detail to locate all boundaries thereof. An individual condominium within a condominium may include, in addition, a separate interest in other portions of the real property.

Conforming — fully meeting the requirements of Chapter 8.02 (Building Regulations) and all property development regulations and requirements prescribed in the applicable zoning district.

Congregate Care Facility — See Section 9.75.270.

Congregate Living Health Facility — See Section 9.75.270.

Construction Trailer — a trailer, the use of which is incidental to new construction on a site, including but not limited to temporary office space for the direction of on-site construction activities.

Convalescent Facility — See Section 9.75.270.

Conversion — the change from an individual ownership of existing real property and structure to multiple ownerships of the structure(s), together with a common interest in the land on which the residential, industrial, or commercial buildings are located.

Courtyard — an open, unoccupied space, which is unobstructed from ground to sky, other than a yard, on the same lot with a building and bounded on two or more sides by the walls of a building.

Covered Parking — a parking stall(s) within a carport or completely under the overhanging portion of a building.

Cumulative Effect or Cumulatively — the effect of an individual project in combination with the effects of past projects, other current projects, and probable future projects. (Coastal).

Curb Elevation — the level of the established curb in front of a building, as measured at the center of the frontage. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 96-10, 8/13/96; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98)

9.75.040 “D” Definitions and Illustrations.

Dance Floor — an area which is in excess of three hundred (300) square feet or in excess of fifteen (15) percent of the public area of a building and is used as a dance area, whether as a primary or accessory use.

Dance Hall/Club — See Section 9.75.270.

Day Care Center — See Section 9.75.270.

Day Treatment Facility — See Section 9.75.270.

Day Care Facilities — see “Congregate Health Care and Residential Facilities, Adult Day Health Care, Adult Day Health Center, Adult Day Care Facility, Child Day Care Facility, Day Care Center, Day Treatment Facility, Family Day Care Home, Family Day Care Home, Large, Family Day Care Home, Small, and Social Day Care Facility.”

Days — shall always mean consecutive calendar days unless otherwise stated.

Decibel (db) — a unit used to express the intensity of a sound wave.

Deck — a platform, either freestanding or attached to a building that is supported by pillars, posts or walls.

Deck (Floodplain Overlay District) — a concrete or wooden patio located on the front, rear, or sideyards of a structure.

Dedication — the conveyance by an owner or developer of private land for public use, and the acceptance of land for such use by the governmental agency having jurisdiction over the public function for which it will be used.

Demolish or Destroy — other than immediate replacement or reconstruction, the removal, destruction, wrecking, tearing down, dismantling, or razing of a building or structure to a level where the building or structure is non-functional.

Density — the number of residential dwelling units per acre of land.

Density/Intensity Bonus — the granting of additional development potential that allows a specific development to accommodate additional square footage or additional residential units beyond the maximum for which the site is zoned. Density/Intensity Bonuses are granted in exchange for the provision or preservation of a significant and exemplary public benefit at the same site or at another location.

Density, Gross — the ratio expressed by the number of residential dwelling units divided by gross acreage.

Density, Net — the ratio expressed by the number of residential dwelling units divided by net acreage.

Design — a detailed and organized plan of development that includes: (1) architectural features; (2) street alignments, grades and widths; (3) drainage and sanitary facilities and utilities, including alignments and grades thereof; (4) location and size of all required easements and rights-of-way; (5) fire roads and fire breaks; (6) lot size and configuration; (7) traffic circulation and access; (8) parking; (9) grading; (10) land to be dedicated for park or recreation purposes; and (11) such other specific requirements in the plan and configuration of the entire project as may be necessary or convenient to ensure conformity to, or implementation of, the General Plan, Zoning Code, or any adopted Specific Plan.

Detached Building — any building or structure that does not have a wall or roof in common with any other building or structure.

Detention Basin — a storage facility for the temporary storage of storm water runoff.

Development, Coastal — the placement or erection, on land, in or under water, of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto, construction, reconstruction, demolition, or alteration of the size of any structure; including any facility of any private, public, or municipal utility; and the removal of harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provision of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511). As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. (Coastal Act/30106).

Development in the Floodplain Overlay Districts — any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Development Project — any project undertaken for the purpose of development. Development project includes a project involving the issuance of a permit for construction or reconstruction but not a permit to operate. Development permit does not include any ministerial projects proposed to be carried out or approved by public agencies.

Directional panel antenna — an antenna component that transmits and receives wireless telecommunication signals from a specific direction and generally has a box-like, panel-style shape.

Director — the Director of Community Development for the City of Dana Point, unless otherwise specified.

Discretionary Action — an action taken on a development project based on the individual choice or judgement of the members of the hearing body.

District — a division or category of zoning which establishes a distinction in land use through a differentiation in development standards and/or land use regulations.

District, Special — an agency or organization which controls the provision of a public utility or service such as schools, parks, flood control or sewer or water service.

Drinking Establishment — See Section 9.75.270.

Driveway — a private roadway or accessway providing direct vehicular access to a garage, parking lot or use which requires vehicular access such as a service station or car wash.

Drug Abuse Recovery or Treatment Facility — See Section 9.75.270.

Dwelling, Duplex — See Section 9.75.270.

Dwelling, Multiple Family — See Section 9.75.270.

Dwelling, Single Family Attached — See Section 9.75.270.

Dwelling, Single Family Detached — See Section 9.75.270.

Dwelling Unit — a self-contained group of interconnected rooms designed, occupied or intended as separate living quarters, with sleeping and sanitary facilities and one cooking facility, provided within a permanent structure or portion thereof, for residential occupancy by a single household, not including hotels, motels or timeshares. (Added by Ord. 93-16,11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 96-10, 8/13/96; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98)

9.75.050 “E” Definitions and Illustrations.

Easement — An interest in real property owned by another that entitles its holder to a specific limited use or privilege.

Eave — See “Overhang, Roof.”

Elevation — a scale drawing of the front, rear, or side of a building or structure.

Emergency, Coastal — for the purposes of Section 9.69.150 (Emergency Permits) of this Zoning Code, “emergency” shall mean, within the Coastal Zone, a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. (Coastal Act/30333, 30624; 14 Cal. Code of Regulations/13009).

Employment Generation Factors — factors developed for use by the City for projecting the potential employment of any proposed development project.

Emergency Shelter — See Section 9.75.270.

Employees’ Quarters — See Section 9.75.270.

Equestrian Facility — See Section 9.75.270.

Enclosed Parking Structure — a building or structure used for the parking of motor vehicles, having exterior enclosure walls which have less than twenty-five (25) percent of the total wall area open to the atmosphere at each level that enclose at least two sides of the structure.

Enclosed Portion of any Structure — an edifice or building of any kind, attached to or detached from the dwelling unit, or any piece of work artificially built up or composed of parts joined together, that serves some functional or aesthetic connection to the primary building.

Energy Facility — any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal or other source of energy. (Coastal)

Environmental Impact Report (EIR) — a detailed statement setting forth the environmental effects, considerations, and mitigation measures pertaining to a project pursuant to Section 21100 of the California Environmental Quality Act (CEQA), CEQA Guidelines, and local CEQA Guidelines.

Environmentally Sensitive Habitat Area — any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and development. (Coastal Act/30107.5).

Equestrian Trail — a trail which is designed, improved, and intended to be used for horseback riding purposes.

Equipment Shelter — an enclosed structure, cabinet, shed or box at the base of a freestanding antenna mount.

Erosion Control Projects — a plan or proposal of man-made systems, including, but not limited to, dams or diversions, used to decrease damages of erosion caused by storms, wind, wave action and/or flooding.

Escort — means a person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency — See Section 9.75.270.

Estuary — all area within the mean high tide line of any coastal water body, usually semi-enclosed by land, having open, partially obstructed or intermittent exchange with the open sea and in which ocean water is at least occasionally diluted by fresh water runoff from the land. (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(c)).

Exception — a grant of relief from the requirements of Chapter 9.31 which permits construction in a manner that would otherwise be prohibited by Chapter 9.31.

Exceptional Case Approval Procedure — the Exceptional Case Approval procedures shall be required of certain freestanding antenna facilities and any proposed installation which is, in the opinion of the City, of controversial design. Exceptional Case Approval is also required if a wireless carrier-wishes to propose an antenna facility contrary to the design. A Variance is required when a proposal is contrary to the setbacks from residential districts or classrooms.

Existing Use — the use of a lot or structure established at the time of the enactment of this Code. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 96-10, 8/13/96; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98))

9.75.060 “F” Definitions and Illustrations.

Fall Zone — the area on the ground within a prescribed radius from the base of a freestanding antenna facility. The fall zone is the area within which there could be a hazard from falling debris or the collapse of the antenna support standard.

Family Day Care Home — See Section 9.75.270.

Family Day Care Home, Large — See Section 9.75.270.

Family Day Care Home, Small — See Section 9.75.270.

Feasible — capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors. (Coastal Act/30108).

Fence — a solid or open barrier above ground intended to enclose or mark a boundary.

Fill, Coastal — earth or any other substance or material, including pilings placed for purposes of erecting structures thereon, placed in a submerged area. Examples of fill materials include but are not limited to earth, excavated or dredged materials, sand, gravel, rock, rip-rap, and concrete. (Coastal Act/30108.2).

First Public Road Paralleling the Sea — that road nearest to the sea as defined in Section 9.75.190, which is: (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(i)).

First Public Roadway — (See “First Public Road Paralleling the Sea”) - (Coastal).

Flood or Flooding — a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of flood waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source, and/or; (3) the collapse or subsidence of land along the shore of the ocean or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

Flood Boundary and Floodway Map — the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.

Flood Insurance Rate Map (F.I.R.M.) — the official maps on which the Federal Emergency Management Agency has delineated the areas of special flood hazard and the risk premium zones and the floodways applicable to the City.

Flood Insurance Study — the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

Flood, 100-Year — the magnitude of a flood expected to occur on the average every 100 years, based on historical data. The 100-year flood has a 1/100, or one (1) percent, chance of occurring in any given year. See “Base Flood.”

Floodplain — the relatively level land area on either side of the banks of a stream regularly subject to flooding. That part of the floodplain subject to a 100-year flood is designated as an “area of special flood hazard” by the Federal Insurance Administration.

Floodplain or Flood-Prone Area — any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain Fringe — all land between the floodway and the upper elevation of the 100-year flood.

Floodplain Management — the operation of any overall program of corrective and preventive measures for reducing flood damage, including but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations — zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance) and other local regulations. The term describes such state or local regulations in any combination thereof, which provide standards for purpose of flood prevention and reduction.

Floodproofing — any combination of structural and nonstructural additions, changes or adjustments to structures which eliminate or reduce flood damage to improved real property, water and sanitary facilities, structures or their contents.

Floodway — the channel of a river, stream, creek, or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. Also referred to as “Regulatory Floodway”.

Floor Area Ratio — the total gross floor area, including habitable subterranean floors, but not parking structures, of all buildings on a lot divided by the lot area.

Floor Area, Gross — the area included within the surrounding exterior finish wall surface of a building or portion thereof, exclusive of courtyards, parking structures, and other non-habitable space but including stairways, hallways, and restrooms.

Fortune-Telling — See Section 9.75.270.

Foster Family Home — See Section 9.75.270.

Freestanding Antenna Facility — any freestanding structure specifically designed to support one or more antennas and any mounting appurtenances mounted on such a structure.

Fuel Modification Zone — a wide strip of land where flammable native vegetation has been removed and/or modified and partially or totally replaced with drought-tolerant, fire-resistant plants. Fuel modification zones are typically composed of three subzones — a non-combustible zone, a wet zone and a thinning zone.

Functionally Dependent Use — shall mean a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98)

9.75.070 “G” Definitions and Illustrations.

Garage — an enclosed building or structure, or part thereof, used or intended to be used for the parking and storage of motor vehicles.

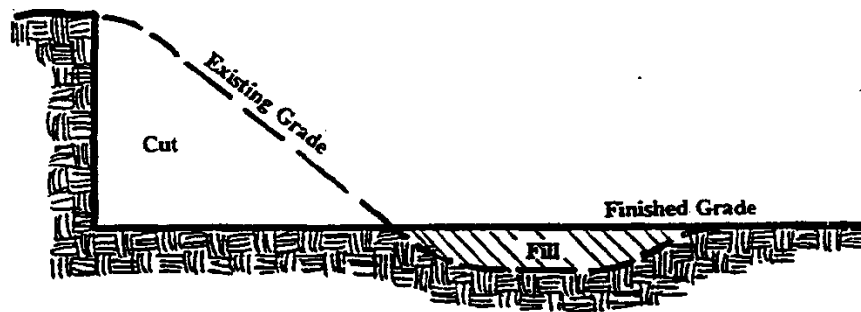
Garage, Private — a garage for general public use, whether free or for free.

Garage, Public — a garage where vehicles are parked or stored for remuneration, hire or sale.

General Plan — the General Plan, pursuant to Government Code Section 65301, of the City of Dana Point which may be amended from time to time by the City Council.

Grade — the average of the finished ground level (finished grade) at the center of all exterior walls of a building or, where such walls are parallel to and within five (5) feet of a sidewalk, the average of the finished ground level at the sidewalk, or to the top of curb, where there is no sidewalk.

Grade, Existing — the elevation of the ground which exists prior to the start of any site preparation, grading, or construction related to the project being proposed. Existing grade will not be the same as natural grade if the site has been previously graded.



Grading, Contour — a grading concept designed to result in earth forms and contours which resemble natural terrain characteristics, with generally curving, non-linear slope banks having variations in the slope ratios of the horizontal and vertical curves.

Granny Flat — See Section 9.75.270.

Greenbelt—an open area, cultivated, landscaped or maintained in a natural state, which surrounds development. Greenbelts serve as a buffer between land uses, or mark the edge of an urban or developed area.

Group Home — See Section 9.75.270.

Guest Room — any room which is used or designed to provide transient occupancy and sleeping accommodations for one or more guests. Guest rooms occur in hotels, motels, time-shared, bed and breakfast, private clubs, lodges, fraternal organizations, and other

transient occupancy uses. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.75.080 “H” Definitions and Illustrations.

Handicapped Housing — any housing which is designed and constructed to accommodate physically handicapped persons.

Hazardous Waste Facility — See Section 9.75.270.

Hazardous Waste Facility Project — an on-site facility and pursuant to Health and Safety Code 25199.1.

Hedge — a grouping of vegetation, composed exclusively of shrubs or bushes, planted, grown, maintained and shaped in a linear pattern which forms a solid barrier similar in shape and proportion to a fence or wall.

Helipad — an area of land designed, constructed, properly equipped and authorized by the Federal Aviation Administration to function as a private landing and takeoff facility for helicopters.

Heliport — an area of land designed, constructed, properly equipped and authorized by the Federal Aviation Administration to function as a public landing and takeoff facility for helicopters.

Highest Adjacent Grade — the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Home Occupation — See Section 9.75.270.

Homeowners Association—a community association which is organized within a residential development in which individual owners share common ownership interests and responsibilities for buildings, open space, landscaping, and/or facilities.

Hospital, Acute Psychiatric — See Section 9.75.270.

Hospital, Chemical Dependency Recovery — See Section 9.75.270.

Hospital, General Acute Care — See Section 9.75.270.

Hospital, Special — See Section 9.75.270.

Hotel — See Section 9.75.270.

Household — the permanent residents of a dwelling unit (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.75.090 “I” Definitions and Illustrations.

Improvement—the construction or addition of one or more features, structures or utilities on a parcel of land.

Infill — development of vacant land located within areas that are already developed.

Infrastructure — basic facilities and services needed to sustain development.

Inland Extent of the Beach — the inland extent of the beach shall be determined as follows:

(1) from a distinct linear feature (e.g. a seawall, road, or bluff, etc.); (2) from the inland edge of the further inland beach berm, as determined from historical surveys, aerial photographs, and other records or geological evidence; or (3) where a beach berm does not exist, from the further point separating the dynamic portion of the beach from the inland area as distinguished by vegetation, debris or other geological or historical evidence. (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(g)(1), 13577(g)(2)).

Intermediate Care Facility — See Section 9.75.270.

Island, Traffic — a raised barrier, sometimes landscaped, located in the right-of-way for the purpose of directing circulation patterns. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 97-05, 9/9/97)

9.75.100 “J” Definitions and Illustrations.

None. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.75.110 “K” Definitions and Illustrations.

Kennel — See Section 9.75.270.

Kitchen/Cooking Facilities — a room or portion of a room in a structure used for the purpose of preparing meals, containing the necessary appliances, including a sink and running water, and one or more of the following: stove, hot plate, or similar portable or non-portable cooking device.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94;)

9.75.120 “L” Definitions and Illustrations.

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.

Landscape, Front Yard Setback Coverage – The front yard setback of all residentially zoned parcels shall be covered by landscaping with the minimum percentage identified in Zoning Code Section 9.09.030(k) of this Title and consistent with the “Landscaping” definition.

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 non-native plant materials including lawn, ground cover, xeriscape (drought tolerant landscape design), trees, shrubs, and other plant materials.

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).

Living Area- Means the interior habitable area of a dwelling unit including permitted habitable basements and permitted habitable attics, but does not include a garage or any accessory structure.

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.

