



CITY OF CARMEL-BY-THE-SEA CITY COUNCIL Staff Report

February 7, 2023
PUBLIC HEARINGS

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| TO: | Honorable Mayor and City Council Members |
| SUBMITTED BY: | Brandon Swanson, Community Planning & Building Director |
| APPROVED BY: | Chip Rerig, City Administrator |
| SUBJECT: | Consider Ordinance No. 2022-007 (first reading) amending Carmel Municipal Code (CMC) Sections 17.14.040, 17.28.010, and 17.70.020, to prohibit timeshare and fractional interest uses, as well as advertising and sale thereof, in a manner fully in conformity with the California Coastal Act (CA Section 30510) - Continued from December 6, 2022, and January 10, 2023 |

RECOMMENDATION:

1. Request the City Attorney to read the title of Ordinance 2022-007.
2. Waive further reading and introduce draft ordinance 2022-007 amending Carmel municipal code (CMC) sections 17.14.040, 17.28.010, and 17.70.020, to prohibit timeshare and fractional interest uses, as well as advertising and sale thereof, in a manner fully in conformity with the California Coastal Act (CA section 30510).

BACKGROUND/SUMMARY:

EXECUTIVE SUMMARY

The Carmel-by-the-Sea Municipal Code prohibits timeshares. The proposed ordinance confirms the existing prohibition of time shares, and adds new prohibitions with respect to advertisement and sale of timeshares and fractional interest ownerships. The City's Planning Commission has recommended adoption of these amendments, with an additional recommendation for Council to have a policy level discussion in the future about whether or not timeshares should continue to be prohibited in the Village.

BACKGROUND

Existing provisions of the Carmel-by-the-Sea Municipal Code prohibit timeshare uses. Specifically, timeshares are prohibited in all zoning districts of the City, and are defined in Section 17.28.010 to include any land use that is a "timeshare project", "time share program," or "time share occupancy." These are defined in Section 17.70.020 as follows:

Time-Share Occupancy. An occupancy related to the situation wherein a purchaser receives the right or entitlement in perpetuity, for life, or for a term of years or other extended term, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, room(s), hotel or portion thereof, or segment of real

property, annually or on some other seasonal or periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the time-share project which is involved has been divided. The right or entitlement to occupancy may attach in advance to a specific lot, parcel, unit, room(s) or portion of a hotel, or segment of real property, or may involve designation or selection of the same at a future time or times.

Time-Share Program. Any arrangement for a project whereby the use, occupancy, or possession of real property has been made subject to a time-share estate, use, or occupancy, whereby such use, occupancy, or possession circulates among purchasers of the time-share intervals according to a fixed or floating time schedule on a periodic basis for a specific period of time during any given year, but not necessarily for consecutive years.

Time-Share Project. A project in which a purchaser receives the right in perpetuity, for life, or for a term of years, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, or segment of real property, annually or on some other periodic basis, for a period of time that has been or will be allotted for the use or occupancy periods into which the project has been divided.

As a result of recent enforcement efforts related to timeshares, City staff have reviewed the existing city code provisions and recommend that they be revised to confirm the existing prohibition, and additionally, that new prohibitions be added with respect to advertisement and sale of timeshares and fractional interest ownerships, which are treated identically under the existing City code.

On October 12th, 2022, the Planning Commission was presented these draft amendments, and received testimony from the public. Following discussion, the Commission approved a resolution recommending that the City Council adopt the ordinance as drafted by staff. The Commission also crafted an additional recital recommending that Council have a policy discussion in the near future to explore whether or not timeshares should still be prohibited in the City of Carmel-by-the-Sea. This additional recommendation arose from deliberations during the hearing, in which the Commissioners discussed the number of vacant homes in the Village and whether a form of timeshare use could present a solution to filling them. The Commission's additional recommendation is for Council to hold a separate hearing in the near future to have a policy level discussion and decide whether or not to refer an item back to the Planning Commission to remove or modify the prohibition on timeshares in Carmel-by-the-Sea.

