

ORDINANCE NO. 18-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA17-0001 TO MODIFY AND ADD VARIOUS PROVISIONS TO THE ZONING ORDINANCE AND SUBMISSION AS PART OF LOCAL COASTAL PROGRAM AMENDMENT LCPA17-0003 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

Applicant: City of Dana Point
File No.: ZTA17-0001/LCPA17-0003

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, accessory dwelling unit regulations, fence/wall requirements, miscellaneous General Regulations and procedures; and

WHEREAS, the ZTA and 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 November 13, 2017, to consider said LCPA and ZTA and recommended approval of the proposed amendments to City Council 5-0; and

WHEREAS, the City Council held a duly noticed public hearing as prescribed by law on December 5, 2017, 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 17-0001, and LCPA 17-0003; and

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

- A. That the above recitations are true and correct and incorporated herein by reference;
- B. The revisions to the Zoning Ordinance are attached hereto as Exhibit "A" showing all proposed changes in a strikethrough/underline format, and

Exhibit "B" showing a "clean" copy of the proposed modifications and incorporated herein by reference;

- C. That the proposed action complies with all other applicable requirements of state law and local Ordinances;
- D. That the ZTA17-0001 and LCPA17-0003 is in the public interest;
- 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 15265(f) of the California Guidelines for Implementation of the California Environmental Quality Act ("CEQA Guidelines"), CEQA does not apply to a local government's preparation of a local coastal program amendment; 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.;
- F. The proposed amendment to the DPZC is consistent with the General Plan;
- G. The City Council adopt Zone Text Amendment ZTA17-0001 for the reasons outlined herein including but not limited to: **ensuring that provisions of the DPZC are accurate, relevant, and compliant with State law. Code cleanups are part of a continuous effort ensure the long term applicability of the DPZC;**
- H. That the City Council adopt the following findings:
 - 1. That the public and affected agencies have had ample opportunity to participate in the LCPA and ZTA process **in that proper notice in accordance with the LCPA procedures has been followed. Notices were; 1) mailed on October 23, 2017 to notify adjacent agencies that the proposed changes were available for public review, and was published in the Orange County Register on October 25, 2017, 2) published in the Dana Point News on November 2, 2017 for the Planning Commission Public Hearing, 3) posted at the Dana Point City Hall, the Dana Point Post Office, the Capistrano Beach Post Office, the Dana Point Library, and on the City's web site on October 23, 2017, and 4) published in the Dana Point News on November 23, 2017 for the City Council Public Hearing.**
 - 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 codifying the Accessory Dwelling Unit (ADU) requirements provides more local housing stock for people to access coastal resources. All other modifications are minor and associated with clarifying existing requirements and will not impact any Coastal resources or access to them.**

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, clarify existing requirements, and make the Zoning Ordinance consistent with State law.**
5. That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after certification of the LCPA. **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, clarify existing requirements, and make the Zoning Ordinance consistent with State law and not impact an measures which implement the coastal policies of the Land Use Plan.**
7. The proposed amendment is consistent with the Dana Point General Plan and Local Coastal Program **in that the proposed amendments are to clarify typographical errors, clarify portions of the Zoning Ordinance which have created confusion for the public, and bring the Code into compliance with recent State law changes, thus all changes are consistent with the General Plan**

and Local Coastal Program.

8. The proposed amendment complies with all other applicable requirements of state law and local ordinances **in that the intent of the update is to make the Zoning Ordinance compliant with State law changes and does not conflict with any local ordinances.**
- 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 ZTA17-0001 and LCPA17-0003 when submitted to the Coastal Commission.
 6. The City finds that the Ordinance is exempt from CEQA pursuant to Sections 15061(b)(3) and 15265(f) of the CEQA Guidelines.
 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 ZTA17-0001, which would amend the Dana Point Local Coastal Program pursuant to LCPA17-0003, as shown in the attached Exhibit "A" and "B".
 - K. That the City Council adopts Zone Text Amendment ZTA17-0001, which

would amend the Dana Point Local Coastal Program pursuant to LCPA17-0003. 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 compliant to State law, 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 16th day of January, 2018

RICHARD A. VICZOREK, MAYOR

ATTEST:

KATHY WARD
City Clerk

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

I, KATHY WARD, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 18-01 was duly introduced at a regular meeting of the City Council on the 5th day of December, 2017, and was duly adopted and passed at a regular meeting of the City Council on the 16th day of January 2018, by the following vote, to wit:

