



Town of Fairview

PLANNING AND ZONING BOARD

Agenda

March 21, 2023 @ 6:30 p.m.

Meeting will be at Fairview Town Hall Meeting Room

1. Roll Call and Determination of Quorum --- Chairman Buchanan
2. Business:
 - a. Animals: "How to regulate them"
 - b. Discuss /review/recommend updating the Nuisance Ordinance
 - c. Approve Previous Minutes: February 21, 2023---Regular meeting
3. Public Comments
4. Adjourn

Discuss Animal Regulations

FAIRVIEW – LIVESTOCK ORDINANCES

ARTICLE I: GENERAL PROVISIONS

Section 4 Bona Fide Farms Exempt.

- (a) The provisions of this ordinance shall not apply to bona fide farms, except that:
- (1) farm property used for non-farm purposes shall not be exempt from regulation; and
 - (2) the provisions of Article XVI, Part I regulating development in floodways and floodplains, as required for participation in the National Flood Insurance Program, shall apply to bona fide farms.
- (b) For purposes of this ordinance, a bona fide farm is any tract (or tracts of land under common ownership or control) ten acres in size or greater on which a party is actively engaged in a substantial way in the commercial production or growing of crops, plants, livestock or poultry with at least one of the following:
- (1) A farm sales tax exemption certificate issued by the Department of Revenue;
 - (2) A copy of the property tax listing showing that the property is eligible for participation in the present-use value program, pursuant to NCGS 105-277.3;
 - (3) A copy of the farm owner's or operator's most recent Schedule F federal income tax return;
 - (4) A forest management plan; or
 - (5) A farm identification number issued by the United States Department of Agriculture..

Section 15 Definitions of Basic Terms.

Agribusiness: A commercial operation that (i) involves the processing or distribution of farm products or the sale or repairs of farm machinery, equipment, or supplies, and (ii) is not otherwise specifically listed in the Table of Uses. (See Section 168 for standards). Without limiting the generality of the foregoing, a temporary collection facility for the disposal of dead fowl shall be considered an agribusiness use.

Agricultural Uses: The commercial production of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; rheas, ostrich, emu, livestock, including beef cattle, sheep, swine, llamas, horses*, ponies*, [*horses and ponies must be raised commercially on a horse farm for the purpose of sale to qualify as an "agricultural use", as

distinct from riding stables or boarding facilities, which do not qualify as an “agricultural use”], mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including nuts; vegetables; nursery, floral and ornamental products; or lands devoted to a soil conservation or forestry management program. Also land used as pasture or in the commercial production of fish hatcheries or aqua-culture.

Also for the purposes of this ordinance, the keeping of livestock for commercial or noncommercial purposes is defined as an agricultural use. Livestock includes but is not limited to poultry and hoofed animals such as cattle, horses, swine, goats, and sheep. Also included in this definition of agricultural uses are agricultural accessory buildings, and sales of agricultural products grown or raised on the premises. Not included in this definition are the commercial slaughtering of animals for marketing and farm tenant dwellings. Other uses which shall not be deemed as “agricultural uses” include (i) zoos, (ii) kennels, and (iii) riding stables and academies.

For the purposes of this Ordinance, Agricultural Uses are divided into two classes:

- (a) Agricultural Uses, Class I. Agricultural uses not exempt as bona fide farms, excluding livestock, with the exception of horses.
- (b) Agricultural Uses, Class II. Agricultural uses not exempt as bona fide farms, including livestock, horses, and poultry (e.g. turkeys, chickens, ducks, geese, rheas, emus, ostrich, or other domestic fowl), hog and rabbit meat production centers on 10 acre minimum tracts.

Section 175 Special Setbacks for Livestock, Horse Stables, and Poultry.

- (a) 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 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.
- (b) Horseback riding stables are subject to the following requirements:
 - (1) The tract must contain at least one acre for every horse kept thereon, provided that, if this density figure is exceeded as a result of a mare giving birth, the colt or filly may remain for weaning purposes for a period not to exceed six months.
 - (2) The structure that houses a horse must meet the following minimum setback requirements: (1) 50 feet from adjacent property lines; (2) 100 feet from pre-existing adjacent residences; and (3) 30 feet from the principal structure when the structure that houses a horse is accessory to a residential structure. In addition, the structure that houses a horse must be

located in the rear yard when accessory to a residential structure and the tract is less than four (4) acres.

- (3) The number of horse stalls permitted shall not exceed the number of horses permitted by this Ordinance.
- (1) Any outdoor lighting shall not shine directly into a public right-of-way or into residential structures.

LIVESTOCK ORDINANCES – OTHER MUNICIPALITIES

APA (American Planning Association) -- Creating Great Communities for All

With interest in food security and local food systems on the rise, more and more communities are amending their animal control and zoning codes to allow the keeping of chickens, bees, miniature goats, and other nontraditional animals in residential districts.

