

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF HERMOSA BEACH.
AMENDING CHAPTER 17.40 (CONDITIONAL USE PERMIT AND
OTHER PERMIT STANDARDS) TO ADD SECTION 17.40.230
(TIMESHARE USES) TO TITLE 17 (ZONING), AND AMENDING
SECTION 17.26.030 TO PERMIT TIMESHARE USES IN
SPECIFIED COMMERCIAL ZONES PURSUANT TO A
CONDITIONAL USE PERMIT AND DETERMINING THAT THE
PROJECT IS EXEMPT FROM THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT.**

The City of Council of the City of Hermosa Beach does hereby ordain as follows:

Section 1. Findings.

- A. The City of Hermosa Beach ("City") is a scenic beachfront city, known for its many diverse restaurants, local retailers and popular commercial areas like its Downtown area and Pier Avenue.
- B. Preserving the City's costal resource and the quality and character of the City has been a focal point of the City's land use planning for decades, and remains a primary focus in the City's current General Plan.
- C. Maintaining the balance between the quality of life for residents and those who work in the City and the visitors who help to sustain the City's tourist economy is key to maintaining a sustainable community and a stable economy.
- D. The City values and welcomes all visitors to the City and recognizes their contributions to the City's economy, but finds that in order to maintain the City's long term viability as a community where people not only come to visit, but also live, work and contribute to the long term betterment of the community through participation in the City's schools, local community groups, civic government and local serving businesses, the City must maintain a balance between residential land uses and visitor serving uses.
- E. The City's existing housing stock is significantly impacted, with demand outweighing supply, resulting in extremely high housing prices as detailed in the accompanying staff report. A limited supply of suitable vacant land, exorbitantly high land costs, and limitations in the City's existing infrastructure, among other factors, have limited the construction of additional housing in the City.
- F. According to the U.S. Census Bureau, the current median household income in the City is \$136,702, while the estimated value of owner-occupied housing units from 2015-2019 was approximately \$1,542,900 with current real estate listings

suggesting that prices are increasing significantly, meaning that homes in the City are not affordable to the median household in the City.

- G. The conversion of existing residential units to uses other than long-term residential use will further reduce the City's existing long-term housing supply, causing further imbalance between the demand for housing in the City and the existing supply, not only altering the character of the City's residential neighborhoods, but also presenting further challenges to the City's efforts to provide affordable housing within the community.
- H. The City additionally has, for many years, worked to preserve its existing housing stock for long term residential use, both to maintain the character of its residential neighborhoods and prevent residential districts from becoming visitor and tourist serving districts, and to ensure that it would not be converted to uses other than long-term residential uses.
- I. The high impact use associated with timeshares, combined with the frequent turnover and commercial management involved in timeshare properties is not consistent with the purpose and nature of residential districts in the City. Rather, they are commercial in nature, in that these timeshare uses are structured as a short-term, tourist oriented, visitor serving use of the subject properties. The use of properties as timeshares adds excessive noise and traffic to residential districts by using these properties for high impact tourist oriented uses more appropriately located in commercial districts of the City.
- J. The use of residential properties for timeshare uses will further reduce the availability of housing stock for long-term residential use, and create a new demand for timeshare uses of residential properties.
- K. This encroachment of tourist oriented, visitor serving uses in residential neighborhoods is likely to compromise the character of residential areas within the City, and further increase the costs for housing in the City, undermining the City's efforts to provide a balance of housing for all income levels in the City.
- L. The City's authority to enact zoning ordinances is based on the powers accorded cities and counties under the State constitution to make and enforce police regulations. This police power grants the City broad authority to regulate the development and use of real property within its jurisdiction to promote the public welfare.
- M. Pursuant to and in accordance with this authority, the City Council desires to prohibit timeshare uses in residential areas, and only allow them in the C-1 commercial zone within the City, pursuant to a conditional use permit.

