ORDINANCE NO. 5908

AN ORDINANCE OF THE BOARD OF SUPERVISORS, COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING CHAPTER 26 OF THE SONOMA COUNTY CODE (THE ZONING CODE) TO ADD REGULATIONS FOR VACATION RENTALS

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

SECTION I. The Board finds and declares that the adoption of this Ordinance is necessary to enable expanded opportunities for visitor serving uses to support the tourism industry, ensure neighborhood compatibility, protect the general welfare of residents in the County, protect the existing housing stock and residential land supply, facilitate economic growth, and further the public necessity and convenience. The Board hereby finds that the facts supporting the adoption of this Ordinance are as follows:

1. Transient rentals of single-family homes have become a significant segment of the local tourism economy, generating significant transient occupancy taxes for the County.

2. While the majority of these units operate without a problem, there have been numerous complaints to the Sonoma County Sheriff and Permit and Resource Management Department regarding excessive noise, parking, litter, and concerns regarding, septic capabilities, security, public safety, and trespass.

3. The Sonoma County General Plan Housing Element calls for a program to prohibit vacation rentals and timeshares in high density residential zoning districts and to develop standards for vacation rentals in other districts to ensure they are operated in a manner consistent with the intent of the purposes of the underlying zoning districts; to prevent conversion of the housing stock or residential land supply to non-residential or visitor-serving use, and, to ensure public safety and neighborhood compatibility.

4. The Sonoma County Zoning Code does not currently include provisions that allow the use of single family homes as vacation rentals. Visitor serving uses are classified separately from residential uses including bed and breakfast inns, motor courts, and hotels. Visitor serving uses with the exception of one-room bed and breakfast inns generally require a Use Permit in all zoning districts to ensure compatibility.

5. The adoption of the proposed regulations is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) of the State CEQA Guidelines because allowing vacation rentals meeting the standards adopted herein to be located within existing single-family residences will not involve an expansion of use beyond that currently existing; and further, is exempt under Section15061 (b)(3) because it can be seen with certainty that adoption of the Ordinance does not result in a physical change in the environment. Implementation of the regulations does not increase residential density or the intensity of use as the standards adopted herein are consistent with otherwise allowable residential use and any activities that may exceed the residential character would be subject to further discretionary review.

SECTION II. Chapter 26 of the Sonoma County Code (the Zoning Ordinance) is amended as follows:

(a) Section 02-140 is amended to revise the definition of "Dwelling Unit," and replace to read:

Dwelling Unit – See Residential – Dwelling Unit

(b) Section 02-140 is amended to add the following definitions in their alphabetical order:

Residential - Dwelling unit means a room or group of internally connected rooms that have sleeping, cooking, eating, and sanitation facilities, but not more than one (1) kitchen, which constitute an independent housekeeping unit, occupied by or intended for one (1) household on a long-term basis. Dwelling unit does not include a tent, travel trailer, recreational vehicle or similar vehicle or structure.

Lodging - Hotel or Motel means a building or buildings, or portion(s) thereof, containing six (6) or more guest rooms that are used, designed or intended to be used, let or hired out, for transient occupancy for one (1) or more guests. Hotels and motels have an on-site manager and may include a variety of services in addition to lodging, such as restaurants, meeting facilities, and personal services.

Transient use or transient occupancy means occupancy of a lodging facility or residence by any person other than the primary owner by concession, permit, right of access, license, gift or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days.

Vacation rental means a property with a dwelling unit or guest house intended for permanent occupancy that is occupied by any person other than the primary owner for transient use; or is otherwise occupied or utilized on a transient basis. Vacation rental does not include a bed and breakfast inn permitted and operated in accordance with this Code, or occasional home exchanges that are not otherwise subject to TOT.

(c) Section 26-06-010 (Permitted Uses - Land Extensive Agriculture Zoning District) is amended to add a new (n), as follows:

(n) Vacation rentals subject to issuance of a Zoning Permit and conformance with the standards in Section 26-88-120, except on lands under a Williamson Act Contract,

(d) Section 26-06-020 (Uses Permitted with a Use Permit - Land Extensive Agriculture Zoning District) is amended to add a new (q), to read:

(q) Vacation rentals exceeding the standards in Section 26-88-120, except on lands under a Williamson Act Contract,

(e) Section 26-08-010 (Permitted Uses - Diverse Agriculture Zoning District) is amended to add a new (n), to read:

(n) Vacation rentals subject to issuance of a Zoning Permit and conformance with the standards in Section 26-88-120, except on lands under a Williamson Act Contract;

(f) Section 26-08-020 (Uses Permitted with a Use Permit - Diverse Agriculture Zoning District) is amended to add a new (q), to read:

(q) Vacation rentals exceeding the standards in Section 26-88-120, except on lands under a Williamson Act Contract;

