

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

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**DATE:** OCTOBER 23, 2017

**TO:** DANA POINT PLANNING COMMISSION

**FROM:** COMMUNITY DEVELOPMENT DEPARTMENT  
URSULA LUNA-REYNOSA, DIRECTOR  
SEAN NICHOLAS, SENIOR PLANNER

**SUBJECT:** PLANNING COMMISSION WORKSHOP ON LOCAL COASTAL PLAN  
AMENDMENT LCPA17-0003/ZONING TEXT AMENDMENT ZTA17-  
0001/SPECIFIC PLAN AMENDMENT SPA17-0001, 2017 ZONING CODE  
CLEANUP

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**RECOMMENDATION:** That the Planning Commission receive an introduction to Zoning Code cleanup items, take public comments, provide feedback, and direct staff to bring a formal amendment to a regularly scheduled Planning Commission meeting.

**APPLICANT:** City of Dana Point

**BACKGROUND:**

As a best management practice, periodic Zoning Ordinance "Code cleanup" should be conducted to update and clarify various requirements within the Code. This ensures requirements are accurate, relevant, and compliant with State law. It has been several years since staff has completed a Code cleanup. The goal of this workshop is to introduce the cleanup items, take public comments, and receive feedback from the Planning Commission.

**DISCUSSION:**

Staff has identified approximately 61 modifications to the Zoning Ordinance. In order to identify the proposed code changes, staff conducted multiple roundtable discussions as well as reviewed notes from previous staff and identified Zoning Ordinance corrections and clarifications that have been discovered through the course of the day to day implementation of the Zoning Ordinance. Based on the number and scope of Zoning Ordinance issues that need to be addressed, staff developed the three following guiding principles to determine whether a cleanup item would be part of this first cycle of updates or follow in a subsequent clean-up:


- 1) Does the proposed change fix a typo/incorrect citation/redundant or no longer applicable code reference/section?
- 2) Does the proposed change clarify an existing regulation to remove confusion and provide better guidance to the general public?
- 3) Is the proposed change associated with a State law change?

**PLANNING COMMISSION WORKSHOP REPORT**  
**LCPA17-0003/ZTA17-0001/SPA17-0001**  
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**WORKSHOP FORMAT:**

The Code cleanup workshop will be an informal meeting open to the public in the Public Works Conference Room. Staff will lead a roundtable discussion, introduce all of the proposed changes (Attachment 1), and address Planning Commissioner questions. As this is a public workshop, public comment will be taken during the workshop. After public comments, the Planning Commission will be able to provide additional feedback and comments to staff. At the conclusion of the workshop, staff recommends that the Planning Commission direct staff to make any necessary revisions to the project as a result of the workshop and schedule the Zoning Ordinance Update for a regularly scheduled Planning Commission hearing in order for the Commission to take action and provide a formal recommendation to City Council.

  
Sean Nicholas, AICP  
Senior Planner

  
Ursula Luna Reynosa  
Director of Community Development

**ATTACHMENTS:**

1. Proposed Zoning Ordinance Cleanup

**KEY:**

**ATTACHMENT 1**

Normal Text=Existing unmodified language

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

**Underline Text**=Proposed language to be added

***Misspelled Word (Typo)***

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.

***Misspelled Word (Typo)***

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.

***Minor Typo in RBRD Designation***

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.

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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. (B) Sign installed above the first floor may be installed adjacent to the entrance. (C) Three or more signs may require approval of a Sign Program. (See Section 9.37.070). (D) Under canopy signs shall be centered above a window or entrance.

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***Home Occupations Clarifications***

9.07.030(g)

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

***Clarification of Shallow/Narrow Building Sites Applicability***

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:~~

- (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.

***Clarification of Required Entitlement and Applicability for Alcoholic Beverage Outlets***

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 alcoholic beverage outlet in the following situations:
  - (1) Sale of alcoholic beverages for off-site consumption when **a site is** located within:

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- (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.
  - (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.

***Clarification of the Definition of Sign (Multiple in Code)***

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.**

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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).

