MUNICIPAL ORDINANCE ON REGULATION OF PUBLICITY AND WINNING OVER OF CUSTOMERS ON PUBLIC THOROUGHFARES BY TIMESHARE COMPANIES

ARTICLE ONE.- The regulation of the forms of publicity and winning over of clients on public thoroughfares for the use of timeshare accommodation is the object of the present Municipal Ordinance.

ARTICLE TWO.- 1. The publicity carried out in this type of tourism activity may not entail the use of aggressive systems nor the use of methods for attracting clients which perturb the tranquillity and freedom of the receivers of the same.

2. Aggressive systems are those which, through the use of any method, lead to offence or provocation and, in general, which restrict personal freedom.

3. To the aforementioned purposes and provided that they generate a feeling of harassment, the following are considered aggressive systems:

a) Group action
b) The use of bicycles, motorcycles or automobiles.

ARTICLE THREE.- 1. In the publicity material used, there must be express statement of the right to cancel the contract within a period that, in no case, will be less than ten calendar days from the date of the signing.

2. In addition, the publicity brochures must contain the phrase: "Information for the purchase of timeshare accommodation".

3. An indication will also appear referring to the availability of the documentation that will contain, as well as a general description of the property, the following information:

a) Identity and address of the parties, with a precise indication of the legal status of the vendor at the time the contract is formalised, as well as the identity and address of the owner.

b) The basic principles by which the maintenance and corresponding service will be organised, as well as the administration of the property.

c) The price that the purchaser must pay for the exercise of the faculty object of the contract, with an estimate of the amount to be paid for the use of the installations and communal services, as well as the expenses derived from the occupation, with a detail of the legal and administration expenses.

d) Information on the right to cancel the contract and identification of the person who must be notified and the manner in which it is to be carried out, with a precise indication of the expenses that the person who cancels the contract is to pay.

e) Communal services (lighting, water, maintenance, rubbish collection, etc.) that the user may enjoy and the conditions for said use.

f) Communal installations (pool, sauna, sports areas, etc.) that may be used and conditions of said use.

g) Precise indication of the period in which the right object of the contract may be exercised and dates when said right might be used.

h) Possibility of participation in an exchange system, as well as its possible cost.

i) Indication that no payment, expense or obligation other than those mentioned in the contract, bylaws or internal regulations will be demanded.

j) If it were referred to a property under construction, the present stage of said construction with an estimation of the date when the works will be finalised and guarantees for the finishing of the project.

ARTICLE FOUR.- A sample of the publicity material will be deposited, by the person or company that commissions its publication, with the Council of Internal Organisation of the Fuengirola Town Hall, which will ensure its correct adaptation to the contents of this Municipal Ordinance and the correctness of the information, avoiding ambiguous or misleading situations, or if it contains any form of suggestion that could lead to believe in a better quality in the service than there is.

ARTICLE FIVE.- The activity of winning over new clients in this tourism modality will be subject to the following determinations:

a) The personnel that works winning over new clients on public thoroughfares, or in public places or establishments, will be perfectly identifiable by people, by the visible use of a badge or identification document that will be regulated by the normalised model authorised by the Fuengirola Town Hall in which will appear, as well as the personal data of the interested party, such as name, surnames, National Identification Card or Work and Residence Permit, and photograph, the identification of the company for which he/she works.

b) For information purposes, they may only use and provide the publicity means that appear regulated in this Municipal Ordinance.

c) The personnel referred to in this article may not act in groups, understanding as such two or more persons together.

d) The winning over of clients will take place in the specially delimited places, and in no case may it be carried out in:

- Churches and buildings given over to religious ceremonies of any denomination.
- Beaches or public swimming pools.
- Exterior terraces of restaurants, bars and cafeterias, provided that they are situated in public thoroughfares.
- Areas of access to travel agencies, the Municipal Tourism Office and buildings destined to tourist accommodation such as hotels, tourist apartments, accommodation under shared use regime or camping grounds.

Access area is understood as that comprised within a minimum radius of twenty five metres, counted from the entrance to said tourism companies. The Fuengirola Town Hall may establish and interpret the restriction area according to the features of the buildings, respecting the established minimum.

