

POOL HALL AND OTHER AMUSEMENTS ORDINANCE
OF
MCDOWELL COUNTY, NORTH CAROLINA

The Board of Commissioners of McDowell County do ordain as follows:

Section 1. License Required.

No person shall maintain or operate any pool or billiard table where persons can play pool or billiards by the payment of a fee or charge, directly or indirectly, for the privilege of playing pool or billiards within McDowell County and outside of the corporate limits of any municipality, unless he shall first have secured a license from the county to do so. Such license shall be an annual license expiring on June 30 each year, shall be renewed each fiscal year and shall not be transferable. The licenses fee shall be prorated on a twelve month basis.

Section 2. Application for License.

The Board of Commissioners shall approve a standard form of application for license reflecting the laws and ordinances of the State of North Carolina and the County of McDowell from time to time. The license application form shall require at least the following information from each applicant:

- (1) The name of the applicant;
- (2) the names of all partners if the applicant is a partnership;
- (3) the business location and premises for which the licenses is requested;
- (4) the number and size of pool or billiard tables proposed to be operated;
- (5) if the applicant is an individual, whether he is age 18 or over;
- (6) whether the applicant or any person listed in the application as a partner, officer, director or stockholder of the applicant has ever been convicted of any felony (involving moral turpitude) or any violation of the alcoholic beverage control laws or drug and controlled substances laws of this or any other state or jurisdiction;
- (7) whether the applicant or any person listed in the application as a partner, officer, director or stockholder of applicant has been adjudged guilty of violating this ordinance;
- (8) the name of the owner of the premises where the applicant proposes to maintain or operate a pool hall;
- (9) and any other relevant information which the Board of Commissioners may reasonably request.

Section 3. Application; Where Filed.

The form of application required by Section 2 shall be provided to applicants by the Tax Collection Supervisor, and completed application shall be delivered to the Clerk to the Board. No license shall be issued for a period of 30 days following receipt of any application by the Tax Collection Supervisor containing all the required information. A copy of the application shall be furnished by the Tax Collection Supervisor to the Clerk to the Board, the Sheriff, and to the Building Inspector, for verification. The Board of Commissioners shall issue a license to the applicant at its first regular meeting following the 30-day waiting period, unless it shall refuse to grant said license pursuant to Section 4.

Section 4. When License Refused.

No license shall be issued for the operation of a pool hall if the premises in which the same is to be conducted do not comply with the laws of this state or the ordinances and regulations of the County of McDowell, and, if within the extraterritorial jurisdiction of any municipality, the applicable ordinances and regulations of such municipality. The Board of Commissioners shall not approve the issuance of any license to:

- (1) Any person convicted of a second offense against the provisions of this ordinance within the laws two years preceding the filing of the application.
- (2) Any partnership of which a member, or any corporation of which an officer, director or ten percent stockholder, shall have been convicted as provided in subsection (1).
- (3) Any person convicted of a felony (involving moral turpitude) or of any violation of the alcoholic beverage control laws or drug and controlled substances laws of this or any other state or jurisdiction.
- (4) Any partnership of which a member, or any corporation of which an officer, director or ten percent stockholder shall have been convicted as provided in subsection (3).
- (5) Any person who is a habitual user to excess of intoxicating beverages, or who is a habitual user of narcotic drugs or controlled substances other than under the care and at the direction of a licensed physician.

Section 5. Form and Content of License.

Every license issued under this ordinance shall specify the premises for which it is granted, the applicant to whom it is granted, the number and size of pool or billiards tables to be operated thereunder, and the dates when the license shall be effective and expire. Such licenses shall be prominently posted and displayed on the licensed premises at all times.

Section 6. Prohibited Conduct.

It shall be a violation of this ordinance for a licensee or any employee of a licensee to:

- (1) Suffer or permit any gambling or game of chance on the licensed premises or other place under the control of the licensee appurtenant thereto or connected therewith, such as a parking lot or a surrounding areas of the premises.
- (2) Sell or permit the consumption of any alcoholic beverages on the licensed premises or any other place under the control of the licensee appurtenant thereto or connected

therewith; provided, however, that to the extent of any conflict with state laws, this subsection shall yield and be subordinate thereto.

- (3) Suffer or permit any intoxicated person to remain on the licensed premises or other place under the control of the licensee appurtenant thereto or connected therewith.
- (4) Suffer or permit any disorderly conduct or breach of the peace, or any conduct or condition which constitutes a public nuisance or a menace or threat to the public health, safety or order, on the licensed premises or other areas under the control of the licensee appurtenant thereto or connected therewith.
- (5) Suffer or permit any narcotic drugs or controlled substances to be sold or possessed or consumed on the licensed premises or other areas under the control of the licensee appurtenant thereto or connected therewith.
- (6) Suffer or permit any narcotic drugs or controlled substances to be sold or possessed or consumed on the licensed premises or other areas under the control of the licensee appurtenant thereto or connected therewith.