AYES: Council Members Lewis, Tomlinson, Wyatt, Mayor Pro Tem Muller, and Mayor Viczorek

NOES: None

ABSENT: None



KATHY WARD, CITY CLERK

ORDINANCE NO. 18-01

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

AFFIDAVIT OF POSTING
AND PUBLISHING

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


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

That in compliance with State Laws of the State of California, ORDINANCE NO. 18-01, being:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA17-0001 TO MODIFY AND ADD VARIOUS PROVISIONS TO THE ZONING ORDINANCE AND SUBMISSION AS PART OF LOCAL COASTAL PROGRAM AMENDMENT LCPA17-0003 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

was published in summary in the Dana Point News on the 14th day of December, 2017, and the 25th day of January, 2018, and in further compliance with City Resolution No. 91-10-08-01 on the 7th day of December, 2017, and on the 18th day of January, 2018 was caused to be posted in four (4) public places in the City of Dana Point, to wit:

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



KATHY WARD, CITY CLERK
Dana Point, California

Exhibit "A"

ZONE TEXT AMENDMENT ZTA17-0001

KEY:

ATTACHMENT 1

Normal Text=Existing unmodified language

~~Text~~=Proposed language to be removed

Text=Proposed language to be added

9.05.080-Maximum Projects into Required Yard Areas.

Item	<u>Front</u> Maximum Projection Into Front Yard Area	<u>Rear</u> Maximum Projection Into Rear Yard Area	<u>Side</u> Maximum Projection Into Side Yard Area (A)	Minimum Distance From Property Lines (B)	Maximum Projection Above Height Limit (C)	Other Limitations (D)
(a) Antennas	Not Permitted	8'0"	Not Permitted	1'0"	Not Permitted (C)	2 max (D)
(b) Arch. Projections: (i.e., Cornices, Eaves and Roof Overhangs)	2'6"	2'6"	2'6"	2'0"	Not Permitted	None
(c) Awnings	4'0" (no vertical supports)	3'0"	2'6"	2'0"	Not Permitted	None
(d) Balconies	2'6"	2'6"	2'6"	5'0"	Not Permitted	(E)
(e) Basement (Below Grade)	Not Permitted <u>To PL (H)</u>	Not Permitted <u>15'0"</u>	Not Permitted <u>To PL (H)</u>	N/A	N/A	None <u>(T)</u>
(f) Bay Windows	2'6"	2'6"	2'6"	3'0"	N/A	(E)

Item	Front Maximum Projection Into Front Yard Area	Rear Maximum Projection Into Rear Yard Area	Side Maximum Projection Into Side Yard Area (A)	Minimum Distance From Property Lines (B)	Maximum Projection Above Height Limit	Other Limitations
(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)
(k) Flagpoles	15'0"	5'0"	2'6"	5'0"	15'0"	(M)
(l) HV AC/mech. equip. and window mounted air conditioners	Not permitted	3'0"	2'6"	2'0"	Not permitted	(N)
(m)Patio Covers/ Porch	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"	10'0" 2'0"	N/A	(P)(Q)
(o) Pool Equipment	Not permitted	N/A	N/A	5'0"(N)	N/A	(N)
(o) Porte Cochere	Permitted by Minor Site Development Permit only				Not permitted	None

Item	<u>Front</u> Maximum Projection Into Front Yard Area	<u>Rear</u> Maximum Projection Into Rear Yard Area	<u>Side</u> Maximum Projection Into Side Yard Area (A)	Minimum Distance From Property Lines (B)	Maximum Projection Above Height Limit	Other Limitations
(p) Exterior Stairways, ramps , and Stairway Landings 30 inches or more above grade	2'6"	2'6"	2'6"	2'6"(R)	Not Permitted	(E)
(q) Swimming Pools and Spas	Not permitted	N/A	N/A	3'0"(S)	N/A	None
(r) Pool Equipment	Not permitted	N/A	N/A	5'0"(N)	N/A	(N)

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 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) 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.
- (N) **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.**
- (O) Maximum coverage: Thirty (30) percent of rear yard setback area.
- (P) Including vertical supports, **and overhangs.**
- (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 five (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.

9.05.110(a)(8)

(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).