(g) Section 26-10-010 (Permitted Uses - Resources and Rural Development Zoning District) is amended to add a new (gg), to read:

(gg) Vacation rentals subject to issuance of a Zoning Permit and conformance with the standards in Section 26-88-120, except on lands under a Williamson Act Contract;

(h) Section 26-10-020 (Uses Permitted with a Use Permit - Resources and Rural Development Zoning District) of the Sonoma County Code is amended to add a new (qq), to read:

(qq) Vacation rentals exceeding the standards in Section 26-88-120, except on lands under a Williamson Act Contract;

(i) Section 26-16-010 (Permitted Uses - Agriculture and Residential Zoning District) is amended to add a new (dd), to read:

(dd) Vacation rentals subject to issuance of a Zoning permit and conformance with the standards in Section 26-88-120;

(j) Section 26-16-020 (Uses Permitted with a Use Permit - Agriculture and Residential Zoning District) is amended to add a new (x), to read:

(x) Vacation rentals exceeding the standards in Section 26-88-120;

(k) Section 26-18-010 (Permitted Uses - Rural Residential Zoning District) is amended to add a new (x), to read:

(x) Vacation rentals, subject to issuance of a Zoning Permit and conformance with the standards in Section 26-88-120;

(l) Section 26-18-020 (Uses Permitted with a Use Permit - Rural Residential Zoning District) is amended to add a new (x), to read:

(x) Vacation rentals exceeding the standards in Section 26-88-120;

(m) Section 26-20-010 (Permitted Uses - Low Density Residential Zoning District) of the Sonoma County Code is amended to add a new (u), to read:

(u) Vacation rentals subject to issuance of a Zoning Permit and conformance with the standards in Section 26-88-120;

(n) Section 26-20-020 (Uses Permitted with a Use Permit - Low Density Residential Zoning District) is amended to add a new (q), to read:

(q) Vacation rentals exceeding the standards in Section 26-88-120;

(o) Article 88 is amended to add a new section 26-88-120, to read:

26-88-120. Vacation Rentals.

(a) **Purpose.** This Section provides standards for the operation of vacation rentals. These standards are intended to ensure that vacation rentals are compatible with and do not adversely impact surrounding residential and agricultural uses.

(b) **Applicability.** The provisions of the Section shall apply to all vacation rentals except where there is a primary owner in residence. As used in this section, "primary owner" does not include residences or condominiums owned as a timeshare, Limited Liability Partnership or Corporation, or fractional ownership of six (6) or more interests. Vacation rentals shall not be permitted in non-habitable structures or on lands under a Williamson Act Contract. Vacation rentals shall also not be permitted within structures or dwellings with covenants or agreements restricting their use, including but not limited to affordable housing units, agricultural employee units, second dwelling units, farmworker housing, or farm family units.

(c) **Permit Requirements.** Vacation rentals that meet the standards outlined in this Section shall be allowed as provided by the underlying zoning district, subject to issuance of a Zoning Permit. Vacation rentals that exceed the standards in this Section may be permitted, subject to the granting of a Use Permit.

(d) **Term of Permit.** Zoning Permits shall run with the landowner and shall automatically expire upon sale or transfer of the property. Use Permits shall run with the land but may be issued for limited term, as specified by the decision-maker. Both types of permits may be revoked for failure to comply with adopted standards, subject to the administrative and revocation procedures of Article 92 unless otherwise specified by this Section

(e) **Property Development Standards.** Vacation rentals not utilizing existing structure(s) shall conform to all property development standards of the zoning district and combining zones in which they are located, including limitations on activities and vegetation removal along the Russian River or within any Biotic Resource (BR) Combining Zone, except as modified by these performance standards.

(f) **Performance Standards**.

1. **Maximum Number of Guestrooms.** Vacation rentals may have a maximum of five (5) guestrooms or sleeping rooms. Vacation rentals with more than

five (5) guestrooms or sleeping rooms may only be allowed if adequate sewage disposal capacity exists and neighborhood compatibility can be demonstrated, subject to the granting of a Use Permit.

2. **Maximum Overnight Occupancy.** Maximum overnight occupancy for vacation rentals shall be up to a maximum of two (2) persons per sleeping room or guestroom, plus two (2) additional persons per property, up to a maximum of twelve (12) persons, excluding children under three (3) years of age. For homes on a conditional septic system, the maximum overnight occupancy for vacation rentals shall be equal to the design load of the septic system. Vacation rentals with larger overnight occupancies may only be allowed subject to the granting of a Use Permit.

