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## **CHAPTER 4. AMUSEMENTS.**

### **ARTICLE I. Bingo Games and Raffles.**

Repealed.

Editor's Note - Acts 1995, c. 837, cl. 5, provides: "That the provisions of Article 1.1 (§ 18.2-340.1 *et seq.*) of Chapter 8 of Title 18.2 and any ordinance adopted pursuant thereto by local governing bodies shall remain in effect until July 1, 1996, when the Charitable Gaming Commission shall be vested with control of all charitable gaming in the Commonwealth ...." (emphasis supplied)

### **ARTICLE II. Drive-In Theaters.**

#### **§ 4-21. Purpose.**

The purpose of this article is to protect the health, safety and welfare of the public.

#### **§ 4-22. Regulation of certain motion pictures shown at drive-in theaters.**

It shall be unlawful to screen motion pictures, classified by the motion picture industry as being suitable for display to adult audiences only, in drive-in theaters where such motion pictures are visible to the traveling public from a highway, street or other public way.

State law reference--Virginia Code § 15.2-1222.

#### **§ 4-23 through § 4-30. Reserved.**

### **ARTICLE III. Outdoor Musical or Entertainment Festivals.**

#### **§ 4-31. Purpose.**

This chapter is enacted for the purpose of providing necessary regulation for the conducting of musical or entertainment festivals conducted in open spaces not within an enclosed structure and of any gathering or group of individuals for the purpose of listening to or participating in entertainment which consists primarily of musical renditions conducted in open spaces not within an enclosed structure in the interest of the public health, safety and welfare of the citizens and inhabitants of the county.

State law reference--Virginia Code § 15.2-1200.

**§ 4-32. Definition.**

A. The term "musical or entertainment festival" or "festival" means any gathering of one hundred or more individuals for the purpose of listening to or participating in entertainment which consists primarily of musical renditions conducted in open spaces not within an enclosed structure.

B. The term "entertainment which consists primarily of musical renditions" means entertainment where the principal activity is listening to or participating in the making of music. It does not include activities where music is incidental or accessory to a primary activity as in the case of agricultural fairs, wedding receptions, religious observances, political rallies and similar activities.

**§ 4-33. Construction of article.**

The provisions of this article shall be liberally construed in order to effectively carry out the purposes of the article in the interest of the public health, welfare and safety of the citizens and residents of the county.

**§ 4-34. Permit required.**

No person, firm, or corporation shall stage, promote or conduct any musical or entertainment festival in the unincorporated areas of the county unless there shall have been first obtained a special entertainment permit for such festival, which shall not be assignable or transferable. (Ord. 5/13/98)

**§ 4-35. Organizations exempt.**

The following organizations shall be exempt from the requirements of this article:

- A. Fire departments or volunteer fire companies;
- B. Rescue squads; and
- C. Organizations sponsored by or affiliated with local schools.

**§ 4-36. Permit applications.** Applications for such special entertainment permits, whether an initial permit or a renewal permit, shall be in writing on forms provided for the purpose and filed with the County Administrator's office at least thirty days before the date of such festival's initial event and at least twenty-one days prior to the regularly scheduled meeting of the board of supervisors at which such permit application is to be (in the case of an initial permit) or might be (in the case of a renewal permit) scheduled for consideration. Such applications shall have

attached thereto and made a part thereof the plans, statements, approvals and other documents required by this article. (Ord. 5/13/98)

**§ 4-37. Consideration of applications.**

A. Initial permit applications shall be submitted to the board of supervisors for its consideration and decision. The board shall either grant or deny the permit within ten days from the date of which the application is considered. If granted, the permit shall be issued in writing on a form for the purpose and mailed by the county administrator's office to the applicant at the address indicated. If denied, the refusal shall be in writing and the reasons for such denial stated therein, and mailed by the county administrator's office to the applicant at the address indicated.

B. Any such permit shall remain valid only for the duration of the festival as specified in the application. It may, however, be renewed if the festival for which it was initially issued is repeated on an annual or other periodic basis. Any such renewal permit may be issued by the county administrator, or his/her designee (hereinafter the "responsible official"), without referral to the board of supervisors provided the responsible official is satisfied that the events to be conducted pursuant to such renewal permit are substantially similar in content, scope and duration to the events covered by the initial permit for such festival. Applications for renewal permits shall conform to the requirements of Sections 4-36 and 4-38.

If the responsible official should fail to approve such renewal within ten (10) days of submission of the completed renewal application, such application shall be submitted by the county administrator's office to the board of supervisors for consideration and decision pursuant to the provisions of the preceding paragraph A, just as if it were an initial permit application.

