

AMELIA COUNTY BOARD OF SUPERVISORS

ORDINANCE TO REPEAL THE COUNTY OUTDOOR MUSICAL OR ENTERTAINMENT FESTIVAL ORDINANCE AND TO ADOPT THE AMELIA COUNTY SPECIAL EVENT ORDINANCE

Whereas, the County first adopted an ordinance to address the public health, safety and welfare as it pertains to certain outdoor musical and entertainment events on March 12, 1973; and

Whereas, the County replaced the 1973 ordinance in 1997 with the enactment of the “*Outdoor Musical or Entertainment Festival Ordinance*”; and

Whereas, the multitude of such events in the county has resulted in the Board of Supervisors having to continually consider and approve the permits required by such ordinance; and

Whereas, due to meeting limitations on the governing body and due to unforeseen time constraints that may occur with the permit applicant, the Board of Supervisors has determined that the great majority of special event permits should be considered administratively, not legislatively; and that a new approval process will greatly improve governmental efficiency and provide citizens with better service; and

Whereas, the Board of Supervisors has also determined that outdoor activities involving large gatherings of people, in addition to musical events or festivals, should also require a permit in order to protect the public health, safety and welfare of Amelia residents; and

Whereas, the existing fee structure for special event permits is outdated, requiring certain fees to be increased in order to cover the County’s administrative costs.

Now Therefore Be It Ordained by the Amelia County Board of Supervisors that the “*Outdoor Musical or Entertainment Festival Ordinance*” adopted on December 17, 1997, including any subsequent amendments, thereto is hereby repealed, and

Be It Further Ordained, that the “*Amelia County Special Event Ordinance*” is hereby adopted, as follows:

AMELIA COUNTY SPECIAL EVENT ORDINANCE

Section. 1. Permit for special events.

- a. Events for Which Permit Required.** No person or entity shall hold, organize or sponsor any of the following events or activities unless a permit has been granted by the county as provided herein:

1. Parades, processions, marathons, bicycle races and other events utilizing the sidewalks or vehicular travel portion of county streets and highways.
2. Carnivals, bazaars and similar events which offer such activities as amusement rides or devices, games of skill, animal rides or exhibitions, food concessions, and informal live entertainment.
3. Outdoor festivals or other musical entertainment offering live or recorded music for public or private audiences in other than a fully enclosed building, with the exception of outdoor musical entertainment at any private residence or place of worship attended by fewer than one hundred (100) persons.
4. Scheduled races, exhibitions or other events involving the operation of motorized vehicles of any type, unless such races, exhibitions or events are already permitted under the zoning applicable county zoning provisions.
5. Scheduled gatherings of one hundred (100) or more persons on any public property, other than parks.

b. Application: Contents and Fee. An application for any permit required by this ordinance shall be made to the county administrator or his designee, accompanied by a nonrefundable processing fee as provided in section 2. The application shall be submitted not less than thirty (30) days nor more than six (6) months prior to the date of the proposed activity. An application for a major event held for two (2) or more consecutive days shall be filed not less than sixty (60) days nor more than six (6) months before the first date of the proposed activity. The application shall contain the following information, utilizing form provided by the county administrator:

1. Description of the proposed activity.
2. Date, time and location/route of proposed activity and the anticipated number of participants and spectators.
3. Provisions for sanitation facilities, crowd, noise and traffic control, parking and loudspeaker placement.
4. Food and beverages to be sold or distributed.
5. The designation of an individual or individuals who shall be responsible for ensuring compliance with the provisions of this section and the conditions of the permit.
6. Proposed equipment, vehicles, staging, bleachers, shelters and electricity requirements.

7. If revenue is anticipated to be generated by the activity, the individuals or entity that will benefit therefrom.
8. Such additional information or assurances as the county administrator may require.

c. Application: Submission and Processing Requirements.

1. A completed application shall be processed and either granted or denied within a reasonable time of receipt, but not more than thirty (30) days of receipt of any application requiring sixty (60) days' advance filing or fifteen (15) days following receipt of any application requiring thirty (30) days' advance filing. Such decision shall be in writing, setting forth the conditions of the permit, if granted, or the reasons for denial. The decision shall be provided to the applicant at the address stated in the application.
2. If an application is submitted after the applicable filing deadline set forth herein, then the county administrator or his designee may modify the requirements of subsections (a) and (b) upon a demonstration by the applicant, in writing, that circumstances giving rise to the proposed event did not reasonably allow the applicant to apply for a permit within the time prescribed.

d. Permit Approval Process.

1. The permit shall be granted by the county administrator if the following conditions are met:
 - i. Any proposed use of public property, right-of-way, or facilities will not unreasonably interfere with the normal use of the property, right-of-way or facility by the county or the general public.
 - ii. The proposed activity does not present a safety or health risk to participants, spectators or the public, or an environmental hazard.
 - iii. The proposed activity is compatible with the surrounding area or neighborhood, in consideration of anticipated noise, traffic, crowd capacity and other identifiable factors.
 - iv. The applicant has provided proof of liability insurance underwritten by insurers acceptable to the county, indemnifying the applicant against any perils, suits, claims and losses which may arise in connection with the proposed activity. Such coverage shall be in amounts consistent with a standard schedule approved by the county manager, based upon risks

associated with each type of event, in consideration of anticipated attendance.

