

ORDINANCE NO. 8

SERIES 2008

**AN ORDINANCE AMENDING THE TOWN'S
ZONING AND LAND USE ORDINANCE TO
REVISE THE PROVISIONS OF THE TOWN CODE
RELATIVE TO TIMESHARING AND TIMESHARE
DEVELOPMENT PROJECTS**

WHEREAS, the Town of Crested Butte, Colorado (the "Town") is a home rule municipal corporation duly and regularly organized and validly existing as a body corporate and politic under and by virtue of the Constitution and laws of the State of Colorado;

WHEREAS, the Town's Zoning and Land Use Ordinance (the "Ordinance") contains provisions that permit Timesharing (as defined in the Ordinance) in certain specific zone districts under Hotel or Lodge, Motel and Resort Uses;

WHEREAS, the Town Council and the Town staff have been studying Timesharing and its impacts on the Town;

WHEREAS, the Town Council has determined that Timesharing can have a positive impact on the Town and, if properly regulated, is in the best interest of the Town, its residents and visitors;

WHEREAS, the Town staff has recommended to the Town Council that in order to properly regulate Timesharing activities certain amendments to the Timesharing provisions of the Ordinance are necessary; and

WHEREAS, the Town Council has determined that the below amendments to the Timesharing provisions of the Ordinance will allow the Town to properly regulate Timesharing uses of property and that said amendments are in the best interest of the health, safety and general welfare of the residents and visitors of the Town and, therefore, the Town Council makes the following amendments.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

Section 1. Amending Section 15-2-3, Definitions, by Replacing Certain Defined Terms in their Entirety and Adding Certain New Defined Terms.

(A) The defined terms "Hotel or Lodge", "Motel", "Rental, Short-term" and "Residential Unit" are hereby deleted in their entirety and replaced with the following new defined terms:

"Hotel or Lodge. A building, parcel or portion thereof containing multiple units used for overnight lodging by the general public on a short-term basis for a fee, with or without kitchens within individual units, with or without meals provided, and which has common reservation and cleaning services, combined utilities, housekeeping services, on-site meeting room space and on-site maintenance, management and reception services, an on-site lobby with appropriate on-site desk service and where appropriate on-site recreational facilities. Units in Hotels or Lodges shall at all times be available for use by the general public on a short-term basis for a fee. For those such units with flexible unit configurations, also know as "lock-off units", each rentable division, or "key", shall constitute a Hotel or Lodge unit for purposes of the Zoning and Land Use Ordinance. For each bedroom, fifteen (15) square feet of meeting space shall be included in the Hotel or Lodge project, with a minimum of 350 square feet of meeting space for each Hotel or Lodge project. Said space shall be capable of being isolated from the rest of the Project and may be used for multiple purposes.

Motel. Shall have the same meaning as "Hotel or Lodge".

Rental, Short-term. The rental of any Residential Unit for a term of six (6) months or less, designed for occupancy by a family. Rental, Short-term shall not include a Short-term Residential Accommodation, Condo Hotel, Hotel or Lodge or Motel.

Residential Unit. One or more rooms, in addition to separate kitchen and bath facilities, for occupancy by a family independent of other families, on a long-term basis, as opposed to a short-term basis (i.e., Timeshare Estate; Short-term Residential Accommodation; Hotel or Lodge; Motel; Condo Hotel; Rental, Short-term)."

(B) The following defined terms are hereby added to the Ordinance:

"Condo Hotel. A building, parcel or portion thereof that is condominiumized containing multiple units used for overnight lodging by either the owners thereof on a short-term basis for no fee or by the general public on a short-term basis for a fee. A Condo Hotel is a hybrid between a Hotel or Lodge or Motel and a Timeshare Development Project. Condo Hotels may be with or without kitchens within individual units, with or without meals provided, and shall have common reservation and cleaning services, combined utilities, housekeeping services, on-site meeting room space and on-site maintenance, management and reception services, an on-site lobby with appropriate on-site desk service and where appropriate on-site recreational facilities. For those such properties with lock-off units, each key shall constitute a Condo Hotel unit for purposes of the Zoning and Land Use Ordinance. Bed and Breakfasts, Hotel or Lodges, Motels, Resorts and Short-term Residential Accommodations shall not be considered Condo Hotels. The requirements and procedures applicable to the approval of Timeshare Development Projects shall apply to Condo Hotels as further delineated in Subsection F. of the Timeshare Development Guidelines. Condo Hotel units shall be available for use by the general public on a short-term basis for a fee at least eighty percent (80%) of the calendar year. For each bedroom, fifteen (15) square feet of meeting space shall be included in the Condo Hotel project, with a minimum of 350 square feet of meeting space for each Condo

Hotel project. Said space shall be capable of being isolated from the rest of the Project and may be used for multiple purposes.