***Clarification of Reference to Underlying Zoning Requirements*****APPENDIX B PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS**

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

***Clarification that Hookah Lounge is Not a Permitted Use***

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
<b><u>Hookah Lounges</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>

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
<b><u>Hookah Lounges</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>

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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.***Clarification of the Process Required for Approval Based on Past Approvals***

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.

***Removal of Group Dwelling Designation Consistent with State Law***

9.09.020(b)

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8	RSF 12
<del><b>Group Dwelling</b></del>	<b><u>C</u></b>	<b><u>C</u></b>	<b><u>C</u></b>	<b><u>C</u></b>	<b><u>C</u></b>	<b><u>C</u></b>

LAND USES	RBR 12	RBRD 18	RD 14	RSF 22
<del><b>Group Dwelling</b></del>	<b><u>C</u></b>	<b><u>C</u></b>	<b><u>C</u></b>	<b><u>C</u></b>
LAND USES	RMF7	RMF14	RMF 22	RMF 30
<del><b>Group Dwelling</b></del>	<b><u>C</u></b>	<b><u>C</u></b>	<b><u>C</u></b>	<b><u>C</u></b>

9.19.020(b)

LAND USES	CF
<del><b>Group Dwelling</b></del> /Group Home	<b><u>C</u></b>

9.13.020(c)

LAND USES	C/R	R/C-18	P/R
<del><b>Group Dwelling</b></del> /Group Home	<b><u>C</u></b>	<b><u>X</u></b>	<b><u>C</u></b>



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***Clarification Based on Past Approvals*****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.

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***Clarification of Substantial Conformance Process Based on Past Approvals***

**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 for review. If Planning Commission review is required, the public notification process for the original discretionary action shall be completed.**

***Fences, Walls, and Hedges***

**9.05.120 Fences, Walls, and Hedges.**

(4) Alternative to Height Limits 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 two (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.

**KEY:**

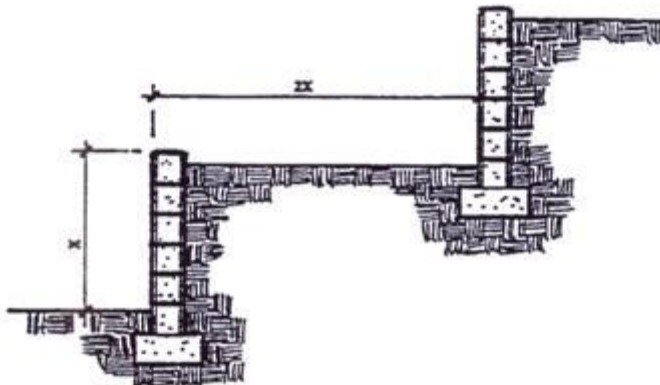
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SECTION 9.05.120(c)(4)

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.

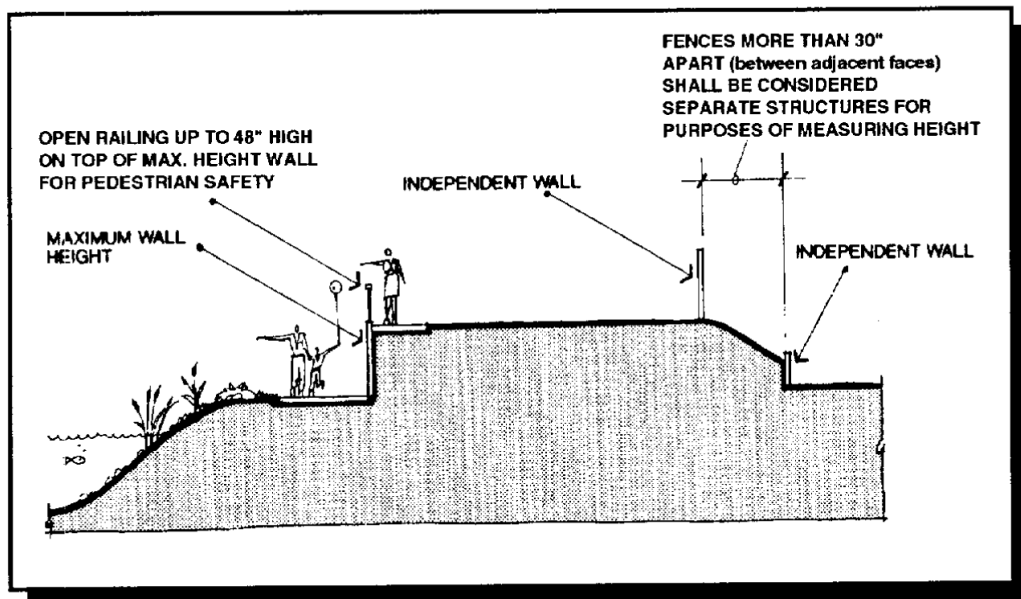
(f) Fences constructed under permit, but made nonconforming as a result of the adoption of the Zoning Code, are exempt from amortization.