The benefits of urban livestock include the production of fresh, local food products such as eggs, honey, and milk; the important pollination roles played by bees; and the companionship and educational aspects of keeping such animals as pets. However, potential downsides include noise, odor, and disease concerns, so appropriate regulations are important to protect communities from nuisance or public health complaints.

From this page you can search for resources that provide background, policy guidance, and examples of local regulatory standards for urban livestock from across the country. And you can filter these search results by various geographic and demographic characteristics.

MARSHVILLE ORDINANCE

AGRICULTURAL USE. The use of open field land for agricultural production purposes, including farming, dairying, stock watering, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for storing the supplies and products. The term shall include incidental retail sales by the producer of products raised on the farm. Agriculture does include forest management and timber harvesting activities, Marshville Development Ordinance - Article 3 – Page 3 provided a management plan for that activity has been prepared by a Professional Forester registered in the State of North Carolina. See definition of Forest Land. Also, as defined in G.S. 106-581.1. See definition of Bona Fide Farm in this Article. **AGRICULTURAL PRODUCTION (CROPS ONLY).** See **AGRICULTURAL USE.** **AGRICULTURAL PRODUCTION (CROPS AND LIVESTOCK).** See **AGRICULTURAL USE.** **AGRICULTURAL PRODUCTION (WITHIN BUILDINGS).** The practice of horticulture, floriculture, and any form of non-animal or livestock agricultural production within buildings, such as greenhouse or hydroponic operation; along with the necessary accessory uses for storing supplies and products

BONA FIDE FARM. As defined in context by G.S.160D-903 bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1.

EQUESTRIAN USE. Paddocks, fields, stables, barns, riding ring, and other facilities provided for the care and use of horses.

LIVESTOCK. Animals, poultry or aquatic life bred and/or raised for the purpose of human and/or animal consumption.

MINERAL SPRINGS

AGRIBUSINESS A commercial operation that involves the processing or distribution of farm products or the sale or repairs of farm machinery, equipment, or supplies, and is not otherwise specifically listed in the Table of Uses. Without limiting the generality of the foregoing, a temporary collection facility for the disposal of dead fowl shall be considered an agribusiness use.

AGRICULTURAL USE. NCGS 106-581.1, defines the terms “agriculture,” “agricultural,” and “farming” to include the following activities: 1. The cultivation of soil for production and harvesting of crops, including fruits, vegetables, sod, flowers, and ornamental plants; 2. The planting and production of timber; 3. Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, deer, elk, and other animals for individual and public use, consumption, and marketing; 4. Aquaculture; 5. The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation; and 6. When performed on the farm, the marketing and selling of agricultural products; agritourism; the storage and use of materials for agricultural purposes; and packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on the farm. Also included in this definition of agricultural uses are agricultural accessory buildings, and sales of agricultural products grown or raised on the premises. Not included in this definition are the commercial slaughtering of animals for marketing and farm tenant dwellings. Uses which shall not be deemed as “agricultural uses” include (I) zoos, (II) kennels, (III) riding stables and academies, (IV) non-domesticated animals, and (V) animals commonly perceived to be a threat to humans.

AGRICULTURAL USES, HOME. The production principally for use or consumption of the property owner, of plants, animals or their products and for sale to others where such sales are incidental, including, but not limited to gardening, fruit production, and poultry and livestock products for household use only.

ANIMAL KENNEL. A commercial enterprise where more than six (6) dogs or other domesticated animals are groomed, bred, boarded, trained, or sold. Occasional breeding and offering the resultant litter(s) for sale shall not constitute the operation of a kennel.

KENNEL, OUTDOOR. A use outside of a fully-enclosed structure intended and used for the breeding or accommodation of more than six (6) small domestic animals for sale and/or for the training or overnight boarding of animals for persons other than the owner of the lot

EQUESTRIAN USE. An establishment where horses are boarded and cared for, where instruction in riding, jumping, and showing is offered, or where horses may be hired for riding.

LIVESTOCK. Domesticated four-legged mammals including but not limited to cows, horses, sheep, goats, llamas, swine, rabbits and similar animals. Small livestock are 15 pounds or less. 9-36 |

UNION COUNTY

Farm, Bona-fide See the bona fide farm definition and zoning exemption provisions of Section 1.050.

Section 1.050.