Short-term Residential Accommodation. A building, parcel or portion thereof that is condominiumized containing multiple units used for overnight lodging by either the owners thereof on a short-term basis for no fee or by the general public on a short-term basis for a fee. Short-term Residential Accommodations may be with or without kitchens within individual units, with or without meals provided, and shall have common reservation and cleaning services, combined utilities, housekeeping services, on-site meeting room space and on-site maintenance, management and reception services, an on-site lobby with appropriate on-site desk service and where appropriate on-site recreational facilities. For those such properties with lock-off units, each key shall constitute a Short-term Residential Accommodation for purposes of the Zoning and Land Use Ordinance. Bed and Breakfasts, Hotel or Lodges, Motels, Resorts and Condo Hotels shall not be considered Short-term Residential Accommodations. For each bedroom, fifteen (15) square feet of meeting space shall be included in the project, with a minimum of 350 square feet of meeting space for each such project. Said space shall be capable of being isolated from the rest of the project and may be used for multiple purposes.

Right to Use Estate. In connection with Timesharing, shall include non fee interests whereby the owners of said estates have leases or licenses granting said owners a right to occupy property during a specific time period, but not a fee interest (e.g., right to use interest, vacation club interest, vacation license, vacation lease, destination club interest).

Timeshare Development or Timeshare Development Project. The development of real property in a manner that involves the creation of Timeshare Estates.

Timeshare Estate. Shall include, for purposes of these Timeshare Development Guidelines, those rights and interests referred to in § 38-33-110, C.R.S., where the annually recurring exclusive right to possession and occupancy is defined by a schedule, formula or other similar mechanism, except that Timeshare Estates shall not include Right to Use Estates. The term Timeshare Estate shall apply to such rights and interests regardless of the Applicant's terminology such as, and not for purposes of limitation, interval estates, interval ownership, time span estates, fractional interests, fractional fees and fee simple timeshare estates. Timeshare Estates are sometimes referred to in these Timeshare Development Guidelines as "Timeshare interests".

Timesharing or Timeshare. Refers to the use of real property where the owner holds a Timeshare Estate. Timesharing is only permitted under Short-term Residential Accommodation uses."

Section 2. Amending Section 15-2-9, "T" Tourist District by Deleting the Permitted Uses and Adding Five New Conditional Uses. Hotels, lodges motels and resorts are hereby deleted as permitted uses under the Section. Five (5) new conditional uses are hereby added to Section 15-2-9 and shall read as follows:

- "18 Short-term Residential Accommodations.
- 19. Hotel or Lodges.
- 20. Motels.
- 21. Resorts.
- 22. Condo Hotels."

Section 3. Amending Section 15-2-11, "B2" Business District by Adding Two New Conditional Uses. Two (2) new conditional uses are hereby added to Section 15-2-11 and shall read as follows:

- "13. Short-term Residential Accommodations.
- 14. Condo Hotels."

Section 4. Amending Section 15-2-5.5., Timesharing by Deleting the Section in its Entirety and Replacing said Section. Section 15-2-5.5. is hereby amended by deleting the Section in its entirety and replacing it with the following:

"SECTION 15-2-5.5. Timeshare Development Guidelines.

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A. **Purpose and Intent.** The purpose of this Section is to establish the procedures and standards by which Timeshare Development may be permitted in Crested Butte. This Section is referred to as the Timeshare Development Guidelines. It is the Town's intent to establish Timeshare Development regulations that provide for the protection of the character of Crested Butte as a national historic district and a residential community, and that help to promote increased tourism and vitality within Crested Butte by promoting further lodging opportunities for visitors. Specifically, the Town intends that new Timeshare Development projects will foster the goals of the Crested Butte Area Plan and will help to achieve and promote the following public purposes:

1. **Increased Vitality.** Timeshare Development Projects can provide an opportunity for increased tourism within Crested Butte, add to the level of community vitality and help to create a more sustainable local economy. These results can be accomplished by expanding the number and variety beds available for use by visitors through a central reservation system, raising occupancy levels in the accommodations sector and attracting new trials to Crested Butte by persons who have not previously visited the community.