STAFF ANALYSIS

The changes proposed by the ordinance include:

- Section 17.70.020 is modified to simplify the City's existing definitions with respect to timeshares. The City's existing definitions include definitions of time-share estate, time-share use, time-share occupancy, and time-share property, which are based on similar definitions in state law (the Vacation Ownership and Time-Share Act of 2004, as set forth in Business and Professions Code section 11210 et seq.). However, the existing definitions with respect to timeshares in 17.70.020 are multiple and reference each other, and introduce unnecessary complexity into the City's zoning regulations. While not a substantive change in the scope of the City's regulations, the proposed ordinance would simplify definitions to prohibit the use of real property under a "time-share plan."

The definition of "time-share plan" would mean "any arrangement, plan, scheme, or similar device, whether established by membership agreement, sale, lease, deed, license, right to use agreement, articles of organization or incorporation, operating agreement or bylaws, or by any other means, whereby a purchaser, in exchange for consideration, receives the right to exclusive use of real property or portion thereof, according to a fixed or floating time schedule, 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.”

The code would specify that a time share plan exists “whenever such recurring rights of exclusive use to real property are created, regardless of whether such exclusive rights of use are a result of a grant of ownership rights, possessory rights, membership rights, rights pursuant to contract, or ownership of a fractional interest or share in real property, and regardless of whether they are coupled with ownership of a real property interest such as freehold interest or an estate for years in the property subject to the time-share plan.”

The code would be revised to make clear that a prohibited timeshare is created whenever any right is established for exclusive use of the property that is periodic on a recurring basis, regardless of the form. The definition of “timeshare plan” would now specifically mention that fractional ownership is one way a timeshare can be created, which is also not a substantive change. “Time-share use” and “fractional interest use” are defined to mean exactly same thing, so that it is clear to all potential violators that there is no difference between a fractional interest use and a timeshare use.

- 17.14.040, prohibiting timeshares in commercial zones, is modified to use the updated definitions.
- 17.28.010.A, prohibiting timeshares in all city zoning districts, is updated to use the updated definitions. Additional subsections are added to this section to make advertisement of timeshares subject to criminal penalties as well as the City’s administrative civil penalty process. The code also specifies that each day a violation occurs is a separate offense, for purposes of deterring violations by increasing the visibility of potential consequences.

While the existing municipal code prohibits fractionalized interest ownership, as a timeshare is created based on the allocation of exclusive rights of use to real property, the proposed code amendments would clarify the prohibition and strengthen enforcement efforts.

Additionally, the proposed ordinance would expressly prohibit the advertisement and sale of timeshares and fractional interest uses; this would allow for proactive enforcement by the City against those involved in the creation, advertisement, and sale of such prohibited land uses, rather than just the purchaser or owner of a timeshare or fractional interest use.

FISCAL IMPACT:

The staff time associated with processing this ordinance amendment is captured in the FY2022/2023 Community Planning and Building Budget.

PRIOR CITY COUNCIL ACTION:

None.

ATTACHMENTS:

- Attachment 1) PC Resolution 2022-036-PC Recommending Approval
- Attachment 2) Draft Ord. 2022-007 REDLINE
- Attachment 3) Draft Ord. 2022.007 CLEAN

**CITY OF CARMEL-BY-THE-SEA
PLANNING COMMISSION**

RESOLUTION NO. 2022-036-PC

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA RECOMMENDING CITY COUNCIL ADOPT ORDINANCE AMENDING MUNICIPAL CODE SECTIONS 17.14.040, 17.28.010, AND 17.70.020, TO PROHIBIT TIMESHARE AND FRACTIONAL INTEREST USES, AS WELL AS ADVERTISING AND SALE THEREOF

WHEREAS, existing provisions of the Carmel-by-the-Sea Municipal Code prohibit timeshare uses. Specifically, timeshares are prohibited in all zoning districts of the City, and regulated by Sections 17.28.010, 17.70.020 and 17.14.040; and

