

## **AN EXERCISE OF THE GENERAL POLICE POWER ORDINANCE**

**BE IT ORDAINED**, by the McDowell County Board of Commissioners that

### **Article I. Exercise Of The General Police Power**

#### **Section 1. General Ordinance-Making Power**

**WHEREAS**, pursuant to Chapter 153A-121 et al., of the General Statutes of North Carolina, a county 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

**WHEREAS**, the Board of Commissioners of McDowell County hereby determines that the health, safety, welfare, and the peace of the citizens of this county would be promoted by the adoption of the following ordinance.

#### **Section 2. Territorial Jurisdiction of County Ordinances**

This ordinance shall be in effect in all of McDowell County except the incorporated areas of the City of Marion and the Town of Old Fort.

#### **Section 3. Criminal Penalties**

Any violation of any provision of this ordinance shall constitute a Class III misdemeanor pursuant to G.S. 14-4 and shall subject the violator to a fine not to exceed \$500.

### **Article II. Regulations**

#### **Section 1. Peddling and Soliciting**

##### **A. Definitions**

**Peddler** – Any person who transports goods from place to place and sells or offers for sale such goods, or who, without traveling from place to place, sells or offers for sale any goods from any vehicle or device; provided, that any person who separates the acts of sale and delivery for the purpose of evading the provisions of this Section shall be deemed a peddler

**Solicitor** – Any person who travels from residence to residence taking or offering to take orders for the sale of goods, books, and periodicals for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance.

## B. Permit Required

It shall be unlawful for a peddler who calls on residences or solicitor as defined in this Section to engage in such business in the county without first obtaining a permit therefore in compliance with the provision of this Section. Should any person employed by another as a peddler or solicitor change employment, such person shall be required to obtain a new permit.

## C. Permit Application

Each and every person doing business in the county as a peddler or solicitor shall file with the county tax collector on a form to be provided for this purpose, an application for a permit, which shall contain the following information:

1. Name and address of individual filing application;
2. Name and address of principal or employer if applicant is an agent or employee;
3. Credentials showing relationship of agent or employee;
4. Description of applicant showing height, weight, age, sex, color, and distinguishing characteristics, if any;
5. The goods to be sold or offered for sale, or the services to be rendered;
6. The period of time during which the business will be carried on in the county;
7. Description of automobile or other vehicle to be used in the business, including make, model, body style, color and license number;
8. Whether or not the applicant, his principle or employer, or any person having management or supervision of the applicant's business has been convicted of a crime, exclusive of motor vehicle offenses, the nature of the offense and the punishment assessed therefore.

## D. Issuance of Permit

1. Upon receipt of the application, the County Tax Collector shall cause to be made such investigation of the applicant's moral character and business responsibility as is necessary to protect the public health, safety, and welfare. If, as a result of the investigation, the character and responsibility of the applicant appear to be unsatisfactory, the application will be denied. If the results of this investigation indicate that the character and responsibility of the applicant are satisfactory, the County Tax Collector shall issue a permit. No person shall be issued a permit that

has been convicted in the last ten (10) years of a felony or a misdemeanor involving serious moral turpitude.

E. Permit Fee

No fee shall be charged.

F. Exceptions

1. Nothing contained in this Section shall prohibit the sale of articles or merchandise or the solicitation of any funds by residents of McDowell County, in behalf of tax exempt civic, religious, educational, or charitable purposes; provided such organizations furnish for each person selling articles of merchandise or soliciting funds for said organizations an identification card which will identify the organization for whom said person is selling or soliciting.
2. The provisions of this Section shall not apply to any person, firm, or corporation who sells or offers for sale ice, wood for fuel, fish, beef, mutton, pork, bread, cakes, pies, products of the dairy, products of the farm, poultry, eggs, livestock, or articles produced by the individual vendor offering them for sale, but shall apply to medicines, drugs, or articles assembled.
3. The provisions of this Section shall not apply to any person, firm or corporation selling or offering to sell while at a flea market or trade lot.