2. **Enhance and Improve Lodging Inventory.** Crested Butte's tourist accommodations inventory has traditionally included only a small number of traditional Hotel or Lodges, Motels and Bed and Breakfasts. The community would like to preserve, enhance and increase its lodging inventory by allowing Timeshare Development Projects that look and operate in a manner similar to traditional Hotel or Lodges. These Timeshare Development Guidelines have been designed to accomplish this purpose by establishing standards for the physical and operational features of Timeshare Development Projects and to ensure that new and conversion Timeshare Development Projects promote traditional lodging goals and values.

3. **Upgrade Quality of Accommodations.** It is important to Crested Butte's tourist economy that its accommodations are kept up-to-date. Timeshare Development offers the opportunity to infuse capital into the short-term accommodations inventory, thus permitting more frequent facilities modernization. It is equally important to ensure that once facilities are upgraded and modernized, said facilities are managed to provide a quality visitor experience over time. These Timeshare Development Guidelines are intended to ensure that Timeshare Development Projects are properly maintained over the life of the Project.

4. **Maintain Community Character.** Crested Butte has a valued reputation as a residential community. The Town intends to regulate Timeshare Development marketing and sales practices to ensure that the method in which Timeshare Estates are marketed and sold is consistent with the character of the community and to minimize the potential for practices that would create an inappropriate image of Crested Butte. The Town also desires to protect its long-term residential neighborhoods to ensure that the impacts of Timeshare Development do not adversely affect the character and composition of these residential areas by limiting

Timesharing to those zone districts where Short-term Residential Accommodations are permitted.

B. Definitions. The following capitalized terms shall have the meanings ascribed to such terms below. Defined terms used in the plural throughout these Timeshare Development Guidelines shall have the same meaning as defined terms below in the singular.

1. **Applicant.** The applicant or developer for any Timeshare Development Project.

2. **Application.** Refers to an application for Timeshare Development as described in Subsection G. hereof.

3. **Association.** The condominium homeowners association in any Timeshare Development Project.

4. **Board.** The Board of Zoning and Architectural Review.

5. **Budget.** Refers to the budget for the Association as further described in Subsection G.8. hereof.

6. **CC&Rs.** The declaration of real covenants, conditions and restrictions encumbering the property that is the subject of a Timeshare Development Project as described in Subsection G.12. hereof.

7. **Code.** The Town of Crested Butte Municipal Code of 1987, as amended and modified from time to time.

8. **Commission.** The Colorado Real Estate Commission established under § 12-61-105, C.R.S.

9. **Director.** Shall mean the Building and Zoning Director, Building Official or Building Inspector, as such terms are used in the Zoning and Land Use Ordinance.

10. **Fiscal Impact Study.** Refers to the fiscal impact study as described in Subsection G.5. hereof.

11. **Management and Maintenance Plan.** Refers to the management and maintenance plan as described in Subsection G.6. hereof.

12. **Marketing and Sales Plan.** Refers to the marketing and sales plan as described in Subsection G.7. hereof.

13. **Plat.** Shall mean, as applicable to a Timeshare Development Project, the condominium plat which shall meet the requirements of of Section 15-2-18.5 or, if applicable, the subdivision plat requirements described in Section 15-3-10.

14. **Project.** A Timeshare Development Project.

15. **Timeshare Disclosure Statement.** Refers to the Timeshare disclosure statement as described in Subsection G.4. hereof.

16. **Timeshare Instruments.** Shall mean the CC&Rs, the Use Plan Regulations and the Plat.

17. **Timeshare Use Plan.** Refers to the Timeshare use plan as described in Subsection G.3. hereof.

18. **Upgrading Plan.** Refers to the upgrading plan as described in Subsection G.9. hereof.

19. **Use Plan Regulations.** Shall mean, to the extent not set forth in the CC&Rs, those regulations and rules adopted by the Association governing the use, occupancy, reservation and exchange of the physical units divided into Timeshare interests in the Project.