(Ord. 5/13/98)

**§ 4-38. Conditions for issuance.**

Such permit shall not be issued unless the following conditions are met and the following plans, statements and approvals are submitted with the application:

A. Such application for special entertainment permit shall have attached to it a copy of the ticket or badge of admission to such festival, containing the date or dates and time or times of such festival, together with a statement by the applicant of the total number of tickets to be offered for sale and the best reasonable estimate by the applicant of the number of persons expected to be in attendance.

B. A statement of the name and address of the promoters of the festival, the financial backing of the festival, and the names of all persons or groups who will perform at such festival.

C. A statement of the location of the proposed festival, the name and address of the owner of the property on which such festival is to be held, and the nature and interest of the applicant therein.

D. A plan for adequate sanitation facilities and garbage, trash and sewage disposal for persons at the festival. This plan shall meet the requirements of all state and local statutes, ordinances and regulations, and shall be approved by the county health officer.

E. A plan for providing food, water and lodging of the persons at the festival. This plan shall meet the requirements of all state and local statutes, ordinances and regulations, and shall be approved by the county health officer.

F. A plan for adequate medical facilities for persons at the festival, approved by the county health officer.

G. A plan for adequate parking facilities, crowd control and traffic control in and around the festival area approved by the sheriff.

H. A plan for adequate fire protection. This plan shall meet the requirements of all state and local statutes, ordinances and regulations, and shall be approved by the county fire chief.

I. A statement specifying whether any outdoor lights or lighting is to be utilized, and if so, a plan showing the location of such lights and shielding devices or other equipment to prevent unreasonable glow beyond the property on which the festival is located.

J. A statement that no music shall be played, either by mechanical device or live performance, in such manner that the sound emanating therefrom shall be in violation of any law or ordinance regulating noise in the county.

K. Written permission for the board of supervisors, its lawful agents or duly constituted law-enforcement officers, to go upon the property at any time for the purpose of determining compliance with the provisions of the article and the plans submitted and approved.

(Ord. 5/13/98)

**§ 4-39. Time limit for music or entertainment.**

Music shall not be rendered nor entertainment provided for more than eight hours in any twenty-four hour period, such twenty-four hour periods to be measured from the beginning of the first performance at such festival.

**§ 4-40. Violations of Article.**

A. Any person, firm or corporation who violates any provision of this article shall be guilty of a Class I misdemeanor.

B. The board may bring suits or actions in the Circuit Court of the County to restrain, enjoin or otherwise prevent violations of this article.

C. The county administrator shall have the right to revoke any permit issued under this article upon noncompliance with any of its provisions or upon noncompliance with the plans submitted and approved.

#### **ARTICLE IV. Public Dance Halls.**

##### **§ 4-41. Purpose of Article; definitions.**

A. This article is adopted pursuant to § 18.2-433 of the Code of Virginia (1950), as amended, for the purpose of regulating public dance halls within Augusta County.

B. The words and phrases used in this article shall, for the purposes of this article, have the meanings respectively assigned to them in the Code of Virginia except in those instances where the context clearly indicates a different meaning.

State law reference--Virginia Code § 18.2-433.

##### **§ 4-42. Permit required.**

A. No person, firm or corporation shall operate a public dance hall in the unincorporated areas of the county unless there shall have first been obtained from the board of supervisors a public dance hall permit for such public dance hall, which shall not be assignable or transferable.

B. The following are exempt from the requirements of this article: (1) dances held for benevolent or charitable purposes, and (2) dances held under the auspices of religious, educational, civic or military organizations.

##### **§ 4-43. Permit applications.**

A. Applications for public dance hall permits shall be in writing on forms provided for the purpose and filed in duplicate with the County Administrator.

B. The fee for a public dance hall permit shall be two hundred dollars (\$200.00).

C. The board of supervisors shall act on such applications within sixty (60) days from the date on which the application is submitted. If granted, the permit shall be issued in writing on a form for the purpose and mailed by the county administrator to the applicant at the address indicated. If denied, the refusal shall be in writing and the reasons for such denial stated therein, and mailed by the county administrator to the applicant at the address indicated.

**§ 4-44. Conditions for issuance.**

Such permit shall not be issued unless the following conditions are met:

A. The premises where the public dance hall is proposed to be located are in conformance with all ordinances and regulations of Augusta County and laws and regulations of the Commonwealth of Virginia.

B. The proposed operation of the public dance hall is in conformance with all ordinances and regulations of Augusta County and laws and regulations of the Commonwealth of Virginia.

C. The operation of the public dance hall in the proposed location, when considered with other existing public dance hall permits in the same general area, is not detrimental to the health, safety, or welfare of the public.

