

# Table of Contents

5-20-2024 Regular Meeting Agenda.pdf .....	2
Item 2 - Proclamation - San Diego County Fair Day.pdf .....	9
Item 3 - Minutes.pdf .....	10
Item 4 - List of Demands.pdf .....	17
Item 6- Citywide Janitorial Contract.pdf .....	38
Item 7 - Agenda Report -Water and Wastewater Rates - Second Reading.pdf .....	61
Item 8 - Consideration of Support for a Safe and Healthy California in Compliance with SB1137.pdf .....	91
Item 9 - Election Resolutions Agenda Report.pdf .....	95
Item 10- Council Consideration of SB 1098 (Blakespear) 5-20-24.pdf .....	120
Item 11 - STR Framework.pdf .....	131
Item 12 - TOT Ballot Measure.pdf .....	170
Item 13 - RHNA - EDD Jobs Data Concerns.pdf .....	178



# Del Mar City Council Meeting Agenda

City of Del Mar, Town Hall  
1050 Camino del Mar, Del Mar, California

***Civility Works: The Del Mar Code of Civil Discourse: Together we will promote inclusion; listen to understand; show respect; be clear and fair; and focus on the issue.***

## Regular Meeting

**Monday, May 20, 2024 at 4:30 PM**

**Dave Druker**  
Mayor

**Terry Gaasterland**  
Deputy Mayor

**Tracy Martinez**  
Council Member

**Dan Quirk**  
Council Member

**Dwight Worden**  
Council Member

**Ashley Jones**  
City Manager

**Leslie E. Devaney**  
City Attorney

**Sarah Krietor**  
Administrative Services  
Manager/City Clerk

**Public Participation/Comment:** Members of the public can participate in City Council meetings in-person or via written comment (Red Dot). Anyone may address the City Council for up to three minutes, at the Mayor's discretion, on items on the agenda. Members of the public wishing to speak on items not on the agenda may do so under Public Oral Communications. Agenda items may be addressed in any order at the discretion of the Mayor. When addressing the Council, please state your name for the record. Any electronic presentations must be received before 9 a.m. on the date of the Council meeting. No PowerPoint presentations can be loaded during the meeting.

**In-Person Participation:** Please submit a completed "Speaker Slip", including the item number you wish to speak on, to the City Clerk prior to the Mayor announcing the agenda item. The forms are located near the door at the rear of the Meeting Room. When called to speak, please approach the podium and state your name for the record.

**Written Comments:** Members of the public can participate in the meeting by submitting a written red dot comment via email to [cityclerk@delmar.ca.us](mailto:cityclerk@delmar.ca.us). The deadline to submit written comments is 12 p.m. on the day of the meeting and the subject line of your email should clearly state the agenda item you are commenting on.

**Remote Participation:** Due to technical issues, remote participation will not be offered at this City Council meeting.

**Viewing the Meeting and Access to Agenda Materials:** Members of the public can watch the meeting live on the City's website at: <http://delmar.12milesout.com/Video/Live> and on Cable TV Spectrum Ch. 24, AT&T Ch. 99 starting at 4:30 PM. Agenda materials and communications from the public on agenda items, "Red Dots", are available on the City's website: <http://www.delmar.ca.us/AgendaCenter> and a hard copy of the agenda materials are available at Del Mar City Hall and the Del Mar Library during their business hours.

**Assistance for Persons with Disabilities:** In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Administrative Services Department at 1050 Camino del Mar or by calling (858) 755-9313. Notification of at least 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

- I. CALL TO ORDER/ROLL CALL
- II. CITY ATTORNEY CLOSED SESSION REPORT
- III. PLEDGE OF ALLEGIANCE
- IV. PUBLIC ORAL COMMUNICATIONS

Each person wishing to speak before the City Council on any matter not on the agenda shall submit a "Speaker Slip" to the City Clerk when Public Oral Communication is announced. Each speaker will have up to three (3) minutes to speak at the discretion of the Mayor and may be asked clarifying questions. Information received during Public Oral Communication may be received, placed on a future agenda, or referred to the City Manager by the City Council. State law generally precludes the City Council from discussing or acting upon any topic presented during oral communications that is not described on the posted agenda.

Note: there is a time limit of 30 minutes for this section of public communications and each speaker will be heard in the order of the submission of their speaker slip. Speakers who have turned in a speaker slip prior to the time oral communications was called on the agenda, but were not heard during the initial time period shall be called to speak at the end of the agenda.

- V. CITY COUNCIL COMMENTS
- VI. COMMUNITY ANNOUNCEMENTS
- VII. CITY MANAGER'S REPORT
- VIII. PRESENTATIONS

**1. Presentation on the 2024 San Diego County Fair**

Recommended Action: Receive the presentation from Del Mar Fairgrounds Chief Executive Officer Carlene Moore.

Reference: Clerk's File No. 1502-10

**2. Proclamation Declaring June 12th as San Diego County Fair Day**

Recommended Action: Mayor Druker will present the proclamation.

Reference: Clerk's File No. 1201-5, 1502-10

IX. CONSENT CALENDAR

All items listed on the Consent Calendar are considered to be routine and will be acted upon with one motion. There will be no separate discussion of these items unless a

member of the City Council or the public so requests, in which event, the item will be pulled from the Consent Calendar and considered separately after the motion to approve the Consent Calendar. If you wish to remove an item from the Consent Calendar, please submit a "Speaker Slip" to the City Clerk.

**3. Approval of Minutes: May 6, 2024 Regular and Special Meeting**

Recommended Action: Approve Minutes.

Reference: Clerk's Minutes Book

**4. Ratification of List of Demands, dated May 20, 2024**

Recommended Action: Ratify the List of Demands.

Reference: Clerk's File No. 201-3

**5. Waiver of Reading of Ordinances on Agenda**

Recommended Action: Waive Reading of Ordinances.

Reference: Clerk's File No. 401-4

**6. Agreement for Citywide Janitorial Services**

Recommended Action: Staff recommends that the City Council: 1) Approve an Agreement with Aztec Janitorial Service (Attachment A) to provide citywide janitorial services for an initial three-year period effective June 1, 2024, through May 31, 2027; and 2) Authorize the City Manager to execute the agreement and any subsequent term extension amendments provided for under the Agreement contingent upon satisfactory performance by the contractor.

Reference: Clerk's File No. 406-1

**7. Second Reading and Adoption of an Ordinance Amending Chapter 21.12 – Water Supply – Water Rates and Charges; Chapter 21.70 – Emergency Water Management; and Chapter 22.04 – General (Sewers and Sewage Disposal) of the Del Mar Municipal Code**

Recommended Action: Staff recommends that the City Council adopt an Ordinance (Attachment A) amending the Del Mar Municipal Code (DMMC) Chapter 21.12 – Water Supply – Water Rates and Charges; Chapter 21.70 – Emergency Water Management; and Chapter 22.04 – General (Sewers and Sewage Disposal) to establish new water and wastewater rates, effective July 1, 2024.

Reference: Clerk's File No. 401-4, 401-9, 907-4

**8. City Council Consideration of Support for the Campaign for a Safe and Healthy California in Compliance with Senate Bill 1137 (Gonzalez)**

Recommended Action: Councilmembers Worden and Martinez request that the City Council consider and adopt a resolution (Attachment A) in support of retaining health and safety setback regulations for new oil and gas drilling in compliance with Senate Bill (SB) 1137 and endorsing the Campaign for a Healthy and Safe California.

Reference: Clerk's File No. 401-7

**9. Resolutions Calling for a 2024 General Municipal Election**

Recommended Action: It is recommended that the City Council adopt the following resolutions in preparation for a November 5, 2024, General Municipal Election: 1) Resolution calling for a General Municipal Election for the election of three members of the City Council (Attachment A); 2) Resolution requesting the Board of Supervisors of the County of San Diego to conduct the General Municipal Election and consolidate that election with the Statewide General Election (Attachment B); and 3) Resolution adopting Regulations for Candidates for Elective Office pertaining to the Candidates' Statements (Attachment C).

Reference: Clerk's File No. 402-1, 402-3

X. COUNCIL MEETING RECESS

XI. CITY COUNCIL OTHER BUSINESS

**10. Council Consideration of Support for Senate Bill 1098 (Blakespear) Regarding the LOSSAN Rail Corridor**

Recommended Action: The City Council Railroad Subcommittee, Mayor Dave Druker and Deputy Mayor Terry Gaasterland, recommend that the City Council receive a presentation on Senate Bill (SB) 1098 from State Senator Catherine Blakespear's office and consider supporting the legislation based on the clarifications discussed in this report and with further revisions to SB 1098 to address the role of the transportation agencies and the California Coastal Commission in reviewing and developing recommendations related to the LOSSAN Rail Corridor.

Reference: Clerk's File No. 401-7

**11. Discussion of Draft Regulatory Framework and Policy Direction for Short Term Rental Regulations**

Recommended Action: Staff recommends that the City Council review the revised draft short-term rental (STR) regulatory framework (Attachment A) and

provide direction to staff to prepare a draft Ordinance for processing through the public review and adoption process.

Reference: Clerk's File No. 301-19

**12. Consideration to Place a General Tax Measure on the November 5, 2024 General Municipal Election Ballot for Submission to the Qualified Voters of a Proposed Ordinance Amending the City's Existing Transient Occupancy Tax Regulations and Authorizing Collection of Transient Occupancy Tax from Short-Term Rentals**

Recommended Action: It is recommended that the City Council consider placing a general tax measure on the November 5, 2024, General Municipal Election ballot for submission to the qualified voters of a proposed Ordinance amending the City's existing transient occupancy tax (TOT) regulations under Del Mar Municipal Code (DMMC) Chapter 3.12, and authorizing the collection of TOT from short-term rentals (STRs) operating in the City; and provide direction to staff as needed.

Reference: Clerk's File No. 201-10, 402-1, 402-3

**13. Concerns Related to State Economic Development Department (EDD) Jobs Data and Del Mar 6th Cycle Regional Housing Needs Assessment (RHNA) Allocation**

Recommended Action: The City Council Housing Subcommittee, Deputy Mayor Gaasterland and Councilmember Martinez, recommend that the City Council receive information and discuss concerns related to the EDD jobs data for Del Mar and the City's 6th Cycle RHNA allocation.

Reference: Clerk's File No. 303-1

**XII. REGIONAL ORGANIZATION REPORTS**

A Councilmember assigned as a liaison to a regional organization may make a written or oral report. State law precludes the Council from commenting on, discussing, or acting on a report unless the item of business within the report is described in the agenda.

- A. 22<sup>nd</sup> District Agricultural Association Community Relations Committee (Martinez/Worden)
- B. Clean Energy Alliance JPA (CEA) Board of Directors (Druker/Worden)
- C. CSA-17 Ambulance District Advisory Board (Martinez/Quirk)
- D. Fire Governance Board, Solana Beach/Del Mar/Encinitas (Martinez/Druker)
- E. League of California Cities – San Diego Chapter (Martinez/Worden)
- F. League of California Cities – Coastal Cities Group (Worden)
- G. North County Transit District (NCTD) (Martinez/Druker)
- H. Regional Solid Waste Association (Worden/Quirk)

- I. San Diego Association of Governments Board (SANDAG)  
(Gaasterland/Martinez/Druker)
- J. SANDAG Borders Committee (Gaasterland)
- K. SANDAG Regional Planning Committee (Martinez)
- L. SANDAG Shoreline Preservation Working Group  
(Worden/Gaasterland/Martinez)
- M. SANDAG LOSSAN Executive Task Force (Druker/Gaasterland)
- N. San Diego Metropolitan Wastewater Commission/JPA (Worden/Quirk/Druker)
- O. San Dieguito River Valley Regional Open Space Park JPA –Executive Committee  
(Worden/Quirk)
- P. Other Regional Organization Reports

**XIII. COUNCIL COMMITTEES/SUBCOMMITTEES/COMMUNITY ORG REPORTS**

A Councilmember assigned as a liaison to a City Committee, Council Subcommittee OR Community Organization may make a written or oral report. State law precludes the Council from commenting on, discussing, or acting on a report, unless the item of business within the report is described in this agenda.

- A. Arts Advisory Committee (Druker)
- B. Clean Water Rate Project
- C. Del Mar Community Connections (Martinez/Worden)
- D. Del Mar Village Association (Gaasterland/Martinez)
- E. Finance Committee (Druker/Worden)
- F. Housing Subcommittee (Gaasterland/Martinez)
- G. Human Resources Subcommittee (Druker/Worden)
- H. Legislative Subcommittee (Gaasterland/Martinez)
- I. Measure Q Citizen Oversight Committee (Gaasterland/Quirk)
- J. Parks and Recreation Committee (Martinez/Gaasterland)
- K. Del Mar Railroad Committee (Druker/Gaasterland)
- L. Lagoon Committee (Quirk/Worden)
- M. Sea-Level Rise Adaptation Plan Implementation Subcommittee  
(Gaasterland/Martinez)
- N. Shores Advisory Committee
- O. Sustainability Advisory Committee (Martinez/Worden)
- P. Traffic and Parking Advisory Committee (Quirk/Worden)
- Q. Undergrounding Project Advisory Committee (Druker/Gaasterland)
- R. Other Committee-Subcommittee Reports

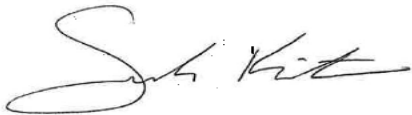
**XIV. UPCOMING AGENDA ITEMS**

The following topics/items are tentatively planned for upcoming agendas. The title, wording, and planned date for these items are subject to change. Final agendas are posted at City Hall 72 hours in advance of the meetings and are also posted on our web site with the accompanying staff report. Please watch our web site: [www.delmar.ca.us](http://www.delmar.ca.us) for City Council Agendas.

<b>June 3, 2024</b>
Girl Scout Troops 3917 & 3224 Bronze Award Presentation
Proclamation Honoring Mark Rathsam's 30 Years of Service to Del Mar
Conflict of Interest Code Update
Jimmy Durante Boulevard Bluff Repair Project, Structural Engineering and Landscape Architecture Task Order Authorizations
Approval of Fiscal Year 2024-2025 Senate Bill 1 Funding for the City's Annual Pavement Rehabilitation Project
Annual Preparations for Summer Season
UUD 3 South Hill District Pre-Formation Services (Tentative)
Ballot Measure TOT Resolution and Introduction of Ordinance/ Revenue Forecasting
Preliminary Discussion of FY2024-2025 Budget Update
Riverpath Phase 3 - Discussion on Project Timing
UUD 1A Stratford Ct. South Construction Contract Award (Tentative)
Presentation of Living Levee Conceptual Design
St. Peters License Agreement
Agreement for State and Federal Legislative Advocacy Services
City Council Compensation Ballot Measure

XV. CERTIFICATION

I, Sarah Krietor, Administrative Services Manager/City Clerk for the City of Del Mar, hereby certify that a copy of this agenda was posted at City Hall on the 15th day of May, 2024 at approximately 3:10 p.m.



\_\_\_\_\_  
Sarah Krietor, Administrative Services Manager/  
City Clerk

5/15/2024

Date

# City of Del Mar

## PROCLAMATION

### Honoring San Diego County Fair Day in the City of Del Mar

**WHEREAS**, the San Diego County Fair, produced by the 22<sup>nd</sup> District Agricultural Association, is the region's largest annual community celebration which is hosted every year at the Del Mar Fairgrounds and serves the entire San Diego County; and

**WHEREAS**, the San Diego County Fair first began in 1880 and established a permanent home in the City of Del Mar in 1936. From 1984-2001, the Fair was called the Del Mar Fair. Throughout its history, the Fair has served as a gathering place for all San Diegans to have fun, dine together, listen to music, enjoy rides and games, see live entertainment, and learn about agriculture and the world around them; and

**WHEREAS**, the City of Del Mar and the Del Mar Fairgrounds have a long-standing and valued relationship and strong partnership, with events at the Del Mar Fairgrounds bringing visitors to the City of Del Mar and generating sales tax revenues for vital City services; and

**WHEREAS**, in 2023, Del Mar residents were among the top ticket-buyers for the San Diego County Fair, which serves as a vital platform for the region's small businesses, farmers, artisans, and creatives of all types, offering them a cherished opportunity to showcase their skills and products to a wide audience; and

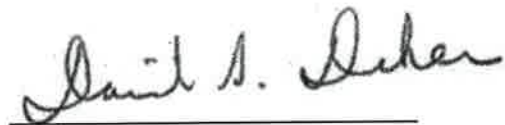
**WHEREAS**, the San Diego County Fair forms key partnerships with groups such as nonprofit organizations, schools, sponsors, and youth development organizations to make the annual festivities more equitable, educational and exciting for young people, embodying the very essence of inclusivity and opportunity; and

**WHEREAS**, the 2024 San Diego County Fair runs from June 12 – July 7, except for Mondays and Tuesdays, providing 20 days of fun, family, food, adventure, entertainment, educational opportunities for residents of Del Mar and other San Diego County communities; and

**WHEREAS**, the 2024 San Diego County Fair's theme is "Let's Go Retro" and is intended to be a nostalgic journey that will take visitors through the past decades that helped shape our communities.

**NOW THEREFORE BE IT RESOLVED** that the City of Del Mar does hereby proclaim June 12, 2024, as San Diego County Fair Day in Del Mar and further recognizes the City of Del Mar's connection to this cherished tradition.

Dated: May 20th, 2024



Dave Druker, Mayor  
City of Del Mar





**DEL MAR CITY COUNCIL  
SPECIAL MEETING MINUTES  
CLOSED SESSION**

**MAY 6, 2024**

City of Del Mar Town Hall  
1050 Camino del Mar, Del Mar, California  
And via teleconference  
1317 Irving Avenue, Colonial Beach, VA 22443

**CALL TO ORDER**

Mayor Druker called the meeting to order at 3:30 P.M.

**ROLL CALL**

Present: Mayor Dave Druker; Deputy Mayor Terry Gaasterland (participated remotely and joined the meeting at 3:35 P.M); and Councilmembers Tracy Martinez and Dwight Worden

Absent: Councilmember Dan Quirk

**CLOSED SESSION**

- A) Conference with Legal Counsel – Existing Litigation  
City of Redondo Beach, City of Del Mar, et al v. State of California  
Superior Court of the State of California – County of Los Angeles Central District  
Case No. 22STCP01143  
Authority: Government Code Section 54956.9(d)(1)  
Reportable Action: None.

**ADJOURNMENT**

Mayor Druker adjourned the meeting at 3:50 P.M.

---

Sarah Krietor, Administrative Services Manager/  
City Clerk



**CITY OF DEL MAR  
CITY COUNCIL REGULAR MEETING MINUTES  
MAY 6, 2024  
City of Del Mar Town Hall  
1050 Camino del Mar, Del Mar California 92014  
And via teleconference  
1317 Irving Avenue, Colonial Beach, VA 22443**

The minutes set forth the actions taken by the City Council on the matters stated. Audio/video recordings of the City Council proceedings are retained for a period of ten years, in accordance with the City's Records Retention Schedule. Audio/video recordings, as well as written materials presented to the City Council, including Red Dots (materials provided to the City Council after the agenda has published), are available on the City's website at [www.delmar.ca.us/AgendaCenter](http://www.delmar.ca.us/AgendaCenter) or by contacting the Administrative Services Department at (858) 755-9313.

**CALL TO ORDER**

Mayor Druker called the Regular Meeting to order at 4:30 p.m.

**ROLL CALL**

Present: Mayor Dave Druker; Deputy Mayor Terry Gaasterland (participated remotely); Councilmembers Tracy Martinez, Dan Quirk (left the meeting at 6:09 p.m.), and Dwight Worden

**ITEM 1: STATEMENT (JUST CAUSE) AND/OR CONSIDERATION OF A REQUEST TO PARTICIPATE REMOTELY (EMERGENCY CIRCUMSTANCES) BY A COUNCILMEMBER.**

Deputy Mayor Gaasterland provided a statement of just cause and stated that no individuals over the age of 18 were present with her at her remote location.

**CITY ATTORNEY CLOSED SESSION REPORT**

City Attorney Leslie Devaney reported that there were no recusals for the May 6, 2024, City Council Closed Session meeting. She reported that Councilmember Quirk was absent from closed session and Deputy Mayor Gaasterland joined closed session remotely at 3:35 p.m. City Attorney Devaney reported that while there were no legally reportable actions for Item A on the closed session agenda, the Council wished her to make the following report out, "On April 22, 2024, Judge Kin ruled in favor of the charter cities in the Redondo Beach v. Attorney General SB 9 litigation. This case challenged the constitutionality of the application of SB 9 to charter cities by arguing that because SB 9 does not actually require any housing unit be affordable, it is not "reasonably related" to promoting affordable housing and not "narrowly tailored" to avoid unnecessary interference with local control. State laws that do not meet this standard cannot be applied to charter cities because they impermissibly interfere with a charter city's local control. While we are happy with this outcome, we expect the ruling to be appealed. In the meantime, and until the court issues an order that provides otherwise, the requirements of SB 9 do not apply in the City of Del Mar and the City can decline to approve applications for housing projects filed under SB 9." City Attorney Devaney also referenced a Coast News article published on April 21, 2024 titled "LA judge rules SB 9 unconstitutional in lawsuit brought by SoCal cities".

**PLEDGE OF ALLEGIANCE**

Councilmember Martinez led the Pledge of Allegiance.

**PUBLIC ORAL COMMUNICATIONS**

The Mayor opened public oral communications and John Imperato spoke regarding the Traffic and Parking Advisory Committee (TPAC) April meeting and the committee's work plan.

**CITY COUNCIL COMMENTS & COMMUNITY ANNOUNCEMENTS**

Councilmember Worden spoke about the Pure Water Program Phase 1 completion and inquired whether the City Council would like to receive a presentation from the METRO JPA on this topic. Councilmember Quirk announced that he will be leaving the meeting for a personal engagement after the San Diego Association of Governments (SANDAG) presentation. Councilmember Martinez reported on the City Council Retreat held on April 22, 2024, which included Mayor Druker, Deputy Mayor Gaasterland, and Councilmembers Martinez and Worden, City Manager Ashley Jones and Assistant City Manager Clem Brown and focused on topics related to good governance.

**CITY MANAGER'S REPORT**

City Manager Jones reported that the City's newly renovated Tot Lot received the Project of the Year Award in the Parks Category by the American Public Works Association (APWA), San Diego Chapter; receipt of two separate County grant funding awards for the Riverpath Phase 3 project totaling \$35,000; and recruitment to fill three upcoming vacancies on the Planning Commission. Community Services Director Jon Edelbrock reported on the City's preparations for the La Jolla Half Marathon to be held on May 18, 2024, and he responded to Council questions related to the May 17, 2024, SANDAG Bike to Work Day.

**PRESENTATIONS**

**ITEM 2: PRESENTATION ON OCEANSIDE LITTORAL CELL FROM GREG HEARON P.E., COASTAL FRONTIERS CORPORATION (CLERK'S FILE NO. 1404-1)**

Councilmember Worden introduced the item. A presentation was provided by Greg Hearon P.E. of Coastal Frontiers.

City Council questions and discussion focused sand grain size and its impact on sand retention; depth of closure; the impacts, if any, of the SANDAG Del Mar Bluff 5 Project and the US Army Corps of Engineers (USACE) off shore sand replenishment project on the City of Del Mar's beach sand; impact of seawall and rip rap on sand retention generally; monitoring of effects of sand removal from offshore borrow sites and age and type of sand being removed from the site; historical sea-level rise along the San Diego Coast; SANDAG Regional Beach Sand Replenishment Phase 3 project; volume of sand available in local borrow site(s); whether sand placed on beaches in Solana Beach and Encinitas will end up in Del Mar; theories related to northern versus southern movement of sand; and appreciation to Greg Hearon for his presentation.

There were no public speakers for the item.

**ITEM 3: CONSTRUCTION UPDATE ON DEL MAR BLUFFS STABILIZATION PROJECT PHASE 5 FROM THE SAN DIEGO ASSOCIATION OF GOVERNMENTS (SANDAG) (CLERK'S FILE NO. 1404-2, 1506-1)**

Mayor Druker introduced the item. A presentation was provided by SANDAG Principal Engineer Bruce Smith. City Manager Jones addressed questions related to beach access during construction.

City Council questions focused beach access and gaps in the seawall; construction notice and timeline for constructing the seawalls; whether it is possible to place excavated sand for placement of the seawalls back on the beach as part of the project; funding for the project mitigation required by the California Coastal Commission (CCC); construction staging areas; and SANDAGs coordination with CCC on the project.

Mayor Druker opened the item to public comment and Drew Cady and Camilla Rang spoke. Mayor Druker closed the item to public comment.

Council discussion focused on support for the public speakers' comments; concerns about the projects impacts on Del Mar's coastline and the process for placing the walls and impacts to safety and beach access points; focus on removing the train from the Del Mar bluff; and concerns about the black plastic fencing that has been installed as part of the project.

Councilmember Quirk left the meeting at 6:09 p.m. following the conclusion of this agenda item.

### **CONSENT CALENDAR**

Administrative Services Manager/City Clerk Sarah Krietor read the titles of the items included on the Consent Calendar. There were no public speakers for the consent calendar items.

**IT WAS MOVED BY COUNCILMEMBER WORDEN, SECONDED BY COUNCILMEMBER MARTINEZ TO APPROVE THE CONSENT CALENDAR ITEMS 4 THROUGH 10. (VOTE 4-0-1 WITH COUNCILMEMBER QUIRK ABSENT)**

Ayes: Mayor Druker, Deputy Mayor Gaasterland, and Councilmembers Martinez and Worden; Noes: 0; Recuse: 0; Absent: Councilmember Quirk; Abstain: 0.

**ITEM 4: APPROVAL OF MINUTES: APRIL 15, 2024 REGULAR AND SPECIAL MEETING; APRIL 22, 2024 SPECIAL MEETING (CLERK'S MINUTES BOOK)**

Council approved the minutes with the amendment noted at the meeting, on consent.

**ITEM 5: RATIFICATION OF LIST OF DEMANDS, DATED MAY 6, 2024 (CLERK'S FILE NO. 201-3)**

Council approved the list of demands, on consent.

**ITEM 6: WAIVER OF READING OF ORDINANCES ON AGENDA (CLERK'S FILE NO. 401-4)**

Council waived the reading of ordinances, on consent.

**ITEM 7: SECOND READING AND ADOPTION OF DENSITY BONUS ORDINANCE TO IMPLEMENT STATE LAW AND HOUSING ELEMENT PROGRAM 1G (CLERK'S FILE NO. 304-7, 401-4, 401-9)**

Council adopted Ordinance 1007, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, TO REPEAL AND REPLACE THE DEL MAR

MUNICIPAL CODE CHAPTER 30.90 DENSITY BONUS REGULATIONS FOR CONSISTENCY WITH STATE DENSITY BONUS LAW IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTIONS 65915 ET SEQ., RELATING TO IMPLEMENTATION OF THE 6TH CYCLE HOUSING ELEMENT PROGRAM 1G”, on consent.

**ITEM 8: AMENDMENTS TO THE CITY’S PERSONNEL RULES AND REGULATIONS MANUAL (CLERK’S FILE NO. 503-1)**

Council adopted Resolution 2024-17, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, AMENDING THE CITY’S PERSONNEL RULES AND REGULATIONS MANUAL”, to comply with changes to state legislation related to sick and bereavement leaves, on consent.

**ITEM 9: FOURTH AMENDMENT TO THE METRO WASTEWATER JOINT POWERS AUTHORITY AGREEMENT (CLERK’S FILE NO. 406-1, 1506-19)**

Council approved the Fourth Amendment to the Metro Wastewater Joint Powers Authority Agreement; and authorized the City Manager to execute the Amendment, on consent.

**ITEM 10: ACCEPTANCE OF A DONATION OF WATER FOUNTAIN/BOTTLE FILLING STATIONS FROM THE DEL MAR VILLAGE ASSOCIATION (CLERK’S FILE NO. 201-16, 1202-5)**

City Manager Jones provided comments about the water fountain/bottle filling station project and thanked Del Mar Village Association (DMVA) CEO Jen Grove for her hard work on this project. City Council expressed their appreciation to DMVA as well.

Council accepted a donation of six water fountain/bottle filling stations and associated installation from the Del Mar Village Association (DMVA) to replace existing fountains in public locations throughout the City, on consent.

**PUBLIC HEARING**

**ITEM 11: INTRODUCTION OF AN ORDINANCE AMENDING THE DEL MAR MUNICIPAL CODE CHAPTER 21.12 – WATER SUPPLY – WATER RATES AND CHARGES; CHAPTER 21.70 – EMERGENCY WATER MANAGEMENT; AND CHAPTER 22.04 – GENERAL (SEWERS AND SEWAGE DISPOSAL) (CLERK’S FILE NO. 401-4, 401-9, 907-4)**

An introduction to the item was provided by Mayor Druker. A brief presentation was provided by City consultants from HF&H Project Manager Gabe Sasser and Vice President Rick Simonson. Public Works Director Joe Bride and Finance Manager Monica Molina were available to answer questions.

Council questions focused on the red dot communication related to irrigation and sewer meters; basis for meter size; process and applicable building codes for downsizing the meter; how residents can check the accuracy of the meters; City process for replacing water meters; purple pipe expansion project; and rational for charging different rates for 5/8” and 3/4” meters.

There were no public speakers for the item.

Council discussion focused on the METRO Wastewater JPA plans related to billing; whether staff received any protests or questions from the public regarding the rate changes; and high quality of water and wastewater services provided by the City to residents.

**IT WAS MOVED BY COUNCILMEMBER WORDEN AND SECONDED BY COUNCILMEMBER MARTINEZ TO INTRODUCE THE PROPOSED ORDINANCE. (VOTE 4-0-1, WITH COUNCILMEMBER QUIRK ABSENT)**

Ayes: Mayor Druker, Deputy Mayor Gaasterland, and Councilmembers Martinez and Worden; Noes: 0; Recuse: 0; Absent: Councilmember Quirk; Abstain: 0.

**COUNCIL MEETING RECESS:**

The City Council took a meeting recess from approximately 7:29 to 7:49 p.m.

**CITY COUNCIL OTHER BUSINESS**

**ITEM 12: CAMINO DEL MAR BRIDGE PROJECT UPDATE (CLERK'S FILE NO. 803-3)**

An introduction to the item was provided by Mayor Druker. A presentation was provided by Principal Engineer Karen Falk. Public Works Director Bride was available to answer questions. City consultant, Kleinfelder Vice President Jim Frost, was available to answer questions.

Council questions and discussion focused on whether federal funding for the project remains 88.5% (floating rate) if the bids come in higher than the engineer's estimate; relocation of the gas line that is currently under the bridge; whether the pedestrian crossings will be replaced after the bridge replacement is complete; relationship between the bridge replacement and dredging for the San Dieguito Lagoon restoration during construction and after the new bridge is constructed; bidding climate; whether night work would be necessary; resident concerns related to the resident garden area by North Beach; staging area for construction; timing for making the decisions related to the aesthetic improvement options under consideration; why the hand rail on the east side of the bridge must be a crash tested rail; bike safety considerations; how the old bridge will be removed and whether that cost is included in the estimate presented to City Council; and cost for the Torrey Pines Bridge.

Council consensus was to move forward with planning and design for inclusion of pedestrian outlooks as part of the project; and not to include decorative columns; and to receive more information on the decorative railing on the west side, bike lane buffer enhancements, and decorative medians. Council consensus was for the item to return to City Council for final direction on the medians, bike buffers, and hand railing.

There were no public speakers for the item.

**ITEM 13: CONSIDERATION OF A BALLOT MEASURE TO ADJUST CITY COUNCIL COMPENSATION (CLERK'S FILE NO. 401-1, 402-1, 502-1)**

A presentation was provided by Mayor Druker and Deputy Mayor Gaasterland.

Council questions focused on culture of volunteerism in Del Mar; rationale for the proposed compensation adjustment; regional Council compensation and benefits; Senate Bill 329; timing for the proposed compensation going into effect if approved by the voters; time commitment associated with being a City Councilmember; desire to increase the compensation for equity; concerns related to increasing Council compensation; indexing for future Council compensation adjustments; efficiencies gained and cost

savings associated with being able to approve future Council compensation changes via ordinance instead of by a vote of the electorate.

There were no public speakers for the item.

City Council consensus was to direct staff to prepare a resolution ordering an ordinance amending Council compensation be submitted to the qualified voters of Del Mar and that the ordinance include a base Council compensation of \$950/month; \$400/month contribution towards health insurance; and authorizing Council to make changes via ordinance moving forward.

**REGIONAL ORGANIZATION AND COUNCIL COMMITTEES/SUBCOMMITTEES/COMMUNITY ORGANIZATION REPORTS**

City Council representatives reported on the San Dieguito River Park JPA; Clean Energy Alliance; Del Mar Community Connections; Lagoon Committee; North County Transit District; SANDAG Regional Planning Committee; Housing Subcommittee; Del Mar Village Association; SANDAG Board; SANDAG Borders Committee; 22<sup>nd</sup> District Agricultural Board; and SANDAG Audit Committee.

**ADJOURNMENT**

Mayor Druker adjourned the meeting at 8:49 p.m.

---

Sarah Krietor, Administrative Services Manager/  
City Clerk



**LIST OF DEMANDS**  
**CITY OF DEL MAR**  
*for*  
**City Council Meeting**  
**May 20, 2024**

Vendor Payment Checks	\$ 216,375.39
Voids	(1,007.50)
Electronic Fund Transfers (EFT)	351,421.44
Electronic Wires	162,136.71
Total	<u>\$ 728,926.04</u>

Approved by:  
  
\_\_\_\_\_  
Monica Molina  
Finance Manager/Treasurer

Date:  
5/15/2024

Approved by:  
\_\_\_\_\_  
Dave Druker  
Mayor

Date:  
\_\_\_\_\_

Attachments: Check Registers

---

Bank : eusbnk EFT GENERAL ACCOUNT US BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
5861	4/30/2024	lif06	GEN DIGITAL INC.	CDM0070	4/15/2024	VOL LIFELOCK BENEFIT APR	76.45	76.45
	Voucher:	5861						
5862	4/30/2024	leg04	LEGALACCESSPLANS USA, CREI36856		4/10/2024	B&D VOL LEGAL INS APR ACCT1	125.65	125.65
	Voucher:	5862						
<b>Sub total for EFT GENERAL ACCOUNT US BANK:</b>							202.10	

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
8006	4/24/2024	hea02	HEALTH NET	BFC29AMAY24	4/15/2024	HEALTH INS MAY	31,407.24	31,407.24
	Voucher:	8006						
8007	4/24/2024	kai01	KAISER PERMANENTE	475311879178	4/13/2024	HEALTH INS MAY	16,540.16	16,540.16
	Voucher:	8007						
8008	4/24/2024	mut01	MUTUAL OF OMAHA	001692446845	4/16/2024	AD&D LIFE B&D MAY	4,617.60	4,617.60
	Voucher:	8008						
8009	4/24/2024	pri11	PRINCIPAL FINANCIAL GROUP, PI1003938-10001M	4/16/2024	DENTAL B&D MAY	5,016.33	5,016.33	
	Voucher:	8009						
8010	4/24/2024	sun11	SUN LIFE ASSURANCE CO, OF C:915639-0001MAY	4/17/2024	FIREFIGHTER ONLY LIFE INSUR	48.00	48.00	
	Voucher:	8010						
138138	4/30/2024	cap01	CAPF CA PUBLIC SAFETY ADMIN Ben175100	4/18/2024	CAPF: PAYMENT	260.00	260.00	
	Voucher:	138138						
<b>Sub total for GENERAL ACCOUNT US BANK:</b>							<b>57,889.33</b>	

8 checks in this report.

Grand Total All Checks: 58,091.43

**APPROVED**  
*By Monica Molina at 8:09 am, May 01, 2024*

**Bank : gusbnk GENERAL ACCOUNT US BANK**

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
3986	5/3/2024	irs01	IRS, UNITED STATES TREASURY Ben175287	5/3/2024	FEDERAL TAX: PAYMENT	38,640.24	38,640.24
		Voucher:	3986				
3990	5/3/2024	per01	PERS Ben175289	5/3/2024	PERS CONTRIBUTIONS: PAYMEN	54,525.79	54,525.79
		Voucher:	3990				
3991	5/3/2024	edd01	EMPLOYMENT DEVELOPMENT DBen175291	5/3/2024	STATE TAX: PAYMENT	11,117.00	11,117.00
		Voucher:	3991				
3992	5/3/2024	ida01	IDAHO STATE TAX COMMISSION Ben175293	5/3/2024	IDAHO STATE TAX COMMISSION	224.35	224.35
		Voucher:	3992				
<b>Sub total for GENERAL ACCOUNT US BANK:</b>							104,507.38

Bank : eusbnk EFT GENERAL ACCOUNT US BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
5863	5/3/2024	mis07	107413 STATE ST BANK & TRUST,Ben175285	5/3/2024	401A PLAN: PAYMENT	523.29	523.29
		Voucher:	5863				
5864	5/3/2024	mis08	303845 STATE ST BANK & TRUST,Ben175279	5/3/2024	MISSION SQUARE 457B: PAYMEI	9,629.97	9,629.97
		Voucher:	5864				
5865	5/3/2024	mis09	803808 STATE ST BANK & TRUST,Ben175277	5/3/2024	RETIREMENT HEALTH SAVINGS	697.33	697.33
		Voucher:	5865				
5866	5/3/2024	uni21	DEL MAR CITY EMPLOYEES ASSI Ben175281	5/3/2024	DMCEA DUES: PAYMENT	253.00	253.00
		Voucher:	5866				
5867	5/3/2024	nat15	NATIONAL BENEFIT SERVICES, L Ben175283	5/3/2024	SEC. 125 FLEXIBLE SAVINGS AC	1,426.14	1,426.14
		Voucher:	5867				
5868	5/3/2024	par21	U.S. BANK PARS FFC 674602240C Ben175275	5/3/2024	PUBLIC AGENCY RETIREMENT S	1,557.82	1,557.82
		Voucher:	5868				
<b>Sub total for EFT GENERAL ACCOUNT US BANK:</b>							14,087.55

10 checks in this report.

Grand Total All Checks: 118,594.93

**APPROVED**  
*By Monica Molina at 12:27 pm, May 02, 2024*

Bank : eusbnk EFT GENERAL ACCOUNT US BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
5869	5/3/2024	cal81	CALLTOWER INC	201862045	3/25/2024	TELEPHONE APR	3,090.57
	Voucher:	5869		201903818	4/25/2024	TELEPHONE MAY	3,027.26
							6,117.83
5870	5/3/2024	cha71	CHARTER COMM HOLDINGS LLC	844841006015170	4/15/2024	FIBER CONNECTION CS APR	360.15
	Voucher:	5870		844841006015174	4/14/2024	METRO ETHERNET CS APR	360.15
				844841006015171	4/15/2024	FIBER CONNECTION PW APR	360.15
				844841006017146	4/13/2024	PUBLIC WIFI PHCC APR	144.99
				844841006015393	4/21/2024	PUBLIC WIFI MAY	119.98
				844841006017484	4/13/2024	INTERNET CS APR	89.99
							1,435.41
5871	5/3/2024	del02	DEL MAR BLUE PRINT CO, INC	598739	4/18/2024	BOOKLETS LFGRDS	86.13
	Voucher:	5871					86.13
5872	5/3/2024	dix01	DIXIELINE LUMBER CO	06-0550562	4/22/2024	PAINT SUPP PHCC	306.11
	Voucher:	5872		06-0550194	4/18/2024	CLEANING SUPPLIES PHCC	260.50
							566.61
5873	5/3/2024	duk01	DUDEK & ASSOCIATES	12448.11	4/18/2024	WATER / WASTEWTR / PAVING M	30,620.00
	Voucher:	5873					30,620.00
5874	5/3/2024	kle01	KLEINFELDER	1476518	4/18/2024	CDM BRIDGE MAR	48,525.90
	Voucher:	5874					48,525.90
5875	5/3/2024	ful01	KURT MORGAN	42055	3/18/2024	BUSINESS CARDS	71.63
	Voucher:	5875					71.63
5876	5/3/2024	lou01	LOUKELTON DISTRIBUTING INC	81232	4/22/2024	JANITORIAL SUPP PW	755.27
	Voucher:	5876					755.27
5877	5/3/2024	pho01	PHOENIX GROUP INFO SYSTEMS	032024036	4/16/2024	CITE SRVCS MAR	14,606.57
	Voucher:	5877		0320241036	4/16/2024	ADMIN CITE SRVCS MAR	785.91
							15,392.48
5878	5/3/2024	pru01	PRUDENTIAL OVERALL SUPPLY	132249392	4/19/2024	UNIFORMS PW	73.73
	Voucher:	5878		132249391	4/19/2024	SHOP TOWELS PW	4.93
							78.66
5879	5/3/2024	pru01	PRUDENTIAL OVERALL SUPPLY	132249390	4/19/2024	FLOOR MATS PW	15.47
	Voucher:	5879					15.47
5880	5/3/2024	red04	REDFLEX TRAFFIC SYSTEMS INC	INV0076000	4/30/2024	REDLIGHT CAMERA APR	5,284.44
	Voucher:	5880		INV0073679	3/31/2024	REDLIGHT CAMERA MAR	5,284.44
							10,568.88
5881	5/3/2024	wex01	WEX BANK	0496-00-496745-1	4/23/2024	GAS & OIL CS APR	1,199.39
	Voucher:	5881					1,199.39
<b>Sub total for EFT GENERAL ACCOUNT US BANK:</b>							<b>115,433.66</b>

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
138139	5/3/2024	ben52	ALEXANDRIA M BENDER	04172024	4/17/2024	REFUND REF DEPOSIT PHCC	800.00	800.00
		Voucher:	138139					
138140	5/3/2024	ole01	ANNE O'LEARY	04252024	4/25/2024	REFUND REF DEPOSIT PHCC	800.00	800.00
		Voucher:	138140					
138141	5/3/2024	sbc03	AT&T	9391054486	4/20/2024	TELEPHONE APR	186.15	186.15
		Voucher:	138141					
138142	5/3/2024	sbc03	AT&T	9391031502	4/20/2024	TELEPHONE APR	65.68	65.68
		Voucher:	138142					
138143	5/3/2024	sbc03	AT&T	9391026230	4/20/2024	TELEPHONE APR	57.65	57.65
		Voucher:	138143					
138144	5/3/2024	sbc03	AT&T	9391026231	4/20/2024	TELEPHONE APR	56.59	56.59
		Voucher:	138144					
138145	5/3/2024	sbc03	AT&T	9391031506	4/20/2024	TELEPHONE APR	56.59	56.59
		Voucher:	138145					
138146	5/3/2024	sbc03	AT&T	9391026228	4/20/2024	TELEPHONE APR	29.07	29.07
		Voucher:	138146					
138147	5/3/2024	bar29	BARNETT QUALITY CONTROL SF22061		4/13/2024	WATER / WASTEWTR / PAVING M	1,874.60	1,874.60
		Voucher:	138147					
138148	5/3/2024	coa21	COAST NEWS GROUP	00152391	4/12/2024	AD DRB AGENDA	318.75	318.75
		Voucher:	138148					
138149	5/3/2024	gal02	GALLS LLC	027600282	4/9/2024	UNIFORM SHIRTS PRKG ENF	264.62	
		Voucher:	138149	027539771	4/2/2024	UNIFORM SHIRTS PRKG ENF	80.48	345.10
138150	5/3/2024	wad03	HARRIET WADIA	04172024	4/17/2024	REFUND REF DEPOSIT PHCC	800.00	800.00
		Voucher:	138150					
138151	5/3/2024	hiw01	HI-WAY SAFETY INC.	155834	4/17/2024	ROADMAX WHITE PAINT PW	328.04	328.04
		Voucher:	138151					
138152	5/3/2024	joh32	JOHNSON CONTROLS SEC SOLL40063570		4/13/2024	ALARM LIBRARY MAY/JUL	470.14	470.14
		Voucher:	138152					
138153	5/3/2024	jus01	JUST IN TIME FOR FOSTER YOU*04182024		4/18/2024	REFUND REF DEPOSIT PHCC	800.00	800.00
		Voucher:	138153					
138154	5/3/2024	kic01	KURT KICKLIGHTER	04292024	4/22/2024	REFUND REF DEPOSIT PHCC	800.00	800.00
		Voucher:	138154					
138155	5/3/2024	sch80	MARK SCHEINER	04182024	4/18/2024	REFUND REF PHCC	750.00	750.00
		Voucher:	138155					

Bank : gusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
138156	5/3/2024	ale05	MICHELLE ALEXANDER	04292024	4/29/2024	REFUND REF DEPOSIT PHCC	800.00	800.00
		Voucher: 138156						
138157	5/3/2024	nat16	NATIONAL SAFETY COMPLIANCE97473		3/31/2024	EMPLOYEE TESTING	299.46	299.46
		Voucher: 138157						
138158	5/3/2024	con17	OCCUPATIONAL HEALTH CTRS, (82830129		4/17/2024	EMPLOYEE TESTING APR	588.00	588.00
		Voucher: 138158						
138159	5/3/2024	por10	PORTABLE STORAGE CORP 158488		4/18/2024	STORAGE CS MAY	176.00	176.00
		Voucher: 138159						
138160	5/3/2024	pri11	PRINCIPAL FINANCIAL GROUP, PI9709760-24		2/26/2024	LIFE INSURANCE - CM	310.57	310.57
		Voucher: 138160						
138161	5/3/2024	pso01	PSOMAS 207824		4/24/2024	WTR / WASTEWTR / PAVING MAF	1,515.00	1,515.00
		Voucher: 138161						
138162	5/3/2024	san107	SAN DIEGO DIVERS 1450		4/18/2024	SMALL TOOL/EQUIP CS	953.40	953.40
		Voucher: 138162						
138163	5/3/2024	sde01	SD ELECTRIC BIKE LLC, DBA SD 220000035604		4/29/2024	BIKE MAINT PRKG ENF	1,305.00	
		Voucher: 138163	220000035605		4/29/2024	BIKE MAINT PRKG ENF	170.00	
			220000035610		4/29/2024	BIKE MAINT PRKG ENF	120.00	
			220000035606		4/29/2024	BIKE MAINT PRKG ENF	86.70	
			220000035602		4/29/2024	BIKE SUPP PRKG ENF	76.07	1,757.77
138164	5/3/2024	sem02	SEMPER SOLARIS CONSTRUCTI04222024		4/22/2024	REFUND REF DUP PYMT B2024-I	451.70	451.70
		Voucher: 138164						
138165	5/3/2024	sig12	SIGNA DIGITAL SOLUTIONS INC AR-S309817		4/26/2024	COPIER - CH QTRLY MAINT	2,603.73	2,603.73
		Voucher: 138165						
138166	5/3/2024	sig12	SIGNA DIGITAL SOLUTIONS INC 32427597		4/12/2024	COPIER - PW APR	138.74	
		Voucher: 138166	32427599		4/12/2024	COPIER - CS APR	45.73	184.47
138167	5/3/2024	uni25	STAXUP - UNITS LLC 021 18902		4/25/2024	STORAGE CS MAY	289.85	289.85
		Voucher: 138167						
138168	5/3/2024	sun01	SUNSET MARINE, INC. 5590		2/1/2024	VEHICLE MAINT LFGRDS	1,323.54	1,323.54
		Voucher: 138168						
138169	5/3/2024	cen02	THE CENTRE FOR ORGANIZATIOTCFOE4602		4/24/2024	APR 2024 CC WRKSHOP	8,286.00	8,286.00
		Voucher: 138169						
138170	5/3/2024	tor09	TORREY PACIFIC CORP 04252024		4/25/2024	REIMB FALL 2023 TREE TRIMMIN	3,328.00	3,328.00
		Voucher: 138170						
138171	5/3/2024	ver03	VERIZON WIRELESS 570653198-00006		4/18/2024	TELEPHONE APR	295.66	295.66
		Voucher: 138171						

Bank : gusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
138172	5/3/2024	ver03 VERIZON WIRELESS	872374736-00004	4/18/2024	TELEPHONE APR	226.43	226.43
		Voucher: 138172					
138173	5/3/2024	ver03 VERIZON WIRELESS	570653198-00007	4/18/2024	TELEPHONE APR	114.03	114.03
		Voucher: 138173					
138174	5/3/2024	ver03 VERIZON WIRELESS	570653198-00009	4/18/2024	TELEPHONE APR	38.01	38.01
		Voucher: 138174					
<b>Sub total for GENERAL ACCOUNT US BANK:</b>							<b>32,079.98</b>

---

49 checks in this report.