Bona Fide Farm Zoning Exemption As provided by NCGS 160D-903, the zoning regulations of this ordinance in no way regulate, restrict, prohibit or otherwise deter or affect property used for bona fide farm purposes, except that: (Amended 7-1-2021). 1. Farm property used for non-farm purposes must comply with applicable zoning regulation; and Article 1 | Introductory Provisions Section 1.060 | Purposes Effective October 6, 2014 page 1-2 Amendments through 07.01.2021 2. Bona fide farms and other farm properties must comply with any flood protection regulations required to be imposed by the National Flood Insurance Program. For purposes of determining whether a property is being used for

bona fide farm purposes, any one of the following constitutes sufficient evidence that the property is being used for bona fide farm purposes: 1. A farm sales tax exemption certificate issued by the Department of Revenue; 2. A copy of the property tax listing showing that the property is eligible for participation in the present-use value program, pursuant to NCGS 105-277.3; 3. A copy of the farm owner's or operator's most recent Schedule F federal income tax return; 4. A forest management plan; or 5. A farm identification number issued by the United States Department of Agriculture. Livestock Poultry and hoofed animals such as cattle, horses, swine, goats, and sheep.

Agriculture and Agriculture-related (non-exempt) Use Category This category includes agricultural uses that do not qualify as bona fide farms, which are exempt from the zoning regulations of this ordinance. It also includes uses and activities Article 25 | Allowed Uses Section 25.020 | Use Categories Effective October 6, 2014 page 25-21 Amendments through 07.01.2021 that are directly related to agriculture and that are necessary to provide service and financial support for farming and agriculture uses. 1. Agribusiness Commercial activities offering goods and services which support production of agricultural products or processing of those products to make them marketable. Examples include, but are not limited to, soil preparation, animal and farm management, landscaping and horticultural services, specialized commercial horticulture, specialized animal husbandry, biocide services, retail sales of farm/garden products, supplies and equipment, equipment rental and repair service, tack shop, farrier, blacksmith, welding shops, facilities for animal shows, animal sales and auctions, agriculture-based clubs/meeting halls, storage of agricultural supplies and products, and processing plants for agricultural products including wineries and canneries. 2. Agriculture, Non-exempt Production and activities relating to or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and other forms of agricultural products having a domestic or foreign market, not including bona fide farms (see bona fide farm zoning exemption in Section 1.050). 3. Agritourism Farm-related enterprises that operate for the enjoyment and education of the public and that combine tourism and agriculture. Agritourism uses include those that are for-profit and those that are provided free of charge to the public, including all of the following: a. Agriculture Cultural Center A facility established for the purpose of educating the public about agricultural activities, or the heritage and culture of agricultural activities. In addition, this use subcategory included museums dedicated solely to agriculture themes and living history farm sites. b. Agritainment Events and activities that allow for recreation, entertainment, and tourism in conjunction with agriculture support and services directly associated with ongoing agricultural activities on-site that are for-profit. Events and activities include the following: hay rides, corn mazes, hay mazes, petting zoos (farm animals only) and agricultural festivals. c. Corn Maze A labyrinth utilizing an agricultural crop, such as corn, to create a system of paths.

Rural home occupations must be clearly incidental and subordinate to the subject property's principal residential or agricultural use and only one rural home occupation is allowed per parcel. (amended 8-6-2018)

Keeping of Horses The keeping of horses is allowed as an accessory use in In RA-200, RA-40, R-40, RA-20, R-20 and R-15 districts only, and only in compliance with the following minimum requirements: No more than one horse over 6 months of age may be kept as an accessory use per one acre of land area; Any barn, stable or other structure occupied by a horse must be set back at least: 1. 50 feet from adjacent property lines; 2. 100 feet from any adjacent residences; and 3. 30 feet from the principal structure on the property. In addition, any structure that houses a horse must be located in the rear yard when accessory to a residential structure on a lot of less than 4 acres in area. The keeping of horses is allowed as a principal use on lots 4 acres or greater. (amended 1-19-2016)



WINGATE

3.10.3 OUTDOOR KENNELS (HI) As indicated in the Permitted Use Table, Outdoor Kennels are permitted with a Special Use Permit in the HI zoning district. General Standards 1. Any building or pen housing animals shall be located a minimum of 150 feet from any residential use or residentially zoned property. 2. Areas used for exercising or training of animals shall be securely fenced to prevent animals from straying off property. Disposal of Waste 1. All animal refuse and food shall be kept in airtight containers and disposed of on a regular basis. 2. Animal waste shall not be stored within 150 feet of any property line or surface waters unless located indoors. Buffering: A Type A Buffer, as defined in Chapter 8 of this Ordinance, is required along property lines shared with residential uses or residentially zoned property.

3.10.5 SWINE FARMS (RA-40) As indicated in the Permitted Use Table, Swine Farms are permitted with a Special Use Permit in the RA-40 zoning district. Size: A minimum of 10,000 square feet per animal raised is required. Minimum Setbacks: Minimum setbacks for waste lagoons or any other area where animal waste is collected shall be as follows:

1. 2,500 feet from schools, hospitals, or churches 2. 1,500 feet from the nearest residential dwelling unit 3. 100 feet from perennial streams 4. 100 feet from property boundaries 5. 100 feet from wells for drinking water or irrigation and septic tanks Floodplains: Waste lagoons shall not be permitted within areas shown as Special Flood Hazard Areas on the most recently adopted Federal Emergency Management Agency Flood Insurance Rate Map.