**Section 2. Noise Regulation**     Replaced by Noise Ordinance adopted August 2013.

- ~~A. Subject to the provision of this Section, the creation of any unreasonably loud, disturbing and unnecessary noise in the county is prohibited. Noise of such character, intensity and duration that it tends to annoy, disturb, or frighten the citizens is in violation of this Section.~~
- ~~B. The following acts are deemed to be in violation of this Section, but said enumeration shall not be deemed to be exclusive, namely:~~
- ~~1. The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal; the use of such signal devices on vehicles which are in motion shall be allowed only if meant as a danger signal; the creation by means of any such signal device of any unreasonably loud or harsh sound; the sounding of such device for any unnecessary and unreasonable period of time.~~
  - ~~2. The use of any gong or siren upon any vehicle, other than Police, Fire, or other emergency vehicle.~~

- ~~3. The playing of any radio, phonograph or other musical instrument in such a manner or with such volume as to disturb the quiet comfort or repose of any reasonable person in any dwelling, hotel or other type of residence.~~
- ~~4. The keeping of any animal or bird, which by causing frequent or long continued noise, will disturb the comfort and repose of any reasonable person in the vicinity.~~
- ~~5. The use of any automobile, motorcycle or other vehicle in such a manner to create a loud or unnecessary noise.~~
- ~~6. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of danger.~~
- ~~7. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, or motor boat engine, except through a muffler or other device which will effectively diminish loud or explosive noises.~~
- ~~8. The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled.~~
- ~~9. The creation of any excessive noise on any street adjacent to any school, institution of learning or court while the same are in session, or within one hundred and fifty feet of any hospital, where such noise might unreasonably interfere with the working of such institution.~~
- ~~10. The creation of any excessive noise on Sundays on any street adjacent to any church.~~
- ~~11. The sounding of any bell or gong attached to any building or premises, which may disturb the quiet or repose of reasonable persons in the vicinity~~
- ~~12. The shouting and crying of peddlers, barkers, hawkers, and vendors, which may disturb the quiet and peace of a neighborhood.~~
- ~~13. The use of any drum, loud speakers or amplifiers on trucks or other moving vehicles, for advertising purposes, except where specific license is given by the County Commissioners.~~
- ~~14. The use of any mechanical loud speakers or amplifiers on trucks or other moving vehicles, for advertising purposes, except where specific license is given by the County Commissioners.~~
- ~~15. The firing or discharging of guns, squibs, crackers, gun powder or other combustible substances in the streets, or elsewhere, for the purpose of making noise or disturbance, except by permit from the County Commissioners.~~

~~16. Shouting or screaming in a loud and boisterous manner so as to disturb the public peace.~~

~~17. Using any language calculated to annoy the public or to bring on a breach of the peace.~~

### **Section 3. Visibility of Drive-In Theater Motion Picture Screens**

- A. It shall be unlawful for any person, firm, or corporation operating a drive-in motion picture theater in McDowell County to establish, operate or maintain a theater screen in the vicinity of any public street upon which pictures are being projected is visible to any person operating a motor vehicle upon such street or highway. Each time pictures are projected upon such theater screen in violation hereof shall be considered as a separate offense.

### **Section 4. Violations Within a Public Vehicular Area**

#### **A. Definitions**

**Public Vehicular Area** – Any drive, driveway, road, roadway, street or alley upon the grounds and premises of any public or private hospital, college, university, school, orphanage, church, or any of the institutions maintained and supported by the State of North Carolina or any of its subdivisions; or upon the grounds and premises of any service station, drive-in theater, supermarket, store, restaurant, shopping center, officer building, or any other business, establishment providing parking space for customers, patrons, or the public.

**Disorderly Conduct** – Any disorderly or violent conduct or the imminent threat of such conduct that exceeds the bounds of social toleration normal for the time and place in question which occurs in, affects persons in, or is likely to affect persons in a place to which the public has access.

#### **B. Disorderly Conduct at Public Vehicular Area**

No person at a public vehicular area shall engage in disorderly conduct, or use vulgar, obscene, or profane language in a loud or boisterous manner.

### **Section 5.**

Invalidation of any part of this ordinance shall not render invalid the remainder of the ordinance.

**Section 6. Effective Date**

This ordinance shall be effective on and after the 12<sup>th</sup> day of August, 2002.

s/Michael Thompson  
Chairman of the Board  
of Commissioners of  
McDowell County, NC

s/Carrie Padgett  
Clerk to the Board of  
Commissioners  
McDowell County, NC