WHEREAS, as a result of enforcement efforts, City staff have reviewed the existing city code provisions and recommend that they be revised to confirm the existing prohibition, and additionally, that new prohibitions be added with respect to advertisement and sale of timeshares and fractional interest ownerships, which are treated identically under the existing City code; and

WHEREAS, notice of a public hearing of the Planning Commission was published on September 30th, 2022 in compliance with State law (California Government Code 65091); and

WHEREAS, on October 12, 2022, the Planning Commission held a public hearing to consider draft Ordinance 2022-007 amending regulations pertaining to timeshares and receive public testimony, including without limitation, information provided to the Planning Commission by City staff and through public testimony; and

WHEREAS, the Planning Commission found that the draft Ordinance 2022-007 was consistent with the City's General Plan, Local Coastal Plan, and all other relevant City and State codes and regulations.

WHEREAS, the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA"), together with State Guidelines (14 California Code Regulations §§ 15000, et seq., the "CEQA Guidelines") and City Environmental Regulations (CMC 17.60) require the review of certain projects for environmental impacts and preparation of environmental documents; and

WHEREAS, the Planning Commission finds that pursuant to CEQA regulations, the project will have no impact on the environment and is not considered a project requiring compliance with the California Environmental Quality Act (Section 21065 of the California Public Resources Code); and

WHEREAS, the facts set forth in the recitals are true and correct and are incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED, THAT THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY recommend the City Council amend municipal code sections 17.14.040, 17.28.010, and 17.70.020, to prohibit timeshare and fractional interest uses, as well as advertising and sale thereof and adopt the Update in a manner fully in conformity with the Coastal Act (CA Section 30510).

BE IT FURTHER RESOLVED, THAT THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA DOES ALSO recommend the City Council hold a separate hearing in the near future to have a policy level discussion and decide whether or not to refer an item back to the Planning Commission to remove or modify the prohibition on timeshares in Carmel-by-the-Sea.

PASSED, APPROVED, AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA this 12th day of October, 2022, by the following vote:

AYES: Delves, Allen, Bolton, LePage, Locke

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Michael LePage, Chair

Leah Young, Planning Commission Secretary

**CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL**

ORDINANCE NO. 2022-007

AN ORDINANCE AMENDING THE CARMEL-BY-THE-SEA MUNICIPAL CODE TO PROHIBIT TIMESHARE AND FRACTIONAL INTEREST USES, AS WELL AS ADVERTISING AND SALE THEREOF IN A MANNER FULLY IN CONFORMITY WITH THE COASTAL ACT ([CA PUBLIC RESOURCES CODE SECTION 30510 ET SEQ.](#))

WHEREAS, timeshares involve the division of the exclusive rights to use, possess, and occupy any real property between multiple persons, pursuant to a fixed or floating time schedule; and

WHEREAS, since at least 1988, the City of Carmel-by-the-Sea has prohibited the establishment of timeshares within the City; and

WHEREAS, the Housing Element of the City's General Plan specifically recognizes that the City seeks to protect the stability of residential neighborhoods by promoting year-round occupancy, and to avoid depletion of residents and associated impacts on the community, City services, Goal G3-4 of the City's Housing Element specifically requires the enforcement of the prohibitions on short-term, transient rentals and timeshares in residential dwellings; and

[WHEREAS, the Planning Commission of the City of Carmel-by-the-Sea reviewed the ordinance, and on October 12, 2022, determined the ordinance was consistent with the City's General Plan, Local Coastal Plan, and all other relevant City and State codes and regulations, and having reviewed the Planning Commission's recommendations and the relevant provisions of the General Plan, the City Council finds that the ordinance is consistent with the City's General Plan; and](#)

WHEREAS, recent increases in the development and sale of fractional interest ownerships have made it appropriate for the City to revisit its municipal code to clarify that fractional interest ownerships are prohibited timeshares and to also expressly prohibit the advertising and sale of prohibited timeshares and fractional interest uses.