C. **Properties Where Timesharing is Permitted, Not Permitted.** Timesharing shall be permitted only on those properties located in those zone districts where Short-term Residential Accommodation uses are permitted. Notwithstanding the foregoing, Residential Units located within zone districts permitting Short-term Residential Accommodation uses may not be timeshared under these Timeshare Development Guidelines and shall operate like Residential Units only and not a Short-term Residential Accommodation, Condo Hotel or Hotel or Lodge, Motel or Resort.

D. **Right to Use Estates Prohibited.** Right to Use Estates are considered inappropriate in Crested Butte and are not permitted as such interests are inconsistent with the character of the Town as a residential community. The creation, operation or sale of a Right to Use Estate or any other Timeshare concept which is not specifically allowed and approved pursuant to the requirements of these Timeshare Development Guidelines is unlawful.

E. **Requirements for Timeshare Development Projects.** No Timeshare Estate shall be created with respect to any property unless the Applicant has complied with the requirements of these Timeshare Development Guidelines. Timeshare Development requires the issuance of a conditional use permit in the districts identified in the Zoning and Land Use Ordinance where Short-term Residential Accommodations are a conditional use. Any person intending to Timeshare an existing structure or new construction must obtain approval of the Project through the conditional use permit approval process specified in Sections 15-2-16 and 15-2-26. Any attempt to circumvent the terms of these Timeshare Development Guidelines

shall be a violation hereof. A conditional use permit may be issued for a Timeshare Development Project only where the Project meets the requirements of these Timeshare Development Guidelines and complies with the procedures and requirements set forth in Sections 15-2-16 and 15-2-26.

F. Applicability of Timeshare Development Guidelines to Condo Hotels. Condo Hotels are considered a hybrid between Short-term Residential Accommodations uses and Timesharing, and Hotel or Lodge and Motel uses. Because of their similar attributes (e.g., ownership patterns, management and maintenance, marketing and sales, upgrading of conversions, fiscal impacts, etc.) they operate not unlike Timeshare Development Projects. Accordingly, the requirements for Timeshare Development Projects contained in these Timeshare Development Guidelines shall apply to Condo Hotels. Defined terms in these Timeshare Development Guidelines applicable to Timeshare Development Projects shall similarly apply to Condo Hotels, with changes in points of reference. No Condo Hotel shall be created with respect to any property unless said Project has first obtained a conditional use for a Timeshare Development Project and otherwise complied with the requirements of these Timeshare Development Guidelines. Where there is a requirement or submittal applicable to the approval of a Timeshare Development Project under these Timeshare Development Guidelines that the Director determines is not otherwise relevant or important to the review and approval of a Condo Hotel project as a conditional use under these Timeshare Development Guidelines, the Director may elect to not require such requirement or submittal.

G. Timeshare Development Application. In order to create a Timeshare Development Project, the Applicant thereof shall submit an Application for Timeshare Development to the Director complete with the following submittals:

1. **Timesharing Reimbursement Agreement.** At the time of submission of the Application for Timeshare Development, the Applicant shall deliver to the Director an executed Town-approved Timeshare Development Project costs and expenses reimbursement agreement obligating the Applicant to reimburse the Town for any and all costs and expenses reasonably incurred by the Town in connection with the Town's review, processing, prosecution and approval of the Application and associated submissions and the conditional use approval for Timeshare Development.

2. **Timeshare Development Application Deposit.** At the time of submission of the Application for Timeshare Development, the Applicant shall deliver to the Director a deposit in the amount of \$5,000.00 to defray the costs and expenses reasonably incurred by the Town in reviewing, processing, prosecuting and approving the Application and associated submittals and the conditional use approval for the Timeshare Development Project, which shall be paid by the Applicant to the Town as further delineated in the Timeshare Development costs and expenses reimbursement agreement. The deposit may be drawn upon as provided in the costs and expenses reimbursement agreement.