Grand Total All Checks: 147,513.64

*MG 5/2/24*

Bank : eusbnk EFT GENERAL ACCOUNT US E

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
5882	5/10/2024	kay01 ADAM KAYE	APR-24	4/1/2024	COMM SRVCS APR	3,900.00	3,900.00
		Voucher: 5882					
5883	5/10/2024	avi03 AVI SYSTEMS INC	88959239	4/30/2024	WIRELESS DISCUSSION INTE	50,433.67	50,433.67
		Voucher: 5883					
5884	5/10/2024	can08 CANTEEN	INV46734	5/6/2024	COFFEE - CH	207.50	207.50
		Voucher: 5884					
5885	5/10/2024	sun07 CENTRALSQUARE TECH LLC 409751		5/1/2024	TRAKIT HOSTING Q4	5,055.46	5,055.46
		Voucher: 5885					
5886	5/10/2024	cha71 CHARTER COMM HOLDINGS 184484100601531		4/24/2024	VIDEO TRANSPORT/PEG MA`	447.86	447.86
		Voucher: 5886					
5887	5/10/2024	civ02 CIVIC SOLUTIONS INC	103659	5/1/2024	CONSULTING SRVCS APR	13,837.50	13,837.50
		Voucher: 5887					
5888	5/10/2024	cor07 CORODATA RECORDS MGT INRS5010267		4/30/2024	STORAGE SRVCS APR	150.51	150.51
		Voucher: 5888					
5889	5/10/2024	cor15 CORONADO MOBILE STORAGE MAY-24		5/1/2024	STORAGE CONTRS MAY	255.00	255.00
		Voucher: 5889					
5890	5/10/2024	del02 DEL MAR BLUE PRINT CO, INC(599652		4/30/2024	TRAFF CITATION BOOKLETS	698.18	698.18
		Voucher: 5890					
5891	5/10/2024	del14 DEL MAR VILLAGE ASSOCIATI11		5/6/2024	DMVA AGRMNT MAR	21,592.26	21,592.26
		Voucher: 5891					

Bank : eusbnk EFT GENERAL ACCOUNT US E (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
5892	5/10/2024	dev02	DEVANEY PATE MORRIS & CA9269	4/18/2024	CITY ATTORNEY MAR	52.00		
	Voucher:	5892	9233	4/18/2024	LEGAL FEES MAR	31,273.60		
			9272	4/18/2024	CITY ATTORNEY MAR	10,452.00		
			9266	4/18/2024	CITY ATTORNEY MAR	7,362.00		
			9177	3/21/2024	CITY ATTORNEY FEB	7,275.00		
			9171	3/21/2024	CITY ATTORNEY FEB	5,264.27		
			9271	4/18/2024	CITY ATTORNEY MAR	4,351.21		
			9264	4/18/2024	CITY ATTORNEY MAR	3,489.20		
			9173	3/21/2024	CITY ATTORNEY FEB	2,318.00		
			9235	4/18/2024	CITY ATTORNEY MAR	1,561.60		
			9234	4/18/2024	CITY ATTORNEY MAR	1,537.20		
			9265	4/18/2024	CITY ATTORNEY MAR	1,170.00		
			9176	3/21/2024	CITY ATTORNEY FEB	901.00		
			9267	4/18/2024	CITY ATTORNEY MAR	805.50		
			9178	3/21/2024	CITY ATTORNEY FEB	624.00		
			9268	4/18/2024	CITY ATTORNEY MAR	600.00		
			9172	3/21/2024	CITY ATTORNEY FEB	546.00		
			9270	4/18/2024	CITY ATTORNEY MAR	458.12		
			9170	3/21/2024	CITY ATTORNEY FEB	442.00		
			9174	3/21/2024	CITY ATTORNEY FEB	208.00		
			9175	3/21/2024	CITY ATTORNEY FEB	182.00	80,872.70	
5893	5/10/2024	dix01	DIXIELINE LUMBER CO	06-0551762	4/30/2024	CLEANING SUPPLIES FIRE	74.53	74.53
	Voucher:	5893						
5894	5/10/2024	hel04	HELIX ENVIRONMENTAL PLAN	122841	4/24/2024	X1A UP POLE REMOVAL REP	1,391.25	1,391.25
	Voucher:	5894						
5895	5/10/2024	ips02	IPS GROUP INC	INV96692	4/30/2024	PRKG MTR TRANS FEE APR	3,709.88	3,709.88
	Voucher:	5895						
5896	5/10/2024	lou01	LOUKELTON DISTRIBUTING I	181254	4/29/2024	JANITORIAL SUPP PW	947.70	947.70
	Voucher:	5896						
5897	5/10/2024	man12	MANERI TRAFFIC CONTROL I	20305	11/10/2023	CUSTOM TRAFFIC SIGNS PW	502.43	502.43
	Voucher:	5897						
5898	5/10/2024	mik03	MIKHAIL OGAWA ENGINEERIN	11389	5/1/2024	CLEAN WATER SRVCS APR	14,681.40	
	Voucher:	5898	11390	5/1/2024	SAN DIEGUITO TMDL APR	2,641.96		
			11391	5/1/2024	FOG SRVCS APR	661.40	17,984.76	

Bank : eusbnk EFT GENERAL ACCOUNT US E (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
5899	5/10/2024	nat21	NATIONWIDE MEDICAL/SURGIN34968	4/19/2024	AMBULANCE SUPP FIRE	154.80	154.80
	Voucher:	5899					
5900	5/10/2024	par51	PARKWOOD LANDSCAPE MAI107338	4/30/2024	LANDSCAPNG SRVCS APR	16,950.00	16,950.00
	Voucher:	5900					
5901	5/10/2024	pru01	PRUDENTIAL OVERALL SUPP 132250578	4/26/2024	UNIFORMS PW	73.73	73.73
	Voucher:	5901					
5902	5/10/2024	uni29	UNIVERSAL SITE SERVICES II113287	4/1/2024	CH GARAGE SWEEPING APR	160.00	160.00
	Voucher:	5902					
5903	5/10/2024	wex01	WEX BANK	0496-00-495760	5/6/2024	GAS & OIL FIRE MAR/APR	2,298.41
	Voucher:	5903					
<b>Sub total for EFT GENERAL ACCOUNT US BANK:</b>							221,698.13

Bank : gusbnk GENERAL ACCOUNT US BANF

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
138175	5/10/2024	ale04	ALESHIRE & WYNDER LLP	85629	4/23/2024	ATTORNEY SRVCS MAR	1,105.00	1,105.00
		Voucher: 138175						
138176	5/10/2024	asc03	ASCENT ENVIRONMENTAL IN20230114.01-7	4/23/2024	CONSULTING SRVCS MAR	8,156.59	8,156.59	
		Voucher: 138176						
138177	5/10/2024	sbc03	AT&T	9391065053	4/27/2024	TELEPHONE APR	27.47	27.47
		Voucher: 138177						
138178	5/10/2024	sbc03	AT&T	9391065054	4/27/2024	TELEPHONE APR	27.47	27.47
		Voucher: 138178						
138179	5/10/2024	sbc03	AT&T	9391065055	4/27/2024	TELEPHONE APR	27.47	27.47
		Voucher: 138179						
138180	5/10/2024	sbc03	AT&T	9391065056	4/27/2024	TELEPHONE APR	27.47	27.47
		Voucher: 138180						
138181	5/10/2024	cad02	CADD MICROSYSTEMS INC	SO30037964	4/18/2024	BLUEBEAM SBSCRPTN	2,060.00	2,060.00
		Voucher: 138181						
138182	5/10/2024	sol01	CITY OF SOLANA BEACH	220773	4/19/2024	PUMP STATION LEASE QTR 3	29,702.00	29,702.00
		Voucher: 138182						
138183	5/10/2024	cou16	COUNTY OF SAN DIEGO - RE(24CTOFDMC10	5/1/2024	RCS PAGING SRVCS - APR	70.00	70.00	
		Voucher: 138183						
138184	5/10/2024	cou34	COUNTY OF SAN DIEGO, NEX24DELMANGRC	5/1/2024	NEXTGEN RCS PYMT #8	50,500.83	50,500.83	
		Voucher: 138184						
138185	5/10/2024	del06	DEL MAR AUTOMOTIVE SERV47368	4/22/2024	VEHICLE MAINT PW #85	2,373.86	2,373.86	
		Voucher: 138185						
138186	5/10/2024	del94	DEL MAR WOMENS GIVING, C05012024	5/1/2024	REFUND REF DEPOSIT PHCC	800.00	800.00	
		Voucher: 138186						
138187	5/10/2024	haw01	HAWTHORNE MACHINERY C(PS000978262	4/24/2024	VEH REPAIR PARTS PW	2,620.00	2,620.00	
		Voucher: 138187						
138188	5/10/2024	hil01	HF&H CONSULTANTS LLC	9720870	1/25/2024	WTR/WASTEWTR RATE STUI	5,415.00	5,415.00
		Voucher: 138188						
138189	5/10/2024	hom01	HOME DEPOT CREDIT SRVCS2971510	4/4/2024	FACILITY MAINT SUPP PW	4,760.10	4,760.10	
		Voucher: 138189						
138190	5/10/2024	jwr01	J & W LUMBER	15-0001244222-	4/18/2024	MAINT/REPAIR SUPP PW	32.61	32.61
		Voucher: 138190						
138191	5/10/2024	dar05	JEFFREY SCOTT ARVESON, C05012024	5/1/2024	DEAD ANIMAL REMOVAL APR	219.59	219.59	
		Voucher: 138191						

Bank : gusbnk GENERAL ACCOUNT US BANr (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
138192	5/10/2024	kin02	KING GRAPHICS	48275	4/17/2024	UNIFORMS LFGRDS CS	10,883.97	10,883.97
		Voucher:	138192					
138193	5/10/2024	lie01	LIEBERT, CASSIDY WHITMOR264260		3/31/2024	LEGAL SRVCS	568.50	568.50
		Voucher:	138193					
138194	5/10/2024	kap07	LINDSAY R KAPLAN	10112023	10/11/2023	REFUND REF DEPOSIT PHCC	800.00	800.00
		Voucher:	138194					
138195	5/10/2024	msc01	MSC JANITORIAL SERVICE IN2023-12-11		12/31/2023	JANITORIAL SRVCS DEC	4,169.75	4,169.75
		Voucher:	138195					
138196	5/10/2024	nor13	NORTH COUNTY DISPATCH JI202324-178		5/2/2024	DISPATCH - FIRE Q4	8,973.75	8,973.75
		Voucher:	138196					
138197	5/10/2024	par35	PARADIGM MECHANICAL COF6334		4/26/2024	HVAC SRVCS CH	5,125.00	5,125.00
		Voucher:	138197					
138198	5/10/2024	pat11	PATRIOT ENV LAB SRVCS INC295216		4/26/2024	FACILITY MAINT 1700 COAST	1,160.00	1,160.00
		Voucher:	138198					
138199	5/10/2024	fir12	PAUL ROTTENBERG, DBA FIR2024002		4/24/2024	FIRE STATS PROG 3Q	375.00	375.00
		Voucher:	138199					
138200	5/10/2024	prs01	PR SECURITY SERVICE	2282	4/30/2024	PR SRVCS	3,187.50	3,187.50
		Voucher:	138200					
138201	5/10/2024	san138	SAN DIEGO ELEVATOR & LIFT4654		4/30/2024	ELEVATOR MAINT CH APR	200.00	200.00
		Voucher:	138201					
138202	5/10/2024	sdg02	SAN DIEGO GAS & ELECTRIC 0066 5491 5032		5/2/2024	UTILITIES APR	17.35	
		Voucher:	138202	0012 6209 1548	5/1/2024	UTILITIES APR	11.99	29.34
138203	5/10/2024	san112	SAN DIEGO HUMANE SOCIET MAY-24		5/1/2024	ANIMAL SRVCS MAY	4,048.00	4,048.00
		Voucher:	138203					
138204	5/10/2024	shr01	SHRED -IT US JV LLC, DBA SF-8006988781		4/30/2024	ON-SITE SHREDDING APR	104.21	104.21
		Voucher:	138204					
138205	5/10/2024	sig12	SIGNA DIGITAL SOLUTIONS IINAR-S309813		4/26/2024	COPIER - PW QTRLY MAINT	457.12	457.12
		Voucher:	138205					
138206	5/10/2024	dis05	THE REINALT-THOMAS CORP1597933		4/30/2024	TIRE MAINT PW VEH #73	961.57	961.57
		Voucher:	138206					
138207	5/10/2024	t-mo01	T-MOBILE USA INC	980755647	4/21/2024	TELEPHONE APR	11.90	11.90
		Voucher:	138207					
138208	5/10/2024	und01	UNDERGROUND SERVICE ALI420240218		5/1/2024	CONT SRVCS APR	225.25	225.25
		Voucher:	138208					

Bank : gusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
138209	5/10/2024	ver03	VERIZON WIRELESS	570653198-000C	4/18/2024	TELEPHONE APR	802.78	802.78
		Voucher: 138209						
138210	5/10/2024	ver03	VERIZON WIRELESS	872374736-000C	4/18/2024	TELEPHONE APR	227.64	227.64
		Voucher: 138210						
138211	5/10/2024	ver03	VERIZON WIRELESS	542070053-000C	4/20/2024	TELEPHONE APR	166.62	166.62
		Voucher: 138211						
138212	5/10/2024	wes29	WEST COAST ARBORISTS INC(213325-A	4/19/2024	TREE MAINT 3/27 - 4/19/24	12,180.00		
		Voucher: 138212	213380	3/31/2024	TREE MAINT 3/16 -3/31/24	8,145.03		
			211153	2/15/2024	TREE MAINT 02/01-02/15/24	7,365.90		
			213381	3/31/2024	TREE MAINT 3/16 - 3/31/24	3,193.35		
			213382	3/31/2024	TREE MAINT 3/16 - 3/31/24	2,747.77		33,632.05
<b>Sub total for GENERAL ACCOUNT US BANK:</b>								184,035.41

---

60 checks in this report.

Grand Total All Checks: 405,733.54

MG 5/8/24

VoidCkEP  
05/02/24 1:41PM

Void Check Postina List  
City of Del Mar

Document #: 867399      Void Date: 05/02/2024      Posting #: 33084      Group: dgarcia  
Check #: 137316      Bank code: gusbnk      Check Date: 10/20/23  
Vendor: kap07 LINDSAY R KAPLAN  
Post into: 11/2024      Check amount: 800.00

<u>Doc Source</u>	<u>Account Number</u>	<u>Description</u>	<u>Amount</u>
disb	B 21.2110.0000	A/P-GENERAL	800.00 CR
disb      S*	B 21.1100.0000	CASH AND INVESTMENT	800.00 DB
disb      S*	B 72.1160.0000	UNION BANK - GENER	800.00 DB
disb      S*	B 72.1100.0000	CASH AND INVESTMENTS	800.00 CR
<b>Balance Sheet Totals:</b>	1,600.00 DB	1,600.00 CR	Difference: 0.00

Void Check Posting List  
City of Del Mar

Document #: 867885      Void Date: 05/10/2024      Posting #: 33113      Group: dgarcia  
 Check #: 5884      Bank code: eusbnk      Check Date: 05/10/24  
 Vendor: can08 CANTEEN  
 Post into: 11/2024      Check amount: 207.50

Doc Source	Account Number	Description	Amount
disb	B 01.2110.0000	A/P GENERAL	207.50 CR
disb	S* B 01.1100.0000	CASH AND INVESTMENTS	207.50 DB
disb	S* B 72.1160.0000	UNION BANK - GENER	207.50 DB
disb	S* B 72.1100.0000	CASH AND INVESTMENTS	207.50 CR
<b>Balance Sheet Totals:</b>		415.00 DB      415.00 CR	Difference: 0.00



# City of Del Mar Agenda Report



TO: Honorable Mayor and City Council Members

FROM: Joe Bride, Public Works Director  
Michael D'Aquila, Public Works Operation Manager  
Diana Martinez, Associate Management Analyst  
Via Ashley Jones, City Manager

DATE: May 20, 2024

SUBJECT: Agreement for Citywide Janitorial Services

## REQUESTED ACTION/RECOMMENDATION:

Staff recommends that the City Council: 1) Approve an Agreement with Aztec Janitorial Service (Attachment A) to provide citywide janitorial services for an initial three-year period effective June 1, 2024, through May 31, 2027; and 2) Authorize the City Manager to execute the agreement and any subsequent term extension amendments provided for under the Agreement contingent upon satisfactory performance by the contractor.

## BACKGROUND:

The City's current contractor for as-needed citywide janitorial services is MSC Janitorial Services (MSC). The City's contract with MSC expires in October 2024; however, MSC and the City could not agree on this year's annual Consumer Price Index CPI increase so both parties agreed for the City to administer a new Request for Proposals procurement and then terminate the current contract after the new contract is executed.

On April 11, 2024, the City issued a Request for Proposals (RFP) soliciting proposals from qualified contractors to provide citywide janitorial services. Citywide janitorial services include cleaning of the Civic Center, Public Works Facility, seasonal porter service for three public restrooms located at 17<sup>th</sup> Street, Powerhouse Park, and 25<sup>th</sup> Street Lifeguard Facility, and as-needed support for City sponsored events. On April 18, 2024, staff conducted an optional site visit for all interested contractors. Sixteen contractors attended the multiple location site visit. The proposal deadline was May 2, 2024, and a total of 11 proposals were received.

## DISCUSSION/ANALYSIS:

Staff reviewed the proposals received based on evaluation criteria set forth in the RFP including contractor experience and history, quality of performance and experience performing similar services, and character, integrity, and reputation. The six proposals

---

City Council Action:

staff determined to be responsive and responsible are listed below with their corresponding estimated fees based on the proposed hourly rates and estimated quantities:

<b>Contractor</b>	<b>Estimated Monthly Fee for Base Services</b>
<b>Aztec Janitorial Service</b>	<b>\$5,200</b>
<b>California Building Cleaning</b>	<b>\$5,484</b>
<b>Coastal Building Services</b>	<b>\$5,759</b>
<b>CBJ Building Maintenance, Inc.</b>	<b>\$7,215</b>
<b>Industrial Janitor Service, Inc.</b>	<b>\$6,417</b>
<b>T &amp; T Janitorial</b>	<b>\$10,146</b>

Aztec Janitorial Service (Aztec) submitted the proposal with the lowest overall fees. In addition, staff determined that Aztec Janitorial Service was the most responsive and responsible contractor based on their extensive experience providing these services in similar roles and at favorable rates.

To ensure that citywide janitorial needs continue to be met, staff recommends that the City Council approve an as-needed Agreement with Aztec. The Agreement would be for an initial three-year period beginning June 1, 2024, through May 31, 2027, with an option for the City Manager to extend the agreement for an additional two-year period based upon satisfactory service provided during the initial contract period. The anticipated annual cost for the monthly (base) and annual services is \$70,000. Additionally, staff is proposing to include additional funds totaling approximately \$20,000 per year to cover consumables and additional services that may be needed related to City sponsored events or Council directed services. As such, the attached contract is not expected to exceed \$90,000 annually or \$270,000 over the three-year period.

**FISCAL IMPACT:**

The fiscal impact of the recommended action is \$90,000 annually, and a total of \$270,000 over the initial three-year term of the contract. There is no fiscal action to be taken by the City Council related to this agenda item because sufficient funds for these services are already available in the approved Fiscal Year 2023-2024 budget. Funds for these services in future years will be included in the proposed Operating & Capital budgets for Council consideration.

**ENVIRONMENTAL IMPACT:**

The action being considered is exempt from the California Environmental Quality Act (CEQA) because it is not a “project” per Section 15378(b)(5) of CEQA Guidelines. The action involves an organizational or administrative activity of government that will not result in the direct or indirect physical change in the environment.

NEXUS TO COUNCIL PRIORITIES:

This is an operational item and is not included on the City Council's list of Goals & Priorities.

ATTACHMENTS:

Attachment A- Agreement for Citywide Janitorial Services with Aztec Janitorial Services

**PROFESSIONAL SERVICES AGREEMENT BETWEEN  
THE CITY OF DEL MAR AND AZTEC JANITORIAL SERVICES  
FOR CITYWIDE JANITORIAL SERVICES**

This Professional Services Agreement (“Agreement”) is made and entered into this 1<sup>st</sup> day of June, 2024 by and between the City of Del Mar, a Charter City and a municipal corporation (“City”), and Aztec Landscaping, Inc. dba Aztec Janitorial Services (“Contractor”) (collectively “Parties”).

**WHEREAS**, the City desires to employ a Contractor to provide Citywide Janitorial Services (“Consulting Services”). Said work is to be performed in accordance with the terms and conditions set forth below and as described in the scope of services, attached hereto as Exhibit “A” and incorporated herein; and

**WHEREAS**, the City has initially determined that Contractor is qualified by experience and ability to perform the services desired by City, and Contractor is willing to perform such services; and

**WHEREAS**, Contractor will conduct all the work as described and detailed in this Agreement to be provided to the City.

**NOW, THEREFORE**, the Parties hereto mutually covenant and agree with each other as follows:

**1. CONSULTING SERVICES.**

**1.1 Scope of Services.** The Contractor shall perform the Consulting Services as set forth in the written Scope of Services, attached hereto as **Exhibit “A”** and incorporated herein. Such services shall be provided at the direction of the City.

**1.2. Project Coordinator.** The Public Works Operations Manager is hereby designated as the Project Coordinator for City and will monitor the progress and execution of this Agreement. Marcy Grismer is hereby designated as the Project Director for Contractor. City shall provide Contractor access to appropriate staff and resources for the coordination and provision of services.

**1.3. City Modification of Scope of Services.** City may order changes to the Scope of Services within the general scope of this Agreement consisting of additions, deletions, or other revisions. If such changes cause a change in the Contractor’s cost of, or time required for, completion of the Scope of Services, an equitable adjustment to Contractor’s compensation and/or contract time shall be made, subject to the City’s approval. All such changes shall be authorized in writing, executed by Contractor and City. If such a change results in an extension of the term of this Agreement or increases the maximum amount to be paid under this Agreement, no such change shall have any force or effect unless an amendment to this Agreement is approved by the City Council.

**2. DURATION OF AGREEMENT.**

**2.1 Term, Time for Performance.** This Agreement shall be effective for a period of three (3) years beginning on June 1, 2024, and ending on May 31, 2027. The agreement may be extended for an additional two (2) year period, upon written agreement of the Parties.

Time is of the essence for this Agreement and each provision of this Agreement, unless otherwise specified in this Agreement.

**2.2 Delay.** Any delay occasioned by causes beyond the control of Contractor may merit an extension of time for the completion of the Scope of Services. When such delay occurs, Contractor shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the Consulting Services when justified by the circumstances provided that no extension of time shall be granted which would extend the time for performance beyond the date specified in section 2.1 above.

**2.3 City's Right to Terminate for Default.** Should Contractor be in default of any covenant or condition hereof, City may immediately terminate this Agreement for cause if Contractor fails to cure the default within ten (10) calendar days of receiving written notice of the default.

**2.4 City's Right to Terminate without Cause.** Without limiting its rights in the event of Contractor's default, City may terminate this Agreement, without cause, by giving written notice to Contractor. Such termination shall be effective upon receipt of the written notice. Contractor shall be compensated for all effort and material expended on behalf of City under the terms of this Agreement, up to the effective date of termination. All personal property remaining in City facilities or on City property thirty (30) days after the expiration or termination of this Agreement shall be, at City's election, considered the property of City.

**3. PERFORMANCE AFTER TERMINATION.** Upon termination of this Agreement as provided herein, Contractor shall, within such reasonable time period as may be directed by City Manager, complete those items of work which are in various stages of completion and which City Manager determines are necessary to be completed by Contractor to allow the project to be completed in a timely, logical, and orderly manner. Upon termination, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, and other materials prepared by Contractor shall be delivered to the City Manager, upon his request, as property of City.

#### **4. COMPENSATION.**

**4.1 Total Amount.** Compensation to Contractor shall be provided in accordance with the rates described in the Fee Schedule contained in **Exhibit "B"**. Contractor shall bill the City for work provided and shall present a written request for such payment monthly. City shall pay all invoices in arrears and shall in no event be required to pay for any services provided by Contractor in advance. Contractor acknowledges that it is not guaranteed any particular amount of work.

**4.2 Additional Services.** City may, as the need arises or in the event of an emergency, request additional services of Contractor. Should such additional services be required, Compensation therefore shall be paid to the Contractor in accordance with Scope of Services contained in Exhibit "A." City and Contractor shall agree to the costs prior to commencement of such work.

**5. INDEPENDENT CONTRACTOR.** Contractor is, for all purposes arising out of this Agreement, an independent contractor. The Contractor has and shall retain the right to exercise full control and supervision of all persons assisting the Contractor in the performance of said

services hereunder, the City only being concerned with the finished results of the work being performed. Neither Contractor nor Contractor's employees shall in any event be entitled to any benefits to which City employees are entitled, including, but not limited to, overtime, any retirement benefits, workers' compensation benefits, any injury leave or other leave benefits, Contractor being solely responsible for all such matters, as well as, compliance with social security and income tax withholding and all other regulations and laws governing such matters.

**6. STATEMENT OF EXPERIENCE.** Contractor agrees that it has the financial resources, service experience, completion ability, personnel, and experience in dealing with public agencies necessary for performing the Scope of Services and that such performance shall be in accordance with the standards customarily adhered to by an experienced and competent Contractor using the degree of care and skill ordinarily exercised by reputable Contractors practicing in the same field of service in the State of California. By executing this Agreement, Contractor represents that it has demonstrated trustworthiness and possesses the quality, fitness, and capacity to perform the Agreement in a manner satisfactory to City. Additionally, Contractor and all of Contractor's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this Agreement.

**7. AUDIT OF RECORDS.**

**7.1** At any time during normal business hours and as often as may be deemed necessary, the Contractor shall make available to a representative of City for examination all of its records with respect to all matters covered by this Agreement and shall permit City to audit, examine, and/or reproduce such records. Contractor shall retain such financial and program service records for at least four (4) years after termination or final payment under this Agreement.

**7.2** The Contractor shall include the City's right to audit under this section in any and all of their subcontracts, and shall ensure that these sections are binding upon all subcontractors.

**8. CONFIDENTIALITY.** All Consulting services performed by Contractor, including, but not limited to, all drafts, data, correspondence, proposals, reports, research and estimates compiled or composed by Contractor, pursuant to this Agreement, are for the sole use of the City, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the City. This provision does not apply to information that (a) was publicly known, or otherwise known to Contractor, at the time that it was disclosed to Contractor by the City, (b) subsequently becomes publicly known through no act or omission of Contractor or (c) otherwise becomes known to Contractor other than through disclosure by the City. Except for any subcontractors that may be allowed upon prior agreement, neither the documents nor their contents shall be released to any third party without the prior written consent of the City. The sole purpose of this section is to prevent disclosure of City's confidential and proprietary information by Contractor or subcontractors.

**9. CONFLICTS OF INTEREST.**

**9.1** Contractor shall at all times comply with all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including, but not limited to, California Government Code §§ 81000 et seq. (Political Reform Act) and §§ 1090 et seq. Contractor shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the City in which the

Contractor has a financial interest as defined in Government Code § 87103. Contractor represents that it has no knowledge of any financial interests, which would require it to disqualify itself from any matter on which it might perform services for the City.

**9.2** Contractor shall comply with all of the reporting requirements of the Political Reform Act. The Contractor shall file a Fair Political Practices Commission Form 700 (Assuming Office Statement) within thirty (30) calendar days of the City's determination that the Contractor is subject to a conflict of interest code, if applicable. The Contractor shall also file a Form 700 (Annual Statement) on or before April 1, disclosing any financial interests held during the previous calendar year for which the Contractor was subject to a conflict of interest code.

**9.3** If, in performing the Consulting Services set forth in this Agreement, the Contractor makes, or participates in, a "governmental decision" as described in Title 2, section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for the City that would otherwise be performed by a City employee holding a position specified in the department's conflict of interest code, the Contractor shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the Contractor's relevant financial interests.

**10. OWNERSHIP OF DOCUMENTS.** All documents, data, studies, drawings, maps, models, photographs and reports prepared by Contractor under this Agreement shall be considered the property of City. Contractor shall be permitted to reference and use said materials for use in future studies, work, and marketing so long as said materials are considered "public documents" and are not subject to attorney-client privilege, or the subject of pending closed or executive session discussions.

## **11. INSURANCE**

**11.1** Contractor shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, their agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than "A" and "VII" and are admitted to do business in the State of California, unless otherwise approved in writing by the City's Risk Manager.

**11.2** Contractor's liabilities, including but not limited to Contractor's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. All policies of insurance required hereunder must provide that the City is entitled to thirty (30) days prior written notice (ten (10) days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Maintenance of specified insurance coverage is a material element of this Agreement.

**11.3 Types and Amounts Required.** Contractor shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

**11.3.1 Commercial General Liability (CGL).** Insurance written on an ISO Occurrence form CG 00 01 07 98 or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of **\$1,000,000** per occurrence and subject to an annual aggregate of **\$2,000,000**. There shall be no

endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

**11.3.2 Commercial Automobile Liability.** For all of the Contractor's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of **\$300,000** per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

**11.3.3 Workers' Compensation.** For all of the Contractor's employees who are subject to this Agreement and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum **\$1,000,000** employers' liability coverage. The Contractor shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives.

**11.4 Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions are the responsibility of the Contractor and must be declared to and approved by the City. At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees, and volunteers, or (2) the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

**11.5 Additional Required Provisions.** The commercial general liability and automobile liability policies shall contain, or be endorsed to contain, the following provisions:

**11.5.1** The City, its officers, officials, employees, and representatives shall be named as additional insureds. The City's Additional Insured status must be reflected on additional insured endorsement form which shall be submitted to the City.

**11.5.2** The policies are primary and non-contributory to any insurance that may be carried by the City, as reflected in an endorsement which shall be submitted to the City.

**11.6 Verification of Coverage.** Contractor shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this Section 11. The endorsement should be on forms provided by the City or on other than the City's forms provided those endorsements conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

## **12. DEFENSE AND INDEMNIFICATION.**

**12.1** Contractor agrees to indemnify, defend (with attorneys approved by City), and hold harmless the City, and its officers, officials, agents and employees (the "Indemnified Parties") from any and all claims, demands, costs or liability that arise out of, or pertain to, or relate to the Contractor, its employees, agents, and subcontractors performance of services under this Agreement. Contractor's duty to indemnify under this section shall not include liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense

arising from the sole negligence or willful misconduct by the City or its elected officials, officers, agents, and employees. Contractor's indemnification obligations shall not be limited by the insurance provisions of this Agreement. The Parties expressly agree that any payment, attorney's fees, costs or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation is included as a loss, expense, or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**12.2** This indemnity is in addition to any other rights or remedies which City may have under the law or this Agreement. In the event of any claim or demand made against any party which is entitled to be indemnified hereunder, City may, at its sole discretion, reserve, retain or apply any monies due to Contractor under this Agreement for the purpose of resolving such claims; provided however, that City may release such funds if Contractor provides City with reasonable assurances of protection of the City's interest. The City shall, in its sole discretion determine whether such assurances are reasonable.

**12.3** Contractor agrees that its duty to defend arises upon an allegation of liability based upon the performance of services under this Agreement by Contractor, its officers, agents, representatives, employees, sub-Contractors, or anyone for whom Contractor is liable and that an adjudication of Contractor's liability is not a condition precedent to Contractor's duty to defend.

### **13. SUBCONTRACTORS.**

**13.1** The Contractor's hiring or retaining of third parties (i.e. subcontractors) to perform services related to the Project is subject to prior approval by the City.

**13.2** All contracts entered into between the Contractor and its subcontractor shall also provide that each subcontractor shall obtain insurance policies, which shall be kept in full force and effect during any and all work on this Project and for the duration of this Agreement. The Contractor shall require the subcontractor to obtain all policies described in section 11 of this Agreement in the amounts required by the City, which shall not be greater than the amounts required of the Contractor.

**13.3** In any dispute between the Contractor and its subcontractors, the City shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The Contractor agrees to defend and indemnify the City as described in section 12 of this Agreement should the City be made a party to any judicial or administrative proceeding to resolve any such dispute or should the City incur any costs in responding to third-party discovery requests.

**14. NON-DISCRIMINATION.** Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, military or veteran status, gender, gender identity, gender expression, sexual orientation, or any other class protected under state, federal, or local law. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to any class or category protected under state, federal, or local law and shall make reasonable accommodation to qualified individuals with disabilities. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places available to

employees and applicants for employment any notices provided by City setting forth the provisions of this non-discrimination clause.

**15. NOTICES.** All communications to either party by the other party shall be delivered to the persons listed below. Any such written communications by mail shall be conclusively deemed to have been received by the addressee five (5) calendar days after the deposit thereof in the United States Mail, postage prepaid and properly addressed as noted below.

If to City:  
City of Del Mar  
Attn: City Clerk  
1050 Camino del Mar  
Del Mar, CA 92014  
[cityclerk@delmar.ca.us](mailto:cityclerk@delmar.ca.us)

If to Contractor:  
Aztec Janitorial Service  
Attn: Marisela Grismer  
7980 Lemon Grove Way  
Lemon Grove, CA 91945  
[marcy@azteclandscaping.com](mailto:marcy@azteclandscaping.com)

**16 ASSIGNABILITY.** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the Contractor's duties be delegated or sub-contracted, without the express written consent of the City.

**17. RESPONSIBILITY FOR EQUIPMENT.** City shall not be responsible nor held liable for any damage to persons or property consequent upon the use, misuse, or failure of any equipment used by Contractor or any of Contractor's employees or subcontractors, even if such equipment has been furnished, rented, or loaned to Contractor by City. The acceptance or use of any such equipment by Contractor, Contractor's employees, or subcontractors shall be construed to mean that Contractor accepts full responsibility for and agrees to exonerate, indemnify and hold harmless City from and against any and all claims for any damage whatsoever resulting from the use, misuse, or failure of such equipment.

**18. CALIFORNIA LAW; VENUE/MISC.** This Agreement shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this Agreement shall be brought in the county of San Diego, California. Contractor hereby waives any and all rights it might have pursuant to California Code of Civil Procedure section 394.

**19. COMPLIANCE WITH LAWS.** The Contractor shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement, including California Labor Code section 1720, et seq., relating to payment of prevailing wages for public works projects, if applicable. Contractor shall indemnify and defend the Indemnified Parties from and against any liability incurred due to any failure on the part of Contractor to comply with any applicable Laws.

To the extent Contractor is required to comply with prevailing wage requirements, Contractor does hereby acknowledge that they are aware of, have read, and understand the terms and implications of SB 854 and Contractor and any subcontractors ensure that they are familiar with and comply with its requirements. Such requirements include, but are not limited to, the registration requirement with the Department of Industrial Relations, State of California (DIR), pursuant to Labor Code section 1725.5. As of March 1, 2015, in compliance with SB 854, the City requires all affected contractors and Contractors to be registered with the DIR prior to submitting a bid or proposal on any eligible District project. As of April 1, 2015, failure to comply with the requirements of SB 854 by any contractor or Contractor, including registration with the DIR pursuant to Labor Code section 1725.5, shall be a material breach of this Agreement which

may be terminated by the City in its sole and absolute discretion. Where applicable, this project is subject to compliance monitoring and enforcement by the DIR.

**20. CONTRACTOR'S CERTIFICATION OF AWARENESS OF IMMIGRATION REFORM AND CONTROL ACT OF 1986.** Contractor certifies that Contractor is aware of the requirements of the Immigration Reform and Control Act of 1986 (8 USC §§ 1101-1525) and has complied and will comply with these requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors, and Contractors that are included in this Agreement.

**21. ENTIRE AGREEMENT.** This Agreement sets forth the entire understanding of the Parties with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein.

**22. AMENDMENTS.** This Agreement may be modified or amended only by a written document executed by both Contractor and City and approved as to form by the City Attorney. No change, alteration, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless agreed to in writing by both Parties.

**23. NO WAIVER.** No failure of either the City or the Contractor to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement shall constitute a waiver of any such breach of such covenant, term or condition.

**24. SEVERABILITY.** The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision unenforceable, invalid, or illegal.

**25. DRAFTING AMBIGUITIES.** The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

**26. LEGAL FEES.** In the event of the bringing of any action or suit by either party hereto against the other party hereunder to enforce or interpret any of the provisions, covenants or conditions of this Agreement, or arising out of any tortious conduct by either party incident to this Agreement, the prevailing party in such action or suit shall be entitled to recover all costs and expenses of suit, including reasonable attorneys' fees. In any action or suit brought to enforce this Agreement, the damages available shall be limited to specific performance or other such equitable relief that the court may order.

**27. CONFLICTS BETWEEN TERMS.** If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

**28. EXHIBITS INCORPORATED.** All Exhibits referenced in this Agreement are incorporated into the Agreement by this reference.

**29. SIGNING AUTHORITY.** The representative for each Party signing on behalf of a corporation, partnership, joint venture, or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, or entity and agrees to hold the other Party or Parties hereto harmless if it is later determined that such authority does not exist.

**IN WITNESS WHEREOF,** the Parties hereto have executed this Agreement the day and year first hereinabove written.

**CITY OF DEL MAR,**  
a municipal corporation

**AZTEC JANITORIAL SERVICES**

By: \_\_\_\_\_  
Ashley Jones, City Manager

By: \_\_\_\_\_  
Genaro Garcia, Chief Financial Officer

ATTEST:

\_\_\_\_\_  
Sarah Krietor, Administrative Services  
Manager/City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Leslie E. Devaney, City Attorney

## **EXHIBIT "A"** **SCOPE OF SERVICES**

### **I. GENERAL PROVISIONS**

Contractor shall furnish all supplies, equipment, consumables, and labor for accomplishment of the work in a professional and workmanlike manner. The level of services as outlined herein shall be consistently maintained. During the Contract period, the Contract Administrator will conduct monthly inspections of the facilities under this Contract. The inspections are based on standards for commercial facilities within the maintenance industry.

1. Contractor shall provide janitorial services for the City of Del Mar (City) facilities listed in this document. Cleaning shall be provided to all of these areas, unless otherwise stated.
2. Contractor shall perform a baseline cleaning of the facilities listed herein. Contractor will leave each facility visually clean, having wiped, spot removed, dusted mopped, vacuumed, emptied, or otherwise cleaned each area per Scope of Work and industry standards. These standards are an outline of general expectations of cleanliness but are not meant to replace or supersede the latest industry standards or materials and equipment manufacturers' recommendations.
3. All supplies, consumables, and equipment for the execution of this work shall be furnished by the Contractor. Contractor's equipment shall be of the size and type suitable for accomplishing the various phases of work described herein, and shall operate from existing sources of electrical power. Equipment considered to be improper or inadequate for the purpose shall be removed from the job and replaced with equipment satisfactory to the City.
4. Supplies and consumables used for this work shall be of industrial grade, premium quality and most suitable type or grade for the work to be accomplished. Contractor may be required to provide a material list of all supplies for the City's review and approval. City reserves the right at any time to request a change in materials, should there be a health, safety, and/or quality issue(s) involved, without increase in cost.
5. Contractor shall adhere to all scheduling as defined in this document unless a schedule change has been approved by the City in writing.
6. Contractor and its subcontractors shall maintain a current City of Del Mar business license at all times.
7. Contractor shall perform all work in compliance with the City of Del Mar Municipal Code regarding storm water runoff system discharge regulations and requirements, and San Diego Regional Water Quality Control Board (SDRWQCB) National Pollutant Discharge Elimination System (NPDES) Order No. 2013-0001. Compliance includes the implementation of practical methods, known as Best Management Practices (BMPs), which shall be used to protect the environment and to comply with regulatory requirements.

8. Do not allow contaminated water or cleaning solution to enter the storm water system. Power washing and other wash water runoff shall be recovered and disposed of properly. Violations of any of these requirements may lead to a civil penalty of up to \$5,000 per day, per violation.
9. The City reserves the right to increase or decrease the services. Services and fees for new facilities shall be added at the average rate per square foot for a comparable facility at the time of the addition. Such changes will be according to the terms and conditions of the Request for Proposal and will be done through an amendment to the master agreement for regular service.