ANIMAL PRODUCTION Industries in the Animal Production subsector raise or fatten animals for the sale of animals or animal products. The subsector comprises establishments, such as ranches, farms, and feedlots primarily engaged in keeping, grazing, breeding, or feeding animals. These animals are kept for the products they produce or for eventual sale. The animals are generally raised in various environments, from total confinement or captivity to feeding on an open range pasture. Establishments primarily engaged in the farm raising and production of aquatic animals or plants in controlled or selected aquatic environments are included in this subsector. ATM Computerized, self-service machines used by banking customers for financial institutions, including deposits, withdrawals and fund transfers, without face-to-face contact with financial institution personnel. These machines may be located at or within banks, or in other locations.

BONA FIDE FARM Includes the production and activities relating to or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in NCGS §153A-340.b.2.

SWINE FARMS A tract of land devoted to raising 250 or more animals of the porcine species.

UNIONVILLE

Section 4 Bona Fide Farms Exempt. (a) The provisions of this ordinance shall not apply to bona fide farms, except that: (1) farm property used for non-farm purposes shall not be exempt from regulation; and (2) the provisions of Article XVI, Part I regulating development in floodways and floodplains, as required for participation in the National Flood Insurance Program, shall apply to bona fide farms. (b) For purposes of this ordinance, a bona fide farm is any tract (or tracts of land under common ownership

or control) ten acres in size or greater on which a party is actively engaged in a substantial way in the commercial production or growing of crops, plants, livestock or poultry.

Agribusiness: A commercial operation that (i) involves the processing or distribution of farm products or the sale or repairs of farm machinery, equipment, or supplies, and (ii) is not otherwise specifically listed in the Table of Uses. (See Section 168 for standards). Without limiting the generality of the foregoing, a temporary collection facility for the disposal of dead fowl shall be considered an agribusiness use.

Agricultural Uses: The commercial production of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; rheas, ostrich, emu, livestock, including beef cattle, sheep, swine, llamas, horses*, ponies*, [*horses and ponies must be raised commercially on a horse farm for the purpose of sale to qualify as an "agricultural use", as distinct from riding stables or boarding facilities, which do not qualify as an "agricultural use"], mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including nuts; vegetables; nursery, floral and ornamental products; or lands devoted to a soil conservation or forestry management program. Also land used as pasture or in the commercial production of fish hatcheries or aqua-culture. Also for the purposes of this ordinance, the keeping of livestock for commercial or noncommercial purposes is defined as an agricultural use. Livestock includes but is not limited to poultry and hoofed animals such as cattle, horses, swine, goats, and sheep. Also included in this definition of agricultural uses are agricultural accessory buildings, 6 and sales of agricultural products grown or raised on the premises. Not included in this definition are the commercial slaughtering of animals for marketing and farm tenant dwellings. Other uses which shall not be deemed as "agricultural uses" include (i) zoos, (ii) kennels, and (iii) riding stables and academies. For the purposes of this Ordinance, Agricultural Uses are divided into two classes: (a) Agricultural Uses, Class I. Agricultural uses not exempt as bona fide farms, excluding livestock, with the exception of horses. (b) Agricultural Uses, Class II. Agricultural uses not exempt as bona fide farms, including livestock, horses, and poultry (e.g. turkeys, chickens, ducks, geese, rheas, emus, ostrich, or other domestic fowl), hog and rabbit meat production centers on 10 acre minimum tracts

Animal Kennel: A commercial operation that: i) provides food and shelter and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), or (ii) engages in the breeding of animals for sale. Occasional breeding and offering the resultant litter for sale shall not constitute the operation of a kennel.

Poultry, Hog and Rabbit Meat Production Centers. A commercial enterprise where poultry (e.g., turkeys, chickens, ducks, geese, ostrich, rhea, emu, and or other domestic fowl), hogs, llama or rabbits are raised in large numbers (exceeding on a regular basis twenty-five hogs or rabbits or fifty fowl), usually in relatively confined quarters, for sale as meat.

Section 135 Residential Districts Established

The RA-40 district is designed to encourage the perpetuation of agricultural uses and compatible agribusiness uses and to accommodate low density residential development (including most classes of manufactured homes) in areas not experiencing strong growth pressures and not served by public water or sewer.

Section 175 Special Setbacks for Livestock, Horse Stables, and Poultry. (a) 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 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. (b) Horseback riding stables are subject to the following requirements: (1) The tract must contain at least one acre for every horse kept thereon, provided that, if this density figure is exceeded as a result of a mare giving birth, the colt or filly may remain for weaning purposes for a period not to exceed six months. (2) The structure that houses a horse must meet the following minimum setback requirements: (1) 50 feet from adjacent property lines; (2) 100 feet from pre-existing adjacent residences; and (3) 30 feet from the principal structure when the structure that houses a horse is accessory to a residential structure. In addition, the structure that houses a horse must be located in the rear yard when accessory to a residential structure and the tract is less than four (4) acres. (3) The number of horse stalls permitted shall not exceed the number of horses permitted by this Ordinance. 149 (2) Any outdoor lighting shall not shine directly into a public right-of-way or into residential structures.