**(g) Measurement of a freestanding fence/wall heights for multiple structures.**

**(1) Freestanding fences/walls separated by 30 inches or more (as measured between their closest surfaces) shall be considered separate structures and their heights shall be measured independently. Fences less than 30 inches apart shall be considered one structure and fence height shall be measured from the base of the lower fence to the top of the higher fence.**

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**(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.**

***Clarification of Requirements Associated with Outdoor Red Boxes, Amazon, Donation Bins, and Similar Facilities***

**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.

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**(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.**

*Accessory Structure Requirements*

*Accessory Structure Height Requirements*

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, and building height shall be measured as required in Section (2) above.**

*Accessory Structure General Requirements*

*Accessory Structure General Requirements*

**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 requirements of the primary structure, and be no greater than 49% of the existing living area.**
- (c) In all zones, the cumulative total of all attached and/or detached accessory structures shall not exceed 49% of existing occupiable space (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.**
- (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 250 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 greater than 250 square feet 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 separations.**
- (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**

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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	Other Limitations
(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)	<b><u>Not-Permitted To PL (H)</u></b>	<b><u>Not-Permitted 15'0"</u></b>	<b><u>Not-Permitted To PL (H)</u></b>	N/A	N/A	<b><u>None (T)</u></b>
(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)

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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
(i) Decks/ Patios 30"+ Above Grade (Not to Exceed First Story Or 7'6" <b><u>as measured from top of the railing</u></b> )	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"	<del>10'0"</del> <b><u>2'0"</u></b>	N/A	(P)(Q)
<del>(o) Pool Equipment</del>	<b><u>Not permitted</u></b>	<b><u>N/A</u></b>	<b><u>N/A</u></b>	<del>5'0"</del> <b><u>(N)</u></b>	<b><u>N/A</u></b>	<b><u>(N)</u></b>
<b><u>(o)</u></b> Porte Cochere	Permitted by <b><u>Minor</u></b> Site Development Permit only				Not permitted	None

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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
<b><u>(p)</u></b> Exterior Stairways, <b><u>ramps</u></b> , and Stairway Landings <b><u>30 inches or more above grade</u></b>	2'6"	2'6"	2'6"	2'6"(R)	Not Permitted	(E)
<b><u>(q)</u></b> Swimming Pools and Spas	Not permitted	N/A	N/A	3'0"(S)	N/A	None
<b><u>(r)</u></b> <b><u>Pool Equipment</u></b>	<b><u>Not permitted</u></b>	<b><u>N/A</u></b>	<b><u>N/A</u></b>	<b><u>5'0"(N)</u></b>	<b><u>N/A</u></b>	<b><u>(N)</u></b>

**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):

**BUILDING ELEVATION:****MAXIMUM PERCENTAGE OF BUILDING ELEVATION LENGTH:****Front****Side****Rear**

60%

40%

80%



**KEY:****ATTACHMENT 1**

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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 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.
- (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.**

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***Clarification of When Landscaping is Required to Avoid Nuisance***

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 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 landscape area, equal to or greater than 2,500 square feet, requiring a building or landscape permit, plan check or a discretionary permit;

(3) New or rehabilitated landscape projects with an aggregate landscape area 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 through 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 3 of the Submittal Requirements and Guidelines shall apply to landscape rehabilitation projects.