ARTICLE SIX.- The companies who carry out the activities described in this Municipal Ordinance will see that the personnel who do this work adjust their work to that set out in this regulation, without prejudice to the responsibility they may incur pursuant to article eleven of this Municipal Ordinance.

ARTICLE SEVEN.- The companies who wish to have personnel winning over clients on public thoroughfares will be under the obligation to request the corresponding permits from the Fuengirola Town Hall.

ARTICLE EIGHT.- In order to obtain the necessary permits, the companies must request them by official forms, attaching the following documents:

- In the case of corporate persons, copy of the Articles of Association and Memorandum of the company.
- Copy of the company Fiscal Identification Number (CIF).
- Copy of the company inscription with the Social Security.
- Proof of payment of the fees for issue of permit pursuant to the corresponding Fiscal Ordinance.
- Complete nominal list of employees for which the permit is requested, accompanied by the respective copies of the National Identification Document or, if applicable, if they are foreigners, copies of the current Work and Residence permits.
- Two passport size photographs of each of the employees for which permit is requested.

ARTICLE NINE.- The permits will be issued by name and will not be transferable, they will have a duration of three months. In order to renew the permits before their expiry, it is necessary to present the corresponding application pursuant to article nine of this Municipal Ordinance.

ARTICLE TEN.- A Panel will be created, made up of representatives of the different companies and of the Fuengirola Town Hall, which will inform on the applications received. However, it will be the Town Hall who will make the decision to grant or deny the applications for permits.

ARTICLE ELEVEN.- The failure to comply with this Municipal Ordinance on the regime of publicity and winning over of clients is an offence which will be considered minor and will be penalised with a fine of 50,000 pesetas.

The repetition of three minor offences will be considered a serious violation and will be penalised with a fine of 65,000 pesetas.

The repetition of three serious offences will be considered a very serious violation and will be penalised with a fine of 75,000 pesetas.

FINAL PROVISION.- This Municipal Ordinance will become effective on the day after its publication in the Official Gazette of the Province of Malaga (Boletín Oficial de la Provincia de Málaga).

FISCAL REGULATORY ORDINANCE ON THE FEES FOR PUBLICITY AND WINNING OVER OF CUSTOMERS ON PUBLIC THOROUGHFARES BY TIMESHARE COMPANIES

ARTICLE ONE.- LEGAL GROUND AND NATURE
The Fuengirola Town Hall, in the use of the faculties conferred by sections 133.2 and 142 of the Spanish Constitution and by section 106 of the Law 7/1985, of the 2nd April, Regulating the Local Regime Specifications, and pursuant to sections 15 to 19 of the Law 39/1988, of the 28th December, Regulating Local Tax Authorities, establishes the fee for the carrying out of publicity and winning over of customers on public thoroughfares by timeshare companies, which will be regulated by the present Fiscal Ordinance, which rules are pursuant to section 58 of the aforementioned Law 39/1988.

ARTICLE TWO.- OBLIGATION TO CONTRIBUTE
It comes into being with the carrying out of publicity and winning over of customers on public thoroughfares by timeshare companies.

ARTICLE THREE.- TAXPAYER
The companies that exploit timeshare accommodation and which have employees that carry out publicity and winning over of customers on public thoroughfares in favour of the said exploiting companies are under the obligation to pay these fees.

ARTICLE FOUR.- OBJECT OF THE FEES
The object will be the activity of carrying out of publicity and winning over of customers on public thoroughfares by timeshare companies.

ARTICLE FIVE.- RATE
The fee will be 1,500 pesetas per day per employee.

ARTICLE SIX.- ACCRUAL
The accrual of the fee will be calculated quarterly and will be paid in advance upon presentation of the permit application.

ARTICLE SEVEN.- OFFENCES AND PENALISATIONS
Section 77 and following of the General Tax Law (Ley General Tributaria) will regulate all that concerns the specification of tax offences, as well as their penalisations in each case.

FINAL PROVISION
This Fiscal Ordinance will be applicable from the day after its publication in the Official Gazette of the Province of Malaga (Boletín Oficial de la Provincia de Málaga), and will remain in force until it is expressly modified or repealed.