Animal Regulations

- What animals should be regulated, if any
- How many animals should be allowed/limit on any property
- Where should animals be kept
- Should size be a factor/ weight
- What shelter should be required
- How large should your lot be (in acres)
- How far from property lines should animals be housed
- How should animal waste be handled
- How should dangerous animals be handled

Animal is defined as:

Domesticated: dogs, cats, birds.....

Livestock: cows, chickens, hogs ,goats.....

Discuss Nuisance Ordinance

TOWN OF FAIRVIEW NUISANCE ORDINANCE

Amended April 12, 2022

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 county; and may define and abate nuisances.

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

Definition

It shall be unlawful for the owner or occupant of any lot or parcel of land in the town to permit to exist on any such lot or parcel of land any condition which may be declared to be noxious, detrimental to the rights of others to the full use of their own property and their own comfort, happiness and emotional stability because of decreased property values and the unattractiveness and livability of neighborhoods.

The existence of any of the following conditions as determined by the Land Use Administrator on any lot or parcel of land in the town upon receiving a written complaint is hereby declared to be noxious, detrimental to health and to constitute a nuisance and to be a violation of the provisions of this article.

1. When determined by the Land Use Administrator, it shall be unlawful to dispose or discard any litter on private property owned by someone else or on public property.
 - a. It shall be unlawful for any person to scatter, cast, throw, place, sweep or deposit anywhere within the town any litter in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, body of water, sewer, parkway, lot, public property, or private property. Any unauthorized accumulation of litter is declared to be a public nuisance and is prohibited. "Litter" means any garbage, rubbish, trash, refuse, junk, mattresses, boxes, old clothes, rags, can, bottle, box, container, wrapper, paper, paper product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility, dead animal, or discarded material in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations, or any other combustible material or objects of like kind causing an accumulation of stagnant water; or causing or threatening to cause the inhabitation therein of mosquitoes, rats, mice, snakes or vermin of any kind. While being used for or distributed in accordance with their intended uses, "litter" does not include political pamphlets, handbills, religious tracts, newspapers, and other similar printed materials the unsolicited distribution of which is protected by the Constitution of the United States or the Constitution of North Carolina per G.S. 14-399i(4).

Current

- b. Any unsecured building including, but not limited to houses, apartments, nonresidential buildings and accessory buildings, which contribute to or are likely to contribute to blighted neighborhood conditions such as vagrancy, trash accumulation, alcohol or illegal drug use, trespassing, prostitution, or other criminal activities.
 - c. An open or unsecured storage or collection place for chemicals, oils, gasoline, flammable liquids or other similar harmful or dangerous substances, gases or vapor. This would include a collection place for broken bottles, glass, tin, aluminum and other sharp, pointed, jagged or rusted metal.
2. Any unused, abandoned, or open water supply well which poses a potential hazard for water contamination or safety. This would include abandon swimming pools.
 3. Any structure that is a residence or has been used as a residence, the remains of a structure, or portion thereof that is in a damaged condition as the result of fire, wind, flood, or other disaster that remains in an un-repaired state for a period of 120 days from the date of the disaster and that has one (1) or more of the following conditions:
 - a. Glass, metal or other sharp objects in an accessible area;
 - b. Unstable structures or damaged trees which may fall or collapse;
 - c. Holes, excavations, surviving foundations or walls that may collapse or create heights in excess of three (3) feet in areas where they may be scaled;
 - d. Any substance that is hazardous or harmful to humans or pets; and
 - e. Any open or accessible utility line such as natural gas, water, sewer or electrical.
 - f. As determined by the Land Use Administrator, an accumulation of debris from the demolition of any structure, including but not limited to partially demolished walls, foundations, basements, building materials and other rubbish after the cessation of all active demolition activity on the property.
 4. As determined by The Land Use Administrator, a collection or storage place for junk, furniture, stoves, refrigerators and appliances, cans or containers, household goods or plumbing and electrical fixtures or other similar materials.
 5. The practice of going in and upon private residences, business establishments, public buildings, public or city property or offices in the city, by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise, books, pictures, periodicals or anything whatsoever, not having been requested or invited so to do by the owner, manager or occupant of such private residence, business establishment, public building or office, or by the Mayor or Sheriff of Union County, for the purpose of soliciting orders for the sale of goods, wares, merchandise or anything whatsoever, or for the purpose of disposing of or peddling or hawking the same, is hereby declared to be a nuisance and punishable as this ordinance permits.
 6. Any attempt by any person referred to obtain an invitation to visit any private residence, business establishment, public building, or office, by personal solicitation or promise of any demonstration, pecuniary benefit, advantage or any gift, shall be deemed a violation of the terms and provisions of this ordinance.

