

ROCKBRIDGE COUNTY CODE

Chapter 4

AMUSEMENTS AND ENTERTAINMENT*

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ARTICLE I. IN GENERAL

Secs. 4-1--4-15. Reserved.

ARTICLE II. MUSICAL OR ENTERTAINMENT FESTIVALS

Sec. 4-16. 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 conducting of musical or entertainment festivals or any combination of musical or entertainment festivals with any other event 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 that 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 Rockbridge County.

Sec. 4-17. Definitions.

When used in this article, the following words shall mean:

Board shall mean the board of supervisors of Rockbridge County, Virginia.

Musical or entertainment festival shall mean any gathering of groups or individuals for the purpose of listening to or participating in entertainment that consists primarily of musical renditions conducted in open spaces not within an enclosed structure.

Cross reference—Definitions and rules of construction, §1-2.

* **Cross reference(s)**--Licenses and business regulations, Ch. 19; amusement and recreation services, §19-54(2), (5); carnival licenses, §19-58; licenses for coin-operated machine operators, §19-59.

Sec. 4-18. Permits.

(a) *Required; exemptions.* No person, firm, corporation or partnership shall stage, promote, or conduct any musical or entertainment festival in the unincorporated areas of Rockbridge County unless there shall have been first obtained from the board a special entertainment permit for said festival. Fire departments, rescue squads, agricultural fairs, private parties, 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. Temporary non-electronic signage may be allowed for these exempt activities up to 24 hours prior to, and the days of, the event. Such signage may be placed off-premise and shall not exceed twelve (12) square feet in area and eight (8) feet in height for the purpose of directing participants to the event. If Virginia Department of Transportation electronic traffic control devices are used, the temporary signage may be up to seventy (70) square feet and eight (8) feet in height. This provision for temporary signage shall be an exception to Section 706.00, et seq., of the Rockbridge County Land Development Regulations.

(Amended by Ord. of 7-26-10; Amended by Ordinance of 7-25-11 to be effective on and from the date of its adoption)

(b) *Application.* Application for such special entertainment permits shall be in writing on forms provided for the purpose and filed in duplicate with the clerk of the board at least thirty (30) days before the date of such festival and twenty-one (21) days prior to a meeting of the board. Such applications shall have attached thereto, and made a part thereof, the plans, statements, approvals and other documents required by this article.

(c) *Issuance; denial.* The board shall act on such applications within ten (10) days from the date on which the application is considered. If granted, the permit shall be issued in writing on a form for the purpose and mailed by the clerk 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 clerk to the applicant at the address indicated.

Cross reference(s)--Licenses and business regulations, Ch. 19.

Sec. 4-19. Requirements for approval of permits.

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

- (1) An application for special entertainment permit shall have attached to it a copy of the ticket or badge of admission to said festival, containing the date or dates and time or times of said 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.
- (2) A statement of the name and address of the promoter of the festival, the financial backing of the festival, and the names of all persons or groups who will perform at said festival.

- (3) A statement of the location of the proposed festival, the name and address of the owner of the property on which said festival is to be held, and the nature and interest of the applicant therein.
- (4) 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.
- (5) 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.
- (6) A plan for adequate medical facilities for persons at the festival, approved by the county health officer.
- (7) A plan for adequate parking facilities, crowd control and traffic control in and around the festival area approved by the sheriff.
- (8) 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.
- (9) 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 flow beyond the property on which the festival is located.
- (10) 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 property on which the festival is located.

Sec. 4-20. Time limitations.

Music shall not be rendered nor entertainment provided for more than eight (8) 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.

Sec. 4-21. Right of entry.

Permits, which are not assignable or transferable, shall not be issued under this article unless the applicant shall furnish to the board written permission for the board, 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 this article. The board shall have the right to revoke any permit issued under this article upon noncompliance with any of its provisions or conditions.

Sec. 4-22. Penalty.

Any person, firm or corporation who violates any provision of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding three hundred dollars (\$300.00) or by confinement in jail not exceeding thirty (30) days, or by both such fine and imprisonment. Each violation shall constitute a separate offense. The board may bring suit in the Circuit Court of Rockbridge County to restrain, enjoin, or otherwise prevent a violation of this article.

Sec. 4-23. Severability.

It is declared to be the intent of the board that if any section, subsection, sentence, clause, phrase, or portion of this article shall for any reason be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and individual provision, and such holding shall not affect the validity of the remaining portions thereof.

Sec. 4-24. Rule of construction.

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

Sec. 4-25. Effective date.

This article shall be in full force and effect upon adoption (October 14, 1970) by the board of supervisors of Rockbridge County.