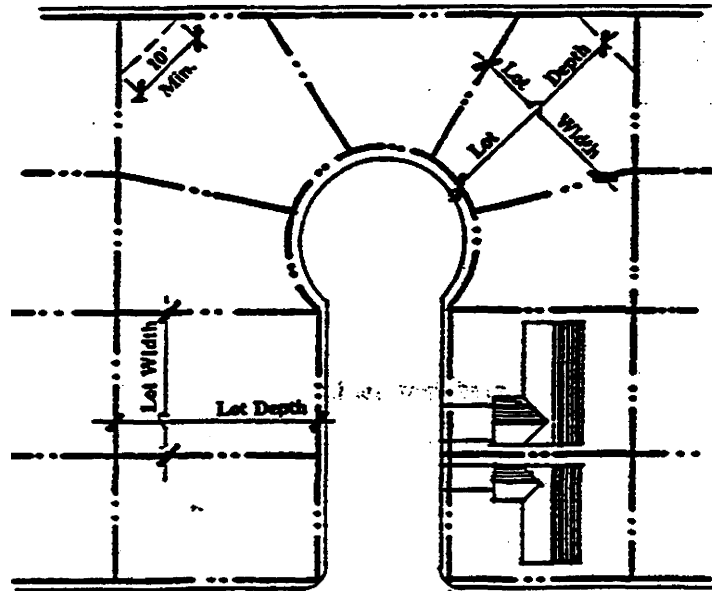
Lot, Through — a lot which fronts upon two streets which do not intersect at the boundaries of the lot.

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.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 97-05, 9/9/97)

9.75.130 "M" Definitions and Illustrations.

Major Antenna Use Permit — a Major Antenna Use Permit would be required for certain light standard right-of-way antenna facilities and certain “stealth” antenna facilities that are within setbacks defined herein to residential districts and classrooms. A Major AUP would also be required for all non-stealth design antenna facilities setback further from residential districts, such as rooftop facilities, wall-mounted facilities or other non-freestanding facilities that for whatever reason might not be able to strictly adhere to the requirements for “stealth installations” as specified in Section 9.02.020(b).

Major Energy Facility — facilities that cost more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Sections 30610, 30610.5, 30611 or 30624 of the California Coastal Act of 1976. (Coastal Act/30333; 14 Cal. Code of Regulations/13012(a)).

Major Public Works Project — “major public works facilities” are defined as follows:

- (1) Facilities that cost more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Sections 30610, 30610.5, 30611 or 30624 of the California Coastal Act of 1976.
- (2) Notwithstanding the criteria in (1) above, “major public works” also means publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities. (Coastal Act/30333; 14 Cal. Code of Regulations/13012).

Manufactured Home — a structure, transportable in one or more sections, which is built on a permanent chassis and is depicted for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision — a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.

Map Act — the Subdivision Map Act of the State of California.

Market Value — the value of a structure based on market conditions or trends as established by a current or recent appraisal on said property. The term recent is intended to refer to the previous six (6) months.

Massage Parlor — See Section 9.75.270.

Mean High Tide Line — the mean high tide line shall be defined as the statistical mean of all the high tides over the cyclical period of 18.6 years, and shall be determined by reference to the records and elevations of tidal benchmarks established by the National

Ocean Survey. In areas where observations covering a period of 18.6 years are not available, a determination may be made based on observations covering a shorter period, provided they are corrected to a mean value by comparison with observations made at some suitably located control tide station. (Coastal Act 30501, 30620.6; 14 Cal. Code of Regulations/13577(c)).

Mean Sea Level — for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on the City’s Flood Insurance Rate Map are referenced.

Median — a paved and/or planted area separating a street or highway into two or more lanes of opposite direction travel.

Menagerie — a collection of wild animals and/or birds.

Merger — see “Lot Merger.”

Mezzanine – An intermediate level or levels between the floor and ceiling as defined, or as amended by the California Building Code.

Microcell — an installation that is used on occasion by Carriers which consists typically of small panel antennas (usually two) mounted on poles and light standards within the public right-of-way with fiber-optic cable connecting the antennas.

Minor Antenna Use Permit — a Minor Antenna Use Permit would be required for light standard right-of-way antenna facilities and certain “stealth” antenna facilities within designated setbacks from residential districts and classrooms. However, unlike those considered through the Major AUP process, these antenna facilities would observe all of the design and siting requirements specified in these regulations.

Microwave Antenna — a wireless telecommunication facility antenna (most often in the shape of a dish or a drum) that transmits and receives microwave radio signals to provide an electronic line-of-sight interconnection between antennas facilities.

Mixed Use — the development, in a compact urban form and designed or arranged to ensure land use compatibility, of a structure(s) or site with two or more different land uses including, but not limited to, residential, office commercial, light industrial, business park, recreational, or public.

Mobilehome — See Section 9.75.270.

Mobilehome Park — See Section 9.75.270.

Mobilehome Subdivision — See Section 9.75.270.

Monopole — a type of freestanding antenna facility comprised of a pole designed to support platforms or arms with cross-beams to mount antennas at a desired height above ground level.

Motel — See Section 9.75.270.

Motor Vehicle — a machine capable of self-propulsion, with human guidance, whether for the performance of work or as a mode of transportation.

Multi-Phase Development — a development project that is constructed in increments, with each increment capable of existing independently of the other. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98; Ord. 19-01, 4/2/19)

9.75.140 “N” Definitions and Illustrations.

New Construction in the Floodplain Overlay Districts — for floodplain management purposes, structures for which the “start of construction” commenced on or after September 14, 1979, the effective date the area within the City’s boundaries were first included on the Flood Insurance Rate Maps (FIRM).

Noise, Ambient — the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding alleged offensive noises, at the location and approximate time at which a comparison with alleged offensive noises is to be made.

Nonconforming Lot — any subdivision of land that was lawfully established and in compliance with all applicable ordinances and laws at the time the property was subdivided, but which, due to a subsequently enacted ordinance or law, no longer complies with all the applicable regulations and standards of the zone in which the property is located.

Nonconforming Structure — any structure, building, or improvement upon land, other than the land itself, including any sign, that was lawfully established and in compliance with all applicable ordinances and laws at the time the structure, building or improvement was established, but which, due to a subsequently enacted ordinance or law, no longer complies with all of the applicable regulations and standards of the zone in which the structure, building or improvement is located.

Nonconforming Structure, Illegal — any structure, building, or improvement upon land, other than the land itself, including any sign, that was not established in compliance with all ordinances and laws that were applicable at the time the structure, building, or improvement was established.

Nonconforming Use — any use of land that was lawfully established and in compliance with all applicable ordinances and laws at the time the use was established, but which, due to a subsequently enacted ordinance or law, no longer complies with all of the applicable regulations and standards of the zone in which the use is located.

Nonconforming Use, Illegal — any use of land that was not established in compliance with all the ordinances and laws that were applicable at the time the use of land was established.

Non-Freestanding Antenna Facility — an antenna facility that utilizes a building to mount the antennas at a desired height above ground level. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 98-06, 9/22/98; Ord. 19-01, 4/2/19)

9.75.150 “O” Definitions and Illustrations.

Occupiable Space, Non-Residential-A room or enclosed space designed for human occupancy in which individuals could congregate and which is equipped with means of egress and light and ventilation facilities meeting the requirements of the California Building Code.

Omni-directional Whip Antenna — a thin whip-style antenna that can transmit and receive wireless telecommunication signals in all directions, typically less than fifteen (15) feet in length.

Open Space — See Section 9.75.270.

Open Space, Active — any parcel or area of land or water which is set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space and which contains recreational facilities such as pools and swimming areas, courts and other game areas, playing fields and equipment or other required facilities for various active activities.

Open Space, Common — land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the owners of the development and which may include complementary structures, facilities and improvements such as gazebos, recreational facilities, pools, spas, and game courts.

Open Space, Passive — any parcel or area of land or water which is essentially unimproved and set aside, dedicated, designated or reserved for non-structured recreational activities in order to preserve the natural and aesthetic qualities of the area.

Open Space, Private — an open space, fenced or otherwise, designed to promote privacy, and which is reserved for the exclusive use of the occupants of a specific dwelling unit.

Open Space, Public — open space owned and maintained by a public agency for the use and enjoyment of the general public.

Overhang, Roof — that portion of a roof which extends beyond the vertical facade of a lower wall.

Overhang, Vehicle — the portion of a parked vehicle which extends beyond a curb and into a landscaped or sidewalk area.

Overlay Zoning District — a zoning district established by ordinance, which shall be applied to properties in combination with any other zoning district or specific plan or development plan.

Owners Association — a community association which is organized within a non-residential development in which individual owners share common ownership interests and responsibilities for buildings, open space, landscaping, and/or facilities. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98)

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. Subterranean parking structures shall be allowed to daylight for vehicular access without counting as a story nor against the height calculation if the vehicular access is the only area where a subterranean parking structure daylights.

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).

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98)

9.75.170 “Q” Definitions and Illustrations.

Quasi-Public — a use owned or operated by a non-profit institution providing educational, cultural, recreational, religious, or similar types of public programs.

Queue Area — an area provided for motor vehicles to queue while waiting to obtain goods or services from a drive-through facility. (Added by Ord. 93-16,11/23/93; amended by Ord. 94-09, 5/24/94)

9.75.180 “R” Definitions and Illustrations.

Radiofrequency (RF) emissions — the emissions created by the radio signals from wireless telecommunication facilities.

Reception Window — the area within the direct line between a satellite antenna and those orbiting communications satellites carrying available programming.

Recreational Equipment — structures or devices that stimulate activity through amusement, exercise or play in order to refresh one’s mind or body. Examples include playground equipment (i.e. swings, slides, etc.), park benches, picnic tables, and exercise courses.

Recreational Vehicle — a vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle which is designed or used for recreational or

sporting purposes. The term recreational vehicle shall include, but not be limited to, travel trailers, pickup campers, camping or tent trailers, motor coach homes, converted trucks or buses, boats, and boat trailers, and all-terrain vehicles.

Recreational Vehicle Park — See Section 9.75.270.

Recycling Facility — See Section 9.75.270.

Replacement Cost — the actual cost to replace or reconstruct a damaged structure, facility or feature as determined by the appraisal of a qualified and approved appraiser.

Residential Care Facility for the Elderly — See Section 9.75.270.

Residential Facility — See Section 9.75.270.

Resource Recovery — the process of obtaining materials or energy from waste materials, particularly solid waste.

Restaurant — See Section 9.75.270.

Restaurant, Drive-Through — See Section 9.75.270.

Restaurant, Fast Food — See Section 9.75.270.

Restaurant, Take-Out — See Section 9.75.270.

Restaurant, Walkup — See Section 9.75.270.

Retention Basin — see “Detention Basin.”

Right-of-Way — a corridor, either public or private, on which a right of passage has been recorded.

Right-of-Way, Public — any parcel or strip of land acquired by reservation, dedication, prescription or condemnation and intended to be occupied by a road, trail, water line, storm drain, sanitary sewer line and/or other public use.

Right-of-Way, Ultimate — the boundaries of any future right-of-way shown on an adopted precise plan of highway alignment, or the street rights-of-way shown within the boundary of a recorded tract map, a recorded parcel map or a recorded Site Plan. The latest adopted or recorded document in the above case shall take precedence. If none of these exist, the ultimate right-of-way shall be considered the right-of-way required by the roadway classification as shown on the Circulation System Master Plan of the General Plan. In all other instances, the ultimate right-of-way shall be considered to be the existing right-of-way.

Riparian Habitat — an environment associated with freshwater watercourses, including perennial and intermittent streams, lakes, and other bodies of fresh water, and characterized by plants and animals which are dependent upon the availability of water in the resource.

Riverline — relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Roof Deck — a structure that is constructed above the top plate line of a structure, accessed from below the top plate line, and which is designed to function as an outdoor patio or observation area.

Rooftop-mounted Antenna — an antenna mounted to the roof of an existing building.

Room — an area within a building that is fully enclosed by walls, a ceiling and a floor, including at least one door way access and which may include a door(s) or window(s).

Rounding of Quantities — the process whereby, in the calculation of distances, unit density, density bonuses, parking requirements, or other aspects of development or the physical environment, fractional numbers are converted to whole numbers. Where the fractional number is .5 or more, the number shall be rounded up to the next higher whole number. Where the fractional number is less than .5, the number shall be rounded down to the next lower whole number, except as may be otherwise provided in this Code. (Added by Ord. 93-16,11/23/93; amended by Ord. 94-09,5/24/94; Ord. No. 98-06, 9/22/98)

9.75.190 “S” Definitions and Illustrations.

Sand Dunes — naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Sanitarium, Health — See Section 9.75.270.

Sanitarium, Mental — See Section 9.75.270.

Sanitary Sewers — pipes that carry only domestic or commercial sewage to a treatment plant and into which storm, surface, and ground waters are not intentionally admitted.

Satellite Dish Antenna — any antenna in the shape of a shallow dish, and appurtenant equipment, used for the reception of communications (television and otherwise) from orbiting satellites or ground transmitters. This definition includes, satellite dish antennas of all sizes including those satellite dish antennas less than one (1) meter in diameter.

Scale, Public — a weighing mechanism, intended to determine the gross weight of motor vehicles, usually large trucks, that is open to the general public.

Scenic Highway — a roadway designated by the City General Plan as a “scenic highway.”

Screening — a method of visually shielding or obscuring any abutting or nearby structure, use or mechanical device from another by fencing, walls, berms or densely planted vegetation.

Sea — the Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding non-estuarine rivers, streams, tributaries, creeks, and flood control and drainage channels. (Coastal Act/30115).

“Second Dwelling Units” — See Section 9.75.270.

Senior Citizen Housing — See Section 9.75.270.

Senior Congregate Care Housing — See Section 9.75.270.

Sensitive Coastal Resources Area — an identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity. A sensitive coastal resources area includes the following:

- (a) Special marine and land habitat areas, wetlands, lagoons, and estuaries as mapped generally in the Conservation/Open Space Element Figure COS-1.
- (b) Areas possessing significant recreational value.
- (c) Highly scenic areas.
- (d) Archaeological sites designated by the State Historic Preservation Officer.
- (e) Special communities or neighborhoods which are significant visitor destination areas.
- (f) Areas that provide existing coastal recreational opportunities for low-and moderate-income persons.
- (g) Areas where divisions of land could substantially impair or restrict coastal access. (Coastal Act/30116).

Septic System — a sewage treatment system that includes a settling tank through which liquid sewage flows and in which solid sewage settles and is decomposed by bacteria in the absence of oxygen.

Setback — the minimum required distance between a building or structure, and a property line.

Setback Line — a line within a lot, parallel to and measured from a corresponding lot line, forming the boundary of a required yard and governing the placement of buildings/structures and uses on a lot.

Sexual Encounter/Rap Center — means any business or commercial enterprise that, as one of its primary business purposes, offers any form of consideration: (1) physical contact in the form of wrestling or bumbling between persons of the opposite sex; or (2) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

Shoreline Protective Works — a man-made structure or system of structures, including but not limited to, seawalls, revetments, rip-rap, jetties, groins, breakwaters, cliff retaining walls, or dams or diversion, used to protect the shoreline from damage caused by storms, wave action, erosion, and/or flooding. (Coastal Act/30235).

Shoreline Setback — the distance from the mean high tide line governing the placement of buildings, structures, parking or uses on a lot.

Sidewalk—a paved surface or leveled area used as a pedestrian walkway which parallels and is usually separated from, but may be adjacent to, the street.

Sight Distance Area — an area, generally triangular in shape, located at the corners of a street or highway intersection that is designated to be kept clear of visual obstructions in excess of three (3) feet tall.

Sign- See Section 9.37.020(s)

Significant Public Views — those views of the ocean, coastline, coastal foothills and other open space areas within the City from public roadways, public recreational land uses and designated scenic highways.

Single Room Occupancy — See Section 9.75.270.

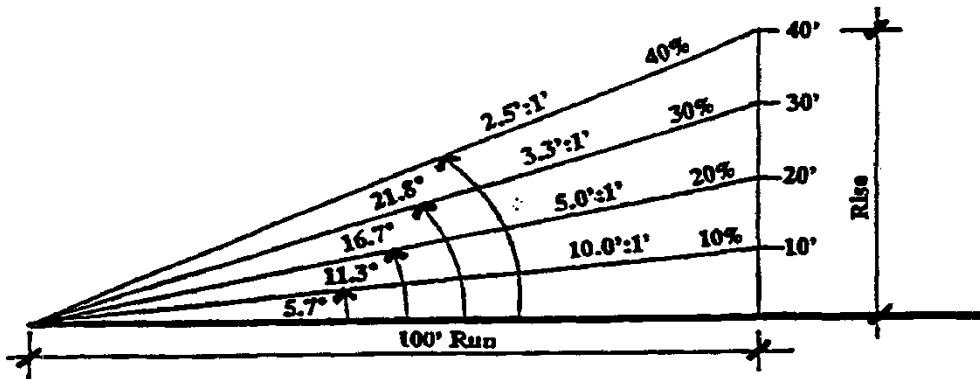
Site — any lot or parcel of land or combination of contiguous lots or parcels of land used or intended for a particular use or group of uses.

Site Development Permit — an approval which is required prior to the development of certain structures or uses in a particular district or zone. This permit is required for most non-restricted uses and is typically utilized to ensure compliance with the district development regulations and to identify necessary improvements, requirements, and dedications.

Site Plan — a diagram of a property proposed for development as seen from above. The diagram shall be drawn to scale and properly dimensioned. The diagram shall illustrate the existing and proposed uses and structures on the property in accordance with the applicable regulations and shall include lot lines, streets, grades, building sites, landscaping, parking areas, structures, and uses on adjacent parcels, reserved open space and other specific development proposals.

“Skilled Nursing Facility” — See Section 9.75.270.