9.05.120 Fences, Walls, and Hedges.

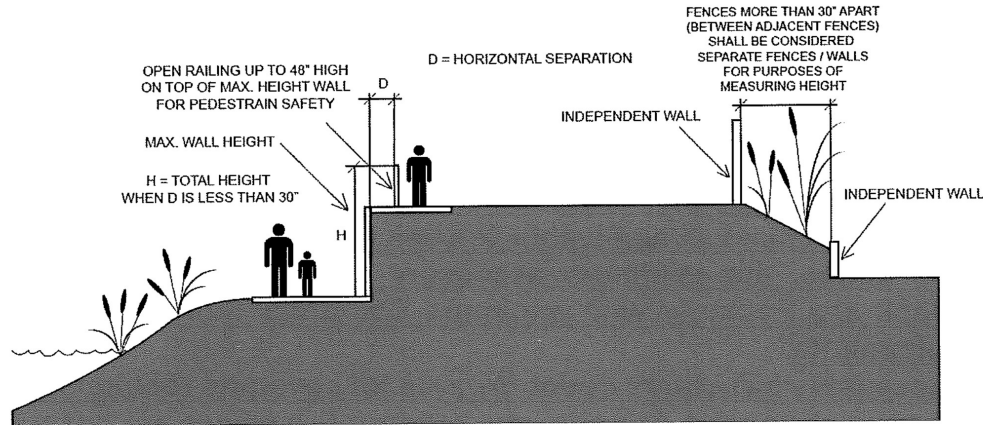
(c) Alternatives to the height limits for fences, walls and hedges specified in sections (a) and (b) above, **or (g) below**, and provisions for the placement of arbors, porticos, trellises or other entry features within required yards may be granted subject to the approval of a Minor Site Development Permit pursuant to the provisions of Chapter 9.65.

(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.

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**: of the zoning district as follows:

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:

- (a) **An Accessory Building or Structure meets the definition of an Accessory Building or Structure as specified in Section 9.75.010.**
- (b) **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.**
- (c) **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).**
- (d) **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.
- (e) 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.
 - (f) 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.
 - (g) In residential districts, detached accessory structures 500 square feet or greater shall meet all applicable setback requirements.
 - (h) In all zones, the minimum accessory structure to accessory structure setback shall comply with minimum California Building Code separation requirements.
 - (i) All accessory structures count towards lot coverage requirements.
 - (j) Barbeque structures, fire pits, and outdoor fire places 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.
 - (k) Height limitations and measurements shall be in compliance with Section 9.05.110(a)(8).

9.07.030(g)

- (g) No actual retail sales shall be conducted on the premises other than sales by phone, ~~or~~ mail, or internet.

9.07.040 Alcoholic Beverage Outlets.

(b) **Minor** Conditional Use Permit. A Minor Conditional Use Permit, shall be required for the establishment of an alcoholic beverage outlet in the following situations:

- (1) Sale of alcoholic beverages 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 for a findings for the approval of a Conditional Use Permit contained in Chapter 9.65.

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:

(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.

9.07.210 ~~Second Dwelling Units or Granny Flats.~~

- ~~(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 establish a second dwelling unit from the same lot, provided it 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. The following standards shall be met and shall not be modified or varied from:~~
- ~~(1) 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;~~
 - ~~(2) Second dwelling units whether attached or detached shall not encroach into any setback area required for the primary structure;~~
 - ~~(3) An additional parking stall, in accordance with the standards described in Chapter 9.35, shall be provided for the second dwelling unit;~~
 - ~~(4) The second dwelling unit shall be compatible in height, setback and architectural design with the primary structure and the surrounding land uses;~~

~~(5) 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 of time the second dwelling unit is occupied; and~~

~~(6) Each second dwelling unit shall have adequate storage and private open space.~~

~~(c) Coastal Development Permit. If the second unit requires a Coastal Development Permit it shall be processed in accordance with Chapter 9.69, with the exception of the required public hearing. Per Government Code Section 65852.2, cities may not use a discretionary process for approving a second unit. The Coastal Development Permit will be processed ministerially. Public noticing and a Notice of Final Action will be filed in accordance with the Coastal Development Permit process.~~

~~(d) The ministerial decision to approve or deny a request for a second unit may be appealed to the Planning Commission in accordance with Section 9.61.110.~~

9.07.210 Accessory Dwelling Units

(a) Pursuant to the provisions of California Government Code Section 65852.2, or any successor statute, the following shall provide development standards to ensure the orderly development of accessory dwelling units in the City. Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20(commencing with Section 30000) of the Public Resource Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(b) If the existing residence is a legal non-conforming structure conforming to use, or located in the Coastal Zone, the provisions of Chapters 9.63 and 9.69 respectively shall apply, and any required Discretionary Permit, including a Coastal Development Permit, shall be approved prior to submittal for a building permit.

