

**NOISE ORDINANCE OF MCDOWELL COUNTY, NORTH CAROLINA**

**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 within the incorporated areas of the City of Marion and the Town of Old Fort.

**Section 3. Penalties**

A. The First Four (4) Violations of this ordinance shall subject the offender to a civil penalty; The Fifth (5) and subsequent violations shall be punishable as a Class III Misdemeanor. Violations of this ordinance shall subject the offender to a civil penalty to be recovered by the County in a civil action in the nature of debt if the offender does not pay the penalty within a period of five (5) business days after being cited. Citation shall be in writing, signed by a law-enforcement officer, and shall be delivered or mailed to the offender either at his residence or at his place of business, or at the place where the violation occurred. Any continuance or recurrence of any violation of this ordinance, after cited, will constitute a separate and distinct violation. Complaints will be kept on file for one year.

B. Penalties for violations shall be assessed as follows:

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|---------------------|---|
| 1. First Violation  | Warning                                   |
| 2. Second Violation | \$100.00 Fine                             |
| 3. Third Violation  | \$250.00 Fine                             |
| 4. Fourth Violation | \$500.00 Fine                             |
| 5. Fifth Violation  | Class 3 Misdemeanor pursuant to G.S. 14-4 |

**C. False Complaints will be subject to N.C.G.S 14-225**

Any person who shall willfully make or cause to be made to a law enforcement agency or officer any false, misleading or unfounded report, for the purpose of interfering with the operation of a law enforcement agency, or to hinder or obstruct any law enforcement officer in the performance of his duty, shall be guilty of a Class 2 misdemeanor.

**Section 4. Noise Regulation**

- A. Subject to the provision of this Section, the creation of any unreasonably loud, disturbing or 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 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 performance of any open-air band or the playing of any radio, phonograph, stereo, sound reproducing system, sound-producing, sound amplifying, 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 playing of any radio, cassette player, compact disc, videotape, or disc, or other similar device for reproducing sound located on or in any motor vehicle on a public street, highway, within any public vehicular area, within the motor vehicular area of any public or private parking lot or park or on the premises of a private residence in an unreasonably loud, annoying, disturbing or unnecessary manner.
  5. 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.
  6. The use of any automobile, motorcycle, four –wheeler, or go cart or other vehicle in such a manner to create an excessively loud noise.

7. 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.
  8. 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 excessive noises.
  9. The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled.
  10. 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.
  11. The creation of any excessive noise on Sundays on any street adjacent to any church.
  12. 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.
  13. The shouting and crying of peddlers, barkers, hawkers, and vendors, which may disturb the quiet and peace of a neighborhood.
  14. The use of any drum, 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.
- C. A presumption is created that the noise is unreasonably loud, annoying, disturbing and unnecessary or is for the purpose of making noise or disturbance if the sound generated or noise vibration there from continues for a prolonged period or following a verbal warning by law-enforcement officer: and particularly but not limited to the hours between 11pm and 7am Sunday through Thursday, and between the hours of 12am and 7am Friday and Saturday.

- D. The current occupant and/guest of a property who is not the owner of the premises shall be responsible and subject to civil penalties, but not criminal liability, for actions by tenants, guests, or other licensees which constitute violations of this section. Absentee owners must be notified by first class mail of the first or previous violations that have occurred within the previous twelve (12) month period before a subsequent increased civil penalty may be imposed.
- E. The discharge of any firearm is exempt from the regulations of this ordinance as long as the discharge is related to legal hunting activities, recreation, training, or target practicing purposes.
- F. Noises resulting from farming operations, including but not limited to noises generated by machinery, equipment and farm animals, shall be exempt from this ordinance.

**Section 5. Severability**

Should any section or provision of this Ordinance be decided by a Court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole or part thereof other than the part so declared to be unconstitutional or invalid.

**Section 6. Conflict with Other Laws**

Whenever the regulations of this Ordinance are in conflict with the requirements of Federal or State statute, or other County ordinance, the more restrictive standard shall govern.

**Section 7. Effective Date**

This Ordinance was adopted by the McDowell County Board of Commissioners and shall take effect and be in force on the 12th day of August 2013.

s/David N. Walker  
Chairman of the  
Board of Commissioners  
McDowell County, NC

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