

CHAPTER 3

AMUSEMENTS AND ENTERTAINMENT

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ARTICLE I. IN GENERAL

Secs. 3-1 to 3-20. Reserved.

ARTICLE II. OUTDOOR MUSICAL OR ENTERTAINMENT FESTIVALS

Sec. 3-21. Purpose of Article.

This article is enacted pursuant to 15.2-1200 of the Code of Virginia for the purpose of providing necessary regulation for the conduct of musical or entertainment festivals in the interest of the public health, safety and welfare of the citizens and residents of the County.

Sec. 3-22. Definitions.

Board shall mean the Board of Supervisors of Bath County, Virginia.

Musical or entertainment festival or festival shall mean any gathering of groups or 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.

Sec. 3-23. Construction of Article.

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

Sec. 3-24. Violations of Article.

Any person who violates any provision of this Article shall be guilty of a Class 1 misdemeanor. Each individual violation continuing in excess of twenty-four (24) hours shall constitute a separate offense. The Board may bring suit in the Bath County Circuit Court to restrain, enjoin or otherwise prevent the violation of this Article.

Cross reference-Penalty for Class 1 misdemeanor, § 1-14.

Sec. 3-25. Reserved.

Sec. 3-26. Permit required.

No person shall stage, promote or conduct any music or entertainment festival in the unincorporated areas of the County, unless there shall first be obtained a permit to do so issued pursuant to the provisions of this Article.

Sec. 3-27. Application generally; exemptions.

(a) Application for a permit required by this Article shall be in writing, on forms provided for the purpose, and filed, in duplicate, with the County Administrator, at least thirty (30) days before the date of the proposed festival and at least twenty one (21) days prior to a meeting of the Board.

(b) Fire departments, rescue squads, agricultural fairs, entertainments sponsored by local high schools, sporting events sponsored by local high schools, or any event in which the participants are all high school students are exempt from this requirement.

Sec. 3-28. Documents, plans, etc., to accompany application.

A permit required by this Article shall not be issued unless the following conditions are met and the following documents, plans, statements and approvals are submitted with the application:

(a) A copy of the ticket or badge of admission to the festival, containing the date or dates and time or times of the 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 festival, the name and address of the owner of the property on which the festival is to be held and the 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 will not be accepted unless approved by the health officer.

(e) A plan for providing lodging (if appropriate), food, and water for the persons at the festival. This plan shall meet the requirements of all State and local statutes, ordinances and regulations and will not be accepted unless approved by the health officer.

(f) A plan for adequate medical facilities for persons at the festival, approved by the health officer.

(g) A plan for adequate parking facilities and traffic control in and around the festival area, approved by the Sheriff's department.

(h) A plan for adequate fire protection. This plan shall meet the requirements of all State and local statutes, ordinances and regulations and will not be accepted unless approved by the area forester.

(i) A statement specifying whether any outdoor light 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, such plan to be approved by the County Administrator.

(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 unreasonably audible beyond the boundary lines of the property on which the festival is located.

(k) A statement that no music shall be played, either by mechanical device or live performance, which is audible beyond the boundary lines on which the festival is located before 10:00 a.m. or after 10:00 p.m., or for more than six hours during a twenty-four hour period.

Sec. 3-29. Applicant to furnish right of entry.

No permit shall be issued under this Article unless the applicant shall furnish to the Board written permission for the Board, its lawful agents and duly constituted law-enforcement officers to go upon the property at any time and make an inspection for the purpose of determining compliance with the provisions of this Article.

Sec. 3-30. Issuance or denial.

(a) The Board of Supervisors shall act on an application for a permit under this Article within ten (10) days from the date of the meeting at which the application is considered. If granted, the permit shall be issued in writing, on a form provided 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.

(b) Notwithstanding the provisions of subsection (a) above, if the County Administrator determines that the number of people who will attend a festival for which a permit application is filed under this Article cannot reasonably be expected to exceed two hundred (200), the Administrator may approve the application and issue the permit, without action by the Board of Supervisors.

Sec. 3-31. Revocation.

The Board of Supervisors shall have the right to revoke any permit issued under this Article upon noncompliance with any of the provisions and conditions of the permit or the provisions of this Article.

Secs. 3-32 to 3-42. Reserved.

ARTICLE III. CARNIVALS, CIRCUSES AND SIDE SHOWS

Sec. 3-43. Definitions.

For the purpose of this section a "*carnival*" shall mean an aggregation of shows, amusements, concessions, eating places and riding devices or any of them, operated together on one lot or street or on contiguous lots or streets, moving from place to place, whether or not the same are owned and actually operated by separate persons, firms or corporations. A "*circus*" shall mean a public show or entertainment featuring performing animals, clowns, feats of skill and daring, pageantry, etc. A "*side show*" shall mean a minor show or exhibition in connection with a principal one, as at a circus.