(c) Development Standards. The provisions as specified by reference in California Government Code Section 65852.2, or any successor statute, shall be utilized for the purpose of prescribing regulations for the development of Accessory Dwelling Units including maximum size and parking requirements, except for applicable requirements of the underlying zoning district, applicable overlay districts, and the local requirements as specified in subsection (d) below.

(d) Local Requirements for all Accessory Dwelling Units.

(A) Sale of Units. The accessory dwelling unit shall not be sold separately from the primary dwelling unit.

- (B) Occupancy. The primary dwelling unit or the accessory dwelling unit shall be continuously occupied by at least one person having an ownership interest in the lot.**
- (C) Number of Units Allowed. Only one accessory unit may be located on each lot with a primary single family dwelling unit.**
- (D) Existing Development. A primary single family residential dwelling unit must exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.**
- (E) Deed Restriction and Recordation Required. Prior to issuance of a Building and/or Grading permit for an accessory dwelling unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the owner occupancy requirement. This deed restriction shall remain in effect so long as the accessory dwelling unit exists on the property.**

9.09.010(d)

(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.

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.

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

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8	RSF 12
Granny Flat	C*	C*	C*	C*	C*	C*
Second Dwelling Unit	P	P	P	P	P	P
<u>Accessory Dwelling Unit</u>	<u>A*</u>	<u>A*</u>	<u>A*</u>	<u>A*</u>	<u>A*</u>	<u>A*</u>

LAND USES	RBR 12	RBRD 18	RD 14	RSF 22
Granny Flat	C*	C*	X	C*
Second Dwelling Unit	P	X	X	X
<u>Accessory Dwelling Unit</u>	<u>A*</u>	<u>A*</u>	<u>A*</u>	<u>A*</u>

LAND USES	RMF 7	RMF 14	RMF 22	RMF 30
Granny Flat	X	X	X	X
Second Dwelling Unit	X	X	X	X
Accessory Dwelling Unit	A*	A*	A*	A*

9.09.020(b)

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8	RSF 12
Group Dwelling	C	C	C	C	C	C

LAND USES	RBR 12	RBRD 18	RD 14	RSF 22
Group Dwelling	C	C	C	C
LAND USES	RMF7	RMF14	RMF 22	RMF 30
Group Dwelling	C	C	C	C

Footnotes for Section 9.09.030:

(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.

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

SECTION 9.11.020(b)

COMMERCIAL DISTRICTS

LAND USES	NC	CC/P	CC/V	V/RC
Hookah Lounges	X	X	X	X

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.**

9.13.020(c)

LAND USES	C/R	R/C-18	P/R
Group Dwelling/Group Home	C	X	C

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

SECTION 9.13.020(c)

MIXED USE DISTRICTS

LAND USES	C/R	R/C-18	P/R
<u>Hookah Lounges</u>	<u>X</u>	<u>X</u>	<u>X</u>

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

Footnotes for Section 9.13.020(c):

(2) Permitted only ~~as an accessory use to commercial or professional uses~~ in a mixed use project and located on the second floor only.

9.19.020(b)

LAND USES	CF
Group Dwelling/Group Home	C

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:

(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.~~

9.37.020(s)

~~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.

9.37.150(e)(2)

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA	MAXIMUM HEIGHT	ADDITIONAL STANDARDS
(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 interior courtyard	Wall: Below the eave line	(A) Signs may be located on building elevations with street frontage or main public entrances.

9.61.040(d)(1)

(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 complete** application unless the applicant requests, or consents to, an extension of time.

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) At the discretion of the Director of Community Development, a Substantial Compliance with Discretionary Approval may be placed on the Planning Commission Agenda as a public hearing. If Planning Commission review is required, the public notification process used for the original discretionary action shall be completed.

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.

