ORDINANCE NO. 2022-364

AN INTERIM ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR ADOPTED AS AN URGENCY MEASURE, MAKING FINDINGS AND ESTABLISHING A TOWN-WIDE MORATORIUM ON ALL SHORT-TERM RENTALS OF RESIDENTIAL DWELLING UNITS

WHEREAS, the Town of Windsor ("Town") has an overriding interest in planning and regulating the use of property within the Town because without stable, well-planned neighborhoods, the quality of life and the character of the Town can quickly deteriorate and suffer adverse social, environmental, and economic conditions; and

WHEREAS, the proliferation of short-term rentals of residential dwelling units within the Town adversely affects the quality of life and the character of the Town's residential communities; and

WHEREAS, the Town Council finds that the failure to regulate short-term rentals of residential dwelling units, would pose a current and immediate threat to the public health, safety, and welfare of our residential communities by adversely affecting the quality of life and the character of the Town's residential communities; and

WHEREAS, short-term rentals pose unique challenges for enforcement and tax collection because precise information on their location, availability, cost, and actual occupancy rates are difficult to obtain; and

WHEREAS, the Town's Zoning Code does not permit short-term rentals; and

WHEREAS, it is necessary for the Town to consider revising the Town's zoning ordinances to permit and better regulate short-term rentals of residential dwelling units in order to protect the quality of life and the character of the Town's residential neighborhoods; and

WHEREAS, the Town proposes adopting a moratorium on short-term rentals of residential dwelling units to support achievement of the Town's long-term planning goals, protecting the Town's investments in its planning efforts, and avoidance of immediate threats to the public health, safety, and welfare; and

WHEREAS, the California Constitution, Article XI, section 7, provides cities with the authority to enact ordinances to protect the health, safety, welfare and morals of their citizens, and zoning regulations are a permissible exercise of this authority; and

WHEREAS, Government Code section 65858 allows the Town to immediately protect and preserve the public peace, health, and welfare by prohibiting any uses that may be in conflict with a contemplated general plan, specific plan or zoning proposal that the legislative body, planning commission or planning department is considering; and

WHEREAS, adoption of this interim ordinance does not require review under the California Environmental Quality Act (Pub. Resources, Code, §§ 21000, et seq., "CEQA") based on the following:

a. This ordinance is not a "project" within the meaning of Section 15378 of the State CEQA Guidelines, because adoption of a temporary moratorium has no potential for resulting in either a direct or indirect physical change in the environment.

b. This ordinance is categorically exempt from CEQA pursuant to Section 15308 of the CEQA Guidelines as a regulatory action taken by the Town pursuant to its police power and in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending the evaluation and adoption of contemplated local legislation, regulation and policies.

NOW, THEREFORE, THE TOWN COUNCIL FOR THE TOWN OF WINDSOR ADOPTS AS AN INTERIM ORDINANCE UNDER THE PROVISIONS OF GOVERNMENT CODE SECTION 65858 AND ORDAINS AS FOLLOWS:

1. Incorporation of Recitals. The Town Council finds that the aforementioned recitals are all true and correct and are incorporated herein by reference.

2. Definitions. For the purpose of this Ordinance, the following terms shall be defined as follows:

A. A "short-term rental" is the rental of a residential dwelling unit (or portion thereof) to paying occupants for less than thirty (30) days at a time.

3. Moratorium Imposed on Short-Term Rentals. In accordance with the authority granted the Town of Windsor under Article XI, Section 7 of the California Constitution and California Government Code Section 65858, from and after the date of this interim ordinance: All residential property owners in the Town of Windsor shall be prohibited from renting such residential property, or having an intermediary rent such property, for a term of less than 30 days. This moratorium shall not apply to residential property owners with a valid business license, as of the date of this Ordinance, to rent such property for a term of less than 30 days, until the expiration of such business license.

4. Authority; Urgency Statement. This Ordinance is an interim ordinance, adopted as an urgency measure pursuant to Government Code section 65858 and is for the immediate and long-term preservation of the public peace, health, and welfare. The following facts constitute an urgency measure: The Town has recently begun the process of developing amendments to the zoning provisions contained in the Windsor Zoning Code to protect public peace, health, and welfare within the residential communities of the Town by restricting short-term rentals of residential dwelling units. Accordingly, there is a current and immediate threat to the public health, safety, or welfare related to land uses that involve short-term rentals of residential dwelling units. In order to maintain comprehensive and sound land use planning, the Town seeks to study possible amendments to the zoning provisions of its municipal codes, use permit

requirements, and other land use entitlement requirements in order to regulate short-term rentals of residential dwelling units. Allowing short-term rentals of residential dwelling units before the Town has had an opportunity to update its regulations, could lead to conflicts amongst various land uses and conflicts with the Town's long-term planning goals.

5. New Short-Term Residential Rentals Declared Public Nuisance. Short-term rentals of residential dwelling units established within the Town limits of the Town of Windsor, during the duration of this moratorium or any extension thereof, shall be declared to be a public nuisance. Violations of this interim ordinance may be enforced by any applicable laws or ordinances, including but not limited to injunctions, or administrative or criminal penalties under the Windsor Municipal Code.

6. Compliance with California Environmental Quality Act (CEQA). This Ordinance is not a "project" within the meaning of section 15378 of the State CEQA Guidelines, because it has no potential for resulting in a direct or reasonably foreseeable indirect physical change in the environment. It temporarily prevents certain physical changes in the environment pending study and potential adoption of zoning amendments or policies regulating short-term rentals of residential dwelling units. Furthermore, this interim ordinance is categorically exempt from CEQA under CEQA Guidelines section 15308 because it is a regulatory action taken by the Town, in accordance with Government Code section 65858, to assure maintenance and protection of the environment pending consideration of amendments to the Town's municipal codes, including its Zoning Code.

7. Severability. If any provision of this interim ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this interim ordinance are severable. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

8. Effective Date. This Ordinance shall become effective immediately upon adoption, if adopted by at least four-fifths vote of the Town Council. It shall be in effect for forty-five (45) days from and after the date of adoption, unless extended by the Town Council as provided for in Government Code section 65858.

PASSED, APPROVED, AND ADOPTED this 17th day of August 2022, by the following vote:

AYES:	**COUNCILMEMBERS REYNOZA, WALL, VICE MAYOR LEMUS AND MAYOR SALMON**
NOES:	**NONE**
ABSTAIN:	**NONE**
ABSENT:	**COUNCILMEMBER FUDGE**

SAM SALMON, MAYOR

ATTEST:

IRENE CAMACHO-WERBY, TOWN CLERK