4. **Maximum Number of Guests and Visitors.** The maximum number of total guests and visitors allowed at any time in a single vacation rental shall not exceed the maximum overnight occupancy plus six (6) additional persons per property, or eighteen (18) persons, whichever is less, excluding children under three (3) years of age. Vacation rentals with larger numbers of guests and visitors may only be allowed subject to the granting of a Use Permit. Nothwithstanding, maximum guest limits may be exceeded on the following national holidays: Easter, Memorial Day, 4th of July, Labor Day, Thanksgiving, Christmas Eve and Christmas, so long as the holiday event does not otherwise trigger the requirement for a Special or Cultural Events Permit.

5. **Per Parcel Limit on Number of Residences or Structures**. Only a single residence, and legally established guest house meeting current standards shall be used as a vacation rental. Only one (1) tenant shall be allowed on-site at any given time: second residences or accessory structures shall not be leased, subleased, rented or sub-rented separately from the main dwelling. Parcels containing multiple residences or habitable structures may only be used as vacation rentals subject to the granting of a Use Permit, except that two residences or structures may be used when the total number of guestrooms does not exceed five (5.) Tents, yurts and RVs are not allowed as a part of a vacation rental.

6. **Required On-site Parking.** Parking shall be provided as set forth in 26-90: one (1) on-site parking space for a vacation rental with up to two (2) guestrooms or sleeping rooms; two (2) on-site parking spaces for a three (3) or four (4) guestroom vacation rental. Larger vacation rentals must demonstrate adequate parking with a minimum of three (3) spaces. On-street parking may be considered.

7. **Noise Limits.** All activities associated with the vacation rental shall meet the General Plan Noise Standards contained below. Quiet hours shall be from 10:00 p.m. to 9:00 a.m.

Hourly Noise Metric[1], dBA	Activity hours 9:00 a.m. to 10:00 p.m.	Quiet Hours 10:00 p.m. to 9:00 a.m.
L50 (30 minutes in any hour)	50	45
L25 (15 minutes in any hour)	55	50
L08 (5 minutes in any hour)	60	55
L02 (1 minute in any hour)	65	60

[1] The sound level exceeded n% of the time in any hour. For example, the L50 is the value exceeded 50% of the time or 30 minutes in any hour; this is the median noise level. The L02 is the sound level exceeded 1 minute in any hour.

If the ambient noise level exceeds the standards above, adjust the standard to equal the ambient level, up to a maximum of 5dBA above the standard, provided that no measurable increase (i.e. 1.5 dBA or more) shall be allowed.

Reduce the applicable standards above by 5 dBA for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises, such as dog barking.

8. **Amplified Sound.** Outdoor amplified sound shall not be allowed at any time associated with a vacation rental unless specifically permitted by a Cultural or Special Event Permit, or Use Permit.

9. **Cultural or Special Events.** Occasional special events, parties, weddings or other similar activities over the maximum daytime occupancy (indoors or outdoors) may be permitted only with a Cultural or Special Event Zoning Permit up to four (4) times per year for a maximum one (1) year, or by Use Permit, except in the RR (Rural Residential) and R1 (Urban Residential) zoning districts where special events, outdoor events, lawn parties, weddings or similar activities associated with a vacation rental are not allowed at any time.

10. **Pets.** Pets shall be secured on the property at all times. Continual nuisance barking by unattended pets is prohibited.

11. **Trash and Recycling Facilities.** Recycling and refuse storage bins shall not be stored within public view unless in compliance with neighborhood standards.

12. **Septic Systems and Sewer Connections.** The owner shall maintain a properly functioning septic system or sewer connection. In some cases, a per-room sewer fee may be applied.

13. **Transient Occupancy Tax.** The vacation rental owner or authorized agent shall maintain a Transient Occupancy Tax License and remain current on all required reports and payments. Owner or authorized agent shall include the license number on all contracts or rental agreements, and in any advertising or websites.

14. **Designated Representative.** Applicant shall provide a current 24-hour working phone number of the property owner, property manager or other designated representative to all neighbors within a 100' radius of the subject property boundaries, and to the Sonoma County Permit and Resource Management Department, and any change shall also be reported and noticed

to neighbors within 30 days. Said property owner or designated representative must be available during the rental period within a one-hour drive of the subject property.

15. **Emergency Access.** Any vacation rental located behind a locked gate or within a gated community shall provide gate code or a lockbox with keys ("Knox Box" or similar) for exclusive use by the Sheriff and Emergency or Fire Services Departments.

16. **Posting of Standards.** The owner shall post these standards in a prominent place within the vacation rental and include them as part of all rental agreements. All advertising handouts, flyers, or any other information provided for vacation rentals shall conform to the approved occupancy limits and standards as stated on the vacation rental permit. Advertising may only be conducted for properties operating under a valid permit.

(g) Enforcement Process.

