

**ORDINANCE NO. 25-13**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING AN INTERIM MEASURE APPROVING ZONE TEXT AMENDMENT ZTA25-0001 REPEALING CHAPTER 4.40 OF THE DANA POINT MUNICIPAL CODE, AND ADDING SECTION 9.07.280 TO TITLE 9 OF THE DANA POINT MUNICIPAL CODE, AND PROHIBITING USES CONFLICTING WITH THE CITY COUNCIL'S CONTEMPLATED ADOPTION OF THE FORGOING THEREBY ENSURING THE CITY'S ZONING REGULATIONS ARE CONSISTENT WITH STATE DENSITY BONUS LAW**

**WHEREAS**, the State of California enacted Government Code Section 65915 *et seq.*, known as the State Density Bonus Law, to facilitate the development of affordable housing through the provision of density bonuses and related incentives; and

**WHEREAS**, the City adopted a Density Bonus Ordinance (codified at Chapter 4.40 of the Dana Point Municipal Code) on October 11, 2006; and

**WHEREAS**, the State Density Bonus Law has been amended numerous times, rendering the City's Ordinance outdated and, at times, inconsistent with State requirements; and

**WHEREAS**, the State Density Bonus Law has been revised so many times, it has been impractical for the City to attempt to revise its Ordinance quickly enough to keep up with the State's changes, and consequently City staff has been relying on the State Density Bonus Law to evaluate potential density bonus projects rather than the City's Ordinance; and

**WHEREAS**, the State Department of Housing and Community Development (HCD) has recently advised the City that it did not view it sufficient that the City was applying the State Density Bonus Law, and rather that it needed to adopt a specific ordinance for that purpose, which would expressly supersede the City's Municipal Code provisions found in Chapter 4.40 of the DPMC; and

**WHEREAS**, the City has been complying with HCD's request, and has been processing Zone Text Amendment ZTA25-0001 for that purpose as follows: the Planning Commission considered it at a public hearing on August 25<sup>th</sup>, at which time it adopted a Resolution recommending its adoption by the Council; it is scheduled for a public hearing and first reading before the Council on October 7<sup>th</sup>; presuming it is approved by the Council, it is scheduled for a second reading on October 21<sup>st</sup>; the Planning Commission's recommendation includes that the Council adopt a resolution approving a Local Coastal Program Amendment (LCPA) to accompany ZTA25-0001, since it applies within the Coastal Zone; and

**WHEREAS**, in connection with other housing related issues, HCD has advised the City it needs to take action with respect to a number of issues not later than September 30, 2025; and.

**WHEREAS**, processing an LCPA as is required under the Coastal Act can take time beyond the City's control, and to ensure there is no question that it is in compliance with its obligations related to the Density Bonus Law the City Council finds that adoption of an interim measure, on an urgency basis such that it takes effective immediately, is necessary pending its consideration of the above noted zoning proposal, to ensure no action occurs in the interim period that might be inconsistent therewith, and does so based on the findings set forth below.

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

**SECTION 1:** The foregoing recitals are true and correct and incorporated herein as findings of the City Council, as if set forth in full. Moreover, the Council makes the following findings:

1. HCD has advised the City that delay in adopting a revision to its Density Bonus regulations set forth in Chapter 4.40 of the DPMC places the City in a position where it is potentially in violation of related provisions of its Housing Element.
2. HCD has advised the City it needs to address various issues related to State Housing Laws with a plan acceptable to it not later than September 30, 2025, and that if the City does not do so, HCD's withdrawal of its certification of the City's Housing Element is a potential consequence.
3. HCD's withdrawal of its certification of the City's Housing Element would have tremendous negative impacts on the public health, safety, and welfare of the community, including by potentially resulting in the loss of grant funding, and the implementation of projects contrary to the City's General Plan and Zoning Code, which impacts the Council finds pose an imminent threat to public health safety and welfare.
4. To address and eliminate this risk, the Council is processing Zone Text Amendment ZTA25-0001, and a related LCPA, which effectively result in State Density Bonus Law applying to any related applications, as has been the case in the City for several years.
5. The process to adopt the forgoing zoning proposal involves a Planning Commission hearing, a first and second reading by the Council, adoption of a

LCPA, and approval of the LCPA by the Coastal Commission, and can time which is beyond the City's control.

6. In the interim the City Council desires to ensure that no activities inconsistent with the above noted proposal occurs, as such activity would be contrary to the interests of the people of the State as expressed by the legislature in adopting the State Density Bonus Law, and its various amendments, and any such inconsistent activities would pose an immediate threat to public health safety and welfare.

7. By adopting this urgency, interim measure, and thereby by ensuring the City has in place clear regulations related to the State Density Bonus Law, the City will have complied with HCD's September 30<sup>th</sup> deadline thereby obviating the risks noted above.

**SECTION 2:** Chapter 4-40 of the Dana Point Municipal Code, entitled "Density Bonuses", is hereby repealed in its entirety.

**SECTION 3:** Section 9.07.280, entitled "Density Bonus Application Requirements and Processing," attached hereto as Exhibit "A," shall be added to Chapter 9.07 of Title 9 of the City's Municipal (Zoning) Code.