Slope — the degree of deviation of a surface from the horizontal, usually expressed in percent or degrees. The diagram, formulas, and table below are provided for reference.



Slope Percentage = Rise/Run x 100

Slope Ratio = Run/Rise = (x) feet run to one foot rise = x:1

% Grade	Degrees	Ratio
100.0	45.0	1.0:1
50.0	26.6	2.0:1
40.0	21.8	2.5:1
33.3	18.4	3.0:1
30.0	16.7	3.3:1
25.0	14.0	4.0:1
20.0	11.3	5.0:1
15.0	8.5	6.7:1
12.0	6.8	8.3:1
10.0	5.7	10.0:1
8.0	4.6	12.5:1
6.0	3.4	16.7:1

Slope Bank — a man-made slope steeper than fifteen (15) percent.

“Small Family Home” — See Section 9.75.270.

“Social Day Care Facility” — See Section 9.75.270.

“Social Rehabilitation Facility” — See Section 9.75.270.

Solar Energy Systems — a complete design or assembly consisting of a solar energy collector, energy storage facility, and components for the distribution of transformed energy.

Solid Fence — a fence of wall constructed of materials that are visually opaque.

“Solid Waste Disposal Facility” — See Section 9.75.270.

Specified Hazardous Waste Facility Project — an off-site or on-site facility which serves more than one generator of hazardous waste, and pursuant to Health and Safety Code 25199.1(n).

Specific Plan — a detailed plan for the development of a specific area. It implements the local General Plan by creating a bridge between General Plan policies and individual development proposals. A Specific Plan directs all facets of future development; from the distribution of land uses to the location and sizing of supporting infrastructure, from methods of financing public improvements to standards of development

Specified Anatomical Areas — includes any of the following:

- (1) Less than completely and opaquely covered:
 - (a) Human genitals, pubic region;
 - (b) Buttocks; anus; and
 - (c) Female breasts below a point immediately above the top of the areola; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities — includes any of the following:

- (1) The fondling or touching of human genitals, pubic regions, buttocks, anus, or female breasts; or
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of, or in connection with, any of the activities set forth in subsections 1 through 3 of this Section; or
- (5) Human genitals in a state of sexual stimulation or arousal.

Stable, Private — See Section 9.75.270.

Stable, Public — See Section 9.75.270.

Stairway — a flight, or flights of stairs that are connected by common landings.

Standards, Development — requirements in the Code that govern building and development including but not limited to lot area, height limits, frontage, setbacks, density, landscaping, and floor area ratio.

Start of Construction in the Floodplain Overlay Districts — includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means with the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets, and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Stealth Antenna Facility — a commercial wireless telecommunication facility that uses stealth design treatments to completely screen, hide or disguise the antennas and other exposed related equipment to be unobtrusive to the general public.

Stealth Design — design features used to disguise, screen or hide a commercial wireless antenna facility from public views.

Stock Cooperative — a corporation that holds title to improved real property, either in fee simple or for a terms of years, in which all or substantially all of the shareholders have a right of exclusive occupancy in a portion of the property, and the right of occupancy is transferable only concurrently with the transfer of the corporate stock.

Storm Drains — any facilities designed to control, retain or remove surface water runoff.

Story — that portion of a building included between the surface of any floor and the upper surface of the floor next above it, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. Basements and underground parking structures shall not be considered a story.

Stream — a natural watercourse identified as a stream on a map adopted pursuant to a certified Local Coastal Program; or as designated by a solid blue line or other symbol on the USGS 7.5 minute quadrangle series map. The bank of the stream shall be defined as the watershed and relatively permanent elevation or acclivity at the outer line of the stream channel which separates the bed from the adjacent upland, whether valley or hill, and serves to confine the water within the bed and to preserve the course of the stream. In areas where the stream has no discernible bank, the boundary shall be measured from the line closest to the stream where riparian vegetation is permanently established. (Coastal)

Street — an accessible vehicular right-of-way, other than an alley, which affords a primary means of access to abutting property.

Street, Private — a right-of-way, easement or lot, designated for vehicular access, that is not dedicated to the public and held in private ownership, which provides internal access to or through a property.

Street, Public — a right-of-way designated for vehicular access that is dedicated to the public.

Structure — a combination of materials which is assembled for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. Includes, but is not limited to any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, or electrical power transmission and distribution area.

Structure in the Floodplain Overlay Districts — a walled and roofed building, cabana, or garage, including a gas or liquid storage tank, that is principally above ground, as well as a manufacture home.

Structures, Historic in the Floodplain Overlay Districts means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

Subdivision — the division of a tract of land into defined lots, either improved or unimproved, which can be separately conveyed by sale or lease, and which can be altered or developed pursuant to the Subdivision Map Act. Subdivision includes a condominium project as defined in Section 1350 of the California Civil Code and a community apartment project as defined in Section 11004 of the Business and Professions Code.

Subdivision, Tract — a subdivision which creates five or more parcels to be developed as a whole by an owner or builder.

Submerged Lands — lands which lie below the line of mean low tide. (Coastal)

Substantial Damage — damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial Improvement in the Floodplain Overlay Districts — any reconstruction, rehabilitation, addition, enlargement, expansion, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living condition; or
- (b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration will not preclude the structure’s continued designation as a historic structure.

For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (a) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living-conditions; or
- (b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-13, 11/26/96; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98)

9.75.200 “T” Definitions and Illustrations.

Temporary Structure — a structure without any permanent foundation or footings which will be removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

Temporary Use — a use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period, which is permitted through the provisions of Chapter 9.39.

Tenant — the lessee of facility space in a development project.

Terracing — an erosion control method that uses small hills and contours on the land surface to control flooding and runoff.

Tidelands — lands which are located between the line of mean high tide and mean low tide. (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(d)).

Topography — the configuration of a surface area, including its relief and the position of natural and man-made features.

Tot Lot — an improved and equipped play area for small children.

Townhouse — a single-family attached dwelling organized in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common and fire resistant walls.

Trail Staging Area — an area designated for the purpose of preparatory activities prior to the use of trail facilities.

Trail, Riding and Hiking — a path designed for or used by equestrians, pedestrians, and/or cyclists using non-motorized bicycles.

Trailer — a structure standing on wheels, towed or hauled by another vehicle, and used for short-term human occupation, carrying of materials, goods or objects, or as a temporary office.

Transportation Demand Management (TDM) — the implementation of programs, plans or policies designed to encourage changes in individual travel behavior. TDM can include an emphasis on alternative travel modes to the single occupant vehicle (SOV) such as carpools, vanpools and transit; reduction or elimination of the number of vehicle trips, or shifts in the time of vehicle commutes to other than the peak-period.

Travel Trailer — a vehicle, other than a motor vehicle, which is designed or used for human habitation and for travel or recreational purposes, does not at any time exceed eight (8) feet in width and forty (40) feet in length, and may be moved upon a public highway without a special permit or chauffeur's license without violating any provisions of the California Vehicle Code.

Travel Trailer Park — an area where spaces are offered to one or more users of travel trailers.

Trip Reduction — reducing the number of work related trips taken in single occupancy vehicles during the peak period Monday through Friday.

Triplex — a single family attached or multiple family building containing three dwelling units. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 97-05, 9/9/97)

9.75.210 “U” Definitions and Illustrations.

Unenclosed Portion of any Structure — an outdoor extension of living space, built up or composed of parts joined together not serving as habitable living space.

Unique Natural Feature — that part of the natural environment which is rare or not duplicated in the city or region.

Use — the purpose for which land or a building is used, arranged, designed or intended, or for which the land or building is or may be occupied or maintained.

Utility, Private or Public — any closely regulated agency which, under public franchise or ownership, or under certificate of convenience and necessity, provides the public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection, or other similar service. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.75.220 “V” Definitions and Illustrations.

Variance — a discretionary entitlement which permits the departure from the strict application of the development standards contained in this Code and pursuant to the findings required by the California Government Code. This term does not refer to “Administrative Modification of Standards” pursuant to Section 9.61 of this Code.

Vehicle, Disassembled — a vehicle without hoods, doors, fenders, body panels, headlights, trunk lids, tires, wheels, windows, or windshields, or any other part required for legal operation of vehicle.

Vehicle, Wrecked — a vehicle which is rendered inoperable as a result of physical damage.

Vehicular Accessway — a private, non-exclusive vehicular easement affording access to abutting properties.

Vested Right — a right which has been legally established.

Violation in the Floodplain Overlay Districts — the failure of a structure or other development to be fully compliant with the City’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Chapter is presumed to be in violation until such time as that documentation is provided.

Visitor Parking — parking stalls provided in a residential development for intermittent use by visitors. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.75.230 “W” Definitions and Illustrations.

Wall — a solid barrier intended to enclose, separate or surround and typically four (4) inches or more in thickness.

Wall-Mounted Antennas — antennas mounted directly to the exterior main wall or the exterior penthouse wall of an existing building.

Wetlands — any land area which may be covered periodically or permanently with shallow water including, but not limited to, saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps and mudflats. (Coastal Act/30121).

Wetland Restoration Projects — a plan or proposal to restore wetland areas to their natural functioning capability.

Window — an opening which is in a wall of a building, designed to allow light and/or ventilation into the building, enclosed by casement or sash and contains glass or other similar transparent or semitransparent material. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 97-05, 9/9/97; Ord. 98-06, 9/22/98)

9.75.240 “X” Definitions and Illustrations.

Xeriscape — landscaping characterized by the use of vegetation which is drought-resistant or low water use in character. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.75.250 “Y” Definitions and Illustrations.

Yard — an open space on a developed lot that is unoccupied or unobstructed from the ground upwards, and when a yard dimension is given it represents the minimum horizontal distance between the lot line from which the distance must be measured and a line parallel to the lot line.

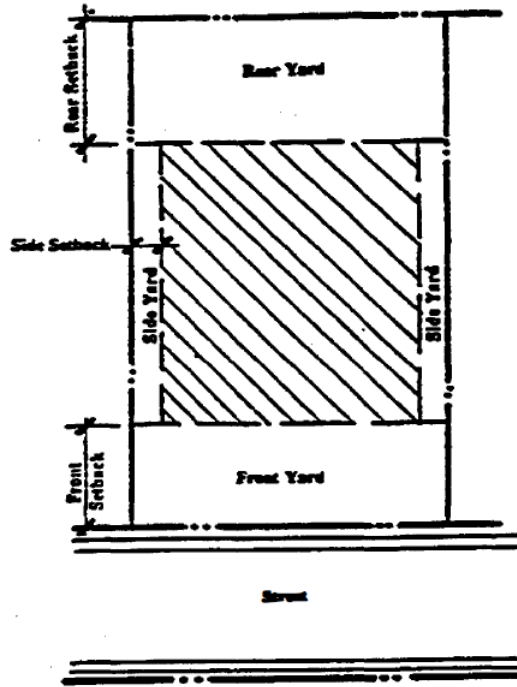
Yard, Exterior Side — an area bounded by the required front yard or, where there is no required front yard, the front lot line; the rear lot line, the side street lot line, or the existing or ultimate right-of-way (whichever is greater); and a structural setback line parallel thereto. The measured distance of the yard shall represent the shortest distance between the exterior side lot line and that portion of the main building nearest to the exterior side lot line.

Yard, Front — the open space extending across the full width of the front of the lot, the depth of which is the horizontal distance between the front lot line and a line parallel thereto on the lot.

Yard, Interior Side — an area bounded by the required front yard or, where there is no required front yard, the front lot line; the required rear yard or, where there is no required rear yard, to the rear lot line; the interior side lot line and a structural setback line parallel thereto. The measured distance of the yard shall represent the shortest distance between the interior side lot line and that portion of the main building nearest to the interior side lot line.

Yard, Rear — the open space extending across the full width of the rear of lot, the depth of which is the horizontal distance between the rear lot line and a line parallel thereto on the lot.

Yard, Side — the space between the main building and the side lot line, extending from the front yard to the rear yard; the measured distance of the yard shall represent the shortest distance between the side lot line and that portion of the main building nearest the line from which the measurement is taken.



(Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

9.75.260 “Z” Definitions and Illustrations.

Zero Lot Line — the location of a building on a lot in such a manner that one or more of the building’s sides rest directly on a side lot line.

Zone Change — a change to the zoning designation or a property or properties on the Zoning Map.

Zone Text Amendment — a revision, correction or modification to the text of the Zoning Code, including changes to development standards, use regulations or procedures.

Zoning District — a specifically delineated area or district within a municipality in which regulations and requirements uniformly govern the use, placement, spacing and size of land and buildings.

Zoning Map — the map or maps which are a part of the Code and delineate the boundaries of zone districts. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94)

9.75.270 Definitions of Use.

The following terms are utilized in the use charts for Chapters 9.09 through 9.23 and are defined here for reference.

Accessory Living Quarters — shall mean living quarters within the primary structure or an accessory structure for the sole use of persons employed on the premises, relatives or guests of the occupants of the premises, having no kitchen or cooking facilities and not rented or otherwise used as a separate dwelling.

“Administrative Office Uses” — shall mean establishments which provide administrative, consulting, management, and general services to businesses and individuals. Typical uses would include, but not be limited to, offices of real estate agents, insurance agents, banks and other financial institutions, security and commodity brokers, employment agencies, public utilities, telephone answering services and travel agents.

"Adult Bookstore": Any establishment, which as a regular and substantial course of conduct, displays and/or distributes sexually oriented merchandise, book periodicals, magazines, photographs, drawings, sculptures, motion pictures, videos, slides, films, or other written, oral or visual representations which are distinguished or characterized by an emphasis on a matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts.

Adult Business — shall mean a business which is conducted exclusively for the patronage of adults, and as to which minors are specifically excluded from patronage, either by law and/or by the operators of such businesses. Adult Business also means and includes any adult arcade, adult bookstore, adult cabaret, adult hotel or motel, adult theater, adult model studio, adult picture arcade, body painting studio, escort agency, sexual encounter/rap center, and any other business involving “specified sexual activities” or display of “specified anatomical areas.”

"Adult Cabaret": A nightclub, bar, lounge, restaurant or similar establishment or concern which features as a regular and substantial course of conduct, any type of live entertainment, films, motion pictures, videos, slides, other photographic reproductions, or other oral, written, or visual representations which are characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts.

Adult Day Care Facility — shall mean any facility which provides nonmedical care to persons 18 years of age or older who are in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

Adult Day Health Care — shall mean any organized day program of therapeutic, social, and health activities and services provided pursuant to the Health and Safety Code, Chapter 3.3, to elderly persons with functional impairments, either physical or mental, for the purpose of restoring or maintaining optimal capacity for self-care.

Adult Day Health Center — shall mean a facility which provides adult day health care, or a distinct portion of a licensed health facility in which such care is provided by a specialized unit.

Adult Hotel/Motel — shall mean a hotel, or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration;
2. Provides patrons with closed circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas;” and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
3. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
4. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

"Adult Entertainment Business": Any business establishment or concern which as a regular and substantial course of conduct performs as an Adult Bookstore, Adult Theater, Adult Motion Picture Arcade, Adult Cabaret, Stripper, Adult Model Studio, Adult Motel/Hotel: or any other business establishment or concern which as a regular and substantial course of conduct offers to its patrons products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts. "Adult Entertainment Business" does not include, those uses or activities, the regulation of which is preempted by state law. "Adult Entertainment Business" shall also include any business establishment or concern which, as a regular and substantial course of conduct provides or allows performers, models, actors, actresses, or employees to appear in any place in lingerie or similar attire which does not opaquely cover Specified Anatomical Parts. For the purposes of this Section, a business establishment or concern has established the provision of products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts as a regular and substantial course of conduct when one or more of the following conditions exist:

2. The area devoted to Sexually Oriented Merchandise and/or Sexually-Oriented Material

exceeds more than 25 percent of the total display area or floor space area open to the public;

2. The business establishment or concern presents any type of live entertainment which is characterized by an emphasis on Specified Sexual Activity or Specified Anatomical Parts on any ten or more days in a thirty consecutive day period;
3. Twenty per cent (20%) of the businesses revenues are derived from the provisions of services or merchandise characterized by an emphasis on Specified Sexual Activity or Specified Anatomical Parts.

"Adult Hotel/Motel": A hotel or motel, which as a regular and substantial course of conduct provides to its patrons, through the provision of rooms equipped with closed-circuit television or other medium, material which is distinguished or characterized by the emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts and which rents, leases, or lets any room for less than a 12-hour period and/or rents, leases or lets any room more than once in a 24-hour period and which advertises the availability of any of the above.

"Adult Model Studio": Any premises where as a regular and substantial course of conduct, there is furnished, provided or procured a figure model or models who pose in any manner which is characterized by its emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Parts for the purpose of being observed or viewed by any person or being sketched, painted, drawn, sculptured, photographed, filmed, or videotaped before any person who pays a fee, or any other thing of value, as a consideration, compensation, or gratuity for the right or opportunity to so observe the model or remain on the premises. Adult Model Studio shall not include any Live Art Class or any studio or classroom which is operated by any public agency, or any private educational institution authorized to issue and confer a diploma or degree under Section 94300 et seq. of the Education Code.

"Adult Motion Picture Arcade": Any business establishment or concern which as a regular and substantial course of conduct provides. for a fee, the use of manually or electronically controlled still, motion picture or video machines, projectors, computer generated or displayed images or other image producing devices which serve less than 5 persons at any one time and are maintained to display images distinguished or characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts machines, devices or other contraptions.