- v. County resources necessary to support the proposed activity are reasonably available.
 - 2. When the grounds for anticipated denial of an application can be corrected by altering the date, time, duration, route or location of the event, the county administrator or his designee may conditionally approve the application, subject to the applicant's acceptance of such conditions. Any conditions so imposed shall provide only for such modification of the applicant's proposal as may be necessary to achieve compliance with this section.
 - 3. Prior to the final denial of any application, the applicant shall be apprised of the reason therefore and shall be entitled to a hearing before the county administrator or his representative.
- e. **Permit Requirements.** The county administrator or his designee may impose, as conditions to granting a permit, such further requirements and restrictions as will reasonably protect the public health, safety, welfare, peace and order. Such conditions may include, but are not limited to:
- 1. The payment of a reasonable fee for the use or allocation of county property, equipment and personnel not exceeding the actual costs incurred by the county in connection with the proposed activity; and the posting of a performance bond or other surety securing payment of such fee.
 - 2. The provision of adequate crowd and traffic control, security, fire protection, food handling, waste and refuse disposal, and noise restrictions.
- f. **Exceptions for Expressive Activities.**
- 1. The requirements for insurance and for payment of fees for the use or allocation of county property, equipment and personnel authorized by this section shall not be imposed for any noncommercial gathering, parade or procession held for purposes of expressive activity, upon demonstration, in writing, that the applicant is financially unable to pay the costs of such fees and services and that the right to engage in expressive activity would be unreasonably curtailed by failure to waive such requirements; provided, that insurance may be required for collateral activities such as food service and the use of structures and equipment which present a demonstrable risk or hazard.
 - 2. Upon demonstration that the enforcement of the limitation provisions of subsections (b) and (c) would unreasonably restrict the right of free expression, the county administrator shall waive the time prescribed for advance notice of an

event and impose only such provisions as will not unreasonably restrict the element of timeliness of the expressive activity.

3. For purposes of this ordinance, expressive activity shall include any public gathering, procession or parade, the primary purpose of which is the exercise of the rights of assembly and free speech as guaranteed by the First Amendment of the Constitution of the United States.
- g. **Revocation or Suspension.** The county administrator, or his designee, shall be authorized to revoke or suspend any permit previously granted by him (1) for violation of any provisions of this section or of any condition of the permit; (2) for any material misrepresentation, intentional or otherwise, made in connection with the application; (3) when weather conditions render the subject activity unsafe; and (4) when otherwise required in the interest of public health, safety and welfare or environmental considerations. In the event a permit is revoked or suspended, the permittee shall immediately discontinue, or cause to be discontinued, the activity for which the permit was granted, but shall thereafter be entitled to a hearing concerning the revocation or suspension decision as provided by subsection (d)(3).
- h. **Duration.** Any permit granted under the provisions of this section shall remain in effect for the duration of the proposed activity; provided, however, that any permit for outdoor musical entertainment granted to any restaurant or any establishment holding an on-premises license to sell alcoholic beverages may be issued for a period not to exceed one (1) year.
- i. **Other Requirements.** The granting of any permit required by this section shall not eliminate any requirement for any business license, any other permit(s) which may be prescribed by any other federal, state or local statutes, ordinances, rules or regulations, or compliance with any other applicable federal, state or local statutes, ordinances, rules or regulations.
- j. **Administration.** The county administrator may designate one (1) or more officers or employees of the county to administer the provisions of this section.

Section 2. Permits requiring governing body approval.

Notwithstanding any provision to the contrary, any permit required by this ordinance for an event that is known to involve a gathering of over 500 people (or if the county administrator, or his designee, has reason to believe that 500 or more people are likely to be present at the event) shall require approval by the board of supervisors in order to be issued. Upon receipt of an application for such permit, the county administrator, or his designee, shall transmit the application to the board of supervisors for its consideration at its next regularly scheduled meeting. Approval or denial decisions of the board of supervisors on permits considered under this section are final.

Section 3. Permit processing fee.

A nonrefundable processing fee, as follows, shall be submitted with the completed application for a special event.

- a. Festival, art show or water event held for two or more consecutive days . . . **\$ 50.00**

- b. Parade, procession, march, footrace, bicycle race, other event requiring closure of major thoroughfare;
Continuing sport tournament (season permit) . . . **\$100.00**
Outdoor musical entertainment (season permit) . . . **\$100.00**

- c. Race, march or procession requiring closure or traffic and pedestrian control of boardwalk, sidewalk or residential street . . . **\$ 50.00**
Outdoor (tent) circus . . . **\$ 50.00**
Large carnival 6 or more amusement rides . . . **\$ 50.00**
Motorized vehicle contest or exhibition . . . **\$ 50.00**
Commercial motion picture or television production . . . **\$ 50.00**
Musical or entertainment event on public property, 1 day . . . **\$ 50.00**

- d. Small carnival, bazaar, block party . . . **\$ 25.00**
Outdoor musical event or activity on private property . . . **\$ 25.00**

- e. No fee shall be required to process a permit for a scheduled public gathering not requiring street closure, held for noncommercial purposes, in exercise of the right of expressive activity.

Section 4. Penalties for violations

Any person convicted of violating any provision of this ordinance shall be guilty of a Class 1 misdemeanor, punishable by a fine of up to \$2,500.00 or confinement in jail up to one year, either or both.

Be it further Ordained that this ordinance, as approved by the Board of Supervisors upon due consideration and after all required public notice and hearing, shall take effect immediately this 17th day of August, 2011.

Franklin D. Harris, Chairman
Board of Supervisors
County of Amelia, Virginia

ATTEST:

Norma Duty
Assistant County Administrator