**SECTION 4:** Pursuant to the provisions of the California Environmental Quality Act ("CEQA"), the adoption of this Urgency Ordinance does not constitute a "project" as that term is defined in CEQA because it will not cause a direct physical change in the environment, nor will it cause a reasonably foreseeable indirect physical change in the environment. Separately and additionally, the adoption of this Urgency Ordinance is categorically exempt from the CEQA pursuant to Title 14 California Code of Regulations Sections 15061 (b)(3) and 15378, in that it can be seen with certainty that the adoption of the recommended resolution does not propose an activity that might have a significant effect on the environment, and further, it will not cause a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Moreover, there are no unusual circumstances that are associated with the adoption of this Ordinance, and thus it is not subject to the unusual circumstances exception set forth in Title 14 California Code of Regulations Section 15300.2.

**SECTION 5:** This ordinance shall become effective immediately upon its passage as an interim urgency measure as authorized by the Planning and Zoning Law set forth in the California Government Code, and shall remain effective until it either expires by operation of law or is extended by lawful action of the City Council.

**SECTION 6:** The City Clerk shall certify as to the adoption of this Ordinance and cause the same to be published and posted as required by law.

PASSED, APPROVED, AND ADOPTED this 18<sup>th</sup> day of September, 2025.

  

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MATTHEW PAGANO, MAYOR

ATTEST:

  

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SHAYNA SHARKE  
City Clerk

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

I, SHAYNA SHARKE, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Urgency Ordinance No. 25-13 was duly introduced and adopted as an urgency, interim measure, at a special meeting of the City Council on the 18<sup>th</sup> day of September, 2025, by the following vote, to wit:

AYES: Federico, Frost, Gabbard, Pagano

NOES: None

ABSTAIN: None

ABSENT: Villar



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SHAYNA SHARKE, CITY CLERK

**EXHIBIT A**

**§ 9.07.280 DENSITY BONUS APPLICATION REQUIREMENTS AND PROCESSING.**

- a. The City of Dana Point shall process all applications for density bonuses and related incentives, concessions, and waivers pursuant to the State Density Bonus Law (Gov. Code, §§ 65915 et seq.), and the timelines for review provided therein.
- b. Applicants seeking a density bonus or related incentive, concession, waiver, reduction, parking ratio or other right pursuant to the State Density Bonus Law shall submit a written application for the density bonus with the first application for approval of the development proposed to be subject to the density bonus or related incentive, concession, waiver, reduction, parking ratio or other right. Applications shall include the information required for the City to evaluate whether the proposed development is entitled to the requested State Density Bonus Law benefit, and shall include, at a minimum, all of the following:
  1. A site plan showing the total number of market rate and affordable units, the number and location of affordable housing units, and number and location of proposed density bonus units, if any.
  2. If there are existing rental units on the property which the project is proposed, or if rental units existed on the property at any time after 2020, a description of the following of how the project complies with Government Code sections 65915(c)(3) and Government Code 66300 related to replacement units, as those sections may be amended.
  3. The level of affordability of housing units and the instrument by which affordability will be guaranteed for the time period required by the State Density Bonus Law.
  4. A management plan for complying with the maintenance of the designated units regarding income qualification documentation and rent or sale price documentation.
  5. A description of any requested incentives, concessions, waivers, reductions, and parking ratios and documentation and support regarding the project's entitlement to those incentives, concessions, or waivers pursuant to the State Density Bonus Law. The applicant shall show that any requested waiver or reduction of a development standard is necessary to make the housing units economically feasible.
  6. The location and description of land to be donated pursuant to the State Density Bonus Law (if any) and documentation and support demonstrating the project's entitlement to a density bonus based on the donation.

7. If the request involves a childcare facility, the location and square footage of the child care facility and documentation and support demonstrating the project's entitlement to the requested benefit pursuant to the State Density Bonus Law.
  8. An Environmental Review Statement disclosing whether the property is known to have been contaminated in the past or is currently listed on any regulatory database.
  9. If the project site or adjacent properties may contain historic resources, a historic resource assessment shall be submitted to evaluate potential impacts and demonstrate compliance with Government Code Section 65915(d)(2).
- c. The review of applications for a density bonus or related incentive, concession, waiver, reduction, parking ratio or other right pursuant to the State Density Bonus Law occur concurrently with the review for the entitlement for the project for which the density bonus or related incentive, concession, waiver, reduction, parking ratio or other right is proposed. The approval body for the project entitlement shall also be the approval body for the State Density Bonus Law application. Any appeal procedures applicable to the project entitlement shall also apply to the State Density Bonus Law application.
  - d. Consistent with subdivision (m) of Government Code Section 65915, all State Density Bonus Law applications shall be subject to the Coastal Act, and any density bonus or related incentive, concession, waiver, reduction, parking ratio or other right to which the applicant is entitled pursuant to the State Density Bonus Law shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.
  - e. Pursuant to State law, the City may deny a requested incentive, concession, or waiver if it makes a written finding, based on substantial evidence, that the requested concession or incentive would have a specific adverse impact upon public health or safety, and the physical environment.