"Adult Motion Picture Theater": a business establishment or concern with one or more viewing rooms with the capacity for fifty or more persons which, as a regular and substantial course of conduct, presents for any form of consideration films, motion pictures, videos, slide photographs, computer generated or displayed images or other pictures or visual reproductions which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Parts.

“Adult Mini-Motion Picture Theater”: a business establishment or concern with one or more viewing rooms with the capacity of more than five (5), but less than fifty (50) persons, where, for any from of consideration, films, motions pictures, video cassettes, slides, computer generated or displayed images or similar graphic reproductions are shown and material whose dominant or predominant character and theme is the depiction of specified sexual activities or specified anatomical areas for observation is shown on any ten (10) or more days in a thirty (30) consecutive day period.

Adult Theater—shall mean a theater, concert hall, auditorium, or similar establishment, either indoor or outdoor in nature, which presents live entertainment, films, motion pictures, slide photographs, videocassettes, or similar photographic reproductions which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activity” or “specified anatomical areas.”

Agriculture — shall mean the use of land for the growing plants, flowers, shrubs, trees and/or truck crops. All such uses shall be conducted out-of-doors (no greenhouses) and shall not include any on-site retail sales of agricultural products.

Alcoholic Beverage Outlet, Off Sale — shall mean any establishment wherein alcoholic beverages are sold, served or given away for consumption off the premises, including, but not limited to, any facility which is applying for or has obtained a Type 20 or 21 license from the California Department of Alcoholic Beverage Control.

Alcoholic Beverage Outlet, On Sale — shall mean any establishment wherein alcoholic beverages are sold, served or given away for consumption on the premises, including, but not limited to, any facility which is applying for or has obtained a Type 41,42,47,48,51,52 or 53 license from the California Department of Alcoholic Beverage Control.

“Alcoholic beverage manufacturing” means the manufacture or production within the City of Dana Point of beer, wine, brandy or distilled spirits by any person licensed by the Department of Alcoholic Beverage Control of the State of California and includes the sale or distribution of said products.

Animal Hospital — shall mean a facility where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment and the accessory use of the premises as a kennel where animals or pets are boarded for compensation.

Animal Shelter — shall mean a facility providing short-term and long-term boarding for stray animals which may include services such as pet adoption, spay/neuter clinics and the reunion of pets and their owners.

Athletic Field — shall mean a field established for non-professional recreational activities such as youth sports and adult recreational leagues.

“Automotive Sales or Rental Uses” — shall mean establishments which offer motor vehicles, including automobiles, trucks, motorcycles and recreational vehicles such as

motorhomes, boats or watercraft, for sale, lease or rent. Typical uses would include, but not be limited to, new or used automobile dealerships, car/truck rental agencies, motorcycle dealerships and recreational vehicle dealers. Such uses may also include accessory repair and service uses.

Automobile Wrecking — shall mean the dismantling or wrecking of one or more used motor vehicles or trailers; or storage, sale or dumping of one or more dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

Bed and Breakfast Inn — shall mean a large single-family dwelling unit, sometimes a small hotel, which provides lodging and breakfast for temporary overnight occupants for compensation.

Body Painting Studio — shall mean any establishment or business which provides the service of applying paint or any other substance, whether transparent or not, to or on the human body when such body is wholly or partially nude in terms of “specified anatomical areas.”

“Building Materials Sales and Service Uses” — shall mean establishments that provide retail sales of materials and services for building construction, remodeling or repair and maintenance of home and garden. Typical uses would include, but not be limited to, lumber yards, interior design shops, cabinet shops, carpet sales, garden supply stores, nurseries, pool supply and equipment sales, glass and minor sales, home improvement centers, paint and wallpaper stores, tile sales and drapery sales.

“Business Service Uses” — shall mean establishments which provide goods or services primarily to businesses on a retail or wholesale basis. Typical uses would include, but not be limited to, office products and supply stores, parcel/postal services, computer sales and service, and courier/messenger services.

Camp, Public — shall mean a plot of ground upon which two or more campsites are located and which is established or maintained for use by the general public as temporary living quarters for recreation, education or vacation purposes.

Caretaker’s Residence — shall mean a dwelling unit accessory to the principal use on a site and intended for occupancy by a caretaker, security guard, worker, or similar person generally requiring residence on the site.

Cemetery — shall mean property which is used for the interring of the dead, including a columbarium and/or mausoleum.

Child Day Care Facility — shall mean a facility which provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24- hour basis. This includes day care centers and family day care homes.

Church — shall mean an assemblage of people for worship or an institution facilitating worship, which may include personal counseling and education, and the building or buildings where such activities take place.

“Civic Uses” — shall mean publicly or privately owned and managed facilities for meetings, conventions or exhibitions and other community, social and multi-purpose uses. Typical uses would include, but not be limited to. City administrative offices, community halls, convention centers, animal shelters, police stations, post offices, and governmental offices.

“Clinical Service Uses” — shall mean establishments which provide physical and mental health services on an out-patient basis. The services may be of preventative, diagnostic, treatment, therapeutic, rehabilitative or counseling nature. Typical uses would include, but not be limited to, medical and health clinics, chiropractic/physical therapy clinics, counselling services and emergency care centers.

“Commercial Entertainment Uses” — shall mean establishments which provide facilities for entertainment for compensation. Typical uses would include, but not be limited to, video game rooms, movie theaters, arcades, batting cages, skating rinks, shooting galleries, miniature golf courses, and bowling alleys.

“Commercial Recreation Uses” — shall mean establishments which provide facilities for recreational amusement, pleasure or sport Typical uses would include, but not be limited to, bicycle rentals, billiard parlors, boat rentals, dance studios, golf courses, health and athletic clubs and youth clubs.

Communal Housing — shall mean housing for non-family groups with common kitchen and dining facilities but without medical, psychiatric or other care including boarding houses, lodging houses, dormitories, fraternity/sorority houses, communes, and religious homes.

Community Apartment Project — shall mean a development in which an undivided interest in land is coupled with the right of exclusive occupancy of any apartment located thereon.

Community Care Facility — shall mean any facility, or building which is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes residential facilities, adult day care facilities, day treatment facilities, foster family homes, small family homes, social rehabilitation facilities, community treatment facilities, and social day care facilities.

Community Center — shall mean a facility which provides recreational, cultural or other similar community activities.

Community Treatment Facility — shall mean any residential facility which provides mental health treatment services to children in a group setting.

“Construction and Maintenance Service Uses” — shall mean establishments which serve as the administrative and business office of a contractor engaged in construction or maintenance activities being performed off-site. Company vehicles, excluding construction equipment, may be stored outside, but associated equipment and supplies must be stored in a completely enclosed building or an approved off-site storage yard. Typical uses would include, but not be limited to, construction companies, carpentry services, electrical contractors, handyman services, janitorial services, home and business maintenance services, painting contractors, pest control services, tree surgeons, landscape maintenance services, and plumbing contractors.

Congregate Care Facility — shall mean apartment housing, usually for senior citizens, which is arranged in a group setting that includes independent living and sleeping accommodations in conjunction with shared dining and recreational facilities.

Congregate Living Health Facility — shall mean a facility with a non-institutional, home-like environment which provides inpatient care, including medical supervision, 24-hour skilled nursing and supportive care, pharmacy, dietary, social and recreational services, and at least one type of service specified in Section 1250, paragraph (i) of the Health and Safety Code.

Convalescent Facility — shall mean a State licensed facility which provides long term nursing, dietary, and other medical services except surgery or primary treatments customarily provided in a hospital, to convalescents or invalids.

“Cultural Uses” — shall mean establishments involved in the collection and exhibition of objects or the performance of works having literary, artistic, historic, natural historic, musical, and/or scientific value for public appreciation. Typical uses would include, but not be limited to, public art galleries, museums, libraries, auditoriums, performance halls, amphitheaters and live arts theaters.

Dance Hall/Club — shall mean a public hall which is primarily intended for dancing.

Day Care Center — shall mean a facility which provides non-medical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Family day care homes are further divided into the following categories: Small (up to six (6) children) and large (seven (7) or more children). Day care facilities include family day care homes, infant centers, pre-schools, and extended day care facilities.

Day Treatment Facility — shall mean any facility which provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from, foster care.

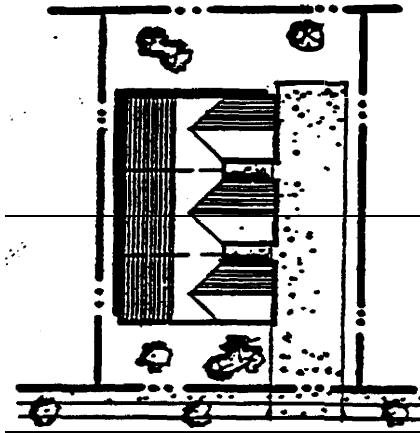
“Drinking Establishment” — shall mean establishments which serve alcoholic beverages such as beer, wine, and liquor for on-site consumption, also known as an Alcoholic Beverage Outlet, On-Site. Typical uses would include, but not be limited to, restaurants that serve alcoholic beverages, bars, pubs, taverns, nightclubs and cocktail lounges.

“Drive-Through Uses” — shall mean establishments which include facilities for the provision of goods, services or food to persons who are occupants of a motor vehicle. Typical uses would include, but not be limited to, banks, dairies, or laundries with window service.

Drug Abuse Recovery or Treatment Facility — shall mean any facility, place, or building which is maintained and operated exclusively to provide 24-hour residential nonmedical services in a group setting to adults, which may include, but need not be limited to, mothers under 18 years of age and their children, who are recovering from alcohol, drug, or drug and alcohol misuse and are currently capable of meeting their life support needs independently, but who temporarily need guidance, counseling, or other alcohol or drug recovery services.

Dwelling, Duplex — shall mean a structure or structures designed to contain two dwelling units on one lot under single or separate ownership.

Dwelling, Multiple Family — shall mean a structure or structures designed to contain three or more dwelling units on one lot under a single or separate ownership.



Dwelling, Single Family Detached — shall mean a structure designed to contain one dwelling unit on one lot under single ownership.

Eating Establishment, bona fide — shall mean a licensed premises which is maintained in good faith and used for the regular service of meals to patrons which does

not contain a separate bar or lounge area. The premises must have suitable kitchen facilities and supply an assortment of foods commonly ordered at various hours of the day.

“Educational Uses”—shall mean establishments, public or private, which provide formal academic, artistic or athletic training. Typical uses would include, but not be limited to, art schools, martial arts schools, dance schools, gymnastics schools, technical schools, vocational schools and university/college extension programs or satellite facilities.

Emergency Shelter — shall mean housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

Employees’ Quarters — shall mean living quarters within the primary structure or within a detached accessory structure intended for the sole occupancy of persons employed on the premises, which may include a separate kitchen or cooking facilities, and which shall not be rented or otherwise used as a separate dwelling unit.

Equestrian Facility — shall mean a structure or area provided for the use of and activities involving horses, mules, donkeys, or ponies.

Escort Agency — shall mean any person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Family Day Care Home — shall mean a home which regularly provides care, protection, and supervision of 12 or fewer children, in the provider’s own home, for periods of less than 24 hours per day, while the parents or guardians are away. This includes Large and Small Family Day Care Homes.

Family Day Care Home, Large — shall mean a home which provides family day care to seven to twelve children, including children who reside in the home.

Family Day Care Home, Small — shall mean a home which provides family day care to one to six children, including children who reside in the home.

“Food Service Uses, Specialty” — shall mean establishments which prepare and serve a limited menu of specialty foods or beverages, generally not considered to be meals, for consumption either on or off the premises. Typical uses would include, but not be limited to, candy stores, bakeries, delicatessens, donut shops, sandwich shops, ice cream/yogurt shops and coffee houses.

Fortune-Telling — shall mean the telling of fortunes, forecasting of future events or furnishing of any information not otherwise obtainable by the ordinary process of knowledge, by means of any occult or psychic power, faculty, or force, including, but not limited to, clairvoyancy, clairaudience, cartomancy, phrenology, spirits, tea leaves or other such reading, mediumship, seership, prophecy, augury, astrology, palmistry, necromancy,

mind-reading, telepathy, or other craft, art, cards, talisman, charm, potion, magnetism, magnetized article or substance, crystal gazing, or magic, of any kind or nature. Fortune-telling for pay shall mean for a fee, reward, donation, loan or receipt of anything of value.

Foster Family Home — shall mean any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parents, including their family, in whose care the foster children have been placed.

Furniture Store — shall mean establishments consisting primarily of the display and retail sale of interior furnishings for home and office. Typical uses would include, but not be limited to, large appliances, floor coverings, wall coverings, window coverings, bedding and linens, kitchen and bath fixtures and lamps and lighting fixtures.

“Granny” Flat — shall mean an additional dwelling unit on a parcel designated for a single family residence intended for the sole occupancy of one or two adult persons who are 62 years of age or older pursuant to Government Code Section 65852.1.

Group Home — shall mean any residential care facility for six or fewer persons which is licensed by the State.

Hazardous Waste Facility — shall mean any facility defined pursuant to Health and Safety Code 25117.1.

“Heavy Industrial Uses” — shall mean establishments which involve the processing, manufacturing and use of natural resources, raw materials, primary metals or alloys, chemicals, petroleum and petroleum by-products. Typical uses would include, but not be limited to, the manufacture and/or assembly of boats, carpeting and rugs, cellophane products, ceramic products, chemicals, clay products, corrugated paper products, die casting, fuel storage, electric motors, enamel products, engines, glass, heating equipment, metal electroforming/coating, metal products and casting, paint, paper product, petroleum products, plastics and plastic products, prefabricated buildings, rubber products, tire retreading, steel fabrication, steel and sheet metal products, tile, or wire, and sand and gravel yards, or automotive salvage or wrecking yards.

Home Occupation — shall mean a commercial activity conducted solely by the occupants of a particular dwelling unit in a manner incidental to and indistinguishable from residential occupancy.

Hospital — shall mean an institution designed within an integrated campus setting for the diagnosis, care, and treatment of human illness, including surgery and primary treatment.

Hospital, Acute Psychiatric — shall mean a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 or Division 6 of the Welfare and

Institutions Code. Such care shall include, but need not be limited to the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

Hospital, Chemical Dependency Recovery — shall mean a health facility which provides 24- hour inpatient care for persons who have a dependency on alcohol or other drugs, or both alcohol and other drugs. Such care shall include, but not be limited to, the following basic services: patient counseling, group therapy, physical conditioning, family therapy, outpatient services, and dietetic services.

Hospital, General Acute Care—shall mean a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

Hospital, Special — shall mean a specialized health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient care in dentistry or maternity.

Hotel — shall mean a structure or group of structures containing six (6) or more guest rooms or suites offering transient lodging accommodations to the general public, with most rooms gaining access through a common lobby and an interior hallway(s). Such a facility may include incidental services that customarily are provided by a hotel such as food service, recreational facilities, retail services provided for the convenience of hotel guests and banquet, reception, and meeting facilities.

“Institutional Uses” — shall mean establishments of a non-profit or quasi-public use status. Typical uses include, but are not limited to, libraries, public or private schools, hospitals, municipally owned or operated buildings, structures or lands used for public purposes.

Intermediate Care Facility — shall mean a health facility which provides inpatient care to ambulatory or non-ambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

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.

“Light Industrial Uses” — shall mean establishments which are quiet, non-polluting operations wholly contained within a structure or screened from public view. Typical uses would include, but not be limited to, the manufacture, assembly, processing or production of apparel and garments, brushes, cameras, candy/confectionery, canvas products, clocks, computers, cutlery, dental equipment, drugs and pharmaceuticals, foods, electronics, glass

(edging and beveling), jewelry, medical equipment, musical instruments, optical products, orthopedic devices, precision instruments, scientific instruments, and watches.

"Live Art Class": Any premises on which all of the following occur: there is conducted a program of instruction involving the drawing, photographing, or sculpting of live models exposing Specified Anatomical Parts; instruction is offered in a series of at least 2 classes; the instruction is offered indoors; an instructor is present in the classroom while any participants are present; and pre-registration is required at least 24 hours in advance of participation in the class.

"Live Entertainment Uses" — shall mean establishments which provide the facilities and environment for entertainment, including any act, play, revue, pantomime, scene, dance act, or song and dance act, or any combination thereof, performed by one or more persons whether or not they are compensated for the performance. Typical uses would include, but not limited to, dance halls, dinner theaters, discotheques, nightclubs, playhouses, theaters and restaurants with dance floors.

"Major Automotive Uses" — shall mean establishments which provide major repair and maintenance related to motor vehicles. Typical uses would include, but not be limited to, auto body repair shops, auto glass shops, automotive painting shops, customizing shops, engine rebuilding, speed shops and transmission shops.

"Marine Uses" — shall mean establishments which provide goods and services, on a retail or wholesale basis, for marine related activities. Typical uses would include, but not be limited to, boat rental, boat storage, fishing supply stores, surfboard sales and repair, scuba equipment sales and service, marine supply sales, sail making and repair and jet ski repair.

Massage Establishment — shall mean any establishment having a fixed place of business where any individual, firm, association, partnership, corporation, joint venture, or combination of individuals engages in, conducts, carries on or permits to be engaged in, conducted or carried on for consideration, massages, baths, or health treatments involving massages, or baths as regular functions.

"Medical Office Uses" — shall mean establishments which provide medical services to individuals. Typical uses would include, but not be limited to, offices of doctors, dentists, chiropractors and veterinarians.