Sec. 4-26--4-35. Reserved.

ARTICLE III. BINGO GAMES AND RAFFLES*-- DELETED

Secs. 4-36--4-38. Deleted, pursuant to 1995 repeal of Code of Virginia, §§18.2-340.1--340.14 and vesting of all Charitable Gaming, including Bingo, with Charitable Gaming Commission, under Code of Virginia, §18.2-340.15 et seq. §§4-36--4-38 now reserved.

ARTICLE IV. REGULATION OF NOISE

Sec. 4-39. Short title and application of article generally.

This Article shall be known and referred to as the “Noise Ordinance of Rockbridge County, Virginia.” It shall be applicable to the control of noises originating within the jurisdictional limits of Rockbridge County and from county-owned lands located outside the jurisdictional limits of the county.

* **State law reference(s)** – Authority for control of all charitable gaming, including Bingo, vested in Charitable Gaming Commission, Code of Virginia, §18.2-340.15 et seq.

Sec. 4-40. Declaration of policy.

At certain levels, noise can be detrimental to the health, welfare, safety, peace, and quality of life of the citizens of the county, and in the public interest, noise should be controlled. It is, therefore, the policy of the County to reduce noise in the county and to prohibit certain unnecessary, excessive, harmful and annoying noises.

Sec. 4-41. Administration and enforcement.

This article shall be enforced and administered by the Sheriff, with the assistance of other county departments as required.

Sec. 4-42. Definitions.

For purposes of this article, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise:

Dwelling unit: one or more rooms arranged, designed or intended to be occupied as separate living quarters by one or more persons and including permanent provisions for living, sleeping, eating, cooking and sanitation.

Emergency: any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Noise: any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Owner: the person owning, controlling, or possessing land, premises or personality.

Person: any individual, partnership, corporation, firm, association, trust, estate, society, club, private institution, group of persons acting in concert, organization or agency, or any legal successor, representative, agent or agency of the foregoing. This term shall not include the federal, state, county, town, city or local government, or any agency or institution thereof.

Sheriff: the Sheriff of Rockbridge County, Virginia, or his duly appointed designees.

Sound: an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium, and which propagates at finite speed. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound amplifying equipment: any machine, device or equipment for the amplification of the human voice, music or any other sound. This term shall not include warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

Sec. 4-43. Loud noises prohibited.

It shall be unlawful for any person, on Sunday through Thursday between the hours of 11:00 p.m. and 8:00 a.m. the following day, and on Friday and Saturday between the hours of 11:59 p.m. and 8:00 a.m. the following day:

- (1) To use, operate or play any radio, phonograph, television, record, compact disc or tape player, musical instrument, loudspeaker, sound amplifying equipment or other machine or device capable of producing or reproducing sound in such a manner or with such volume or duration that it is plainly audible: (i) inside the confines of the dwelling unit, house or apartment of another person or (ii) at 50 or more feet from the device.
- (2) To create or allow noise from talking, yelling, shouting, whistling or singing, or any combination thereof, that is plainly audible either inside the confines of the dwelling unit, house or apartment of another person or at 50 or more feet from the source(s) of the noise, when the noise is generated from a gathering of ten or more people.

Sec. 4-44. Exemptions.

The following specific activities or sources of noise shall be exempt from the regulations set forth in this article:

- (1) Business, manufacturing, construction, industrial or agricultural operations.
- (2) Activities or land use for which a Special Use Permit has been issued or a Special Exception has been granted by the Board of Supervisors of Rockbridge County.
- (3) Activities or events for which a special entertainment permit has been granted pursuant to Article II of this Chapter.
- (4) Activities for which the regulation of noise has been preempted by federal law.
- (5) Sounds emitted in the performance of emergency work or for the purpose of alerting persons to the existence of an emergency.
- (6) Sound generated by the operation of any governmental function.
- (7) Lawful activities on or in public and school athletic facilities and on or in publicly owned properties and facilities, including but not limited to, devices permitted to be used at public parks or recreation fields, sporting events, school-sponsored activities on school grounds, or duly authorized parades, public functions or commemorative events.
- (8) Military activities of the Commonwealth of Virginia or of the United States of America.

- (9) Religious services, religious events or religious activities or expressions, including, but not limited to, music, singing, bells, chimes and organs, which are a part of such service, event, activity or expression.
- (10) Religious or political gatherings and other activities protected by the First Amendment to the United States Constitution.

Sec. 4-45. Undue Hardship Variance.