WHEREAS, notice of the public hearing was published on November 25, 2022 in compliance with State law (California Government Code 65091), indicating the date and time of the public hearing; and

WHEREAS, on December 6, 2022, the City Council [opened the a](#) public hearing to receive public testimony regarding the draft ordinance, including without limitation, information provided by City staff and public testimony, [and continued the hearing to a date certain of January 10, 2023](#); and

[WHEREAS, on January 10, 2023, the City Council re-convened the public hearing to receive further public testimony regarding the draft ordinance, including without limitation, information provided by City staff and public testimony; and](#)

WHEREAS, this decision is made based upon evidence presented to the City Council at its December 6, 2022 [and January 10, 2023](#) hearings including, without limitation, the staff report submitted by the Community Planning and Building Department and public testimony; and

WHEREAS, the City Council did hear and consider all said reports, recommendations, attachments and testimony herein above set forth and used their independent judgement to evaluate the ordinance; and

WHEREAS, the proposed amendments are in full conformity with the City's Local Coastal Plan and the California Coastal Act (~~CA~~ [Public Resources Code](#) Section 30510 [et seq.](#))

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES ORDAIN AS FOLLOWS:

SECTION 1. CEQA Review. The City Council exercises its independent judgment and finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, Sections. 15060(c)(2), because the proposed ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment; 15061(b)(3) because the proposed ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment; and 15308 because the proposed ordinance involves regulatory actions to assure protection of the environment. Therefore, the adoption of this ordinance is exempt from CEQA and no further environmental review is necessary.

SECTION 2. Amendment to the CMC.

1. Subsection A of Section 17.14.040 is amended and restated as follows:

17.14.040 Additional Use Regulations.

A. All Uses.

1. No new structure or modification to an existing structure shall be permitted nor shall any business license be issued that would allow the creation of publicly accessible retail space occupying fewer than 200 square feet or more than 5,000 square feet unless approved through a use permit and pursuant to the adoption of findings per CMC 17.64.200, Retail Space of Less Than 200 Square Feet or Greater Than 5,000 Square Feet.
2. No timeshare uses or fractional interest uses shall be established or permitted in any zone.
3. Except in restaurants, not more than five persons in any one individually licensed business shall be engaged in the production, repair or manufacturing of goods.
4. No use shall be permitted and no process, equipment, or materials shall be employed which is found by the Planning Director or by the Planning Commission to be

objectionable to persons residing or working in the vicinity by reason of odor, fumes, noise, vibration, illumination, glare, unsightliness, dust, cinders, dirt, refuse, water-carried wastes or heavy truck traffic, or involve any hazard of fire or explosion.

2. Section 17.28.010 is amended and restated as follows:

17.28.010 Timeshare and Fractional Interest Uses.

A. Timeshare uses and fractional interest uses are prohibited uses within all of the zoning districts within the City.

B. Any responsible person, including but not limited to an owner of a time-share 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 real property 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 chapter. Such violation shall be punishable pursuant to Chapter 1.16 (General Penalty).

C. Any responsible person, including but not limited to an owner of a time-share 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 real property in violation of this section is subject to administrative fines and/or penalties as set forth in Chapter 18.04 (Municipal Code and Ordinance Enforcement).

D. Each day a violation of this section occurs shall constitute a separate offense, and the remedies under this section are cumulative and in addition to any and all other remedies available at law and equity.

3. "Time-Share Definitions" of Section 17.70.020 is amended to repeal the definitions of "Time-Share Estate," "Time-Share Occupancy," "Time-Share Program," "Time-Share Project," and "Vacation-Time Sharing Project," and restated to enact the definitions of "Time-Share Plan," "Time-Share Use" and "Fractional Interest Use" to read as follows:

17.70.020 Definitions.

The words, terms, and phrases defined in this chapter shall, for all purposes connected with this title, be construed as having the meanings respectively set forth in this chapter.

...

Time-Share Definitions.

