

BOARD OF SUPERVISORS  
COUNTY OF NEW KENT  
VIRGINIA

O-12-00

At the regular meeting of the Board of Supervisors of the County of New Kent in the Board Room of the County Administration Building in New Kent, Virginia, on the 12<sup>th</sup> day of February 2001:

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Present:	Vote:
Rebecca M. Ringley	Aye
Dean E. Raynes	Aye
W. R. "Ray" Davis, Jr.	Aye
James H. Burrell	Aye
Julian T. Lipscomb	Aye

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Motion was made by Mrs. Ringley, which carried 5:0, to adopt the following ordinance changes:

CHAPTER 11

**CULTURAL EVENTS AND PROGRAMS**

- . 11-1. Basis and purpose of chapter; construction.
- . 11-2. Definition.
- . 11-3. Restrictions in residential subdivision.
- . 11-4. Permit required.
- . 11-5. Application for permit.
- . 11-6. Action on applications.
- . 11-7. Conditions precedent to granting of permits; plans, statements, approvals, etc., to accompany application for permit.
- . 11-8. Applicant may be required to meet additional conditions.
- . 11-9. Permit not transferable.
- . 11-10. Enforcement provisions.
- . 11-11. Violations and penalties; injunctions.

## CHAPTER 11

### **CULTURAL EVENTS AND PROGRAMS**

#### Sec. 11-1. Basis and purpose of chapter.

This chapter is enacted pursuant to section 15.1-510 of the Code of Virginia for the purpose of providing necessary regulations for the conducting of cultural events and programs conducted in open spaces and within enclosed structures specifically constructed for such a purpose.

The provisions of this chapter shall be liberally construed in order to effectively carry out the purposes thereof in the interest of the citizens and residents of the county. (9/14/70) (9/13/82)

#### Sec. 11-2. Definition.

For the purpose of this chapter, the words "cultural events or programs" shall mean any festival, public dance, show or similar gathering at which professional or amateur performers provide entertainment or where members of the public are invited or admitted for a charge or free of charge. Such events shall meet the requirements for parking as proscribed in *New Kent County Code, Chapter 9* as amended. Weddings, family reunions, on-site church activities and similar activities are specifically excluded from this definition. The Zoning Administrator shall determine if a specific activity will be excluded.

#### Sec. 11-3. Restrictions in residential subdivision.

No person shall conduct any cultural event or program or a similar gathering for which an admission charge is made or for which tickets are sold in advance on any property location within a residential subdivision in New Kent County. For purposes of this ordinance the term "Residential Subdivision" shall mean property divided into lots five acres or less which are designed to be used or which are in fact being used for residential dwelling units.

#### Sec. 11-4. Permit required.

No person shall stage, promote, advertise or conduct any cultural event or program as defined in this chapter, unless a permit has first been obtained from the New Kent County Planning Department for such a gathering. (9/14/70) (9/13/82)

#### Sec. 11-5. Application for permit.

Written application for a permit to hold a cultural event or program shall be made to the Zoning Administrator, or his designee. The application shall be submitted at least

sixty (60) days prior to the date upon which the gathering is to be held. Such application shall be on forms provided by the county and shall have attached thereto plans, documents, approvals and other material required by the New Kent County Code, Chapters 9 and 11. Each application shall be accompanied by a permit fee.

A non-profit organization can request a waiver of the above fee from the County Administrator. Such a request must be made in writing, with evidence of the group's non-profit status and be received in the County Administrator's Office at least two (2) weeks prior to the next regularly scheduled Board of Supervisors meeting.

Sec. 11-6. Action on applications.

The New Kent County Zoning Administrator shall act on any such application within thirty days after receiving the application.

In approving an application, the Zoning Administrator will review the permit to ensure that all performance standards are met and that the application meets all requirements of the Code of New Kent County. These standards are developed to protect the health, safety, welfare and property of persons attending the gathering and the citizenry in general. The Zoning Administrator shall authorize the issuance of a permit for a cultural event and/or program if it finds:

- A. The cultural event or program will be held at a location which complies with and meets all of the health, zoning, fire and safety requirements and standards of the laws of the state and ordinances of this county applicable thereto; and
- B. The information and documents required by this chapter have been filed with the Board of Supervisors; and
- C. That the cultural event or program will be conducted in full accord with all requirements of the Code of New Kent County and will not substantially jeopardize, adversely affect, endanger or otherwise constitute a menace to the public health, safety or general welfare of the residents of the county.  
(9/14/70) (9/13/82)

Sec. 11-7. Conditions precedent to granting of permits, plans, statements, approvals, etc., to accompany application for permit.