9.65.060(c)(13)

(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:

(13) Screening and proper orientation of **objectional objectionable** elements of the use.

9.69.100(a)

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).

9.75.010 "A" Definitions and Illustrations

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.

9.75.020 "B" Definitions and Illustrations.

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 daylighting 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.

Bedroom — any habitable room other than a bathroom, kitchen, dining room or living room with a closet.

9.75.110 “K” Definitions and Illustrations.

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.

9.75.120 “L” Definitions and Illustrations

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.

9.75.130 “M” Definitions and Illustrations

Mezzanine-An intermediate level or levels between the floor and ceiling as defined, or as amended by the California Building Code. a platform that projects from a maximum of two walls within a structure above the first or second level, is no more than one third of the area of the room in which it is located, and is surrounded by a rail or balustrade.

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.

9.75.160 “P” Definitions and Illustrations.

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.

9.75.190 “S” Definitions and Illustrations.

~~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~~

*All numbers following 1 shall be re-numbered accordingly in Appendix A

LAND USES	RSF 22	RMF 22	RMF 30	NC	CC/P	CC/V
(1) Accessory Dwelling Unit	<u>A*</u>	<u>A*</u>	<u>A*</u>	<u>X</u>	<u>X</u>	<u>X</u>

*All numbers following 1 shall be re-numbered accordingly in Appendix A

LAND USES	V/RC	C/R	P/R	P/A	I/B
(1) Accessory Dwelling Unit	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

*All numbers following 1 shall be re-numbered accordingly in Appendix A

LAND USES	CF	REC	OS	CONS	TC	DPHRP
(1) Accessory Dwelling Unit	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

*All numbers following 1 shall be re-numbered accordingly in Appendix A

LAND USES	CF	REC	OS	CONS	TC	DPHRP
(45) Emergency Shelter	X <u>P (2)</u>	X	X	X	X	(1)

(2) Up to 20 bed maximum, pursuant to Section 9.19.020 and 9.19.040(b).

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8	RSF 12
(54) “Granny” Flat Reserved	C*	C*	C*	X	C*	C*

LAND USES	RBR12	RMF12	RSF 14	RD 14	RMF 14	RBRD 18
(54) “Granny” Flat Reserved	C*	X	C*	X	X	C*

LAND USES	RSF 22	RMF 22	RMF 30	NC	CC/P	CC/V
(54) “Granny” Flat Reserved	C*	X	X	X	X	X

LAND USES	V/RC	C/R	P/R	P/A	I/B
(54) “Granny” Flat Reserved	X	X	X	X	X

LAND USES	CF	REC	OS	CONS	TC	DPHRP
(54) “Granny” Flat Reserved	X	X	X	X	X	X

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8	RSF 12
(55) Group Dwelling Reserved	C	C	C	C	C	C

LAND USES	RBR12	RMF12	RSF 14	RD 14	RMF 14	RBRD 18
(55) Group Dwelling Reserved	C	C	C	C	C	C

LAND USES	RSF 22	RMF 22	RMF 30	NC	CC/P	CC/V
(55) Group Dwelling Reserved	C	C	C	X	X	X

LAND USES	V/RC	C/R	P/R	P/A	I/B
(55) Group Dwelling Reserved	X	C	C	X	X

LAND USES	CF	REC	OS	CONS	TC	DPHRP
(55) Group Dwelling Reserved	C	X	X	X	X	X

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8	RSF 12
(61) Hookah Lounge	X	X	X	X	X	X

*All numbers following 61 shall be re-numbered accordingly in Appendix A

LAND USES	RBR 12	RMF 12	RSF 14	RD 14	RMF 14	RBRD 18
(61) Hookah Lounge	X	X	X	X	X	X

*All numbers following 61 shall be re-numbered accordingly in Appendix A

APPENDIX B PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS

Refer to the standards of the underlying zoning designation, except for the following modifications:

EXHIBIT "B"

9.05.080-Maximum Projections into Required Yard Areas.