"Medium Industrial Uses" — shall mean establishments which involve moderately intensive industrial operations. Typical uses would include, but not be limited to, the manufacture, packing, processing, or assembly of abrasives, adhesives, appliances, audio/visual products, automotive parts, beverage production, bicycles, books, cabinets, candles, cork products, cosmetics, film, electrical appliances, electrical or neon signs, floor covering, fur products, furniture, ink, leather, mattresses, sash and doors, seafood, shoes, soap, textiles, toiletries, tools, toys, window shades, and wood products and shall include welding and machine shops, bottling plants, breweries (not including micro-breweries) and dry cleaning plants.

“Membership Organizations” — shall mean establishments which provide facilities for the meeting and activities of members of philanthropic, social, business or fraternal organizations, but excludes those customarily carried on as businesses. Typical uses would include, but not be limited to, union halls, fraternities and sororities, boys and girls clubs, and lodge halls.

“Minor Automotive Uses” — shall mean establishments which provide routine care and maintenance related to motor vehicles. Typical uses would include, but not be limited to, brake shops, tire stores, muffler shops, alignment shops, car washes (full service or self-service), detail shops, radiator shops, upholstery shops, service stations, stereo installation shops, tune-up services and oil and lubrication services.

“Minor Repair Service Uses” — shall mean establishments which provide service and repair of appliances and other similar utility items for business and personal uses. Typical uses would include, but not be limited to, fix-it shops, jewelry and watch repair, household appliance repair, locksmith shops, stereo and television repair and upholstery shops.

“Mixed Use Center” — shall mean a combination of certain types of retail, office, residential and light industrial uses which, because of the nature of their operation or access and space needs, are compatible and can be located within a common development area.

Mobilehome—shall mean a structure which is transportable in one or more sections, designed and equipped to contain not more than two dwelling units, to be used with or without a foundation system. Mobilehome does not include a recreational vehicle, commercial coach, or factory-built housing.

Mobilehome Park — shall mean any area or tract of land where two or more spaces are permitted to be rented or leased or held out for rent or lease to accommodate two or more manufactured homes or mobilehomes used for human habitation.

Mobilehome Subdivision — shall mean any mobilehome park where spaces are owned instead of rented, leased or held out for rent.

Motel — shall mean an establishment otherwise defined as a hotel with at least twenty-five (25) percent of all rooms having direct access to the parking areas without the necessity of passing through the main lobby of the building.

Nursery — See “Building Materials Sales and Service Uses.”

Open Space — shall mean any parcel or area of land or water set aside, dedicated, designated or reserved for public or private use or enjoyment

“Open Space Uses” — shall mean land which will remain essentially undeveloped and provide for preservation of an environment suitable to wildlife and flora indigenous to the area as well as an environment for food production, outdoor recreation and facilities for the

public benefit. Typical uses would include, but not be limited to, beaches, coastal bluffs, riparian areas, and slope areas.

Park, Public — shall mean an open space area intended for public recreation use which is operated by a public agency.

Performer: shall mean any dancer, model, entertainer, and/or other person who publicly performs any Specified Sexual Activities or publicly display any specified anatomical part in adult entertainment businesses.

“Personal Service Uses” — shall mean establishments which provide services to an individual related to personal care and appearance, or the cleaning or repair of personal effects, excluding motor vehicles. Typical uses would include, but not be limited to, antique restoration, barber shops and beauty salons, cosmetologists (including incidental facial and scalp massage), botox, medical spas or similar procedures, mortuaries and funeral parlors, shoe repair, dry cleaning, laundromats, reducing salons, nail salons, tailors, and pet grooming. Massage therapy, and similar such uses, may be considered a personal service use provided that the massage services are administered by a medical practitioner, chiropractor, acupuncturist, acupressurist, or physical therapist appropriately licensed by the State of California.

“Photographic, Reproduction and Graphic Service Uses” — shall mean establishments which provide services involving technical skills, training or talents for the reproduction of printed, graphic or audio/visual materials for businesses, individuals or the general public. Typical uses would include, but not be limited to, printing establishments, blueprint companies, lithographic services, motion picture studios, photographic studios, photographic laboratories, photocopy companies, radio/television studios and recording studios.

“Professional Office Uses” — shall mean establishments which provide professional or technical services to businesses and individuals. Typical uses would include, but not be limited to offices of accountants, architects, accountants, designers, engineers, interior decorators, landscape architects, photographers and planners.

“Public Land Uses” — shall mean land and/or facilities owned, operated and maintained by public agencies for the use and enjoyment of the general public. Typical uses would include, but not be limited to, beaches, parks and open space.

“Public Utility Uses” — shall mean a business organization, such as a public service corporation, performing or providing some public service subject to special governmental regulations, usually a protected monopoly. Typical uses would include, but not be limited to, public utility buildings, structures or facilities for the provision of sewer, water, telephone, gas, electric, or television cable service, city or county maintenance/utility service yards, communication equipment buildings, electrical distribution and transmission substations, microwave antenna/tower, natural gas distribution and control stations, public utility service yards, radio/television transmitters, sewage treatment plants, telephone repeater stations and water treatment and distribution facilities.

“Recreational Uses” — shall mean establishments providing active or passive recreational activities and their incidental support facilities. Typical uses would include, but not be limited to, athletic clubs, health clubs, dance studios, game courts, golf courses, golf driving ranges, gymnasiums, swimming pools, private or public recreational facilities and parks.

Recreational Vehicle Park — shall mean an area used or intended to be used for camping by recreational vehicles.

Recycling Facility — shall mean any center for the collection of recyclable materials. A recycling facility does not include temporary storage containers on property used solely for the recycling of material generated by the approved uses on that property. Recycling facilities include reverse vending machines, small collection recycling facilities, mobile recycling units and large collection recycling facilities. With the exception of reverse vending machines, a recycling facility may only be located within an established convenience zone.

“Religious Uses” — shall mean establishments which provide facilities for public assembly involving worship and ceremonies that pertain to a system of religious beliefs. Typical uses would include, but not be limited to, churches, synagogues and temples.

“Research and Development Uses” — shall mean establishments which provide facilities for testing, investigating or evaluating natural or physical elements or social sciences and include engineering and development activities with the objective of creating end products. Typical uses would include, but not be limited to, research, design or testing laboratories for aeronautics, automobiles, computer products development, controls, engineering services, materials testing, medical/dental, and electronics.

Residential Care Facility for the Elderly — shall mean a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, personal care, or health-related services are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility.

Residential Facility — shall mean any family home, group care facility, or similar facility determined by the State Director of Social Services, established for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

Restaurant — shall mean an establishment which prepares and sells foods and/or beverages for immediate consumption, including but not limited to, dining rooms, cafes, cafeterias, coffee shops, and pizza parlors.

Restaurant, Drive-Through — shall mean a restaurant which includes one (1) or more drive-through lanes for the ordering and receipt of foods and/or beverages by patrons remaining in their vehicles.

Restaurant, Fast Food — shall mean a restaurant whose principal business is the sale of a pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either on or off the premises.

Restaurant, Take-Out — shall mean a restaurant where foods and/or beverages are sold directly to the customer in a ready to consume state for consumption off-site. A take-out restaurant provides no more than four (4) tables and sixteen (16) seats, either inside or outside, for on-site consumption.

Restaurant, Walkup — shall mean a restaurant where the serving and consumption of foods and/or beverages is made available to patrons outside the confines of a building. A walkup restaurant provides only a limited amount of seating (up to 16 seats) for on-site consumption.

“Retail Sales Uses” — shall mean establishments which provide general retail sales of goods and services for the community at large. Typical uses would include, but not be limited to, antique sales, appliance sales and repair, art supplies, automotive parts stores, bicycle sales and service, book stores, camera sales and service, clock sales, clothing sales, coin and stamp sales, computer and electronics stores, convenience stores, department stores, drug stores, feed and grain stores, fishing supply stores, florist shops, furniture sales, gift shops, grocery and food stores, gun shops, hardware stores, hobby shops, jewelry stores, liquor stores, machine and tools sales, medical/dental equipment sales, music stores, newsstands, optical products sales, pawnshops, pet shops and pet supply stores, photo finishing and photo supply stores, shoe stores, sporting goods stores, stationery stores, television/stereo sales, toy stores and video sales/rental stores.

Sanitarium, Health — shall mean an institution where patients, other than the mentally disoriented or mentally incompetent, are housed and where medical or post-surgical treatment is provided.

Sanitarium, Mental — shall mean an institution for the recuperation and treatment of the mentally disordered or the mentally incompetent victims of drug addiction.

Sanitary Sewer Facility — shall mean any facility used in the treatment, disposal, collection, reclamation, reuse or any other use commonly accepted in industry practice in the handling of raw sewage.

Second Dwelling Unit — shall mean an additional dwelling unit on a lot which is zoned for single family or multiple family use and which contains an existing single family dwelling. The unit is not intended for sale and may be rented. The additional dwelling unit may be attached or detached from the primary residence and must be developed pursuant to Government Code Section 65852.2.

Senior Citizen Housing — shall mean licensed housing for persons 62 years of age or older, or unlicensed housing for persons 55 years of age or older, including such housing facilities as retirement villas, apartments, condominiums, etc., but not including state

licensed rest homes, group homes, convalescent hospitals, etc., which are regulated by other provisions of this Code.

Senior Congregate Care Housing — shall mean a structure(s) providing residence for senior citizens (60 years of age or older) with separate bedroom(s) and/or living quarters and including a central or private kitchen, dining, recreational, and other accessory facilities.

Sexually-Oriented Material — Any element of Sexually-Oriented Merchandise, or any book, periodical, magazine, photograph, drawing, sculpture, motion picture film, or other written, oral, or visual representation characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities or specified anatomical parts. This definition also includes, but is not limited to sexual novelties depicting, designed or shaped as specified anatomical parts or which depict specific sexual activities.

Sexually-Oriented Merchandise — Sexually-oriented implements and paraphernalia, such as, but not limited to: dildos, auto sucks, sexually-oriented vibrators, edible underwear, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery operated vaginas, and similar sexually-oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sado-masochistic activity.

Single Room Occupancy — shall mean a cluster of guest units within a residential hotel for weekly or longer tenancy providing sleeping or living facilities for one person per unit, in which sanitary facilities may be provided within the units, and cooking facilities may be shared within the hotel.

Skilled Nursing Facility — shall mean a health facility which provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

Small Family Home — shall mean any residential facility providing 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

Social Day Care Facility — shall mean a community based group program designed to meet the needs of functionally impaired adults through an individual plan of care in a structured comprehensive program that provides a variety of social and related support services in a protective setting on less than a 24-hour basis.

Social Rehabilitation Facility — shall mean any residential facility which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling.

Solid Waste Disposal Facility — shall mean any authorized facility or location where disposal of solid waste occurs.

Specified Anatomical Parts:

- a. Less than completely and opaquely covered human genitals; pubic region; buttocks; or female breast below a point immediately above the top of the areola; or
- b. Exposed human male genitals or human male genitals in a discernibly turgid state, regardless of whether they are completely and opaquely covered.

Specified Sexual Activities— shall mean

- a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory function in the context of a sexual relationship, any of the following depicted sexually- oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerastia; or
- b. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence: or
- c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
- d. Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
- e. Masochism, erotic or sexually-oriented torture, beating or the infliction of pain; or
- f. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or
- g. Human excretion, urination, menstruation, vaginal or anal irrigation.
- h. Striptease; or any act involving the public removal of clothing to the point where Specified Anatomical Parts are displayed; or the public appearance of any person in a state where Specified Anatomical Parts are displayed, or the public appearance of any person where Specified Anatomical Parts are only covered by attire commonly referred to as pasties or a G-string, or any other opaque covering which does not expose the areola or nipples of the female breast, and while covering the natal cleft and pubic area covers less than one inch on either side of the entire length of the natal cleft and two inches across the pubic area. For the purposes of this definition, appearance in "public" shall include a situation when a single employee, agent or other non-patron of the adult

entertainment business is in the presence of a single patron of the adult oriented business.

Stable, Private—shall mean an accessory structure for the keeping of equine animals including horses, mules or ponies for the exclusive use of the occupants of the premises.

Stable, Public — shall mean a structure for the keeping of equine animals including horses, mules or ponies, which are boarded for compensation.

“Storage Yard Uses” — shall mean establishments where construction materials and/or equipment are stored within an enclosed building or properly screened yard. Typical uses would include, but not be limited to, automobile/RV storage, contractor storage yards, equipment sales and rentals, equipment storage, garden equipment sales and storage yards, heating/ventilation/air conditioning equipment storage yards, impound yards, machinery storage yards, plumbing supply yards and truck storage.

Supportive Housing-shall mean housing with no limit on length of stay, that is occupied by the target population and that is linked to on or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

Swap Meet — shall mean any indoor or outdoor place, location, or activity where, on a temporary, intermittent or otherwise non-permanent basis, new or used goods or secondhand personal property is offered for sale or exchange to the general public by a multitude of individual licensed vendors, usually in compartmentalized spaces; and, where a fee may be charged to prospective buyers for admission, or a fee may be charged for the privilege of offering or displaying such merchandise. The term swap meet is interchangeable with and applicable to: flea markets, auctions, open air markets, sidewalk sales, farmers markets, or other similarly named or labeled activities, but the term does not include normal intermittent and incidental retail operations of supermarkets or department stores.

Tattoo Parlor — shall mean any premises used for the business of marking or coloring the skin with tattoos, and all furnishings, equipment, instruments, dyes and inks, and other facilities maintained therein incidental to such use.

Transitional Housing and Transitional Housing Development-shall mean buildings configured as rental housing development, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months.

“Transportation Uses” — shall mean establishments which provide local and regional passenger transportation by bus, boat or rail with terminal facilities. Typical uses would include, but not be limited to, bus stations, ferry service facilities, train stations and park and ride facilities.

Video Arcades or Game Rooms — shall mean establishments which provide six (6) or more video games, virtual reality devices or computers for the use and enjoyment of the general public.

“Warehousing and Storage Uses” — shall mean establishments which provide facilities for the storage of trade goods, personal goods, or service products and equipment in an enclosed structure. Typical uses would include, but not be limited to, cold storage plants, freight terminals, moving and storage facilities, parcel delivery services, warehouses, and mini-warehouses. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-02, 1/11/94; Ord. 94-09, 5/24/94; Ord. 94-21, 12/13/94; Ord. 96-10, 8/13/96;)

Chapter 9.77

**ON-SHORE SUPPORT FACILITIES FOR OFF-SHORE
OIL DRILLING — APPROVALS REQUIRED**

Sections:

- 9.77.010 Purpose.**
- 9.77.012 Findings of Need for Chapter.**
- 9.77.014 On-Shore Support Facility Defined.**
- 9.77.016 Application for and City Council Findings Necessary for On-Shore Support Facilities.**
- 9.77.018 City Council Approval, Submission to Voters.**
- 9.77.020 City Council Action Required and Authorized to Effectuate Purposes of this Chapter.**
- 9.77.022 Limitations of Chapter.**
- 9.77.024 Amendments to Chapter.**

9.77.010 Purpose.

The purpose of this Chapter is to protect the unique and picturesque coastline along the City of Dana Point and to prevent Dana Point from becoming an oil port or other logistical base for off-shore oil operations. (Added by Ord. 92-06, 6/23/92)

9.77.012 Findings of Need for Chapter.

This Chapter is needed for the following reasons:

- (a) The City of Dana Point's coastal zone is an environmentally sensitive area which can be irreparably harmed by the seepage of environmental contaminants such as untreated petrochemical products.
- (b) The City of Dana Point's coastal zone is a heavily populated residential area.
- (c) An on-shore oil facility placed within the City of Dana Point's coastal zone would be in close proximity to a high concentration of residences.
- (d) In the normal course of operations, oil facilities increase traffic and produce irritating and unpleasant odors.
- (e) The City of Dana Point is a small community with many unique and environmentally sensitive habitat areas.
- (f) The City of Dana Point is located in a physical setting with spectacular visual qualities. The visual resources of the community serve as valuable assets to both City residents and visitors.

- (g) Tourism is an important part of the City's economy with the quality of die beaches and the beautiful visual resources being a prime factor in the success of the tourist industry. Oil and gas development off-shore could have a disastrous effect on beaches within the City and the tourist industry.
- (h) Support facilities for off-shore oil and gas development cannot be accommodated in the City of Dana Point The City's approved Local Coastal Programs contain no sites designated for on-shore support facilities associated with off-shore oil development. Any site in the City would have debilitating effects on the local economy and environment.

(Added by Ord. 92-06, 6/23/92)

9.77.014 On-Shore Support Facility Defined.

“On-Shore Support Facility” or “On-Shore Oil Facility” shall mean any structure or development created for the purpose of storing, transporting, or processing liquid petroleum products or natural gas products which operates directly or indirectly in support of any off-shore oil or gas exploration, development, drilling, pumping, or production. Nothing herein provided shall preclude die development of, transportation to, or storage of petroleum products and natural gas products for the retail sale of the same within the City limits. (Added by Ord. 92-06, 6/23/92)

9.77.016 Application for and City Council Findings Necessary for On-Shore Support Facilities.

Whenever any person, partnership, group, firm, or corporation seeks an amendment to the Dana Point General Plan, the Dana Point Zoning Ordinance, any approved Specific Plan, or any applicable Local Coastal Program to permit the development within the City's coastal zone of any on-shore support facility for off-shore oil drilling, the City Council shall hold a public hearing to determine if:

- (a) The proposed amendment is consistent with the coastal policies contained in Public Resources Code Sections 30200 through 302655;
- (b) The proposed amendment is consistent with the City's General Plan;
- (c) The proposed amendment is consistent with the Dana Point Zoning Ordinance;
- (d) The proposed amendment is consistent with any applicable Specific Plan;
- (e) The proposed amendment is consistent with any applicable Local Coastal Program;

- (f) The proposed amendment and underlying development will not pose a significant danger or threat to life, injury, or property of residents of the neighborhood, community, or City;
- (g) The benefits of the proposed amendment and underlying development clearly outweigh the possible adverse environmental effects;
- (h) There are no feasible alternatives to the proposed amendment and underlying development; and,
- (i) The location and approval of the on-shore support facilities identified in the proposed amendment and underlying development at the particular location clearly outweigh any potential harm to public health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or community and will not be detrimental or injurious to property in the neighborhood, community, or to the general welfare of the City.