- N. The City's Planning Commission held a duly noticed public hearing on April 19, 2022, as required by law to consider all the information presented by staff, and public testimony presented in writing and at the meeting.
- O. On April 19, 2022, the City's Planning Commission recommended that the City Council adopt this Ordinance amending the City's Municipal Code as described herein.
- P. On September 28, 2022, the City Council held a duly noticed public hearing, accepting testimony from the public, and discussed the proposed amendments and staff's recommended approval of this Ordinance.
- Q. The proposed zoning amendments are consistent with the General Plan goals, policies and implementation programs as the Ordinance will continue to preserve the character of the City; will preserve the City's residential districts for residential uses; and will help to preserve the City's existing housing stock for long term residential uses, to avoid further exacerbating the existing impacts on the City's housing supply.

Section 2. The above recitals are hereby incorporated as though set forth in this section.

Section 3. Section 17.40.230 (Time Share Uses) is hereby added to Chapter 17.40 (Conditional Use Permit and Other Permit Standards) of Title 17 (Zoning) of the City of Hermosa Beach Municipal Code, to read as follows:

Section 17.40.230 Timeshare Uses

A. Purpose and Findings.

There is a critical shortage of permanent, long-term housing in the City of Hermosa Beach ("City"). A limited supply of suitable vacant land, land values, and market demand for land for other uses, have limited the construction of additional housing in the City.

The City is a popular tourist destination known for its scenic beachfront location, its many diverse restaurants, local retailers and popular commercial areas like its Downtown area and Pier Avenue. Maintaining the balance between the quality of life for residents and those who work in the City and the visitors who help to sustain the City's tourist economy is key to maintaining a sustainable community and a stable economy.

Timeshare uses are not an appropriate land use in the City's residential zones due to the multiple occupancy of timeshare properties, the short-term, tourist oriented use of such property and commercial management of timeshare facilities, all of which create increased traffic generation, excessive noise, disruption to residential communities through commercial-level maintenance of the timeshare facilities, and therefore are appropriately confined to commercial zones.

Conversion of permanent housing to timeshare facilities removes existing housing units from the City's existing stock and exacerbates an already severe housing shortage. It is therefore in the public interest to prohibit conversions of existing housing units into timeshare facilities, as to do so eliminates needed housing stock by diverting those units to a tourist-oriented, commercial use.

B. Definitions.

For purposes of this Section, the following words and phrases shall have the meaning respectively ascribed to them by this Section:

"Accommodation" means any dwelling unit, apartment, condominium or cooperative unit, hotel or motel room, or other structure constructed for residential use and occupancy, including but not limited to a single family dwelling, or unit within a two family dwelling, three family dwelling, multiple family dwelling, or townhouse dwelling as defined in Section 17.04.040.

"Building" shall have the meaning ascribed to it by Section 17.04.040.

"Dwelling unit" shall have the meaning ascribed to it by Section 17.04.040.

"Managing entity" means the person who undertakes the duties, responsibilities and obligations of the management of a timeshare plan.

"Person" means a natural person, corporation, limited liability company, partnership, joint venture, association, estate, trust, or other legal entity, or any combination thereof.

"Timeshare instrument" means one or more documents, by whatever name denominated, creating or governing the operation of a timeshare plan and includes the declaration dedicating accommodations to the timeshare plan.

"Timeshare interest" means the right to exclusively occupy a timeshare property for a period of time on a recurring basis pursuant to a timeshare plan, regardless of whether or not such right is coupled with a property interest in the timeshare property or a specified portion thereof.

"Timeshare plan" means any arrangement, plan, scheme, or similar device, facilitated, offered, or organized by a third-party non-purchaser, whether by membership agreement, bylaws, shareholder agreement, partnership agreement, sale, lease, deed, license, right to use agreement, or by any other means, whereby purchasers, in exchange for consideration, receives the right to exclusive use of an accommodation or accommodations, whether through the granting of ownership rights, possessory rights or otherwise, for a period of time less than a full year during any given year, on a recurring basis for more than one year, but not necessarily for consecutive years.

"Timeshare property" means one or more accommodations subject to the same timeshare instrument, together with any other property or rights to property appurtenant to those accommodations.

“Timeshare use” means the use of one or more accommodations or any part thereof, as a timeshare property pursuant to a timeshare plan.