## II. FACILITIES SERVICED

Location	Time of Service	Frequency of Service and instructions
1. <u>Civic Center</u> – 1050 Camino Del Mar, City Hall: 8,855 sq. ft., Town Hall: 3,104 sq. ft., Breezeway: 934 sq. ft. and Parking Structure, Plaza & Outlook areas	Monday-Thursday after 5:30 pm	<u>Daily</u> : Offices, conference rooms, kitchen, restrooms, elevators, parking structure, plaza & outlook, and common areas including tile, carpet, furniture, counter tops, desks, and appliances.
2. <u>Public Works Yard</u> – 2240 Jimmy Durante Blvd., Main Building: 800 sq. ft., Trailer 1: 133 sq. ft., Trailer 2: 279 sq. ft.	Tuesday and Friday after 4:30 pm	<u>Twice a Week</u> : Offices, annex trailers, kitchen, restrooms, and common areas including tile, carpet, furniture, counter tops, desks, and appliances
3. <u>17<sup>th</sup> Street Public Restrooms</u> – 1700 Coast Blvd., Six bathrooms 190 sq. ft. total	Seasonal (Memorial Day -Labor Day Weekend) 1:00pm – 9:00pm adjusted based on day light savings	<u>Daily</u> : Public restrooms portered and cleaned daily. Sink, sink basins, counter tops, showers, shower drains, ramps, and concrete surrounding restrooms.
4. <u>Powerhouse Public Restrooms</u> – 1658 Coast Blvd., Two bathrooms 450 sq. ft. total	Seasonal (Memorial Day-Labor Day Weekend) 1:00pm – 9:00pm adjusted based on day light savings	<u>Daily</u> : Public restrooms portered and cleaned daily. Sink, sink basins, counter tops, shower, shower drains, ramps, and concrete surrounding restrooms.
5. <u>25<sup>th</sup> Street Public Restrooms</u> - Two bathrooms 160 sq. ft. total	Seasonal (Memorial Day-Labor Day Weekend) 1:00pm – 9:00pm adjusted based on day light savings	<u>Daily</u> : Public restrooms portered and cleaned daily. Sink, sink basins, counter tops, shower, shower drains, ramps, and concrete surrounding restrooms.
<u>Additional Event Cleanup Services</u>	Based on City’s event calendar (i.e., concerts), from approximately 1:00 p.m. to 10:00 p.m.	<u>Daily</u> : Public restrooms portered and cleaned daily. Sink, sink basins, counter tops, shower, shower drains, ramps, and concrete surrounding restrooms. Trash patrol, litter cleanup, spill response.

**1. AS NEEDED LABOR SERVICE**

- 1.1. Contractor shall provide additional janitorial services, as-needed, and as defined by change order(s) or proposal(s) for events and/or special considerations for the City. City's Representative will communicate staffing needs and timing no less than 48 hours in advance except for weekends, holidays, or other special events.
- 1.2. As-needed labor shall comply with all standards stated within this document.
- 1.3. As-needed labor may receive direction from Public Works and/or Community Services City Staff.
- 1.4. Services for events may include, but not limited to, additional cleaning and trash removal.
- 1.5. Facilities/Open Space locations may vary.

**2. COMPANY EMPLOYEES AND VEHICLES**

- 2.1. Contractor's employees shall be skilled, professional employees trained in janitorial services. Janitorial staff shall wear clean, neat uniforms and identification while working on City premises.
- 2.2. Contractor's vehicles will have the Contractor's name or logo permanently affixed to the front doors of both passenger and driver's side. Vehicles will be clean, orderly and in good working order.
- 2.3. Contractor and his employees will be courteous and show respect to the public, City employees and other Contractor employees at all times. Use a friendly voice tone and offer assistance when necessary.
- 2.4. Each of the Contractor's Employee's shall be equipped with the necessary equipment to carry out the proper performance of the cleaning as specified. This equipment shall be available and in possession of the Contractor's Employee's at all times while carrying out their duties.
- 2.5. Contractor and its employees must successfully complete a criminal record check after providing the County Sheriff's Department two current passport size photos, a completed request for Live Scan service, a completed Janitorial Application, and a copy of the applicant's driver license or Government issued identification.
- 2.6. The applicant will need to contact the County Sheriff's Department at (858) 974-2110 to schedule an appointment to be Live Scanned and have their photo taken for the City-issued contractor identification card.
- 2.7. Once the applicant has been live scanned (fingerprinted), the County Sheriffs Department must wait for a response from the Department of Justice.
- 2.8. No applicants will be approved and no access to any City facility will be granted to the contractor until all information has been received from the Department of Justice and applicant has been cleared by the City and a City of Del Mar contractor identification card

issued.

29. Contractor will pay the fee for Live Scan for each employee working within City facilities.
210. Contractor's employees will be placed on subsequent notification. This requirement allows the department to receive notification of any arrest subsequent to the Live Scan check.
211. Contractor and its employees must successfully pass a drug screening before conducting work under this contract.
212. Contractor is responsible for their employees' actions on City facilities.
213. Contractor will ensure that his employees do not have pets or other "unapproved" personnel including children in City facilities, or in the Contractor's vehicles outside the facilities.
214. Contractor will ensure that his employees do not store personal property of any kind in or on City facilities.
215. Contractor will not issue, loan or otherwise allow the procurement of keys, access information, or codes to anyone, including employees, without first receiving authorization from the City Representative and without first successfully completing the background check and Live Scan and submitting said documentation to the City Representative.
216. Contracted employees will refrain from making or receiving personal calls during working hours. Non-emergency calls should be made during breaks or lunch. At no time, other than emergency should the telephone be used by this Contractor.

### **3. BUILDING SECURITY**

31. Secure and lock all doors before leaving unoccupied buildings and Public Restrooms.
32. Turn off all lights not left on for security reasons as instructed.
33. Activate intrusion alarm security systems after completing work and before leaving buildings.
34. Deactivate security systems before entering buildings at the beginning of work as instructed and where applicable.
35. Report in writing to the City Representative security system false alarms activated by Contractor's employees or otherwise occurring during janitorial service when no City employee is present.
36. Provide to the City Representative a list of the keys and codes issued to Contractor's employees. This list will include employee names, addresses and telephone numbers that these codes and keys are issued to. Contractor will notify the City Representative of all and any keys or other pass code information lost by Contractor's employees.
37. Contractor shall not duplicate keys without first receiving written permission from the City

Representative.

38. Contractor is responsible for retrieving all City security information from those employees no longer employed by the Contractor, for whatever reason.
39. Contractor will notify the City Representative of any Contractor employee whose employment has been terminated that has or does have City security information or appurtenances.
- 3.10. Contractor is responsible for the cost of any re-keying, entry code, or security code changes needed due to non-retrieval of this security information, keys or appurtenances from its past employees.

Report to the City Representative in writing any walls, rooms, carpeting, equipment and furniture damaged by vandalism, graffiti, stains, water leaks, etc.

#### **4. CITY HOLIDAY SCHEDULE**

- 4.1. The City of Del Mar Public offices will be closed in observation of the following holidays. Cleaning service shall continue as per schedule regardless of holidays with the exception of City Hall and Public Works. City Hall and Public Works will not be cleaned on these holidays:
  - New Year's Day
  - Martin Luther King's Birthday
  - President's Day
  - Memorial Day
  - Independence Day
  - Labor Day
  - Veterans' Day
  - Thanksgiving
  - Day after Thanksgiving
  - Christmas Eve
  - Christmas Day
  - New Year's Eve

#### **5. TASKS**

- 5.1. The Contractor will furnish consumables to fill all dispensers in the restrooms and other facilities as needed. This includes, but is not limited to: toilet paper, paper towels, sanitary toilet seat covers, anti-bacterial soap, sanitary napkins, plastic liners, trash liners, etc.
- 5.2. The Contractor will supply all equipment in good working order including, but not limited to: janitorial vehicles, cleaning supplies, vacuum cleaners, floor scrubbers, chemicals, and all other cleaning appurtenances.
- 5.3. Contractor will separate all recyclable and green waste material from other refuse and deposit in appropriate receptacles at each facility serviced.
- 5.4. The following is a guideline for cleaning these areas as defined in this document. The

intent of this document and the City of Del Mar is to find these areas maintained clean, sanitized, and fresh smelling.

55. All furniture including benches, seats, tables, and trash receptacles are to be serviced by this Contractor. At no time should this be damaged by this Contractors forces. If damaged, the replacement and cost will be borne by this Contractor.

56. Concrete benches, stairs, and elevators will require some cleaning considerations.

57. Restroom, Daily Cleaning:

- Clean, wash, and disinfect all sinks, urinals, and commode fixtures. This includes tops, under-side and sides of all fixtures.
- Remove all webs, dust, litter, debris, and markings, wipe clean, wash, and disinfect all dispensers, grab bar, mirrors, frames, walls, ceiling surfaces, diaper changing stations, privacy partitions, tile, doors, and hardware, etc.
- Clean, wash and disinfect shower curtains, doors, mats, enclosures, and stalls (including grout).
- Clean, wash, and disinfect shower mats requires washing mats with an approved cleaner that will eliminate fungus and mold.
- Refill all consumables, such as soap, paper towels, toilet paper, sanitary seat liners, and feminine napkin dispensers so that all dispensers are completely full at the conclusion of each service.
- Empty trash, sanitize and install new liner.
- Floors shall be kept clean, spotless, shiny, and sanitized.
- Restrooms shall be kept free from unpleasant smells upon completion of service.
- Check for stoppages in toilets and urinals by flushing and observing; use a plunger if necessary. Notify Public Works at (858) 755-3294 for continued stoppages or any leaks.

58. Kitchen, Daily Cleaning:

- Restock consumables so that all dispensers are completely full at the conclusion of each service.
- Empty trash, recycling, organic bins, and containers, sanitize and install new liner.
- Remove all webs, dust, litter, debris and markings, wipe clean, wash and disinfect all surfaces including doors, sills, partitions, walls (as needed), tables, ceilings, cabinets, chairs, vents, small kitchen appliances, and large kitchen appliances, countertops, and shelves.
- Spot clean all floors, fabric covered furniture, and windows.
- Floors shall be kept clean, spotless, shiny, and sanitized.
- Clean, sanitize and remove all soap build-up, visible filth and discoloring from all tile surfaces, sinks, plumbing fixtures, and other areas.
- These areas must meet or exceed County of San Diego health standards each and every cleaning. Failure to meet these standards are a reason for termination of Contract.

5.9. Kitchen and Lunch Room Area Weekly (Thursday Night) Cleaning:

- Thursday nights, wipe clean and sanitize all interior surfaces.

5.10. Reception Areas, Copy Room, Office Areas, Hallways, Courtyards, Plazas, Patios, Breezeway and Parking Structure Daily Cleaning:

- Restock consumables so that all dispensers are completely full at the conclusion of each service.
- Empty trash and containers, sanitize and install new liner.
- Remove all webs, dust, litter and debris and markings, wipe clean and sanitize all surfaces including doors, sills, partitions, walls, light fixtures, cabinets, chairs, sound equipment, vents, tables, shelves (where they are clear of materials), desks (where they are clear of papers), etc.
- Open web trusses, beams, support and baffle siding, tops of doors, windows and other surface that can/will collect dust.
- Wipe all natural wood surfaces with furniture polish.
- Clean all travertine and other natural stone with a City-approved cleaner.
- Floors shall be kept clean, spotless, shiny, and sanitized.
- Sweep or vacuum all interior areas as needed.
- Sweep all exterior areas as needed.
- Clean, sanitize and remove all soap build-up, visible filth and discoloring from all tile surfaces and grouts, sinks, counters, epoxy flooring, and other areas.
- Spot clean all carpeted floors, fabric covered furniture, windows and other areas periodically cleaned with a City-approved fabric or carpet spot cleaner.
- Vacuum all carpeted floors and other fabric covered furniture.
- Clean and vacuum all entrance mats at the entrances both interior and exterior of the buildings.

5.11. Window Cleaning:

- All interior and exterior windows up to and including 12 feet from the floor will be spot cleaned for smudges, hand prints or other markings daily or as required. All excess spray/solution must be removed from any surrounding trim or surfaces and glass/window surfaces shall have a uniformly bright appearance. Return any items moved to accomplish this task their original positions.

5.12. Janitorial Cleaning Log:

- The facility shall have the Contractor-provided janitorial cleaning log. This log will be filled out by the Contractor's employee before existing the facility site, each visit.
- The janitorial cleaning log has an area for notes and comments. All alarm soundings, graffiti, pest control needs, security issues, leaks or non-working plumbing devices, damage to property, and areas left not serviced will be noted in this comments area.
- All notations in the area for notes and comments will be relayed within 24 hours to the City Representative by e-mail.

5.13. Trash/Recycling:

- All trash/recycling receptacles will be serviced/emptied, cleaned with liners changed by the Contractor when that area is serviced/cleaned as per schedule.
- The Contractor will deliver the trash, recycling, organic bins, and containers receptacles to the garage dumpster organic area and place materials in appropriate disposal can.

**6. SITE INSPECTION AND REPORTING**

6.1. Report immediately by telephone during regular working hours (858) 755-3294. For afterhours issues call Del Mar Public Works dispatch at (858) 756-1126 issues that may require immediate action. For emergencies call 911.

- Incidents of injury, damage or potential hazards to the public, end users or employees.
- Running water or leaks
- Sewer backups

6.2. Report immediately by e-mail ([publicworks@delmar.ca.us](mailto:publicworks@delmar.ca.us) and [mdaquila@delmar.ca.us](mailto:mdaquila@delmar.ca.us)) issues such as, but not limited to:

- Public nuisances
- Work performance delays
- Repairs needed
- Dripping water leaks
- Non-emergency electrical issues such as, but not limited to, outlets without power or entire buildings without power.
- Lost and found articles
- Deliver any lost and found article to Del Mar Public Works, 2240 Jimmy Durante Boulevard, Del Mar, CA 92014.

**7. PAYMENTS**

7.1. Invoices will be addressed to: City of Del Mar, Public Works 2240 Jimmy Durante Boulevard Del Mar, California 92014 Attn: Operations Manager and emailed to [publicworks@delmar.ca.us](mailto:publicworks@delmar.ca.us).

7.2. Contractor will submit a monthly payment invoice listing each of the **FACILITIES SERVICED** and each individual invoice amount.

7.3. If the City determines that there are deficiencies in the performance of this contract, the Contractor will be notified both verbally and in writing each time service requirements are found to be unsatisfactory and corrective action is necessary. Should the Contractor fail to correct any deficiencies within two hours, the City may exercise the following measures:

- Deduct from the Contractor's payment the amount necessary to correct the deficiency.
- Withhold the entire or partial payment.
- Utilize City forces or alternate source to correct the deficiency and deduct from the

Contractor's payment the total cost, including City overhead.

## 8. EQUIPMENT

- 8.1. Contractor will supply and maintain all tools and equipment in good and proper working condition, such as clean mops, brooms, bucket and wringers, carts, dust pans, dusters, vacuum cleaners, janitorial vehicles, cleaning supplies and chemicals, and secure an adequate inventory of all janitorial supplies, consumables, and products.
- 8.2. All equipment provided by the Contractor will be of commercial grade.
- 8.3. Contractor will supply each facility two mops, a "clean mop" for kitchens, lunch rooms, prep areas, etc. and another mop for all other areas and incidental cleanups.
- 8.4. "Clean mops" will be marked so that employees of the City as well as Contractor's employees can easily recognize these tools as clean.
- 8.5. Contractor will replace all mops as needed to ensure adequate, sanitary cleaning.
- 8.6. All equipment stored on site at a City facility will be stored neat and orderly. All Janitors closets will be stowed in such a way that City employees can easily find what is needed, during their work shift, without moving other items with the exception of the janitorial cart. All mops, brooms, dust pans, and other cleaning appurtenances will be either hung or shelved neatly at all times they are stored.
- 8.7. Any shelf units needed for the storage of the supplies as described in this document at any facility listed is subject to the approval process in **Scope of Services Section 9 SUBMITTALS**. Once approved, the shelf unit will be installed by the City. Upon installation, the shelf unit is then the property of the City of Del Mar.
- 8.8. Any rack systems needed for storage of other janitorial equipment as described in this document at any facility listed is subject to the approval process in 11) SUBMITTALS and 10.7.
- 8.9. Any chemical dispensing unit/equipment and appurtenances that the Contractor finds critical to his operation is subject to the approval process in **Scope of Services Section 9 SUBMITTALS**. Purchase, assembly and installation will be done, contracted or coordinated by the Contractor at his expense and under the direction of City staff. This is not a reimbursable item.

## 9. SUBMITTALS

- 9.1. All materials and consumable products are subject to prior approval by the City's Representative. Contractor will provide submittals for the following items to the City's Representative for approval. All materials and consumable products used at these project sites will be subject to prior approval through this submittal application process. No materials will be accepted for use on this project without prior approval, in writing. All submittals will have the appropriate MSDS attached for City review.
- 9.2. Any Contractor-requested replacements for the items listed in "PRE-APPROVED PRODUCTS" are subject to this approval process.

**10. QUALITY ASSURANCE**

- 10.1. Contractor is responsible for training, supervising, equipping, checking work quality, ensuring adherence to schedule, and all other management issues involved with his employees. Quality control is the responsibility of the Contractor.
- 10.2. Contractor will regularly check janitorial closets and storage areas for orderly storage.
- 10.3. Contractor will notify the City Representative in writing of any conditions or events as defined in this document.

**11. FACILITY CONTACTS**

<b>Location</b>	<b>Contact</b>	<b>Telephone and e-mail</b>
Public Works, 2240 Jimmy Durante Blvd, Del Mar, CA 92014	Michael D'Aquila, Operations Manager	(858) 704-3684; mdaquila@delmar.ca.us

\*All written communication from the Contractor to contacts of the individual facilities will be carbon copied to the City Representative. All written communication from the Contacts of the individual facilities to the Contractor will be carbon copied to the City Representative.

## EXHIBIT "B" FEE SCHEDULE

AZTEC LANDSCAPING, INC. DBA AZTEC JANITORIAL SERVICE

City of Del Mar  
 Citywide Janitorial Services RFP 2024-03  
 Page 8 of 12

### FEE SCHEDULE

A. Contractor shall receive compensation for **regular scheduled janitorial services** according to the rates outlined in the table below. Quantities are estimated; payment will be based on actual quantities furnished, installed, or constructed.

**Baseline Cleaning Services Labor Pricing (outside of regular Facility Base Services below):**

Activity	Per Hour Cost
Labor, Hourly Rate <b>During</b> Regular Working Hours (M-F 8am – 5pm)	\$ 33.00 per hour
Labor, Hourly Rate <b>Outside</b> Regular Working Hours	\$ 43.00 per hour

**Facility Base Services:**

Location	Service Charge
1. Civic Center – 1050 Camino del Mar	\$ 2,564.00 per month
2. Public Works Facility – 2240 Jimmy Durante Blvd.	\$ 501.00 per month
3. 17 <sup>th</sup> Street Public Restrooms – 1700 Coast Blvd. (as scheduled, Memorial Day to Labor Day, 7 days a week)	\$ 38.40 per hour
4. Powerhouse Restrooms – 1648 Coast Blvd. (as scheduled, Memorial Day to Labor Day, 7 days a week)	\$ 38.40 per hour
5. 25 <sup>th</sup> Street Public Restrooms (as scheduled, Memorial Day to Labor Day, 7 days a week)	\$ 38.40 per hour

B. Contractor shall receive compensation for **additional as-needed janitorial services** according to the rates outlined in the table below. Quantities are estimated; payment will be based on actual services performed.

Additional Window Cleaning	Cost per Hour	\$ 74.00 / 2 MAN CREW
Additional Carpet Shampooing	Cost per Hour	\$ 74.00 / 2 MAN CREW
Additional/Event Cleanup Services (such as summer concerts, solstice events)	Cost per Hour	\$ 33.00
Weekends and Holidays with one (1) hour response time	Cost per Hour	\$ 51.00
Carpet Extraction (City Hall/Town Hall)	Per Request	\$ 600.00
Window Washing (City Hall/Town Hall)	Per Request	\$ 712.00



# City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Joe Bride, Public Works Director  
Diana Martinez, Associate Management Analyst  
Via Ashley Jones, City Manager

DATE: May 20, 2024

SUBJECT: Second Reading and Adoption of an Ordinance Amending Chapter 21.12 – Water Supply – Water Rates and Charges; Chapter 21.70 – Emergency Water Management; and Chapter 22.04 – General (Sewers and Sewage Disposal) of the Del Mar Municipal Code

**REQUESTED ACTION/RECOMMENDATION:**

Staff recommends that the City Council adopt an Ordinance (Attachment A) amending the Del Mar Municipal Code (DMMC) Chapter 21.12 – Water Supply – Water Rates and Charges; Chapter 21.70 – Emergency Water Management; and Chapter 22.04 – General (Sewers and Sewage Disposal) to establish new water and wastewater rates, effective July 1, 2024.

**BACKGROUND**

The City of Del Mar is in the process of setting water and wastewater rates to take effect July 1, 2024. Existing rates and charges for these services were last established in 2019, which included a five-year rate plan with annual adjustments each year on January 1. The last rate increase for these services occurred on January 1, 2024.

Based on increased costs to provide water and wastewater service, staff recommends a new five-year rate structure for both utilities, effective July 1, 2024, with adjustments on July 1, of 2024, 2025, 2026, 2027, and 2028 as follows:

	2024	2025	2026	2027	2028	2029
Water Fund	3%	2%	2%	2%	2%	2%
Wastewater Fund	4%	2%	2%	2%	2%	2%

California law, established by Proposition 218, requires that ratepayers be given the right to protest increases in water and wastewater rates prior to approval. A notice for the proposed new five-year rates was mailed to all utility ratepayers, current residents, and property owners in the City of Del Mar on March 21, 2024, consistent with the legally required 45-day public

---

**City Council Action:**

hearing notification period. There are currently 1,900 active water customer accounts. Under the provisions of Proposition 218, if the City had received written protests from a majority of affected ratepayers (more than 950 ratepayers), the City Council could not approve the proposed rate increases. No protests were received by the May 6, 2024, deadline.

On May 6, 2024, the City Council held a public hearing and introduced the proposed Ordinance (Attachment A) to establish new water and wastewater rates, effective July 1, 2024. This agenda item is the second reading and final adoption of the Ordinance.

PRIOR CITY COUNCIL REVIEW:

On May 6, 2024, the City Council introduced an Ordinance Amending Chapter 21.12 – Water Supply – Water Rates and Charges (Exhibit A to attachment A); Chapter 21.70 – Emergency Water Management (Exhibit B to Attachment A); and Chapter 22.04 – General (Sewers and Sewage Disposal) (Exhibit C to Attachment A) of the Del Mar Municipal Code.

On February 20, 2024, the City Council received an overview of the Water and Wastewater Rate Study and Proposed Rate Schedule and unanimously approved a recommendation to initiate the Proposition 218 public noticing process.

FISCAL IMPACT:

Adoption of the proposed ordinance will result in an increase to the water and wastewater rates charged by the City as described above. The proposed rates and charges will provide adequate funding to maintain the City’s water and wastewater utilities and provide water and wastewater service proportional to the cost of providing services to the different classes of users within the City.

ENVIRONMENTAL IMPACT:

The action being considered is exempt from the California Environmental Quality Act (CEQA) because it is not a “project” per Section 15378(b)(5) of CEQA Guidelines. The action involves an organizational or administrative activity of government that will not result in the direct or indirect physical change in the environment.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:

Water and Wastewater Studies and Rate Changes are a Tier 1 Council priority scheduled to be completed in Fiscal Year 2023-24.

ATTACHMENTS:

- Attachment A – Proposed Ordinance Establishing Water and Wastewater Rates
- Exhibit A- Revised DMMC Chapter 21.12
- Exhibit B- Revised DMMC Chapter 21.70
- Exhibit C- Revised DMMC Chapter 22.04

## ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, AMENDING THE DEL MAR MUNICIPAL CODE CHAPTER 21.12 – WATER SUPPLY – WATER RATES AND CHARGES, CHAPTER 21.70 – EMERGENCY WATER MANAGEMENT, CHAPTER 22.04 - SEWERS AND SEWAGE DISPOSAL – GENERAL

WHEREAS, the City Council wishes to maintain water and wastewater rates and charges that are equitable and fairly distribute the burden of cost among the various classes of customers while encouraging conservation; and

WHEREAS, the City Council desires to propose five-year rate schedules that would take effect on July 1, 2024, July 1, 2025, July 1, 2026, July 1, 2027, and July 1, 2028; and

WHEREAS, the City has completed a review of the water and wastewater rates in conjunction with the proposed budgetary needs of the water and wastewater utilities for five Fiscal Years 2024-25, 2025-26, 2026-27, 2027-28 and 2028-29; and

WHEREAS, the review indicated the need to increase the rates and fixed charges to meet the revenue requirements necessary to adequately operate the water and sewer utility systems; and

WHEREAS, the City's Finance Committee reviewed the proposed rates and expressed support of the proposed rate schedules; and

WHEREAS, the City Council, in response to increased costs to provide water and wastewater services has previously amended said rates; and

WHEREAS, Article XIII D, Section 6(a) of the State Constitution (Proposition 218), passed by the voters of California on November 5, 1996, requires municipalities to give written notice to the owners of parcels upon which proposed water-, refuse- and/or sewer-related fees or charges are to be applied; and

WHEREAS, Proposition 218 requires that a public hearing shall be conducted not less than 45 days after the mailing of a notice of a public hearing on property-related fee adjustments to the record owners of each identified parcel upon which the fee is proposed for imposition; and

WHEREAS, Proposition 218 provides that, if written protests against proposed property-related fees are presented by a majority of the property owners of record upon which the proposed fees would be imposed, the fee adjustment shall not be implemented; and

WHEREAS, the City has considered all comments and correspondence, and the findings and conclusions made by the City pursuant to this Ordinance are based upon all of the oral and written evidence presented to it and taken as a whole; and

WHEREAS, based on the record and evidence before the City Council, the City Council has determined that it is necessary to revise the Del Mar Municipal Code to implement the recommended rates and charges; and

WHEREAS, the City Council initially considered the proposed rates and charges for water and wastewater services at their regular meeting on February 20, 2024; and

WHEREAS, a duly noticed public hearing was held before the Del Mar City Council at its regular meeting of May 6, 2024, where the City Council and the public considered the recommendation for changes in the determination of the rates and charges for water, wastewater, and clean water services.

NOW, THEREFORE, the City Council of the City of Del Mar, California, does ordain as follows:

SECTION ONE: FINDINGS.

- a. Notice of the proposed amended water and wastewater rates and charges and of the public hearing thereon was given pursuant to Proposition 218 to record owners of all affected parcels on March 21, 2024.
- b. The Ordinance was introduced and the public hearing required by Proposition 218 was duly held by the City Council, pursuant to notice, on May 6, 2024.
- c. Zero (0) written protests were received in opposition to the proposed amended water and wastewater rates and charges, constituting less than a majority of the affected property owners.
- d. Revenues derived do not exceed the funds required to provide the property-related service imposed.
- e. Revenues derived are not being used for any purpose other than that for which the fee is imposed.
- f. The fee imposed does not exceed the proportional cost of the service.
- g. No fee is imposed unless the service is actually used by, or immediately available to, the owner of the property.
- h. No fee is imposed to fund general governmental services such as police, fire, ambulance, or library services where the service is available to the public at large in substantially the same manner as it is to property owners.

SECTION TWO:

The Del Mar Municipal Code is amended as shown in the following exhibits:  
Chapter 21.12 is amended as indicated in Exhibit A to this Ordinance;  
Chapter 21.70 is amended as indicated in Exhibit B to this Ordinance;  
Chapter 22.04 is amended as indicated in Exhibit C to this Ordinance;

SECTION THREE:

The City Council of the City of Del Mar hereby declares that should any section, paragraph, sentence, phrase, term or word of this Ordinance, hereby adopted, be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this Ordinance irrespective of any such portion declared invalid.

SECTION FOUR:

The Ordinance was introduced by the City Council on May 6, 2024.

SECTION FOUR:

This Ordinance shall become effective thirty days following its passage and adoption; however, it shall not take effect prior to July 1, 2024.

SECTION FIVE:

The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Del Mar, California, held this 20<sup>th</sup> day of May 2024.

---

Dave Druker, Mayor  
City of Del Mar, California

APPROVED AS TO FORM:

---

Leslie E. Devaney, City Attorney

ATTEST AND CERTIFICATION  
STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO  
CITY OF DEL MAR

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO  
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No. XXXX, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 20th day of May, 2024, by the following vote:

AYES:

NOES:

RECUSE:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Sarah Krietor, Administrative Services  
Manager/City Clerk  
City of Del Mar

TITLE 21 - WATER SUPPLY  
Chapter 21.12 WATER SUPPLY—WATER RATES AND CHARGES

**Chapter 21.12 WATER SUPPLY—WATER RATES AND CHARGES**

**21.12.010 Purpose.**

- A. The purpose of this Chapter is to provide water rates and charges.
- B. Deposit and Documentation Required Upon Application for Service; Refund of Deposit. All applicants for water service shall complete the required forms supplied by the City before approval of water service can be given. Forms will be returned to the City within ten working days of application of service. Applicants failing to return the required forms will be subject to discontinuation of service. All applicants for water service shall deposit with the City a deposit for water service as provided in this Code. After the deposit has been held for 12 consecutive billing periods, during which time service has been continuous and bills have been paid within the allowable period without incurring a late penalty, the deposit will be automatically refunded without interest.

(Ord. No. 554; Ord. No. 664; Ord. No. 687; Ord. No. 768; Ord. No. 828)

**21.12.020 Rates and Charges for Water Service.**

The minimum bimonthly rate for all water furnished to a consumer through a water meter shall be determined by the size of water meter combined with usage as follows:

- A. *Bimonthly Service Charge.* All water service customers of the City shall be subject to a fixed bimonthly service charge. The amount of the service charge shall be determined by the size of the water meter as follows:

Meter Size	Meter Bimonthly Service Charge Effective:				
	7/1/24	7/1/25	7/1/26	7/1/27	7/1/28
5/8"	\$88.70	\$90.47	\$92.28	\$94.13	\$96.01
3/4"	\$129.41	\$132.00	\$134.64	\$137.33	\$140.08
1"	\$210.81	\$215.03	\$219.33	\$223.72	\$228.19
1 1/2"	\$414.33	\$422.62	\$431.07	\$439.69	\$448.48
2"	\$658.55	\$671.72	\$685.15	\$698.85	\$712.83
3"	\$1,309.82	\$1,336.02	\$1,362.74	\$1,389.99	\$1,417.79
4"	\$2,042.49	\$2,083.34	\$2,125.01	\$2,167.51	\$2,210.86
22nd DAA*	\$76,298.59	\$77,824.56	\$79,381.05	\$80,968.67	\$82,588.04
*Total bimonthly charge for all meters					

B. *Bimonthly Commodity Charge.* All water service customers of the City shall be subject to commodity rates for each unit (100 cubic feet, 748 gallons) of water used. Commodity rates applicable to water service customers are as follows:

1. *Residential.*

Bimonthly Usage	Bimonthly Rate per Unit of Water Used, Effective:				
	7/1/24	7/1/25	7/1/26	7/1/27	7/1/28
Tier 1: 0-22 units	\$6.26	\$6.39	\$6.52	\$6.65	\$6.78
Tier 2: 23+ units	\$7.37	\$7.52	\$7.67	\$7.82	\$7.98
All usage/per unit	\$6.81	\$6.95	\$7.09	\$7.23	\$7.37

2. *Non-Residential.* Commercial, Institutional, Fairgrounds, Irrigation.

The commodity rate per unit of water use is as follows:

	7/1/24	7/1/25	7/1/26	7/1/27	7/1/28
Commercial/ Institutional	\$6.80	\$6.94	\$7.08	\$7.22	\$7.36
Irrigation	\$7.11	\$7.25	\$7.40	\$7.55	\$7.70
Fairgrounds	\$8.08	\$8.24	\$8.40	\$8.57	\$8.74

3. *Billing.* Charges for water service are billed on a bimonthly basis. Tier rate usage limits shall be double the monthly values for bimonthly billing purposes. Further adjustments of usage limits shall be made on a proportional basis only if the actual billing period exceeds 70 days.

C. *Special Use Charges.*

1. Fire Service charges will be assessed as follows:

Service Size	Monthly Charge
2—4"	\$18.26
6"	23.08

2. A monthly service charge set forth in the City of Del Mar Fee Schedule per backflow prevention device will be assessed.

D. *Outside City Users.* When it appears to be in the best interest of the City and the people thereof, and when approved in writing by the City Manager, the owner or occupant of property situated outside the City may be permitted to have such property connected to the water system of the City. In addition to other fees, assessments or charges provided by this Chapter, the owner or occupant of property situated outside the City shall pay a water service charge equal to 100 percent of the charge for applicable service established by this Section.

In the event that the owner or occupant of such property fails to pay such water service charge, the City Manager shall have the right, upon five days notice, to disconnect the owner's or occupant's property from the water system.

- E. *Pass Through Fees and Charges for Wholesale Water and Water Treatment and Delivery.* In accordance with Government Code § 53756, as it may be amended from time to time, all San Diego County Water Authority, Metropolitan Water District of Southern California, and the City of San Diego fees and charges for wholesale water, water related services and the treatment and delivery of water shall be passed through to Del Mar water utility customers.

(Ord. No. 488; Ord. No. 554; Ord. No. 564; Ord. No. 628; Ord. No. 650; Ord. No. 654; Ord. No. 664; Ord. No. 687; Ord. No. 713; Ord. No. 730; Ord. No. 768; Ord. No. 828; Ord. No. 903; Ord. No. 948 , § 2, Exh. A, 6-3-2019; Ord. No. 968 , § 1, 7-20-2020)

### **21.12.030 Procedure for Altering Water Rates.**

The City Manager shall, from time to time, prepare a recommendation for any change as deemed to be necessary for the ensuing fiscal year. Such recommendation shall be based upon a study of any increase or decrease in the cost of maintenance, repair and replacement of the water system.

The City Council shall, after public notice and hearing thereon, by ordinance, approve, disapprove or modify the recommendation of the City Manager. The effective date of any change in the water rates shall be specified in the ordinance passed by the City Council.

(Ord. No. 472)

### **21.12.040 Same—Fire Service and Automatic Fire Sprinkler Service.**

The rates to be so charged and collected each month for fire service and automatic fire sprinkler service within the City shall be established by ordinance.

### **21.12.050 Same—Construction of Water Service.**

The rates to be charged and collected for construction of water service and meter installation shall be established by ordinance.

### **21.12.060 Same—Service to City Departments.**

The rates for water and water service supplied to the various departments of the City shall be the same as those rates in effect for all other consumers within the City, as in this Chapter specified, and the water and water service so furnished shall be charged to their respective budget accounts and paid for monthly from such funds into the fund provided for by the receipts from sale of water.

### **21.12.070 Reading of Meters; Average Bills When Meters Not Read; Billing When Meter Fails to Function; Where Water Bills to be Mailed.**

Under ordinary conditions, continuous service meters shall be read monthly on approximately the same day of the month, and a bill issued showing the period covered by the meter readings, the quantity of water used, and the total charge for the service rendered. When it is impossible to read the meter due to any obstructions, an average bill, or a series of average bills, will be rendered, will be adjusted at the next actual reading date. If the

---

meter fails to register, the charge for water will be based upon the average of the comparable period of the preceding year, taking into consideration the volume of business, weather conditions, and any other factors that may assist in determining an equitable charge. Unless the applicant for water service shall direct otherwise, all bills will be mailed to the premises where service is furnished.

#### **21.12.080 Testing of Water Meters.**

When the accuracy of a water meter is questioned, the department shall, upon the request of a consumer on the form provided, cause an official test to be made upon deposit by the consumer, an amount determined by the meter size and as established by ordinance.

If, upon examination of the meter to ascertain the accuracy of its operation, it shall be found to register over three percent more water than actually passed through it, another meter will be substituted therefor, and the fee charged for such test will be refunded to the person making the application. An adjustment for a period of three months prior to the test will be made on the basis of the percentage the meter is in error.

#### **21.12.090 When Bills to be Mailed; When Bills Due; Re-establishment of Service.**

- A. Water bills based on meter readings shall be prepared and mailed to the consumers bimonthly. Bills will be due and payable upon receipt. No less than 19 days shall be allowed from the date of mailing such bills for payment thereof, and bills will be deemed delinquent thereafter. A ten percent penalty per billing period will be charged on all delinquent bills.
- B. If service is terminated in accordance with the provisions of the Title, service will not be renewed until the delinquent bill is paid together with penalties and charges, including the cost of reconnection as defined in this Title. An additional deposit will also be required pursuant to the rates established in this Chapter.
- C. In the case of service to rental property, the property owner shall be liable for any billings not paid by the tenant.

(Ord. No. 554)

#### **21.12.100 Adjustment of Bills.**

Water bill adjustments may be made by the City in accordance with administrative regulations approved by the City Manager.

#### **21.12.110 Persons Using Water Without Proper Application Liable for All Water Chargeable to Premises.**

A person taking possession of any premises and using water through an active service connection without having made application to the City for water service shall be held liable for the water delivered from the date of the last recorded meter reading, and if the meter was found inoperative, the quantity of water consumed shall be estimated.

If proper application for water service is not made promptly upon notification to do so by the department without further notice.

---

### **21.12.120 Service May Be Denied Former Consumers Having Outstanding Bills.**

When an application for water service is made by a former consumer who has failed to pay all bills for service previously rendered, the City may refuse to furnish water to such applicant until the outstanding bills are paid, plus any applicable penalties.

### **21.12.130 Department May Render Additional Services; Charges.**

- A. The department may render any reasonable service in connection with the supply of water service to consumers upon application at the main office of the department; provided that reasonable charges may be made for any expense involved in rendering the service.
- B. All bills for labor, material furnished, or other charges not provided for otherwise, shall become due and payable at the same time and in the same manner as the next regular billing for water, and shall become delinquent at the same time as is provided for delinquent payments on regular water bills.

### **21.12.140 Water Rates and Charges.**

The following rates and charges are established:

- A. *Refundable Water Deposit.* The deposit shall be three times the base monthly service charge for new accounts, with a refund upon request after two years of acceptable payment history or upon termination of the account. If a customer's service is discontinued because of nonpayment, the customer is required to deposit with the City an amount equal to three times the base monthly service charge. When two consecutive years of acceptable payments have been made or upon termination of the account, the deposit will be refunded at the request of the customer.
- B. *Notification to Pay Bill (Door Hangers).* If a door hanger or any other personally delivered form of notification is required to notify customers of pending water shutoff, a charge as set forth in the City of Del Mar Fee Schedule will be paid before the water will be reconnected.
- C. *Water Reconnect Penalties.* When it is necessary to shut off a customer's water because of nonpayment, the City will impose a penalty in an amount set forth in the City of Del Mar Fee Schedule and customer will be billed at actual costs of labor and vehicle for after hours reconnection. The penalty and all outstanding charges must be paid before the water will be reconnected.

If a disconnected service is illegally reconnected by the customer, a penalty in an amount set forth in the City of Del Mar Fee Schedule will be assessed. If it is necessary to remove the meter to prevent the customer from reconnecting the water, the customer will be required to pay an amount set forth in the City of Del Mar Fee Schedule and all outstanding charges before the meter can be reinstalled.

- D. *Testing of Water Meters.* When the accuracy of a water meter is questioned by the customer, the City will remove the meter and send it out to be calibrated if requested by the customer and the meter is found to be in good working order, the customer will be charged the actual cost of the testing to the City. If the meter is found to be faulty, the City will incur the cost of calibration.

(Ord. No. 512; Ord. No. 828; Ord. No. 968 , § 2, 7-20-2020)

TITLE 21 - WATER SUPPLY  
Chapter 21.70 EMERGENCY WATER MANAGEMENT

---

## Chapter 21.70 EMERGENCY WATER MANAGEMENT<sup>1</sup>

### 21.70.010 Purpose.

This Chapter establishes an emergency water management program in order to conserve water supplies, minimize the effects of water supply shortages, and allow the City to respond to water emergency conditions. (Cal. Const. Art. X, §§ 2 and 7; and Water Code § 375.)

(Ord. No. 603; Ord. No. 816; Ord. No. 828; Ord. No. 903; Ord. No. 998 , § 1, 6-19-2023)

### 21.70.020 Scope of Chapter.

The provisions of this Chapter shall apply to all persons using water delivered by the City.

( Ord. No. 998 , § 1, 6-19-2023)

### 21.70.030 Water Conservation Policy.

- A. It is the policy of the City that all public and private users of water delivered by the City shall use such water for reasonable purposes and in a reasonable manner in a conscientious effort to conserve water.
- B. When the emergency water use regulations in this Chapter are not declared to be in effect, those regulations may still be considered as recommended methods for voluntarily conserving water.
- C. The City may initiate and maintain education programs to encourage the conservation of water.

( Ord. No. 998 , § 1, 6-19-2023)

Cross reference(s)—Water conservation program, Ch. 21.60.

### 21.70.040 Water Management Regulations.

- A. *Levels.* During water shortages, the City shall impose water use regulations in levels. Sections 21.70.100 et seq. of this Chapter contain a sequential, regulatory program of increasingly more stringent prohibitions on the use of water delivered within the City. When the City declares that a particular water shortage level is in effect, the regulations contained in a declared level shall be complied with by all persons using water delivered by the City.
- B. *Declaration of Level.*

---

<sup>1</sup>Ord. No. 998 , § 1, adopted June 19, 2023 amended Ch. 21.70 in its entirety to read as set out herein. Former Ch. 21.70, §§ 21.70.010—21.70.160 pertained to similar subject matter. Historical notations have been retained for reference purposes.

1. The City shall monitor the projected supply of water and the demand for water by persons within its jurisdiction and, in consultation with those agencies providing water to City, determine when water management regulations are required in order for the City to deal with water shortages.
2. When it is determined that a particular level of water management regulation is required, either the City Council or the City Manager may issue a declaration which will announce the level of regulatory management that is to be imposed. Moving to Level 6 requires a properly noticed public hearing.
3. The declaration shall be made by public announcement posted at City Hall. Also, the City Manager may publish a notice of the determination in a newspaper of general circulation and on the City website.
4. If the declaration is made by the City Manager, the matter shall be placed on the agenda of the City Council at its next meeting. The City Council shall thereupon ratify the City Manager's declaration, rescind the declaration, or issue its own declaration.
5. The regulatory level announced in the declaration shall become effective seven days following the date of posting; except, when a water emergency is declared, the regulatory level shall become effective immediately upon posting.

( Ord. No. 998 , § 1, 6-19-2023)

#### **21.70.050 Modification of Regulation as Applied In Special Circumstance.**

- A. *Appeals Board.* An Appeals Board for this Chapter shall consist of the City Council.
- B. *Appeal.*
  1. Any person subject to the regulations and decisions imposed in accordance with the provisions of this Chapter may submit an appeal, in writing, to the City Clerk.
  2. The City Manager may render a decision or set the matter to be heard by the Appeals Board which will render a written decision within 30 calendar days of the receipt of the appeal.
  3. If the appellant is dissatisfied with the City Manager's determination, the appellant may seek a review by the Appeals Board.
- C. *Modification Authorized.* In accordance with the procedures provided above, the City Manager and the Appeals Board are authorized to make minor and limited modifications to any regulation in this Chapter when it has been demonstrated that due to special circumstances as applied to a particular case, the application of the unmodified regulation constitutes a threat to health, safety or welfare or will result in an undue, unreasonable hardship. Provided, however, that such modification shall not cause water to be wasted or used in an unreasonable manner and the purposes of this Chapter can be accomplished.

( Ord. No. 998 , § 1, 6-19-2023)

#### **21.70.060 Prohibition.**

- A. It is unlawful for any person to knowingly use water or permit the use of water supplied by the City in a manner contrary to any provision of this Chapter declared to be in effect. (Misdemeanor in accordance with Water Code § 377.)

- B. The use of reclaimed or "grey" water in accordance with the regulations of the Department of Health Services and in accordance with any other applicable regulations, is not subject to the regulations of this Chapter.
  - C. It is a misdemeanor for anyone to tamper with or otherwise interfere with the operation of a water meter without the express authority, in writing, of the City.
  - D. It is unlawful for any person to knowingly present false information to the City when information is requested by the City in accordance with the provisions of this Chapter.
  - E. Compliance with this Section is a condition imposed upon the continued uninterrupted delivery of water.
- ( Ord. No. 998 , § 1, 6-19-2023)

### **21.70.090 Enforcement—Restricting or Discontinuing Water Service.**

- A. A continued, willful failure to comply with the conditions imposed upon the continued, uninterrupted delivery of water may result in a Notice of Violation being mailed to the metered customer, accompanied by a copy of relevant portions of these regulations.
- B. Failure to correct the violation by bringing water use into compliance with the conditions imposed upon the continued, uninterrupted delivery of water will result in a Notice of Hearing Re: Violation being mailed to the metered customer.
- C. The City Manager shall conduct the hearing. The noticed person shall have the opportunity to present information and arguments in response to the notice.
- D. Following the hearing, if an uncured violation is found to exist, the City Manager may order either:
  1. The installation of a flow restrictor in the meter for a minimum of 72 hours; or
  2. Discontinuance of water service for a specified period of time.
- E. When it is necessary to install a flow restrictor or to discontinue service, a metered customer shall pay a fee of \$250.00 to the City. When it is necessary to remove a flow restrictor or to re-establish water service, a metered customer shall pay a fee of \$250.00 to the City. The fees referenced in this subparagraph are payable by the metered customer when the service is rendered. Further, payment in full of all outstanding fees is a condition to the restoration of full service.