3. **Timeshare Use Plan.** The Timeshare Use Plan shall be complete with a

detailed description of the Timeshare Development Project, including, without limitation, the occupancy of the physical units divided into Timeshare interests within the proposed Project. The Timeshare Use Plan shall, without limitation, describe the number of Timeshare Estates being created in each physical unit, the total number of Timeshare Estates to be created in the Project, whether the purchaser thereof is buying an estate for years, whether a purchaser thereof is buying a specific physical unit for a specific time or for a floating time, the reservation procedures to be followed, if any, to secure use and occupancy of a physical unit, and other elements of the use, occupancy, reservation and exchange of the Timeshare interests and the units, as the case may be. The Timeshare Use Plan shall include a description of the number of physical units, including the number of lock-outs, keys and bedrooms and any phasing of the Project that may impact the same. It shall also describe whether the owners thereof will be eligible to participate in an internal or external exchange program, and, if so, in which program they will be eligible to participate and whether participation in such program is a mandatory condition of owning a Timeshare Estate. Other requirements for the content to the Timeshare Use Plan are contained in Subsection H.1. of these Timeshare Development Guidelines

4. **Timeshare Disclosure Statement.** The Applicant shall provide the Director with a Timeshare Disclosure Statement containing sufficient detail and information to verify any disclosures required therein. Other requirements for the content to the Timeshare Disclosure Statement are contained in Subsection H.2. of these Timeshare Development Guidelines.

5. **Fiscal Impact Study.** For Projects that include a conversion of an existing property into a Timeshare Development Project, the Applicant shall provide a detailed Fiscal Impact Study that satisfies the requirements set forth in Subsection H.3. of these Timeshare Development Guidelines.

6. **Management and Maintenance Plan; Taxes.**

a. A detailed plan for the management and maintenance of the Project describing whether the Applicant or the Association will manage and maintain the Project or if it will be managed and maintained by third party management and maintenance company, a branded company or other entity, as the case may be, and describing how the Project will be operated, maintained and managed. Other requirements for the content in the Maintenance and Management Plan, and in the maintenance and management agreement, if any, are contained in Subsection H.4. of these Timeshare Development Guidelines.

b. The Management and Maintenance Plan shall include provisions that require that the occupancy of any physical unit by anyone who pays a rental fee or other payment for lodging services related to such unit shall be subject to the Town's sales tax in the same manner as if such occupancy were of a Hotel or Lodge or Motel unit.

7. **Marketing and Sales Plan.** The marketing and sales plan for the Project, including, without limitation, information on proposed sales techniques (e.g., description of gifts,

premiums, promotions), sales packaging and whether a sales office will be established on-site or off-site. Other requirements for the content to the Marketing and Sales Plan are contained in Subsection H.5. of these Timeshare Development Guidelines.

8. **Budget.** A complete, detailed and itemized budget for the proposed Association, including, without limitation, an estimate of the costs and expenses for the management and maintenance of the Project.

9. **Upgrading Plan.** For any existing structure that is proposed to be converted to a Timeshare Development Project, the Applicant shall submit a detailed and itemized plan of how the Project will be physically upgraded and modernized to comply with these Timeshare Development Guidelines and the conditional use approval applicable thereto. Other requirements for the content to the Upgrading Plan are contained in Subsection H.6. of these Timeshare Development Guidelines.

10. **Taxes.** A statement from the Applicant indicating the manner in which land transfer excise taxes, property taxes and sales taxes will be collected.

11. **Developer's Registration.** A copy of the Developer's registration with the Commission as required pursuant to § 12-61-401 et seq., C.R.S.

12. **CC&Rs.** The draft CC&Rs affecting the property that is the subject of a Timeshare Development Project.

13. **Use Plan Regulations.** The draft rules, regulations or procedures to be adopted by the Association for the use, reservation, exchange and occupancy of any unit in the Project divided into Timeshare interests. The Use Plan Regulations may be included in the CC&Rs.

14. **Condominium Plat.** A draft of the proposed condominium Plat, if applicable.

H. **Review Criteria for Application Submittals.** The Application submittals shall demonstrate compliance with the following requirements and review criteria. The Director shall review the Application submittals to determine their compliance herewith.

1. **Timeshare Use Plan.**

a. The Timeshare Use Plan shall demonstrate that the negative impacts caused by the Project through the life thereof upon, without limitation, the Town's infrastructure, revenue sources, transportation system, roadway system, recreational amenities, municipal programs and other facilities, utilities and related structures, and programs and facilities of special districts providing services to the Town, will be satisfactorily mitigated.

b. The Plat shall demonstrate that the Project will include all necessary physical accommodations to assure satisfactory use as a Short-term Residential Accommodation. All Projects shall maintain such physical accommodations throughout the life of the Project. The Applicant shall provide assurances in the CC&Rs or the Plat that such requirement shall be met for the life of the Project, unless amended earlier as permitted hereunder, and shall submit the Project to periodic inspections, compliance reviews and/or reporting programs.

