

Regular Meeting: June 13, 2022
First Read: June 13, 2022

ORDINANCE NO. 2022- 16

**AN ORDINANCE EXTENDING
THE TEMPORARY SUSPENSION OF
CONSIDERATION AND ISSUANCE OF
SPECIAL USE PERMITS FOR
SHORT TERM RENTALS
IN R1-A AND R1-B, SINGLE-FAMILY
RESIDENTIAL ZONES;
EXTENDING THE TEMPORARY MORATORIUM
ON CONSIDERATION AND ISSUANCE OF
SPECIAL USE PERMITS FOR
SHORT TERM RENTALS
IN SINGLE FAMILY RESIDENTIAL
ZONING CLASSIFICATION AREAS
ZONED R1-A AND R1-B
UNTIL AUGUST 1, 2022;
DECLARING AN EMERGENCY;
AND FOR OTHER PURPOSES.**

WHEREAS, The City Zoning Code has long prohibited short term rentals in two single-family residential areas, zoned R1-A, and R1-B; and

WHEREAS, the City Council in June of 2021, added to the existing “Special Use Permit” application process an opportunity for applicants in single-family residential areas zoned R1-A and R1-B to obtain temporary special use permits for no more than a year, upon a showing that they had met certain requirements, and had otherwise overcome the statutory prohibition against short term rentals in single-family residential areas; and

WHEREAS, The City Zoning Code is designed to meet certain objectives to protect the quiet enjoyment and property values of residential areas, and to allow for growth in a manner that meets zoning requirements; and

WHEREAS, the City has extensive experience with short term rentals, since the founding of the City was based upon a “time share” community, and there are an excess number of pieces of real property with short-term rentals, time shares, and other short term rental opportunities available; and

WHEREAS, the City has lost full-time residents in the last two census counts, and lost at least 79 full-time residents as of April 1, 2020, from the counts set forth in the 2010 census; and

WHEREAS, the loss of each “full-time resident” from the City of Fairfield Bay is equivalent to the loss of approximately \$1,130.00, per person, annually, in direct support from the State of Arkansas in “turnback” funds; and

WHEREAS, in order to make up for the revenue loss from conversion of a full-time 2-person residential housing unit to a full-time “short-term” rental unit, the City would need to impose a licensing (or other appropriate) fee for special use permits for short term rentals in excess of \$2,260.00 per year, simply to account for the loss of state turnback funds for full-time residents; and

WHEREAS, the conversion of residential properties to short-term rental properties has an adverse effect on the availability and cost of long-term residential rental properties in the City of Fairfield Bay, which also has a detrimental effect on the number of full-time residents and the state turnback funds for those residents; and

WHEREAS, the City of Fairfield Bay has a “new” hotel, which is struggling to meet minimum occupancy requirements (over the course of a year) in order to meet operating expenses and pay down mortgage debt, due, in part, to the Covid-19 pandemic, and due, in part, to the excess number of “short term” rental properties available in the City of Fairfield Bay; and

WHEREAS, the minimal “increase” in sales tax revenue from current short-term rentals has not resulted in any net benefit to the City, because there is a surplus of property available for short term rentals (in areas not limited by the Zoning Code), as well as the hotel rooms currently available, so it appears that sales tax revenue has been substituted from one set of properties to another, without any increase in net visitors to the City; and

WHEREAS, the City of Fairfield Bay has previously enacted Ordinances creating Chapter 14.04, creating the Zoning Ordinance in the City, and amended Chapter 14.04 by Ordinance No. 2021-11, as amended by Ordinance No. 2021-19; and

WHEREAS, The City Council, previously approved the request from the Planning and Zoning Commission to impose a temporary moratorium on the consideration and issuance of special use permits for short term rentals in zoning classifications R1-A and R1-B (single family residential areas), until the City’s regularly-scheduled June Work Session; and

WHEREAS, the City Council has approved the First Read of a proposed revision to the municipal code and ordinances concerning the Special Use Permit process for Short Term Rentals in the specified single-family residential areas, zoned R1-A and R1-B; and

WHEREAS, the City Council seeks to provide clarity concerning the applicable law, and so believes that a single standard, under the pending revisions to the Municipal Code and ordinances, is the most prudent way to proceed; and

WHEREAS, The City finds that an emergency exists concerning Planning and Zoning consideration of special use permits for short term rentals in single-family residential areas, and the requested moratorium;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRFIELD BAY, ARKANSAS:

1. The request from the Planning and Zoning Commission for a temporary moratorium on the consideration and issuance of special use permits for short term rentals in single-family residential areas, Zoning Classifications R1-A and R1-B, previously ratified, approved, and adopted, be, and it is hereby, **EXTENDED FROM JUNE 27, 2022, UNTIL AUGUST 1, 2022, AT 11:59 PM.**

2. The City of Fairfield Bay hereby **continues AND EXTENDS** the suspension of the consideration and issuance of any special use permits for short term rentals in single-family residential areas zoned R1-A and R1-B, from the date of the City's passage of Ordinance No. 2022-14, on May 9, 2022, until August 1, 2022, at 11:59 pm, the day after the new proposed revision to the short-term rental special use permit process is revised.

3. All applications received anytime after May 9, 2022, at 7:00 pm, for special use permits for short-term rentals in single-family residential areas (zones R1-A and R1-B) of the City, shall not be considered until on and after August 1, 2022, at 11:59 pm, unless this moratorium is extended by Ordinance, repealed by Ordinance, or otherwise modified by Ordinance. All applications received anytime after May 9, 2022, at 7:00 pm, and before 11:59 pm on August 1, 2022, for special use permits for short-term rentals in single-family residential areas (zones R1-A and R1-B), shall be treated and dated as if received on August 2, 2022, and further shall comply with any Ordinance or other change in municipal law with an effective date before August 1, 2022.

4. **EMERGENCY CLAUSE.** It is necessary for the efficient operation of Municipal Government that the City respect the request from Planning and Zoning to protect the owners of housing in areas zoned as single-family residential (R1-A and R1-B) from any diminution of their settled expectations that their homes would be free from commercial uses like short term rentals, and the quiet enjoyment of their homes, as well as protecting prospective applicants from any uncertainty in the consideration of their applications, at the first instance, by the Planning and Zoning Commission, **AND FURTHER** that the City maintain clarity and uniformity in the application of its laws; now, therefore, **AN EMERGENCY IS DECLARED TO EXIST**, and this Ordinance being necessary for the preservation of the public peace, health, safety, and welfare, for the preservation of property values, and for the preservation of the quiet enjoyment of the residents, citizens, taxpayers, and visitors to this City in areas zoned R1-A and R1-B, it shall take effect and be in force immediately from and after its passage and approval.

5. This Ordinance expires at 11:59 pm on August 1, 2022, unless renewed, revised, reissued, or repealed by the City Council prior to that date. This Ordinance is supplemental to all previous Ordinances of the City.

6. **Not to be Codified:** This Ordinance, concerning a temporary moratorium on the consideration and issuance of special use permits for short term rentals in single-family residential areas of the City of Fairfield Bay for 2022, shall not be codified in the Municipal Code.

7. **SEVERABILITY CLAUSE:** If any provision of this Ordinance, or the application thereof, to any person or circumstance is held invalid for any reason, such invalidity shall not affect other provisions or applications of this Ordinance, which shall be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

DATED: **June 13, 2022.**

APPROVED: Linda A Duncan
Linda A Duncan, Mayor

ATTEST: Rosie M Ostronic Owen
Rosie M Ostronic Owen, City Recorder/Treasurer

Reviewed and approved:
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