

ORDINANCE # _____ - 2022

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONOMA ADDING TITLE 19, SECTION 19.50.140 (TIME-SHARES) TO THE CITY OF SONOMA MUNICIPAL CODE

WHEREAS, time share and fractional interest uses have been and currently are prohibited as uses not specifically enumerated in the Sonoma development code; and

WHEREAS, the City has recently become aware of time-share companies or fractional interest companies wishing to operate in the City; and

WHEREAS, this Ordinance is adopted as an urgency ordinance pursuant to Government Code Sections 36934 and 36937. The facts constituting the urgency are as follows:

- a) A severe housing crisis exists in the state with the demand for housing outpacing the supply;
- b) The City of Sonoma is particularly experiencing a housing emergency due to its relative isolation, limited housing supply, and desirable location;
- c) Time-share or fractional interest uses threaten to reduce the housing supply in the City by turning long-term housing in the City into vacation rentals and reducing the affordable housing stock in the City;
- d) Time-share and fractional interest uses increase traffic and noise impacts and have the same character as commercial hotels, motels, and other transient occupancy uses due to their transient nature making them inappropriate for residential zones;
- e) The development of time-share or fractional interest uses in Commercial and Mixed Use zones (which also have a "residential component" requirement) will reduce the City's ability to collect valuable property tax, sales tax, or Transient Occupancy Tax;
- f) By allowing time-share or fractional interest uses in the City, market pressure will incentivize property owners to convert their existing commercial, hotel or residential uses, thereby reducing revenue to the City in the form of commercial property taxes, sales tax, Transient Occupancy Tax, and valuable existing housing stock;
- g) Allowing time-share or fractional interest uses in the Commercial and Mixed Use zones reduces the availability of suitable lands to provide housing units to meet the City's Regional Housing Needs Allocation for the 5th and 6th Cycles;
- h) By allowing times-share or fractional interest uses in the City, developers of those uses will seek to convert underutilized commercial uses (in Commercial and Mixed Use zones), thereby reducing the City's ability to identify those sites as potential Housing Opportunity sites in the development of the City's 6th Cycle Housing Element;
- i) California Government Code Sections 36934 and 36937 authorizes the City of Sonoma to adopt an urgency ordinance by a four-fifths vote (4/5ths) vote where necessary to protect the public peace, health, or safety; and
- j) An urgency ordinance adopted pursuant to Government Code Sections 36934 and 36937 is warranted on an urgency basis to allow regulations to govern how time-share and fractional interest uses are regulated. Without such ordinance, the issues raised above pose a significant threat to the public peace, health and safety.

WHEREAS, the City Council find and determines that the immediate preservation of the public health, safety, and welfare requires that this Ordinance be enacted as an urgency ordinance pursuant to Government Code Section 36934 and 36937, and such that Ordinance take effect immediately upon adoption – therefore, this Ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare and its urgency is hereby declared.

WHEREAS, the City Council desires to amend the City's municipal code to address the impact that time-share and fractional interest uses are having or would have on the City's housing supply.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SONOMA DOES ORDAIN AS FOLLOWS:

SECTION 1. RECITALS.

The above set forth recitals and findings are true and correct and incorporated herein by reference, as if set forth herein in full.

SECTION 2. URGENCY ORDINANCE.

The urgency ordinance is necessary for the immediate preservation of the public peace, health, and safety because the operation of time-share companies in the City threatens to reduce the supply of affordable and market-rate housing in the City, increase site development conflicts and incompatibilities related to public safety, visual, privacy, and aesthetic impacts which would negatively impact the public welfare and the unique quality and character of the City of Sonoma.

SECTION 3. MUNICIPAL CODE AMENDMENTS.

Section 19.50.140 of the Sonoma Municipal Code is added to read as follows:

19.50.140 Time-Shares.

This section sets forth requirements for the establishment and operation of time-share uses.