c. The Timeshare Use Plan shall describe how the Applicant will pay, with respect to Applicant's unsold Timeshare interests, assessments, taxes, excepting the applicable land transfer excise tax, and fees equal to those assessed or levied on sold Timeshare interests. The CC&Rs shall explain how the Applicant will pay said assessments, taxes, maintenance costs and expenses and fees through the life of the Project and shall contain assurances that the requirements set forth herein shall be complied with for such period, unless amended earlier as permitted hereunder. The Project shall be subject to periodic inspections, compliance reviews and/or reporting programs to assure compliance with these provisions.

d. If the Timeshare Use Plan contemplates that owners are to be permitted or required to become members of or to participate in any program for the exchange of occupancy rights among themselves or for the Timeshare owners of other Timeshare interests, or both, the Applicant shall, at a minimum, obligate itself in the Use Plan Regulations to provide prospective purchasers with a full and accurate disclosure required by Commission regulations.

e. The Timeshare Use Plan shall describe how the Project will have a staffed on-site front desk located within a lobby that is sized to meet the needs of the Project. Said desk service shall be managed to provide consolidated registration and reservation services for owners, occupants and public walk-ins at the Project, including provision for late check-ins and for other off-hour guest needs. Subject only to availability, desk service shall accommodate walk-in, public rentals. The Applicant shall provide assurances in the CC&Rs that such requirements shall be complied with for the life of the Project, unless amended earlier as permitted hereunder.

f. The Timeshare Use Plan shall demonstrate that the Project contains an appropriate level of recreational facilities (e.g., exercise equipment, pool, spa, other similar facilities), meeting space as required by the Zoning and Land Use Ordinance and other appropriate amenities (e.g., restaurants and other similar facilities) to serve the owners and occupants in all seasons. The extent of the facilities and amenities provided shall be proportional to the size of the Project. The types of facilities and amenities shall be consistent with the planned method and style of operating the Project. Other than for the priority use of the owners of Timeshare Estates, their guests and persons occupying under an exchange program, all such facilities and amenities, including, without limitation, meeting spaces, shall be available for use by the general public for a fee on a space available basis. The Project may, however,

include locker room and equipment storage facilities available only to the owners of Timeshare Estates, their guests and persons occupying under an exchange program. Applicant shall describe in the Timeshare Use Plan whether such facilities and amenities will be owned by a commercial unit owner or owned by the Association (or by the owners in common). The Applicant shall provide assurances in the CC&Rs that such requirements shall be complied with for the life of the Project, unless amended earlier as permitted hereunder.

g. The Timeshare Use Plan shall mandate that all physical units in the Project are available for public rental when they are not being occupied by the owner or owners, the owners' personal guests or persons occupying the units under an exchange program. The Timeshare Use Plan shall demonstrate the following:

(1) Units shall be made available for short-term rental by the public when a unit is not in use by the owner, the owner's personal guests or persons occupying the unit under an exchange program. Units that are available for rental shall be listed in the Crested Butte central reservation system, and, at the Timeshare Estate owner's election, through the central reservation system of the company that will manage the Timeshare Estate if that is desired.

(2) The CC&Rs shall permit the walk-in rental of units. The Association shall not limit the rental of units to such arrangements as only weekly rentals or Saturday-to-Saturday rentals, rather the CC&Rs shall permit shorter stays, split-week rentals and similar flexible rental arrangements.

(3) Owners of Timeshare Estates shall be required to reserve their unit sufficiently far enough in advance to enable the general public to obtain access to those units that are not so reserved. Any reservations that are granted as a matter of right to Timeshare interest owners, their guests and exchange participants must be made at least eight (8) weeks prior to the associated stay. Any units not reserved by owners, their guests or exchange participants at least eight (8) weeks prior to the associated stay shall be made available to the public for rental. Any reservations made less than eight (8) weeks in advance are subject to being on a space available basis only. Each owner of a Timeshare interest and exchange participant may only have one (1) space available reservation on a unit at any given time

(4) Units that remain in the Applicant's inventory shall be made available for rental to the public while Timeshare Estates are being sold, except for one (1) model of each style of unit that are reasonably needed for marketing or promotional purposes by the Applicant.