D. On all permits issued for premises where an ABC license has not been issued, or has been revoked, the board of supervisors shall consider the criteria set forth under §§ 4.1-222 and 4.1-223 of the Code of Virginia (1950) as amended.

E. Adequate rules and regulations for the operation of the proposed public dance hall in conformity with this chapter are adopted by the applicant.

**§ 4-45. Period of permit; renewal.**

The original public dance hall permit shall be issued for a period ending December 31 of the year of issuance and shall be renewed automatically upon payment of a renewal fee in the amount of one hundred dollars (\$100.00) which shall be due on or before the thirty-first day of December of the year immediately preceding the renewal permit year. There shall be no pro-ration of the fee payable under section 4-43 of this article where the original permit year is less than a full calendar year.

**§ 4-46. Revocation of permit.**

A. The board of supervisors may revoke at any time any permit previously issued upon the finding of reasonable cause to believe one or more of the following:

1. That the premises for which the permit was issued does not conform with all applicable ordinances and regulations of Augusta County and laws and regulations of the Commonwealth of Virginia.

2. That the operation of the public dance hall and surrounding premises under a permit issued has been detrimental to the health, welfare and safety of the public, or that the behavior at the public dance hall has resulted in the breaches of the peace or that the operation of the dance hall has been in a disorderly manner.

3. That inspection of the premises by agents of the board of supervisors or the sheriff's department of Augusta County has been hampered or obstructed in any way or at any time during the day whether the dance hall was in operation or not, or during the night when the dance hall is in operation.

4. In revoking a permit at any premises where an ABC license has not been issued or has been revoked, the board of supervisors shall consider the criteria set forth under §§ 4.1-222 and 4.1-223 of the Code of Virginia (1950) as amended, and may revoke for a violation thereof.

B. Upon revocation of a permit by the board of supervisors, further application by the original holder shall not be considered for a period of one year from the effective date of revocation.

#### **§ 4-47. Procedure for revocation of permits.**

A. The board of supervisors shall not revoke a permit for a public dance hall until the holder of the permit has been given notice as herein provided and the board has held a public hearing on the issue of revocation.

B. Such hearing shall not be conducted prior to the service on the permit holder of a notice stating the time when and place where such hearing would be conducted at least twenty-one (21) days before such hearing. Service on the permit holder may be:

1. By certified mail, return receipt requested, to the permit holder at his last known post office address, which shall be the address on the application unless a change of address has been filed with the clerk of the board, or

2. By personal service by the clerk of the board, or his agent, on the permit holder or his agent or employee at the premises for which the permit is granted.



C. The notice of the hearing shall set forth the grounds to be relied upon by the board of supervisors for the determination of the question of revocation, but need not set forth the details of the evidentiary matter in support thereof.

D. The board of supervisors shall conduct the hearing as an informal administrative hearing and hear new and additional evidence beyond that set forth in the notice, and the applicant may be given, if requested, ten (10) days to file affidavits of rebuttal to such new charges, which will not, however, prejudice the board of supervisors from calling before them the affiants and subjecting them to examination.

**§ 4-48. Minimum rules and regulations.**

A. It is the responsibility of the holder of a permit to see that all rules and regulations are obeyed on the premises for which a permit is issued, and to see that unobstructed admittance is provided at all times for agents of the board of supervisors or the sheriff's department of Augusta County for observation of compliance with all applicable ordinances and regulations of Augusta County and laws and regulations of the Commonwealth of Virginia.

B. Use of the public dance area for the purpose of dancing shall not be permitted between the hours of 1:00 a.m. and 1:00 p.m.

**§ 4-49. Penalties.**

A. In addition to the procedures set forth for revocation of a permit and independent thereof, any person, firm or corporation who violates any provision of this article shall be guilty of a Class 3 misdemeanor.

B. The board of supervisors may bring suits or actions in the Circuit Court of the county to restrain, enjoin or otherwise prevent violations of this article.

**§ 4-50. Reserved.**

**ARTICLE V. Fireworks.**

**§ 4-51. Permits for display of fireworks.**

The county administrator may issue a permit, upon application in writing, for the display of fireworks by fair associations, amusement parks, or by any organization or group of individuals, subject, however, to the terms and conditions prescribed by this article.

State law reference--Virginia Code § 15.2-974

**§ 4-52. Terms and conditions prescribed.**

All permits issued pursuant to this article shall be subject to the following terms and conditions:

A. Display of fireworks shall be limited to the place or places identified in the application and shall in each case be within a public park or other place open to the public.

B. Use of fireworks shall be under the supervision and control of an expert in the handling thereof.

C. No display of fireworks shall violate any statute or ordinance regulating noise in the county.