(Added by Ord. 92-06, 6/23/92)

9.77.018 City Council Approval, Submission to Voters.

- (a) If after concluding the public hearing, the City Council is able to make the findings set forth in Section 9.77.016 above, the City Council shall submit the proposed amendment to a vote of the people at either a special election or the then upcoming general election in accordance with Elections Code Section 4017.
- (b) If the proposed amendment receives a majority of vote of those voters casting ballots on the measure, the proposed amendment shall be deemed adopted. The amendment shall be effective ten (10) days following City Council certification of the election canvass.
- (c) If the proposed amendment fails to receive a majority vote of those voters casting ballots on the measure, the amendment shall have failed passage. The applicant or his/her successor- in-interest shall not thereafter file a subsequent application for a proposed amendment which is substantially the same or similar to the one which failed passage for a period of one (1) year.
- (d) The person, partnership, group, firm, or corporation seeking any such amendment hereunder shall pay, to the extent permitted by law, any and all costs associated with the special or general election required herein. The City Council is hereby authorized to require the posting of a bond, letter of credit, or similar security as a condition precedent to calling an election on the proposed amendment.

(Added by Ord. 92-06, 6/23/92)

9.77.020 City Council Action Required and Authorized to Effectuate Purposes of this Chapter.

The City Council of the City of Dana Point is hereby authorized and directed to enact any further Ordinances, Resolutions, policies, or other documents necessary to give effect to or further the purposes of this Chapter. (Added by Ord. 92-06, 6/23/92)

9.77.022 Limitations of Chapter.

The initiative Ordinance election provided for by this Chapter is intended to extend only to those legislative acts which may be validly exercised by the City Council or the People of the City of Dana Point in connection with the amendment to the City of Dana Point's General Plan, the City of Dana Point's Zoning Ordinance, any applicable Specific Plan, or any applicable Local Coastal Program to provide for the development of on-shore support facilities for off-shore oil drilling. This Chapter is not intended and shall not be construed to apply to any activity or program which is regulated by federal or state law to the extent that such application of this Chapter would conflict with such law. It is the intention of the City Council and the People of the City of Dana Point that this Chapter be interpreted to be compatible with federal and state enactments. (Added by Ord. 92-06, 6/23/92)

9.77.024 Amendments to Chapter.

With the exception of recodification into any comprehensive Municipal or Zoning Code, this Chapter may only be amended or repealed by a majority vote of the People of the City of Dana Point. (Added by Ord. 92-06, 6/23/92)

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**APPENDIX A
MASTER LAND USE MATRIX**

	RSF 2	RSF 3	RSF 4	RSF 7	RMF 7	RSF 8	RSF 12
(1) Accessory Living Quarters	A	A	A	A	X	A	A
(2) Administrative Office Uses	X	X	X	X	X	X	X
(3) Adult Bookstore	X	X	X	X	X	X	X
(4) Adult Business	X	X	X	X	X	X	X
(5) Adult Day Care Facility	C	C	C	C	C	C	C
(6) Adult Day Health Care	C	C	C	C	C	C	C
(7) Adult Day Health Center	C	C	C	C	C	C	C
(8) Adult Hotel/Motel	X	X	X	X	X	X	X
(9) Adult Modeling Studio	X	X	X	X	X	X	X
(10) Adult Theater	X	X	X	X	X	X	X
(11) Alcoholic Beverage Outlet, Off-Site	X	X	X	X	X	X	X
(11B) Alcohol Beverage Manufacturer	X	X	X	X	X	X	X
(12) Animal Hospital	X	X	X	X	X	X	X
(13) Animal Shelter	X	X	X	X	X	X	X
(14) Athletic Held	X	X	X	X	X	X	X
(15) Automotive Sales and Rental Uses	X	X	X	X	X	X	X
(16) Bed and Breakfast Inn	X	X	X	X	X	X	X
(17) Building Materials Sales and Service Uses	X	X	X	X	X	X	X
(18) Business Service Uses	X	X	X	X	X	X	X
(19) Camp, Public	X	X	X	X	X	X	X
(20) Caretaker's Residence	X	X	X	X	X	X	X
(21) Cemetery	X	X	X	X	X	X	X
(22) Civic Uses	X	X	X	X	X	X	X
(23) Clinical Service Uses	X	X	X	X	X	X	X
(24) Commercial Entertainment Uses	X	X	X	X	X	X	X
(25) Commercial Recreation Uses	X	X	X	X	X	X	X
(26) Communal Housing	X	X	X	X	X	X	X
(27) Community Care Facility	C	C	C	C	C	C	C
(28) Community Center	X	X	X	X	X	X	X
(29) Community Treatment Facility	C	C	C	C	C	C	C
(30) Congregate Care Facility	C	C	C	C	C	C	C

LEGEND: P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
 C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
 T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
 X = Prohibited Use A = Accessory Use

A*= Accessory Use subject to special use standards (see Chapter 9.07)

**APPENDIX A
MASTER LAND USE MATRIX**

	RSF 22	RMF 22	RMF 30	NC	CC/P	CC/V
(1) Accessory Living Quarters	C	X	X	X	X	X
(2) Administrative Office Uses	X	X	X	P	P	P
(3) Adult Business	X	X	X	X	X	P*
(4) Adult Day Care Facility	C	C	C	X	X	X
(5) Adult Day Health Care	C	C	C	X	C	C
(6) Adult Day Health Center	C	C	C	X	X	X
(7) Adult Hotel/Motel	X	X	X	X	X	C*
(8) Adult Modeling Studio	X	X	X	X	X	C*
(9) Adult Theater	X	X	X	X	X	C*
(10) Alcoholic Beverage Outlet, Off-Site	X	X	X	P*/C*	P*/C*	P*/C*
(10B) Alcoholic Beverage Manufacturer	X	X	X	C*	C*	C*
(11) Animal Hospital	X	X	X	X	P	P
(12) Animal Shelter	X	X	X	X	C	C
(13) Athletic Field	X	X	X	X	X	X
(14) Automotive Sales and Rental Uses	X	X	X	X	C*	C*
(15) Bed and Breakfast Inn	X	X	X	X	P	X
(16) Building Materials Sales and Service Uses	X	X	X	X	P	P
(17) Business Service Uses	X	X	X	P	P	P
(18) Camp, Public	X	X	X	X	X	X
(19) Caretaker's Residence	X	X	X	X	C	C
(20) Cemetery	X	X	X	X	X	X
(21) Civic Uses	X	X	X	X	X	X
(22) Clinical Service Uses	X	X	X	P	P	P
(23) Commercial Entertainment Uses	X	X	X	C	P	P
(24) Commercial Recreation Uses	X	X	X	C	P	P
(25) Communal Housing	X	X	X	X	X	X
(26) Community Care Facility	C	C	C	X	X	X
(27) Community Center	X	X	X	X	X	X
(28) Community Treatment Facility	C	C	C	X	X	X
(29) Congregate Care Facility	C	C	C	X	X	X

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T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
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A*= Accessory Use subject to special use standards (see Chapter 9.07)

**APPENDIX A
MASTER LAND USE MATRIX**

	CF	REC	OS	CONS	TC	DPHPC
(1) Accessory Living Quarters	X	X	X	X	X	(1)
(2) Administrative Office Uses	X	X	X	X	X	(1)
(3) Adult Bookstore	X	X	X	X	X	(1)
(4) Adult Business	X	X	X	X	X	(1)
(5) Adult Day Care Facility	C	X	X	X	X	(1)
(6) Adult Day Health Care	C	X	X	X	X	(1)
(7) Adult Day Health Center	X	X	X	X	X	(1)
(8) Adult Hotel/Motel	X	X	X	X	X	(1)
(9) Adult Modeling Studio	X	X	X	X	X	(1)
(10) Adult Theater	X	X	X	X	X	(1)
(11) Alcoholic Beverage Outlet, Off-Site	X	X	X	X	X	(1)
(11B) Alcoholic Beverage Manufacturer	X	X	X	X	X	(1)
(12) Animal Hospital	X	X	X	X	X	(1)
(13) Animal Shelter	C	C	C	X	X	(1)
(14) Athletic Field	P	P	P	X	X	(1)
(15) Automotive Sales and Rental Uses	X	X	X	X	X	(1)
(16) Bed and Breakfast Inn	X	X	X	X	X	(1)
(17) Building Materials Sales and Service Uses	X	X	X	X	X	(1)
(18) Business Service Uses	X	X	X	X	X	(1)
(19) Camp, Public	X	C	C	X	X	(1)
(20) Caretaker's Residence	X	C	C	X	X	(1)
(21) Cemetery	C	C	C	X	X	(1)
(22) Civic Uses	P	X	X	X	X	(1)
(23) Clinical Service Uses	X	X	X	X	X	(1)
(24) Commercial Entertainment Uses	X	X	X	X	X	(1)
(25) Commercial Recreation Uses	X	C	C	X	X	(1)
(26) Communal Housing	X	X	X	X	X	(1)
(27) Community Care Facility	X	X	X	X	X	(1)
(28) Community Center	P	P	P	X	X	(1)
(29) Community Treatment Facility	X	X	X	X	X	(1)
(30) Congregate Care Facility	C	X	X	X	X	(1)

(1) See the Dana Point Harbor Planned Community for applicable use regulations.

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C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
X = Prohibited Use A = Accessory Use

**APPENDIX A
MASTER LAND USE MATRIX**

	RSF 2	RSF 3	RSF 4	RSF 7	RMF7	RSF 8	RSF 12
(31) Congregate Living Health Facility	C	C	C	C	C	C	C
(32) Construction Maintenance Services	X	X	X	X	X	X	X
(33) Convalescent Facility	C	C	C	C	C	C	C
(34) Cultural Uses	X	X	X	X	X	X	X
(35) Dance Hall/Club	X	X	X	X	X	X	X
(36) Day Care Center	C	C	C	C	C	C	C
(37) Day Treatment Facility	C	C	C	C	C	C	C
(38) Drinking Establishments	X	X	X	X	X	X	X
(39) Drive-Through Uses	X	X	X	X	X	X	X
(40) Drug Abuse Recovery or Treatment Facility	X	X	X	X	X	X	X
(41) Dwelling Unit, Duplex	X	X	X	X	P	X	X
(42) Dwelling Unit, Multiple Family	X	X	X	X	P	X	X
(43) Dwelling Unit, Single Family	P	P	P	P	P	P	P
(44) Educational Uses	X	X	X	X	X	X	X
(45) Emergency Shelter	C	C	C	C	C	C	C
(46) Employee's Quarters	C	C	C	C	X	C	C
(47) Equestrian Facility	X	X	X	X	X	X	X
(48) Family Day Care Home, Large	C	C	C	C	C	C	C
(49) Family Day Care Home, Small	P	P	P	P	P	P	P
(50) Food Service Uses, Specialty	X	X	X	X	X	X	X
(51) Fortune Telling	X	X	X	X	X	X	X
(52) Foster Family Home	P	P	P	P	P	P	P
(53) Furniture Store	X	X	X	X	X	X	X
(54) "Granny" Flat	C*	C*	C*	C*	X	C*	C*
(55) Group Dwelling	C	C	C	C	C	C	C
(56) Group Home	P	P	P	P	P	P	P
(57) Hazardous Waste Facility	X	X	X	X	X	X	X
(58) Heavy Industrial Uses	X	X	X	X	X	X	X
(59) Home Occupation	P*	P*	P*	P*	P*	P*	P*
(60) Hospital, Acute Psychiatric	X	X	X	X	X	X	X

LEGEND: P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
C = Conditional Use C* = Conditional Use subject to special use standards (see Chapter 9.07)
T = Temporary Use T* = Temporary Use subject to special use standards (see Chapter 9.39)
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**APPENDIX A
MASTER LAND USE MATRIX**

	V/RC	C/R	P/R	P/A	I/B
(31) Congregate Living Health Facility	X	C	C	X	X
(32) Construction and Maintenance Services	X	X	X	P	P
(33) Convalescent Facility	X	C	C	X	X
(34) Cultural Uses	P	P	P	P	X
(35) Dance Hall/Club	C	X	X	X	X
(36) Day Care Center	C	P	P	X	X
(37) Day Treatment Facility	X	C	C	X	X
(38) Drinking Establishments	P*C*	P*/C*	X	C*	C*
(39) Drive-Through Uses	C	C(3)	X	X	C
(40) Drug Abuse Recovery or Treatment Facility	X	C	C	X	X
(41) Dwelling Unit, Duplex	X	X	X	X	X
(42) Dwelling Unit, Multiple Family	X	A (1)	A (1)	X	X
(43) Dwelling Unit, Single Family	X	P (2)	P (2)	X	X
(44) Educational Uses	C	X	P	P	P
(45) Emergency Shelter	X	X	X	X	X
(46) Employee's Quarters	X	X	X	X	X
(47) Equestrian Facility	X	X	X	X	X
(48) Family Day Care Home, Large	X	C	C	X	X
(49) Family Day Care Home, Small	X	C	C	X	X
(50) Food Service Uses, Specialty	P	P	C	X	X
(51) Fortune Telling	P*	X	X	X	X
(52) Foster Family Home	X	C	C	X	X
(53) Furniture Store	P	X	X	X	X
(54) "Granny" Flat	X	X	X	X	X
(55) Group Dwelling	X	C	C	X	X
(56) Group Home	X	C	C	X	X
(57) Hazardous Waste Facility	X	X	X	X	C*
(58) Heavy Industrial Uses	X	X	X	X	C
(59) Home Occupation	X	P*	P*	X	X
(59B) Hookah Lounge	X	X	X	X	X
(60) Hospital, Acute Psychiatric	X	C	C	C	X

- (1) Permitted only as an accessory use to commercial or professional development in a mixed use project.
- (2) A single family detached unit may only be permitted to replace an existing nonconforming single family residence. The replacement residence shall be developed in accordance with the development standards of the RSF 7 district. Single family attached units may be constructed as an accessory use in a mixed use project.
- (3) Permitted with a Conditional Use Permit which shall be reviewed and approved by the Planning Commission and precludes restaurant/food uses, and liquor establishments, and permits such uses, but not limited to, dry cleaners, banks and pharmacies. (See Section 9.07.240)

LEGEND: P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
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**APPENDIX A
MASTER LAND USE MATRIX**

	V/RC	C/R	P/R	P/A	I/B
(61) Hospital, Chemical Dependency Recovery	X	C	C	C	X
(62) Hospital, General Acute Care	X	C	X	C	X
(63) Hospital, Special	X	C	C	C	X
(64) Hotel	P	X	X	X	X
(65) Institutional Uses	X	X	X	X	X
(66) Intermediate Care Facility	X	C	C	C	X
(67) Kennel	X	X	X	X	P
(68) Light Industrial Uses	X	X	X	X	P
(69) Live Entertainment Uses	C*	C*	X	X	X
(70) Major Automotive Uses	X	X	X	X	P
(71) Manufactured Home	X	X	X	X	X
(72) Marine Uses	P	X	X	X	X
(73) Medical Office Uses	X	P	P	P	X
(74) Medium Industrial Uses	X	X	X	X	P
(75) Membership Organizations	P	P	C	X	X
(76) Minor Automotive Uses	X	X	X	X	P
(77) Minor Repair Service Uses	X	P	P	X	P
(78) Mixed Use Center	X	P	P	X	X
(79) Mobile Home	X	X	X	X	X
(80) Mobile Home Park	X	P(1)	X	X	X
(81) Mobile Home Subdivision	X	X	X	X	X
(82) Motel	P	X	X	X	X
(83) Open Space	P	P	P	P	P
(84) Open Space Uses	P	P	P	P	P
(85) Parks, Public	P	P	P	X	X
(86) Personal Service Uses	P	P	P	P	X
(87) Photographic, Reproduction and Graphic Service Uses	P	P	P	P	P
(88) Professional Office Uses	P	P	P	P	X
(89) Public Land Uses	X	X	X	X	X
(90) Public Utility Uses	X	X	X	X	P
(91) Recreational Uses	P	C	C	C	C

(1) - Only those mobilehome parks in existence as of November 23, 1993 shall be permitted.