7. Any person who sells at wholesale directly to the dealer, for the ultimate purpose of resale by such dealer, is hereby declared to be within the right of interstate commerce and is excluded from the provisions of this ordinance. Any local Not-for -Profit is excluded from this ordinance.
8. **Growth of Weeds shall not apply to those lands certified, dedicated or designated by the city or other appropriate governmental agency as vegetative buffer, floodplain, stream buffer, open space or other natural or environmentally sensitive area established to protect the public or protect and preserve natural greenways, floodways, streams or water quality.**
9. As determined by the Fairview Land Use Administration or the Union County Sheriff's Department that noise from any motorized motor vehicle to include minibikes, four wheelers, cars with loud mufflers. This applies only to subdivisions with lots under 10 acres in size.

Notice to Abate

Whenever it shall come to the attention of the Land Use Administrator, as appointed Code Enforcer by the Town Council, that there exists on any lot or parcel of land in the town any of the conditions enumerated in this article, he shall forthwith give the owner a notice, in writing and by first class mail, that such condition(s) exist, and that the owner of same property shall have 30 days from the date of such letter, in which to remedy the stated violation(s). If not corrected, the town shall cause the violation to be remedied. The cost of such remedy will become a lien on the property until paid.

Appeal

The Resident or property owner may appeal the decision of the Land Use Administrator in writing within 15 days. The appeal will be heard within 45 days by the Board of Adjustment.

Chronic Violator: The town may notify a chronic violator that, if the violator's property is found to be in violation of section, the town shall, without further notice in the calendar year in which the notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property. The initial notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the town gave a notice of violation at least once.

Abatement by Town

If the person upon whom such notice is served fails, neglects, or refuses to remedy such condition within the time allowed, the Land Use Administrator or designee appointed by the Town Council, shall cause such condition to be remedied. **After five (5) days, the town may fine the owner and/or occupant up to \$50.00. After ten (10) days, the town may take any necessary action to remedy such condition.** The expense of the action and a fine of \$500.00 shall be paid by the person in default. In the event charges for the removal or abatement of a public nuisance are not paid as

Current

specified, such charges shall become a lien upon the land or premises where the nuisance occurred and shall be subject to collection as unpaid ad valorem taxes as provided in N.C. G.S 160A-193.

Right of Entry

For the purposes of enforcing the provisions of this article, the town Land Use Administrator may at all reasonable times enter in and upon any premises within his jurisdiction.

If any provision of this Ordinance is adjudged invalid or if the application there of 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.

This Ordinance is adopted the 12th day of April and shall become effective the

12th day of April, 2010

_____ Town Clerk

Mayor

- Ordinance Amended September 13, 2010
- Ordinance Amended November 12, 2018
- Ordinance Amended May 11, 2021
- Ordinance Amended April 12, 2022

TOWN OF FAIRVIEW NUISANCE ORDINANCE

Amended April 12, 2022

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 county; and may define and abate nuisances.

ABATEMENT OF UNSANITARY AND UNSAFE CONDITIONS

- (A) For the purpose of this section, the term **NUISANCE** shall mean or refer to any condition or any use of property or any act or omission affecting the condition or use of property which threatens or is likely to threaten the safety of the public, adversely affects the general health, happiness, security or welfare of others, or, is detrimental to the rights of others to the full use of their own property and their own comfort, happiness and emotional stability because of decreased property values and the unsightliness and decreased livability of neighborhoods.
- (B) The existence of any of the following conditions as determined by the Land Use Administrator on any lot or parcel of land in the town upon receiving in person/written/email complaint. The following enumerated and described conditions, or any combination thereof, are hereby found, deemed, and declared to constitute a detriment, danger and hazard to the health, safety, morals and general welfare of the inhabitants of the town. They are hereby found, deemed and declared to be public nuisances wherever the conditions may exist within the corporate limits as now or hereafter established. The creation, maintenance or failure to abate any nuisances is hereby declared unlawful.
- (1) Any weeds or other vegetation having an overall height of more than 18 inches above the surrounding ground provided that the following shall not be considered to be a part of this condition: trees and ornamental shrubs, cultured plants; natural vegetation on undeveloped property that is not a threat to the character of surrounding properties, and flowers and growing and producing vegetable plants. Every owner, tenant, occupant, or person having control of property or lot fronting upon any street or roadway in the town shall:
- (a) It is the responsibility of the owner, tenant, occupant of property or lot fronting upon any street, roadway, or sidewalk in the city to maintain the property in conformity with the requirements of this section.
- (2) Any accumulation of trash, garbage, food waste and other trash which is the result of the absence of, or overflowing of, or improperly closed trash or garbage containers, that attracts or is likely to attract mice and rats, flies and mosquitoes or other pests.
- (3) An open or unsecured storage or collection place for chemicals, acids, oils, gasoline, flammable or combustible materials or flammable or combustible liquids, poisonous materials or other similar harmful or dangerous substances, gasses or vapors.