Sec. 3-44. Carnivals, circuses or side shows.

Every person, firm, company or corporation that exhibits or gives a performance in a carnival, circus or side show in Bath County shall procure a license therefor.

Sec. 3-45. License tax.

A license tax of one hundred dollars (\$100.00) for each performance held in Bath County given by or upon carnivals, circuses or side shows which are operating within the limits of said County shall be paid by the person, firm, company or corporation giving the performance prior thereto.

Such license tax shall be assessed and paid before any performance is permitted to be held and before any advertisement of such carnival, circus or side show shall be allowed. Until such tax has been paid, the County shall have a lien upon the property of such carnival, circus or side show to the extent of the unpaid tax.

Sec. 3-46. Unlawful acts; fines.

Every person, firm, company or corporation which exhibits or gives a performance or exhibition in any carnival, circus or side show without the required license shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each offense, with each day's violation constituting a separate offense.

Sec. 3-47. Exemptions.

A resident mechanic or artist may exhibit any production of his own art or invention without compensation and no registration, bond or license is required of any industrial arts exhibit or of any agricultural fair or the shows exhibited within the grounds of such fair or fairs, during the period of such fair, whether an admission is charged or not. In addition, no registration, bond or license is required of resident persons performing in a show or exhibition for charity or other benevolent purposes, or of exhibitions of volunteer fire companies, whether an admission is charged or not.

Whenever such show, exhibition or performance is given, whether licensed or exempted by the terms of this subsection, those persons performing or acting in a show, exhibition or performance and operating under either license or exemption, shall be exempt from such tax.

Sec. 3-48. Charitable or benevolent performances.

The provisions of the preceding section shall not be construed to allow, without payment of the tax, a performance for charitable or benevolent purposes by a company, association or persons, or a corporation, in the business of giving such exhibitions, no matter what terms of contract may be entered into or under what auspices such exhibition is given by such company, association or persons or corporation. It is the intent and meaning of this Article that every company, association, persons or corporation in the business of giving exhibitions for compensation, whether a part of the proceeds are for charitable or benevolent purposes or not, shall pay the tax imposed by the authority of this Article. Such tax shall not be imposed on a bona fide local association or corporation organized for the principal purpose of holding legitimate agricultural exhibitions or industrial arts exhibits when they rent or lease fair or exhibition grounds or buildings for the purpose of giving such exhibitions or performances and exhibit therein agricultural or industrial arts products as a part of such exhibition.

State law reference-Similar provisions, Code of Virginia, § 58.1-3728.

Sec. 3-49. Sale of alcohol, drug, and tobacco products prohibited.

The display or sale of alcohol, drugs, tobacco products, and paraphernalia related to any of the foregoing, at a carnival, circus, or side show is hereby prohibited. Violation of this Section shall constitute a Class 1 misdemeanor.

Secs. 3-50 to 3-58. Reserved.

ARTICLE IV. TARGET RANGES

Division 1. Generally

Sec. 3-59. Violations of Article.

Unless otherwise specifically provided, a violation of any provision of this division or any rule or regulation adopted pursuant to this division shall constitute a Class 1 misdemeanor.

Cross reference-Penalty for Class 1 misdemeanor, § 1-14.

Sec. 3-60. Construction requirements.

The physical construction of any target range or shooting range in the County shall be in accordance with rules and regulations promulgated by the Board of Supervisors, which rules and regulations may be changed from time to time.

Cross reference-Building regulations generally, Ch. 6.

Secs. 3-61 to 3-65. Reserved.

Division 2. Board Approval

Sec. 3-66. Required.

It shall be unlawful for any person to construct or operate any rifle, pistol or shotgun target range within the County without written approval of the Board of Supervisors.

Sec. 3-67. Application.

Application for approval of a target range shall be submitted to the County Administrator not less than twenty-one days prior to the next regularly scheduled meeting of the Board on forms obtained from the Administrator's office. Such application shall be placed on the agenda of the Board to be presented at the next regularly scheduled meeting of the Board, notice of which shall be given in writing to the applicant.

Sec. 3-68. Grant or denial.

The Board of Supervisors, in its discretion, shall, by proper resolution, grant or deny its approval of the target range described in the application submitted under § 3-67.

Sec. 3-69. Term; renewal.

Approval for the construction or operation of a target range, if granted by the Board, shall be issued for a period of twelve (12) months and renewed, at the option of the Board, upon proper application as provided by this division.