( Ord. No. 998 , § 1, 6-19-2023)

### **21.70.110 Water Shortage Level 1—Watch Condition.**

- A. A Water Shortage Level 1 condition is also referred to as a " Water Storage Watch" condition. Level 1 shall be declared to encourage voluntary water conservation with an aim towards reducing water demand by up to 10%. This Level 1 condition applies when the Water Authority notifies its member agencies to activate the appropriate voluntary provisions of the water shortage contingency plan.
- B. When Level 1 is declared and in effect, all persons shall comply with the voluntary water usage reductions and other mandatory conditions as may be identified by the Governor, State of California, or San Diego County Water Authority.
- C. When Level 1 is declared and in effect, metered customers of the City shall receive uninterrupted water delivery subject to the modified volumetric rates as follows:
 

Volumetric rates applied to usage by customer classes.

Bimonthly Usage	Bimonthly Rate per Unit of Water Used During Water Shortage Level 1				
	7/1/2024	7/1/2025	7/1/2026	7/1/2027	7/1/2028
Single-Family					
Tier 1: 1-22 units	\$6.34	\$6.47	\$6.60	\$6.74	\$6.87
Tier 2: 23+ units	\$7.47	\$7.62	\$7.77	\$7.92	\$8.08
Multi-Family	\$6.91	\$7.06	\$7.20	\$7.34	\$7.48
Commercial/ Institutional	\$6.89	\$7.03	\$7.17	\$7.31	\$7.46
Irrigation	\$7.33	\$7.48	\$7.63	\$7.79	\$7.94
Fairgrounds	\$8.29	\$8.45	\$8.62	\$8.79	\$8.96

- C. Irrigating "Non-Functional Turf" at commercial, industrial, and institutional sites is prohibited. "Non-Functional Turf," as defined in section 996 of title 23 of the California Code of Regulations, as may be amended from time to time, is defined as any turf (grass) that is solely ornamental and not regularly used for human recreational purposes or for civic or community events. "Non-Functional Turf" does not include sports fields and turf that is regularly used for human recreational purposes or for civic or community events.
1. Notwithstanding subsection (C)(1), the use of water is not prohibited by this section to the extent necessary to ensure the health of trees and other perennial non-turf plantings or to the extent necessary to address an immediate health and safety need.
  2. Notwithstanding subsection (C)(1), the City may approve a request for continued irrigation of non-functional turf where the user certifies that the turf is a low water use plant with a plant factor of 0.3 or less, and demonstrates the actual use is less than 40% of reference evapotranspiration.
- D. Wasteful and Unreasonable Water Uses are prohibited as listed in section 995 of title 23 of the California Code of Regulations to prevent unreasonable use of water and to promote water conservation. The following water usage activities are prohibited:
1. Washing down paved surfaces, including but not limited to sidewalks, driveways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards.
  2. Water waste resulting from inefficient landscape irrigation, such as runoff, low head drainage, or overspray, etc. Similarly, irrigation causing water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures are prohibited.
  3. Irrigation is prohibited during and within 48 hours after measurable rainfall of at least one-fourth of one inch of rain.
  4. Use of a handheld hose equipment without a positive shut-off nozzle to wash vehicles, except where the hose is fitted with a shut-off nozzle. It is encouraged to use a bucket to wash vehicles or at a commercial site with recirculated water.
  5. Use of potable water to operate ornamental fountains with exceptions for those fountains that use pumps to recirculate water and only require refilling to replace evaporative losses.
  6. Use of potable water for street cleaning or construction purposes, unless non-potable water is unavailable or as-needed to protect the health and safety of the public.

E. In addition to the water usage reductions and other conditions referenced in subsections B, C, and D above, when Level 1 is declared and in effect all persons are requested to comply with the following water demand reduction measures;

1. Irrigate residential and commercial landscape before 10:00 a.m. or after 6:00 p.m.; limited to three applications per week.
2. Serve and re-fill water in restaurants, bars, and other food service establishments only upon request.
3. Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.
4. Repair all water leaks within 72 hours of notification by the City.

Additional Conditions on Uninterrupted Delivery: None.

(Ord. No. 816; Ord. No. 828; Ord. No 948 , § 2, Exh. B, 6-3-2019; Ord. No. 984 , § 1, 12-13-2021; Ord. No. 991 , § 1, 7-11-2022; Ord. No. 998 , § 1, 6-19-2023)

**21.70.120 Water Shortage Level 2—Warning Condition.**

- A. Water Shortage Level 2 condition is also referred to as a " Water Shortage Warning" condition. Level 2 shall be declared when the City determines that water usage should be reduced up to 20 percent from the ordinary demand requirement, as determined by the City.
- B. When Level 2 is declared and in effect, metered customers of the City shall receive uninterrupted water delivery subject to the modified volumetric rates as follows:

Bimonthly Usage	Bimonthly Rate per Unit of Water Used During Water Shortage Level 2				
	7/1/2024	7/1/2025	7/1/2026	7/1/2027	7/1/2028
<b>Single-Family</b>					
Tier 1: 1-22 units	\$6.44	\$6.57	\$6.70	\$6.84	\$6.97
Tier 2: 23+ units	\$7.58	\$7.73	\$7.89	\$8.04	\$8.21
Multi-Family	\$7.04	\$7.19	\$7.33	\$7.48	\$7.62
Commercial/ Institutional	\$6.99	\$7.14	\$7.28	\$7.43	\$7.57
Irrigation	\$7.68	\$7.83	\$7.99	\$8.15	\$8.31
Fairgrounds	\$8.58	\$8.75	\$8.92	\$9.10	\$9.28

C. When Level 2 is declared and in effect, the demand reduction measures listed in Level 1 shall become mandatory. Additional measures may be implemented based on City Council direction or Emergency Orders.

(Ord. No. 816; Ord. No. 828; Ord. No. 903; Ord. No 948 , § 2, Exh. B, 6-3-2019; Ord. No. 991 , § 1, 7-11-2022; Ord. No. 998 , § 1, 6-19-2023)

**21.70.130 Water Shortage Level 3— Acute Condition.**

- A. A Water Shortage Level 3 condition is also referred to as an "Acute Water Shortage" condition. Level 3 shall be declared when the City determines that water usage should be reduced up to 30 percent from the ordinary demand requirement, as determined by the City.
- B. When a Level 3 is declared and in effect, metered customers of the City shall receive uninterrupted water delivery subject to the modified volumetric rates as follows:

Volumetric rates applied to usage by customer classes.

Bimonthly Usage	Bimonthly Rate per Unit of Water Used During Water Shortage Level 3				
	7/1/2024	7/1/2025	7/1/2026	7/1/2027	7/1/2028
<b>Single-Family</b>					
Tier 1: 1-22 units	\$6.55	\$6.69	\$6.83	\$6.96	\$7.10
Tier 2: 23+ units	\$7.72	\$7.87	\$8.03	\$8.19	\$8.35
Multi-Family	\$7.20	\$7.35	\$7.50	\$7.65	\$7.80
Commercial/ Institutional	\$7.12	\$7.27	\$7.42	\$7.56	\$7.71
Irrigation	\$8.27	\$8.43	\$8.61	\$8.78	\$8.96
Fairgrounds	\$9.02	\$9.20	\$9.38	\$9.57	\$9.76

- C. In addition to the water usage reductions and other conditions referenced in Level 1 and Level 2, when Level 3 is declared and in effect all persons are requested to comply with the following water demand reduction measures:
  1. Irrigate residential and commercial landscape before 10:00 a.m. or after 6:00 p.m.; limited to two applications per week. Irrigation is prohibited during and within 48 hours after measurable rainfall of at least one-fourth of one inch of rain.
  2. Repair all water leaks within 48 hours of notification by the City.
  3. Only wash vehicles or at a commercial site with recirculated water.

(Ord. No. 816; Ord. No. 828; Ord. No. 903; Ord. No 948 , § 2, Exh. B, 6-3-2019; Ord. No. 998 , § 1, 6-19-2023)

**21.70.140 Water Shortage Level 4—Critical Condition.**

- A. A Water Shortage Level 4 condition is also referred to as a " Critical Water Shortage " condition. Level 4 shall be declared when the City requires a demand reduction of 40 percent in order for the City of Del Mar to have maximum supplies available to meet anticipated demands from the ordinary demand requirement, as determined by the City.
- B. When Level 4 is declared and in effect, metered customers of the City shall receive uninterrupted water delivery subject to the modified volumetric rates as follows:

Volumetric rates applied to usage by customer classes.

Bimonthly Usage	Bimonthly Rate per Unit of Water Used During Water Shortage Level 4				
	7/1/2024	7/1/2025	7/1/2026	7/1/2027	7/1/2028
<b>Single-Family</b>					
Tier 1: 1-22 units	\$6.69	\$6.83	\$6.97	\$7.11	\$7.25
Tier 2: 23+ units	\$7.88	\$8.04	\$8.20	\$8.36	\$8.53
Multi-Family	\$7.41	\$7.56	\$7.71	\$7.86	\$8.02
Commercial/ Institutional	\$7.28	\$7.43	\$7.58	\$7.73	\$7.88
Irrigation	\$9.50	\$9.69	\$9.89	\$10.09	\$10.29
Fairgrounds	\$9.75	\$9.95	\$10.14	\$10.34	\$10.55

- C. The water usage reductions and other conditions established in Level 1, Level 2, and Level 3 will remain in place. Additional demand reduction measures will be established by the City Council and implemented.

(Ord. No. 816; Ord. No. 828; Ord. No. 903; Ord. No. 948 , § 2, Exh. B, 6-3-2019; Ord. No. 998 , § 1, 6-19-2023)

### **21.70.150 Water Shortage Level 5—Emergency Condition.**

- A. A Water Shortage Level 5 condition is also referred to as a "Water Shortage Emergency" condition. A Level 5 shall be declared when the City requires a demand reduction of 50 percent in order for the City of Del Mar to have maximum supplies available to meet anticipated demands from the ordinary demand requirement, as determined by the City.
- B. When Level 5 is declared and in effect, metered customers of the City shall receive uninterrupted water delivery subject to the modified volumetric rates as follows:

Volumetric rates applied to usage by customer classes.

Bimonthly Usage	Bimonthly Rate per Unit of Water Used During Water Shortage Level 5				
	7/1/2024	7/1/2025	7/1/2026	7/1/2027	7/1/2028
<b>Single-Family</b>					
Tier 1: 1-22 units	\$6.87	\$7.02	\$7.16	\$7.30	\$7.45
Tier 2: 23+ units	\$8.09	\$8.26	\$8.42	\$8.59	\$8.76
Multi-Family	\$7.68	\$7.84	\$8.00	\$8.16	\$8.31
Commercial/ Institutional	\$7.48	\$7.63	\$7.79	\$7.94	\$8.10
Irrigation	\$13.82	\$14.09	\$14.38	\$14.67	\$14.97
Fairgrounds	\$11.26	\$11.48	\$11.70	\$11.94	\$12.18

- C. The water usage reductions and other conditions established in Level 1, Level 2, Level 3, and Level 4 will remain in place. Additional demand reduction measures will be established by the City Council and implemented.

( Ord. No. 998 , § 1, 6-19-2023)

**21.70.160 Water Shortage Level 6—Catastrophic Condition.**

- A. A Water Shortage Response Level 6 condition is also referred to as a "Catastrophic Water Shortage" condition. Level 6 shall be declared when the City declares a water shortage emergency pursuant to California Water Code Section 350 which requires a demand reduction of greater than 50 percent in order for the City of Del Mar to have maximum supplies available to meet anticipated demands from the ordinary demand requirement, as determined by the City.

- B. When Level 6 is declared and in effect, metered customers of the City shall receive uninterrupted water delivery subject to the modified volumetric rates as follows:

Volumetric rates applied to usage by customer classes.

Bimonthly Usage	Bimonthly Rate per Unit of Water Used During Water Shortage Level 6				
	7/1/2024	7/1/2025	7/1/2026	7/1/2027	7/1/2028
Single-Family					
Tier 1: 1-22 units	\$6.97	\$7.12	\$7.26	\$7.41	\$7.55
Tier 2: 23+ units	\$8.21	\$8.38	\$8.54	\$8.71	\$8.89
Multi-Family	\$7.88	\$8.04	\$8.20	\$8.36	\$8.53
Commercial/ Institutional	\$7.59	\$7.75	\$7.91	\$8.06	\$8.22
Irrigation	N/A	N/A	N/A	N/A	N/A
Fairgrounds	\$14.05	\$14.32	\$14.60	\$14.90	\$15.19

Note: Irrigation use is assumed to be curtailed at this Shortage Level.

- B. The water usage reductions and other conditions established in Level 1, Level 2, Level 3, Level 4 and Level 5 will remain in place. Additional demand reduction measures will be established by the City Council and implemented.

( Ord. No. 998 , § 1, 6-19-2023)

**21.70.170 Wastewater Utility Rates During Water Shortage Conditions.**

- A. Wastewater customers are billed for sewer service based on their water usage. During water shortage periods, water usage will decline and threaten the fiscal stability of the wastewater utility. Therefore, during water shortage periods, wastewater charges will be calculated based on the assumption that sewer usage is the same as the commensurate month from the last non-drought fiscal year. Drought sewer charges will be lifted after one full year of non-drought consumption records can be established.

1. *Residential.* Sewer discharges will be estimated based on the assumed sewage usage during the last non-drought year.

- 
2. *Commercial.* Sewer discharges will be estimated based on 90 percent of the water usage during the last non-drought year. A user may petition to have their sewer discharge (water usage) assumption lowered if their annual water demand drops below their non-drought water demands by a level below the drought reduction levels plus an additional 20 percent. As a user can meet the previously defined criteria, their sewage discharge assumptions will be lowered to the current water demands, adding back any water savings required under the drought requirements. As an example, if the drought reductions are 20 percent, and the user drops their water consumption by 45 percent, then the resulting sewer will be calculated based on 120 percent of the current water consumption.
  3. *Fairgrounds.* Sewer commodity charges during drought conditions will be calculated based on the greater of (1) the rolling average of the past same bimonthly period during the last three fiscal years or (2) the actual metered sewage.

(Ord. No 948 , § 2, Exh. B, 6-3-2019; Ord. No. 998 , § 1, 6-19-2023)

### **21.70.180 Additional Conditions on Uninterrupted Delivery.**

In accordance with California Government Code § 53756, the rates posted above will be adjusted accordingly to account for any increases in the purchase cost of wholesale water, or increases in inflationary measure.

( Ord. No. 998 , § 1, 6-19-2023)

---

## Chapter 22.04 GENERAL

### 22.04.010 Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section.

- A. Unless otherwise defined herein, terms related to water quality shall be as adopted in the latest edition of Standard Methods for Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Environment Federation. The testing procedures for waste constituents and characteristics shall be as provided in 40 CFR 136 (Code of Federal Regulations).
- B. Other terms not herein specifically defined shall have the same definition as set forth in the latest adopted editions of the California Codes of Regulations applicable to building construction adopted pursuant to the California Building Standards Law.
- C. Subject to the foregoing provisions, the following definitions shall apply in these regulations:
  1. *Applicant* means any person who applies for connections to the sewer system.
  2. *Assessment* means a levy of special assessment which is shown on the records of the City. Any other assessment for a sewer main shall be construed as a nominal or partial assessment for the purposes of this Chapter.
  3. *Best Management Practices* means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the introduction of Fats, Oils, and Grease (FOG) to the sewer facilities as more specifically provided for in Subsection 22.08.051.B. of these regulations.
  4. *Change in Operations*. Any change in the ownership, food types, operational procedures or business practices that have the potential to increase the amount of FOG generated and/or discharged by Food Service Establishments in an amount that alone or in conjunction with other FOG discharges causes or creates a potential for sanitary sewer overflows (SSOs) to occur.
  5. *City*. The City of Del Mar or the City Council of Del Mar.
  6. *Composite Sample*. A collection of individual samples obtained at selected intervals based on an increment of either flow or time. The resulting mixture (composite sample) forms a representative sample of the waste stream discharged during the sample period.
  7. *Department*. The Department of Public Works of the City. Action of the Department may be taken by the Director of Public Works or his duly authorized representative.
  8. *Director*. The person designated by the City Manager to have charge of the administration and supervision of the Public Works Department, and such other duties as the City Manager may prescribe.
  9. *Discharger*. Any person who discharges or causes a discharge of wastewater or waste directly or indirectly to the sewer facilities. Discharger shall mean the same as User.

10. *Effluent*. Any liquid outflow from a Food Service Establishment that is discharged to the sewer facilities.
11. *Equivalent Dwelling Unit* means the unit of measure which is based on the flow characteristics of an average single-family residence in terms of sewage quantity and constituent quality.
12. *Extension* means an extension of an existing sewer main.
13. *Fats, Oils, and Grease ("FOG")* means any substance such as a vegetable or animal product that is used in, or is a by-product of, the cooking or food preparation process, and that turns or may turn viscous or solidifies or may solidify with a change in temperature or due to other conditions. Discharges of FOG to the sewer system from a Food Service Establishment constitute the discharge of industrial waste.
14. *FOG Control Program* means the FOG control program required by and developed pursuant to SWRCB Order No. 2006-0003-DWQ, Section (D)(13)(vii) and by the RWQCB directive R9-2007-0005.
15. *FOG Control Program Administrator* means the individual designated by the City Manager to administer the FOG Control Program. Except as otherwise set forth in this Chapter, the FOG Control Program Administrator is responsible for all determinations of compliance with the FOG control program.
16. *Food Service Establishment* means facilities defined in California Uniform Retail Food Facilities Law (CURFFL), California Health and Safety Code Section 113785, and any commercial entity discharging directly or indirectly to the City's sewer system, operating in a permanently constructed structure such as a room, building, or place, or portion thereof, maintained, used, or operated for the purpose of storing, preparing, serving, manufacturing, packaging, or otherwise handling food for sale to other entities, or for consumption by the public, its members or employees, and which has any process or device that uses or produces FOG, or grease vapors, steam, fumes, smoke or odors that are required to be removed by a Type I or Type II hood.
17. *Food Grinder* means any device installed for the purpose of grinding food waste or food preparation by-products for disposal to the sewer system.
18. *General Business/Institutional* shall mean all businesses, offices, governmental agency offices and any other similar user not otherwise included in another category and with a combined sewer strength of less than or equal to a Single-Family Residence.
19. *Grab Sample*. A sample taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.
20. *Gravity Grease Interceptor* means a multi-compartment device that is constructed in different sizes and is generally required to be located, according to the California Plumbing Code, underground between a Food Service Establishment and the connection to the sewer system. These devices primarily use gravity to separate FOG from the wastewater as it moves from one compartment to the next. These devices must be cleaned, maintained, and have the FOG removed and disposed of in a proper manner on regular intervals to be effective.
21. *Grease* means any material which is extractable from an acidified sample of a waste by hexane or other designated solvent and as determined by the appropriate procedure in "Standard Methods" (includes fats and oils).
22. *Grease Control Device* means any gravity grease interceptor, hydromechanical grease interceptor or other mechanism, device, or process, which attaches to, or is applied to, wastewater plumbing fixtures and lines, the purpose of which is to trap, collect or treat FOG prior to discharge into the

sewer system. "Grease control device" may also include any other proven method to reduce FOG subject to the approval of the City.

23. *Hotel/Motel* means all living units of a transient nature including hotel and motel rental room units, and also living units of a permanent nature which do not contain any kitchen facilities. Excluded from the category are Major Full Service Hotels.
24. *Hot Spots* means areas in sewer lines that have experienced sanitary sewer overflows or that must be cleaned or maintained frequently to avoid blockages of the sewer system.
25. *Hydromechanical Grease Interceptor* means a grease control device that is used to serve individual fixtures and have limited effect and should only be used in those cases where the use of a gravity grease interceptor or other grease control device is determined to be impossible or impracticable. Formerly referred to as a grease trap.
26. *Industrial Wastewater* means all water-carried wastes and wastewater of the community, excluding domestic wastewater and uncontaminated water. Includes all waste-water from any producing, manufacturing, processing, institutional, commercial or agricultural source.
27. *Inflow* means surface, storm water or urban runoff which enters the sewer system. Inflow may, in certain circumstances, cause a rapid increase in wastewater flows.
28. *Infiltration* means water entering the sewer system from the ground through such means as defective pipes, pipe joints, connections, or manhole walls.
29. *Inspector* means a person authorized by the City Manager to inspect any existing or proposed wastewater or waste generation, conveyance, processing and/or disposal facilities.
30. *Interceptor* means a hydromechanical or gravity grease interceptor.
31. *Interference* means any discharge which, alone or in conjunction with discharges from other sources, inhibits or disrupts the City's sewer system, collection processes or operations; or is a cause of violation of Chapter 22 of the City of Del Mar Municipal Code.
32. *Limited Food Preparation Establishment* means an establishment engaged only in reheating, hot holding or assembly of ready-to-eat (precooked and prepackaged) food products from which establishment there is only a de minimus discharge of FOG to the sewer system. A limited food service preparation establishment is not considered a Food Service Establishment under this Chapter. A limited food preparation establishment does not include any preparation that changes the form, flavor or consistency of food. Any person who contends that he/she/it meets the definition of a limited food preparation establishment shall have the burden to establish that he/she/it meets the criteria set forth in this definition.
33. *Main* means an existing sewer main in the sanitary sewer system of the City.
34. *Major Full Service Hotel* shall mean a full service facility having rooms, restaurant(s) and/or bars serving food, and/or providing room service from an onsite kitchen.
35. *Manifest* means that receipt to be retained by the generator of wastes for disposing of recyclable wastes or other liquid or solid wastes as required by the City or a regulatory agency.
36. *New Construction* means any structure planned or under construction for which a sewer connection permit has not been issued.
37. *Person* means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

- 
38. *Pretreatment or Treatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing to the sewer system.
39. *Regulatory Agencies* means regulatory Agencies shall mean those agencies having regulatory jurisdiction over environmental quality matters, including, but not limited to:
- a. United States Environmental Protection Agency, Region IX, San Francisco and Washington, DC (EPA).
  - b. California State Water Resources Control Board (SWRCB).
  - c. California Regional Water Quality Control Board, San Diego Region (RWQCB).
  - d. Air Pollution Control District County of San Diego, Air Quality Management District (AQMD).
  - e. California Department of Health Services (DOHS).
  - f. San Diego County Department of Environmental Health (DEH).
40. *Remodeling* means a physical or operational change (a) causing an increase in the amount of FOG discharged to the sewer system by a Food Service Establishment which amount, alone or in conjunction with other FOG discharges, causes or creates a potential for an SSO to occur; or (b) exceeding a cost of \$50,000.00 to a Food Service Establishment, requiring a building permit, and involving any one or combination of the following: (1) under slab plumbing in the food processing area, (2) a 30 percent increase in the net public seating area, (3) a 30 percent increase in the size of the kitchen area, or (4) any change in the size or type of food preparation equipment.
41. *Residential* shall refer to all living or dwelling units (as defined by the Uniform Building Code) of a permanent, rather than transient nature, including single-family residences, apartments, manufactured homes, townhouses and condominiums.
42. *Restaurant* shall mean all establishments whose principal activity involves on-premise service of meals and food, including coffee shops and cafes. Also included in this category are bakeries whose principal activity involves the production of baked goods onsite.
43. *Sample Point* means a location approved by the City, from which industrial wastewater can be collected that is representative in content and consistency of the entire flow of industrial wastewater being discharged to the sewer system.
44. *Sampling Facilities* means structure(s) provided at the user's expense for the City or user to measure and record wastewater constituent mass concentrations, collect a representative sample, or provide access to plug or terminate the discharge to the sewer system.
45. *Sewage* means wastewater.
46. *Sewer Connection or lateral* means the service pipes extending from the private property line to the public sewer main in a public street, alley or easement.
47. *Sewer System* means the sewer system of the City, as acquired by the City from the Del Mar Utilities, together with any additions thereto.
48. *Shopping Center* shall be defined as more than one commercial unit connected to the same water meter where at least one business exists whose principal activity falls into the restaurant category. Also included in this category are any businesses defined as a Take-Out-Food Business.
49. *Sludge* means any solid, semi-solid or liquid decant, subnate or supernate from a manufacturing process, utility service, or pretreatment facility.

50. *Supermarket* shall mean all businesses whose principal activity involves retail sale of groceries and which have onsite waste grinders attached to the sanitary sewer system.
  51. *Take-Out-Food Business* shall be defined as all drive-ins, sandwich shops, fast food outlets and similar businesses whose principal activity involves food services but which do not provide on-premises eating facilities or which provide only disposable eating implements (paper plates, plastic utensils, etc.)
  52. Twenty-five percent (25%) Rule. Requirement for gravity grease interceptors to be maintained such that the combined FOG and solids accumulation does not exceed 25 percent of the design hydraulic depth of the gravity grease interceptor. This is to ensure that the minimum hydraulic retention time and required available hydraulic volume is maintained to effectively intercept and retain FOG prior to entry into the public sewer system.
  53. *User* means any person who discharges or causes a discharge of wastewater or waste directly or indirectly to sewer facilities. "User" shall mean the same as Discharger.
  54. *Waste* means sewage and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation or of human or animal nature, including such wastes placed within containers of whatever nature prior to and for the purpose of disposal.
  55. *Wastewater* means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the sewer system.
  56. *Waste Minimization Practices* means plans or programs intended to reduce or eliminate discharges to the sewer system or to conserve water, including, but not limited to, product substitutions, housekeeping practices, inventory control, employee education, and other steps as necessary to minimize waste or wastewater produced.
  57. *Wastehauler* means any person carrying on or engaging in vehicular transport of waste as part of, or incidental to, any business for that purpose.
  58. *Wastewater* means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the sewer system.
  59. *Wastewater Constituents and Characteristics* means the individual chemical, physical and bacteriological parameters, including volume and flow rate, and such other parameters that serve to define, classify or measure the quality and quantity of wastewater.
- D. Words used in these regulations in the singular may include the plural and the plural the singular. Use of masculine shall mean feminine and use of feminine shall mean masculine. Shall is mandatory; may is permissive or discretionary.

(Ord. No. 106, § 1; Ord. No. 488; Ord. No. 472; Ord. No. 655; Ord. No. 828; Ord. No. 831)

#### **22.04.020 Service and Connection Charges.**

- A. The sewer service and connection charges for each residential, commercial or other persons using the municipal sanitary sewer system of the City shall be:
  1. *Bimonthly Service Charge.*  
*Single Family:* The bimonthly wastewater (sewer) service for single family is equal to the charge for a ½" meter of \$127.10, regardless of size, beginning January 1, 2024; \$141.60 beginning July 1, 2024;

\$144.43 beginning July 1, 2025; \$147.32 beginning July 1, 2026; \$150.27 beginning July 1, 2027; and \$153.28 beginning July 1, 2028.

*Multi-Family, Commercial, Institutional:* The sewer service for each multi-family, commercial or institutional service using the municipal sanitary system of the City shall be:

Bimonthly Service Charge Effective:					
Meter Size	7/1/24	7/1/25	7/1/26	7/1/27	7/1/28
5/8"	\$141.60	\$144.43	\$147.32	\$150.27	\$153.28
3/4"	\$212.40	\$216.65	\$220.98	\$225.40	\$229.91
1"	\$354.00	\$361.08	\$368.30	\$375.67	\$383.18
1 1/2"	\$708.00	\$722.16	\$736.60	\$751.33	\$766.36
2"	\$1,132.80	\$1,155.4	\$1,178.57	\$1,202.14	\$1,226.18
3"	\$2,265.60	\$2,310.91	\$2,357.13	\$2,404.27	\$2,452.36
Fairgrounds	\$53,045.02	\$54,105.92	\$55,188.04	\$56,291.80	\$57,417.64

2. *Bimonthly Commodity/Volume Charge.* For single family residential users the bimonthly commodity/volume charge will be based on winter water usage subject to the limitations of the sewer cap which is set annually each July 1. The sewer cap will be derived using 100 percent of the water usage for the lowest billing period (two months) during the wet winter months, October through April. If that calculation yields a number less than eight units, the cap will be set at eight units.

Each billing period the single-family residential customer sewer commodity charge will be calculated by using 100 percent of the water used during that billing period by the single family residential commodity rate in effect. If the 100 percent calculation yields a water usage amount that exceeds the individual customer's cap, the customer will be billed for the cap amount. The cap will not apply in calculating the commodity charge for residential customers who have installed sub-meters or irrigation meters where household use without irrigation can be calculated.

Bimonthly Commodity Rate/Volume Charge (cost per unit based on winter water use) Effective:					
	7/1/24	7/1/25	7/1/26	7/1/27	7/1/28
Single-Family Residential	\$9.44	\$9.63	\$9.82	\$10.02	\$10.22
General/Multi-Family	\$9.44	\$9.63	\$9.82	\$10.02	\$10.22
Fairgrounds:* (*100% of metered use)	\$9.44	\$9.63	\$9.82	\$10.02	\$10.22

\* The sewer commodity rate for the Fairgrounds is subject to change pending results of required annual strength testing. If strength measurements increase, the commodity rate will increase accordingly. Reductions in strength measurements will result in a commensurate decrease in the commodity rate.

- 3. *Pass Through Fees and Charges for Wastewater Treatment and Transportation.* All City of San Diego fees and charges for the treatment and transportation of Del Mar's wastewater shall be passed through to Del Mar sewer utility customers.
- 4. *Fats, Oils, and Grease Program Non-Compliance Bimonthly Service Surcharge and Volume Charge.* Restaurants not compliant with the City's Fats, Oils, and Grease Program as identified in this Chapter 22.04 and Chapter 22.08 of the Del Mar Municipal Code may be assessed an additional FOG Program Non-Compliance Surcharge in addition to the monthly service charges identified above. The FOG Program Non-Compliance Surcharge shall be assessed on a bimonthly basis as a fixed additional bimonthly service charge as follows:

7/1/19	1/1/20	1/1/21	1/1/22	1/1/23	1/1/24
\$82.11	\$86.22	\$90.53	\$95.05	\$99.81	\$104.80

An additional volume charge will also apply to 90 percent of water usage as follows:

7/1/19	1/1/20	1/1/21	1/1/22	1/1/23	1/1/24
\$12.42	\$13.01	\$13.66	\$14.34	\$15.06	\$15.81

- 5. *Sub Meters.* If the property owner determines that it is in his/her best interest, a sub meter may be used to establish the wastewater units of return to sewer for the residential customer.
  - a. Readings obtained from sub meters installed for the purpose of measuring exclusively indoor water use in hundred cubic feet (HCF) may be used by the City for the purpose of calculating the sewer commodity charge if the following conditions are met:
    - (1) An application requesting that the water readings from a sub meter be considered in determining the sewer commodity charge must be completed by the customer prior to the installation of a new sub meter. The application must, as a minimum, grant the City reasonable access to the property to read the sub meter on a periodic basis.
    - (2) The use of the sub meter must be pre-approved by the Public Works Director.
    - (3) The sub meter must be connected to a water line exclusively used for indoor water use, and shall read in units of water (HCF). The applicant agrees to City inspection and verification of indoor use.
    - (4) The sub meter must be registered, inspected and certified by the County Department of Agriculture, Weights, and Measures before its installation and every four years thereafter.
    - (5) A monthly service charge will be imposed for the meter reading during which the usage is recorded. That charge shall be 50 percent of the monthly water service charge for a 3/8" water meter.
  - b. It shall be the responsibility of the property owner to obtain and install, at the property owner's expense, the sub meter subject to the requirements of this section.
  - c. A penalty, requiring removal of the sub meter for a period of five years, will be imposed by the City for any sub meter found to be tampered with, adjusted, or improperly installed to produce false readings. It shall be the responsibility of the property owner to pay for the removal of the sub meter.

- B. *Connection and Installation Fees.* The connection fee for a new connection needing to acquire capacity in the sewer system for the first time or upsizing an existing connection will be set as follows:

Meter Size	1/1/15	
5/8"	\$6,443.54	
3/4"	\$9,665.31	
1"	\$16,108.84	
1½"	\$32,217.69	
2"	\$51,548.30	
3"	\$103,096.61	

Existing customers upsizing their water meter will be given a credit commensurate with the connection fee for the current meter.

- C. *Sewer Installation Fee.* The owner or applicant for a connection to the City sewer system shall pay to the City an amount equal to the cost for labor and materials of the installation.

(Ord. No. 561; Ord. No. 651; Ord. No. 655; Ord. No. 665; Ord. No. 688; Ord. No. 699; Ord. No. 714; Ord. No. 731; Ord. No. 769; Ord. No. 828; Ord. No. 903; Ord. No 948 , § 2, Exh. C, 6-3-2019)

**22.04.030 Same—Billing and Payment.**

All sewer service charges imposed under the provisions of this Chapter shall be due and payable at the times and in the manner provided for the payment of water bills. Such sewer service charges shall be billed to the owner or occupant of the premises on the same bill on which the water is billed to such owner or occupant, and shall be subject to the same penalties for delinquency. Such combined bill for water consumed and for sewer service charge shall be paid in its entirety and may not be severed for the separate payment of either portion thereof. Where the premises consume water from a source other than the City water system, the sewer service charge shall be billed to the owner or occupant of the premises in a separate bill. The sewer service charge may be collected by suit in any court of competent jurisdiction or any other manner.

(Ord. No. 106, § 20; Ord. No. 301, § 3)

**22.04.040 Suspension of Sewer Service.**

When deemed necessary by the Director of Public Works for the preservation of public health or safety or for the protection of public or private property, he may suspend sewer service to any person or persons using the sewer system in a manner or way to endanger the public health or safety of public or private property. In suspending service, he may sever all pertinent connections to the public sewer. If such endangerment shall be imminent, then the Director may act immediately to suspend sewer service coincident with notice or warning to such person.

(Ord. No. 106, § 16)

---

#### **22.04.050 Right of Inspection.**

The officers, employees or inspectors of the Water Utilities Department shall have the right to enter upon the premises of any person at reasonable hours to inspect or determine if this Chapter is being violated.

#### **22.04.060 City Manager to Enforce Chapter Provisions.**

The City Manager is hereby charged with the duty of enforcing this Chapter.

#### **22.04.070 Negotiations with Applications.**

The City Manager is authorized to carry on any preliminary negotiations or investigation with any person seeking the use of the sewage facilities of the City.

#### **22.04.080 Application of Revenues.**

Except as provided in Chapter 22.12, revenues derived under the provisions of this Chapter shall be used only for the acquisition, construction, reconstruction, maintenance and operation of the sanitary sewer system, and any surplus thereof shall be applied to the retirement of the bonded indebtedness now outstanding on the sanitary sewer system of the City. Such revenue shall not be used for the acquisition or construction of new local street sewers or laterals as distinguished from main trunk, interceptor and outfall sewers.

#### **22.04.090 Notice to be Given when Premises are Vacated in Order for Water to be Cut Off.**

In case a house or place of business becomes vacant, the regular minimum sewer service charge shall be charged and collected from the owner thereof, whether sanitary service is used or not, until the day upon which the office of the department is notified in writing of the fact that the property is unoccupied, and is requested to shut off water and sanitary service.

#### **22.04.100 Unlawful to Permit Surface Drainage to Enter System.**

No person shall allow, or permit to be allowed, whether knowingly or not, any surface or storm water runoff to enter into any portion of the City sewerage system through either sewer mains, laterals, manholes or any other location in the system.

#### **22.04.110 Wastewater Utility Rates During Demand Management/Drought Conditions.**

Wastewater customers are billed for sewer service based on their water usage. During drought periods, water usage will decline and threaten the fiscal stability of the wastewater utility. Therefore, during drought periods, wastewater charges will be calculated based on the assumption that sewer usage is the same as the commensurate month from the last non-drought fiscal year. Drought sewer charges will be lifted after one full year of non-drought consumption records can be established.

- A. *Residential.* Sewer discharges will be estimated based on the assumed sewage usage during the last non-drought year.
- B. *Commercial.* Sewer discharges will be estimated based on 90 percent of the water usage during the last non-drought year. A user may petition to have their sewer discharge (water usage) assumption lowered if their annual water demand drops below their non-drought water demands by a level below the drought reduction levels plus an additional 20 percent. As a user can meet the previously defined

---

criteria, their sewage discharge assumptions will be lowered to the current water demands, adding back any water savings required under the drought requirements. As an example, if the drought reductions are 20 percent, and the user drops their water consumption by 45 percent, then the resulting sewer will be calculated based on 120 percent of the current water consumption.

C. *Fairgrounds*. Sewer commodity charges during drought conditions will be calculated based on the greater of:

- (1) The rolling average of the same bi-monthly period from the last three fiscal years, or
- (2) The actual metered sewage.

(Ord. No. 828; Ord. No 948 , § 2, Exh. C, 6-3-2019)



# City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Councilmembers Dwight Worden and Tracy Martinez  
Via Ashley Jones, City Manager

DATE: May 20, 2024

SUBJECT: City Council Consideration of Support for the Campaign for a Safe and Healthy California in Compliance with Senate Bill 1137 (Gonzalez)

## REQUESTED ACTION/RECOMMENDATION:

Councilmembers Worden and Martinez request that the City Council consider and adopt a resolution (Attachment A) in support of retaining health and safety setback regulations for new oil and gas drilling in compliance with Senate Bill (SB) 1137 and endorsing the Campaign for a Healthy and Safe California.

## DISCUSSION/ANALYSIS:

In 2022, the State Legislature passed SB 1137 (Gonzalez) to create safety setbacks to separate new and modified oil and gas drilling facilities by 3,200 feet from homes, schools, daycare centers, parks, healthcare facilities, and businesses. SB 1137 does not apply to existing facilities; however, in a spending campaign worth tens of millions of dollars, the oil and gas industry circulated and qualified a Referendum for the November 2024 statewide ballot to repeal SB 1137.

The Campaign for a Safe and Healthy California is a coalition of public health professionals, environmental justice groups, community and faith leaders, and youth joining together to make sure that no Californians have to endure health hazards from living near dangerous oil wells, and they strongly support retention of SB 1137.

Research shows that serious health effects, including asthma, high-risk pregnancies, respiratory illnesses, and cancer, come from the siting of oil and gas drilling near sensitive receptors, and that minority communities are disproportionately affected. This is why both California Democratic Governor Gavin Newsom and former California Republican Governor Arnold Schwarzenegger, and numerous other elected representatives and health organizations support SB 1137.

According to Governor Newsom's office, "nearly 30,000 oil and gas wells in California sit within 3,200 feet of homes, schools, hospitals and other public areas, exposing nearly 3

---

City Council Action:

million people, disproportionately communities of color, to emissions that can cause birth defects, respiratory illnesses and cancer.” In 2021, an independent scientific advisory panel advised California officials that a 3,200-foot setback is the minimum distance to protect public health.

While there are no current oil and gas drilling facilities on land in the City of Del Mar, Del Mar does have an adopted legislative policy opposing offshore drilling (Policy V B Offshore Drilling) because of its adverse impacts to communities and the environment. Additionally, Del Mar is in the process of developing an Environmental Justice Element for the Community Plan (Housing Element Program 6e), a recommended provision of which will include support for environmental justice for all communities.

ATTACHMENTS:

Attachment A – Resolution of Support for Retaining Health and Safety Setback Regulations for New Oil and Gas Drilling and Endorsing the Campaign for a Healthy and Safe California

## RESOLUTION NO. 2024-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA IN SUPPORT OF RETAINING HEALTH AND SAFETY SETBACK REGULATIONS FOR NEW OIL AND GAS DRILLING AND ENDORSING THE CAMPAIGN FOR A SAFE AND HEALTHY CALIFORNIA

WHEREAS, research shows that living within half a mile of an oil well increases the risk of asthma, high-risk pregnancies, respiratory illnesses, and cancer; and

WHEREAS, today, nearly three million Californians are exposed to the most toxic emissions, and communities of color are disproportionately affected by neighborhood drilling; and

WHEREAS, the California State Legislature passed SB 1137 in 2022 to initiate health and safety setback regulations, which prohibit new or modified oil and gas wells within 3,200 feet of homes, schools, daycare centers, parks, healthcare facilities, and businesses; and

WHEREAS, SB 1137 only applies to new oil and gas wells and not to existing facilities; and

WHEREAS, oil and corporate interests financed a petition campaign with tens of millions of dollars to block immediate implementation of SB 1137, placing a referendum to repeal SB 1137 on the California General Election November 2024 ballot; and

WHEREAS, the City of Del Mar is in the process of preparing an Environmental Justice Element for its Community Plan and supports the concept of environmental justice for all communities; and

WHEREAS, the City has an adopted Legislative Policy to oppose oil and gas drilling offshore because of harmful effects to communities and the environment; and

WHEREAS, while there are no current oil or gas facilities in the City of Del Mar, the City desires nonetheless to express its support for the protection of other California communities impacted by neighborhood oil and gas drilling.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Del Mar, California, that:

1. The above recitals are true and correct;
2. That the City Council of the City of Del Mar endorses the Campaign for a Safe and Healthy California to keep SB1137 health and safety setback legislation, joining public health leaders, environmental justice groups, community and faith leaders, and youth to stand up to make sure that no Californians have to endure health hazards from living just steps away from dangerous new oil wells.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Del Mar, California, at the Regular Meeting held this 20<sup>th</sup> day of May, 2024.

---

Dave Druker, Mayor  
City of Del Mar

APPROVED AS TO FORM:

---

Leslie E. Devaney, City Attorney  
City of Del Mar

ATTEST AND CERTIFICATION:  
STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO  
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Resolution No. 2024-XX, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 20<sup>th</sup> day of May, 2024, by the following vote:

AYES:

NOES:

RECUSE:

ABSENT:

ABSTAIN:

---

Sarah Krietor, Administrative Services  
Manager/City Clerk  
City of Del Mar



# City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Sarah Krietor, Administrative Services Manager/City Clerk  
Via Ashley Jones, City Manager

DATE: May 20, 2024

SUBJECT: Resolutions Calling for a 2024 General Municipal Election

## REQUESTED ACTION/RECOMMENDATION:

It is recommended that the City Council adopt the following resolutions in preparation for a November 5, 2024, General Municipal Election:

- 1) Resolution calling for a General Municipal Election for the election of three members of the City Council (Attachment A);
- 2) Resolution requesting the Board of Supervisors of the County of San Diego to conduct the General Municipal Election and consolidate that election with the Statewide General Election (Attachment B); and
- 3) Resolution adopting Regulations for Candidates for Elective Office pertaining to the Candidates' Statements (Attachment C).

## DISCUSSION/ANALYSIS:

On November 5, 2024, the voters of Del Mar will be voting for three City Council seats that will become vacant due to the term expiration of Council seats currently held by Mayor Dave Druker and Councilmembers Tracy Martinez and Dan Quirk. For the City to hold a consolidated General Municipal Election with the County of San Diego Registrar of Voters (ROV), the City Council must adopt the required election resolutions.

### ***Required Election Resolutions***

The first resolution calls the election for the purpose of electing three members of the City Council for the full term of four years (Attachment A). It is worth noting that the election will be conducted under the provisions of the laws relating to general law cities because Del Mar's Charter does not make specific provisions regarding elections.

The second resolution requests that the County of San Diego conduct the election and consolidate the election with the statewide general election (Attachment B). It also states that the City will be responsible for the County's costs related to conducting the City's general election.

---

City Council Action:

The third resolution adopts regulations for candidates' statements for this election (Attachment C). The resolution notes that the candidate may choose to submit a candidate statement and describes the limitations and/or regulations for such a candidate statement. It also states that the candidate statement is limited to 200 words, will be translated into Chinese, Spanish, Tagalog, and Vietnamese, and that the cost of these translations, including printing, handling, and mailing of the candidate statements, shall be paid in advance by the candidate. State law, which is based on the Federal Voting Rights Act, requires that election materials be provided in English, Chinese, Spanish, Tagalog, and Vietnamese.

Resolution(s) calling for any City-initiated ballot measures and setting the rules for arguments in favor or against the measure(s) will be considered separately by the City Council. As of the date of publication of this report, the City has received one notice of intent to circulate a petition to amend the Del Mar Municipal Code related to pet shops.

### ***Resolving a Tie-Vote***

Elections Code 15651 provides for how a tie vote may be resolved: either the City Council must adopt a resolution prior to the election that requires the City to hold a Special Runoff Election in the event of a tie vote, or the tie vote outcome shall be determined by lot (by chance).

It would be costly to have the County Registrar of Voters conduct a Special Runoff Election for Elective Offices, and funds for such an election are not included in the Fiscal Year (FY) 2024-25 proposed budget update. In the event of a tie vote, staff recommends that the Council seat(s) be filled by lot (by chance) between the candidates that received the same number of votes.

### ***Candidate Filing***

Candidates for elective office of the City of Del Mar must be registered voters of the City at the time nomination papers are issued. Candidates must be nominated by no less than 20 registered voters of the City. Chapter 2.20-City Council of the Del Mar Municipal Code (DMMC) is included in this report as a reference (Attachment D).

Nomination papers, along with an informational packet for City Council Candidates, will be available from the Administrative Services Manager/City Clerk by appointment beginning Monday, July 15, 2024. It is important to note that according to California Elections Code 10220, nominating signatures can only be gathered during the nomination period, which will be from July 15 through August 9, 2024. The deadline for filing all the required nomination papers is 4:30 p.m. on August 9, 2024. However, if nomination papers for an incumbent elective officer (City Councilmember) of the City are not filed by 4:30 p.m. on August 9, 2024, the voters shall have until 5:30 p.m. on August 14, 2024, to nominate candidates other than the incumbent for elective office.