Item	<u>Front</u> Maximum Projection Into Front Yard Area	<u>Rear</u> Maximum Projection Into Rear Yard Area	<u>Side</u> Maximum Projection Into Side Yard Area (A)	Minimum Distance From Property Lines (B)	Maximum Projection Above Height Limit (C)	Other Limitations (D)
(a) Antennas	Not Permitted	8'0"	Not Permitted	1'0"	Not Permitted (C)	2 max (D)
(b) Arch. Projections: (i.e., Cornices, Eaves and Roof Overhangs)	2'6"	2'6"	2'6"	2'0"	Not Permitted	None
(c) Awnings	4'0" (no vertical supports)	3'0"	2'6"	2'0"	Not Permitted	None
(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)

Item	Front Maximum Projection Into Front Yard Area	Rear Maximum Projection Into Rear Yard Area	Side Maximum Projection Into Side Yard Area (A)	Minimum Distance From Property Lines (B)	Maximum Projection Above Height Limit	Other Limitations
(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)
(k) Flagpoles	15'0"	5'0"	2'6"	5'0"	15'0"	(M)
(l) HV AC/mech. equip. and window mounted air conditioners	Not permitted	3'0"	2'6"	2'0"	Not permitted	(N)
(m)Patio Covers/ Porch	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"	N/A	(P)(Q)
(s) Porte Cochere	Permitted by Minor Site Development Permit only				Not permitted	None
(t) Exterior Stairways, ramps, and Stairway Landings 30 inches or more above grade	2'6"	2'6"	2'6"	2'6"(R)	Not Permitted	(E)

Item	Front Maximum Projection Into Front Yard Area	Rear Maximum Projection Into Rear Yard Area	Side Maximum Projection Into Side Yard Area (A)	Minimum Distance From Property Lines (B)	Maximum Projection Above Height Limit	Other Limitations
(u) Swimming Pools and Spas	Not permitted	N/A	N/A	3'0"(S)	N/A	None
(v) Pool Equipment	Not permitted	N/A	N/A	5'0"(N)	N/A	(N)

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 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, then 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 five (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.

9.05.110(a)(8)

(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).

9.05.120 Fences, Walls, and Hedges.

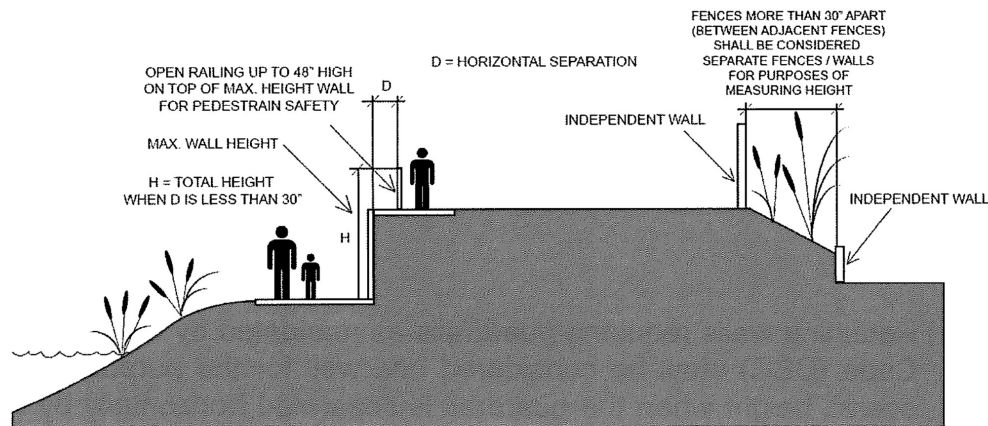
(c) Alternatives to the height limits for fences, walls and hedges specified in sections (a) and (b) above, or (g) below, and provisions for the placement of arbors, porticos, trellises or other entry features within required yards may be granted subject to the approval of a Minor Site Development Permit pursuant to the provisions of Chapter 9.65.

(g) Height measurements of 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.

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:

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:

- (a) An Accessory Building or Structure meets the definition of an Accessory Building or Structure as specified in Section 9.75.010.
- (b) 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.
- (c) 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).
- (d) 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.
- (e) 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.

- (f) 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.
- (g) In residential districts, detached accessory structures 500 square feet or greater shall meet all applicable setback requirements.
- (h) In all zones, the minimum accessory structure to accessory structure setback shall comply with minimum California Building Code separation requirements.
- (i) All accessory structures count towards lot coverage requirements.
- (j) Barbeque structures, fire pits, and outdoor fire places 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.
- (k) Height limitations and measurements shall be in compliance with Section 9.05.110(a)(8).

9.07.030(g)

(g) No actual retail sales shall be conducted on the premises other than sales by phone, mail, or internet.

