

CHAPTER 74
ARTICLE V – PUBLIC ASSEMBLIES/SPECIAL EVENTS

Sec. 74-120. - Definitions.

“*Event*” means a Parade or Public Assembly.

“*Parade*” means any march, demonstration, procession, or motorcade upon Public Space that interferes with or presents a Significant Probability of interfering with the normal flow or regulation of pedestrian or vehicular traffic upon Public Space.

“*Public Assembly*” means any meeting, demonstration, speechmaking, vigil, picket line, rally, carnival, festival, concert, race, presentation, pageant, sporting event, or other gathering for a common purpose as a result of prior planning that interferes with or presents a Significant Probability of interfering with (a) the normal flow or regulation of pedestrian or vehicular traffic upon Public Space, or (b) the normal use of any Public Space.

“*Public Space*” means any street, sidewalk, or any other property of the Town which is open to the public.

Commented [J1]: It's important to define public space and limit these provisions to activities that use public space.

“*Significant Probability*” means a determination that something is more likely than not to occur based upon facts and circumstances revealed by a reasonable inquiry.

“*Sponsor*” means the individual(s) who sign, or whose authorized representative(s) sign, an application for an Event permit and who will be responsible under the permit, if issued, for ensuring that the Event will be conducted in accordance with these regulations.

“*Spontaneous Event*” means an unplanned and unannounced coming together of people or vehicles in an Event which was not contemplated beforehand by any participant therein.

Sec. 74-121. - Permit Requirement.

Except as provided in Sec. 74-122, it shall be unlawful for any person to conduct or participate in an Event on Public Space unless a written permit is first issued in accordance with this chapter. **Outdoor events on private property shall also obtain a written permit if the event involves more than twenty-five (25) persons.**

Sec. 74-122. - Exceptions.

The provisions of this chapter shall not apply to:

- (a) Events involving less than **twenty-five (25)** persons provided the Event does not interfere with or present a Significant Probability of interfering with:
 - (1) the normal flow or regulation of pedestrian or vehicular traffic upon Public Space;
 - (2) the normal use of any Public Space; and
 - (3) public safety.
- (b) **Indoor** Events that do not involve the use of Public Space.
- (c) Spontaneous Events.
- (d) Recreational activities, including jogging, walking, and sporting events, **and the reservation of a shelter, field, or other facility at a Luray park,** which do not require closing public streets or other public rights-of-way and do not interfere or have a tendency to interfere with free passage on or the use of any Public Space.

- (e) Door-to-door advocacy, including canvassing, pamphleteering, religious or political proselytizing, and the distribution of written materials, and similar activities which do not interfere with or have a tendency to interfere with free passage on or the use of Public Space.
- (f) Funeral processions.
- (g) Students going to and from school classes or participating in school-sponsored activities.
- (h) Governmental entities acting within the scope of their functions.
- (i) Events organized and sponsored, in whole or in part, by the Town of Luray, **County of Page, Page County Public Schools**, or the Commonwealth of Virginia.
- (j) **Construction activities otherwise permitted by the Town of Luray, County of Page, Page County Public Schools, or the Commonwealth of Virginia.**

Sec. 74-123. - Application for Permit.