Prospective candidates will be provided with many relevant election materials including Chapter 2.16-Campaign Regulations of the Del Mar Municipal Code (DMMC), which pertains to campaign regulations and campaign disclosure limits and was amended in 2018 to ensure compliance with new State law (Attachment E); Code of Fair Campaign Principles and Guidelines for Local Elections (Attachment F); Council Policy 108 and City of Del Mar Supplemental Code Of Fair Campaign Practices (Attachment G); and various campaign and election handouts from the County of San Diego Registrar of Voters and the Fair Political Practices Commission (FPPC).

In the event that the number of persons nominated for City Council is three or less than three by August 9, 2024, or August 14, 2024 if an incumbent Councilmember has not filed by August 9, the City Clerk shall submit a certificate of these facts to the City Council and inform the Council that it may, at a regular or special meeting held at least 75 days before the municipal election (August 22, 2024), take one of the three courses of action: 1) Appoint the nominated person(s) to serve on the City Council; 2) Appoint an eligible elector(s) to serve on the City Council if no one has been nominated; or 3) Hold the election, if either no one or only one person has been nominated. The City Clerk shall publish a notice of these facts and the courses of action in a paper circulated in Del Mar. Under these circumstances, Council would need to hold a special meeting between August 15 and August 21, 2024, to take one of the actions described above, otherwise and in accordance with California Election Code 10229, if by the 75<sup>th</sup> day before the municipal election (August 22, 2024) no persons have been appointed to office, the election shall be held.

### ***Voting Information***

The County of San Diego Registrar of Voters will be mailing all registered voters' ballots about 30 days prior to the election. Voters have the option to vote by mail; drop off their mailed ballot at a secure drop off location; or vote in-person at one of the County's Voter Centers. Some Voter Centers will be open for voting up to 11 days, including election day. Voting Center locations for the November 2024 election have not been finalized at this time; however, the Del Mar Library and City Hall have been identified as Ballot Drop Box locations. Voters can visit the ROV's website for more information about voting options and locations: <https://www.sdvote.com/content/rov/en/VotingOptions.html>.

### **FISCAL IMPACT:**

The estimated cost for the November 2024 election is \$45,000, which is included in the proposed FY 2024-25 proposed budget update for Council consideration in June 2024. After the November 2024 election has been conducted, the County Registrar of Voters will present the City with an invoice for the actual election costs.

### **ATTACHMENT:**

Attachment A – Resolution Calling for a General Election  
Attachment B – Resolution Requesting to Consolidate the Election with the County of San Diego  
Attachment C – Resolution Adopting Regulations for Candidates for Elective Office

- Attachment D – DMMC Chapter 2.20
- Attachment E – DMMC Chapter 2.16
- Attachment F – Code of Fair Campaign Principles and Guidelines for Local Elections
- Attachment G – Council Policy 108 & City of Del Mar Supplemental Code of Fair Campaign Practices

## RESOLUTION NO. 2024-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, CALLING FOR A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2024, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES

WHEREAS, under the provisions of the laws relating to general law cities in the State of California, which have been adopted by the City of Del Mar pursuant to its charter, a General Municipal Election shall be held on November 5, 2024, for the election of Members of the City Council.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to general law cities and the City of Del Mar pursuant to its charter, there is called and ordered to be held in the City of Del Mar, California, on Tuesday, November 5, 2024, a Municipal Election for the purpose of electing three (3) Members of the City Council for the full term of four (4) years.

SECTION 2. That the ballots to be used at the election shall be in form and content as required by law.

SECTION 3. That the Administrative Services Manager/City Clerk is authorized, instructed and directed to coordinate with the San Diego County Registrar of Voters to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 4. That the Voting Centers (polls) for the election shall be open at seven o'clock (7:00) a.m. of the day of the election and shall remain open continuously from that time until eight o'clock (8:00) p.m. of the same day when the Voting Center (polls) shall be closed, pursuant to Election Code Section 10242, except as provided in Section 14401 of the Elections Code of the State of California. Election Centers (polls) may also be open for multiple days leading up to the election. Some voting centers as designated by the San Diego County Registrar of Voters will be open up to eleven (11) days prior to the election.

SECTION 5. That in all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 6. That notice of the time and place of holding the election is given and the Administrative Services Manager/City Clerk is authorized, instructed and directed to

give further or additional notice of the election, in time, form and manner as required by law.

SECTION 7. That the Administrative Services Manager/City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Del Mar, California at the Regular Meeting held this 20<sup>th</sup> day of May, 2024.

---

Dave Druker, Mayor  
City of Del Mar

APPROVED AS TO FORM:

---

Leslie Devaney, City Attorney  
City of Del Mar

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO  
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Resolution No. 2024-XX, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 20<sup>th</sup> day of May, 2024, by the following vote:

AYES:

NOES:

RECUSE:

ABSENT:

ABSTAIN:

---

Sarah Krietor, Administrative Services  
Manager/City Clerk  
City of Del Mar

## RESOLUTION NO. 2024-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2024, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE

WHEREAS, the City Council of the City of Del Mar, California, called a General Municipal Election to be held on November 5, 2024, for the purpose of the election of three (3) Members of the City Council; and

WHEREAS, it is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date and that, within the City, the precincts, polling places and election officers of the two (2) elections be the same, and that the County Elections Department of the County of San Diego canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one (1) election.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of San Diego is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 5, 2024, for the purpose of the election of three (3) Members of the City Council.

SECTION 2. That the County Registrar of Voters is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one (1) election, and only one (1) form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regulating the statewide election, pursuant to section 10418 of the Elections Code.

SECTION 3. That the Board of Supervisors is requested to issue instructions to the County Registrar of Voters to take any and all steps necessary for the holding of the consolidated election including the procurement and furnishing of any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct said election, with the exception that the Administrative Services Manager/City Clerk of the City of Del Mar shall cause the publication of all notices that are indicated as the responsibility of the City Clerk in the Election Calendar for said election.

SECTION 4. That the City of Del Mar recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for those costs.

SECTION 5. That the County of San Diego shall be reimbursed in full for the services performed by the Registrar of Voters for the City of Del Mar upon presentation of a bill therefore, and that the City agrees to indemnify and hold harmless the County, its officers, agents and employees from expense or liability, including reasonable attorneys' fees, as the result of an election contest arising after conduct of the election, so long as the basis for any such claim arises from the conduct of the City or as a result of the reasonable reliance by County upon information provided by City.

SECTION 6. That the Administrative Services Manager/City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors and the County Elections Department of the County of San Diego.

SECTION 7. That the Administrative Services Manager/City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Del Mar, California, at the Regular Meeting held this 20<sup>th</sup> day of May, 2024.

---

Dave Druker, Mayor  
City of Del Mar

APPROVED AS TO FORM:

---

Leslie E. Devaney, City Attorney  
City of Del Mar

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO  
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Resolution No. 2024-XX, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 20<sup>th</sup> day of May 2024, by the following vote:

AYES:

NOES:

RECUSE:

ABSENT:

ABSTAIN:

---

Sarah Krietor, Administrative Services  
Manager/City Clerk  
City of Del Mar

## RESOLUTION NO. 2024-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATES' STATEMENTS SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2024

WHEREAS, Section 13307 of the Elections Code of the State of California provides that the governing body of any local agency adopt regulations pertaining to materials prepared by any candidate for a municipal election, including costs of the candidates' statements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. GENERAL PROVISIONS. That pursuant to Section 13307 of the Elections Code of the State of California, each candidate for elective office to be voted for at an Election to be held in the City of Del Mar on November 5, 2024, may prepare a candidate's statement on an appropriate form provided by the Administrative Services Manager/City Clerk. The statement may include the name, age and occupation of the candidate and a brief description of no more than two hundred (200) words of the candidate's education and qualifications expressed by the candidate himself or herself. The statement shall not include party affiliation of the candidate, nor membership or activity in partisan political organizations. The statement shall be filed in typewritten form in the office of the Administrative Services Manager/City Clerk at the time the candidate's nomination papers are filed. The statement may be withdrawn, but not changed, during the period for filing nomination papers and until five o'clock (5:00) p.m. of the next working day after the close of the nomination period.

SECTION 2. FOREIGN LANGUAGE POLICY. Pursuant to the Federal Voting Rights Act, candidates' statements will be translated into all languages required by the County of San Diego. The County is required to translate candidates' statements into Chinese, Spanish, Filipino and Vietnamese. The County will print and mail sample ballots and candidates' statements to all voters in Chinese, Spanish, Filipino and Vietnamese only to those voters who are on the County voter files as having requested a sample ballot in a particular language. The County will make the sample ballots and candidates' statements in the required languages available at all polling places, on the County's website, and in the Election Official's office.

SECTION 3. PAYMENT. The candidate shall be required to pay for the cost of translating the candidate's statement into any required foreign language as specified in Section 2 above pursuant to Federal and/or State law. The candidate shall be required to pay for the cost of printing the candidate's statement in English and in any foreign language, as specified in Section 2 above, in the main voter pamphlet.

The Administrative Services Manager/City Clerk or County of San Diego Registrar of Voters shall estimate the total cost of printing, handling, translating, and mailing the candidates' statements filed pursuant to this section, including costs incurred as a result of complying with the Voting Rights Act of 1965 (as amended), and require each candidate filing a statement to pay in advance to the local agency his or her estimated pro rata share as a condition of having his or her statement included in the voter's pamphlet. In the event the estimated payment is required, the estimate is just an approximation of the actual cost that varies from one election to another election and may be significantly more or less than the estimate, depending on the actual number of candidates filing statements. Accordingly, the Administrative Services Manager/City Clerk is not bound by the estimate and may, on a pro rata basis, bill the candidate for additional actual expense or refund any excess paid depending on the final actual cost. In the event of underpayment, the Administrative Services Manager/City Clerk will require the candidate to pay the balance of the cost incurred. In the event of overpayment, the Administrative Services Manager/City Clerk shall prorate the excess amount among the candidates and refund the excess amount paid within thirty (30) days of the election.

SECTION 4. MISCELLANEOUS. The Administrative Services Manager/City Clerk shall comply with all recommendations and standards set forth by the California Secretary of State regarding occupational designations and other matters relating to elections.

SECTION 5. ADDITIONAL MATERIALS. No candidate will be permitted to include additional materials in the sample ballot package.

SECTION 6. That the Administrative Services Manager/City Clerk shall provide each candidate, or the candidate's representative, a copy of this Resolution at the time nominating petitions are issued.

SECTION 7. That all previous Resolutions establishing Council policy on payment for candidates' statements are repealed.

SECTION 8. That this Resolution shall apply only to the election to be held on November 5, 2024, and shall then be repealed.

SECTION 9. That the Administrative Services Manager/City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Del Mar, California, at the Regular Meeting held this 20<sup>th</sup> day of May, 2024.

---

Dave Druker, Mayor  
City of Del Mar

APPROVED AS TO FORM:

---

Leslie E. Devaney, City Attorney  
City of Del Mar

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO  
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Resolution No. 2024-XX, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 20<sup>th</sup> of May 2024, by the following vote:

AYES:

NOES:

RECUSE:

ABSENT:

ABSTAIN:

---

Sarah Krietor, Administrative Services  
Manager/City Clerk  
City of Del Mar

TITLE 2 - ADMINISTRATION  
Chapter 2.20 CITY COUNCIL

---

## Chapter 2.20 CITY COUNCIL

### 2.20.010 Election and Tenure.

The electors of the City of Del Mar shall elect Councilmembers at the General Municipal Election held every two years. The General Municipal Election shall be consolidated with the Statewide General Election held in November of even numbered years. Councilmembers shall serve a term of four years, staggered to result in two seats being open at one election and three seats being open at the next election.

(Ord. No. 322; Ord. No. 371; Ord. No. 680)

### 2.20.020 Presiding Officer.

- A. City Council shall meet at their usual place of meeting on the first Tuesday in December after the General Municipal Election, provided that the Elections Official has certified the election, and shall pass a resolution reciting the fact of the election, shall install the newly elected officers and shall choose one of its members as Mayor and one of its members as Deputy Mayor.
- B. The Mayor, and the Deputy Mayor, shall serve a term of one year, or until a successor for each position is chosen. Three affirmative votes shall be required to choose or change the Mayor or Deputy Mayor.
- C. In addition to the powers and duties of a Councilmember, the Mayor, or in the Mayor's absence, the Deputy Mayor, shall be the presiding officer of the City Council.

(Ord. No. 680)

### 2.20.030 Compensation.

- A. Councilmembers shall receive a salary of \$300.00 per month. (Adopted by a vote of the people 4/12/1988.)
- B. Upon the submission of an itemized account, any Councilmember may be reimbursed for the actual and necessary expenses incurred in the performance of official duty.

### 2.20.040 Regular Meetings.

- A. Regular meetings of the City Council shall be held on the first and third Monday of each month, commencing at 4:30 p.m. in the Town Hall, 1050 Camino del Mar. If a regular meeting falls on a holiday, the regular meeting shall be held on the next business day.
- B. The City Council may, by resolution, designate another date, time, and location for a regular meeting.

(Ord. No. 951 , § 1, 8-5-2019)

### 2.20.050 Rules of Procedure.

The City Council may, from time to time, adopt by resolution, rules of procedure for the conduct of meetings. These resolutions shall be compiled and maintained by the City Clerk and made available to the public and to the City Council during every meeting.

---

**2.20.060 Orderly Conduct.**

- A. Any person who fails to comply with a direction given by the presiding officer for the purpose of maintaining order at a City Council meeting shall be guilty of a misdemeanor.
- B. All persons shall comply with the meeting procedures announced by resolution of the City Council and no person shall interfere with or interrupt a City Council meeting.
- C. The presiding officer may designate a member of the County Sheriff's Department as Sergeant at Arms who shall carry out the directions of the presiding officer, to include making arrests as directed by the presiding officer.

TITLE 2 - ADMINISTRATION  
Chapter 2.16 CAMPAIGN REGULATIONS

---

## Chapter 2.16 CAMPAIGN REGULATIONS

### 2.16.005 Purpose.

This Chapter is intended, among other things:

- A. To promote an educated electorate by providing information to assist in the evaluation of ballot choices and to make an informed choice;
- B. To accomplish fair and honest elections;
- C. To prevent corruption or the appearance of corruption by regulating and making public those contributions whose amount is significant in light of the circumstances of the City;
- D. To gather information in order to detect violations of the provisions of this Chapter.

(Ord. No. 659; Ord. No. 935 , § 1, 3-19-2018)

### 2.16.010 Application of Chapter.

- A. The provisions of this Chapter are applicable only to:
  - 1. Candidates seeking election in the City Council, their controlled committees, or committees formed or existing primarily to support or oppose their candidacies, and
  - 2. Committees formed or existing primarily to support or oppose a candidate, or to support or oppose the qualification of, or passage of, a local ballot measure which is being voted on only in the City, and to City general purpose committees active only in the City.
- B. When the term "committee" appears (1) in this Chapter, or (2) in provisions of the Political Reform Act of 1974, as amended, and is used by this Chapter to create duties, it refers to a person or combination of persons when such person or combination of persons:
  - 1. Receives, for a particular City election, campaign contributions totaling \$250.00 or more; or
  - 2. Expends for a particular City election a total of \$250.00 or more.
- C. Unless otherwise provided herein, the provisions, definitions and interpretations of the Political Reform Act of 1974 (Government Code Secs. 81000 et seq.), as amended, including the regulations of the California Fair Political Practices Commission, as amended, are to be relied upon in administering this Chapter.
- D. The requirements of this Chapter are in addition to, and shall not be administered or interpreted in conflict with, the requirements of the Political Reform Act of 1974, as amended.

(Ord. No. 411; Ord. No. 624; Ord. No. 935 , § 1, 3-19-2018)

### 2.16.020 Statement of Organization.

- A. *Time for Filing.*
  - 1. Except as provided in this Section, within ten days of a committee coming into existence in accordance with this Chapter, the committee shall file with the City Clerk a "statement of organization" on a form

---

approved by the City Clerk, setting forth the information contained in Government Code Sec. 84102. The committee shall thereafter comply with the regulations imposed on committees by this Chapter.

2. If a committee comes into existence in accordance with this Chapter within 15 or fewer days prior to an election in which the committee participates, then, within 24 hours of the committee coming into existence, the committee shall file with the City Clerk a "statement of organization" on a form approved by the City Clerk, setting forth the information contained in Government Code Sec. 84102. The committee shall thereafter comply with the regulations imposed on committees by this Chapter.

**B. Report of Changes.**

1. Except as provided in this Section, within ten days of any change in information contained in its statement of organization, the committee shall file with the City Clerk an amendment setting forth the change in information.
2. If a change in information contained in its statement of organization occurs within 15 or fewer days prior to an election in which the committee participates, then, within 24 hours of such change, the committee shall file with the City Clerk an amendment setting forth the change in information.

(Ord. No. 935 , § 1, 3-19-2018)

**2.16.030 Contribution Disclosure.**

Each candidate and committee, as defined in this Chapter, shall file campaign statements when and in the manner specified in the Political Reform Act of 1974, as amended. In addition to the information required by the Political Reform Act of 1974, as amended, each candidate and committee filing a campaign statement shall, for each contribution of \$75.00 or more, disclose the information required by Government Code Sec. 84211(f). ;hn; (Ord. No. 935 , § 1, 3-19-2018)

**2.16.040 Limitation: Contribution to Candidates.**

- A. No person, except as provided in Subsection C. below, shall contribute more than \$200.00 total to a candidate or such candidate's controlled committees for any election.
- B. No candidate or controlled committee shall solicit or retain a contribution from any person when such contribution shall cause the contributor to be in violation of Subsection A. herein.
- C. It shall be unlawful for a political party committee, as defined in California Government Code Sec. 85205, to make, or for a candidate or controlled committee to solicit or retain a contribution that would cause the total amount contributed by all local, state, and federal committees of the same political party to the candidate and the candidate's controlled committee to exceed \$2,000.00 for any election.
- D. The provisions of this Section do not limit a candidate in making contributions of his or her personal funds to his or her own campaign contribution account.

(Ord. No. 781; Ord. No. 935 , § 1, 3-19-2018)

**2.16.050 Identification of Source of Campaign Material.**

- A. "Advertisement" as used in this Chapter shall have that meaning provided in Government Code Sec. 84501(a), including, but not limited to, mailers, flyers, pamphlets, door hangers, walking cards, posters, yard signs, billboards, business cards, campaign buttons ten inches in diameter or larger, or bumper stickers 60 square inches or larger, whether distributed through the mail, by campaign workers, or any other means, and electronic materials disseminated over the Internet.

---

Created: 2022-01-04 11:01:52 [EST]

(Supp. No. 7, Update 2)

- 
- B. Every campaign advertisement in printed form shall include the words "paid for by" immediately followed by the name, street address, and city of the person who paid for the communication in a contrasting Arial equivalent typeface that is easily legible and no less than ten points in size.
  - C. Subject to the additional requirements and exceptions expressly noted below, and limited to advertisements concerning City Council candidates and City ballot measures, the campaign advertising disclosure rules contained in the Political Reform Act of 1974, as amended, including but not limited to California Government Code Secs. 84305 through 84511, and the regulations of the California Fair Political Practices Commission, as amended, including but not limited to Regulations 18440 through 18450.11, are hereby adopted by reference and incorporated into this Chapter 2.16 of the Del Mar Municipal Code as if fully set forth herein.
    - 1. *Print Materials.* When disseminating printed advertisements, City Council candidates and candidate-controlled committees shall make their advertising disclosures as if formed as independent expenditure committees under California Government Code Sec. 82013(b), except when such independent expenditure committees are disseminating mass campaign literature through the mail.
    - 2. *Display Media.* When placing advertisements on large signs, as defined by Title 2, Section 18450.1(a) of the California Code of Regulations, City Council candidates and candidate-controlled committees shall make their advertising disclosures as if formed as independent expenditure committees under Government Code Sec. 82013(b).
    - 3. *Electronic Materials.* When disseminating video, audio, text, or graphic advertisements over the Internet, candidates and committees shall include the "who funded this ad?" and "paid for by" advertising disclosures in the manner required by state law, except that candidates and candidate-controlled committees shall make such disclosures as if formed as independent expenditure committees under California Government Code Sec. 82013(b).
    - 4. *Political Advertisements.* When placing advertisements in newspapers, magazines, and periodicals, candidates and committees shall include the "paid for by" advertising disclosures in the manner required by state law, except that candidates and candidate-controlled committees shall make such disclosures as if formed as independent expenditure committees under Government Code Sec. 82013(b).
  - D. Nothing in this section establishes a Del Mar Municipal Code requirement:
    - 1. That any City Council candidate or candidate controlled committee comply with California Government Code Sec. 84506.5; or
    - 2. That is applicable to any slate mailer organization.
  - E. Nothing in this section relieves any candidate or committee from its obligation to comply with any advertising disclosure requirement contained in state law.

(Ord. No. 773; Ord. No. 935 , § 1, 3-19-2018)

### **2.16.060 Penalties.**

- A. Any person who knowingly or willfully violates any provision of this Chapter may be prosecuted for an infraction or a misdemeanor, at the discretion of the City's special counsel.
- B. Any person who violates a provision of this Chapter shall be liable in a civil action for damages in the amount of three times the amount not properly reported or unlawfully contributed, solicited or accepted, or expended on illegally distributed campaign materials, not to exceed \$1,000.00. Upon collection, said sum shall be deposited into the general fund of the City. (Government Code Sec. 36901).

---

Created: 2022-01-04 11:01:52 [EST]

(Supp. No. 7, Update 2)

- 
- C. Any person who violates a provision of this Chapter by failing either to file a statement of organization or report a change of information in a filed statement of information shall be liable in a civil action for damages in the amount of \$1,000.00. Upon collection, said sum shall be deposited into the general fund of the City. (Government Code Sec. 36901).

(Ord. No. 935 , § 1, 3-19-2018)

### **2.16.070 Enforcement.**

- A. The City Attorney shall not investigate or prosecute any alleged violation of this Chapter, but may defend the constitutionality and legality of this Chapter in any civil proceeding in which the City or the City Council is a party.
- B. An action on behalf of the City alleging a violation of this Chapter may be commenced only by special counsel appointed and retained by the City Council.
1. Persons residing in the City who believe that a violation of this Chapter has occurred may file a written complaint requesting investigation of such violation by the special counsel.
  2. Whether or not a resident's written complaint is received, if the special counsel determines that there is reason to believe a violation of this Chapter has occurred, special counsel is authorized to conduct an investigation and may commence such administrative, civil or criminal legal action as special counsel deems necessary to enforce this Chapter.
  3. Special counsel shall have investigative powers as are necessary for the performance of the duties described in this Chapter and may demand and shall be furnished records of campaign contributions and expenditures of any person or committee subject to this Chapter. Special counsel shall be immune to liability for special counsel's enforcement of this Chapter.
- C. Any resident of the City may bring a civil action, in a court of competent jurisdiction, regarding the provisions of this Chapter:
1. To enjoin an actual or threatened violation;
  2. To compel compliance by a private person; or
  3. To obtain judicial declarations.
- D. Any action alleging a violation of this Chapter must be commenced within six months of the time the alleged violation occurred.

(Ord. No. 935 , § 1, 3-19-2018)

**RESOLUTION NO. 2000-44**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR TO ADOPT A VOLUNTARY CODE OF FAIR CAMPAIGN PRINCIPLES AND GUIDELINES FOR LOCAL ELECTIONS.**

**WHEREAS**, it is the desire of the citizens of Del Mar to attract strong candidates, foster an informed public and an active electorate, and reduce the acrimonious atmosphere surrounding all elections; and

**WHEREAS**, the goal in Del Mar elections is to have an informed public which will elect leaders representative of our residents; and

**WHEREAS**, the election process should maintain a high standard of fairness and honesty; and

**WHEREAS**, it is the belief of the citizens of the City of Del Mar that the candidates, the voters, the press, and the government share the responsibility to achieve that goal; and

**WHEREAS**, the citizens of Del Mar rightly expect that candidates will serve as “leaders by example” in conducting City Council campaigns that adhere to traditional ethical principles, and in doing so ensure that our elections build community pride; and

**WHEREAS**, it is the hope and desire of the City Council that all those actively participating in or reporting on any election believe in the fundamental wisdom and fairness of a fair campaign code; and

**WHEREAS**, it is the City Council’s hope and desire that all candidates for public office will voluntarily adhere to the code.

**NOW, THEREFORE, WE THE CITY COUNCIL OF THE CITY OF DEL MAR, DO HEREBY ADOPT THE FOLLOWING VOLUNTARY CODE OF FAIR CAMPAIGN PRINCIPLES AND GUIDELINES:**

**VOLUNTARY CODE OF FAIR CAMPAIGN PRINCIPLES**

1. All persons or entities, including the press, participating, reporting on, or involved in an election campaign are expected to make accurate representations of fact, to eschew any false or misleading statements about events, issues or candidates, their supporters or opponents and members of their families. They are also expected to encourage others to exhibit like behavior.

2. All published materials, be they articles, editorials, leaflets or advertisements relating to election campaigning, are expected to show authorship or attribution.
3. The right to vote in Del Mar municipal elections or referenda is restricted to residents of the City of Del Mar who can evidence a residence address in the City of Del Mar in accordance with State law, including the Registrar of Voter's regulations.
4. Local press are encouraged to observe a journalistic code of ethics such as that propounded by the Society of Professional Journalists in reporting on candidates and campaign matters.
5. Well in advance of election date, candidates are expected to commit themselves to participate in a specified number of public debates on agreed dates. Such debates are to be conducted and supervised by an independent, public service organization.

**GUIDELINES OF ELECTION RESPONSIBILITY**

**A. GUIDELINES FOR VOTERS**

1. Be alert to anonymous flyers.
2. Hold candidates accountable for their campaign conduct.
3. Become informed on all candidates by reading newspaper articles and ballot statements, attending election events, and talking to candidates.
4. Support candidates financially and/or by volunteer effort if possible.

**B. GUIDELINES FOR LOCAL MEDIA**

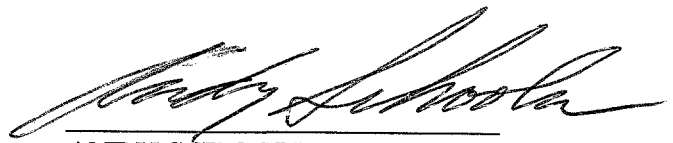
1. Provide full and unbiased coverage of the election campaign including, if possible, an opportunity for the candidates to present their views.
2. Consider printing the Code of Fair Campaign Principles prior to each City election, three times, if possible.
3. Print promptly all retractions and errors.

**C. GUIDELINES FOR THE CITY OF DEL MAR**

1. Work with community organizations to provide a location for a forum for the presentation of candidates' views.
2. Make every effort to not schedule a Council meeting the night before election.
3. Enforce all campaign regulations.
4. Provide the Code of Fair Campaign Principles and Guidelines, together with a form for signature demonstrating a candidate's voluntary commitment to those Principles and Guidelines, to all candidates for public office who receive a copy of the California Code of Fair Campaign Practices in accordance with the California Election Code.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Del Mar, California, this 10<sup>th</sup> day of July 2000 by the following vote:

AYES: Councilmembers Druker, Earnest, Whitehead; Deputy Mayor Crawford  
 NOES: None  
 ABSENT: None  
 ABSTAIN: Mayor Schooler



ANDY SCHOOLER, Mayor


ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO  
CITY OF DEL MAR

I, MERCEDES MARTIN, City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Resolution 2000-44, adopted by the City Council of the City of Del Mar, this 10<sup>TH</sup> day of July, 2000.



MERCEDES MARTIN, City Clerk

		<b>CITY OF DEL MAR</b> <b>CITY COUNCIL POLICY BOOK</b>	
		<b>108</b>	<b>DEL MAR FAIR CAMPAIGN PRACTICES</b>

I. PURPOSE:

The foundation of representative democracy rests on the ability of the electorate to make informed decisions regarding the character and qualifications of those seeking to represent them, and on issues presented for voter approval or rejection.

Ideally, election campaigns reveal the true character and positions of candidates seeking to represent the electorate, and factual information regarding issues presented to the voters.

Election campaign conduct that is objectively unfair, untruthful, or misleading regarding the positions or character of candidates seeking office, or that misleads or misrepresents issues presented to the voters, denies the electorate an opportunity to make fully informed decisions on candidates or issues. Such campaign conduct is unfair and unethical.

Unfair and unethical campaign conduct promotes cynicism and distrust on the part of the electorate toward its representative government, and damages the ability of elected representatives to govern effectively.

It is incumbent upon elected representatives and community leaders to promote discussion and consideration of what constitutes ethical and fair campaign conduct within the values and mores of the community; and to inform both candidates and the public generally on principles and guidelines for ethical campaign conduct.

The following guidelines and activities are intended to promote fair and ethical conduct by candidates, committees, and the public, in the course of Del Mar municipal elections, ensure that candidates and committees have ready access to information and assistance needed to comply with state and City law related to campaigns and to conform to the expectations of the Del Mar electorate.

II. CAMPAIGN PRACTICES:

A. Supplemental Code of Fair Campaign Practices:

In addition to the Campaign Disclosure provisions of the Fair Political Practices Act (Gov. Code § 84100 et seq.), the State has declared that there are basic principles of decency, honesty, and fair play which every candidate for public office in the State of California has a moral obligation to observe and uphold in order that, after vigorously contested but fairly conducted campaigns, citizens may exercise their constitutional right to a free and untrammelled choice and the will of the people may be fully and clearly expressed on the issues. In furtherance of these goals, candidates, along with their campaign managers and treasurers as applicable, for public office are invited to sign on to the State Code of Fair



**CITY OF DEL MAR  
CITY COUNCIL POLICY BOOK**

<b>108</b>	<b>DEL MAR FAIR CAMPAIGN PRACTICES</b>	<b>DATE ADOPTED:</b>	2-20-2018
		<b>BY RESOLUTION:</b>	2018-06
		<b>PAGES:</b>	2 OF 3

Campaign Practices (Elec. Code § 20440) (“State Pledge”). Signing on the State Pledge is voluntary.

The Institute for Local Government has proposed additional, updated and expanded fair campaign practices in various categories that local jurisdictions may adopt along with agency-specific provisions in addition to the State Pledge.

Therefore, the City of Del Mar shall enhance, as needed, the State Pledge with the additional pledges which shall, after adoption by the City Council, be attached hereto as Exhibit A and offered along with the State Pledge to all potential candidates, and their campaign managers and treasurers as applicable, for City Council and their controlled committees, and to independent committees in the City of Del Mar in support or opposed to such candidates, or in support or opposed to ballot measures submitted at any Del Mar municipal election.

**B. Promulgation and Adoption.**

1. Whenever it is deemed necessary or desirable, the City Council shall call for a public discussion to consider the community’s values and mores on the conduct of fair and ethical municipal election campaigns. Thereafter, in its discretion, the City Council may adopt or amend, by a resolution approved by a majority of its members, guidelines or examples that define conduct or activity that is deemed fair and ethical and conduct or activity that is deemed unfair or unethical, in its municipal election campaigns in the form of a Supplemental Fair Campaign Practices Pledge
2. Upon the approval by the City Council of a resolution adopting or amending these Supplemental Fair Campaign Practices, the City Clerk shall post a copy of the resolution in a public place for thirty days.
3. The City Clerk shall thereafter make copies of the approved or amended Supplemental Fair Campaign Practices available to any person upon request.

**C. Candidate Education**

1. Candidate Meeting and Pledge. Upon the close of the nominating period for each municipal election, the City Clerk, City Attorney, or other qualified person on behalf of the City, shall conduct one-on-one or group training and discussion session(s) for all qualified candidates to provide information regarding California and Del Mar campaign laws and to present the California Code of Fair Campaign Practices, as required under Section 20400 of the California Elections Code, and any Del Mar Supplemental Fair Campaign Practices



## CITY OF DEL MAR CITY COUNCIL POLICY BOOK

<b>108</b>	<b>DEL MAR FAIR CAMPAIGN PRACTICES</b>	<b>DATE ADOPTED:</b>	2-20-2018
		<b>BY RESOLUTION:</b>	2018-06
		<b>PAGES:</b>	3 OF 3

adopted by the City Council pursuant to this Council Policy. Each candidate shall be offered the opportunity to voluntarily endorse, subscribe to, and solemnly pledge to conduct his or her campaign in accordance with these principles and practices. The City Clerk shall inform each candidate, along with their campaign managers and treasurers as applicable, that the subscription to the either of the Fair Campaign Practices Codes is voluntary. The City Clerk shall post all signed candidate pledges on the City website and make them available for inspection upon request by any member of the public.

2. Pre-Election Public Workshop. When, in the discretion of the City Clerk, there is sufficient interest and available resources, prior to the close of the candidate nomination period, the City Clerk may prepare, publish notice of, and provide for a public workshop and training program to be conducted regarding state and local campaign laws, and Fair Campaign Practices (as defined in this Policy) for all interested or concerned members of the public.

EXHIBIT "A"  
COUNCIL POLICY 108

CITY OF DEL MAR SUPPLEMENTAL CODE OF FAIR CAMPAIGN PRACTICES

As a candidate, campaign manager, treasurer, or campaign committee chairperson in the City of Del Mar, I acknowledge and pledge as follows:

- (1) The release or distribution of campaign materials late in the campaign deprives candidates, against whom such materials may weigh, the opportunity to respond. Therefore, I pledge to refrain from distributing new campaign materials that are not a direct response to materials or statements by opponents or members of the public at least two days (Sunday and Monday) prior to Election Day. During the final two days prior to Election Day, I will focus my campaign activities on direct personal contacts and to "get out the vote" activities.
- (2) The use of anonymous surrogates or "straw men" as a campaign tactic misleads voters and deprives them of critical information regarding the relationship between such devices and the candidate who encourages or employs them. Therefore, I will not use such tactics, or allow my committee to use such tactics, in my campaign.
- (3) The voters of the City of Del Mar are entitled to expect that candidates will be truthful, honest, and forthcoming in all campaign materials and conduct. Therefore, I further pledge:
  - a. To take personal responsibility to review and to fact-check all campaign materials released by myself or my committee.
  - b. To disavow any assertions made on my behalf that I know or reasonably should know to be false or misleading.
  - c. Not to exaggerate or embellish any campaign information presented as fact.
  - d. Not to use personal slurs or innuendoes about another candidate.
  - e. Not to knowingly make any false claims and, if I discover an inadvertent false claim, to publicly acknowledge the falsehood and correct the record as soon as I discover it.

I, the undersigned, candidate for election to public office in the City of Del Mar, California or campaign manager, treasurer or chairperson of a committee making any independent expenditures in a Del Mar City Measure, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

_____ Date	_____ Signature
	_____ Print Name



# City of Del Mar Agenda Report

TO: City Council Members

FROM: Mayor Dave Druker and Deputy Mayor Terry Gaasterland, City Council Railroad Subcommittee

DATE: May 20, 2024

SUBJECT: Council Consideration of Support for Senate Bill 1098 (Blakespear) Regarding the LOSSAN Rail Corridor

## REQUESTED ACTION/RECOMMENDATION:

The City Council Railroad Subcommittee, Mayor Dave Druker and Deputy Mayor Terry Gaasterland, recommend that the City Council receive a presentation on Senate Bill (SB) 1098 from State Senator Catherine Blakespear's office and consider supporting the legislation based on the clarifications discussed in this report and with further revisions to SB 1098 to address the role of the transportation agencies and the California Coastal Commission in reviewing and developing recommendations related to the LOSSAN Rail Corridor.

## BACKGROUND:

On February 13, 2024, California State Senator Catherine Blakespear, whose district includes the City of Del Mar, introduced SB 1098 regarding the San Diego-Los Angeles-San Luis Obispo intercity rail corridor (LOSSAN Corridor) (Attachment A). The 351-mile coastal rail corridor is used for commuter rail service, transportation of goods via freight rail operators, and is part of the Defense Department's Strategic Rail Corridor Network. The corridor, which runs directly along the coast in many areas, is suffering from climate impacts of sea-level rise, erosion, and weather-related events that have jeopardized the long-term resiliency of the rail line and, in some instances, ceased operations for significant periods of time.

As currently proposed, SB 1098 would require the following:

- The Secretary of the California Transportation Agency (CalSTA) to provide coordination, guidance, and recommendations to stakeholders with the goal of transforming the rail corridor into a high performing and resilient rail line.
- CalSTA to be the lead agency in preparing and submitting two one-time reports, as well as separate biennial reports, to the State Legislature regarding the

---

City Council Action:

performance of the rail corridor and a road map for how to improve existing service and resiliency planning along the rail line.

- A to be determined entity would convene a working group composed of certain types of entities (see Attachment A), including, among others, metropolitan planning organizations from specified counties, and submit a one-time report with recommendations on how to ensure the long-term viability of comprehensive and coordinated passenger and freight rail service in the LOSSAN Corridor. The report would be submitted to the LOSSAN Rail Corridor Agency, Southern California Regional Rail Authority, and the North County Transit District for review and approval (comment/feedback) prior to its submittal to the State Legislature. The intent here is for the process to be collaborative, and revised bill language is currently being developed to make this clearer.

#### DISCUSSION/ANALYSIS:

On May 1, 2024, the Council Railroad Subcommittee and City staff met with representatives from Senator Blakespear's office to learn more about SB 1098 and discuss concerns brought forth by members of the Del Mar community. Specifically, community concerns focused on the bill's language favoring the input from the transit agencies over environmental stakeholders on the information that will be included in the reports submitted to the State Legislature.

Senator Blakespear's office was receptive to the feedback and clarified that the bill: 1) Will be revised to formalize a role for the California Coastal Commission to be part of the recommendation making process; 2) Does not change existing State law regarding the operation of the LOSSAN Corridor, nor does it make any binding commitments or authorize the delivery of future projects along the rail line; 3) The reports to be prepared and submitted to the State Legislature under the bill are recommendations only, and it would take future legislation to implement any of the report's findings; and 4) Any future project(s) authorized by the State based on the recommendations brought forward to the State Legislature because of this bill would be subject to environmental review and local approvals and/or permitting. A letter from Senator Blakespear dated May 14, 2024, is included with this report as Attachment B.

#### ATTACHMENTS:

Attachment A – Proposed SB 1098 Bill Language (as currently amended)

Attachment B – Letter from Senator Catherine Blakespear 5/14/2024

AMENDED IN SENATE MARCH 20, 2024

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL

NO. 1098

---

**Introduced by Senator Blakespear**  
**(Coauthors: Senators Allen, *Laird*, Limón, Newman, and Umberg)**  
**(Coauthors: Assembly Members *Boerner*, Davies, Dixon, and Hart)**

February 13, 2024

---

An act to add Sections 14072.8 and 14072.10 to, and to add and repeal Section 14072.6 of, the Government Code, relating to transportation.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1098, as amended, Blakespear. Passenger and freight rail: LOSSAN Rail Corridor.

Existing law establishes the Department of Transportation in the Transportation Agency under the control of an executive officer known as the Director of Transportation. Existing law authorizes the Department of Transportation, subject to approval of the Secretary of Transportation, to enter into an interagency transfer agreement under which a joint powers board assumes responsibility for administering the state-funded intercity rail service in certain rail corridors, including the LOSSAN Rail Corridor. Existing law defines the LOSSAN Rail Corridor as the intercity passenger rail corridor between San Diego, Los Angeles, and San Luis Obispo. Pursuant to this authority, the department entered into an interagency transfer agreement with the LOSSAN Rail Corridor Agency to administer intercity passenger rail service in the LOSSAN Rail Corridor.

This bill would require the Secretary of Transportation to provide ~~strategic guidance, recommendations, and facilitate all necessary coordination, collaboration, and intervention when~~

~~necessary between stakeholders~~; *guidance and recommendations to, and coordination between, stakeholders as necessary* to ensure the performance of the LOSSAN Rail Corridor, as specified.

This bill would also require the Secretary of Transportation, in consultation with the Director of Transportation, *the California Transportation Commission, the Secretary for Environmental Protection, and the Secretary of the Natural Resources Agency*, to submit a report to the Legislature on or before January 1, 2026, regarding the LOSSAN Rail Corridor that includes specified ~~information, including certain recommendations made by the department and the California Transportation Commission, in consultation with the Secretary for Environmental Protection.~~ *information.* The bill would also require the Secretary of ~~Transportation~~ *Transportation, in coordination with stakeholders responsible for operating rail services along the LOSSAN Rail Corridor*, to submit a report to the Legislature on or before January 1, 2027, and biennially thereafter, on the ~~management~~ *performance* of the LOSSAN Rail Corridor, as provided.

This bill would require ~~the metropolitan planning organizations for the counties located within the LOSSAN Rail Corridor to jointly~~ *an unspecified entity to convene a working group composed of representatives of certain types of entities, including, among others, metropolitan planning organizations from specified counties. The bill would require the working group to submit a report* to the Legislature ~~a report~~ on or before January 1, 2026, that provides recommendations on various topics relating to rail service in the ~~corridor.~~ *LOSSAN Rail Corridor. Before the report is submitted to the Legislature, the bill would require the report to be reviewed and approved by the LOSSAN Rail Corridor Agency, the Southern California Regional Rail Authority, and the North County Transit District.* By adding to the duties of local agencies, the bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the LOSSAN Rail Corridor.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

## Digest Key

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

---

## Bill Text

# THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

## *SECTION 1.*

*The act shall be known, and may be cited, as the Southern California Rail Revitalization Act.*

## ~~SECTION 1.~~ *SEC. 2.*

Section 14072.6 is added to the Government Code, to read:

14072.6.

(a) (1) The secretary, in consultation with the director, *the commission, the Secretary for Environmental Protection, and the Secretary of the Natural Resources Agency*, shall submit a report to the Legislature on or before January 1, 2026, regarding the LOSSAN Rail Corridor that includes all of the following information:

(A) Prioritized ~~capacity~~ *capital* improvement projects in the corridor necessary to improve current services and accommodate future passenger and freight service ~~growth.~~ *growth consistent with the State Rail Plan prepared pursuant to Section 14036.*

(B) Prioritized resiliency improvement projects in the corridor necessary to ensure the safe and continued movement of trains.

(C) A description of administrative actions taken by the Transportation Agency using authority in existence before January 1, 2025, to improve ~~the management~~ *operations and performance* of the corridor.

(D) Recommendations ~~received pursuant to paragraph (2).~~ *for the corridor to connect with other passenger rail services.*

*(E) Strategies to support and improve existing rail service and resiliency planning in the corridor.*

~~(2) The department and commission, in consultation with the Secretary for Environmental Protection, shall submit recommendations to the secretary for inclusion in the report required pursuant to this subdivision regarding updates or changes to state agencies, policies, planning documents, programs, including the state transportation improvement program and the interregional transportation improvement program, and guidelines, needed to support the LOSSAN Rail Corridor. These recommendations shall include a review of how state rail planning documents are implemented, managed, and enforced.~~

~~(3)~~

(2) In preparing the report pursuant to this subdivision, the secretary ~~and director~~ shall consult existing plans and studies for the LOSSAN Rail Corridor, including, but not limited to, the LOSSAN Rail Corridor Optimization Study *and the LOSSAN Rail Corridor Agency Business Plan* adopted by the LOSSAN Rail Corridor Agency.

(b) *The \_\_\_\_\_ shall convene a working group that includes, but is not limited to, representatives of all of the following entities:*

(1) *LOSSAN Rail Corridor track owners.*

(2) *LOSSAN Rail Corridor passenger and freight rail operators.*

(3) *The county transportation commissions for the Counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura established pursuant to Division 12 (commencing with Section 130000) of the Public Utilities Code.*

(4) *The metropolitan planning organizations for the Counties of Los Angeles, Orange, San Diego, San Luis Obispo, Santa Barbara, and Ventura.*

(5) *Business, community, transportation, environmental, labor, and civic organizations.*

~~(b)~~

(c) (1) ~~The metropolitan planning organizations for the Counties of Los Angeles, Orange, San Diego, San Luis Obispo, and Santa Barbara shall jointly~~ *working group convened pursuant to subdivision (b) shall* submit a report to the Legislature on or before January 1, 2026, that provides recommendations on all of the following as necessary to ensure the long-term viability of comprehensive and coordinated passenger and freight rail services in the LOSSAN Rail Corridor:

(A) Dedicated and formula funding distributions *available* for passenger rail operations, including intercity and regional rail services along the corridor.

(B) Strategies to increase rail service coordination and reduce disruptions or delays, including, but not limited to, those caused by climate resiliency, track closures, state of good repair, equipment, and staffing. *The recommendations made pursuant to this subparagraph should result in improved maintenance and conditions of assets, reduced track closures, and greater on-time performance.*

(C) ~~Changes to local or regional governance, Alternative management structures, and consolidation for~~ *and operations models or structures that improve* intercity and regional rail services.