A. Definitions.

- 1. "Accommodation" means any dwelling unit, multifamily dwelling, apartment, condominium or cooperative unit, cabin, lodge, hotel or motel room, or other private or commercial structure containing toilet facilities therein that is designed and available, pursuant to applicable law, for use and occupancy as a residence by one or more individuals.
- 2. "Owner" means owner of a time-share interest.
- 3. "Person" means a natural person, corporation, limited liability company, partnership, joint venture, association, estate, trust, or other legal entity, or any combination thereof.
- 4. "Time-share instrument" means one or more documents, by whatever name denominated, creating or governing the operation of a time-share plan and includes the declaration dedicating accommodations to the time-share plan.
- 5. "Time-share interest" means and includes either of the following:
 - a. The right to exclusively occupy a time-share property for a period of time on a recurring basis pursuant to a time-share plan, coupled with a freehold estate or an estate for years with a future interest in a time-share property or a specified portion thereof.
 - b. The right to exclusively occupy a time-share property for a period of time on a recurring basis pursuant to a time-share plan, which right is neither coupled with a freehold interest, nor coupled with an estate for years with a future interest, in a time-share property or a specified portion thereof.
- 6. "Time-share plan" means any arrangement, plan, scheme, or similar device, whether 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 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.
- 7. "Time-share property" means one or more accommodations subject to the same time-share instrument, together with any other property or rights to property appurtenant to those accommodations.
- 8. "Time-share use" and "fractional interest use" means the use of one or more accommodations or any part thereof, as a time-share property pursuant to a time-share plan.

B. Permitted zones. None, Time share uses and fractional interest uses are prohibited throughout the city of Sonoma

C. Violations, Enforcement and Civil Penalties

- 1. 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 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 chapter. Such violation shall be punishable pursuant to Chapter 1.12 (General Penalty).
- 2. Any responsible person, including by 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 an accommodation in violation of this section is subject to administrative fines and/or penalties as set forth in Chapter 1.28 (Administrative Citations).
- 3. Time-share use, fractional interest use and/or advertisement for time-share use and/or fractional ownership 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 and may be abated pursuant to Chapter 1.12 (General Penalty), Chapter 1.30 (Administrative Notice and Order Proceedings), Chapter 9.56 (Noise), and any other relevant provision of this code as it may be amended from time to time.
- 4. Each day a violation of this chapter occurs shall constitute a separate offense.
- 5. The remedies under this section are cumulative and in addition to any and all other remedies available at law and equity.

SECTION 4. CEQA.

This Ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the city. City Planning Staff has determined that the adoption and implementation of the Ordinance is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a text amendment and addition without any physical project being approved, it can be seen with certainty that there is no possibility that the Ordinance will have a significant effect on the environment. The proposed Ordinance is therefore exempt from the provisions of CEQA because it does not involve a commitment to any specific project that may result in a potentially significant physical impact on the environment. The City Council concurs in these findings and adopts them as its own. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Sonoma in accordance with CEQA Guidelines.

SECTION 5. SEVERABILITY.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. EFFECTIVE DATE.

This Ordinance is an urgency ordinance enacted under California Government Sections 36934 and 36937, subdivision (b). The urgency ordinance is effective upon adoption by a 4/5 vote of the Sonoma City Council, and shall take effect immediately upon its adoption.

SECTION 7. PUBLICATION.

This ordinance shall be published in accordance with the provisions of Government Code Section 36933(c)(1).

SECTION 8. THIS ORDINANCE PREVAILS WHERE THERE IS CONFLICT.

To the extent that this Ordinance conflicts with any other provision in the Sonoma Municipal Code or city ordinance (urgency or otherwise), policy or regulation, this Ordinance will control.

APPROVED:

Jack Ding, Mayor

ATTEST:

Rebekah Barr, MMC, City Clerk

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I HEREBY CERTIFY the foregoing ordinance was duly adopted at a Regular Meeting of the City Council of the City of Sonoma held on the _____, 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Rebekah Barr, MMC, City Clerk