- (a) Time for filing. The Sponsor for any Event for which a permit is required shall submit an application to the Chief of Police (the “Chief”). If the estimated number of persons who will participate in an Event is **twenty-five (25) or less**, the application shall be submitted not less than **five (5)** days prior to the Event. An application for an Event involving more than **twenty-five (25)** attendees shall be filed at least **ten (10)** days before the Event. The Chief may accept a late filing upon a determination that unforeseeable circumstances prevented the applicant from filing the application in a timely manner.
- (b) Contents. The application shall contain the following information, utilizing a form provided by the Town:
 - (1) The name, address, telephone number, and email address of the Sponsor and any organization or group the Sponsor is representing.
 - (2) The name, address, telephone number, and email address of the person who will act as the Event leader and will be responsible for conducting the Event.
 - (3) A description of the proposed activities during the Event;
 - (4) The date, starting time, and ending time of the Event, and if the application is for a recurring series of Events, the dates starting times, and ending times of each.
 - (5) If the Event is a Public Assembly, the specific **desired** location(s) of the assembly.
 - (6) If the Event is a Parade, the specific assembly and dispersal locations, the specific route, and the plans for assembly and dispersal.
 - (7) The anticipated number of people who will participate in the Event and, for Parades, the number of vehicles and a description thereof.
 - (8) A statement as to whether the Event will occupy all or a portion of any street, sidewalk, or other public right-of-way.
 - (9) A description of any sound amplification equipment, banners, signs, or other attention-getting devices to be used in the Event.
 - (10) Such other information that the Chief deems reasonably necessary to properly provide for traffic control, street and property maintenance, administrative arrangements, police and fire protection, and for the general protection of public health, safety and welfare.

Commented [J2]: I recommend the Chief as the initial point of contact for several reasons: (1) the Chief is probably the best equipped to make the necessary safety determinations; (2) Event Sponsors may be more diligent since a police officer is involved; (3) it gives the Chief familiarity with the Event that could be helpful in enforcement; and (4) it allows for an administrative appeal to the Town Manager for denials.

Commented [J3]: Restraints on the use of public forums must be reasonable and narrowly tailored to a significant governmental interest. I believe the 14 and 60 day requirements are too onerous and recommend these shorter timeframes.

Sec. 74-124. - Issuance or Denial of Permit.

Event permits shall be issued or denied as follows:

- (a) Denial for false information. The Chief shall not issue a permit if any of the information supplied by an applicant is false or intentionally misleading.
- (b) Approval. The Chief shall issue the permit with three (3) days of receiving the completed application if the application and Event comply with the requirements of this chapter and the Chief finds that:
 - (1) The Event does not pose a significant risk of harm to public health, safety, and welfare;
 - (2) The time, duration, route, and size of the Event will not unreasonably interrupt the safe and orderly movement of vehicular or pedestrian traffic on Public Space or the normal use of Public Space;
 - (3) The Event will not unduly interfere with police, fire, or rescue services to the remainder of the Town either by requiring the presence of such first responders or by slowing their travel to locations across Town;
 - (4) The Event will not interfere with another Event for which a permit has been granted; and
 - (5) The Event will not violate state, federal or federal law.
- (c) Denial. If the Chief denies an application after considering the factors set forth in Section 74-124(b), the applicant shall be notified using such means as are available to provide notice as soon as possible. The Chief shall advise the applicant of their right to appeal the decision under Sec. 74-125. Nothing in this section shall permit the Chief to deny a permit based upon political, social, or religious grounds or reasons or based upon the content of the views expressed. Denial of a permit on such grounds is prohibited.
- (d) Approval of Alternate. The Chief, in denying a permit for an Event, may authorize the Event on an alternate date or time, or at an alternate location. An applicant desiring to accept an alternate permit shall file a written notice of acceptance with the Chief.

Sec. 74-125. - Appeal.

Any person aggrieved by the refusal of the Chief to grant a permit, or by the revocation of a permit after one has been issued, may appeal the denial or revocation to the Town Manager by filing a written notice of the appeal setting forth the grounds thereof. Any such appeal must be received within five (5) days after the date of the decision giving rise to the appeal. The Town Manager shall act upon the appeal within five (5) business days after its receipt.

Commented [J4]: Appeal to Town Council may not always be feasible given the short time period required for a decision.

Sec. 74-126. - Excluded Areas.

No Event may take place that will require traffic to be stopped on Main Street (BUS-211) for a period of more than ten minutes during weekdays between 6:00 am and 7:00 pm, excluding the regular stoppage of traffic as a result of existing traffic signal devices. The Chief may include reasonable conditions as part of any permit issued for an Event that will involve persons walking on Main Street to ensure that traffic is not stopped for a period of more than ten minutes.