LEGEND: P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
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**APPENDIX A
MASTER LAND USE MATRIX**

	CF	REC	OS	CONS	TC	DPHPC
(61) Hospital, Chemical Dependency Recovery	C	X	X	X	X	X
(62) Hospital, General Acute Care	C	X	X	X	X	X
(63) Hospital, Special	C	X	X	X	X	X
(64) Hotel	X	X	X	X	X	(1)
(65) Institutional Uses	C	X	X	X	X	(1)
(66) Intermediate Care Facility	C	X	X	X	X	X
(67) Kennel	X	X	X	X	X	X
(68) Light Industrial Uses	X	X	X	X	X	X
(69) Live Entertainment Uses	X	X	X	X	X	(1)
(70) Major Automotive Uses	X	X	X	X	X	X
(71) Manufactured Home	X	X	X	X	X	X
(72) Marine Uses	X	X	X	X	X	(1)
(73) Medical Office Uses	X	X	X	X	X	(1)
(74) Medium Industrial Uses	X	X	X	X	X	X
(75) Membership Organizations	X	X	X	X	X	X
(76) Minor Automotive Uses	X	X	X	X	X	X
(77) Minor Repair Service Uses	X	X	X	X	X	X
(78) Mixed Use Center	X	X	X	X	X	X
(79) Mobilehome	X	X	X	X	X	X
(80) Mobilehome Park	X	X	X	X	X	X
(81) Mobilehome Subdivision	X	X	X	X	X	X
(82) Motel	X	X	X	X	X	(1)
(83) Open Space	P	P	P	P	X	(1)
(84) Open Space Uses	P	P	P	C	X	(1)
(85) Parks, Public	P	P	P	P	X	(1)
(86) Personal Service Uses	X	X	X	X	X	(1)
(87) Photographic, Reproduction and Graphic Service Uses	X	X	X	X	X	X
(88) Professional Office Uses	X	X	X	X	X	(1)
(89) Public Land Uses	C	P	P	P	X	(1)
(90) Public Utility Uses	C	C	C	C	X	(1)
(91) Recreational Uses	C	P	C	X	X	(1)

(1) - See the Dana Point Harbor Planning Community for applicable use regulations.

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APPENDIX A
MASTER LAND USE MATRIX

	RSF 2	RSF 3	RSF 4	RSF 7	RMF 7	RSF 8	RSF 12
(92) Recreational Vehicle Park	X	X	X	X	X	X	X
(93) Recycling Facility	X	X	X	X	X	X	X
(94) Religious Uses	C*	C*	C*	C*	C*	C*	C*
(95) Research and Development Uses	X	X	X	X	X	X	X
(96) Residential Care Facility for the Elderly	C	C	C	C	C	C	C
(97) Residential Facility	C	C	C	C	C	C	C
(98) Restaurant	X	X	X	X	X	X	X
(99) Restaurant, Drive-Through	X	X	X	X	X	X	X
(100) Restaurant, Fast Food	X	X	X	X	X	X	X
(101) Restaurant, Take-Out	X	X	X	X	X	X	X
(102) Restaurant, Walkup	X	X	X	X	X	X	X
(103) Retail Sales Uses	X	X	X	X	X	X	X
(104) Sanitarium, Health	X	X	X	X	X	X	X
(105) Sanitarium, Mental	X	X	X	X	X	X	X
(106) Sanitary Sewer Facility	X	X	X	X	X	X	X
(107) Second Dwelling Units	C*	C*	C*	C*	X	C*	C*
(108) Senior Citizen Housing	X	X	X	X	C	X	X
(109) Single Room Occupancy	X	X	X	X	C	X	X
(110) Skilled Nursing Facility	X	X	X	X	X	X	X
(111) Small Family Home	P	P	P	P	P	P	P
(112) Social Day Care Facility	C	C	C	C	C	C	C
(113) Social Rehabilitation Facility	C	C	C	C	C	C	C
(114) Solid Waste Disposal Facility	X	X	X	X	X	X	X
(115) Stable, Private	X	X	X	X	X	X	X
(116) Stable, Public	X	X	X	X	X	X	X
(117) Storage Yard Uses	X	X	X	X	X	X	X
(118) Tattoo Parlors	X	X	X	X	X	X	X
(119) Timeshares	X	X	X	X	X	X	X
(120) Transportation Uses	X	X	X	X	X	X	X
(121) Video Arcades or Game Rooms	X	X	X	X	X	X	X
(122) Warehousing and Storage Uses	X	X	X	X	X	X	X

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**APPENDIX A
MASTER LAND USE MATRIX**

	RBR 12	RMF 12	RSF 14	RD 14	RMF14	RBRD 18
(92) Recreational Vehicle Park	X	X	X	X	X	X
(93) Recycling Facility	X	X	X	X	X	X
(94) Religious Uses	C*	C*	C*	C*	C*	C*
(95) Research and Development Uses	X	X	X	X	X	X
(96) Residential Facility for the Elderly	C	C	C	C	C	C
(97) Residential Facility	C	C	C	C	C	C
(98) Restaurant	X	X	X	X	X	X
(99) Restaurant, Drive-Through	X	X	X	X	X	X
(100) Restaurant, Fast Food	X	X	X	X	X	X
(101) Restaurant, Take-Out	X	X	X	X	X	X
(102) Restaurant, Walkup	X	X	X	X	X	X
(103) Retail Sales Uses	X	X	X	X	X	X
(104) Sanitarium, Health	X	X	X	X	X	X
(105) Sanitarium, Mental	X	X	X	X	X	X
(106) Sanitary Sewer Facility	X	X	X	X	X	X
(107) Second Dwelling Units	C*	X	C*	X	X	C*
(108) Senior Citizen Housing	X	C	C	X	C	X
(109) Single Room Occupancy	X	C	X	X	C	X
(110) Skilled Nursing Facility	X	X	X	X	X	X
(111) Small Family Home	P	P	P	P	P	P
(112) Social Day Care Facility	C	C	C	C	C	C
(113) Social Rehabilitation Facility	C	C	C	C	C	C
(114) Solid Waste Disposal Facility	X	X	X	X	X	X
(115) Stable, Private	X	X	X	X	X	X
(116) Stable, Public	X	X	X	X	X	X
(117) Storage Yard Uses	X	X	X	X	X	X
(118) Tattoo Parlors	X	X	X	X	X	X
(119) Timeshares	X	X	X	X	X	X
(120) Transportation Uses	X	X	X	X	X	X
(121) Video Arcades or Game Rooms	X	X	X	X	X	X
(122) Warehousing and Storage Uses	X	X	X	X	X	X

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**APPENDIX A
MASTER LAND USE MATRIX**

	RSF 22	RMF 22	RMF 30	NC	CC/P	CC/V
(92) Recreational Vehicle Park	X	X	X	X	X	X
(93) Recycling Facility	X	X	X	P*	P*	P*
(94) Religious Uses	C*	C*	C*	X	C*	C*
(95) Research and Development Uses	X	X	X	C	P	P
(96) Residential Facility for the Elderly	C	C	C	C	C	C
(97) Residential Facility	C	C	C	C	C	C
(98) Restaurant	X	X	X	P	P	P
(99) Restaurant, Drive-Through	X	X	X	C	C.	P
(100) Restaurant, Fast Food	X	X	X	C	C	P
(101) Restaurant, Take-Out	X	X	X	P	P	P
(102) Restaurant, Walkup	X	X	X	C	P	P
(103) Retail Sales Uses	X	X	X	P	P	P
(104) Sanitarium, Health	X	X	X	X	X	X
(105) Sanitarium, Mental	X	X	X	X	X	X
(106) Sanitary Sewer Facility	X	X	X	X	X	X
(107) Second Dwelling Units	C*	X	X	X	X	X
(108) Senior Citizen Housing	C	C	C	X	X	X
(109) Single Room Occupancy	X	C	C	X	C	C
(110) Skilled Nursing Facility	X	X	X	X	C	C
(111) Small Family Home	P	P	P	X	X	X
(112) Social Day Care Facility	C	C	C	X	X	X
(113) Social Rehabilitation Facility	C	C	C	X	C	C
(114) Solid Waste Disposal Facility	X	X	X	X	X	X
(115) Stable, Private	X	X	X	X	X	X
(116) Stable, Public	X	X	X	X	X	X
(117) Storage Yard Uses	X	X	X	X	X	X
(118) Tattoo Parlors	X	X	X	X	C*	C*
(119) Timeshares	X	X	X	X	X	X
(120) Transportation Uses	X	X	X	X	X	P
(121) Video Arcades or Game Rooms	X	X	X	C	C	C
(122) Warehousing and Storage Uses	X	X	X	X	X	X

LEGEND: P = Permitted Use P* = Permitted Use subject to special use standards (see Chapter 9.07)
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APPENDIX B
PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS

Refer to the standards of the underlying zoning designation, except for the following modifications:

PRD NUMBER	1	2	3	4	5	6	7	8	9	10
Underlying Zoning	RSF 4	RSF 7 RSF 12	RSF 3 RSF 4 RSF 7 RSF 12	RSF 4	RSF 4 RSF 7	RSF 7	RSF 7	RSF 7	RSF 7	RSF 7
(a) Maximum Height	28 ft.	* 35 ft.	* 35 ft. ⁽¹⁰⁾	* 35 ft. ⁽⁹⁾	28 ft.	28 ft.	28 ft.	28 ft.	(6)	28 ft.
(b) Front Setback										
From ultimate ROW	* 5 ft.	20 ft. (1)	20 ft. (1)	*(8)	20 ft.	(5)	20 ft.	* 5 ft.	(6)	20 ft.
(c) Side Setback										
Interior	10 ft. (2)	10 ft. (2)	10 ft. (2)	10 ft.(2)	5 ft.	5 ft.	5 ft.	* 5 ft.	* 5 ft.	5 ft.
Street	5 ft.	10 ft (2)	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	* 5 ft.	* 5 ft.	10 ft.
Flag Lot	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
(d) Rear Setback										
Standard	* 10 ft.	10/5 (3)	* 15 ft.	* 15 ft.	25 ft. (4)	25 ft. (5)	* 15 ft.	* 5 ft.	(6)	25 ft. (7)
Street	* 5 ft.	10 ft.	15 ft.	15 ft.	15 ft. (4)	25 ft. (5)	25 ft.	* 5 ft.	(6)	15 ft. (7)
Flag Lot	25 ft.	25 ft.	25 ft.	25 ft.	25 ft. (4)	25 ft. (5)	25 ft.	* 5 ft.	(6)	25 ft. (7)

* indicates a standard which is different than that in the underlying zoning.

FOOTNOTES:

Footnote/Location:

Standard:

1/Laguna Niguel Planned Community

A twenty foot (20') setback is required for the primary structure. Detached or attached garages may have front setback of five feet (5') provided that the garage is equipped with an automatic opener attached to a rollup garage door. Without the automatic opener and rollup garage door, the front setback for a garage is twenty feet (20'). The front yard setback is measured from the back of sidewalk, or the back of curb where there is no sidewalk. Where the garage has been built with a front setback of between five (5) and twenty (20) feet, a second story area may be built above the garage area with a minimum setback equal to the exiting front garage setback plus five (5) feet. Within Tract 12119 (The Estates of Monarch Cove), a ten-foot (10') setback is required.

2/Laguna Niguel Planned Community

10 ft. aggregate side yard setbacks

3/Laguna Niguel Planned Community

5 ft. setback when rear yard abuts open space or golf course

4/Thunderbird Capistrano Planned Community

Structures with existing legal rear setbacks less than 25 ft. are permitted to develop according to the existing setback; all others shall comply with the development standards of the underlying zoning district.

5/Dana Woods Tract

Structures with existing legal front and/or rear setbacks less than that noted in the development standards are permitted to develop according to the existing setback; all others shall comply with the development standards of the underlying zoning district. Note that garage setbacks less than 20 ft. shall be equipped with an automatic garage door opener.

6/Lantern Bay Estates

Front: Lots 1-9, 20' or more:
 Lots 10-40 = garage may be 5' with provision of an automatic garage door opener; or 20' or more

Sides: 5' for all structures

Rear: Lots 3-10, 10' setback

Lots 41-46, 15' setback

All others, 25' setback

Height: Lots 20-40, 25' above existing pad elevation

Note: All structures shall be prohibited beyond the top of slope. Subarticle #10 of the City of Dana Point Grading Manual shall determine the setback from top of slope.

7/Stratford at the Pacific and Marlborough Seaside Villas

Structures with existing legal rear setbacks less than 25 ft. are permitted to develop according to the existing setback; all others shall comply with the development standards of the underlying zoning district.

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FOOTNOTES: (Continued)

Footnote/Location:

8/Ritz Cove

Standard:

A fifteen foot (15') setback is required for the primary structure. A ten foot (10') front yard setback is permitted to a side entry garage provided that the driveway is consistent with Section 9.35.050(b)(5) and the maximum height of the side-entry garage does not exceed fourteen feet (14').

9/Ritz Cove

Subterranean residential garages consistent with the definition of a "Basement" as set forth in Chapter 9.75, and subject to a minor Site Development Permit pursuant to Section 9.71, shall be considered a basement and shall not be considered in the calculation of building height or stories.

10/Monarch Cove

Within Tract 12119 (The Estates of Monarch Cove), the maximum height for structures shall not exceed 30 feet.

**APPENDIX B
PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS**

Refer to the standards of the underlying zoning designation, except for the following modifications:

PRD NUMBER	11	12	13	14	15	16	17	18	19	20
Underlying Zoning	RSF 7	RSF 4	RSF 7	RSF 7	RSF 7	RSF 7	RSF 7	RSF 7	RSF 7	RSF 7
(a) Maximum Height	28 ft.	28 ft.	28 ft.	28 ft.	28 ft.	28 ft.	28 ft.	28 ft.	28 ft.	28 ft.
(b) Front Setback										
From ultimate ROW	20 ft.	20 ft. (1)	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.
(c) Side Setback										
Interior	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.
Street	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
Flag Lot	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
(d) Rear Setback										
Standard	* 10 ft.	25 ft. (2)	* 10 ft.	* 5 ft.	* 5 ft.	* 10 ft.	* 5 ft.	* 20 ft.	* 10 ft.	* 20 ft.
Flag Lot	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

FOOTNOTES:

* indicates a standard which is different than that in the underlying zoning

Footnote/Location:

1/The Village

Standard:

10 ft. setback for side entry garage is permitted.

2/The Village

Structures with existing rear setbacks less than 25 feet are permitted to develop according to the existing setback; all others shall comply with the development standards of the underlying zoning district.

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**APPENDIX B
 PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS**

Refer to the standards of the underlying zoning designation, except for the following modifications:

PRD NUMBER	21	22	23		25	26
Underlying Zoning	RSF 7	RSF 4	RSF 7	NO PRD 24	RSF 12	RSF 7
(a) Maximum Height	28 ft.	28 ft.	28 ft.		28 ft.	28 ft.
(b) Front Setback						
From ultimate ROW	* 10 ft.	20 ft.	*(5)		(1)	(3)
(c) Side Setback						
Interior	5 ft.	5 ft.	5 ft.		* 5 ft.	(4)
Street	10 ft.	10 ft.	10 ft.		* 10 ft.	* 5 ft.
Flag Lot	10 ft.	10 ft.	5 ft.		N/A	N/A
(d) Rear Setback						
Standard	* 10 ft.	* 15 ft.	15 ft.		(2)	* 10 ft.
Street	15 ft.	15 ft.	10 ft.		(2)	N/A
Flag Lot	N/A	N/A	15 ft.		N/A	N/A

FOOTNOTES:

* indicates a standard which is different than that in the underlying zoning.

Footnote/Location:

Standard:

1/Chelsea Pointe

5 ft. garage setbacks are permitted.

2/Chelsea Pointe

20 ft. adjacent to PCH
 20 ft. for interior lots
 15 ft. adjacent to Selva road
 5 ft. adjacent to Niguel Beach Terrace

3/Crystal Cove

5 ft. setback with automatic garage door opener; otherwise 20 ft. or more

4/Chelsea Pointe

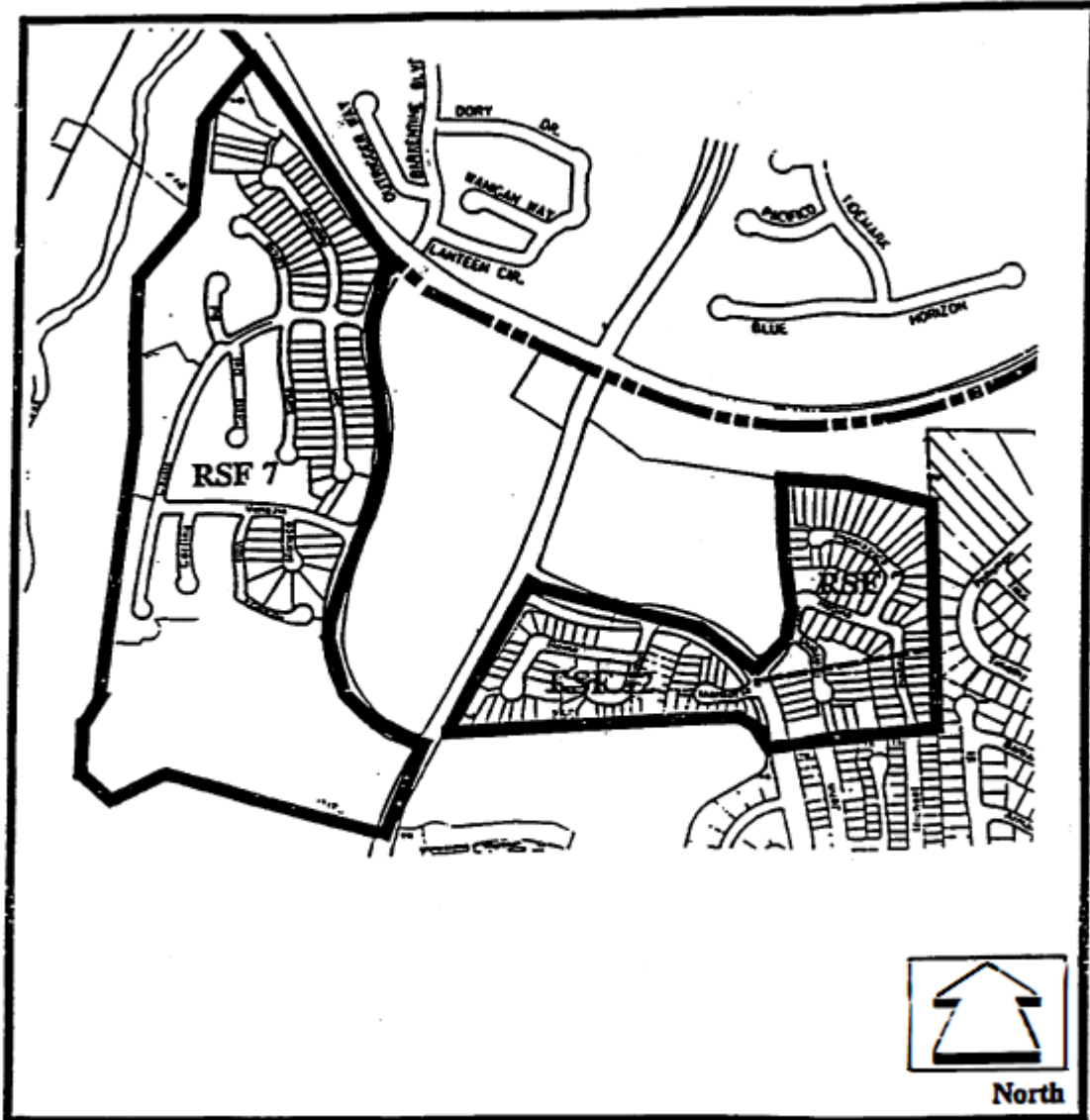
12 ft. aggregate ("Z" lots) interior

5/Monarch Beach

20 feet except lot numbers 3, 4, 12, 24, 25, 26, 27, 34, 35, 37, 39, 40, 43, 45, 47, 50, 54, 55, 59, 61, 62, 64, 65, 66 and 67, which shall have front yard setbacks to garage of eighteen feet.

