

ORDINANCE NO. 1146

**AN ORDINANCE CLARIFYING AND SUPPLEMENTING ORDINANCE 843(1993)
(CODIFIED AS Chapter 20.58) OF THE FAIRFIELD MUNICIPAL CODE TO FURTHER
DEFINE AND OVERSEE SHORT TERM RENTALS**

BE IT ORDAINED BY THE CITY COUNCIL OF FAIRFIELD, IOWA, THAT:

SECTION 1. REPEALER. Ordinance 843(1993) and its codification at Chapter 20.58 **IS HEREBY REPEALED.**

SECTION 2. AMENDMENT. Fairfield Municipal Code Chapter 20.58 LODGING HOUSES in hereafter **AMENDED BY SUBSTITUTING** the following:

**Chapter 20.58
LODGING HOUSES**

Sections:

- 20.58.010 Definitions.
- 20.58.020 Permitted in residential districts.
- 20.58.030 Allowable number of units for rent.
- 20.58.040 Length of stay.
- 20.58.050 Off-street parking requirements.
- 20.58.060 Permit--Required.
- 20.58.070 Permit--Application.
- 20.58.080 Permit--Application fee.
- 20.58.090 Permit--Issuance.
- 20.58.100 Permit--Expiration and renewal.
- 20.58.110 Existing lodging houses.
- 20.58.120 Permit nontransferable.
- 20.58.130 Short Term Rental/Bed and Breakfast Inn Standards
- 20.58.140 Violations – Consequences – Nuisances
- 20.58.150 Appeal Process

20.58.010 Definitions.

"Bed and breakfast inn" means a private single-family residence where lodging and meals (if determined available by management) are provided, for compensation, for transient guests on a short-term basis, in which the host or hostess resides; and in which no more than four guest rooms are available for rent; and which, while it may advertise and accept reservations, does not hold itself out to the public to be a restaurant, hotel or motel, and, if applicable, offers food service only to overnight guests.

"Boardinghouse" means a private single-family dwelling other than a hotel or restaurant where lodging and meals are provided, for compensation, for guests who are not family members of the owners or occupant.

"Lodging house" means bed and breakfast inns, boardinghouses, rooming houses and short term rentals for purposes of this section.

"Operator", "Owner" or "Host" means any person who owns or has charge, care or control of a dwelling unit which is offered for rent, as defined in 20.58.010.

"Rooming house" means a private single-family dwelling where any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for commercial cooking or eating purposes and where lodging is provided for compensation for guests who are not family members of the owners or occupant. (Ord. 843§3: 1993).

"Short term rental" means any dwelling or portions thereof, which is available for use, or is used for accommodations or lodging of guests, paying a fee or other compensation for a period of less than 28 consecutive days.

a. Short term rentals are rentals, which are ordinarily not governed by, or subject to the Iowa Uniform Residential Landlord and Tenant Law (ICA Chapter 562 A) and are rentals viewed by the City as available for transient occupancy similar to occupancy excluded under Chapter 562.A.5(4).

(Caveat: Chapter 562A.34 Periodic tenancy addresses week-to-week hold over)

b. Short term rentals are understood, for purpose of this ordinance to include lodging defined at ICA 423A.2 "Lodging" for purpose of imposition of State and Locally-imposed Hotel-Motel tax; subject to exemptions set forth at ICA 423A.5.

NOTE: Public Measure A November 6, 2001 adopted 7% Local Hotel-Motel Tax effective April 2002. ICA.423A imposes a State 5% tax.

"Unit" means a defined space with two methods of egress within a dwelling.

20.58.020 Permitted in residential districts.

The establishment of a lodging house is permitted in R-2, R-3, and B-1 districts when authorized by the Board of Adjustment. R-1 Residential districts are specifically not authorized for purpose of this ORDINANCE.

20.58.030 Allowable number of units for rent.

- (a) The authorized bed and breakfast inn shall have a maximum of four units available for rent. No guest unit shall be occupied by more than four persons at one time.
- (b) The authorized boardinghouse shall have a maximum of six units available for rent. No guest unit shall be occupied by more than two persons at one time.
- (c) The authorized rooming house shall have a maximum of six units available for rent. No guest unit shall be occupied by more than two persons at one time. (Ord. 843 ' 5, 1993).
- (d) The authorized short-term rental shall have a maximum of four units available for rent. No guest unit shall be occupied by more than four persons at one time.

20.58.040 Length of stay.

- (a) The maximum length of stay in a bed and breakfast inn or any dwelling, the use of which is determined to be short term accommodation or lodging of guests for compensation, for a short-term rental, shall be limited to no more than four consecutive seven day periods totaling 28 days of occupancy. A violation of this stay duration shall be considered a trespass violation and may warrant immediate legal civil eviction process, and/or misdemeanor trespass enforcement.
- (b) Accommodations exceeding maximum stay, stay without pay, or other obtained benefit in form of food, lodging or other accommodation or service hereunder for less than full compensation shall be considered FRAUD within the meaning of Municipal Code Chapter 9.20.020 – Defrauding An Innkeeper and may warrant immediate misdemeanor enforcement.
- (c) There is no maximum length of stay imposed on either boardinghouses or rooming houses. (Ord. 843 ' 6, 1993).