No permit shall be issued under this chapter unless the following conditions are met and the following plans, statements, and approvals are submitted to the Board of Supervisors with the application for permit:

- A. Admission by ticket only. The application provided for by this chapter shall have attached to it a copy of the ticket or badge of admission to such gathering,

containing the date or dates and time or times of the gathering, together with a statement by the applicant of the total number of tickets to be offered for sale. The applicant shall not admit and shall prevent the entrance to the premises on which the cultural event or program is held. Any person who does not possess a ticket, except a peace officer or other public official in performance of his duties shall not be admitted. The permittee shall not sell, give or distribute a greater number of tickets than the number, which the permit allows to attend. The permittee shall not admit any person to such an event if the admission would result in a greater number of persons present than allowed by the permit.

1. If the cultural event is being held within a structure, the Virginia Uniform Statewide Building Code shall determine the capacity of the structure, which shall be the total of all attendees at such an event.
  2. If the cultural event is being held outside such a structure, the required number of parking spaces, as specified in *Chapter 9 of the New Kent County Code* shall govern the total number of people permitted to attend the event.
    - a. The permit application shall show the area designated for parking, from which the Zoning Administrator shall make an interpretation as to the number of vehicles that can be safely parked within this area.
    - b. For the purpose of this permit, the number of people per automobile shall be 4 persons.
    - c. The maximum number of attendees to such an event shall be the number of parking spaces available multiplied by 4.
- B. Ownership of Property: Each application shall contain a statement of the location of the proposed cultural event, the name and address of the owner of the property on which the cultural event is to be held, and the nature and interest of the applicant therein.
- C. Hours of Operation: No stage presentation, entertainment, or music shall take place at a cultural event between the hours of 11:00 p.m. and 10:00 a.m.; no activity involving the use of any means of sound amplification shall be permitted between the hours of 11:00 p.m. and 10:00 a.m.
- D. Water Supply: The applicant shall provide an ample supply of potable water for drinking and sanitation purposes on the premises of the cultural event. The location and type of water facilities on the premises shall be approved by the Health Department prior to the issuance of a permit under this chapter.
- E. Toilet and/or Lavatory Facilities: The applicant shall provide a statement and plan concerning adequate toilet and/or lavatory facilities. A description of the type (flush type or portable chemical) and number of toilets available shall be provided. This plan shall be approved by the Health Department.

- F. Waste Management: The pickup and removal of refuse, trash, garbage, and rubbish from the site of a cultural event shall be at least once a day and more often if required by the Health Department. Removal of all trash and refuse shall be at the permittee's expense. The applicant shall clean up the premises and remove all trash and debris there from within forty-eight (48) hours after the conclusion of the gathering. A security bond acceptable to the County Attorney or certified check in a total amount no less than ten thousand (\$10,000.00) shall be provided.
- G. Medical Facilities: Adequate medical facilities shall be provided as required by the Health Department and the Director of Public Safety.
- H. Fire Protection: The applicant shall provide a plan for adequate fire protection as approved by the County Director of Public Safety. It shall be provided at the applicant's own expense.
- I. Traffic and parking Control: The applicant shall provide adequate ingress and egress to the cultural event premises. Adequate parking shall also be provided. The County Sheriff and the Director of Public Safety shall provide comments to the Zoning Administrator relative to the parking layout. The County Sheriff and the Director of Public Safety shall approve the traffic management plan.
- J. Security: At least one off-duty County Sheriff's Deputy or policeman must be present for every two hundred fifty (250) people in attendance during all performances; the applicant shall bear the costs thereof.
- K. Food: A plan for the adequate provision and handling of food shall be provided and shall be approved by the Virginia Department of Health. An application for Temporary Restaurant Permit shall be submitted to the New Kent County Health Department at least 10 business days prior to the event.
- L. Illumination: A statement shall be provided specifying whether any outdoor lights or lighting will 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 gathering is located shall be provided. For the purposes of this permit, unreasonable glow shall be deemed to be no more than .5 footcandle at the property line.
- M. Noise: Noise levels resulting from the gathering shall not be unreasonably audible beyond the property on which the gathering is held. The applicant shall submit a written statement specifying the expected noise level at the perimeter of the property.
- N. Communication System: If the premises are without a phone, the applicant shall make arrangements, approved by the Sheriff and Director of Public

Safety, for other means of communication. The applicant shall provide an outdoor, tone activated weather radio on the site during the duration of the outdoor event or program.