"Time-Share Plan" means any arrangement, plan, scheme, or similar device, whether established by membership agreement, sale, lease, deed, license, right-to-use agreement, articles of organization or incorporation, operating agreement or bylaws, or by any other means, whereby a purchaser, in exchange for consideration, receives the right to exclusive use of real property or portion thereof, according to a fixed or floating time schedule, 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. A timeshare plan shall be deemed to exist whenever such recurring rights of exclusive use to real property are created, regardless of whether such exclusive rights of use are

a result of a grant of ownership rights, possessory rights, membership rights, rights pursuant to contract, or ownership of a fractional interest or share in real property, and regardless of whether they are coupled with ownership of a real property interest such as freehold interest or an estate for years in the property subject to the time-share plan.

“Time-Share Use” and “Fractional Interest Use” means the use of real property or any part thereof, pursuant to a timeshare plan.

SECTION 3. Severability. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional, such a decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this Ordinance and each section, subsection, phrase, or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

SECTION 4. Publication. The City Clerk shall publish or post this ordinance in the manner required by law.

SECTION 5. Effective Date. This ordinance shall be effective 30 days after its adoption [and after approval by the California Coastal Commission](#).

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this XX day of XX 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVE:

ATTEST:

Dave Potter, Mayor

Nova Romero, MMC, City Clerk

**CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL**

ORDINANCE NO. 2022-007

AN ORDINANCE AMENDING THE CARMEL-BY-THE-SEA MUNICIPAL CODE TO PROHIBIT TIMESHARE AND FRACTIONAL INTEREST USES, AS WELL AS ADVERTISING AND SALE THEREOF IN A MANNER FULLY IN CONFORMITY WITH THE COASTAL ACT (PUBLIC RESOURCES CODE SECTION 30510 *ET SEQ.*)

WHEREAS, timeshares involve the division of the exclusive rights to use, possess, and occupy any real property between multiple persons, pursuant to a fixed or floating time schedule; and

WHEREAS, since at least 1988, the City of Carmel-by-the-Sea has prohibited the establishment of timeshares within the City; and

WHEREAS, the Housing Element of the City's General Plan specifically recognizes that the City seeks to protect the stability of residential neighborhoods by promoting year-round occupancy, and to avoid depletion of residents and associated impacts on the community, City services, Goal G3-4 of the City's Housing Element specifically requires the enforcement of the prohibitions on short-term, transient rentals and timeshares in residential dwellings; and

WHEREAS, the Planning Commission of the City of Carmel-by-the-Sea reviewed the ordinance, and on October 12, 2022, determined the ordinance was consistent with the City's General Plan, Local Coastal Plan, and all other relevant City and State codes and regulations, and having reviewed the Planning Commission's recommendations and the relevant provisions of the General Plan, the City Council finds that the ordinance is consistent with the City's General Plan; and

WHEREAS, recent increases in the development and sale of fractional interest ownerships have made it appropriate for the City to revisit its municipal code to clarify that fractional interest ownerships are prohibited timeshares and to also expressly prohibit the advertising and sale of prohibited timeshares and fractional interest uses.

WHEREAS, notice of the public hearing was published on November 25, 2022 in compliance with State law (California Government Code 65091), indicating the date and time of the public hearing; and

WHEREAS, on December 6, 2022, the City Council opened the public hearing to receive public testimony regarding the draft ordinance, including without limitation, information provided by City staff and public testimony, and continued the hearing to a date certain of January 10, 2023; and

WHEREAS, on January 10, 2023, the City Council re-convened the public hearing to receive further public testimony regarding the draft ordinance, including without limitation, information provided by City staff and public testimony; and

WHEREAS, this decision is made based upon evidence presented to the City Council at its December 6, 2022 and January 10, 2023 hearings including, without limitation, the staff report submitted by the Community Planning and Building Department and public testimony; and

WHEREAS, the City Council did hear and consider all said reports, recommendations, attachments and testimony herein above set forth and used their independent judgement to evaluate the ordinance; and

WHEREAS, the proposed amendments are in full conformity with the City's Local Coastal Plan and the California Coastal Act (Public Resources Code Section 30510 *et seq.*)

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES ORDAIN AS FOLLOWS:

SECTION 1. CEQA Review. The City Council exercises its independent judgment and finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, Sections. 15060(c)(2), because the proposed ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment; 15061(b)(3) because the proposed ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment; and 15308 because the proposed ordinance involves regulatory actions to assure protection of the environment. Therefore, the adoption of this ordinance is exempt from CEQA and no further environmental review is necessary.

