

**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;
- (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)

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 (except for Section 2-4) shall constitute a Class 3 misdemeanor pursuant to North Carolina General Statute 14-4(a), punishable by a fine of up to \$500.00 and imprisonment in the discretion of the court; (Amended 11/13/17)
- (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.