**(6) Any vacant or undeveloped lot shall be landscaped and maintained with low or very low water usage landscaping, decorative rocks, bark, or other pervious materials to avoid excessive dust or allow the accumulation of debris.**

***Clarification of Definitions to Provide Clear Direction to General Public***

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 does not exceed 49% of 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

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which shall be considered a basement, ~~for the Ritz Cove (PRD 4) area only.~~ Any structural area meeting this definition shall not be considered a story.

9.75.020 “B” Definitions and Illustrations.

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 a sink and running water.

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-A room or enclosed space designed for human occupancy in which individuals congregate and which is equipped with means of egress and light and ventilation facilities meeting the requirements of the California Building Code.**

9.75.190 “S” Definitions and Illustrations.

**Slope, Top of-- the point or line of initial break where the terrain changes to a downward direction.**

9.75.190

~~**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)**

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9.75.200 "T" Definitions and Illustrations.

**"Top of Slope"—see Slope, Top of Section 9.75.190**

9.75.270 Definitions of Use.

~~**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.~~

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, ~~day care centers~~, gymnastics schools, technical schools, vocational schools and university/college extension programs or satellite facilities.

9.75.270 Definitions of Uses

"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.

***Accessory Dwelling Units***

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:~~

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- ~~(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.

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**(c) Development Standards. Except as modified by California Government Code Section 65852.2, or any successor statute, and this subsection, an accessory dwelling unit shall conform to all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of this code, including but not limited to: height, setback, lot coverage, density, and residential development standards.**

**(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 to 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.**

9.09.020 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.

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(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

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

**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
<del><b>Granny Flat</b></del>	<del><b>C*</b></del>	<del><b>C*</b></del>	<del><b>C*</b></del>	<del><b>C*</b></del>	<del><b>C*</b></del>	<del><b>C*</b></del>
<del><b>Second Dwelling Unit</b></del>	<del><b>P</b></del>	<del><b>P</b></del>	<del><b>P</b></del>	<del><b>P</b></del>	<del><b>P</b></del>	<del><b>P</b></del>
<b><u>Accessory Dwelling Unit</u></b>	<b><u>A*</u></b>	<b><u>A*</u></b>	<b><u>A*</u></b>	<b><u>A*</u></b>	<b><u>A*</u></b>	<b><u>A*</u></b>

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

LAND USES	RMF 7	RMF 14	RMF 22	RMF 30
<del><b>Granny Flat</b></del>	<del><b>X</b></del>	<del><b>X</b></del>	<del><b>X</b></del>	<del><b>X</b></del>
<del><b>Second Dwelling Unit</b></del>	<del><b>X</b></del>	<del><b>X</b></del>	<del><b>X</b></del>	<del><b>X</b></del>
<b><u>Accessory Dwelling Unit</u></b>	<b><u>A*</u></b>	<b><u>A*</u></b>	<b><u>A*</u></b>	<b><u>A*</u></b>

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## Appendix A Master Land Use Matrix

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8	RSF 12
(55) <del>Group Dwelling Reserved</del>	<b><u>€</u></b>	<b><u>€</u></b>	<b><u>€</u></b>	<b><u>€</u></b>	<b><u>€</u></b>	<b><u>€</u></b>

LAND USES	RBR12	RMF12	RSF 14	RD 14	RMF 14	RBRD 18
(55) <del>Group Dwelling Reserved</del>	<b><u>€</u></b>	<b><u>€</u></b>	<b><u>€</u></b>	<b><u>€</u></b>	<b><u>€</u></b>	<b><u>€</u></b>

LAND USES	RSF 22	RMF 22	RMF 30	NC	CC/P	CC/V
(55) <del>Group Dwelling Reserved</del>	<b><u>€</u></b>	<b><u>€</u></b>	<b><u>€</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>