C. Timeshare Uses Restricted to C-1 Commercial Zone.

Timeshare uses are conditional uses within the City’s C-1 Commercial Zone, subject to approval of a conditional use permit applied for and approved in conformance with this Section. Timeshare uses are not permitted in any other Zones in the City.

D. Application Process and Development Standards.

A. Application Process. Approval of a conditional use permit for timeshare uses in the C-1 Commercial Zone within the City shall be required in accordance with the requirements of Chapter 17.40. In addition to the requirements contained in Chapter 17.40, an application for a timeshare use shall be accompanied by the following documents which shall be subject to the approval of the Community Development Director:

1. Management Plan. A management plan shall describe the methods employed by the applicant to guarantee the future adequacy, stability, and continuity of a satisfactory level of management and maintenance of the time share use.

2. Application Requirements. In addition to any application requirements established by this section and any other applicable requirements of this code, the following information shall be submitted as part of any application to develop or establish a timeshare use:

- a. Typical floor plans for each accommodation.
- b. The phasing of the construction of the accommodations on the timeshare property, if applicable.
- c. A description of any ancillary uses which are proposed in conjunction with the time share use.
- d. A description of the method of management of the time share use and indication of the management entity for the time-share property.
- e. Any restrictions on the use or occupancy of the accommodations.
- f. Any other information or documentation the applicant, City staff or commission deems reasonably necessary to the consideration of the timeshare use, including any required environmental documents.

B. Development Standards and Operational Requirements. Notwithstanding any other provision of this Section, the following conditions must be met by any timeshare use in any conditionally permitted zone. Additional requirements may be attached to a

conditional use permit or development agreement if found to be necessary to assure that the timeshare use meets the intent of this Section:

1. Timeshare uses developed in the C-1 Commercial Zone within the City shall be limited to accommodations in upper floors in conjunction with a mixed-use project.
2. No existing residential use in the C-1 Commercial Zone within the City shall be converted to a timeshare use.
3. Development Standards. The timeshare use shall comply with all development standards for the zone in which it is located.
4. Parking. Parking shall be provided as follows:
 - a. For accommodations of two or fewer bedrooms, one parking space shall be provided for each accommodation.
 - b. For accommodations of three or more bedrooms, two parking spaces shall be provided for each accommodation.
5. Modification or Waiver of Standards. The Planning Commission may modify or waive one or more of the regulations contained in this Section if it determines that strict compliance is not necessary to achieve the purpose and intent of this Section.

E. Violations, Enforcement and Civil Penalties.

1. Any responsible person, including but not limited to an owner of a timeshare interest, management entity, agent, or broker who uses, or allows the use of, or advertises or causes to be printed, published, advertised or disseminated in any way and through any medium, the availability for sale or use of an accommodation in violation of this Section is guilty of a misdemeanor for each day in which such accommodation is used, allowed to be used, or advertised for sale or use in violation of this Section. Such violation shall be punishable pursuant to Section 1.04.020 of the City of Hermosa Beach Municipal Code.
2. Timeshare use, and/or advertisement for timeshare use, of an accommodation in violation of this Section is a threat to public health, safety or welfare and is thus declared to be unlawful and a public nuisance. Any such nuisance may be abated and/or restored by the enforcement official and also may be abated pursuant to Chapter 8.28 except that the civil penalty for a violation shall be one thousand dollars (\$1,000.00). Each day the violation occurs shall constitute a separate offense
3. Any responsible person who violates this Section shall be liable and responsible for a civil penalty of one thousand dollars (\$1,000.00) per violation per day such violation occurs. The City may recover such civil penalty by either civil action or administrative citation. Such penalty shall be in addition to all other costs incurred by the City, including without limitation the City's staff time, investigation expenses and attorney's fees.