9.07.040 Alcoholic Beverage Outlets.

(b) Minor Conditional Use Permit. A Minor Conditional Use Permit, shall be required for the establishment of an alcoholic beverage outlet in the following situations:

- (1) Sale of alcoholic beverages 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 for a findings for the approval of a Conditional Use Permit contained in Chapter 9.65.

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:

- (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.

9.07.210 Accessory Dwelling Units

(a) Pursuant to the provisions of California Government Code Section 65852.2, or any successor statute, the following shall provide development standards to ensure the orderly development of accessory dwelling units in the City. Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20(commencing with Section 30000) of the Public Resource Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(b) If the existing residence is a legal non-conforming structure conforming to use, or located in the Coastal Zone, the provisions of Chapters 9.63 and 9.69 respectively shall apply, and any required Discretionary Permit, including a Coastal Development Permit, shall be approved prior to submittal for a building permit.

(c) Development Standards. The provisions as specified by reference in California Government Code Section 65852.2, or any successor statute, shall be utilized for the purpose of prescribing regulations for the development of Accessory Dwelling Units including maximum size and parking requirements, except for applicable requirements of the underlying zoning district, applicable overlay districts, and the local requirements as specified in subsection (d) below.

(d) Local Requirements for all Accessory Dwelling Units.

(A) Sale of Units. The accessory dwelling unit shall not be sold separately from the primary dwelling unit.

(B) Occupancy. The primary dwelling unit or the accessory dwelling unit shall be continuously occupied by at least one person having an ownership interest in the lot.

- (C) Number of Units Allowed. Only one accessory unit may be located on each lot with a primary single family dwelling unit.
- (D) Existing Development. A primary single family residential dwelling unit must exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.
- (E) Deed Restriction and Recordation Required. Prior to issuance of a Building and/or Grading permit for an accessory dwelling unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the owner occupancy requirement. This deed restriction shall remain in effect so long as the accessory dwelling unit exists on the property.

9.09.010(d)

(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.

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.

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

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8	RSF 12
Accessory Dwelling Unit	A*	A*	A*	A*	A*	A*

LAND USES	RBR 12	RBRD 18	RD 14	RSF 22
Accessory Dwelling Unit	A*	A*	A*	A*

LAND USES	RMF 7	RMF 14	RMF 22	RMF 30
Accessory Dwelling Unit	A*	A*	A*	A*

Footnotes for Section 9.09.030:

(5) For existing lots less than the width and depth requirements of the underlying zone as specified in Section 9.09., see Section 9.05.190 for reduced front, side and rear building setbacks.

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

SECTION 9.11.020(b)
 COMMERCIAL DISTRICTS

LAND USES	NC	CC/P	CC/V	V/RC
Hookah Lounges	X	X	X	X

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.

9.13.020(c)

LAND USES	C/R	R/C-18	P/R
Group Home	C	X	C

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

SECTION 9.13.020(c)

MIXED USE DISTRICTS

LAND USES	C/R	R/C-18	P/R
Hookah Lounges	X	X	X

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

Footnotes for Section 9.13.020(c):

(2) Permitted only in a mixed use project and located on the second floor only.

9.19.020(b)

LAND USES	CF
Group Home	C

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:

(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.

9.37.020(s)

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.

9.37.150(e)(2)

CLASS	TYPE	PERMIT REQUIRED	MAXIMUM NUMBER	AGGREGATE AREA	MAXIMUM HEIGHT	ADDITIONAL STANDARDS
(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 interior courtyard	Wall: Below the eave line	(A) Sign may be located on building elevations with street frontage or main public entrances.

9.61.040(d)(1)

(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.

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) At the discretion of the Director of Community Development, a Substantial Compliance with Discretionary Approval may be placed on the Planning Commission Agenda as a public hearing. If Planning Commission review is required, the public notification process used for the original discretionary action shall be completed.

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.

9.65.060(c)(13)

(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:

(13) Screening and proper orientation of objectionable elements of the use.

9.69.100(a)

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).

9.75.010 "A" Definitions and Illustrations

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.

9.75.020 "B" Definitions and Illustrations.

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 daylighting 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.

Bedroom — any habitable room other than a bathroom, kitchen, dining room or living room with a closet.

9.75.110 “K” Definitions and Illustrations.

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.