(D) Changes to state ~~statutes or policies~~ *statutes, rules, or funding* relating to intercity and regional rail services.

~~(E) Changes to enabling state legislation, policies, rules, or funding.~~

~~(F)~~

(E) Opportunities for rail to accelerate and support equity, safety, sustainability, zero-emissions, equipment, and economic development goals.

~~(G)~~

(F) Opportunities for ~~these~~ metropolitan planning organizations to analyze, describe, and report progress in operating, maintaining, and improving the corridor consistent with state and local planning documents in their sustainable communities strategies or, if applicable, alternative planning strategies, adopted pursuant to Section 65080.

~~(H)~~

(G) Opportunities for ~~these~~ metropolitan planning organizations to adopt multiregional goals relating to passenger and freight rail service, capital improvement projects related to those services, and resiliency of those services along the corridor to include in their respective sustainable communities strategies or, if applicable, alternative planning strategies, adopted pursuant to Section 65080.

*(H) Improving connections to existing and planned public transit services.*

*(I) Strategies that increase ridership and use of rail services.*

(2) The report required pursuant to this subdivision shall include meaningful public engagement led by the ~~metropolitan planning organizations and be developed with the support of a steering committee composed of representatives of business, community, transportation, environmental, labor, and civic organizations. The report shall be adopted by the governing boards of each metropolitan planning organization before submission to the Legislature.~~ *working group convened pursuant to subdivision (b).*

*(3) Before submitting the report required pursuant to this subdivision to the Legislature, the working group shall submit the report to the governing boards of the LOSSAN Rail Corridor Agency, the Southern California Regional Rail Authority, and the North County Transit District for review and approval.*

~~(e)~~

(d) (1) The reports to be submitted pursuant to this section shall be submitted in compliance with Section 9795.

(2) Pursuant to Section 10231.5, this section is repealed on January 1, 2030.

### ~~SEC. 2.~~ SEC. 3.

Section 14072.8 is added to the Government Code, to read:

14072.8.

(a) Notwithstanding Section 10231.5, the ~~secretary~~ *secretary, in coordination with stakeholders responsible for operating rail services along the LOSSAN Rail Corridor*, shall submit a report to the Legislature on or before January 1, 2027, and every two years thereafter, on the ~~management~~ *performance* of the LOSSAN Rail Corridor that includes all of the following information:

- (1) Performance, ridership, usage, and quality of ~~intercity, regional rail, and freight rail~~ *services*.
- (2) Updates to capital improvement planning.
- (3) Progress in delivering fleet and infrastructure improvement projects.
- (4) Improvements to service and fare coordination.
- (5) Opportunities to increase the quality and frequency of services.

(b) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795.

### ~~SEC. 3.~~ *SEC. 4.*

Section 14072.10 is added to the Government Code, to read:

14072.10.

(a) The secretary shall provide ~~strategic guidance, recommendations, and facilitate all necessary coordination, collaboration, and intervention when necessary between stakeholders,~~ *guidance and recommendations to, and coordination between, stakeholders as necessary* to ensure the performance of the LOSSAN Rail Corridor.

(b) The responsibilities set forth in subdivision (a) shall include ~~oversight and development of plans,~~ *planning*, as needed, for any of the following:

- (1) Service frequencies.
- (2) Equipment and fleet management.
- (3) Infrastructure improvement and state-of-good repair projects.
- (4) Resiliency of the corridor.

### ~~SEC. 4.~~ *SEC. 5.*

The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California

Constitution because of the unique need to address the resiliency and performance of the LOSSAN Rail Corridor.

~~SEC. 5.~~ **SEC. 6.**

If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CAPITOL OFFICE  
1021 O STREET, SUITE 7340  
SACRAMENTO, CA 95814  
TEL (916) 651-4038

DISTRICT OFFICES  
169 SAXONY ROAD, SUITE 209  
ENCINITAS, CA 92024  
TEL (760) 642-0809

24031 EL TORO ROAD, SUITE 201A  
LAGUNA HILLS, CA 92653  
TEL (949) 598-5850

SENATOR.BLAKESPEAR@SENATE.CA.GOV  
WWW.SENATE.CA.GOV/BLAKESPEAR

# California State Senate

SENATOR  
CATHERINE BLAKESPEAR  
THIRTY-EIGHTH SENATE DISTRICT



STANDING COMMITTEES  
ELECTIONS AND CONSTITUTIONAL  
AMENDMENTS  
CHAIR  
BUDGET AND FISCAL REVIEW  
HOUSING  
HUMAN SERVICES  
TRANSPORTATION  
SUBCOMMITTEES  
LOSSAN RAIL CORRIDOR RESILIENCY  
CHAIR  
BUDGET SUBCOMMITTEE #2:  
RESOURCES, ENVIRONMENTAL PROTECTION  
AND ENERGY  
JOINT COMMITTEES  
CLIMATE CHANGE POLICIES  
FAIRS ALLOCATION & CLASSIFICATION

May 14, 2024

Hon. Dave Druker, Mayor  
City of Del Mar  
1050 Camino Del Mar  
Del Mar, CA 92014

Hon. Dan Quirk, Council Member  
City of Del Mar  
1050 Camino Del Mar  
Del Mar, CA 92014

Hon. Terry Gaasterland, Deputy Mayor  
City of Del Mar  
1050 Camino Del Mar  
Del Mar, CA 92014

Hon. Dwight Worden, Council Member  
City of Del Mar  
1050 Camino Del Mar  
Del Mar, CA 92014

Hon. Tracy Martinez, Council Member  
City of Del Mar  
1050 Camino Del Mar  
Del Mar, CA 92014

Subject: Senate Bill 1098 (Blakespear) – Southern California Rail Revitalization Act

Dear Mayor Druker, Deputy Mayor Gaasterland, Council Member Martinez, Council Member Quirk, and Council Member Worden:

Thank you for your partnership as we work together to serve the community of Del Mar. The challenges we face today along the LOSSAN Rail Corridor require the highest level of coordination, collaboration, and partnership. It is in that spirit that I write to you regarding the bill I introduced this legislative session – Senate Bill 1098.

I appreciate your consideration of the bill, and hope you can support it. SB 1098 aims to establish the process and organization necessary to create a shared vision, and a strong foundation, for the rail corridor’s future. It does this in four ways.

First, the bill tasks the state’s leading coastal, transportation, and environmental protection agencies to identify the highest priority improvement projects to both ensure the resiliency of our natural resources

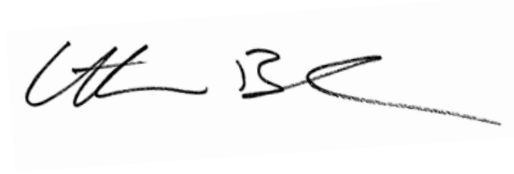
and the transportation corridor. Any discussion around project delivery would still be led by a local agency and use existing environmental review processes. The intent is for a high level of information sharing and transparency among all agencies involved and the Legislature.

Second, the bill forms a working group to provide recommendations to the Legislature regarding the LOSSAN corridor and rail operations. This process will need the expertise from coastal and environmental stakeholders, including the Coastal Commission. The working group will also need to consider coastal resources and local communities when making recommendations – with the intent of supporting these mutually important goals in the process. The goal is to foster shared action and equal participation among the many stakeholders that rely on and support the corridor every day.

Third, the bill requires continuous reporting to the Legislature by the state Transportation Agency, stakeholders responsible for rail service, and the Coastal Commission. Fourth, and finally, SB 1098 creates a framework for continued coordination. The provisions of the bill are aligned with the City’s 2024 Legislative Policy Guidelines, including A. Transportation 17 and 18 relating to the Del Mar bluffs and rail corridor.

The cost of inaction is simply too high. We continue to see the erosion of bluffs and hillsides along the coast and emerging threats to the rail line, which has been closed down five times in the last three years due to track instability. Making this line reliable and successful, and growing ridership, is key to meeting the state’s climate goals – and reducing road congestion. I welcome your input, and your support, as I work to pass this legislation. Thank you for your leadership and partnership.

Sincerely,



**SENATOR CATHERINE BLAKESPEAR**

SENATE DISTRICT 38



# City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Amanda Lee, Principal Planner  
Karen Brindley, Planning and Community Development Director  
Wendy House, Deputy City Attorney  
Via Ashley Jones, City Manager

DATE: May 20, 2024

SUBJECT: Discussion of Draft Regulatory Framework and Policy Direction for Short Term Rental Regulations

## REQUESTED ACTION/RECOMMENDATION:

Staff recommends that the City Council review the revised draft short-term rental (STR) regulatory framework (Attachment A) and provide direction to staff to prepare a draft Ordinance for processing through the public review and adoption process.

## BACKGROUND:

The preparation of STR regulations has been a multi-year process, the details of which are summarized in Attachment B. Del Mar is a small coastal city with 2,574 dwelling units per the 2020 United States Census. The City hosts millions of visitors each year, who are accommodated in the City within six hotels and two additional visitor-serving businesses, which currently provide a combined 400 hotel guest rooms in Del Mar. An additional 1,979 hotel guest rooms are available within 13 hotels outside the City, for a combined total of 2,379 hotel guest rooms that are located within a five-mile radius of Del Mar. Visitor accommodations have also been informally provided over the years through unregulated STRs in neighborhoods along the shoreline. The policy consideration that the City Council has been studying is how the availability of dwelling units within the community for short-term visitor use can supplement the availability of visitor accommodations and support visitor-serving uses without sacrificing the City's need to maintain its long term housing stock.

On January 22, 2024, the City Council reviewed the first draft of the STR regulatory framework. The City Council was in agreement to allow existing STRs to continue operating but was not in agreement on the best approach to do so. The Council majority (3-2 vote) provided direction to staff to allow existing STRs to continue operating until the property changes ownership, the STR permit is not renewed, or the permit is revoked due to non-compliance. In addition, the City Council confirmed support to limit new STRs in

---

## City Council Action:

residential zones to a primary residence as a measure to maintain the City's stock of dwelling units for long-term housing consistent with the City's certified Housing Element Program 5C, which is also consistent with the current policy direction being taken by the California Coastal Commission. Further, the City Council supported the approach to set an overall cap on STRs citywide and neighborhood caps to prevent the overconcentration of STRs and reflect historic trends of STR use in the North Beach, South Bluff, and Hills neighborhoods.

In addition to clarifying the rules for existing STRs to continue operating, the City Council requested that revisions be incorporated into the framework to address the following:

- Revise the provisions for inspections of STRs to authorize the City to conduct a reasonable inspection for safety compliance, but not require such inspections as mandatory (DMMC Sections 30.96.040(D)(5) and 30.96.070(F)(3));
- Allow one STR per lot, except for lots with two primary units (i.e., R2 and RM zones), in which case the City intends to accommodate existing properties that currently operate two STRs on a lot, and for new STRs intends to allow each owner on two-unit condominium lots to operate one STR per owner (DMMC Section 30.96.060(A)(4)(b)); and
- Clarify the allowable forms of ownership for existing STRs and new STRs with the intent to accommodate existing STRs, facilitate STR use in primary residences, and preclude businesses from operating STRs (DMMC Sections 30.96.020, 30.96.030, 30.96.040, 30.96.050).

The City Council also discussed potentially prohibiting STR use in new accessory dwelling units (ADUs) in residential and commercial zones. Instead, for consistency with State ADU law, the California Coastal Act, and the ADU Ordinance adopted by the City Council in December 2023, the revised framework clarifies in new DMMC Sections 30.96.060(A)(4)(c) and (B)(3) that STR use is prohibited in residential zones and permitted in commercial zones only where the ADU is being used as a primary residence.

#### DISCUSSION/ANALYSIS:

In consideration of the extensive Council direction provided, the draft regulatory framework was prepared to align with the City's certified Housing Element, certified Local Coastal Program, and the Council-adopted guiding principles and objectives to:

1. Honor the existing policies in the Del Mar Community Plan.
2. Maintain the residential character of neighborhoods in residential zones.
3. Honor the tradition of vacation rentals during the summers, holidays, and horse-racing season.
4. Ensure protection of the public health, safety, and general welfare.
5. Ensure the City's natural resources will be preserved and protected.

6. Ensure STRs will not overburden public improvements, facilities, and services.
7. Minimize adverse impacts to adjacent private properties and the surrounding neighborhood.
8. Consider distribution and concentration of STRs throughout the community.
9. Craft regulations that are easy to understand and implement.
10. Communicate expectations for civil conduct in line with “good neighbor” policies.
11. Establish enforcement protocols, and ensure regulation of short-term rentals is, at a minimum, revenue neutral to the City.
12. Work towards a solution for STRs that works for Del Mar and will pass muster with the Coastal Commission.

Below is a summary of the draft STR regulatory framework including revisions incorporated since January 22, 2024, as noted below with an asterisk (\*):

- **Citywide Cap: Sets the maximum number of STRs at 5% of the City’s total dwelling units (New DMMC Section 30.96.050(B))**
  - This equates to a cap of 129 STRs maximum based on the 2020 US Census.
  - The cap will apply citywide in residential and commercial zones and may initially be exceeded if necessary to accommodate existing STRs.
  - Once the cap is reached (or exceeded through accommodation of existing STRs), any applications for new STRs would be placed on a waitlist in the order in which the STR permit applications are received. *\*Clarification was added that once contacted by the City, Owners on the wait list will have 30 days to submit an application or the City will move on to the next Owner on the list.*
- **Existing STRs: Accommodates existing STRs that are timely registered with the City (New DMMC Sections 30.96.020, 30.96.040, 30.96.050, 30.96.080)**
  - Defines “Existing STR” as a STR in operation prior to adoption of the City’s STR Ordinance where the Owner timely registered the existing STR with the City as of the date stated in the Ordinance (to be determined by the City Council in consultation with the City Attorney). A STR shall cease to be protected as an Existing STR upon any of the following: the transfer of ownership of the STR property, the STR Permit is not maintained in good standing, including a STR Permit that is not timely renewed prior to the permit expiration date, or the STR Permit is revoked due to non-compliance with any provisions of this Chapter.
  - Existing STR operators, including STRs with non-conforming operations, that have timely registered with the City would be accommodated if the Owner obtains a STR Permit. *\*Clarifies that a termination of existing rights will occur upon any of the following: the transfer of ownership of the STR property, the STR permit is not maintained in good standing, the STR Permit is not timely renewed prior to the date of expiration or the STR permit is*

*revoked due to non-compliance. A change in title (resulting from marriage, death, or transfer to a personal trust, family trust, or LLC) processed in accordance with Section 30.96.030(G) where the original owner remains on the title shall not be considered a transfer of ownership that terminates rights to an existing STR.*

- STR Permit applications for existing STRs that have registered with the City will be processed as first priority before applications for new STRs.
- Accommodation of existing STRs with nonconformities would include:
  - Owners with more than one STR (on same lot or separate lots).
  - Owners operating full-time STRs (not in a primary residence).
- As of the writing of this Agenda Report, owners have identified 99 existing STRs. See Attachment E for the locations of the existing STRs. By comparison, prior data identified 125 STRs were advertised for rent in Del Mar in June 2023 so there may still be owners who have not yet registered their existing STRs.
- Owners of existing STRs are encouraged to register at the following link:  
<https://www.delmar.ca.us/FormCenter/Planning-6/ShortTerm-Rental-Registry-51>
- **Permits: Requires STR Permit to operate STR (New DMMC Section 30.96.030)**
  - Requires STR Permit for rental of dwelling unit, or portion thereof, for dwelling, lodging, or sleeping purposes for not more than 30 days.
  - *\*Clarifies the allowable forms of ownership for new STRs, including that STR Permits will only be issued to the “Owner” with recorded interest in the unit, and the Owner must live in the unit as their primary residence for more than 6 months per year.*
    - *Owners must be natural persons (not business entities) who live in the unit as their primary residence. Allows owners to be personal or family trusts or limited liability companies (LLCs) if they are natural persons with at least one member (trust beneficiary or LLC manager/member) who lives in the unit as their primary residence for more than 6 months per year.*
    - *Owners may not be timeshares, business trusts, corporations, limited partnerships, general partnerships, or limited liability partnerships.*
  - *\*Clarifies that a new STR Permit is not required for changes in title to the dwelling unit resulting from marriage, death, or transfers into a personal trust, family trust, or LLC where the original owner under the permit remains an owner, trustee, or manager/member of the LLC under the new title.*
  - Prohibits subletting of units for STR use.
  - The Owner’s tenants are not eligible to obtain a STR Permit.
  - Limits permit issuance for new STR operations to only one STR per owner; owners with more than one Existing STR would be accommodated.

- Requires STR Permit renewal every two years.
- Requires notice of STR Permit approval to owners within 300 feet.
- *\*Clarifies the STR Permit will authorize the City to conduct a reasonable inspection for safety compliance, but that such inspections are not mandatory.*
- STR Permit is not required for non-commercial home exchanges, L'Auberge Vacation Villas, Wavecrest Resort Timeshares, and hotels. Local hotels, L'Auberge Vacation Villas, and Wavecrest Resort Timeshares are and will continue to be subject to payment of Transient Occupancy Taxes.
- **Residential Zones: Limits new STRs in residential zones to maintain neighborhood character and maintain housing as primary use of dwelling units consistent with Housing Element Program 5C (Section 30.96.060)**
  - Limits new STRs to primary residences occupied by the owner as principal place of residence for more than six months per year.
  - Maximum of one STR per lot in R1 zones (R1-40, R1-14, R1-10, R1-10B, R1-5, R1-5B, Carmel Valley Precise Plan) and on lots with one primary unit in R2 and RM zones
  - *\*Clarifies applicability for lots with two primary units (R2 and RM zones):*
    - *Allows one STR per owner on two-unit condominium lots*
    - *Limits to one STR for lots with two units and only one owner*
    - *Accommodates existing STR owners with two STRs on their lot*
  - Prohibits STR use in ADUs in residential zones per State ADU law.
- **Apartments/Condominiums: Limits STRs in multi-unit condos and prohibits STRs in apartments to preserve the City's older, more affordable rental units for housing consistent with Housing Element (New DMMC Section 30.96.060)**
  - Limits new STRs to primary residences occupied by the owner as principal place of residence for more than six months per year.
  - Prohibits STRs in existing apartments in the RM-South, RM-West, RM-East, and R2 residential zones to preserve these units for housing. There are nine (9) existing apartment complexes with 321 total units (see Attachment D).
  - Limits STRs in multi-unit condos in the RM-South, RM-East, RM-West, and R2 residential zones to a maximum of 10% of the total primary dwelling units and requires written consent of the homeowner's association. Creates potential capacity for 45 STRs in the 17 existing condo complexes with 421 total units that range in size from 5-unit to 126-unit complexes (see Attachment D).
  - Prohibits STRs in units that are subject to affordable housing restrictions.

- **Commercial Zones: Allows STRs in commercial zones (except the BC zone) for consistency with the Coastal Act, which prioritizes visitor serving uses over residential (New DMMC Section 30.96.060)**
  - Limits new STRs to primary residences occupied by the owner as principal place of residence for more than six months per year.
  - Allows STR use in the Visitor Commercial (VC) zone.
  - Allows STRs in zones that allow residential: Residential-Commercial (RC), Central Commercial (CC), North Commercial (NC), Professional Commercial (PC), and the 941 Camino del Mar (941 CDM) Specific Plan.
  - *\*Clarification was added that STR use will be permitted in an ADU in commercial zones only where the ADU is used as a primary residence, which is consistent with State Housing law, the Coastal Act, and the ADU Ordinance adopted by the City Council in December 2023 that is currently pending Coastal Commission certification.*
  - Limits STRs in apartments and condos to 10% of the primary dwelling units. (There are no existing apartments in the RC, CC, NC, or PC zones.)
  - Continues to allow visitor accommodation use in the Wavecrest Resort Timeshares, Hotel Specific Plan, 941 CDM Specific Plan, VC Zone and CC Zone per applicable entitlements and zoning. Del Mar has 400 hotel guest rooms/units and more than 1,979 additional guest rooms/units in 13 hotels within 5 miles of Del Mar in the cities of San Diego and Solana Beach and County of San Diego for a total of 2,379 guest rooms.
  - See Attachment D for analysis of STR potential in apartments/condos and commercial zones, which are summarized below:
    - VC zone: Allows STR use. The existing Terraces Apartments is a 53-unit complex of older studio apartments (non-conforming use) where STR use would be limited to 10%, which would provide potential capacity for 5 STRs (consistent with LCP) and 48 units as lower cost housing.
    - NC Zone: Allows STR use. Creates potential capacity for 4 STRs in 50-unit residential project (pending building permit approval and construction), which includes 10 deed-restricted lower income units that are prohibited from being used as STRs.
    - PC Zone: Allows STR use. There are no existing dwelling units in zone.
    - 941 Camino del Mar Specific Plan: Allows STR use. Potential capacity for 6 STRs in 8-unit residential/STR development project (pending building permit approval and construction), which includes two deed-restricted lower income units that are prohibited from being used as STRs.
    - CC zone: Allows STR use. Potential capacity for 3 STRs on three lots that have one unit per lot that is accessory to existing commercial uses.

These units are not ADUs. They must be primary residences in order to be used as STRs.

- RC zone: Allows STR use. Potential capacity for 6 STRs on six lots, including three lots with single units and three with two units per lot.
- **Neighborhood Caps: Establishes Caps to Mimic Historic Use Patterns and Minimize Potential for Overconcentration (New DMMC Section 30.96.060)**
  - Sets neighborhood concentration limits as maximum percentage of the total 129 STRs allowed per citywide cap. Attachment E identifies the location/distribution of the 99 existing STRs registered to-date on maps showing the boundaries of the neighborhoods with caps.
  - **Sets 60% cap in North Beach neighborhood** (R1-5B, R1-10B, RM-East, RM-West) – Capacity for 77 STRs. The City has record of 65 existing STRs registered in North Beach (71 STRs were advertised in June 2023).
  - **Sets 25% cap in South Bluff neighborhood** (R1-40, R2 south of 15<sup>th</sup> Street, RM-South, RC) – Capacity for 32 STRs. The City has record of 21 existing STRs registered in South Bluff (32 STRs advertised in June 2023).
  - **Sets 15% cap in Hills neighborhood** (R1-40, R1-10, R1-5, RM-Central, northerly R2, CVPP) – Capacity for 19 STRs. The City has record of 13 existing STRs registered in Hills (19 STRs advertised in June 2023).
  - In locations where no concentration limit is set (i.e., North Bluff or commercial zones), STRs would still count towards the citywide cap.
- **Good Neighbor Provisions: Communicates expectations for civil conduct and includes provisions to protect the public health, safety, and welfare in surrounding neighborhoods (New DMMC Sections 30.96.050 and 30.96.070)**
  - Upon STR permit application, Owner must provide their standard rental agreement to confirm inclusion of required content per STR regulations.
  - Owner must acknowledge review of Good Neighbor Policy (Attachment C).
  - Public notice of STR permit approvals would be provided including posting on City website and mailed notice to owners within 300 feet.
  - Rental agreements would require a minimum 3-night stay.
  - Limits STR occupancy to two per bedroom plus two additional persons.
  - Limits additional guests to visits during the hours of 8 a.m. and 10 p.m. daily.
  - Requires primary rental guest to be at least 25 years of age.
  - Requires rental agreements specify occupancy, parking and other details.
  - Requires prompt response to complaints within 30 minutes.
  - Requires compliance with noise, trash, and parking regulations and avoidance of public nuisance.
  - Requires interior display of STR permit, Transient Occupancy Tax rate, and Good Neighbor Policy (see Attachment C for Draft Good Neighbor Policy).
  - Requires exterior display of the designated 24-hour local contact person.

- Limits use to lodging and prohibits events (i.e., weddings, receptions, commercial functions, bachelor/bachelorette parties, and similar events).
- Prohibits STR use in non-dwelling units (i.e., tents, garages, or vehicles).
- Requires general liability insurance (\$1 million minimum).
- **Enforcement: Establishes enforcement protocols (New DMMC Section 30.96.080)**
  - Sets forth the violations, penalties, and enforcement provisions consistent with the citywide enforcement regulations.
  - Sets forth the procedures and required grounds for decisions to suspend or revoke a STR permit.
  - Identifies the process to appeal a permit denial, suspension, or revocation.
  - Would apply fine amounts per Government Code Section 36900(d), which relates specifically to violations of STR ordinances.
- **STR Permit Fee and Transient Occupancy Tax (TOT): Requires payment of Permit Fee and TOT to ensure regulation is revenue neutral to the City (New DMMC Section 30.96.070)**
  - Permit fee would establish cost recovery consistent with City fee schedule.
  - Identifies the process for collection of TOT.
  - *As part of a separate item on the May 20, 2024, City Council Agenda, staff is seeking direction for a STR-related Ballot Measure and TOT Ordinance to be processed separately in a parallel timeline to the STR Ordinance.*

### **Next Steps**

Below is an outline of the next steps for processing of the STR Regulations Ordinance:

- Prepare draft Ordinance per Council direction consistent with guiding principles and conduct public outreach.
- Planning Commission recommendation hearing (tentatively Sep 2024).
- City Council hearings to introduce/adopt an ordinance (tentatively Oct-Dec 2024).
- Submit the adopted Ordinance to the CCC for certification.

### **FISCAL IMPACT:**

There is no fiscal action to be taken by the City Council for this agenda item.

### **HOUSING IMPACT:**

STRs involve commercial use of a dwelling unit that can displace long term housing. The City's Housing Element Program 5C commits the City to implement measures to reduce current vacancy rates (off-site owners with units reported as unoccupied/no housing tenant) with the intent to maintain dwelling units in residential zones for long term housing. To reduce the City's vacancy rate, the draft STR Regulations in process would provide for a citywide limit on the number of allowable STRs and includes other provisions to

maintain dwelling units as primary residences where occupants live more than six months per year.

**ENVIRONMENTAL IMPACT:**

The requested action is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) (General Rule) because CEQA only applies to projects with the potential for causing a significant effect on the environment. For the purpose of CEQA for the STR Regulations, there is also no change in baseline environmental conditions or potential to cause a significant effect on the environment. On April 17, 2024, the City's CEQA consultant, Interwest Group, completed an Initial Study evaluation, which concluded that no environmental factors would be potentially affected by the STR Regulations contemplated by the City Council including the revisions directed by the City Council on January 22, 2024. As such, staff anticipates that a Notice of Exemption will be prepared identifying that the activity is covered by the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

**NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:**

This is a City Council priority special project to be completed by December 2024.

**ATTACHMENTS:**

- Attachment A – Draft STR Regulatory Framework
- Attachment B – STR Background Summary
- Attachment C – Draft Good Neighbor Policy
- Attachment D – Multi-Unit Development Site Analysis
- Attachment E – Maps of Existing STR Locations

This copy of the draft STR Regulatory Framework shows text that is proposed to be added to the Del Mar Municipal Code (DMMC) as a new Chapter 30.96 in the City's Zoning Code and certified Local Coastal Program. It identifies the changes incorporated in response to City Council direction on January 22, 2024. Text shown in underline has been added and text shown in strikethrough is text that was deleted.

## Chapter 30.96 – Short-Term Rentals

### 30.96.010 – Purpose

The City of Del Mar has experienced an increase in the number of residential properties offering dwelling units on residential properties for rent as Short-Term Rentals (STRs) for visitor lodging involving timeframes of less than thirty (30) consecutive days. The purpose of this Chapter is to provide a permitting process and reasonable standards regulating the use and operation of STRs with the intent to maintain long term housing stock; honor the existing policies in the Del Mar Community Plan; maintain the residential character of neighborhoods in residential zones; honor the tradition of vacation rentals during the summers, holidays, and horse-racing season; ensure protection of the public health, safety, and general welfare; ensure the City's natural resources will be preserved and protected; ensure STRs will not overburden public improvements, facilities, and services; minimize adverse impacts to adjacent private properties and the surrounding neighborhood; establish distribution and concentration of STRs throughout the community; establish enforcement protocols; and ensure the regulation of STRs is, at a minimum, revenue-~~ne~~utral to the City.

### 30.96.020 – Definitions

For purposes of Chapter 30.96, the following definitions shall apply:

*Accessory Dwelling Unit (ADU)* shall have the same meaning as in Section 30.04.010(C) of this Municipal Code.

*Bedroom* shall be defined as an enclosed space within a dwelling unit that is designed for or could be used for sleeping and has or is designed to have a door permitting complete closure and separation from the kitchen, living room, and hallway areas.

*Designated Local Contact Person* means the person designated by the Owner to be available 24 hours per day, 7 days per week, for the purpose of responding within 30 minutes to complaints regarding the condition, operation, and/or conduct of occupants and guests of the STR, and taking remedial action to resolve any such complaints.

*Existing Short-Term Rental (Existing STR)* means a STR in operation prior to adoption of the City's STR Ordinance where the Owner timely registered the existing STR with the City as of the date stated in the Ordinance (to be determined by the City Council in consultation with the City Attorney). ~~March 1, 2024~~ A STR shall cease to be protected as an Existing STR upon any of the following: the

transfer of ownership of the STR property, the STR Permit is not maintained in good standing, including a STR Permit that is not timely renewed prior to the permit expiration date, or the STR Permit is revoked due to non-compliance with any provisions of this Chapter.

*Home Exchange* means an agreement between two parties for exclusive use of each other's homes for living and sleeping purposes for a set period of time, with no monetary exchange or other consideration exchanged between the parties.

*Hosted Unit* means a STR whereby the Owner remains on-site during the STR rental period (except during daytime and/or working hours).

*Non-Hosted Unit* means a STR whereby there is no Owner that remains on-site during the STR rental period.

~~Owner means a person who holds a recorded interest in the property on which a STR is located.~~ Owner means the natural person(s) who is/are the owner(s) of record of the dwelling unit, at least one of whom occupies the dwelling unit at which the STR will operate as their Primary Residence. All owner(s) of record of the dwelling unit are required to sign the STR Permit application and shall be held jointly and severally liable for any violation(s) of this Chapter. For purposes of this Chapter, "Owner" may also include:

- (i) A personal trust or family trust whose beneficiaries consist solely of natural persons and the trustee(s) of such trust, so long as at least one beneficiary or trustee of the trust occupies the dwelling unit at which the STR will operate as their Primary Residence. If the dwelling unit is held in a personal or family trust, each trustee must sign the STR Permit application, and shall be held jointly and severally liable for any violation(s) of this Chapter; or
- (ii) A limited liability company (LLC) owned by natural persons (not business entities) so long as at least one manager/member of the LLC occupies the dwelling unit at which the STR will operate as their Primary Residence. If the dwelling unit is part of a LLC, each manager/member of the LLC must sign the STR Permit application and shall be held jointly and severally liable for any violation(s) of this Chapter.

The term "Owner" does not include a dwelling unit that is fully or partially owned as a timeshare, a business trust, or by any entity other than a LLC (e.g., corporation, limited partnership, general partnership, limited liability partnership, etc.).

*Primary Residence* means a dwelling unit owned and occupied as the Owner's principal place of residence, where the Owner lives more than six (6) months per year. For purposes of this Chapter, an Owner can only have one Primary Residence at any given time.

*Short-Term Rental* (STR) means the rental of a dwelling unit, or any portion thereof, for dwelling, lodging, or sleeping purposes, for not more than thirty (30) consecutive calendar days. For purposes of this Chapter, Home Exchanges (as defined by this Chapter) are not considered STRs.

### 30.96.030 – When a Short-Term Rental Permit is Required

- A. Any person operating a STR in the City of Del Mar must have a valid STR ~~permit~~ Permit issued by the City pursuant to Section 30.96.050. Notwithstanding Section 30.96.060(A) and (B), the following properties have existing entitlements for visitor accommodations that are subject to payment of Transient Occupancy Tax, but are not subject to the requirement to obtain a STR Permit pursuant to this Chapter:
1. Hotels in the Visitor Commercial Zone including the Best Western Premier (720 Camino del Mar), Del Mar Beach Hotel (1702 Coast Boulevard), Hotel Indigo (710 Camino del Mar), Hotel L’Auberge (1540 Camino del Mar), Les Artistes (944 Camino del Mar), and Secret Garden Inn (1140 Camino del Mar);
  2. L’Auberge Vacation Villas (1570 Camino del Mar) in the Hotel Specific Plan Zone; and
  3. Wavecrest Resort Timeshares (1400 Ocean Avenue) in the R2 Zone.
- B. A STR ~~permit~~ Permit will only be issued to the Owner~~(s)~~ of the ~~property~~ dwelling unit.
- C. No person shall rent, offer to rent, or advertise a STR without a valid STR ~~permit~~ Permit.
- D. A STR ~~permit~~ Permit shall be valid for a period of two (2) years from the date of issuance and must be timely renewed every two (2) years thereafter to maintain a valid permit for STR operations.
- E. The subletting of a STR is prohibited. Only an Owner with a valid STR ~~permit~~ Permit issued by the City is permitted to rent out a ~~property~~ dwelling unit or portion thereof as a STR.
- F. A STR ~~permit~~ Permit shall not be transferred, sold or assigned to any other person or entity. Upon transfer of ~~property~~ ownership of a dwelling unit at which an STR operates, the STR ~~permit~~ Permit shall automatically terminate and no STR may be operated at the dwelling unit the unit shall not be used as a STR until a new ~~permit~~ STR Permit is issued by the City to operate a STR at the property.
- G. A new STR ~~permit~~ Permit is not required for changes in title to the ~~property~~ dwelling unit resulting from marriage, death, ~~or~~ transfer into a personal or family trust, or

transfers into a limited liability company (LLC) where an original Owner under the STR ~~permit~~ Permit remains an ~~owner~~ Owner, ~~or trustee,~~ or manager/member of the LLC under the new title. In such an event, notice of the change of title shall be provided to the City within thirty (30) days of such transfer.

### 30.96.040 – Application Requirements

An application for a STR ~~permit~~ Permit, or renewal thereof, shall be filed on a form provided by the City, shall be signed by the applicant(s) under penalty of perjury, and must include all of the following information, which shall be updated when there is any change to ensure that the City has current information on file at all times relating to the STR:

- A. Legal name, address, telephone number, and email address of each Owner and the ~~STR address and~~ Assessor's Parcel Number (APN) of the STR and Address.
1. ~~All persons listed in the property deed that have an ownership interest in Each Owner of the property are~~ dwelling unit is required to sign the STR ~~permit~~ Permit application and acknowledge that (i) all information contained in the STR ~~permit~~ Permit application is true and correct; (ii) ~~all Owner(s) each Owner~~ and the Designated Local Contact Person have reviewed, understand and are familiar with the requirements of this Chapter; (iii) ~~all Owner(s) each Owner~~ and the Designated Local Contact Person are responsible for ensuring compliance with this Chapter; (iv) failure to comply with this Chapter and all applicable provisions of the Del Mar Municipal Code may result in suspension and/or revocation of a STR ~~permit~~ Permit; and (v) each Owner may ~~Each Owner shall~~ be held jointly and severally liable for any violation(s) of this Chapter.
  2. If the ~~property~~ dwelling unit is held in a personal or family trust, the trustee(s) must sign the STR ~~permit~~ Permit application and must acknowledge the information is true and correct in accordance with Section 30.96.040(A)(1).
  3. If the dwelling unit Owner is a LLC, each manager/member of the LLC must sign the STR Permit application and must acknowledge the information is true and correct in accordance with Section 30.96.040(A)(1).
  4. ~~Any Owners~~ Each Owner of ~~one a~~ STR, or multiple Existing STRs, operating in the City ~~of Del Mar~~ shall disclose the name(s) and contact information for each person holding the legal, equitable, and/or beneficial interest of each of their respective STR ownership properties as applicable. ~~This requirement applies to business entities and non-business entities.~~
  - 4.5. ~~Documentation~~ Except for Existing STRs, documentation that the STR will operate at a Primary Residence shall be demonstrated by providing proof of the Owner's address from at least two of the following documents:

- a. ~~Proof of address listed on the homeowner's federal and state Federal and State tax returns, bank~~
- b. ~~Bank account, car~~
- c. ~~Vehicle registration, driver's~~
- d. ~~Driver's license, voter~~
- e. ~~Voter registration, or employment~~
- f. ~~Employment records; and/or~~
- g. ~~Homeowner's tax exemption~~
- b. ~~Proof of residence address used for purposes of a homeowner's tax exemption.~~

5-6. Written consent from the homeowners' association if applicable or acknowledgement that there are no CC&Rs, private covenants, deed restrictions, or any other governing documents that prohibit or limit STR use of the propertydwelling unit.

- B. Legal name, address, telephone number, and email address of the Designated Local Contact Person, if different from the Owner, and written consent to act as the responsible person designated by the Owner to be available 24 hours per day, 7 days per week, for the purpose of responding within 30 minutes to complaints regarding the condition, operation, and/or conduct of occupants and guests of the STR and taking remedial action to resolve any such complaints.
- C. Owner shall provide a Deed or Title Report for the property to confirm ownership interests in the property.
- D. STR Rental Agreement and Site-Specific Details.
  - 1. Owner(s) shall provide a copy of their standard STR rental agreement which shall include the STR Permit number, STR Address-address and details information regarding the maximum STR occupancy, parking capacity, noise restrictions, trash disposal requirements, and rules and regulations that will be distributed to STR occupants and acknowledgment of receipt and review of the City's Good Neighbor Policy.
  - 2. Site plan and/or photos showing the number and location of designated off-street parking spaces for the exclusive use of the STR.
  - 3. Floor plan(s) showing the layout of the dwelling unit, including all bedrooms and bathrooms; and the location of fire extinguishers, smoke alarms, and carbon monoxide alarms.
  - 4. Acknowledgement that the STR permit-Permit does not authorize STR lodging in non-dwelling units such as garages or vehicles (e.g., recreational

vehicles, motor homes, travel trailers, truck campers, tent trailers), tree-houses, tents and other temporary shelters, etc.)

5. Authorization for the City to conduct an inspection of the STR for safety compliance in accordance with Section 30.96.070(F). The Owner shall allow the City to inspect the STR and property at any time prior to issuance of a permit and/or during the operation of the STR for the purpose of making a reasonable inspection to observe and enforce compliance with applicable laws, rules and regulations of the STR, including the provisions of this Chapter. The City may, but is not required to, conduct an inspection of the STR and property pursuant to the requirements of this Section.
- E. Evidence of general liability insurance in the amount of at least One Million Dollars (\$1,000,000), combined single limit, which insurance shall be maintained during the entire term of any STR ~~permit~~ Permit issued by the City. Evidence of insurance renewal must be provided to the City before expiration of the policy.
  - F. Any other information as the City Manager, or designee, deems reasonably necessary to administer this Chapter.
  - G. Permit Application Fee as applicable for initial application or permit renewal in accordance with the fee schedule established by the City Council.

### 30.96.050 – Permit Issuance

- A. STR ~~permits~~ Permits shall be issued on a first-come, first-served basis, except that any STRs operating in the City as of the effective date of this Ordinance, which are identified by the City as an Existing STR by inclusion on the City's STR database ~~as of March 1, 2024~~, shall be granted priority to obtain a STR ~~permit~~ Permit.
1. Notwithstanding the ~~Chapter 30.96~~ permit issuance and locational requirements applicable to new STRs under Chapter 30.96, Existing STRs ~~owners~~ shall be ~~temporarily~~ accommodated as allowable uses in accordance with a valid STR ~~permit~~ Permit issued pursuant to Section 30.96.050 from the effective date of the STR Ordinance until a termination of existing rights occurs upon any of the following: the transfer of ownership of the STR property, the STR Permit is not maintained in good standing, including a STR Permit that is not timely renewed prior to the date of permit expiration, or the STR Permit is revoked due to non-compliance with any provisions of this Chapter. A change in title that is processed in accordance with Section 30.96.030(G) shall not be considered a transfer of ownership that would terminate rights to an Existing STR. for a period of five years from the effective date of the Ordinance or the date of transfer of property ownership, whichever occurs first. Thereafter, Owners of Existing STRs

~~shall be subject to compliance with the requirements applicable to new STRs.~~

2. Notwithstanding Sections 30.96.060(A)(3)(a), (A)(4) and (A)(5) of this Chapter, Existing STRs shall be accommodated as allowable uses regardless of whether the existing operations are non-conforming with respect to operation of more than one STR (on the same lot or separate lots) or whether the operations are not within a Primary Residence. Owners shall lose their right to apply for and operate as an Existing STR if there is no evidence of STR operations within the previous 12 months or longer of the effective date of the Ordinance or date of STR permit applications, including permit applications for initial issuance and renewal.
- B. The maximum number of STR ~~permits~~Permits issued by the City shall be limited to not more than five percent (5%) of the total number of dwelling units located in the City based on the most current United States Census data.
1. STR Permits for new STRs shall be restricted to one per Owner and Existing STRs shall be restricted in accordance with Section 30.96.050(B)(3). After ~~Once~~ the maximum allowable number of ~~permits~~STR Permits ~~has~~have been issued (including Existing STRs and new STRs), the ~~owners~~Owner(s) of any applications submitted that would exceed the cap shall be placed on a ~~waiting list~~waitlist that will be established based on the order the applications are filed and applications will be processed in the order in which the applications ~~were~~are received.
  2. Once a ~~permit~~STR Permit becomes available for issuance, application submittals will be accepted by the City in the order appearing on the ~~waiting~~City's STR waitlist. Person(s) listed on the City's STR Permit waitlist, who are contacted by the City to submit a STR Permit application, will have thirty (30) days from the date of notification by the City to submit a STR Permit application for consideration. If the person(s) contacted by the City do not submit a STR Permit application to the City within the required 30-day period, that person(s) will be removed from the waitlist and the City will move on to notifying the next person appearing on the City's STR Permit waitlist.
  3. Owners of Existing STRs may request a STR Permit for each Existing STR currently in operation by the respective Owner as of the effective date of the STR Ordinance. If the number of Existing STRs exceeds the cap, then no additional STR Permits shall be issued for new STRs until available capacity is reached within the cap through attrition (including but not limited to, when existing rights are terminated for Existing STRs in accordance with Section 30.96.050(A)(1)).

- C. ~~STR permits issued by the City shall be restricted to one per Owner and STR Owners shall be non-business entities. A business entity, including a corporation, partnership or other legal entity shall not be a permitted "Owner" for any new STRs. Any business entity that owns an Existing STR shall be required to transfer the ownership of such STRs to a non-business entity Owner who can comply with the requirements of Chapter 30.96 within five years of the effective date of the Ordinance. STR Owners shall not include a dwelling unit fully or partially owned as a timeshare, a business trust, or by any entity other than a LLC (e.g., corporation, limited partnership, general partnership, limited liability partnership, etc.).~~
- D. A STR ~~permit~~Permit shall be issued by the City if the applicant meets the conditions and requirements of Chapter 30.96.
- E. A STR ~~permit~~Permit shall not be issued if:
1. The maximum number of STR ~~permits~~Permits issued already meets or exceeds the citywide cap on ~~new~~ STRs or exceeds the maximum number of permits allowed per Owner as established by Section 30.96.050(B).
  2. The STR is a new STR, which is proposed in a prohibited location as set forth in Section 30.96.060 of this Chapter, or in a location that would exceed the neighborhood cap on ~~new~~ STRs established by Section 30.96.060(A)(5).
  3. The Owner has a pending enforcement action by the City for any violation of the Del Mar Municipal Code relating to the operation of a STR, unless the approval is required to resolve the enforcement action.
  4. The property had a STR ~~permit~~Permit revoked in the previous twelve (12) months, unless ~~the property ownership has since been transferred the STR Permit will be issued~~ to a new Owner that meets the eligibility requirements.
- F. Following the issuance of a STR ~~permit~~Permit, the City will provide written, mailed notice of the STR ~~permit~~Permit approval to all property owners located within 300 feet of the STR. Such notice shall include the address of the STR, number of bedrooms available for rent, number of available on-site parking spaces, and contact information for the STR's Designated Local Contact Person.
- G. STR ~~permits~~Permits may be suspended, revoked, or not renewed in accordance with Section 30.96.080 of this Chapter.

### 30.96.060 – STR Locational Requirements

- A. Residential Zones.

1. STRs may be permitted in the following residential zones where provided within an Owner's Primary Residence:
  - a. Single dwelling unit zones
    - Very low Density Residential (R1-40)
    - Modified Low Density Residential (R1-14)
    - Low Density Residential (R1-10)
    - Low Density Residential-Beach (R1-10B)
    - Medium Density Single Family Residential (R1-5)
    - Medium Density Single Family Residential-Beach (R1-5B)
    - Carmel Valley Precise Plan (CVPP)
  - b. Multiple dwelling unit zones
    - Medium Density Single-Mixed Residential-East (RM-East)
    - Medium Density Mixed Residential-West (RM-West)
    - Medium Density Mixed Residential-Central (RM-Central)
    - Medium Density Mixed Residential-South (RM-South)
    - High Density Mixed Residential (R2)
2. New STRs that are not within a ~~primary residence~~ Primary Residence shall be prohibited.
3. STRs are a prohibited use within:
  - a. Multi-dwelling unit rental apartment development located in residential zones.
  - b. Any dwelling units that are subject to deed restrictions or affordable housing covenants that limit rental of the unit to housing for specific income-restricted households.
  - c. An Accessory Dwelling Unit located in residential zones.
  - d. Non-dwelling units including, but not limited to, garages or vehicles or temporary shelters such as tents.
4. The maximum number of STRs per lot shall be restricted to:
  - a. Maximum of one STR per lot developed with one dwelling unit, including lots developed with one primary dwelling unit and ADU development.
  - b. Maximum of one STR per Owner on a lot that is developed with two dwelling units, including lots developed with two primary dwelling units and ADU development.