20.58.050 Off-street parking requirements.

The authorized lodging house must provide at least one off-street parking space for each unit available for lease. This requirement may be waived and/or modified by the board of adjustment if the lodging house is approved for a dwelling that has been designated as a Historic Preservation Site. (Ord. 843 ' 7, 1993).

20.58.060 Permit--Required.

No lodging house is permitted to operate within the corporate limits of the city, until an application for the same has been filed in the office of the Planning and Zoning administrator, and permit for same has been issued. (Ord. 843 ' 8, 1993).

20.58.070 Permit--Application. Each application for a lodging house shall be in writing and on a form provided by the city. (Ord. 843 ' 9, 1993).

20.58.080 Permit--Application fee.

A. Each application and/or application for a renewal of any form of lodging house, (a bed and breakfast inn, boardinghouse, rooming house or short term rental) shall be accompanied with a fee of eighty (\$80.00) dollars per year for the first unit plus thirty (\$30.00) dollars for each additional unit. (Ord. 843 ' 10, 1993; Ord. 1128 '3, 2015).

20.58.090 Permit--Issuance.

No permit for a lodging house shall be issued by an officer, department, or employee of the city, unless the Board of Adjustment has approved the request for the establishment.

(a) No permit shall be issued to those establishments with three or more rental units without proof of a valid license issued by the Iowa Health Department. (Establishments with two or fewer units are not required by the Iowa Health Department to have a hotel or food service license.)

(b) No permit shall be issued without a valid order from the office of the department of inspection and appeals stating that the facility is in compliance with Chapter 137C.35 of the Code of Iowa. This applies to all lodging houses regardless of the number of units available for rent. (Ord. 843 ' 11, 1993).

20.58.100 Permit--Expiration and renewal.

Each permit for a lodging house shall expire on December 31st of each calendar year and may be renewed upon the filing of an application accompanied by the appropriate fee. The renewal application shall be reviewed and approved or disapproved by the City Council. (Ord. 843 ' 12, 1993).

20.58.110 Reserved.

20.58.120 Permit nontransferable.

(a) Each lodging house permit approved by the Board of Adjustment shall be issued for the particular lodging house and shall not be transferred to another dwelling within the corporate limits of the city, without the approval of the City Council. There shall be a fee of twenty dollars for a request of transfer of a permit. (Ord. 843 ' 14, 1993).

(b) Each lodging house permit approved by the Board of Adjustment shall be issued for a particular dwelling, but may be transferred to another owner at the time of transfer. There shall be a fee of twenty dollars for a request of transfer of a permit.

20.58.130 Lodging House Standards

The Board of Adjustment shall approve, or approve with conditions, an application for a lodging house permit upon a finding that the application complies with all the following standards:

(a) The dwelling unit must meet all fire and applicable building inspection standards in accordance with 17.10.065, Iowa health department codes, and applicable safety codes.

(b) The operator shall provide one off street parking space per unit, unless the unit affords multiple bedrooms, in which event there should be a space for each bedroom available to accommodate occupants' vehicles. Parking spaces must match 20.58.050.

- (c) The structure shall be properly maintained, and kept in good repair, in order that the use in no way detracts from the general appearance of the neighborhood.
- (d) Garbage must be kept in a closed container and disposed of on a regular weekly schedule.
- (e) No sign, symbol, device, decal, engraved surface, trademark, or logo that directly or indirectly names, advertises or calls attention to the lodging house, excluding bed and breakfast inns, shall be posted to advertise the availability of or presence of the lodging house to the public.
- (f) The owner shall keep on file with the City of Fairfield Department of Planning and Zoning the name and telephone number of a contact person who shall be responsible for responding to questions or concerns regarding the operation of the lodging house. This information must be kept current. This information also shall be posted in a conspicuous location within the dwelling unit. The contact person must be available to accept telephone calls on a twenty-four hour basis at all times that the lodging house is rented and occupied. The contact person must have a key to the rental unit and be able to respond to the lodging house within sixty minutes to address issues, or must have arranged for another person to address issues within the same time frame. The requirement for identifying a contact person applies to each person, or entity, making arrangements for renting a lodging house. The owner shall notify in writing neighboring dwelling units, within 200 feet of the residential dwelling unit, that the property is a permitted lodging house and shall provide a telephone number of the rental agency, if any, or other contact person.
- (g) Fire and safety inspection by the City of Fairfield shall be required as part of the initial application and on a four year rotating basis thereafter. Statutory minimum fire safety standards, as applicable, (see ICA 137C.35) must be constantly maintained.
- (h) Dwellings must conform to their respective zoning requirements outlined in title 20/20.58.
- (i) The owner, managing agency or agency contact shall provide the tenant or lessee with the following information prior to occupancy of the premises and post such information in a conspicuous place on the premises.
 1. The name of the contact person and telephone number at which they can be reached on a twenty-four hour basis; and
 2. Notification of the maximum number of overnight occupants permitted on the Premises pursuant to this Ordinance; and
 3. Notification of the parking standards of the Ordinance; and
 4. A copy of this Ordinance, as may be amended from time to time; and
 5. Notification that an occupant may be cited or fined by the City of Fairfield, in addition to any other remedies available at law; for violating any provisions of this Ordinance; and
 6. All land-based recreational activities are to be limited to rented premises and shall not encroach on neighboring properties; and
 7. Tenants shall not create a nuisance, including but not limited to the following:
 - i. Playing or using a radio, phonograph, disc player, tape player, television, musical instrument, sound amplifier, or other electronic or mechanical sound-producing device in such a manner, or with such volume, so as to disturb the quiet, comfort or repose of a reasonable person of normal sensitivities in the immediate neighborhood.

