

ORDINANCE NO. 2022-01

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, AMENDING APPENDIX C (CHAPTER 45), "ZONING," OF THE VILLAGE CODE OF ORDINANCES TO INCORPORATE A DEFINITION OF FRACTIONAL OWNERSHIP AND EXPRESSLY PROHIBIT FRACTIONAL OWNERSHIP UNITS AND TIME-SHARE UNITS IN THE VILLAGE'S RESIDENTIAL ZONING DISTRICTS; AMENDING SECTION 45-2, "DEFINITIONS," AND SECTION 45-36, "GENERAL PROVISIONS;" PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, to the extent not preempted by state or federal law, the Village possesses the Home Rule Authority granted by the Florida Constitution and Chapter 166, Florida Statutes, to regulate local land use issues; and

WHEREAS, the Village Code of Ordinances currently allows time-share units within specified mixed use and commercial zoning districts, specifically the C-MU US-1 Mixed Use District, the C-NB Northlake Boulevard Commercial District, and the C-3 Regional Business District; and

WHEREAS, according to the general principles applicable to the interpretation of municipal ordinances, the specific inclusion of a permitted use in one district means that the use is prohibited in other zoning districts where not specifically listed; and

WHEREAS, the Village Council wishes to confirm and expressly prohibit time-share units within its residential zoning districts and to expand the prohibition to include fractional ownership; and

WHEREAS, fractional ownership of residential property is an emerging trend in which shares of ownership rights to a property are sold to multiple buyers, thus providing each buyer an ownership interest and the right to use the property for a certain period of time; and

WHEREAS, although this model effectively operates similarly to a time-share, it typically conveys actual ownership rights instead of a right to use of the property for a certain period of time only, and also divides a property into fewer fractions than a typical time-share arrangement; and

WHEREAS, in a typical fractional ownership scheme, the fraction of ownership may directly correlate to the amount of time the owner is permitted to use and/or occupy the dwelling unit, whereas in a typical time-share scheme, the customer typically buys only the rights to use the property for a set period of time; and

WHEREAS, recent trends indicate that fractional ownership schemes are being applied to single-family residences; and

WHEREAS, both time-shares and fractional ownership negatively impact and undermine the stability of established residential neighborhoods by introducing a transient use and the adverse impacts typically associated with such use; and

WHEREAS, the introduction of time-share units and fractional ownership properties within established neighborhoods can disturb the quiet enjoyment of the residents of the neighborhood and

create numerous secondary impacts, including noise, loss of privacy, traffic, parking and a greater demand on public services; and

WHEREAS, fractional ownership further reduces the number of available housing units from the housing market for long-term residents to utilize; and

WHEREAS, fractional ownership can adversely impact future development, redevelopment, safety and property maintenance as a result of the complexities associated with the incongruent and changing objectives, intents and goals of multiple owners; and

WHEREAS, as required by Section 21-12 of the Village Code of Ordinances, the Village's Planning Commission conducted a duly advertised public hearing on this Ordinance and provided its recommendation to the Village Council; and

WHEREAS, the Village Council determines that the adoption of this Ordinance benefits the public health, safety and welfare of the residents of the Village of North Palm Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA as follows:

Section 1. The foregoing "Whereas" clauses are hereby ratified and incorporated herein.

Section 2. The Village Council hereby amends Article I, "In General," of Appendix C (Chapter 45), "Zoning," of the Village Code of Ordinances by amending Section 45-2 to read as follows (additional language underlined):

Sec. 45-2. Definitions.

For the purposes of this Code, certain words and terms are defined as follows:

* * *

Fractional ownership shall mean the occupancy or use of a dwelling unit by co-owners pursuant to a fractional ownership plan for any length of time. Fractional ownership includes direct ownership in a property as well as indirect ownership through a corporation, limited liability company or other entity holding title to the property.

Fractional ownership plan means an arrangement whether by tenancy in common, sale, deed or any other means, whereby the purchaser or co-owner receives an ownership interest and the right to use the property for a specific and discernible period through time-based division.

* * *

Time-share unit is a dwelling unit in which the right of use or occupancy circulates among various persons for specific periods of time less than one (1) year in accordance with a fixed time schedule.

Section 3. The Village Council hereby amends Article III, “District Regulations,” of Appendix C (Chapter 45), “Zoning,” of the Village Code of Ordinances by amending Section 45-36 to read as follows:

Sec. 45-36. General provisions.

The provisions of this article shall be subject to the following provisions and exceptions:

* * *

V. Time-share units and fractional ownership.

Time-share units and the fractional ownership of any parcel of real property shall be prohibited in all residential zoning districts. Such prohibition shall not include community residences or vacation rentals as defined and regulated in this chapter.

Section 4. The provisions of this Ordinance shall become and be made a part of the Code of the Village of North Palm Beach, Florida.

Section 5. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative or void, such holding shall not affect the remainder of the Ordinance.

Section 6. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 7. This Ordinance shall become effective immediately upon adoption

PLACED ON FIRST READING THIS 9TH DAY OF DECEMBER, 2021.

PLACED ON SECOND, FINAL READING AND PASSED THIS 13TH DAY OF JANUARY, 2022.

(Village Seal)

MAYOR

ATTEST:

VILLAGE CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

VILLAGE ATTORNEY