ARTICLE V. FORTUNETELLERS, CLAIRVOYANTS, AND PRACTITIONERS OF PALMISTRY, PHRENOLOGY AND HANDWRITING ANALYSIS

Sec. 3-70. Required; exceptions.

(a) No person shall tell fortunes, act as a clairvoyant, or practice palmistry, phrenology or handwriting analysis within the County unless he has a current permit to do so issued under this Article; provided, however, that this Article shall not apply to persons engaging in such activities as part of any carnival, circus or trained animal show as provided for in Article III of this Chapter.

(b) A violation of this section shall constitute a Class 1 misdemeanor.

Cross reference-Penalty for Class 1 misdemeanor, § 1-14. **State reference**-Authority of County to access license tax, Code of Virginia, § 58.1-3726.

Sec. 3-71. Application.

Any person desiring to obtain the permit required by this Article shall make a written application therefor to the Board of Supervisors, which application shall contain the following information:

- (a) The place where the proposed business is to be located.
- (b) The name and address of all persons who are or who will be the owners, operators and managers of the proposed business together with the name and address of all persons having a financial interest in such business, including stockholders, lien holders or partners.
- (c) If the owner or operator is a corporation, then such application shall set forth the true or equitable owners of the stock of such corporation and the name of the registered agent and the address of the registered office of the corporation.

Sec. 3-72. Fee.

The fee for a permit required by this Article shall be One Thousand Dollars (\$1,000.00) per year, which fee shall be paid prior to issuance of the permit and shall not be prorated for any reason.

Sec. 3-73. Certification from Sheriff required prior to issuance.

No permit required by this Article shall be granted except upon a certification by the Sheriff that the applicant has appeared at the Sheriff's office and has been photographed and had his or her fingerprints taken and has presented a certificate signed by five (5) persons that the applicant is of good character and honest demeanor; and that the Sheriff is satisfied, from the information furnished by the applicant or from an independent investigation made by the Sheriff's office that the statements contained in the application and certificate herein required are true.

Sec. 3-74. Issuance; expiration.

A permit required by this Article shall be issued by the Board of Supervisors upon receipt of a proper application, the prescribed permit fee and the certificate required by section 3-73. Such permit shall expire at the end of the calendar year in which issued.

Sec. 3-75. Not transferable.

A permit granted pursuant to this Article shall not be transferable.

Sec. 3-76. Revocation.

Upon a showing that the holder of a permit issued under this Article is not a person of good character and honest demeanor, the Board of Supervisors shall have the right to revoke the permit after due hearing. The hearing shall be held not less than five (5) days after notice in writing to the holder of the permit. The notice shall be delivered in person or sent by registered

mail to the address given by the holder of the permit when applying for the permit. Nothing contained herein shall preclude any other remedy allowed by law.

Sec. 3-77. Reserved.

ARTICLE VI. BINGO GAMES AND RAFFLES

Secs. 3-78 to 3-95. Repealed by State Law.

ARTICLE VII. SHOOTING MATCHES

Sec. 3-96. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

Person means any person, firm, corporation, association, club, non-profit corporation, group of persons or persons acting in concert.

Shooting Match means any exhibition where firearms or air operated weapons are used or discharged in contest, either for sport or prizes.

Sec. 3-97. Violations of Article.

Unless otherwise specifically provided, a violation of any provision of this Article shall constitute a Class 3 misdemeanor.

Cross reference-Penalty for Class 3 misdemeanor, § 1-14.

Sec. 3-98. Operating requirements.

The following operating requirements shall apply to any shooting match.

(a) The location of the proposed shooting match shall not be held within two hundred (200) feet of a dwelling house or a public highway. The provision respecting distance from a dwelling may be waived by agreement of owner or tenant living within the restricted bounds.

(b) It shall be unlawful to offer any alcoholic beverages as a prize at any shooting match.

(c) It shall be unlawful for any person to be intoxicated at any shooting match. It shall be unlawful to permit any person who is intoxicated to participate as a contestant in any shooting match.

(d) No shooting match shall be held on the seventh day of the week, commonly known as Sunday.

Sec. 3-99. Required; exceptions.

It shall be unlawful for any person to hold or conduct any shooting match in the County without first obtaining a permit therefor from the Sheriff of Bath County. Any person desiring to conduct a shooting match shall also obtain a license from the Treasurer for a fee of twenty-five dollars (\$25.00). A separate license and permit shall be required for each day for which a shooting match is conducted and both documents shall be exhibited in full view of the public at the site of any shooting match.

Non-profit corporations or associations such as fire departments, rescue squads and other charitable institutions are hereby exempted from the twenty-five dollar (\$25.00) per day license required by this section.

Sec. 3-100. Application.