- c. Maximum of 10% of the total primary dwelling units on a lot developed with multi-unit condominium development (three or more units). Lots with condominium development must provide documentation of written consent [to operate a STR](#) by the homeowner's association.
5. The total number of STRs permitted shall be further limited as follows to minimize the potential for overconcentration:
    - a. A maximum of 60% of the total number of STRs may be located in the North Beach neighborhood, which includes the R1-5B, R1-10B, RM-East and RM-West zones.
    - b. A maximum of 25% of the total number of STRs may be located in the South Bluff neighborhood, which includes the R1-40, R2, RM-South, and RC zones.
    - c. A maximum of 15% of the total number of STRs may be located in the Hills neighborhood, which includes the R1-5, R1-10, R1-14, R1-40, and RM-Central zones and the northerly R2 zone located north of 15<sup>th</sup> Street.
- B. Commercial Zones.
1. STRs may be permitted within the following commercial zones where provided within an [owner's Owner's Primary Residence](#) ~~or as a full-time STR (Non-hosted unit)~~:
    - Residential-Commercial (RC)
    - Central Commercial (CC)
    - North Commercial (NC)
    - Professional Commercial (PC)
    - Visitor Commercial (VC)
    - 941 Camino del Mar Specific Plan (941SP)
  2. STRs in commercial zones are subject to the requirements in Section [30.96.060\(A\)\(2\)](#), ~~[30.96.060\(A\)\(3\)\(b\)](#)~~ ~~and [\(d\)](#)~~, [30.96.060\(A\)\(4\)](#), and [30.96.060\(A\)\(5\)](#) of this Chapter.
  3. [STR use is permitted in an Accessory Dwelling Unit subject to the regulations in Chapter 30.91 only where the ADU is used as a primary residence.](#)
  4. [STRs are a prohibited use within:](#)

- a. STRs are a prohibited use in the The Beach Commercial (BC) zone, Public Facilities (PF), Public Parkland (PP), Railroad Right-of-Way (RR), and Floodway zones.
- b. Any dwelling units that are subject to deed restrictions or affordable housing covenants that limit rental of the unit to housing for specific income-restricted households.
- c. Non-dwelling units including, but not limited to, garages or vehicles (e.g., recreational vehicles, motor homes, travel trailers, truck campers, tent trailers), tree-houses, or temporary shelters such as tents.

~~C. STRs are a prohibited use in the Public Facilities (PF), Public Parkland (PP), Railroad Right-of-Way (RR), and Floodway zones.~~

### 30.96.070 – Operating Requirements

STRs shall comply with all of the following operating requirements:

- A. Owner shall ensure that STR occupants and guests comply with all federal, state, and local laws, rules, and regulations including local regulations specific to noise, trash disposal, parking, coastal resources, and disclosure, inclusive of the following:
  - 1. Noise Control.
    - a. It shall be unlawful and shall constitute a public nuisance for any Owner(s) of a STR to cause, allow or permit the emission or transmission of any loud noise from any sound-making equipment or sound-amplifying device to occur or be maintained at a STR, which may include, but is not limited to, the following: yelling, screaming, shouting, or other disturbing noises which unreasonably interfere with the peace and quiet of the nearby residents or members of the public. Owner(s) shall ensure that STR occupants and guests comply with the noise provisions set forth in Del Mar Municipal Code Chapter 9.20 (Noise Regulations). DMMC Section 9.20.090 specifies that any noise that is plainly audible at a distance of 50 feet between the hours of 10PM–10:00 p.m. and 8:00 a.m.AM is considered a prima facie violation.
    - b. STRs are for overnight lodging. Hosting of weddings, receptions, corporate events, commercial functions, bachelor or bachelorette parties, and any other similar events or gatherings that have the potential to cause a public nuisance are strictly prohibited.

- c. Guest hours at the STR shall be limited from 8:00 a.m. to 10:00 p.m. daily.
2. Trash Disposal. Trash and recycling shall not be left or stored within public view, except at a location that is designated for collection from 4:00 p.m. on the day prior to trash pick-up until up to 12:00 p.m. on the day following the day designated for pick-up. All trash and recycling shall be in approved receptacles pursuant to Del Mar Municipal Code Chapter 11.20 (Management of Solid Waste).
3. Parking. Owner(s) shall limit the number of vehicles at the ~~Short-Term Rental~~STR to the number designated in the ~~permit~~STR Permit, which shall be determined by the City at the time of permit issuance based on the number of available on-site parking spaces. All garage, driveway, and designated on-site parking spaces shall be made available for the vehicles of ~~Short-Term Rental~~STR occupants and guests. Vehicles shall not impede access to sidewalks and neighboring properties or driveways.
4. Coastal Resource Protection. The coastal resource protections in the California Coastal Act Chapter 3, Article 6, Section 30240 (Cal. Pub. Res. Code Section 30240) and the City's certified Local Coastal Program are not to be superseded or lessened in any way through implementation of the Chapter 30.96 STR regulations. The Owner shall disclose, if the property contains environmentally sensitive habitat areas, and shall identify STR operational requirements ~~as applicable~~ to avoid potential impacts to coastal resources.
5. Disclosure of Site-Specific STR Requirements and Contact Information.
  - a. The primary STR occupant must be at least twenty-five (25) years of age, provide the Owner(s) with a telephone number, and shall be accessible to the Owner(s) or Local Designated Contact Person by telephone at all times during the STR rental period.
  - b. Interior Display of STR Permit. Owner(s) shall affix the valid STR ~~permit~~Permit provided by the City, which shall include reference to the City's Good Neighbor Policy and Transient Occupancy Tax rate, for interior display on the inside of the main entry door of the STR.
  - c. Exterior Display of STR Notice. Owner(s) shall affix a sign on the exterior of the STR during operation, at a minimum size of 8.5 inches by 11 inches, identifying the STR Permit ~~Number~~ number, ~~name and contact information for the~~ Designated Local Contact Person, the maximum number of ~~STR~~ occupants ~~and guests permitted at the~~ STR, and the maximum number of vehicles allowed ~~at the property~~.

The notice shall be located on-site in plain view of the general public and/or common areas and shall be maintained in good condition.

- d. Signs advertising availability of the STR for rent are not permitted on the property.
- B. Minimum Night Stay. STRs shall have a minimum night stay of three (3) consecutive calendar nights.
  - C. Overnight Occupancy. The Owner(s) shall limit overnight STR occupancy to a specific number of occupants, not to exceed two (2) persons per ~~bedroom~~ Bedroom plus two (2) additional persons per unit. All other applicable occupancy laws shall apply.
  - D. Avoidance of Public Nuisance. The Owner(s) shall ensure that the STR occupants and/or guests do not create a public nuisance. Owner(s) shall ensure that any unreasonable noise disturbances, unruly gatherings, disorderly conduct, or other violations are timely abated.
  - E. Prompt Response to Complaints. The Owner(s) and/or the Designated Local Contact Person shall respond within thirty (30) minutes of the time a complaint of public nuisance at the STR property is filed to take corrective action to address and resolve the complaint. This includes the filing of a complaint with the City, a Designated Local Contact person, or the San Diego County Sheriff's Department. It is not intended that an Owner or Designated Local Contact Person act as a peace officer or place themselves in an at-risk situation. In follow up, Owner(s) shall provide documentation to the City on what steps were taken to mitigate the issue. Failure to timely respond to complaints is grounds for enforcement as set forth in Section 39.96.080 of this Chapter.
  - F. Safety Compliance.
    1. The STR property must meet basic life safety requirements, including but not limited to, maintaining operable smoke alarms and carbon monoxide alarms, fire extinguishers, and first aid kits.
    2. All Bedrooms within a STR shall meet all applicable California Building Code life safety requirements.
    3. The Owner shall permit the City to inspect the STR prior to the issuance of a STR ~~permit~~ Permit and/or for the purpose of making a reasonable inspection to observe and enforce compliance with the provisions of Chapter 30.96. ~~Prior to the renewal of a STR permit, at the City's sole discretion, in lieu of a City inspection, the Owner(s) may submit a request for self-inspection certification on a form provided by the City.~~

- G. Advertisements. All STR advertisements, including those posted on or by hosting platform sites, must include the STR ~~permit~~Permit number provided by the City.
- H. ~~Payment of Transient Occupancy Tax. Owner(s) shall comply with all provisions of Del Mar Municipal Code Chapter 3.12 concerning the payment of Transient Occupancy Tax (TOT). The TOT calculation shall include cleaning fees, resort fees, and other fees as part of the total rent charged for the STR. If the STR Owner uses a hosting platform, the hosting platform shall be considered an agent of the STR Owner for purposes of collecting and remitting the TOT to the City.~~
- H. I.—Record Keeping, Audit. STR Owner(s) shall maintain records related to use and occupancy of the STR for the purpose of inspection and/or audit to demonstrate compliance with Chapter 30.96.
- I. Payment of Transient Occupancy Tax. The Owner shall comply with all provisions of Del Mar Municipal Code Chapter 3.12 concerning the payment of Transient Occupancy Tax (TOT) for STR rentals. The TOT calculation shall include cleaning fees, resort fees, and other fees as part of the total rent charged for the STR. If the STR Owner uses a hosting platform, the hosting platform shall be considered an agent of the STR Owner for purposes of collecting and remitting the TOT to the City.

### 30.96.080 – Enforcement

- A. It shall be unlawful for any person to fail to comply with any of the requirements of this Chapter or with any standards/conditions of a STR ~~permit~~Permit, or to operate a STR within the jurisdiction of the City contrary to or in violation of any of the provisions of this Chapter, any applicable provisions of this Municipal Code, or any other applicable laws, rules, and regulations.
- B. Any person who violates any provision of this Chapter shall be subject to the fine amounts set forth in Government Code Section 36900(d), as that Section may be amended from time to time.
- C. Violations of this Chapter may be enforced by any method allowed in Del Mar Municipal Code ~~Chapter 1.10 (Administrative Citations), Title 1 (General Provisions), Title 30 (Zoning Regulations),~~ or any other applicable enforcement mechanism available to the City.
- D. Suspension or Revocation of STR Permit. In addition to any other remedy provided by ~~Chapter 30.96~~this Chapter, a STR ~~permit~~Permit may be suspended or revoked by the City Manager, or designee pursuant to this Section.
1. The decision shall be based on at least one of the following grounds:
    - a. A material misrepresentation, false or misleading information was included on the application for a STR ~~permit~~Permit.

- b. A violation of any applicable provision of the Del Mar Municipal Code or other applicable law relating to the operation of the STR.
  - c. An authorized official has given notification of existing health or safety violations on the STR property or non-compliance with applicable laws, rules or regulations relating to fire, building, health or safety on the STR property.
  - d. An applicant or STR Permit holder is delinquent in the payment of any outstanding fees, assessments or taxes owed to the City related to any property located in the City that is owned by the applicant, including, but not limited to, Transient Occupancy Taxes (TOT).
2. If a STR permit~~Permit~~ is revoked, the Owner(s) shall not operate a STR at the property for a period of twelve (12) months from the date of such revocation; and no STR permit~~Permit~~ that is revoked may be transferred to any other person or entity to operate a STR at the property during such period of revocation.
3. The appeal procedures for the denial, suspension or revocation of a STR permit~~Permit~~ are as follows:
- a. A STR permit~~Permit~~ applicant or STR permit~~Permit~~ holder may request an administrative hearing to appeal the denial, suspension or revocation of a STR permit~~Permit~~ by the City. The request for a hearing shall be submitted to the City Clerk within fifteen (15) days from the date the denial, suspension or revocation of the STR permit~~Permit~~ is provided in writing.
  - b. The City Manager shall designate a fair and impartial administrative hearing officer to determine whether to uphold the City's decision to deny, suspend or revoke the STR permit~~Permit~~. Compensation for the hearing officer, if any, shall be paid by the City.
  - c. An administrative hearing shall be set for a date that is not sooner than thirty (30) days and not more ~~the than sixty (60)~~ days from the date the request for the hearing is filed with the City. The appellant shall be notified of the time and place set for the hearing at least fifteen (15) days prior to the date of the hearing, unless the hearing date has been expedited.
  - d. The City and the appellant shall each submit all documents relating to the denial, suspension or revocation of the STR permit~~Permit~~ that the respective party intends to discuss during the administrative

- hearing to the hearing officer and the other party at least seven (7) days in advance of the hearing date.
- e. At the administrative hearing, the hearing officer shall only consider evidence that is relevant to determine whether the denial, suspension or revocation of a STR ~~permit~~Permit is warranted. Courtroom rules of evidence shall not apply. Relevant hearsay evidence and written reports may be admitted whether or not the speaker or author is present to testify, if the hearing officer determines that the evidence is reliable. Admission of evidence and the conduct of the hearing shall be controlled by the hearing officer in accordance with the fundamentals of due process. The hearing officer may limit the total length of the hearing to one hour, at the hearing officer's discretion, and shall allow the appellant at least as much time to present its case as is allowed the City.
- f. The appellant shall be given the opportunity to testify and present witnesses and evidence concerning the denial, suspension or revocation of the STR ~~permit~~Permit. The appellant may be represented by counsel. The City's case shall be presented by a Code Enforcement Officer or by any other authorized agent of the City.
- g. The hearing officer may continue the hearing and request additional information from the City or the appellant prior to issuing a written decision.
- h. After considering all ~~of the~~ testimony and evidence submitted at the hearing, the hearing officer may announce a decision orally, but in any event, shall prepare a written decision. The decision shall be provided to the parties within ten (10) days of the hearing and shall either uphold the denial, suspension or revocation of the STR ~~permit~~Permit or withdrawal the denial, suspension or revocation of the STR ~~permit~~Permit. The decision shall briefly state the reason for the conclusion of the hearing officer. The City shall serve the decision on the appellant. The decision of the hearing officer shall be final and shall not be subject to further appeal to the City.
- i. The failure of the appellant to appear at the administrative hearing shall result in the hearing officer issuing a final decision to uphold the City's denial, suspension or revocation of the STR ~~permit~~Permit and the appellant's exhaustion of administrative remedies.

## BACKGROUND

This City Council priority special project initially began in 2016 and resumed in January 2023 after various processing delays due to the timing of court decisions rendered during the COVID-19 pandemic. Following is a summary of actions that have occurred to date:

### ***Council Guiding Principles & Objectives for STR Regulations***

On July 24 and September 5, 2023, the City Council determined the twelve guiding principles and objectives to guide the process for development of new STR regulations:

1. Honor the existing policies in the Del Mar Community Plan.
2. Maintain the residential character of neighborhoods in residential zones.
3. Honor the tradition of vacation rentals during the summers, holidays, and horse-racing season.
4. Ensure protection of the public health, safety, and general welfare.
5. Ensure the City's natural resources will be preserved and protected.
6. Ensure STRs will not overburden public improvements, facilities, and services.
7. Minimize adverse impacts to adjacent private properties and the surrounding neighborhood.
8. Consider distribution and concentration of STRs throughout the community.
9. Craft regulations that are easy to understand and implement.
10. Communicate expectations for civil conduct in line with "good neighbor" policies.
11. Establish enforcement protocols, and ensure regulation of short-term rentals is, at a minimum, revenue neutral to the City.
12. Work towards a solution for STRs that works for Del Mar and will pass muster with the Coastal Commission.

### ***STR Data and Database of Existing STRs to Identify Baseline Conditions***

In January 2023, the City contracted with consulting firm DTA to collect STR data specific to the City of Del Mar. DTA collected data between January 1, 2023, through June 30, 2023, to provide a general understanding of existing STRs in Del Mar (i.e., number, type, average length of stay, rental rate, and occupancy rates; and general location in the City). The STR data sets (April 2023 and June 2023) were presented to the City Council on July 10 and September 5, 2023, as described below.

- The number of STRs in Del Mar increased from 107 (April 2023) to 125 (June 2023), which represents an increase in the percentage of STRs compared to total dwelling units from 4.2% to 4.9% of the City's total 2,574 dwelling units per the 2020 Census. This comparison does not include the 43 STRs advertised in the Wavecrest Resort Timeshares (31 units) or L'Auberge Vacation Villas (12 units).
- For the greater 92014 zip code, which includes the City of Del Mar and portions of the cities of San Diego and Solana Beach and County of San Diego, following is a

summary of the change in trends identified between the April 2023 and June 2023 data related to length of stay, daily rental costs, and availability:

- An increase in the average days per rental from three to five days;
  - A slight decrease in average daily rental rate from \$630 to \$625; and
  - An increase in the average STR occupancy rate (occupancy compared to availability) from 62% to 82%.
- The breakdown of existing STRs in the City of Del Mar by location is as follows:
- 57-59% of the existing STRs are operating in residential zones in the North Beach neighborhood (RM-West, RM-East, and R1-5 zones);
  - 26-28% of the existing STRs are operating in residential zones in the south bluff neighborhoods (R2 and RM-South zones);
  - 15% of the existing STRs are operating in residential zones in the hills neighborhoods (R1-10 and CVPP); and
  - The Wavcrest Resort and L'Auberge Villas provide an additional 43 STR options allowed per existing entitlements (R2 zone and Hotel Specific Plan).

On September 5, 2023, the City Council provided direction to staff to establish a database of existing STRs in operation to inform the City of the number of existing STRs that need to be accommodated. Multiple newsflash articles were published and distributed in the City's weekly update beginning September 8, 2023, to encourage existing STR owners to add their properties to the database. Owners will be required to register their existing STRs prior to the effective date of the Ordinance. Owners are encouraged to register existing STRs at following link:

<https://www.delmar.ca.us/FormCenter/Planning-6/ShortTerm-Rental-Registry-51>

As of May 15, 2024, there have been 99 existing STRs registered in the STR database.

***Consideration of Benchmarks: Other Cities, Coastal Commission, and the Courts***

On September 5, 2023, the City Council received a report with an overview of past Coastal Commission actions, court decisions, and legal parameters to help guide community discussions focused on the creation of a new STR regulatory framework.

*General Description of Coastal Act*

The Coastal Act requires public access to be protected, provided, and maximized. The CCC considers STRs as a means for visitors to access the coast. The relevant policy Section 30213 of the Coastal Act states "Lower cost visitor and recreation facilities shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred." The CCC has interpreted that STRs are a type of lower cost visitor accommodation, more affordable than traditional hotels that can facilitate members of the public with low or moderate incomes to access and recreate at the coast. Further, the CCC has taken the position that coastal jurisdictions should expressly accommodate STRs

within Local Coastal Program policies and regulations. The CCC has generally interpreted STRs to be both a visitor-serving use and a form of residential use. In terms of length of stay, CCC staff has indicated an expectation in the past that the local regulations accommodate the ability for a weekend getaway to provide visitor opportunities during the most common times individuals are able to travel. That being said, the CCC has expressed recognition that each community is unique and may address STRs differently.

***Local Policy Context***

Del Mar Community Plan (General Plan)

The Del Mar Community Plan expresses the community’s policy vision to guide development. It is the main point of reference for all land use-related decisions. The Community Development section of the Community Plan includes the City’s Land Use Element and the most relevant land use policies related to the topics of STRs and housing included below:

Overall Goal: Preserve and enhance the special character of Del Mar, the elements of which are a village-like community of substantially single family residential character, a picturesque and rugged site, and a beautiful beach.

Community Development Goal 3: Preserve and enhance Del Mar’s special residential character and small town atmosphere with its harmonious blending of buildings and landscape in proximity to a beautiful shoreline.

Goal 3 Objective C: Adopt strong positive controls to prevent future commercial development which is incompatible with the existing residential character of the community.

Goal 3 Objective D: Preserve existing and insure adequate housing for diverse age and socio-economic groups within the community.

Goal 3 Objective E: Encourage and facilitate provision of lower cost housing for low- and moderate-income households.

Community Development Goal 5: Preserve the economic integrity of the community.

Goal 5 Objective A: Maintain a balanced philosophy toward commercial growth which permits the City’s income to keep pace with its expenditures while insuring compatibility with all other goals and objectives of the Community Plan.

Goal 5 Objective B: Promote those uses of the commercial area which will be of greatest economic benefit to the community while insuring compatibility with all other goals and objectives of the Community Plan.

Goal 5 Objective D: When feasible and appropriate, require an economic analysis on any future proposed community plan revisions.

Community Development Goal 6: Assure continuing public participation in city planning by developing procedures in which citizens can participate in updating General Plan goals and policies and help in implementing programs including consultation and advice on enabling legislation.

City of Del Mar Community Plan - Housing Element (6<sup>th</sup> Cycle 2021-2029)

The Housing Element identifies the following goals, policies, and programs:

- Provide new types of housing opportunities and housing capacity for a greater range of income levels by pursuing development at the State Fairgrounds, promoting accessory dwelling units, and incorporating multiple dwelling unit development in various commercial zones;
- Remove governmental constraints to create new opportunities for affordable housing through modified regulations, incentives, and streamlining of processes;
- Establish a regulatory framework that supports the maintenance and improvement of existing housing, including the preservation of affordable housing;
- Provide equal opportunities and access to housing options within the community for residents of all abilities consistent with the City’s overall housing policy goal to “Inspire a more diverse, sustainable, and balanced community through implementation of strategies and programs that will result in economically and socially diversified housing choices that preserve and enhance the special character of Del Mar.”;
- Provide affordable housing assistance resources and information to residents, property owners, and individuals seeking to remain living in the community or to relocate to Del Mar; and
- Identify the challenges faced by special needs groups working and/or living in the community and taking actionable steps towards assisting those groups consistent with the City’s housing goals.

Housing Element Program 5C commits the City to implement measures to reduce current vacancy rates in units that off-site property owners report as unoccupied and having no long-term housing tenant.

Local Coastal Program (LCP) Land Use Plan (LUP)

Any proposed land uses must conform with the policies of the Coastal Act. The standard of review for any prospective STR Ordinance will be the City’s certified LCP LUP. Relevant LCP policies include:

LUP Goal IV-A: Provide physical and visual access to coastal recreation areas for all segments of the population without creating a public safety concern,

overburdening the City's public improvements, degrading the City's natural resources, or causing substantial adverse impacts to adjacent private properties.

LUP Policy II-6: Encourage visitor-serving and recreation-oriented businesses that blend harmoniously with the traditional small-town character of the community.

LUP Goal V-B: Provide the public with quality overnight accommodations and other visitor-serving facilities which enhance the unique village character of the community.

LUP Policy V-10: The City shall ensure that development of visitor-serving facilities is compatible with surrounding development and is consistent with the policies of this Land Use Plan intended to preserve environmentally sensitive resources.

***Regulatory Context – Zoning Code/Certified Local Coastal Program (LCP)***

Title 30 of the Del Mar Municipal Code sets forth the City's Zoning regulations. The DMMC Title 30 regulations and associated maps applicable to base zones, overlay zones, permitted/allowed uses, required discretionary permit types, public access, and coastal resources comprise the City's certified LCP implementing ordinances. Until new STR regulations are adopted and become effective, new STR's are only an allowed use in commercial zones, including the Residential-Commercial (RC), Central Commercial (CC), North Commercial (NC), Professional Commercial (PC), Visitor-Commercial (VC), Hotel Specific Plan, and 941 Camino Del Mar Specific Plan zones; and as provided for by development entitlement (i.e., Wave Crest Resort Time Shares and L'Auberge Vacation Villas). STRs are currently not an allowed use in any residential zones, including R1-40, R1-14, R1-10, R1-0B, R1-5, R1-5B, RM-east, RM-West, RM-Central, RM-South, and R2 zones.

On October 2, 2023, the City Council considered STR regulation examples from the following 17 jurisdictions:

- *San Diego region:* Cities of Carlsbad, Encinitas, Oceanside, San Diego, and Solana Beach.
- *Other California Jurisdictions:* Cities of Avalon, Carmel by the Sea, Carpinteria, Dana Point, Half Moon Bay, Laguna Beach, Newport Beach, Palm Springs, Pismo Beach, San Clemente, Santa Cruz, and Trinidad.

On January 22, 2024, the City Council reviewed a draft STR regulatory framework and by a vote of 3-2 directed staff to revise the draft STR regulations to allow existing STRs to exist until the property changes ownership, the STR Permit is not renewed, or the permit is revoked due to non-compliance.

### ***Prior Actions to Accommodate Existing STRs Until New Regulations Take Effect***

#### **Initial Moratorium:**

After experiencing a significant increase in the number of STRs operating in residential zones, on April 4, 2016, the City Council adopted a moratorium on new STRs in residential zones and provided for existing, non-conforming STRs to temporarily continue to operate while new regulations are processed. The moratorium ended on November 6, 2017 (when Ordinance 934 was adopted). The moratorium was replaced with a Council-adopted forbearance policy to accommodate STRs in operation prior to April 4, 2016, until new STR regulations take effect (see forbearance discussion below).

#### **STR “7/28 Ordinance” - Ordinance 934:**

November 6, 2017 - The City Council adopted Ordinance 934 to establish new STR regulations. This ordinance, also referred to as the “7/28 ordinance”, never became effective because Zoning/Local Coastal Program Amendments require CCC certification per the California Coastal Act in order to take effect.

June 7, 2018 – After the CCC conditionally certified Ordinance 934 in June 2018, the City processed an extension. However, while the City was waiting for final resolution of litigation, the conditional CCC approval expired on December 13, 2019.

February 7, 2021 - The court dismissed the final case (City of Del Mar v. California Coastal Commission) because the CCC’s conditional approval had expired on December 13, 2019.

#### **Adoption of Forbearance Policy Currently in Effect:**

The forbearance policy was adopted by Council Resolution 2017-71 on November 6, 2017, to accommodate STRs in operation prior to April 4, 2016, until new STR regulations take effect. The forbearance has been consistently applied, enforced, and maintained:

<b>Date</b>	<b>City Council Action</b>
Nov 6, 2017	Adopted STR Ordinance 934 and Resolution 2017-71 to establish Forbearance Policy
Sep 4, 2018	Approved 6-month extension to March 2019 (Resolution 2018-61)
Feb 11, 2019	Approved 1-year extension to February 2020 (Resolution 2019-09)
Feb 3, 2020	Approved 1-year extension to February 2021 (Resolution 2020-05)
Feb 1, 2021	Approved 2-year extension to February 2023 (Resolution 2021-04)
Jan 23, 2023	Approved 2-year extension to January 2025 (Resolution 2023-02)

**CITY OF DEL MAR**  
**SHORT-TERM RENTAL GOOD NEIGHBOR POLICY**

This Good Neighbor Policy (Policy) was created to minimize potentially adverse impacts that Short-Term Rental (STR) properties may have on surrounding neighborhoods. STR owners, occupants and guests are responsible for ensuring compliance with the following rules. The capitalized terms in this Policy shall have the same meaning as the definitions in Del Mar Municipal Code (DMMC) Chapter 30.96 (STR Regulations).

**STR Permit #:** \_\_\_\_\_ **Exp.:** \_\_\_\_\_

**STR Address:** \_\_\_\_\_

**Owner Name:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

- **24/7 Local Contact** – Owner or Owner’s Designated Local Contact Person must be available 24 hours per day, seven days per week, to respond to complaints during STR operations.

**Name:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

- **Complaint Response Time** – Complaints received from the City, the Sheriff’s Department, or a resident must be addressed within 30 minutes of receipt of the complaint.
- **Overnight Occupancy** – Maximum overnight occupancy is limited to two persons per bedroom, plus two people for the unit as a whole consistent with the California Building Code.

**Max. Overnight Occupancy:** \_\_\_\_\_

- **Daytime Guests** – Daytime guests are permitted between the hours of 8:00 am and 10:00 pm.
- **Parking** – All garage, driveway, and designated on-site parking spaces must be made available for STR occupants and guests. Vehicles shall not impede access to sidewalks or neighboring properties or driveways.
- **Minimum Night Stay** – A three-night minimum stay is required.
- **Minimum Rental Age** – No person under the age of 25 years shall be permitted to rent a STR.
- **Exterior Signage** – The required exterior display sign identifying the Designated Local Contact Person, maximum number of occupants, and maximum number of vehicles shall be displayed and maintained on-site as a public notice during STR operations per DMMC Section 30.96.070(A)(5).
- **Interior Signage** – A copy of the STR permit, this Policy, and the Transient Occupancy Tax (TOT) rate shall be displayed on the inside of the main entry door of the STR (DMMC Section 30.96.070).
- **Public Nuisance Noise** – Any disturbing, excessive or offensive noises as defined in Chapter 9.20 of the DMMC shall be prohibited.
- **Trash** – STR properties shall be kept clean with no visible trash. All trash receptacles shall be stored out of public view, except in designated locations on collection days (DMMC Chapter 11.20).
- **No Special Events Permitted Onsite** – Includes weddings, commercial functions, parties, etc.
- **Enforcement** – STR permits may be denied, suspended or revoked for violations of the STR Ordinance. Violations are subject to all remedies set forth in DMMC Chapter 1.10. This includes, but is not limited to, misdemeanor criminal prosecution, administrative monetary citations, and/or civil nuisance abatement actions.

**For additional information, visit the City’s STR webpage at: [www.delmar.ca.us/563/Short-Term-Rentals](http://www.delmar.ca.us/563/Short-Term-Rentals)**

## ANALYSIS OF MULTI-UNIT PROPERTIES (January 2024) –Tables and Maps

	<b>Multi-Unit Condos in Residential Zones</b>		<b># of Units</b>	<b>Max New STRs</b>	<b>Zone</b>
1	Del Mar Woods Condos		126	13	RM-South
2	212 4 <sup>th</sup> Street Condos		18	2	RM-South
3	424 Stratford Court Condos		38	4	RM-South
4	515 Stratford Court Condos		10	1	RM-South
5	519 Stratford Court Condos		18	2	RM-South
6	460 Camino del Mar Condos		18	2	RM-South
7	Sea Cliff Way Condos (Stratford Ct/Sea Cliff)		5	1	RM-South
8	155 15 <sup>th</sup> Street Condos		28	3	R2
9	1552 Camino del Mar Condos		24	2	R2
10	1558 Camino del Mar Condos		20	2	R2
11	1562 Camino del Mar Condos		36	4	R2
12	1844 Camino del Mar (Del Mar Villas Condos)		24	2	R2
13	1735 Coast Blvd Condos		5	1	RM-West
14	1757 Coast Blvd Condos		10	1	RM-West
15	1750 Ocean Front Condos		5	1	RM-West
16	Costa Del Rey Condos (2719 Camino del Mar)		16	2	RM-East
17	Sandy Pointe Condos (CDM and 29 <sup>th</sup> Street)		20	2	RM-East
	*10% calculation of total units rounded to nearest whole number		421 units total	<b>Capacity: 45 STRs</b>	

	<b>Apartment Properties in Residential Zones</b>		<b># of Units</b>	<b>Max New STRs</b>	<b>Zone</b>
1	Los Arboles Apartments (201 4 <sup>th</sup> Street)		97	-	RM-South
2	167 4 <sup>th</sup> Street Apartments		12	-	RM-South
3	425 Stratford Court Apartments		18	-	RM-South
4	510 Stratford Court Apartments		48	-	RM-South
5	703 Stratford Court Apartments		12	-	RM-South
6	Ocean Village Apartments (1425 Ocean Avenue)		22	-	R2
7	El Adobe Apartments (2135 Coast Blvd)		12	-	RM-West
8	2515 Camino del Mar Apartments		14	-	RM-East
9	Beach Colony Apartments (2801 Camino del Mar)		86	-	RM-East
			321 units total	<b>Capacity: 0 STRs</b>	

	<b>Apartments in Commercial Zones that Allow STR Use</b>		<b># of Units</b>	<b>Max New STRs</b>	<b>Zone</b>
1	Terraces at Del Mar Apartments (526 Camino del Mar)		53	5	VC
2	941 CDM Multi-Unit – construction pending <i>Includes 2 deed-restricted affordable units that preclude STR use and 6 unrestricted units</i>		8	6	941 CDM SP
3	Watermark Multi-Unit – construction pending <i>Includes 10 deed-restricted affordable units that preclude STR use and 40 unrestricted units</i>		50	4*	NC
	* 10% calculation is based on 40 units total in order to subtract out the 10 deed-restricted affordable units		111 units total	<b>Capacity: 15 STRs</b>	

## Analysis of STR Cap, Neighborhood Caps, and Existing STRs

### Citywide Cap on STRs

The draft STR Regulatory Framework sets a 5% cap on the total number of allowed STRs, which would be 129 STRs maximum. The draft also establishes neighborhood caps to mimic historic use patterns and minimize the potential for overconcentration of STRs in one neighborhood. Currently, the City has a record of 99 existing STRs and potential capacity for a maximum of an additional 30 new STRs spread between the North Beach, South Bluff, and Hills neighborhoods and others with limited options (North Bluff/Via de la Valle (R1-14, R1-40 zones) and the 941 CDM Specific Plan, CC, VC, NC, and RC zones).

### North Beach Neighborhood Cap

The North Beach neighborhood includes the RM-West, RM-East, R1-5B, and R1-10B zones. The draft sets a 60% cap on STRs in the North Beach neighborhood. The percentage is taken from the total 129 STRs allowed citywide. A maximum of 77 STRs would be allowed in North Beach neighborhood.

### South Bluff Neighborhood Cap

For the purpose of the STR Ordinance, the South Bluff neighborhood includes portions of the R2 and R1-40 zones, and RM-South and RC zones. The draft sets a 25% cap on STRs allowed. A maximum of 32 STRs would be allowed in the South Bluff neighborhood.

### Hills Neighborhood Cap

For the purpose of the STR Ordinance, the Hills neighborhood includes portions of the R1-40 and R2 zones, R1-10, RM-Central, and Carmel Valley Precise Plan (CVPP) zones. The draft sets a 15% cap on the total number of STRs allowed. A maximum of 19 STRs would be allowed in the Hills Neighborhood.

### Potential STRs in Capped Neighborhoods and Other Locations in Residential and Commercial Zones

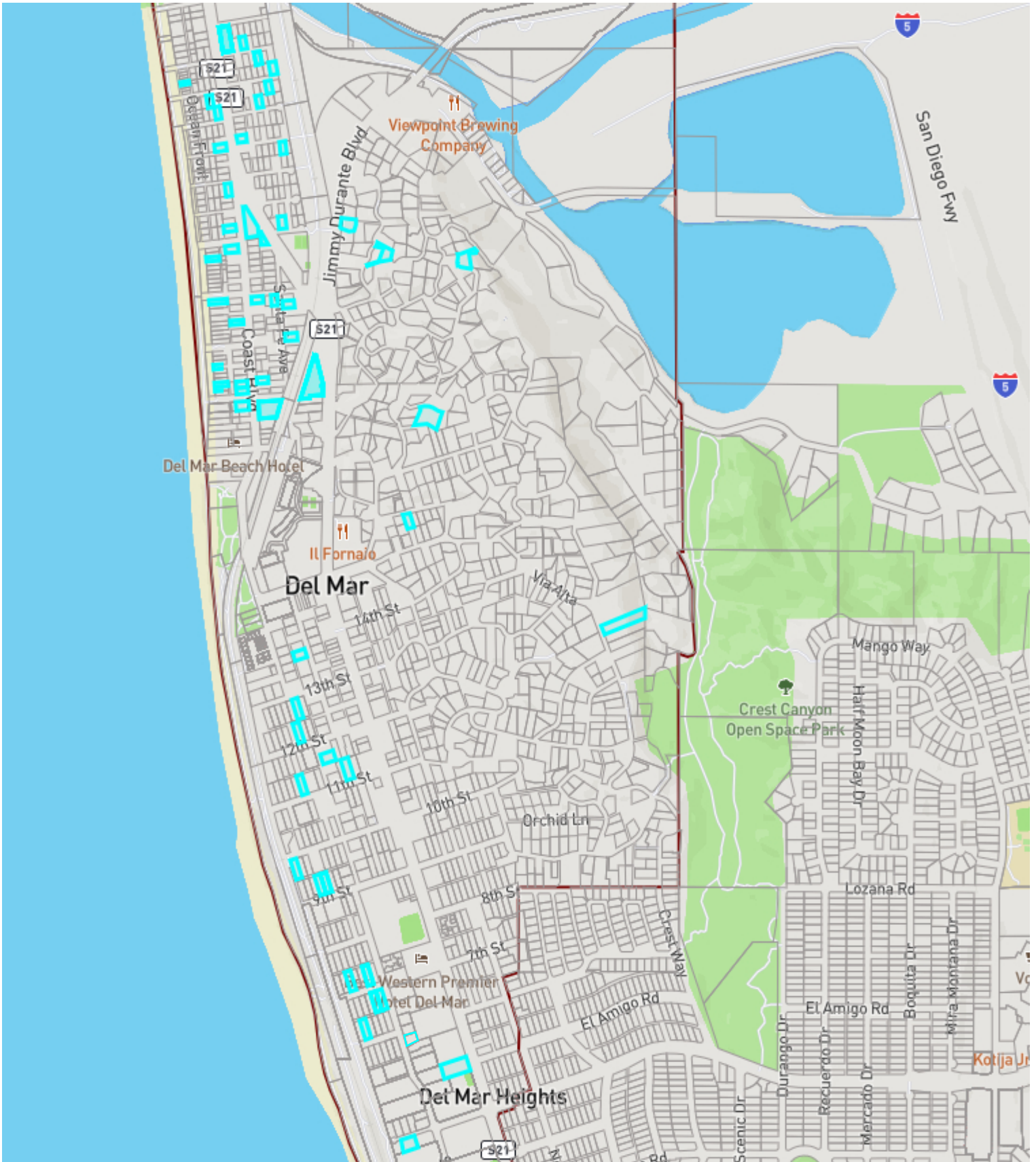
<b>Analysis of STR Potential in Residential Zones</b>			
	<i>Existing STRs</i>	<i>Max STRs per Cap</i>	<i>Potential New STRs</i>
North Beach	65	77	Up to 12 more
South Bluff	21	32	Up to 11 more
Hills	13	19	Up to 6 more
Other: North Bluff and Via de la Valle	0	N/A	One per lot max

<b>Analysis of STR Potential in Commercial Zones</b>			
	<i>Non-Restricted Dwelling Units</i>	<i>Existing STRs</i>	<i>Potential New STRs</i>
CC Zone	3	0	3 (One per lot)
VC Zone	53	0	5 (at 10% of units)
941 CDM SP	6	0	6 (per entitlement)
NC Zone	40	0	4 (at 10% of units)
PC Zone	0	0	0
RC Zone	9	0	6 (One per lot)

Following is a description of the set of maps in this Attachment which show:

- The locations of the 99 Existing STRs citywide include:
  - Existing STRs in North Beach (65 STRs)
  - Existing STRs in South Bluff (21 STRs)
  - Existing STRs in Hills (13 STRs)
  
- The three areas that have neighborhood caps on STRs include:
  - **North Beach neighborhood** (cap at 60% - maximum 77 STRs): RM-West, RM-East, R1-5B, and R1-10B zones
  - **South Bluff neighborhood** (cap at 25% - maximum 32 STRs): portions of the R2 and R1-40 zones, and the RM-South and RC zones
  - **Hills neighborhood** (cap at 15% - maximum 19 STRs): portions of R1-40 and R2 zones, and the R1-10, RM-Central, and Carmel Valley Precise Plan (CVPP) zones
  
- The commercial zones with additional existing and future capacity for STRs include:
  - CC Zone
  - VC Zone
  - 941 CDM SP
  - NC Zone
  - PC Zone
  - RC Zone

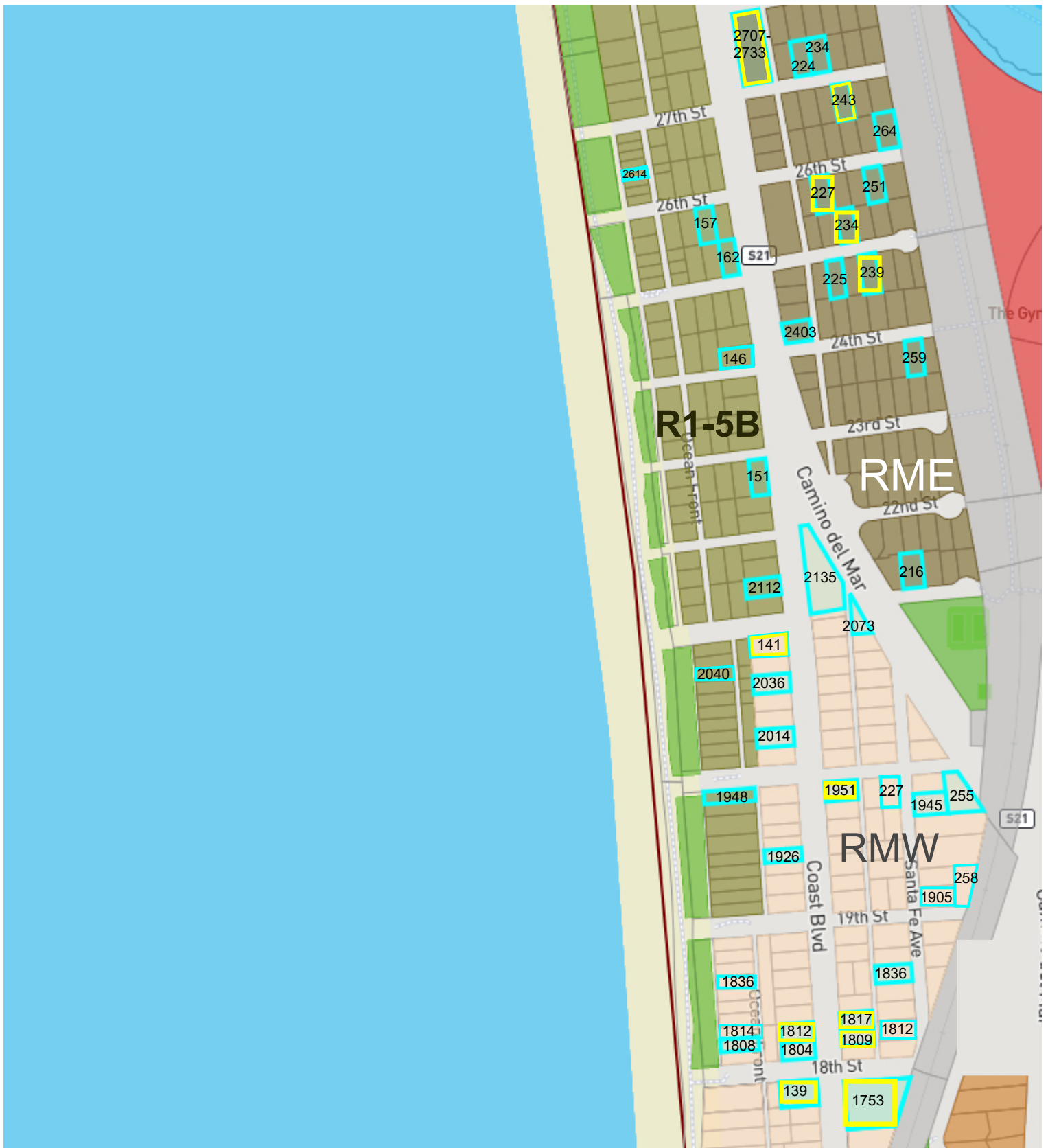
# City of Del Mar - Existing STRs



1" = 1275 ft	STR Total = 99	 Short Term Rental	
--------------	----------------	---	---