SECTION 2. Amendment to the CMC.

1. Subsection A of Section 17.14.040 is amended and restated as follows:

17.14.040 Additional Use Regulations.

A. All Uses.

1. No new structure or modification to an existing structure shall be permitted nor shall any business license be issued that would allow the creation of publicly accessible retail space occupying fewer than 200 square feet or more than 5,000 square feet unless approved through a use permit and pursuant to the adoption of findings per CMC 17.64.200, Retail Space of Less Than 200 Square Feet or Greater Than 5,000 Square Feet.
2. No timeshare uses or fractional interest uses shall be established or permitted in any zone.
3. Except in restaurants, not more than five persons in any one individually licensed business shall be engaged in the production, repair or manufacturing of goods.
4. No use shall be permitted and no process, equipment, or materials shall be employed which is found by the Planning Director or by the Planning Commission to be objectionable to persons residing or working in the vicinity by reason of odor, fumes,

noise, vibration, illumination, glare, unsightliness, dust, cinders, dirt, refuse, water-carried wastes or heavy truck traffic, or involve any hazard of fire or explosion.

2. Section 17.28.010 is amended and restated as follows:

17.28.010 Timeshare and Fractional Interest Uses.

A. Timeshare uses and fractional interest uses are prohibited uses within all of the zoning districts within the City.

B. Any responsible person, including but not limited to an owner of a time-share 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 real property 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 chapter. Such violation shall be punishable pursuant to Chapter 1.16 (General Penalty).

C. Any responsible person, including but not limited to an owner of a time-share 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 real property in violation of this section is subject to administrative fines and/or penalties as set forth in Chapter 18.04 (Municipal Code and Ordinance Enforcement).

D. Each day a violation of this section occurs shall constitute a separate offense, and the remedies under this section are cumulative and in addition to any and all other remedies available at law and equity.

3. "Time-Share Definitions" of Section 17.70.020 is amended to repeal the definitions of "Time-Share Estate," "Time-Share Occupancy," "Time-Share Program," "Time-Share Project," and "Vacation-Time Sharing Project," and restated to enact the definitions of "Time-Share Plan," "Time-Share Use" and "Fractional Interest Use" to read as follows:

17.70.020 Definitions.

The words, terms, and phrases defined in this chapter shall, for all purposes connected with this title, be construed as having the meanings respectively set forth in this chapter.

...

Time-Share Definitions.

"Time-Share Plan" means any arrangement, plan, scheme, or similar device, whether established by membership agreement, sale, lease, deed, license, right-to-use agreement, articles of organization or incorporation, operating agreement or bylaws, or by any other means, whereby a purchaser, in exchange for consideration, receives the right to exclusive use of real property or portion thereof, according to a fixed or floating time schedule, 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. A timeshare plan shall be deemed to exist whenever such recurring rights of exclusive use to real property are created, regardless of whether such exclusive rights of use are a result of a grant of ownership rights, possessory rights, membership rights, rights

pursuant to contract, or ownership of a fractional interest or share in real property, and regardless of whether they are coupled with ownership of a real property interest such as freehold interest or an estate for years in the property subject to the time-share plan.

“Time-Share Use” and “Fractional Interest Use” means the use of real property or any part thereof, pursuant to a timeshare plan.

SECTION 3. Severability. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional, such a decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this Ordinance and each section, subsection, phrase, or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

SECTION 4. Publication. The City Clerk shall publish or post this ordinance in the manner required by law.

SECTION 5. Effective Date. This ordinance shall be effective 30 days after its adoption and after approval by the California Coastal Commission.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this XX day of XX 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVE:

ATTEST:

Dave Potter, Mayor

Nova Romero, MMC, City Clerk