- a. Where the City proceeds by civil action, the court shall have discretion to reduce the civil penalty based upon evidence presented by the responsible person that such a reduction is warranted by mitigating factors including, without limitation, lack of culpability and/or inability to pay. Provided, however, that in exercising its discretion the court should consider the purpose of this Section to prevent and deter violations and whether the reduction of civil penalties will frustrate that purpose by resulting in the responsible person's enrichment or profit as a result of the violation of this Section. In any such civil action the City also may abate and/or enjoin any violation of this Section.
- b. Where the City proceeds by administrative citation, the City shall provide the responsible person notice of the right to request an administrative hearing to challenge the citation and penalty, and the time for requesting that hearing.
 - i. The responsible person shall have the right to request the administrative hearing within forty-five (45) days of the issuance of the administrative citation and imposition of the civil penalty. To request such a hearing, the responsible person shall notify the City clerk in writing within forty-five (45) days of the issuance of the citation. The appeal notification shall include all specific facts, circumstances and arguments upon which the appeal is based.
 - ii. The City Manager is hereby authorized to designate a hearing officer to hear such appeal. The City hearing officer shall conduct a hearing on the appeal within ninety (90) days of the request for the hearing unless one of the parties requests a continuance for good cause. The hearing officer shall only consider those facts, circumstances or arguments that the property owner or responsible person has presented in the appeal notification.
 - iii. The hearing officer shall render a decision in writing within thirty (30) days of the conclusion of the hearing. The hearing officer shall have discretion to reduce the civil penalty based upon evidence presented by the property owner or responsible person that such a reduction is warranted by mitigating factors including, without limitation, lack of culpability and/or inability to pay. Provided, however, that in exercising its discretion the hearing officer should consider the purpose of this Section to prevent and deter violations and whether the reduction of civil penalties will frustrate that purpose by resulting in the property owner's or responsible person's enrichment or profit as a result of the violation of this Section.
 - iv. Any aggrieved party to the hearing officer's decision on the administrative appeal may obtain review of the decision by filing a petition for writ of mandate with the Los Angeles County Superior

Court in accordance with the timelines and provisions set forth in Government Code Section [53069.4](#).

- v. If, following an administrative hearing, appeal, or other final determination, the owner of the property is determined to be the responsible person for the civil penalty imposed by this section, such penalty, if unpaid within forty-five (45) days of the notice of the final determination, shall become a lien to be recorded against the property on which the violation occurred pursuant to Chapter 8.28. Such costs shall be collected in the same manner as county taxes, and thereafter the property upon which they are a lien shall be sold in the same manner as property now is sold for delinquent taxes

4. Any violation of this Section may also be abated and/or restored by the enforcement official and also may be abated pursuant to Chapter 8.28 except that the civil penalty under Chapter 8.28 for a violation shall be one thousand dollars (\$1,000.00). Each day the violation of this Section occurs shall constitute a separate offense. The remedies under this Section are cumulative and in addition to any and all other remedies available at law and equity.

Section 3. Section 17.26.030 of Chapter 17.26 (C1, C2 and C3 Commercial Zones) of Title 17 (Zoning) is amended to add the following entry to the chart of land use regulations

<u>USES</u>	<u>C1</u>	<u>C2</u>	<u>C3</u>	<u>See Section</u>
<u>Timeshares</u>	<u>U</u>			<u>17.40.230</u>

Section 4. CEQA. This ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The City Council hereby finds that this ordinance is not subject to CEQA because the adoption of this ordinance is not a “project” pursuant to Sections 15060(c)(2) and 15060(c)(3) of Title 14 of the California Code of Regulations. Specifically, this ordinance permits timeshares in the C-1 commercial zone within the City pursuant to a conditional use permit, and prohibits them in all other zones within the City, and authorizes administrative and implementation activities which will not result in a direct or reasonably foreseeable indirect physical change in the environment. Moreover, under Section 15061(b)(3) of the State CEQA Guidelines, this ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

Section 5. Effective Date. Pursuant to California Government Code section 36937, this Ordinance shall take effect thirty (30) days after its final passage.

Section 6. Certification. The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City’s book of original ordinances; make a note of the passage and adoption in the records of this meeting; and,

within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

PASSED, APPROVED and ADOPTED this 28th day of September, 2022.

VOTE: AYES:
 NOES:
 ABSTAIN:
 ABSENT:

Michael Detoy, Mayor
PRESIDENT of the City Council and **MAYOR** of the City of Hermosa Beach, CA

ATTEST:

APPROVED AS TO FORM:

Myra Maravilla
City Clerk

Michael Jenkins
City Attorney