- (1) Any person responsible for the noise source may apply to the Board of Supervisors for a modification of the provisions of this article. The Board may grant such modification if it finds that:
 - (a) The noise does not endanger the public health, safety or welfare; or
 - (b) Compliance with the provisions of this article from which a modification is sought would produce serious hardship without producing equal or greater benefit to the public.
- (2) In determining whether to grant such a modification, the Board shall consider the time of day the noise will occur, duration of the noise, whether the noise is intermittent or continuous, its extensiveness, the technical and economic feasibility of bringing the noise into conformance with this article and such other matters as are reasonably related to the impact of the noise on the health, safety and welfare of the community and the degree of hardship that may result from the enforcement of the provisions of this article.
- (3) No modification issued pursuant to this article shall be granted for a period to exceed one (1) year, but any such modification may be renewed for like periods if the Board of Supervisors shall find that such renewal is justified after again applying the standards set forth in this section. No renewal shall be granted except upon application therefore.

Sec. 4-46. Penalties and violations.

- (1) Any person who violates any provision of this article shall be deemed guilty of a Class 3 misdemeanor for the first offense. Any person who violates any provision of this article within one (1) year after a previous conviction under this article shall be guilty of a Class 2 misdemeanor. Any person who commits a third or subsequent violation of any provision of this article within one (1) year after a previous conviction shall be guilty of a Class 1 misdemeanor.
- (2) Each day of violation of any provision of this article shall constitute a separate offense.

- (3) The person operating or controlling a noise source shall be guilty of any violation caused by that source. If that person cannot be determined, any owner, tenant or resident physically present on the property where the violation is occurring is rebuttably presumed to be guilty of the violation.
- (4) In addition to and not in lieu of the penalties prescribed in this section, the county may apply to the circuit court for an injunction against the continuing violation of any of the provisions of this article and may seek any other remedy or relief authorized by law.

Sec. 4-48. Other remedies.

No provision of this article shall be construed to impair any common law or statutory cause of action or legal remedy of any person for injury or damage to person or property, arising from violation of this article or arising from noise that either is exempted or does not violate this article.

This ordinance shall become effective on and from the date of its adoption.

Sec. 4-49. Reserved.

(Article IV Repealed in its entirety-Reenacted by Ord. of 3-22-10)

ARTICLE V. FARMERS' MARKET

Sec. 4-50. Purpose of article.

This article is adopted for the purpose of promoting and regulating outdoor farmers' markets. A farmers' market promotes regional agriculture and ensures a continuing supply of fresh, local produce for area residents. Such markets support farmers and preserve farmland for the future by providing regional small family farmers with alternative opportunities to sell their goods. It is the intent of this article that farmers' markets are held in existing parking areas or other such open space used periodically for the seasonal sale of regionally grown agricultural or horticultural produce or merchandise, to include handmade crafts, produced, forged or constructed on the farm.

Sec. 4-51. Permits.

(a) *Required; exemptions.* No person, firm, corporation or partnership shall promote or conduct an outdoor farmers' market in the unincorporated areas of Rockbridge County unless there shall have been first obtained from the Board of Supervisors a special seasonal permit for said market.

(b) *Application.* Application for such seasonal market permits shall be in writing on forms provided for the purpose and filed with the Clerk of the Board at least thirty (30) days before the beginning of the seasonal market and twenty-one (21) days prior to a meeting of the

Board. Such applications shall have attached thereto, and made a part thereof, the plans, statements, approvals and other documents that may be required.

(c) *Issuance; denial.* The Board shall act on such applications within fifteen (15) days from the date on which the application is considered. If granted, the permit shall be issued in writing on a form for the purpose and mailed by the clerk 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 Clerk to the applicant at the address indicated.

(d) *Signage, temporary.* Temporary signage may be allowed up to 24 hours prior to, and the day of, the event. Such signage may be placed off-premise and shall not exceed twelve (12) square feet in area and eight (8) feet in height for the purpose of directing participants to the event.

A permit may not be issued unless the following conditions, unless waived, are met and the following plans, statements and approvals are submitted to the Board with the application:

- (1) A statement of the name and address of the organizer of the market.
- (2) A statement of the location of the proposed market, the name and address of the owner of the property on which said market is to be held, and letter of approval from the owner.
- (3) A plan for adequate sanitation facilities and garbage, trash and sewage disposal for persons at the market. This plan shall meet the requirements of all state and local statutes, ordinances and regulations, and shall be approved by the County health officer.
- (4) A plan for adequate parking facilities, crowd control and traffic control in and around the market area.
- (5) All equipment, materials and signage shall be removed from the premises at the end of each daily event.

Cross reference(s)--Licenses and business regulations, Ch. 19.
(Article V, Secs. 4-50--4-51 added by Ord. of 4-27-09)