9.75.120 “L” Definitions and Illustrations

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.

9.75.130 “M” Definitions and Illustrations

Mezzanine-An intermediate level or levels between the floor and ceiling as defined, or as amended by the California Building Code.

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.

9.75.160 “P” Definitions and Illustrations.

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.

9.75.190 “S” Definitions and Illustrations.

Sign- See Section 9.37.020(s)

9.75.270 Definitions of Use.

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.

“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 procedure, 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.

Appendix A Master Land Use Matrix

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

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8	RSF 12
(1) Accessory Dwelling Unit	A*	A*	A*	A*	A*	A*

*All numbers following 1 shall be re-numbered accordingly in Appendix A

LAND USES	RBR12	RMF12	RSF 14	RD 14	RMF 14	RBRD 18
(1) Accessory Dwelling Unit	A*	A*	A*	A*	A*	A*

*All numbers following 1 shall be re-numbered accordingly in Appendix A

LAND USES	RSF 22	RMF 22	RMF 30	NC	CC/P	CC/V
(1) Accessory Dwelling Unit	A*	A*	A*	X	X	X

*All numbers following 1 shall be re-numbered accordingly in Appendix A

LAND USES	V/RC	C/R	P/R	P/A	I/B
(1) Accessory Dwelling Unit	X	X	X	X	X

*All numbers following 1 shall be re-numbered accordingly in Appendix A

LAND USES	CF	REC	OS	CONS	TC	DPHRP
(1) Accessory Dwelling Unit	X	X	X	X	X	X

*All numbers following 1 shall be re-numbered accordingly in Appendix A

LAND USES	CF	REC	OS	CONS	TC	DPHRP
(45) Emergency Shelter	P (2)	X	X	X	X	(1)

(2) Up to 20 bed maximum, pursuant to Section 9.19.020 and 9.19.040(b).

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8	RSF 12
(54)Reserved						

LAND USES	RBR12	RMF12	RSF 14	RD 14	RMF 14	RBRD 18
(54)Reserved						

LAND USES	RSF 22	RMF 22	RMF 30	NC	CC/P	CC/V
(54)Reserved						

LAND USES	V/RC	C/R	P/R	P/A	I/B
(54)Reserved					

LAND USES	CF	REC	OS	CONS	TC	DPHRP
(54)Reserved						

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8	RSF 12
(55) Reserved						

LAND USES	RBR12	RMF12	RSF 14	RD 14	RMF 14	RBRD 18
(55) Reserved						

LAND USES	RSF 22	RMF 22	RMF 30	NC	CC/P	CC/V
(55) Reserved						

LAND USES	V/RC	C/R	P/R	P/A	I/B
(55) Reserved					

LAND USES	CF	REC	OS	CONS	TC	DPHRP
(55) Reserved						

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8	RSF 12
(60) Hookah Lounge	X	X	X	X	X	X

*All numbers following 60 shall be re-numbered accordingly in Appendix A

LAND USES	RBR 12	RMF 12	RSF 14	RD 14	RMF 14	RBRD 18
(60) Hookah Lounge	X	X	X	X	X	X

*All numbers following 60 shall be re-numbered accordingly in Appendix A

LAND USES	RSF 22	RMF 22	RMF30	NC	CC/P	CC/V
(60) Hookah Lounge	X	X	X	X	X	X

*All numbers following 60 shall be re-numbered accordingly in Appendix A

LAND USES	V/RC	C/R	P/R	P/A	I/B
(60) Hookah Lounge	X	X	X	X	X

*All numbers following 60 shall be re-numbered accordingly in Appendix A

LAND USES	CF	REC	OS	CONS	TC	DPHRP
(60) Hookah Lounge	X	X	X	X	X	X

*All numbers following 60 shall be re-numbered accordingly in Appendix A

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8	RSF 12
(107)Reserved						

LAND USES	RBR12	RMF12	RSF 14	RD 14	RMF 14	RBRD 18
(107)Reserved						

LAND USES	RSF 22	RMF 22	RMF 30	NC	CC/P	CC/V

(107)Reserved						
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LAND USES	V/RC	C/R	P/R	P/A	I/B
(107)Reserved					

LAND USES	CF	REC	OS	CONS	TC	DPHRP
(107)Reserved						

APPENDIX B PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS

Refer to the standards of the underlying zoning designation, except for the following modifications: