

Agenda

Town of Fairview



Agenda Town Council Meeting **May 9, 2023 @ 6:30 pm**

Meeting will be in the Fairview Town Hall Meeting Room

1. Call the meeting to order: ---Mayor Thomas

Invocation
Pledge of Allegiance

- a. Agenda Changes
- b. Approval of Agenda

2. Public Comments / Presentations:**

3. Consent Agenda:

- a) Financial and Tax Reports--- *Report Accepted as Information (including Pending Bills documentation provided at meeting)*
- b) Land Use Report---*Report Accepted as Information*
- c) Fund Balance Worksheet 2022-2023 --- *Report Accepted as Information*
- d) Fairview Park Event April Draft Minutes *(No April meeting)*
- e) Fairview Park Facility April Draft Minutes *(No April meeting)*
- f) Planning Board April Draft Minutes *(No April meeting)*
- g) Approve Council Minutes for April 11, 2023

Agenda

- h) Union County Board of Elections filing fee for election date 11/7/23 will be \$5 as per §163-294.2(e).
- i) Resolution Opposing SB 317/HB 562 “Workforce Housing”

4. Items of Business:

Item 1: Discuss Piedmont High School Football Request

Item 2: Discuss Union County Community Development Block Grant Entitlement Consortium Program --- Mayor Thomas

Item 3: Discuss/Approve Revised Noise Ordinance --- Ed Humphries

Item 4: Discuss/Approve Land Use Ordinance Amendment to Section 175(a)

Amend Section 175(a) to read “*Except where livestock or poultry are kept on a bona fide farm that is exempt from regulations under this ordinance, no person may keep livestock or poultry within ~~150 feet~~ 40 feet front/back and 15 feet from each side from any lot line of property owned by another. Nothing in this subsection shall be construed as authorizing poultry or livestock to be kept except where such uses are authorized as an Agricultural Use, Class II.*”
--- Ed Humphries

Mayor to Open Public Hearing

Public Comments

Mayor to Close Public Hearing

Decision to Approve/Oppose: Land Use Ordinance Amendment to Section 175(a) as amended.

Motion to approve would include the following zoning statement: The proposed zoning amendment under consideration is/is not found to be reasonable and consistent with the recommendations of the Town’s adopted Comprehensive Plan, the Town of Fairview Land Use Plan (Revised November 11, 2018), and the Town of Fairview Land Use Ordinance (effective July 1, 2005)

Item 5: Discuss/Review 2023-2024 Budget --- Darrell Baucom

5. Council Comments:

6. Adjournment

AS A COURTESY, PLEASE TURN CELL PHONES OFF WHILE MEETING IS IN PROGRESS
**** Public Comments are limited to 3 minutes**

Consent Agenda

A consent agenda is an effective means of managing the length of a meeting. It is normally made up of routine items that are not controversial in nature and upon which no further discussion is anticipated. Action on the consent agenda usually occurs early in the meeting with all items listed being approved by one motion and vote.

If any member of the governing body feels the need to discuss one or more of the items more fully, the item may be removed from the consent agenda and placed on the regular agenda.

APRIL 2023 PERMITS

Date	Ck#	Permit #	Type	Fee \$	Name	Address	Parcel #
4/4/2023	1249	A 23 040	Pool	\$100	Carol Purser	416 E Brief Road	08180007E
4/4/2023	1785	MS 23 041	Minor	\$200	Ronald Rushing	West Lawyers Road	8228018
4/6/2023	CC/Web	Comp23042	Comp	\$100	T.Hollis/Kobera	7419 Tesh Road	08153016A
4/6/2023	N/A	Text 23 043	Text	N/A	Town of Fairview	Section 175	N/A
4/6/2023	CC/Web	Comp23044	Comp	\$100	Benton/Lewis	9068 Jonah	8246038
4/6/2023	1237	MH 23 045	Home (MH)	\$100	Kay Simmons	8313 Berry Mullis Road	08219003B
4/18/2023	Not Paid	Cond23046	NR	Not Paid	Casades	218 and 601 Circle K	08189012-02
4/18/2023	9101	MS 23 047	MS	\$275	Scott McGee	10128 Mill Grove	08246001F
4/25/2023	CC/Web	Comp23-48	Comp	\$100	Don Coleman	5817 Morgan Park/515 Duck Creek Ln	8216032
Totals	9			\$975			

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FUND BALANCE WORKSHEET 2022/2023

Beginning Spendable Fund Balance (as of 6/30/2022)	\$743,094
Less Restricted Funds from State	\$300,000
POLICY - Reserve in Spendable Fund Balance	<u>\$200,000</u>
Spendable Fund Balance (as of 6/30/2022)	\$243,094

AMENDMENT #	DATE	FOR	CREDIT TO ACCT.	AMOUNT
New Spendable Fund Balance				

AMENDMENT #	DATE	FOR	CREDIT TO ACCT.	AMOUNT
New Spendable Fund Balance				

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New Spendable Fund Balance				

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**Town of Fairview
Regular Town Council Meeting
April 11, 2023**

The following Council members were present: Mayor Phil Thomas, Jerry Clontz, and Gary Wilfong. John Biggers and Patricia Kindley were absent.

Others present: Darrell Baucom, Financial Officer; Ed Humphries, Land Use Administrator/Deputy Clerk; Teresa Gregorius, Town Clerk

Agenda Changes/Approval

Mayor Thomas stated that he would like to remove Item #5 in the Items of Business until the May meeting.

Gary Wilfong made a motion to approve the amended agenda. Jerry Clontz seconded the motion. Council members Clontz and Wilfong voted yes (2-0).

Public Comments

Bill Thomas commented on

Presentation

Jake Kling, Acct. Exec., Queen City SC spoke to the Council regarding a Town of Fairview Night at American Legion Memorial Stadium in Charlotte for Soccer

Consent Agenda

- a) Financial and Tax Reports--- *Report Accepted as Information*
- b) Land Use Report---*Report Accepted as Information*
- c) Fund Balance Worksheet 2022-2023 --- *Report Accepted as Information*
- d) Fairview Park Event March Draft Minutes (*Minutes Accepted as Information*)
- e) Fairview Park Facility March Draft Minutes (*Minutes Accepted as Information*)
- f) Planning Board March Draft Minutes (*Minutes Accepted as Information*)
- g) Approve Council Minutes for March 14, 2023
- h) Budget Workshop will be held during May 9, 2023 Council meeting

Jerry Clontz made a motion to approve the consent agenda. Gary Wilfong seconded the motion. Council members Clontz and Wilfong voted yes (2-0).

Items of Business

Item 1: Discuss Drew Helms Construction/Brief Estates Road Bond

Ed Humphries reported to the Council that the street, Heath Helms Court, in the Brief Estates Subdivision has been completed per Performance Bond #800078199 for \$189,581. Paperwork received from NCDOT and Eagle Engineering states that the street appears to be constructed in accordance with NCDOT standards. Town staff requests that the Council reduce the Performance Bond to a \$25,000 one-year Warranty Bond to ensure that the street is accepted by NCDOT. The Warranty Bond will be released when NCDOT accepts the street for maintenance or the town's warranty is satisfied in April of 2024. The Council discussed.

Gary Wilfong made a motion to approve the release of Performance Bond #800078199 for \$189,581 and approve a one-year Warranty Bond in the amount of \$25,000 for Heath Helms Court for Drew Helm Construction/Brief Estates. Jerry Clontz seconded the motion. Council members Clontz and Wilfong voted yes (2-0).

Item 2: Approve Fairview Park Event Committee Application

The Council received a Fairview Park Event Committee application from Pat Simpson to fill a vacancy on the committee with the term expiring August 2025. The Council discussed.

Jerry Clontz made a motion to approve Pat Simpson's application to the Fairview Park Event Committee with her term expiring August 2025. Gary Wilfong seconded the motion. Council members Clontz and Wilfong voted yes (2-0).

Item 3: Discuss/Approve Revised Nuisance Ordinance

Ed Humphries presented the revised Nuisance Ordinance that has been reviewed by the town attorney and code enforcement officer. The Council discussed.

Jerry Clontz made a motion to approve the Nuisance Ordinance with amendments included. Gary Wilfong seconded the motion. Council members Clontz and Wilfong voted yes (2-0).

Item 4: Discuss/Approve Revised Park Rules

Teresa Gregorius presented the Park Rules as reviewed and revised by Councilwoman Patricia Kindley and the Fairview Park Facility Committee. The Council discussed. Jerry Clontz suggested adding a deposit fee to the park shelter fee that would be reimbursed after the rental is complete and the shelter has been cleaned properly by the renters.

Gary Wilfong made a motion to approve the Park Rules as amended. Jerry Clontz seconded the motion. Council members Clontz and Wilfong voted yes (2-0).

Council Comments

Gary Wilfong reported that there will be a fundraiser for Baby Kix Soderblom at Bentons Crossroads Baptist Church on May 20th at 6:00 PM. The Pine Ridge Boys and local entertainers.

Jerry Clontz reported that the March clean-up at the park went well. There were 27 Piedmont High School Band members that came out to help.

Mayor Thomas reported that he and Gary Wilfong attended the Fairview Elementary School Career Day. Mayor Thomas stated that Union County is currently asking residents to participate in a survey regarding critical intersections in the county. He urged all residents to go to the Union County website www.unioncountync.gov to complete the survey.

Jerry Clontz made a motion to adjourn. Gary Wilfong seconded the motion. Council members Clontz and Wilfong voted yes (2-0).

Respectfully submitted,

Teresa Gregorius
Town Clerk

Phil Thomas
Mayor

Approved this _____ day of _____, 2023





From: KRISTIN JACUMIN, DIRECTOR
To: TOWN OF FAIRVIEW
Date: APRIL 21, 2023
Re: 2023 MUNICIPAL ELECTION

ELECTION DATE: Tuesday, November 7, 2023

CANDIDATE FILING: Begins at Noon on Friday, July 7, and ends at Noon on Friday, July 21, 2023 at the Union County Board of Elections, 316-B East Windsor Street, Monroe, NC 28112. Only persons who are registered to vote in the municipality shall be permitted to file for election to municipal office. No person may file for more than one municipal office at the same election.

FILING FEE: In prior years, the filing fee has been set at \$5.00 and will continue at that rate for 2023 unless our office is notified of a change. §163-294.2(e) states that there shall be a minimum filing fee of five dollars (\$5.00). The governing board shall have the authority to set the filing fee at not less than five dollars (\$5.00) nor more than one percent (1%) of the annual salary of the office sought unless one percent (1%) of the annual salary of the office sought is less than five dollars (\$5.00), in which case the minimum filing fee of five dollars (\$5.00) will be charged. The fee shall be paid to the board of elections at the time notice of candidacy is filed.

CONTESTS ON THE BALLOT:

- Mayor
- (2) Council Seats

ESTIMATED ELECTION COST: \$3,638.59

FOLLOW UP: Please reply to confirm the accuracy of your contests on the ballot and to set your filing fees. Also, immediately contact us with any annexations, deannexations, or changes in contests. Questions? Please call Kristin Jacumin at 704-283-3710.

Union County Board of Elections
316 E Windsor Street
Monroe, NC 28112
T 704.283.3809

unioncountyncelections.gov



RESOLUTION OPPOSING SB 317 / HB 562

RESOLUTION OPPOSING SB 317 / HB 562 PROPOSED LEGISLATION AMENDING TOWN CONTROL OVER CERTAIN SUBDIVISIONS STYLED "WORKFORCE HOUSING" AND SIMILAR BILLS TO ELIMINATE LOCAL AUTHORITY OVER DEVELOPMENT

BE IT RESOLVED THAT THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW OPPOSES PASSAGE OF SENATE BILL 317 / HOUSE BILL 562 AS AN USURPATION OF THE TOWN'S ABILITY TO PROMOTE THE PUBLIC'S HEALTH, SAFETY and WELFARE BY ESTABLISHING REASONABLE LAND USE CONTROLS IN ACCORDANCE WITH THE TOWN'S COMPREHENSIVE PLAN. AS WRITTEN, SB 317 / HB 562 WILL HAVE A NEGATIVE IMPACT ON THE CITIZENS OF THE TOWN. SB 317 / HB 562 PROMOTES THE SPECIAL INTERESTS OF A FEW AT THE EXPENSE OF THE CITIZENS; and

BE IT FURTHER RESOLVED THAT THE TOWN COUNCIL OPPOSES ALL SUCH EGREGIOUS ATTEMPTS BY THE GENERAL ASSEMBLY TO REMOVE THE TOWN'S LOCAL AUTHORITY TO GOVERN OUR CITIZENS AS THEY WISH US TO DO SO WITHIN CONSTITUTIONAL LEGAL BOUNDARIES. WE ADAMANTLY OPPOSE ANY EROSION OF OUR COMMUNITY'S AUTHORITY TO UPHOLD PUBLIC HEALTH, SAFETY AND WELFARE IN ORDER TO BENEFIT A MINORITY WHO WILL BENEFIT AT GREAT COST TO OUR CITIZENS. SB 317 / HB 562 AND SIMILAR BILLS LISTED BELOW WILL DESTROY THE CHARACTER OF OUR TOWN, AS WELL AS OTHER COMMUNITIES ACROSS THIS GREAT NORTH STATE.

THE Town Council adamantly objects to the following provisions of SB 317 / HB 562:

1. The erosion of our authority to protect the public health safety and welfare through reasonable land use controls under SB 317 / HB 562 and their like will prevent the Town Council from carrying out this basic requirement of all zoning by stripping us of the power to direct development for the good of the entire community.
2. SB 317 exempts so-called workforce housing subdivisions (Subdivisions) from all density and dimensional requirements that have been carefully thought out in our comprehensive Land Use Plan and Land Use Ordinance.
3. Subdivisions are to include 20% of lots "to be conveyed for workforce housing." However, the workforce housing lots are only guaranteed for *one* year. After one year the lots may be conveyed to anyone.
4. Such Subdivisions may not be reviewed by the Planning Board and/or the Town Council but must be approved by appointed staff "administrators" in 45 days. This is undemocratic. The time limit is too short for our typical review.
5. SB 317 does not require that the lots be served by any public utility. Developers may provide "private systems." There is no provision for ongoing maintenance and replacement of private systems. A proliferation of private systems is not in the public interest because it will lead to environmental degradation. Small private utility systems are notorious for being under-funded and poorly maintained. Protecting our citizens is the main responsibility of local government and our most basic tool to achieve this goal in zoning. This legislation requires us to ignore that responsibility.

6. Subdivisions are permitted in every zoning district that includes single family houses. The Town of Fairview's Land Use Ordinance allows no density higher than RA40 in order to maintain our small town rural/farming character. Allowing high density subdivisions in these areas destroys our ability to provide oversight and review.

THEREFORE, SB 317 / HB 562 is contrary to the growth philosophy of municipalities such as the Town of Fairview and our efforts to manage our growth. SB 317 / HB 562 will undermine all that we have worked to maintain our unique rural/small town character. Development would become uncontrolled and reckless with little to no regard for neighboring property owners' rights; and

BE IT FURTHER RESOLVED that the Town Council opposes all other bills to weaken local authority.

NOW, BE IT FUTHER RESOLVED that copies of this resolution are sent to our legislative delegation and to the leadership of the North Carolina General Assembly in an effort to stop all such bills limiting our land use authority from becoming law and to work together to find real ways to advance affordable housing opportunities. Copies of this Resolution shall be forwarded to Union County Commissioners with a request that they join Fairview in enacting similar resolutions.

Adopted this the 9th day of May, 2023.

Phillip C. Thomas, Mayor

ATTEST:

Teresa Gregorius, Town Clerk

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Discuss
Piedmont
High School
Football
Request

**Discuss
Union County
Community
Development
Block Grant**



April 25, 2023

Mayor Phil Tomas
Fairview Town Hall
7516 Concord Highway
Monroe, NC 28110

Dear Mayor Thomas,

Union County would like to invite your community to renew participation in the Union County Community Development Block Grant Entitlement Consortium. The Community Development Block Grant (CDBG) Program is a federal program that provides funding for housing and community development activities. Congress created the program when it passed the Housing and Community Development Act of 1974. The program is administered by the United States Department of Housing and Urban Development (HUD). Beginning in 2016, Union County receives a direct allocation of funds from HUD annually, through the CDBG program. The national objectives of the program are to benefit low- and moderate-income persons, prevent or eliminate slums or blight, and address urgent community development needs. These objectives are met by providing decent housing, suitable living environments, and expanded economic opportunities, primarily for the benefit of low- and moderate-income people.

To date Union County has received approximately \$6 million in CDBG funds to assist with community development needs throughout member governments located within Union County. CDBG competitive grant funds are available to members of the Union County CDBG Consortium and nonprofit organizations in Union County. The purpose of this letter is to thank you for your past participation in the County's CDBG program, and to encourage you to remain involved in our successful municipal-county partnership in the future.

Every three years it is necessary to requalify our CDBG program with HUD. To accomplish this, each municipality within Union County is given certain options. At this time, you may continue your association with Union County's CDBG program for the next three years, beginning 2024, or elect to opt-out—or exclude—your jurisdiction for the three-year period.

Please understand that if you decide to continue your participation in the County's CDBG program, you may not withdraw for three years, and you will not be eligible for funding under the State of North Carolina's CDBG program. By remaining active in our CDBG program, however, your community will continue to have access to the annual CDBG funding.

County Manager's Office
500 North Main Street
Monroe, NC 28112
T 704.283.3636
unioncountync.gov

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Unfortunately, if you opt-out of the County’s program, your municipality and its residents will not have access to CDBG funds from Union County unless you specifically elect to be included in the future.

Please send a formal letter notifying the County of your municipality’s participation or non-participation in the CDBG program no later than June 1, 2023. All letters should be signed and sent to the following individual:

Sara Scheirer, Local Disaster Recovery Manager
 Union County
 500 N. Main Street, Suite 918
 Monroe, NC 28112
Sara.Scheirer@unioncountync.gov

Timeline for Cooperative Agreement Process	
Action Needed	Due Date
Notification to non-participating municipalities about the ability to join	May 1, 2023
Notification to participating municipalities about renewal	May 1, 2023
Notification of municipalities intent to participate or not-participate	June 1, 2023
Execution of Cooperative Agreements by municipalities	June 30, 2023
Submission of all Cooperative Agreements to HUD	July 30, 2023

My hope is that you will choose to continue your involvement with the Union County CDBG program. Please feel free to contact Sara Scheirer at 704-283-3558 if you have any questions or would like more information concerning our program. I look forward to the opportunity to continue supporting your municipality’s community development activities.

Sincerely,

Clayton Voignier, Interim Assistant County Manager
 Union County
 T 704.283.3687
 M 980.322.6484
Clayton.Voignier@unioncountync.gov

**Discuss/
Approve
Revised
Noise
Ordinance**

SUMMARY – NOISE ORDINANCE

Over the past months, the Town has had code questions from residents concerning nuisance and noise. Staff thought it was a good idea to look at both ordinances and update them if needed. You updated the nuisance ordinance in April, and we want to update the noise ordinance at this meeting.

Both our code enforcement officer and attorney have looked at it and agreed on the changes.

Staff would recommend amending a presented.

TOWN OF FAIRVIEW NOISE ORDINANCE

WHEREAS, pursuant to G.S. §160A-184, the Town of Fairview may by ordinance regulate, restrict, or prohibit the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens; and

WHEREAS, pursuant to G.S. §160A-174, the Town of Fairview may by ordinance define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the town; and may define and abate nuisances;

AND WHEREAS the Town of Fairview wishes to put limits on the times that certain noises may be emitted;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Fairview as follows:

Section 1. It shall be unlawful and shall constitute a nuisance for any person or group of persons, regardless of number, to willfully make, continue, or cause to be made or continued any loud, raucous and disturbing noise, which term shall mean any sound which, because of its volume level, duration and character, annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within Fairview. The term “loud, raucous and disturbing noise” shall be limited to loud, raucous and disturbing noises heard upon the public streets, in any public park, in any school or public building or upon the grounds thereof while in use, in any church or hospital or upon the grounds thereof while in use, upon any parking lot open to members of the public as invitees or licensees, or in any occupied residential unit which is not the source of the noise or upon the grounds thereof.

In determining whether a noise is unreasonably loud, raucous and disturbing, the following factors incident to such noise shall be considered: (i) time of day; (ii) proximity to residential structures; (iii) whether the noise is recurrent, intermittent or constant; (iv) the volume and intensity; (v) whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; (vi) the character and zoning of the area; and (vii) whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

Section 2. The following acts are declared to be nuisances in violation of this Ordinance, but such enumeration shall not be deemed to be exclusive:

- (1) Horns and Signal Devices. The sounding of any horn, whistle or signal device on any automobile, motorcycle, bus or other vehicle, except as a danger signal or as required by law, so as to create any unreasonable, loud or harsh sound, or the sounding of such device for an unnecessary and unreasonable period of time.