This map may represent a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

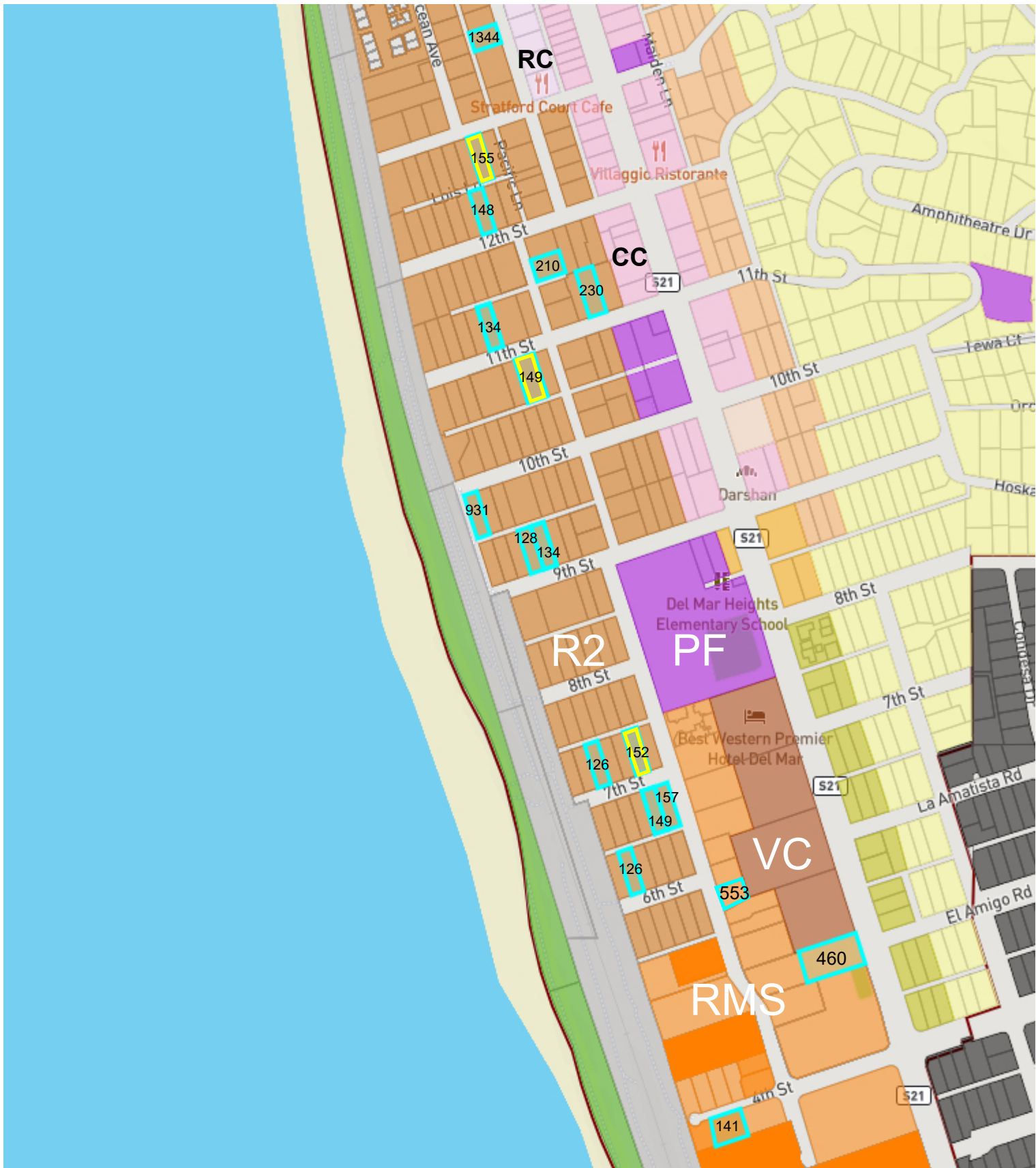
# City of Del Mar - North Beach Existing STR's



1" = 451 ft	STR Total = 65	 Short Term Rental  Two or more STRs on lot	
-------------	----------------	--	---

This map may represent a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

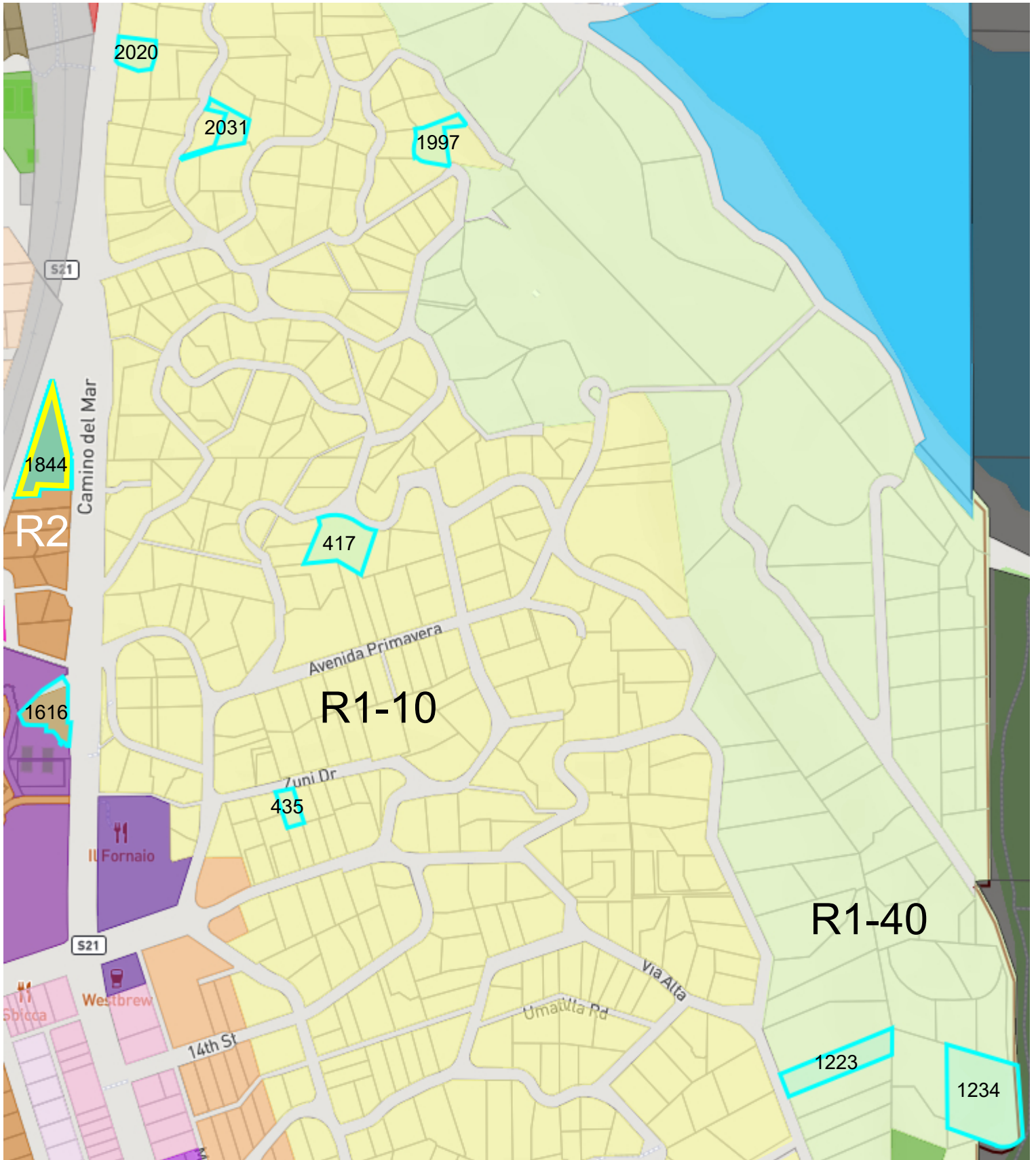
# City of Del Mar - South Bluff Existing STRs



<p>1" = 575 ft</p>	<p>STR Total = 21</p>	<p> Short Term Rental</p> <p> Two Short Term Rentals on lot</p>	
--------------------	-----------------------	---	---

This map may represent a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

# City of Del Mar - Hills Existing STRs



<p>1" = 500 ft</p>	<p>STR Total = 13</p>	<p> Short Term Rental</p> <p> Two or more Short Term Rentals on lot</p>	
--------------------	-----------------------	---	---

This map may represent a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.



# City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Wendy House, Assistant City Attorney  
Sarah Krietor, Administrative Services Manager/City Clerk  
Monica Molina, Finance Manager  
Kseniia Izgarskaia, Senior Management Analyst  
Via Ashley Jones, City Manager

DATE: May 20, 2024

SUBJECT: Consideration to Place a General Tax Measure on the November 5, 2024 General Municipal Election Ballot for Submission to the Qualified Voters of a Proposed Ordinance Amending the City's Existing Transient Occupancy Tax Regulations and Authorizing Collection of Transient Occupancy Tax from Short-Term Rentals

## REQUESTED ACTION/RECOMMENDATION:

It is recommended that the City Council consider placing a general tax measure on the November 5, 2024, General Municipal Election ballot for submission to the qualified voters of a proposed Ordinance amending the City's existing transient occupancy tax (TOT) regulations under Del Mar Municipal Code (DMMC) Chapter 3.12, and authorizing the collection of TOT from short-term rentals (STRs) operating in the City; and provide direction to staff as needed.

## BACKGROUND:

The City has been undergoing a public process to develop and adopt STR regulations, which is expected to be completed by December 2024. As part of the process, the City Council established 12 guiding principles and objectives for the creation of new STR regulations in the City, including ensuring that the regulation of STRs is, at a minimum, revenue-neutral to the City; regulations are easy to understand and implement; and that adverse impacts to surrounding residences and neighborhoods are minimized. Per staff analysis that has been presented to the City Council in several meetings between July 2023 and May 2024, the collection of TOT from STRs is necessary to ensure that the future regulation of STRs will be revenue-neutral to the City consistent with the City Council's stated guiding principles and objectives.

State law authorizes the City to charge TOT. DMMC Chapter 3.12 (TOT Regulations) currently authorizes the City to collect TOT from hotels, motels, and similar lodging uses with three or more units operating in the City that provide lodging to transients for a period of 30 days or less. TOT is not currently collected from operators of STRs or lodging units with less than three units. To amend the TOT Ordinance and require TOT from these uses, staff proposes the City Council place a general tax measure on the November 5, 2024, General Municipal Election ballot.

---

## City Council Action:

DISCUSSION/ANALYSIS:

As part of the effort to establish new regulations for STRs, staff recommends that the City Council consider revisions to the TOT Regulations to impose TOT on STRs and make other clarifying administrative edits. Additional revisions to the TOT Regulations are necessary to modernize the application of TOT regulations consistent with current practices. A ballot measure would seek approval from the qualified voters of Del Mar to amend the TOT Ordinance by expanding the tax to apply to guests staying in STRs and in lodging uses with less than three units. The proposed revisions to the TOT Ordinance are included as Attachment A. Since this potential measure would propose a tax, the Del Mar electorate must approve the measure before the tax can be implemented.

TOT is considered a general fund tax and is one of the City's major revenue sources, which allows for maintaining a variety of public services provided to residents and businesses. Since the establishment of the City's TOT, a significant portion of the City's General Fund revenue (approximately 17%) comes from TOT. The current estimated TOT revenue is \$3.8 million annually for Fiscal Years 2023-24 and 2024-25. The benefit of TOT, as opposed to other forms of taxes, is that the burden is on the visitors and tourists staying at Del Mar lodging units. **The City's current TOT rate is 13%, which would remain the same.** The proposed measure does not contemplate amending the tax rate, it proposes to impose TOT on STRs at the same 13% rate currently charged to hotels.

DTA, the City's data consultant, prepared an analysis identifying the number and characteristics of active STRs within the City. The study completed by DTA included 125 STR's in Del Mar that were listed on Airbnb and/or VRBO websites. Based on the information provided by DTA, the overall annual STR revenue for 2023 was approximately \$5.8 million and ranged from \$550 to close to \$400,000 per STR. Considering that the citywide STR cap is anticipated to be 129 and based on the information provided by DTA and STR registration data, staff used the current median annual income of \$30,000 for each additional STR over the 125 identified by DTA. Taking all of this into consideration, staff estimates that additional TOT revenue related to STR operations will generate approximately \$775,000 annually.

If the Council directs staff to move forward with the proposed amendments to the TOT regulations and related ballot measure, it is recommended that the language specify that the entire rental amount charged to guests is subject to TOT (inclusive of cleaning and booking fees, etc.); and that hosting platforms (e.g., Expedia, VRBO, Airbnb, etc.) be included within the definition of "operator" to allow hosting platforms to collect TOT on behalf of guests. If directed to proceed, staff would prepare the necessary documents to place a measure on the November 5, 2024, ballot (such as a Resolution calling for the placement of a tax measure on the general election ballot and an Ordinance outlining the proposed amendments to the TOT Regulations) and return to the City Council for approval at the next regular City Council meeting.

The City Council intends to adopt STR regulations in late November or early December 2024, following the results of the November 5, 2024, General Municipal Election. Should the ballot measure fail, the STR regulations would go back to the City Council for further consideration and to determine next steps.

FISCAL IMPACT:

Estimated revenues to the City from STR related TOT generation is approximately \$775,000 annually. The estimated cost to include the TOT related measure on the November 2024 ballot is \$15,000, funds for which are included in the proposed FY 2024-25 budget update for Council consideration in June 2024. The City will receive an invoice from the County Registrar of Voters for actual election costs after the November 2024 election.

HOUSING IMPACT:

STRs involve commercial use of a dwelling unit that can displace long term housing. The City's Housing Element commits the City to implement measures to reduce current vacancy rates (off-site owners with units reported as unoccupied/no housing tenant) with the intent to maintain dwelling units in residential zones for long term housing. To reduce the vacancy rate, the draft STR regulations in process would provide for a citywide limit on the number of allowable STRs and includes other provisions to maintain dwelling units as primary residences where occupants live more than six months per year. As proposed, through a ballot measure, the TOT (general tax) that visitors and tourists pay for most lodging within the City of Del Mar would be extended to also apply to STRs and lodging with less than three units.

ENVIRONMENTAL IMPACT:

The requested Council action to discuss and consider placing a general tax measure on the November 5, 2024, General Municipal Election ballot for submission to the qualified voters of a proposed Ordinance amending the City's existing TOT regulations under DMMC Chapter 3.12, and authorizing the collection of TOT from STRs operating in the City is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) (General Rule) because CEQA only applies to projects with the potential for causing a significant effect on the environment and it can be determined with certainty authorizing a ballot measure related to TOT collection for STRs will not cause a significant effect on the environment. However, since this action is related to proposed STR regulations that could be implemented Citywide, the City has completed an Initial Study evaluation for the STR regulations project and concluded that no environmental factors could be potentially affected by the STR regulations. Therefore, the result of the ballot measure being contemplated would not cause a significant effect on the environment regardless of the outcome of the ballot measure.

ATTACHMENT:

Attachment A – Proposed Revisions to DMMC Chapter 3.12 (Transient Occupancy Tax)

TITLE 3 - TAXES  
Chapter 3.12 TRANSIENT OCCUPANCY TAX

## Chapter 3.12 TRANSIENT OCCUPANCY TAX

### 3.12.010 Taxable Event.

- A. For the privilege of occupancy in any hotel, each transient shall pay a tax in an amount up to 13 percent of the rent charged by the operator. The exact rate shall be as set by resolution of the City Council. The transient satisfies this tax obligation by paying the tax to the operator.
- B. The tax is payable at the time that rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The balance of the tax shall be due upon the transient's ceasing occupancy in the hotel.
- C. If sufficient funds are not paid to the operator by the transient to pay the tax in full, the Tax Administrator may commence an action against the transient to recover the amount of the tax.

### 3.12.020 Exemptions.

No tax under this Chapter shall be imposed upon:

- A. Any person as to whom, or any occupancy as to which, it is beyond the power of the City to impose the tax herein provided.
- B. Any federal or State of California officer or employee when on official business.
- C. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

No exemption shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the tax administrator.

### 3.12.030 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

*Hotel.* Any structure or any portion of any structure which has ~~three or more~~ unit(s)/room(s) occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, including any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, short-term rental, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location or other similar structure or portion thereof.

*Occupancy* The use or possession or the right to the use or possession of any room or portion thereof in any hotel for dwelling, lodging or sleeping purposes.

*Operator.* The person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity. Where the

---

operator performs his functions through a managing agent or any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

*Rent.* The consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, and property and services of any kind or nature, without any deduction therefrom whatsoever. This amount shall include any cleaning fees, resort fees, and other fees as part of the total "rent" charged.

*Transient.* Any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy; provided, that any person who actually occupies the same premises for a period of 31 or more consecutive days shall be deemed exempt from the tax imposed by this Chapter on that specific occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this Chapter may be considered.

### **3.12.040 The Collection of Tax.**

- A. It shall be unlawful for an operator to fail to collect from the transient the tax imposed by this Chapter at the same time as the rent is collected from the transient.
- B. The operator shall deliver to the transient a receipt for payment which states the amount of the tax separately from the amount of the rent charged.
- C. No operator shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that the tax will not be added to the rent, or that, if added, any part will be refunded except in a manner provided in this Chapter.

D. For purposes of this Section, if the operator uses a web- or application-based hosting platform or third-party booking vendor that facilitates rentals and payments for hotel rentals, the hosting platform or third party booking vendor shall be considered an agent of the operator for purposes of collecting and remitting TOT to the City.

### **3.12.050 Registration.**

Within 30 days after commencing business, each operator of any hotel renting occupancy to transients shall register such hotel with the Director of Finance and obtain from the Director a "Transient Occupancy Registration Certificate" which certificate shall be at all times posted in a conspicuous place on the premises. Such certificate shall, among other things, state the following:

- 
- A. The name of the operator.
  - B. The address of the hotel.
  - C. The date upon which the certificate is issued.
  - D. "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Occupancy Tax Ordinance by registering with the Tax Administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Director of Finance. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in any unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this City. This certificate does not constitute a permit."

### **3.12.060 Obligation of Operator.**

- A. If the operator receives any consideration for allowing the transient to occupy the hotel, the value of such consideration shall be first applied by the operator to satisfy the tax owed. It shall be unlawful for the operator to fail to hold the tax collected by the operator in trust for the benefit of the City. It shall be unlawful for the operator to fail to remit the collected tax to the City in accordance with the provisions of this Chapter.
- B. On or before the last day of each month, the operator shall file a return with the Tax Administrator on a form approved by the City, setting forth for the previous month:
  - 1. The total rents charged;
  - 2. The total rents received;
  - 3. The amount of tax funds held by the operator;
  - 4. An explanation if the amount of Item 3 is less than ten percent of the amount of Item 1.
- C. The tax funds collected for the previous month shall be remitted together with the return for that month.
- D. The operator shall comply with shorter reporting and payment periods if imposed by the Tax Administrator in order to facilitate the collection of this tax.
- E. If the operator ceases business, it shall be unlawful for the operator to fail to file immediately with the City the return and tax funds for the previous month and the return and tax funds for the period of the current month in which the operator ceased business.

---

### 3.12.070 Penalties and Interest.

- A. *Original Delinquency.* Any operator who fails to remit any tax imposed by this Chapter within the time required shall pay a penalty of ten percent of the amount of tax, in addition to the amount of the tax.
- B. *Continued Delinquency.* Any operator who fails to remit any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent of the amount of the tax in addition to the amount of the tax and the ten percent first imposed.
- C. *Fraud.* If the Director of Finance determines that the nonpayment of any remittance due under this Chapter is due to fraud, a penalty of 25 percent of the amount of the tax shall be added thereto, in addition to the penalties stated in Subsections A. and B. of this Section.
- D. *Interest.* In addition to the penalties imposed, any operator who fails to remit any tax imposed by this Chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- E. *Penalties Merged with Tax.* Every penalty imposed and such interest as accrues under the provisions of this Section shall become a part of the tax herein required to be paid.

### 3.12.080 Records and Inspection.

It shall be the duty of every operator liable for the collection and payment to the City of any tax imposed by this Chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the City, which records the Director of Finance shall have the right to inspect at all reasonable times.

### 3.12.090 Refunds.

- A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City under this Chapter, it may be refunded as provided in Subsections B. and C. of this Section; provided, that a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, shall be filed as a claim against the City as set forth in Chapter 1.18 of this Code.
- B. An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Director of Finance that the person from whom the tax has been collected was not a transient; provided, that neither a refund nor a credit shall be allowed unless the amount of the tax so

---

collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

- C. A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the City by filing a claim in the manner provided in Subsection A of this Section, but only when the tax was paid by the transient directly to the tax administrator, or when the transient having paid the tax to the operator, establishes to the satisfaction of the Director of Finance that the transient has been unable to obtain a refund from the operator who collected the tax.
- D. No refund shall be paid under the provisions of this Section unless the claimant establishes his right thereto by written records showing entitlement thereto.



# City of Del Mar Agenda Report



TO: Honorable Mayor and City Council Members

FROM: Deputy Mayor Terry Gaasterland and Councilmember Tracy Martinez, City Council Housing Subcommittee  
Via Ashley Jones, City Manager

DATE: May 20, 2024

SUBJECT: Concerns Related to State Economic Development Department (EDD) Jobs Data and Del Mar 6<sup>th</sup> Cycle Regional Housing Needs Assessment (RHNA) Allocation

## REQUESTED ACTION/RECOMMENDATION:

The City Council Housing Subcommittee, Deputy Mayor Gaasterland and Councilmember Martinez, recommend that the City Council receive information and discuss concerns related to the EDD jobs data for Del Mar and the City's 6<sup>th</sup> Cycle RHNA allocation.

## BACKGROUND:

Consistent with the provisions of California Government Code Section 65584, the San Diego Association of Governments (SANDAG) undertook a State mandated process for the 6<sup>th</sup> Cycle Housing Element (2021-2029) to identify and approve the methodology for and allocation of 171,685 housing units identified by the State Department of Housing and Community Development (HCD) as part of the 6<sup>th</sup> Cycle Regional Housing Needs Assessment (RHNA) process for the San Diego region. This multi-year process started in 2017, followed by adoption of the RHNA methodology by the SANDAG Board in 2019, and Board adoption of the final RHNA allocation in 2020.

The RHNA allocation methodology is required to comply with state housing laws, and primarily focused on three key criteria: proximity to transit; jobs/housing relationship; and equity. The way that SANDAG counted the number of jobs from the EDD jobs data (which does not differentiate between full-time and part-time/seasonal jobs) is consistent with how other councils and associations of governments have counted jobs, including the Southern California Association of Governments (SCAG) and Association of Bay Area Governments (ABAG), the basis for which is more fully described in the legal memo included as part of the legal analysis discussed later in this report.

Cities were required to submit their City Council approved 6<sup>th</sup> Cycle Housing Element reflecting future actions to implement their RHNA allocation and comply with housing laws to HCD by April 15, 2021 for State certification review.

---

## City Council Action:

More information about SANDAG RHNA process can be found at: <https://www.sandag.org/-/media/SANDAG/Documents/PDF/projects-and-programs/regional-initiatives/housing-land-use/6th-cycle-regional-housing-needs-assessment-plan-2020-07-10.pdf>.

As part of the RHNA process, SANDAG identified 4,484 jobs for the City of Del Mar, which included full-time and part-time/seasonal employment. At that time, much concern was expressed by the Del Mar City Council, staff, and community about the number of jobs that had been identified for Del Mar, as it seemed very high for such a small City with mostly retail/visitor serving jobs and no large-scale employers other than the Del Mar Fairgrounds. As will be discussed in greater detail below, the City later learned that the jobs data for the region, and resulting 163 housing unit RHNA allocation for Del Mar, was primarily based on information provided by the State Economic Development Department (EDD).

Jurisdictions were provided the opportunity to appeal the unit allocation for their area as part of the RHNA process; however, Del Mar was unable to take advantage of the appeal process because at that time the City did not have the documentation needed to challenge the methodology/data used by SANDAG to determine the RHNA allocation for Del Mar. Therefore, the City's concerns were unable to be addressed and the City was required to plan for the 163 housing units identified for Del Mar as part of the 6<sup>th</sup> Cycle RHNA process. The City's total allocation also increased to 175 housing units based on a carry-over of 12 unmet low-income units assigned in the 5<sup>th</sup> cycle. This is a lot to achieve for an almost built out City with high land costs and very little land available for development.

#### DISCUSSION/ANALYSIS:

On February 7, 2022, the City Council authorized then Councilmembers Terry Gaasterland and Tracy Martinez to work with City staff to request the jobs data and related information used by SANDAG to calculate the City of Del Mar's jobs count and subsequent RHNA allocation. Requests for information were made to SANDAG in March and December 2022, to which SANDAG responded by explaining that the EDD data was obtained through a required confidentiality agreement and could not be shared with the City directly. However, in February and March 2023, SANDAG data staff met with the City and provided an overview of the process and methodology for evaluating the jobs data without providing any EDD confidential data specifics. While they acknowledged that it isn't perfect, the EDD data used is considered the "gold standard" for jobs data.

Following the February 2023 meeting with SANDAG data staff, the City obtained a copy of the SANDAG/EDD agreement, which specifies the timeframes and data sets that were used by SANDAG as part of the RHNA process. The City requested the same data from EDD and entered into the required EDD confidentiality agreement, which enabled staff to obtain the necessary EDD jobs data for Del Mar in April 2023.

#### ***EDD Data Review & Observations/Findings***

As was used by SANDAG, the City obtained EDD Census of Employment and Wages data files for years 2017–2022. A review of the confidential EDD data provided the following important insights:

- The EDD identifies job location by jurisdictional boundary, not postal code.
- EDD jobs are not differentiated between full-time and part-time/seasonal. This allowed for part-time and seasonal employment at the Fairgrounds related to one-time (music/entertainment events, etc.) and short-term events (County Fair, horse racing season, etc.) to be counted the same as full-time, year-round jobs. Counting jobs this way is also consistent with the methodology used by SANDAG and other California councils/associations of government as part of the RHNA process.
- SANDAG only looked at 3<sup>rd</sup> Quarter data for each year, which made it nearly impossible for SANDAG to identify jobs for one-time or short-term events occurring at the Del Mar Fairgrounds.
- Seasonal jobs can be easily identified as varying from nearly 0 in one month to a much larger number in another month for a given business.
- The EDD data indicated that there was an average of 4,911 jobs identified for Del Mar per quarter during the identified time frame. Of those, SANDAG counted 4,484 jobs for Del Mar after quality controlling the data.
- SANDAG quality controlled the data by filtering out duplicates; jobs outside the City's jurisdictional boundary; out of state employers; and corporate headquarters.
- Over half the jobs that were counted for Del Mar were at the Fairgrounds, and 90% (approximately 1,810) of the Fairgrounds jobs were part-time/seasonal.
- Del Mar has NO jurisdiction/authority over the Fairgrounds and Del Mar's ordinances do not apply to the Fairgrounds, including noise and parking.
- Without jobs attributable to the Fairgrounds, Del Mar has about 2,000 jobs.
- More than 5% of Del Mar's registered businesses are registered at PO Boxes and contribute over 10% of the jobs.
- More than 25% of Del Mar's registered businesses are registered to homes and contribute over 10% of the overall jobs for Del Mar. These jobs were reported to the EDD using private residential addresses in zones that do not include commercial activities as an allowed use. Some of these companies reported over 20 employees at the private residential address.
- A known closed business that no longer has a location in the City was being misreported with nearly 100 jobs in Del Mar, which has now been corrected with EDD.

Following the City's review of the EDD data, observations and concerns were shared with SANDAG data staff in June and August 2023. SANDAG staff were very receptive to the feedback provided by the City and, as a result, will no longer be using just one quarter of

annual data for their analyses and will expand the data set to include all four quarters of the calendar year. After receiving the City's insight, SANDAG expressed a new understanding that the general data assumptions and methodology used across the County had the unintended consequence of disproportionately impacting Del Mar in ways that larger cities would not be affected due to our small size. As such, SANDAG expressed a willingness to allow Del Mar and other cities to obtain and review the EDD data and raise issues and concerns prior to the job numbers being finalized as part of future RHNA cycles.

### ***Potential Remedies Explored***

In November 2023 and thereafter, City staff and Councilmembers reached out to the SANDAG Board and Executive Leadership (Attachment A) and State representatives Assemblymember Tasha Boerner and Senator Toni Atkins to discuss possible remedies to address the City's concerns. Each expressed a strong interest and support for ensuring that the methodology is addressed so that Del Mar is not disproportionately affected again in future cycles. However, all equally cautioned that it would be nearly impossible to make any changes to the current 6<sup>th</sup> Cycle RHNA. This is because the SANDAG 6<sup>th</sup> Cycle RHNA methodology and process have been approved and certified by the SANDAG Board and State HCD; units have already been allocated to all the cities in the San region; and housing elements reflecting the RHNA allocations for those jurisdictions have been adopted and certified. The majority of these actions occurred 3-4 years ago, with cities in the San Diego region now working hard to implement their certified housing elements. However, these discussions are still timely and important as planning for the 7<sup>th</sup> Cycle RHNA process is expected to begin in 2025 or 2026.

The City Council additionally explored whether there was any legal remedy that could be pursued by the City and sought guidance from the City Attorney's office and special counsel Pam Lee, who is a partner with Aleshire & Wynder, LLP. A copy of the memo provided by Attorney Lee is included with this agenda item as Attachment B. As further detailed in the memo, it is not recommended that the City pursue legal action as a remedy to address 6<sup>th</sup> Cycle RHNA process concerns due to the low likelihood of success and the potential negative ramifications to the City should the City's current 6<sup>th</sup> Cycle Housing Element be decertified by HCD as a result.

### ***Next Steps***

City staff and Council representatives will continue to work with SANDAG and the City's State representatives to pursue changes to the RHNA methodology and process to ensure that the City of Del Mar is not disproportionately affected during the next RHNA cycle. As part of the next RHNA cycle, Del Mar will also obtain and review the EDD jobs data well in advance so concerns can be raised and addressed prior to the RHNA methodology being approved.

It should also be noted that on March 22, 2024, the SANDAG Board hosted a discussion regarding the RHNA process with HCD representatives, during which the City of Del Mar and other jurisdictions were able to share their concerns and frustrations about the RHNA process (<https://youtu.be/arKeg7IFk7w?si=IDqfOp-kmoVQLMOF&t=2728>).

Following the SANDAG Board meeting, and in accordance with their statutory requirement to assess and recommend improvements to the RHNA process, HCD recently released a report that outlines the stakeholder engagement process and statutory/regulatory suggested reforms to improve RHNA before Cycle 7. The report, entitled California's Housing Future 2040: The Next Regional Housing Needs Allocation (RHNA), outlines dozens of suggested reforms to improve the RHNA methodology, regional determination, and compliance process. Notable suggested reforms include the following, many of which align with issues/concerns that Del Mar has raised:

1. Requiring that the RHNA determination and housing element compliance process incorporates the regional homeless needs. This will likely be implemented through the integration of new extremely low income (ELI) categories and associated benchmarks that regional and local governments would need to assess and meet.
2. Broadening the scope of eligible housing types that can be credited within the RHNA process. This focus is targeting the group quarter living situations that are common for individuals within the ELI categories and may be at risk of homelessness. Additional categories of housing that the report suggests be incorporated are suite-style college housing (not dorms that meet quarter definitions) and other group-style homes that serve seniors. (excludes emergency shelters)
3. Requiring COGs to share the datasets they plan to use within their methodology with relevant local jurisdictions.
4. Amending the appeals process to clarify that the change in circumstance appeals criteria is only applicable when the change in question disproportionately impacts the jurisdiction that is the subject of the appeal.
5. Aligning RHNA with Regional Transportation Plan (RTP) and Sustainable Communities Strategies Growth (SCS) growth projections.
6. Simplifying the RHNA determination and allocation process via statute clean-up language and process. This would include transparency and communication requirements between HCD and jurisdictions, more clearly defined data sources, and refining various determination factors.

Overall, HCD's recommendations are likely to be considered and incorporated into legislative and budget proposals over the next few sessions prior to the onset of the RHNA 7 Cycle.

FISCAL IMPACT:

There is no fiscal impact or action to be taken by the Council related to this agenda item.

ATTACHMENTS:

Attachment A - Letter to SANDAG dated November 15, 2023

Attachment B – Legal Memo from Pam Lee, Aleshire & Wynder, LLP



## CITY OF DEL MAR

November 15, 2023

San Diego Association of Governments (SANDAG)  
SANDAG Board & Executive Leadership  
401 B Street, Suite 800  
San Diego, CA 92101

SENT VIA EMAIL

### **Re: Observations and Findings Regarding City of Del Mar EDD Data/RHNA Allocation**

Dear SANDAG Board & Executive Leadership,

For almost a year now, the City of Del Mar has been working with SANDAG data staff and the State of California Employment Development Department (EDD) to evaluate and better understand the jobs data that was used by SANDAG to calculate the City of Del Mar's jobs data and related Regional Housing Needs Allocation (RHNA) for the City's Sixth Cycle Housing Element.

After entering into an EDD required confidentiality agreement, the City obtained the necessary EDD Quarterly Census of Employment and Wages (QCEW) data files for Quarter 3 (Q3) of Years 2017 – 2022, of which data from Q3 2017 was used by SANDAG to calculate the City of Del Mar's jobs data. The data contained many important elements including unique identifiers, ownership codes, NAICS codes, business names, business addresses, employment figures, and more, which allowed us to delve into the intricacies of Del Mar's jobs data.

A thorough review of the data by Del Mar provided several important observations and findings, as further summarized below. Due to the confidential nature of the data provided by EDD, we are only able to provide summarized, high-level information. It is important to note that the EDD identifies job locations by jurisdictional boundary (not postal code), and jobs are not differentiated between full-time and part-time/seasonal.

#### **High Level Overview of Del Mar Jobs**

- In 2017, the EDD identified 405 businesses with addresses in the City of Del Mar.
- The EDD data indicates that there was an average of 4,911 jobs identified for Del Mar during Quarter 3 of 2017.
- Of those, SANDAG counted 4,484 jobs for Del Mar as part of the RHNA allocation process.
- SANDAG quality controlled the data by filtering out duplicates; jobs outside the City's jurisdictional boundary; out of state employers; and corporate headquarters.

#### **Fairgrounds Jobs**

- Over half the jobs identified for Del Mar were at the Fairgrounds, and 90% of the Fairgrounds jobs were part-time/seasonal.

- Seasonal jobs can be easily identified as varying from nearly 0 jobs in one month to a much larger number in another month for a given business.
- Del Mar has NO jurisdiction/authority over the Fairgrounds and Del Mar's ordinances do not apply to the Fairgrounds, including noise and parking.
- Without jobs attributable to the Fairgrounds, Del Mar has about 2,000 jobs (less than half of the 4,484 jobs counted by SANDAG for the RHNA allocation).

The majority of the part-time/seasonal jobs at the Fairgrounds are related to special events, from small one-to-three-day events throughout the year to large events like the annual Fair or horseracing season. Many of the special event vendors and contractors live in other parts of San Diego or the State or they come from out of state to work the event. As an example, vendors/contractors who work the annual San Diego County Fair work a circuit of fair events in the State, and are likely be counted in each jurisdiction that they work in.

#### **Post Office Boxes**

More than 5% of Del Mar's businesses are registered to post office boxes and contribute over 10% of the jobs for Del Mar. Living in or owning a business in Del Mar is not required in order to have a post office box in Del Mar. A review of the data indicated that many of the Del Mar post office boxes were attributable to businesses that are not actually located in Del Mar, causing issues with the accuracy of the data and driving up the number of jobs for Del Mar.

#### **Home Addresses for Registered Businesses**

More than 25% of Del Mar's registered businesses are registered to homes and contribute over 10% of Del Mar's jobs. Based on a review of the data, there were many home addresses in Del Mar that were being used as the mailing address for a business, but the actual business and its employees are not physically located in Del Mar. Again, this affected the data and drove up the jobs numbers for Del Mar.

#### **Erroneous Data**

A known closed business that has not been located in Del Mar since for over 10 years, has been consistently misreported with nearly 100 jobs in Del Mar (2% of Del Mar's overall jobs). The City is taking steps to correct this data with the EDD.

In June and August 2023, we shared our findings, observations, and concerns with SANDAG data staff. We appreciate SANDAG staff's willingness to engage constructively with us and take our feedback into consideration. We were pleased to learn that SANDAG has expanded its EDD data set to include all four quarters of the calendar year, rather than just the third quarter, and has recognized the need to adjust data assumptions and methodologies to account for the disproportionate impact of the data on smaller cities like Del Mar.

Moving forward, we recommend that SANDAG consider the following:

1. Collaboration: We are encouraged by SANDAG's commitment to collaboration and transparency. We propose the establishment of a continuous dialogue between SANDAG and the City of Del Mar to address data-related issues promptly and effectively.
2. Regular Data Review: We recommend a systematic process for Del Mar and other cities to review EDD data and raise any issues or concerns before the jobs numbers are finalized in future RHNA cycles.
3. Improved Data Accuracy: In light of the data discrepancies we identified, we request that SANDAG take steps to ensure the accuracy of its data sources and methodologies to reflect the unique characteristics and challenges faced by smaller cities like Del Mar.
4. Policy Considerations: We encourage SANDAG to consider the potential policy implications of its data and methodologies, particularly concerning RHNA allocations for smaller jurisdictions.

This letter is intended to serve as a formal record of our concerns, findings, and recommendations. We believe that SANDAG, as a regional authority, can benefit from a RHNA approach that takes into consideration the diverse needs and circumstances of all the cities it serves. We look forward to a constructive and ongoing partnership to address the concerns we have raised and identify opportunities to ensure the accuracy of the data and jobs numbers for the current and future RHNA cycles.

We are requesting a formal meeting with SANDAG executive staff to discuss our findings and potential next steps. To schedule a time to meet, or for questions/additional information, please contact Del Mar City Manager Ashley Jones at [ajones@delmar.ca.us](mailto:ajones@delmar.ca.us) or (858) 704-3640.

Sincerely,



Tracy Martinez  
Mayor

cc: Del Mar City Council  
Ashley Jones, Del Mar City Manager  
Clem Brown, Del Mar Assistant City Manager  
Daniel Flyte, SANDAG Principal Analyst – Data Governance Manager  
Grace Chung, SANDAG Principal Researcher



**TO: HONORABLE MAYOR AND MEMBERS OF THE DEL MAR CITY COUNCIL  
ASHLEY JONES, CITY MANAGER  
LESLIE DEVANEY, CITY ATTORNEY**

**FROM: PAM K. LEE, SPECIAL LEGAL COUNSEL** *P.K.L.*

**DATE: MAY 14, 2024**

**RE: JOBS DATA AND THE CITY'S HOUSING ELEMENT**

---

#### **A. Background Information**

For over 18 months now, the City of Del Mar has been working with the San Diego Association of Governments (SANDAG) to obtain and evaluate the jobs data that SANDAG used to calculate the Regional Housing Needs Allocation (RHNA) for each city within SANDAG's jurisdiction, including the City of Del Mar.

When the City obtained the relevant job data in early 2023, it conducted a thorough review to determine whether the City's RHNA was accurately calculated. The City learned that 4,484 jobs were attributed to the City of Del Mar, even after filtering out duplicate jobs, jobs outside the City's jurisdictional boundary, out of state employers, and corporate headquarters. Of the 4,484 jobs, over half were derived from fairgrounds employment, and 90% of those jobs were either part-time or temporary in nature. Based on an independent analysis, if the part-time/temporary jobs were omitted from the calculation, the City's RHNA could be reduced by almost half.

Because this data was not provided to the City when requested prior to the finalization of the RHNA process, the City could not and did not appeal its RHNA to SANDAG as part of the RHNA appeal process, per Government Code Section 65584.05(b). Accordingly, the City cannot appeal its RHNA now.

#### **B. Should the City File A Lawsuit Against SANDAG or HCD for the City's Overinflated RHNA?**

Any lawsuit filed by the City against SANDAG for its erroneous job data in determining the City's RHNA allocation would be pre-empted by and dismissed under *City of Irvine v. Southern California Assn. of Governments*, (2009) 175 Cal.App.4th 506, and *City of Coronado, et al. v. San Diego Association of Governments*, (2022) 80 Cal.App.5th 21. Both the *City of Irvine* and *City of Coronado* cases held that the court lacked jurisdiction to adjudicate a city's claim against a council of governments/association of governments because (i) the city did not have an enforceable right against the council/association regarding the determination of RHNA allocations, (ii) the RHNA administrative appeals process under Government Code Section 65584.05 provides the remedy for a city to raise objections to an allocation, and (iii) the State legislature previously deleted a then-existing statutory provision that authorized judicial review.

A lawsuit filed against California Department of Housing and Community Development (HCD) for the overinflated RHNA would likely meet the same fate. This is because HCD could successfully argue that (i) HCD had no part in determining the City's RHNA based on any job data, and (ii) HCD reviewed the job data on a regional rather than individual municipal basis and did not independently assess (nor did it have the authority to independently assess) the accuracy of such data.

In addition, the way SANDAG counted the number of jobs is consistent with how other councils of governments, such as the Southern California Association of Governments (SCAG) and Association of Bay Area Governments (ABAG), have also counted the total number of jobs for the region and for allocations for each municipality. The job data and how it intersects with housing needs was not further delineated by full-time, part-time, or seasonal/temporary categories in determining the RHNA methodology or allocations.<sup>1</sup> So if a lawsuit were to challenge the accuracy of job data in calculating the RHNA, the lawsuit would require HCD, all councils of government, and counties (that are not part of a council of government) to re-analyze the job data for all jurisdictions in California. A court will most likely find that such an undertaking requires a legislative fix, rather than a judicial fix on an ad hoc basis.

Even if a re-analysis were to occur, it would not guarantee that the methodology or the housing numbers would come out differently than before. This is because any lawsuit, even if successfully challenged, would require the court to give deference to SANDAG, City, or HCD in utilizing the job data and coming up with revised housing numbers – in other words, the court does not have the legal authority to dictate what the RHNA housing methodology or housing numbers would be. Moreover, any fix would most likely be on a prospective, rather than retrospective, basis.

### **C. Should the City on Its Own Revise and Self-Certify Its Housing Element?**

The City could revise its Housing Element using the updated job data (excluding the part-time or temporary jobs) and the same RHNA methodology implemented by SANDAG to come up with reduced RHNA for the City, in all relevant income categories. However, it should be noted that any draft amendment to the Housing Element must be submitted for review to HCD, who has legal authority monitor a City's compliance with Housing Element law.<sup>2</sup>

---

<sup>1</sup> See, e.g., Gov. Code § 65584.04(e)(1), which requires each jurisdiction to include the existing and projected jobs in total, including the number of low-wage jobs, regardless of the job type (part-time, full-time, temporary, etc.) and analyze the jobs' relationship to housing. SCAG used California Employment Development Department's (EDD) jobs report by industry, as well as 2010 Census information and American Community Survey data for all job types. (SCAG Final RHNA Methodology, Mar 3, 2020, p. 7.) SANDAG used job data from EDD and the 2010 Census' Longitudinal Employer-Household Dynamics Origin-Destination Employment Statistics (LODES) data. SANDAG's data consists of "all job types and includes jobs that are classified as a primary source of income, which can be part-time or full-time, year-round or seasonal," in order to determine how much housing is needed. (SANDAG 6<sup>th</sup> Cycle RHNA Plan, Jul. 10, 2020, p. 20.)

<sup>2</sup> Gov. Code § 65585(b).

HCD will vigorously oppose any reduction in the City's RHNA allocation based on omission of part-time or temporary jobs from the job data. Recent case law regarding housing<sup>3</sup> has been very deferential towards HCD in interpreting State housing laws liberally to promote housing and affordable housing development and restrictive against local laws that limit local governance in land use and zoning. HCD will most likely de-certify the City's Housing Element if the City revised its Housing Element to include a reduced RHNA number.<sup>4</sup> A de-certification of the City's Housing Element, would mean that the City, according to HCD, no longer has a compliant Housing Element. This would likely open the door to Builder's Remedy project applications<sup>5</sup>, which would allow non-zoning compliant housing projects to be considered for approval for development during the time period the Housing Element is deemed non-compliant or de-certified. Furthermore, with a de-certified Housing Element, the City would also be subject to a streamlined ministerial approval process for other housing development projects.

Moreover, because the City would be re-analyzing its Housing Element using different definitions of "jobs" than other jurisdictions in the State have used, the City would be inviting other jurisdictions as well as housing advocacy groups to potentially file lawsuits against the City for non-compliance with State housing element laws. As stated above, no other council of government or county has utilized the job data in a way being proposed by the City (i.e., to eliminate or discount part-time/temporary jobs in determining RHNA), so the RHNA methodology would be very different than what has historically been done. Based on the novel approach and how other jurisdictions utilized local job data, it is highly unlikely a court would agree with how the City would want to re-apply its job data to the current Housing Element.

As a result, the disadvantages greatly outweigh any potential benefits the City would receive in revising its RHNA and Housing Element based on the a new job data analysis.

[END]

---

<sup>3</sup> For example, the appellate courts in *Anderson v. City of San Jose* (2019) 42 Cal.App.5th 683 and *Ruegg & Ellsworth v. City of Berkeley* (2021) 63 Cal.App.5th 277 have held that the State's interest in promoting access to housing and affordable housing are paramount, considering the State's current housing and affordable housing crisis, resulting in very deferential treatment towards laws that promote such state interests, at the expense of local land use and zoning.

<sup>4</sup> Notably, HCD is actively pursuing Housing Element de-certifications. In March 2024, HCD de-certified the Town of Portola Valley's Housing Element, less than two months after it had been certified by HCD. While nothing changed between HCD's certification of Portola Valley's Housing Element on January 31, 2024 and its de-certification on March 26, 2024, HCD cited that the town was not working fast enough to implement its housing programs as required under its Housing Element.

<sup>5</sup> Gov. Code § 65589.5(d).