- ii. Yelling, shouting, hooting, singing, or making other noise that because of its volume, frequency, or shrillness, unreasonably disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities in the immediate neighborhood.
- iii. Sounding or using any horn, siren, whistle, bell or other warning device so as to unreasonably disturb the quiet, comfort or repose of another person of normal sensitivities in the immediate neighborhood.

20.58.140 Nuisance Violations

(a) Upon a finding by the Zoning (Planning Department) Administrator of a first violation within any twelve (12) month period, the lodging house permit may be suspended for up to thirty (30) days and during said time the premises shall not be utilized as a lodging house.

(b) Upon a finding by the Zoning (Planning Department) Administrator of a second violation within any twelve (12) month period, the lodging house permit shall be suspended for thirty (30) days and during said time the premises shall not be utilized as a lodging house.

(c) Upon a finding by the Zoning (Planning Department) Administrator of a third violation within any twelve (12) month period, the lodging house permit shall be revoked and the owner, managing agency or agent who had been issued the lodging house permit, shall not again be issued a lodging house permit for a period of twenty-four (24) months. During said time the premises shall not be utilized as a lodging house. Appeal of a denial of, suspension or revocation of a lodging house permit is provided per 20.58.150.

20.58.150 Appeal Process

(a) Any applicant for a lodging house permit whose application was denied or permit revoked or suspended by the Zoning Administrator, may, within ten (10) days following such decision, appeal such decision in writing to the Board of Adjustment, in which event the decision of the Zoning (Planning Department) Administrator shall be stayed pending appellate review.

(b) AUTHORITY The Board of Adjustment may hear the appeal and may determine whether to affirm, reverse, or modify the decision of the Zoning (Planning Department) Administrator in accordance with the requirements for lodging houses set forth in this section. (Chapter 20.58)

(c) NOTICE At least fourteen (14) days prior to the Board of Adjustment meeting to consider the appeal of the applicant or permit holder, the Zoning Administrator/or authorized designee, shall send, by United States mail, certified, written notice to the applicant or permit holder of the time and place at which the Board of Adjustment will consider the application, suspension or revocation, and Notice that the applicant or permit holder shall be provided an opportunity to be heard by the Board of Adjustment prior to its decision being made. All neighbors within 200 feet must also be notified by United States mail the date, time and location of the Board of Adjustment meeting. Notice shall also be published consistent with 20.92.080 of the Municipal Code.

(d) HEARING Hearing shall be conducted pursuant to Board of Adjustment due process hearing procedures specified at Chapter 20.92. The decision of the Board of Adjustment shall be final. The Board of Adjustment Secretary shall notify the applicant or permit holder, as applicable, in

writing of the decision of the Board. If the Board of Adjustment affirms the decision of the Zoning Administrator denying an application, suspending or revoking a permit.

(e) APPEAL The applicant or permit holder shall have the right to appeal the decision to the District Court of Iowa per 20.92.240 within 30 days, subject to the Iowa Rules of Civil Procedure and the Rules of Appellate Procedure. The decision of the Board of Adjustment shall not be automatically stayed during the pendency of any appeal to Iowa District Court. The applicant for a lodging house permit has the right to seek a stay, as may be permitted procedurally in District Court, thereafter.

SECTION 3. SEVERABILITY. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in effect immediately after its final passage, approval and publication as provided by law.

Passed by the Council on the 5th day of December, 2016, and approved this 5th day of December, 2016.


Edward Malloy, Mayor

ATTEST:


Mike Harmon, City Administrator

The foregoing Ordinance was adopted by the City Council of the City of Fairfield, Iowa, at its regular meeting held on the 5th day of December, 2016, upon a motion by Councilperson Hamilton and seconded by Councilperson Halley following final reading. The vote on the foregoing ordinance was a follows:

	AYES	NAYS	ABSTAIN	ABSENT
Thompson	<u>X</u>	_____	_____	_____
Revolinski	_____	_____	_____	<u>X</u>
Rasmussen	<u>X</u>	_____	_____	_____
Hamilton	<u>X</u>	_____	_____	_____
Halley	<u>X</u>	_____	_____	_____
Flournoy	<u>X</u>	_____	_____	_____
Anderson	<u>X</u>	_____	_____	_____