Any person desiring a permit required by this Article shall make application therefor to the Sheriff. The application shall contain such information required by the Board of Supervisors. Any person desiring a license required by this Article shall make application to the Treasurer. The license shall be issued on forms prescribed by the Treasurer.

Sec. 3-101. Issuance or denial.

Upon the filing of an application for the permit required by this Article, the Sheriff shall issue the permit, provided however, the permit shall be denied if the Sheriff finds that:

- (a) The applicant has falsified his application in a material manner.
- (b) The applicant or any of his designated managerial employees has a criminal record which reveals any conviction for violation of any drug or alcoholic beverage control laws within a year from the date of application, or any conviction of a felony.

Any person aggrieved by the action of the Sheriff in refusing to issue a permit as required by this Article shall have the right to appeal by filing a petition in the Bath County Circuit Court. The appeal shall be perfected by the deposit of costs which are required in civil cases with the Clerk of the County Circuit Court and by delivery of notice of the appeal to the Sheriff and to the County Attorney, or in the absence of a County Attorney, to the Commonwealth's Attorney. Such appeal shall be heard as other appeals in civil cases.

Sec. 3-102. Not assignable.

No permit issued under this Article shall be assignable to any other person.

Sec. 3-103. Revocation.

Any permit issued pursuant to this Article may be revoked at any time by the Sheriff or his designee if he finds that conditions exist that would have been grounds for denial of the permit.

ARTICLE VIII. FIREWORKS

Sec. 3-104. When manufacture, transportation, sale, etc., of fireworks unlawful.

(a) Except as otherwise provided in this Article, it shall be unlawful for any person, firm or corporation to transport, manufacture, store, sell, offer for sale, expose for sale, or to buy, use, ignite or explode any firecracker, torpedo, skyrocket, or other substance or thing, of whatever form or construction, that contains any explosive or inflammable compound or substance, and is intended, or commonly known, as fireworks, other than sparklers or those fireworks specifically exempt from the provisions of this Article by § 3-109(a) of this Code.

(b) The provisions of § 3-104(a) of this Code shall not be applicable to any person, firm or corporation that manufactures, stores, markets and distributes fireworks for the sole purpose of fireworks displays permitted under § 3-106 of this Code.

State law reference-Similar provision, Code of Virginia, § 59.1-142.

Sec. 3-105. Seizure and destruction of certain fireworks.

Any law-enforcement officer arresting any person for a violation of this Article shall seize any item described in § 3-104 of this Code in the possession of or under the control of the person so arrested and shall hold the same until final disposition of any criminal proceedings against such person. If a judgment of conviction be entered against such person, the court shall order destruction of such items upon expiration of the time allowed for appeal of such judgment of conviction.

State law reference-Similar provision, Code of Virginia, § 59.1-143.

Sec. 3-106. Permits for display of fireworks; sales for use thereunder.

The Board of Supervisors shall have the power to issue permits, upon application in writing, for the display of fireworks by fair associations, amusement parks, or by any organization or group of individuals, under such terms and conditions as they may prescribe. After such permit has been issued, sales of fireworks may be made for use under such permit, and the association, organization or group to which it is issued may make use of such fireworks under the terms and conditions of such permit.

State law reference-Similar provision, Code of Virginia, § 59.1-144.

Sec. 3-107. Penalty for violation.

Any person who violates any provision of this Article shall be guilty of a misdemeanor and, upon conviction thereof, be punished by confinement in jail not to exceed twelve (12) months, or by a fine not exceeding \$1,000, or by both such fine and imprisonment.

Cross reference-Penalty for a Class 2 misdemeanor, § 1-14. **State law reference**-Similar provision, Code of Virginia, § 59.1-145.

Sec. 3-108. Exemptions generally.

This Article shall have no application to any officer or member of the armed forces of this Commonwealth, or of the United States, while acting within the scope of his authority and duties as such, nor to any offer of sale or sale of fireworks to any authorized agent of such armed forces; nor shall it be applicable to the sale or use of materials or equipment, otherwise prohibited by this Article, when such materials or equipment is used or to be used by any person for signaling or other emergency use in the operation of any boat, railroad train or other vehicle for the transportation of persons or property.

State law reference-Similar provision, Code of Virginia, § 59.1-146.

Sec. 3-109. Article inapplicable to certain fireworks.

(a) This Article shall not apply to the use or the sale of sparklers, fountains, Pharaoh's serpents, caps for pistols, or to pinwheels commonly known as whirligigs or spinning jennies;

(b) Provided, however, the fireworks listed in subsection (a) may only be used, ignited or exploded on private property with the consent of the owner of such property.

State law reference-Similar provision, Code of Virginia, § 59.1-147.