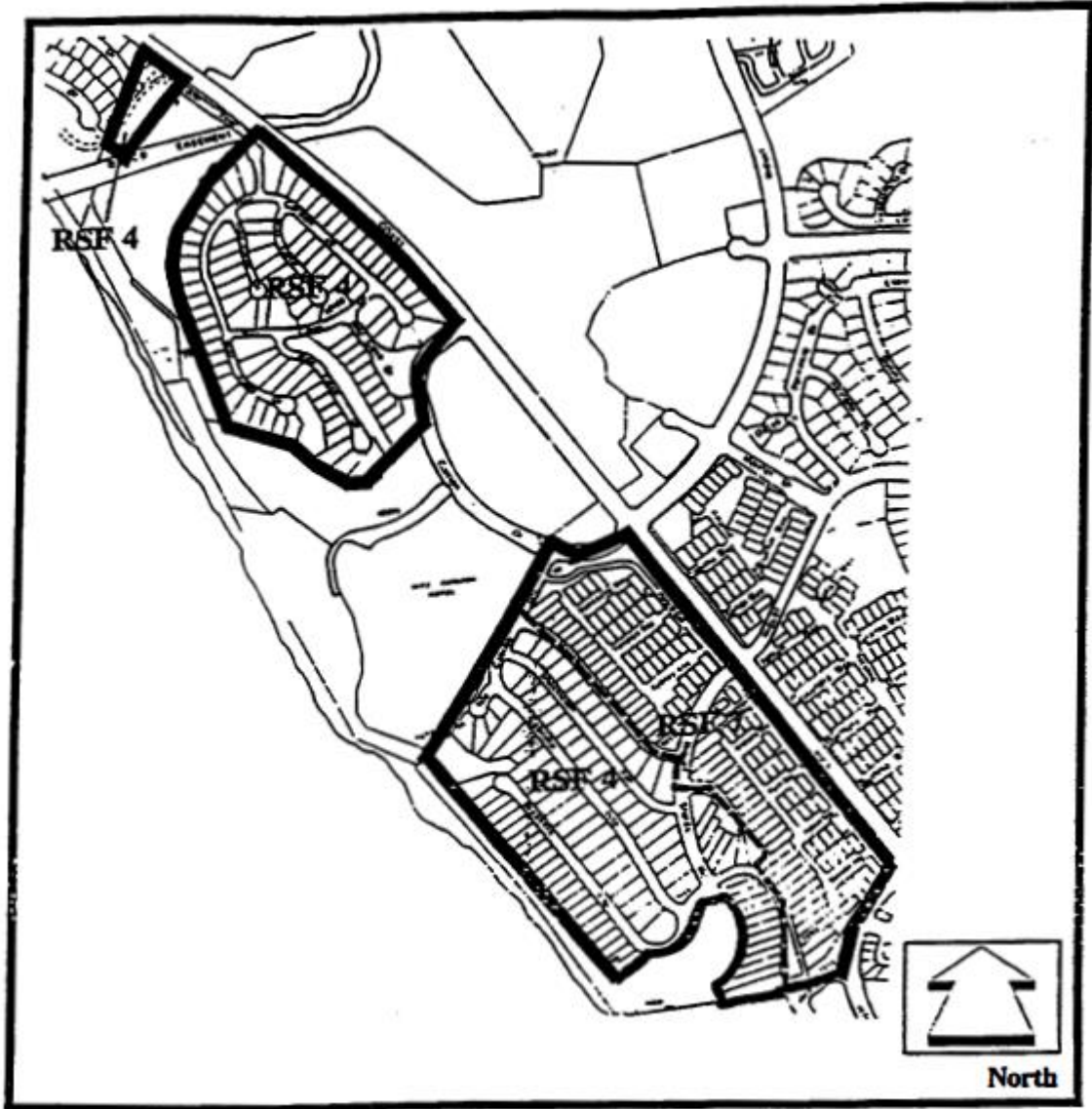
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APPENDIX B
PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS



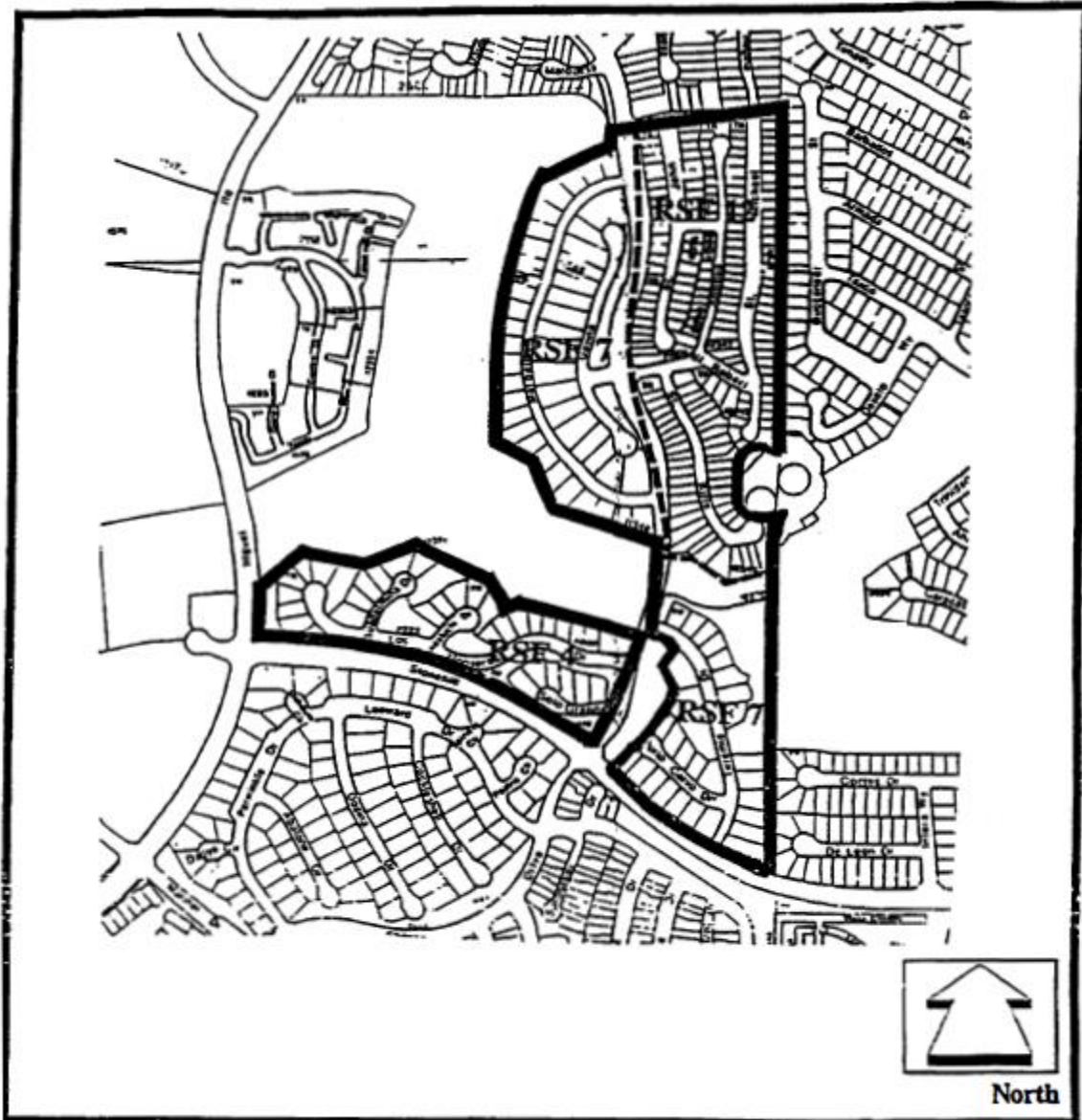
PRD 2
UNDERLYING ZONING

APPENDIX B
PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS



PRD 3 AND PRD 4
UNDERLYING ZONING

APPENDIX B
PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS



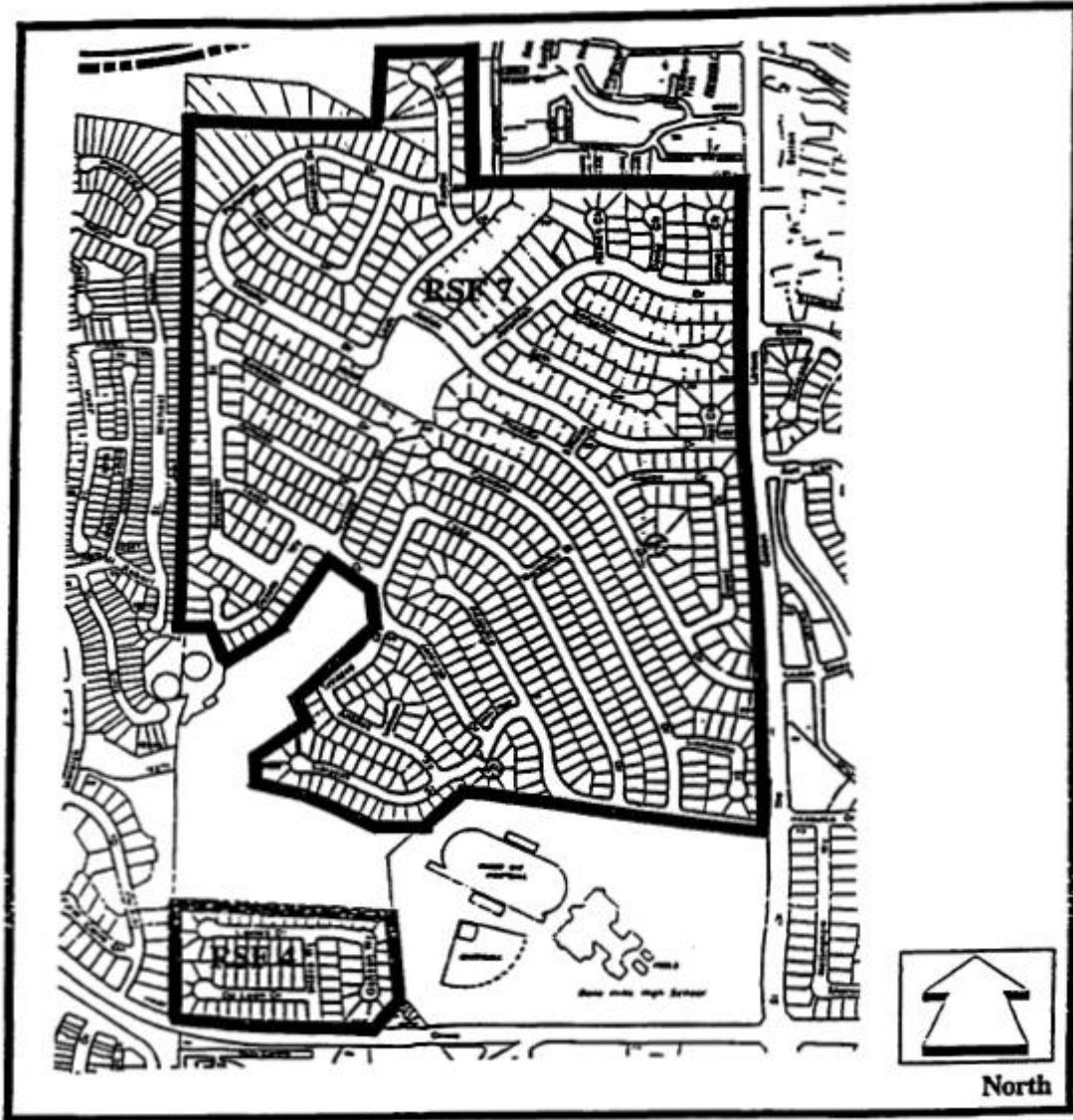
PRD 3
UNDERLYING ZONING

APPENDIX B
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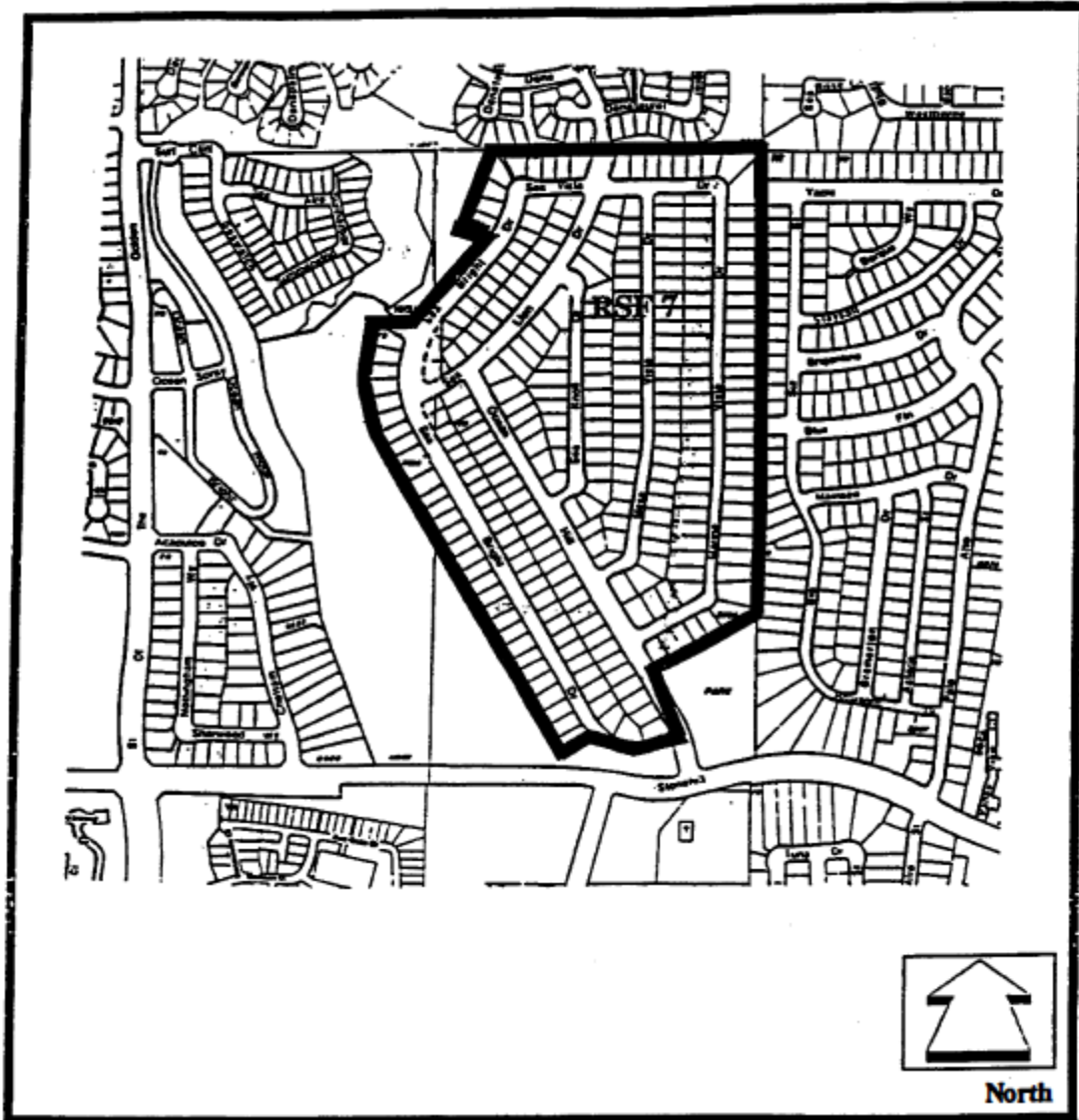
PRD 3
UNDERLYING ZONING

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PRD 5
UNDERLYING ZONING

APPENDIX B
PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS



PRD 5
UNDERLYING ZONING