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- (4) An open place, collection, storage place or concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags, or any other combustible materials collection.
- (5) An open storage place for old worn out, broken or discarded machinery, car parts, junk, tire rims, furniture, stoves, refrigerators, appliances, cans and containers, household goods, plumbing or electrical fixtures, old rusty metal, fencing materials or other similar materials.
- (6) Any accumulation of garbage, rubbish, trash, or junk causing or threatening to cause a fire hazard or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, mosquitoes, or vermin prejudicial to the public health.
- (7) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health.
- (8) The open storage of any discarded ice box, furniture, refrigerator, stove, glass, building materials, building rubbish or similar items. The use of carports, open porches, decks, open garages and other outdoor areas that are visible from the street as a storage or collection place for boxes, appliances, furniture (not typical outdoor or yard furniture), tools, equipment, junk, garbage, old worn out broken or discarded machinery and equipment, cans, containers, household goods or other similar condition that increase the likelihood of a fire, may conceal dangerous conditions, may be a breeding place or habitat for mice, rats or other pests, or create an unattractive condition or visually blighted property
- (9) A collection place for lumber, bricks, blocks, nails, building hardware, roofing materials, scaffolding, masonry materials, electrical supplies or materials, plumbing supplies or materials, heating and air conditioning supplies or materials or any other type of old or unusable building supplies (especially those with nails, staples or sharp objects and edges) unless these conditions are temporary in nature and caused by a current construction project in progress pursuant to a lawfully issued building permit.
- (10) Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the safety of any person, is a continuing fire hazard or which is structurally unsound to the extent that the Code Administrator or his or her designee can reasonably determine that there is a likelihood of personal or property injury to any person or property entering the premises.
- (11) The placement, storage or use of upholstered sofas, couches, chairs or other indoor type furniture, appliances, seats removed from motor vehicles or other furniture not intended for outdoor use by the manufacturer, use on any open porch, carport, stoop, deck, veranda, terrace, patio or other outdoor area that is visible from nearby streets and sidewalks.
- (12) A collection place, pool or pond of stagnant or foul water or persistent dampness caused by overflowing septic tanks, manmade dams, open ditches, overflowing pipes, foundation trenches or other impoundments of any kind.

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- (13) Barns or farm animal pens, pastures or enclosures for farm animals which are not kept sanitary and clean or otherwise become a collection place for animal waste and which because of the conditions associated therewith attract rats, mice, flies or other pests or emit foul odors that can be detected or noticed on adjacent properties or are otherwise not kept in a sanitary condition.
- (14) Dog lots, pens, pet enclosures of all kinds, outdoor areas where dogs or other pets are chained or kept or areas where dogs and cats are permitted to roam which become a collection place for dog, cat or pet waste and excrement and which attract flies or other pests, emit foul odors which can be detected or noticed on adjacent property or are not kept in a sanitary condition.
- (15) A collection place for sewage and sewage drainage or the seepage from septic tanks, broken or malfunctioning plumbing and sewer pipes or any other seepage of dangerous, hazardous or poisonous liquids.
- (16) A collection place for tree limbs, dried brush, dead vegetation, stumps or other decayed wood and materials or other similar rubbish.
- (17) Any discharge into or polluting of any stream, creek, river or other body of water or the discharge of any dangerous substance or any other material likely to harm the water or any vegetation, fish or wildlife in or along the water or the storage of such harmful materials and substances in a manner so that it is likely that streams, creeks, rivers or other bodies of water will become polluted or adversely affected in any manner.
- (18) Any condition which blocks, hinders, or obstructs in any way the natural flow of branches, streams, creeks, surface waters, ditches, or drains, to the extent that the premises is not free from standing water.
- (19) Any conditions or use of property, which results in the emission of pollutants and particles into the atmosphere or causes noxious odors, vapors and stenches to be discharged into the air.
- (20) All fences shall be maintained in good condition, including but not limited to paint, stain, and repair of damaged portions, rusted metal, holes, loose components, and sagging fence portions.
- (21) *Nuisance vehicle.* A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:
 - (a) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or
 - (b) A point of heavy growth of weeds or other noxious vegetation which exceeds eight inches in height;
 - (c) In a condition allowing the collection of pools or ponds of water; or
 - (d) A concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor; or
 - (e) An area of confinement which cannot be operated from the inside, such as, but not limited to, trunks or hoods;