1. Initial complaints on vacation rentals shall be directed to the contact person identified in the Zoning Permit or Use Permit, as applicable. If the issue reoccurs, the complaint will be addressed by PRMD Code Enforcement Section who shall conduct an investigation to determine whether there was a violation of a Zoning or Use Permit condition. Code Enforcement may accept neighbor documentation consisting of photos, sound recordings and video to support proof of a violation. If Code Enforcement verifies that a Zoning or Use Permit condition violation has occurred, a Notice of Violation shall be issued and a penalty may be imposed in accordance with Chapter 1 of the Sonoma County Code.

   At the discretion of the Code Enforcement Officer, the Zoning Permit or Use Permit may be scheduled for a revocation hearing with the Board of Zoning Adjustments. If the permit is revoked, a Zoning or Use Permit for a vacation rental may not be reapplied for or issued for a period of at least one (1) year.

2. An annual fee may be adopted by the Board of Supervisors and collected by PRMD or the Sonoma County Tax Collector to pay for monitoring and enforcement of vacation rentals.

SECTION III. Notwithstanding the new standards and permit procedures set forth in Section II of this ordinance, existing vacation rentals with up to 6 guestrooms or with multiple structures/units that are registered with the Sonoma County Auditor and Tax Collectors office and have paid Transient Occupancy Tax during the previous 24 months from the effective date of this ordinance may be permitted with a zoning permit, provided that they conform to all other standards herein adopted, and further provided that any septic system serving the vacation rental shall be properly functioning and shall meet Class 3 standards or better, as verified by a registered Civil Engineer, registered Environmental Health Specialist of C-42 contractor. New vacation rentals established after the date of adoption of this ordinance shall conform to the standards and the permit procedures adopted herein.

SECTION IV. Any existing vacation rentals shall be subject to the permit requirements and standards contained herein, except that any rental agreements entered into prior to September 28, 2010, shall not be subject to the occupancy limits set forth herein until September 1, 2011.

SECTION V. The Board of Supervisors hereby finds and declares that project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 (b)(3) of the State CEQA Guidelines because it can be seen with certainty that the Ordinance does not increase residential density or the intensity of use as the standards adopted herein are consistent with otherwise allowable residential use and any activities that may exceed the residential character or environmental standards would be subject to further discretionary review; and

SECTION VI: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION VII: This Ordinance shall be and the same is hereby declared to be in full force and effect from and after January 1, 2011, and shall be published once before the expiration of fifteen (15) days after passage, with the names of the Supervisors voting for or against the same, in a newspaper of general circulation, published in the County of Sonoma, State of California.

SECTION VIII. The Stay of enforcement action previously adopted by the Board of Supervisors by Resolution 09-1040, is hereby lifted. A new limited stay on enforcement shall apply to:

(1) existing vacation rentals in all zoning districts except LIA, which are registered with the Sonoma County Auditor-Controller-Treasurer-Tax Collector's to pay Transient Occupancy Tax prior to the effective date of this ordinance, and that have submitted a complete application for a Zoning Permit or Use Permit, as applicable, within 60 days of the effective date of this Ordinance. If the permit process is pursued with diligence by the operator, the new limited stay shall remain in effect until final approval or denial of the application by the County. If the permit process is not completed with diligence by the operator, the County shall provide the operator with 30 days written notice to correct the deficiency or cease operation as a vacation rental. If the deficiency is not corrected within 30 days of such notice and the operation has not ceased, the stay shall be automatically lifted as to that property and enforcement may commence; and

(2) for existing vacation rentals within the Land Intensive Agricultural (LIA) District which are registered with the Sonoma County Auditor-Controller-Treasurer-Tax Collector's to pay Transient Occupancy Tax prior to the effective date of this ordinance, a one year stay on enforcement shall apply in order to allow further study on permitting and rezone options within this District. The stay on enforcement for the LIA zone shall automatically expire at the end of one year from the effective date of this ordinance unless otherwise extended by the Board of Supervisors, which extension may be enacted by Resolution of the Board.

In regular session of the Board of Supervisors of the County of Sonoma, passed and adopted SECTIONS I, II, and IV-VIII, inclusive, on the 9tjh day of November, 2010, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Kerns: abstain Zane: aye Kelley: abstain Carrillo: aye Brown: aye

Ayes: 3 Noes: 0 Absent: 0 Abstain: 2

In regular session of the Board of Supervisors of the County of Sonoma, passed and adopted SECTION III on this 9th day of November, 2010, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Kerns: aye Zane: aye Kelley: aye Carrillo: aye Brown: aye

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

WHEREUPON, the Chair declared the above and foregoing ordinance duly adopted and

SO ORDERED

Chair, Board of Supervisor
County of Sonoma

ATTEST:

Veronica A. Ferguson
by Sandra Burnett

Clerk of the Board of Supervisors