Commented [J5]: This is an optional section to include if there are areas the Town wants to categorically exclude.

Sec. 74-127. - Competing or Opposing Groups.

Nothing in this section prevents persons or groups opposing or competing with the Sponsor of a permitted Event (“Opponents”) from appearing at the Event, provided Opponents (a) do not unreasonably interfere with the operation of the permitted event, or (b) unreasonably interrupt the safe and orderly movement of vehicular or pedestrian traffic on Public Space or the normal use of Public Space.

The Sponsor for the Opponents shall make a written application to the Chief as soon as reasonably practicable upon forming the intent to appear at an Event. If submitting a written application is not reasonably practicable, the Sponsor for the Opponents must provide notice to the Chief as soon as they form the intent to appear at an

Event. Without such notice, the Opponents may be denied permission to assemble because the Town may not be able to adequately secure the Event. When Opponents are present, the Chief may assign Public Space to different groups on an equitable basis, based roughly on the proportionate numbers of persons present. The Chief may also physically separate Opponents from differing groups from one another in order to promote public safety.

Sec. 74-128. - Prohibited Conduct

- (a) Interference with Event. No person shall unreasonably hamper, obstruct, impede, or interfere with any Event or with any person, vehicle or animal participating or used in an Event for which a written permit has been issued.
- (b) Driving through Parades, etc. No driver of a vehicle shall drive between the vehicles, persons or displays of an Event except when otherwise directed by a police officer. This paragraph shall not apply to authorized emergency vehicles.
- (c) Provocative Conduct. No person shall do any of the following at an Event or within 250 yards thereof:
 - (1) Carry bats, clubs, or similar items;
 - (2) Wear masks as prohibited by Virginia Code, § 18.2-422;
 - (3) Carry chemical irritant sprays or caustic substances;
 - (4) Carry shields;
 - (5) Carry any open flames other than candles;
 - (6) Wear a helmet (unless riding a motorcycle, bicycle, or similar device), or
 - (7) Carry any item that can be used as a projectile or is designed to cause significant bodily harm. It is permissible to carry written or printed placards, signs, flags, banners, etc., but such items shall not be attached to poles or rods.

The Sponsor shall disclose in the application whether the Sponsor requests permission for a prohibited item to be used during a demonstration due to its expressive or symbolic quality relevant to the subject matter of the demonstration, including without limitation symbolic weapons, open flames or other similar items. If a permit includes the right to carry or display a prohibited item, such item must be carried or displayed in strict accordance with the terms of the permit and must otherwise at all times conform to applicable law.

(d) Site Specific Requirements

(1) Hawksbill Greenway

No Special Event Permit shall close or restrict public access to the Greenway.

No sales, food distribution, or distribution of flyer/information within twenty-five (25) feet of the Greenway. Exception to this requirement can be by issued Special Event permits for Ruffner Plaza, Park & Ride Lot, and Shenandoah Valley Electric Cooperative remote parking lot and adjacent lot.

(2) Ruffner Plaza

Special Events Permits shall be for community events only

(3) Public Sidewalks

No Special Event Permit shall restrict public access along public sidewalks.

Sec. 74-129. - Powers of the Chief.

In addition to all other powers of the Chief under applicable law, the Chief may:

- (a) Order the dispersal of one or more persons who are violating this chapter.
- (b) Order the dispersal of any gathering which violates this chapter or for which there is a probability of violence, injuries to people, or property damage.

- (c) Revoke any permit issued under this section whenever there is a probability of violence, injuries to people, or property damage.
- (d) Make temporary regulations for parking or traffic on Public Space to accommodate an Event or minimize the risk of personal injury or property damage.
- (e) Close any Public Space when an Event or other gathering presents a probability of personal injury or property damage.

Sec. 74-130. - Violations.

Any violation of this chapter shall constitute a Class 3 misdemeanor.

Sec. 74-131. - Delegation.