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- (f) So situated or located that there is a danger of it falling or turning over; or
 - (g) A collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind; or
 - (h) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
 - (i) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Land Use Administrator/or designee.
- (22) Any condition detrimental to the public health which violates the rules and regulations of the Union County Health Departments.
- (C) (1) When any condition in violation of this section is found to exist, the Land Use Administrator or persons as may be designated by the Town Council shall give notice to the owner of the premises to abate or remove such conditions within ten days. The notice shall be in writing, shall include a description of the premises sufficient for identification and shall set forth the violation and state that, if the violation is not corrected within ten days, the city may proceed to correct the same as authorized by this section. Service of the notice shall be by any one of the following methods.
- (a) By delivery to any owner personally or by leaving the notice at the usual place of abode of the owner with a person who is over the age of 16 years and a member of the family of the owner.
 - (b) By depositing the notice in the U.S. Post Office addressed to the owner at his last known address with regular mail postage prepaid thereon.
 - (c) By posting and keeping posted, for ten days, a copy of the notice, in placard form, in a conspicuous place on the premises on which the violation exists, when notice cannot be served by method (a) and (b) above.
- (2) The town may notify a chronic violator of the town's public nuisance ordinance that, if the violator's property is found to be in violation of this ordinance, the town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation. The expense of such action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be sent by registered or certified mail. When service is attempted by registered or certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If service by regular mail is used, a copy of the notice shall be posted in a conspicuous place on the premises affected. A chronic violator is a person who owns property whereupon, in the previous calendar year, the town gave notice of violation at least three times under any provision of the public nuisance ordinance.
- (D) If the owner of any property fails to comply with a notice given pursuant to this section, within ten days after the service of the notice, he or she shall be subject to prosecution for violation of this section in accordance with law and each day that the failure continues shall be a separate offense. In addition, the town may have the condition described in the notice abated, removed or otherwise corrected and all expenses incurred thereby shall be chargeable to and paid by the owner of the property and shall be collected as taxes and

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levies are collected. All expenses shall constitute a lien against the property on which the work was done.

- (E) The procedure set forth in this section shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances.

APPEAL

The Resident or property owner may appeal the decision of the Land Use Administrator in writing within 15 days. The appeal will be heard within 45 days by the Board of Adjustment.

PENALTY

- (A) Violations of shall constitute a Class 3 misdemeanor pursuant to G.S. § 14-4, punishable by a fine of up to \$200 and imprisonment in the discretion of the court.
- (B) If the person upon whom such notice is served fails, neglects, or refuses to remedy such condition within the time allowed, the Land Use Administrator or designee appointed by the Town Council, shall cause such condition to be remedied. **After five (5) days, the town may fine the owner and/or occupant up to \$50.00. After ten (10) days, the town may take any necessary action to remedy such condition.** The expense of the action and a fine of \$500.00 shall be paid by the person in default. In the event charges for the removal or abatement of a public nuisance are not paid as specified, such charges shall become a lien upon the land or premises where the nuisance occurred and shall be subject to collection as unpaid ad valorem taxes as provided in N.C. G.S 160A-193.

RIGHT OF ENTRY

For the purposes of enforcing the provisions of this article, the town Land Use Administrator may at all reasonable times enter in and upon any premises within his jurisdiction.

If any provision of this Ordinance is adjudged invalid or if the application there of 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.

This Ordinance is adopted the 12th day of April, 2010 and shall become effective the

12th day of April, 2010

Town Clerk

Mayor

Ordinance Amended September 13, 2010
Ordinance Amended November 12, 2018
Ordinance Amended May 11, 2021
Ordinance Amended April 12, 2022

Approve Minutes



**Town of Fairview
Planning Board Meeting
February 21, 2023**

The following Planning Board members were present: Chrisie Black, Doug Buchanan, Mike Medlin, Greg Morgan, Josh Presley, Bill Thomas, Fred Rogers (Alt.), Rodney Stephens (Alt.). Sharon Clontz was absent.

Others present: Ed Humphries, Land Use Administrator/Deputy Clerk; Teresa Gregorius, Town Clerk and Spencer Thomas, Administrative Assistant

Public Comments

None

Items of Business

A. Code Enforcement

Ed Humphries presented several different code enforcement violations that he has recently received. He noted each violation and what process he went through to rectify the violation. The Board discussed the various violations and decided to research the livestock ordinance further at the next meeting.

B. Website

Mr. Humphries reviewed the land use area of the Fairview website with the Board. He reported to them that we could now take credit cards on the website.

C. Minutes

Bill Thomas made a motion to approve the October 18, 2022 minutes. Josh Presley seconded the motion. Board members Black, Buchanan, Medlin, Morgan, Presley, Thomas and Rogers (Alt) voted yes (7-0).

Mike Medlin made a motion to adjourn. Chrisie Black seconded the motion. Board members Black, Buchanan, Medlin, Morgan, Presley, Thomas and Rogers (Alt) voted yes (7-0).

Respectfully submitted,

Teresa Gregorius, Town Clerk

Doug Buchanan, Chairman