(5) No owner of a Timeshare Interest, his or her guests or any exchange program participant shall have the right to occupy a Timeshare Development project unit for more than fourteen (14) consecutive days or thirty (30) days within any calendar year, regardless of the form of Timeshare Estate; provided that such thirty (30) day limitation may be

exceeded where such use of a unit is available on a space available basis only (i.e., as opposed to a matter of right).

(6) The Applicant shall demonstrate that the owners are prohibited from personalizing the unit in which they have purchased a Timeshare interest.

The Applicant shall provide assurances in the CC&Rs that such requirements shall be complied with for the life of the Project, unless amended earlier as permitted hereunder, and shall submit the Project to periodic inspections, compliance reviews and/or reporting programs.

h. No Timeshare unit may contain less than six (6) or more than twelve (12) Timeshare interests. The Applicant shall provide assurances in the CC&Rs that such requirements shall be complied with for the life of the Project, unless amended earlier as permitted hereunder.

i. The Timeshare Use Plan shall require that any proposal to convert an existing Hotel or Lodge, Bed and Breakfast, Motel, Resort or Condo Hotel property to a Timeshare Development shall, at a minimum, replace the existing number of physical units on the property in the Project with the same number of like units so that there is no net loss of units on the subject property and no net loss of public availability of short-term accommodations. The Applicant shall provide assurances in the CC&Rs that such requirements shall be complied with for the life of the Project, unless amended earlier as permitted hereunder.

2. **Timeshare Disclosure Statement.** The Timeshare Disclosure Statement shall be the same disclosure statement used by the Applicant in its Marketing and Sales Plan and shall contain, and fully and accurately disclose, the following at a minimum. The Timeshare Disclosure Statement is required for the benefit of prospective purchasers of any Timeshare Estate from the Applicant. The Town accepts no responsibilities for the accuracy and veracity of the Timeshare Disclosure Statement. The Applicant shall provide three (3) copies of all of the submittals delivered to the Commission. Such submittals shall become part of the Application, and may be specifically referenced in the Timeshare Disclosure Statements as described herein.

a. A summary of the Applicant's, and if different the developer's, business experience including, without limitation, all background and experience in the development of Timeshare Development Projects and the Applicant's present financial condition.

b. Information regarding the identity of the management and maintenance company for the Project, and a description of the responsibilities, powers, duties, authority and business experience of the same. All information on the management and maintenance company's background and experience specifically related to Timeshare Development Projects shall be provided.

c. Information regarding the marketing entity and the listing broker and a statement of whether there are any disputes pending or investigations that have been undertaken against the marketing entity or listing broker, and, if so, a description of the status or disposition of said disputes or investigations. A summary of the marketing entity's business experience, including, without limitation, all background and experience related to Timeshare Development Projects.

d. A description of the Developer's schedule for completion of all components of the Project with dates of availability for occupancy.

e. Any restraints on the transfer of the purchaser's interest in its Timeshare interest held by Applicant.

f. Notice of any liens, title defects or encumbrances on or affecting the title to the Timeshare Estates or any other part of the Project and if there are encumbrances or liens, a statement as to whether, when and how they will be removed.

g. Notice of any pending or anticipated legal actions that are material to the Timeshare Estates or any other part of the Project of which the Applicant has, or should have, knowledge.

h. The total financial obligation of the purchaser which shall include, without limitation, the initial price and any additional charges to which the purchaser may be subject in purchasing the Timeshare Estate and the potential obligations resulting from the seller thereof's non-payment of applicable land transfer excise taxes.

i. An estimate of the dues, maintenance and management fees, real property taxes, sales taxes, land transfer excise taxes and similar periodic expenses and the method or formula by which they are derived and apportioned, which shall include whether management and maintenance fees are determined by Timeshare interest, unit, time of year or prorated share of the overall management and maintenance costs, or any other means utilized to compute management and maintenance fees.

j. Notice that all sales are subject to the Town's land transfer excise tax, that the purchaser and seller are jointly and severally obligated to pay the same and that upon non-payment such tax becomes a lien on the purchaser's property.

k. A statement demonstrating the manner in which management, maintenance and assessment fees will be managed and administered.

l. A description of any financing offered by the Applicant, if any.

m. A statement as to any current or expected fees or charges to be paid by Timeshare Estate owners for the use of any facilities related to the Project.