(2) Radios, Stereos, and Sound Reproduction. The playing, use, or operation, either from a motor vehicle or by a pedestrian, of any radio, tape or CD player, or other sound amplification device emitting sound that is audible from a distance of fifty (50) or more feet from the source of the sound.

(3) Pets. The keeping of any animal or bird, which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person of ordinary sensibilities in the vicinity; provided, however, that this Ordinance shall not apply to a dog or dogs being used in a lawful hunt; **It shall be unlawful for any person to own, keep or have in his or her possession, or harbor, any dog, other animal or bird which, by frequent or habitually howling, yelping, barking or otherwise, causes loud noises and produces seriously annoying disturbance to any person or to the neighborhood.**

(4) Vehicles.

~~(a) The vehicle has had its muffler exhausts and/or noise control equipment removed, altered or maintained in such disrepair as to create unreasonably loud and disturbing noises or;~~

~~(b) The vehicle is being operated in a manner so as to create unreasonably loud and disturbing noises by engaging in jackrabbit starts, spinning tires and other such activities or;~~

~~(c) The vehicle is being driven off road for racing or other activities or other operations that create unreasonably loud and disturbing noises. (Items a, b, c amended 7/10/17)~~

~~(d) To employ unmuffled engine compression brakes within the municipal limits of Fairview.~~

~~(e) To operate or cause to be operated a motor vehicle unless the exhaust system is free from defects which affect sound reduction.~~

~~(f) To remove or render inoperative or cause to be removed or rendered inoperative other than for maintenance, repair or replacement, any muffler or sound dissipative device on a motor vehicle.~~

~~(g) To modify the exhaust system of a motor vehicle by the installation of a muffler cut-out or bypass, and no person shall operate a motor vehicle which has been so modified. (Items d, e, f, g amended 9/11/17)~~

Motor Vehicles: It shall be unlawful to operate or allow the operation of any motor vehicle in the town:

- (a) Which has had its muffler-exhaust and/or other noise-control equipment removed, altered or maintained in such disrepair as to create unreasonably loud and disturbing noises.
- (b) By engaging in jackrabbit starts, spinning tires, racing engines, or other operations which create unreasonably loud and disturbing noises.
- (c) Off the boundaries of a public street for racing or other operations which create unreasonably loud and disturbing noises.
- (d) The sounding of any horn, whistle or signal device on any automobile, motorcycle, bus or other vehicle, except as a danger signal or as required by law, so as to create any unreasonable, loud or harsh sound, or the sounding of the device for an unnecessary and unreasonable period of time.
- (e) The playing, use or operation from a motor vehicle or by pedestrian, of any radio, tape, CD player, or other sound amplification device emitting sound that is audible from a distance of 50 or more feet from the source of the sound.

Section 3. The following shall be exempt from the application of this Ordinance:

- (1) Noise resulting from any military or law enforcement activities of the federal, state, or any local government, to include military observances.
- (2) Noise resulting from construction operations from 7:00 a.m. to 9:00 p.m. on weekdays and from 8:00 a.m. to 9:00 p.m. on weekends for which building permits have been issued or for which building permits are not required; provided that all equipment is in proper operating condition and properly equipped with the manufacturers' mufflers and noise-reducing equipment.
- (3) Noise from lawn mowers and other landscape maintenance equipment used between the hours of 7:00 a.m. and 9:00 p.m., provided that all equipment is in proper operating condition and properly equipped with the manufacturers' mufflers and noise-reducing equipment.
- (4) Noise resulting from any event held in recognition of a community celebration, or national, state, or county events or public festivals or parades from 8:00 A.M. until 11:00 P.M. If a special event permit has been issued, then such hours that are stated in the special event permit, if any, shall be controlling.
- (5) Noise from lawful fireworks and noise makers on holidays and at religious ceremonies.
- (6) Noise created by any aircraft flight operations which are specifically preempted by the Federal Aviation Administration.