- O. Promoters, Financial Security: The applicant shall provide the names and addresses of all persons acting as promoters, proprietors, presenters, or financial backers of the cultural event, together with financial statements of such persons, sufficient to give assurance of the ability of such persons to meet the conditions of the permit and respond in damages which may rise out of the cultural event, or shall provide evidence of adequate liability insurance as approved by the County Attorney.
- P. Dates and Hours of Gathering: The applicant shall provide the date or dates and hours during which the cultural event is to be conducted, together with an estimate or schedule of the dates and hours of performances, entertainments or other events.
- Q. Type and Nature of Gathering: The applicant shall provide a description of the type and nature of the performances, entertainment or floor shows, together with the names of the expected performers.
- R. Site Plan: The applicant shall furnish a site plan in accordance with the requirements of the New Kent County Code Chapter 9, Division 18, Section 9-277. In addition to the requirements in Section 9-277, the site plan shall show the following information:
  - (1) The areas for performances or activities and grandstands capacity and/or the number seats, showing the location of all aisles for pedestrian travel and other crowd-control measures.
  - (2) All physical facilities existing or to be constructed on the premises, including, but not limited to, fences, ticket booths, grandstands and stages.
  - (3) The location, capacity, and nature of all temporary lighting, sound and public address facilities.
  - (4) The location, capacity and nature of all temporary water, toilet and all other public health-related facilities.
  - (5) Vehicle ingress, egress, and parking plan. (9/14/70) (9/13/82)

Sec. 11-8. Applicant may be required to meet additional conditions.

- A. Any applicant for a permit required by this chapter may be required to meet any conditions, in addition to those specified in this chapter, prior to receiving a permit

to conduct a cultural event, which are deemed necessary by the Zoning Administrator to protect the health, safety, and general welfare of the persons attending such gathering, or the public in general. All expenses incurred in meeting these conditions will be borne by the applicant.

- B. If the outdoor gathering results in the need for county services beyond those set forth in this chapter, the applicant shall bear the costs thereof. (9/13/82)

Sec. 11-8.1 Applicant may Appeal Zoning Administrator's Decision

- A. In the event the Zoning Administrator denies the permit, the applicant may file an appeal with the New Kent County Board of Zoning Appeals. Such an appeal must be received within 10 days of the Zoning Administrator's Decision. The Appeal must demonstrate that the applicant has met all conditions required by the New Kent County Code and that the denial was arbitrary and capricious.
- B. The Board of Zoning Appeals may uphold or over turn the Zoning Administrators decision based upon the evidence presented to the Board.

Sec. 11-9. Permit not transferable.

No permit issued under the provisions of this chapter shall be transferable. (9/13/82)

Sec. 11-10. Enforcement provisions.

- A. Every application submitted under this chapter shall be signed by both the owner of the premises involved and the applicant. Such application shall be deemed to be written permission to the County of New Kent, 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 Code of New Kent County.
- B. Any violation of one or more of the requirements of this chapter or any violation of one or more of the terms and conditions of a permit issued hereunder shall be grounds for immediate revocation of the permit by the Zoning Administrator. Upon revocation of the permit, the permittee shall immediately terminate the cultural event and provide for orderly dispersal of those in attendance. (9/14/70) (9/13/82)

Sec. 11-11. Violations and penalties;

Any person who violates any provision of this chapter or permits any such violation or fails to comply with any of the requirements hereof shall be guilty of a Class I Misdemeanor and upon conviction thereof, shall be subject to a fine or punishment as provided by law. Each violation shall constitute a separate offense. Nothing in this section shall be deemed to prevent the County of New Kent from bringing an appropriate

action in the circuit court of New Kent County to restrain, enjoin or otherwise prevent violation of this chapter. (9/14/70) (9/13/82)

Secs. 11-12 through 11-20. Reserved for future legislation.

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R. J. Emerson, Jr., AICP  
County Administrator

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Julian T. Lipscomb  
Chairman