Section 7. Employment of Certain Persons.

Any license issued under this ordinance shall be subject to revocation if the licensee knowingly employs in the operation of the pool hall or on the licensed premises any person who has been convicted of a felony (involving moral turpitude), of any violation of the alcoholic beverage control laws or drug and controlled substances laws of this or any other state or jurisdiction, or who has been convicted twice within the last two years of violating this ordinance.

Section 8. Condition of Premises.

All pool halls shall during all hours of operation be kept in a clean, neat, safe, healthful and sanitary condition, and the same shall, together with any parking lot appurtenant thereto under control of the licensee, be kept well-lighted. The licensed premises shall be subject to inspection by the county for the purpose of inspecting the condition thereof or the conduct thereon. All licensed premises shall provide clean, sanitary washrooms with separate toilet facilities for both sexes.

Section 9. Requirement as to Licensed Premises.

The licensed premises shall comply with the following specifications:

- (1) It must front a public street and shall not front on any alley.
- (2) The rooms in which pool or billiards tables are located shall be at street level of the building, and shall not be located in any basement or on any floor above the ground floor.
- (3) At least 60 percent of the front of the ground floor shall be of transparent glass such that a clear view of the interior is maintained and afforded from the entrance to the rear of the room where billiards are and pool is played.
- (4) The room wherein billiards and pool are played shall not be partitioned or otherwise subdivided; provided, closets used on for storage purposes, and washrooms, shall be permitted.

- (5) The entrance to the licensed premises shall be directly from the public street, and all entrances thereto shall be from such public street; provided, that an emergency fire door exit intended solely for emergency purposes may be located so as to comply with the applicable fire and building codes.
- (6) The Board of Commissioners upon request and for good cause may in their discretion waive or modify provisions 1-5 of this Section 9.

Section 10. Existing Business Licenses.

An existing business that desires to add no more than two pool tables must comply with all provisions of this ordinance with the exception of the licensed premises requirements listed in Section 9.

Requirement as to Licensed Premises

The existing business will be inspected by the Building Inspector and a report issued to the Board of Commissioners when the application is received by the governing body.

Section 11. Hours of Operation

All licensed pool halls shall close at midnight and no persons other than the owner, licensee or their employees shall be permitted on the licensed premises from that hour until 7:00 a.m. the following morning. Pool halls licensed hereunder shall remain closed on Sundays except during the hours from 1:00 p.m. until 6:00 p.m. No play shall be allowed on any table during the periods when licensed pool halls are required by this ordinance to remain closed.

Section 12. Responsibility for Acts of Employees

A licensee shall be responsible hereunder for violation of this ordinance by any employee or agent of the licensee of which the licensee is aware or should be aware in the exercise of reasonable diligence or diligent supervision of the business.

Section 13. Revocation of License

The Board of Commissioners may, after notice to the affected licensee and an opportunity to be heard at a public hearing, revoke any license issued under this ordinance for the following reasons:

- (1) After a second conviction within a two-year period for a violation of this ordinance.
- (2) For making a materially false statement in the application for said license.
- (3) For any reason which would be sufficient to refuse to issue a license at the time of the application therefore.
- (4) Because the pool hall constitutes a public nuisance or is otherwise a menace or threat to the public safety, order or health.
- (5) For any violation of applicable building or fire codes or health department regulations such that occupancy and patronage of the pool hall premises would be detrimental to the public safety or health.
- (6) As provided in Section 7 of this ordinance.

If the license of a licensee is proposed to be revoked, the Board of Commissioners shall afford him at least ten days notice of the public hearing at which it will consider revocation of the license, which notice shall briefly set forth the grounds for which it is proposed to revoke said license, and the opportunity to be heard at said hearing, to be represented by counsel, and to present evidence in his favor.

Section 14. Penalty.

Any person, firm, corporation or organization who violates any of the provisions of this ordinance shall be guilty of a misdemeanor, and shall be fined not more than \$50.00 or imprisoned for not more than 30 days.

Section 15. Territorial Jurisdiction of Ordinance.

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

Section 16. Effective Date.

This revised ordinance shall be in full force and effect on and after August 4, 1992.

MCDOWELL COUNTY

Jack A. Wood, Chairman
McDowell County Board of Commissioners

ATTEST:

Carrie Padgett, Clerk to the Board