LAND USES	V/RC	C/R	P/r	P/A	I/B
(55) <del>Group Dwelling Reserved</del>	<b><u>X</u></b>	<b><u>€</u></b>	<b><u>€</u></b>	<b><u>X</u></b>	<b><u>X</u></b>

LAND USES	CF	REC	OS	CONS	TC	DPHRP
(55) <del>Group Dwelling Reserved</del>	<b><u>€</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>

## Appendix A Master Land Use Matrix

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8	RSF 12
(60) <b><u>Hookah Lounge</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>

\*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) <b><u>Hookah Lounge</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>

\*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) <b><u>Hookah Lounge</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>

\*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) <b><u>Hookah Lounge</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>



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

LAND USES	CF	REC	OS	CONS	TC	DPHRP
(60) <b><u>Hookah Lounge</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>

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

#### Appendix A Master Land Use Matrix

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

**(2) Up to 20 bed maximum, pursuant to Section 9.19.020.**

### ***Dana Point Specific Plan-Applicant Submittal***

#### 6. C-VC

#### "COASTAL VISITOR COMMERCIAL" DISTRICT

##### a. PURPOSE AND INTENT

The intent of the C-VC Coastal Visitor Commercial District is to provide the regulations which will permit the development and maintenance of a commercial area that will supply the needs of tourists and other visitors to the coast while preserving the unique and natural features of the environment.

##### b. LAND USES

- 1) Principal Permitted Use - The following uses are permitted on each building site, in compliance with the site development standards contained in subsection "c" below and subject to the provisions of a Coastal Development Permit approved in compliance with Section D of these district regulations. Approved CDP's for development located within the appeal areas depicted in Figure 12 are subject to appeal to the Coastal Commission.
  - a) Hotels, motels, hostels.
  - b) Restaurants.
- 2) Other Permitted Uses- The following uses are permitted on each building site, in compliance with the site development standards contained in subsection "c" below and subject to the provisions of a Coastal Development Permit approved in compliance with Section D of these district regulations. Approved CDP's are subject to appeal to the Coastal Commission.
  - a) Cocktail lounges, bars.
  - b) Beach access bridges, ways or tunnels.

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- c) Bicycle and surfboard shops and rentals.
- d) Trails for hiking and bicycling in conformance with Land Use Plan.
- e) Time share projects.
- f) Public commercial health, tennis, racquetball, swimming, boat, yacht clubs.
- g) Bus and taxi stops.
- h) Convention and conference centers.
- i) Retail and service businesses associated with the needs of visitors and tourists.
- j) Museums and libraries.
- k) Water sports retail establishments and rental except as provided in the prohibited uses below.
- l) Parks and playgrounds.
- m) Arboretums and horticultural gardens.
- n) Boat rentals.
- o) Bicycle rentals.
- p) Boat repair, storage, sale.
- q) Commercial recreation.
- r) Public facilities ancillary to visitors and tourists.

### 3) Accessory Uses Allowed

Any of the following uses and structures customarily incidental to the above permitted uses.

- a) Signs, in compliance with Section E.13.
- b) Other accessory uses.

### 4) Prohibited Uses

- a) Automobile service, repair, sales, rental and washing.
- b) Camping facilities.
- c) Adult entertainment businesses and adult bookstores.
- d) Permanent residential uses not provided under permitted uses.
- e) Kennels.
- f) Retail and personal services oriented to the daily needs of the immediate residential neighborhoods.

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**5) Permitted Uses above the Ground Floor – The following uses are permitted on floors that are above the ground floor, in compliance with the site development standards contained in subsection "C" below and subject to the provisions of a Coastal Development Permit approved in compliance with the CD District Regulations, and a Conditional Use Permit (CUP), except for permitted uses as specified in subsection b1 and b2 above are allowed without a CUP. Approved CDP's are subject to appeal to the Coastal Commission.**

**a) Administrative and professional offices.**

**b) Personal services oriented to the daily needs of the immediate neighborhood, beauty shops, barber shops, and dry cleaners.**

**c) Banks and savings and loan association branches.**

**d) Optometry or Dental offices.**