- (7) Noise of any bell or chime from any building clock, school, or church.
- (8) Noise created by any public recreational activity.
- (9) Noise from dogs and firearms while being used in a lawful hunt.
- (10) Noise resulting from the normal and lawful operations of any (i) industrial enterprise, (ii) commercial enterprise, or (iii) governmental facility or function between the hours of 6:00 A.M. and 9:00 P.M. on weekdays and 7:00 A.M. and 11:00 P.M. on weekends. If a special event permit has been issued, then such hours that are stated in the special event permit, if any, shall be controlling.
- (11) Noise resulting from agricultural and horticultural operations conducted in a reasonable manner on property classified as a bona fide farm for ad valorem tax purposes. If a special event permit has been issued, then such hours that are stated in the special event permit, if any, shall be controlling. (Amended 2/11/19)
- (12) Noise resulting from any authorized emergency or public safety vehicle, when responding to an emergency call or acting in the time of an emergency.
- (13) Noise of safety signals, warning devices and emergency pressure relief valves.
- (14) Noise resulting from emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster, or to restore public utilities, or to protect persons or property from imminent danger.
- (15) Noise resulting from motor vehicles in proper operating condition and properly equipped with the manufacturers' standard mufflers and noise-reducing equipment.

Section 4. Violation of any provisions of this Ordinance shall subject the offender to one or more of the following enforcement actions. Each day that any violation continues after notification by the Town of Fairview that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.

- (1) Violations may include civil penalties and equitable remedies. Civil penalties for violation of the noise ordinance shall be as follows:
 First Citation: Warning
 Second Citation: \$100 fine
 Third Citation: \$200 fine
 Fourth Citation: \$500 fine
 If the offender fails to pay this fine penalty within ten days after being cited for a violation, the fine penalty may be recovered by the Town in a civil action in the nature of a debt. (Amended 11/8/22)

- ~~(2) If any person shall violate the provisions regulating the operation or parking of vehicles, that person shall be responsible for an infraction and shall be~~

~~required to pay a penalty of not more than fifty dollars (\$50.00) pursuant to North Carolina General Statute 14-4(b). (Amended 11/13/17)~~

- (3) The Town of Fairview may apply for an appropriate equitable remedy from the General Court of Justice, including but not limited to mandatory and prohibitory injunctions and orders of abatement as allowed pursuant to G.S. § 160A-175. Such civil actions may name as defendants any person or persons creating, allowing the creation of, or assisting in the creation of any unlawful noise, including the owner of the premises from which the noise emanates and the person having actual control of the premises from which it emanates. (Amended 8/10/15)

Section 5. If any provision of this Ordinance is adjudged invalid or if the application thereof to any person or in any circumstance is adjudged invalid; such invalidity shall not affect the validity of this Ordinance as a whole or of any part, subpart, sentence or clause thereof not adjudged invalid.

Section 6. This Ordinance is amended (Section 4-2) 10th day of August, 2015, and shall become effective the 10th day of August, 2015. This ordinance replaces any previous noise ordinance.

This Ordinance is amended (Section 2-4 a,b,c) 10th day of July, 2017, and shall become effective the 10th day of July, 2017. This ordinance replaces any previous noise ordinance.

This Ordinance is amended (Section 2-4 d,e,f,g,) 11th day of September, 2017, and shall become effective the 11th day of September, 2017. This ordinance replaces any previous noise ordinance.

This Ordinance is amended (Section 4-1 & 2) 13th day of November, 2017, and shall become effective the 13th day of November, 2017. This ordinance replaces any previous noise ordinance.

This Ordinance is amended (Section 3-11) 11th day of February, 2019, and shall become effective the 11th day of February, 2019. This ordinance replaces any previous noise ordinance.

This Ordinance is amended (Section 4-1) 8th day of November, 2022 and shall become effective the 8th day of November, 2022. This ordinance replaces any previous noise ordinance.

**Discuss/
Approve
Land Use
Ordinance
Amendment**

SUMMARY

Over the past several months there have been code enforcement questions about animals in residential areas.

Our ordinance has regulations on horses, but it is not as clear on "Livestock".

Our ordinance states you may have animals on your property for personal use if their housing is 150 ft. from each adjacent property owner.

You can be a "bona fide farm" under our ordinance and can have animals but must have 10 acres of farming area.

We discussed the 150 ft. requirement with the Planning Board. One comment was to regulate animals by using the "Nuisance Ordinance".

The Board did, however, vote to ask the Council to amend our ordinance to change the 150 ft. requirement to the "setbacks" for residential zoning (40 ft. front/rear and 15 ft. sides). This would not be the same for everyone because lots are different sizes and shapes.

I would recommend not changing the ordinance.

Discuss/ Review 2023/2024 Budget