The Chief is authorized to act as follows with respect to any Event:

- (a) If requested by the Page County Sheriff, the Chief may cede to the Sheriff all control of the permitting process and event scene, thereby delegating to the Sheriff all authority vested by this section.
- (b) If requested by state or federal authorities acting within their jurisdiction, the Chief shall cede to the requesting party all control of the permitting process and event scene, thereby delegating to the requesting party all authority vested by this section.
- (c) At any time, the Chief may act through such other officers of the Luray Police Department as he or she may designate.

Sec. 74-132. - Indemnity.

The Sponsor of an Event for which a permit is required shall be required to indemnify and hold harmless the Town, its officials, employees and agents from any personal injury, death and property damage, and any other loss, cost and/or damage occurring as a result of the actions or inactions of an Event's Sponsor, or the Sponsor's failure to comply with these regulations. In no event shall the Town have the duty to indemnify any third party.

Sec. 74-133. - Insurance.

If the approximate number of people who will participate in an Event is more than 50, the Sponsor of an Event shall furnish a general liability and property damage insurance contract insuring the Sponsor's liability for personal injury, death and property damage resulting from its use of Public Space. The required general liability and property damage insurance shall be provided in an amount not less than \$1,000,000, and the insurance policy shall name the Town (including its officers, officials, employees and agents) as an additional insured party to the insurance contract. Failure to provide required insurance, and reasonable documentation of the insurance, will be grounds for denial and/or revocation of a permit. Prior to commencement of the Event, the Sponsor must provide the Town with an insurance certificate that verifies the insurance coverage required by these regulations. In no event shall the Town have the duty to provide insurance to or on behalf of any third party.

The Chief may waive the insurance requirement, in whole or in part, for Events which do not (a) pose a high level of liability risk to the Town or a material risk to public safety; and (b) do not involve any inherently dangerous activity. A written request to waive or modify any insurance requirement must be made by the Sponsor at the time a permit application is submitted. An approval or denial of the request will be made in writing to the Sponsor.

Sec. 74-134. - Fees and charges.

The Sponsor shall submit an application fee to the Town, and, if additional police personnel are necessary to ensure that the Event does not endanger public health, safety, and welfare or disrupt the orderly flow of pedestrian and vehicular traffic, the Sponsor shall pay police personnel charges to the Town. Such fees and charges are payable in the amounts and at the times set forth in Appendix A to this chapter.

Commented [J6]: Provisions regarding insurance, fees, and costs must include content-neutral standards under which those items are assessed. In addition, they must also include content-neutral exceptions for groups who cannot afford to pay.

The fees and charges due hereunder shall be waived, in whole or in part, if the Sponsor claims a bona fide financial hardship in the application and demonstrates by reasonable evidence that such fees and charges would render the Sponsor not reasonably able to conduct the Event. A bona fide financial hardship shall be deemed to exist if the fees and charges herein exceed (a) ten percent (10%) of the Sponsor's annual income, and (b) ten percent (10%) of the Sponsor's gross assets. In such cases, the Town Manager shall waive payment of the fees and charges to the extent necessary to enable the Sponsor to conduct the Event.

Sec. 74-135. - Compliance with other laws.

Events must comply with all applicable federal, state and local laws. The granting of a permit required by this chapter shall not eliminate any requirements for a business license or other permit and licenses which may be required under federal, state or local law.

Sec. 74-136. - Severability.

If any portion of this chapter is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this chapter and such invalid provisions or portions thereof shall be severable.

Appendix A

1. Permit Application Fee

Amount: \$--.00, nonrefundable.

When Payable: With application

2. Police Personnel Charge, Initial

Amount: \$40.00 per officer per hour

Event Size	Additional Officers Required
Less than 20 persons	0
20-30 persons	1
31-40 persons	2
41-50 persons	3
Greater than 50 persons	4

When Payable: With application (refundable upon cancellation at least 24 hours prior to Event)

3. Police Personnel Charge, Supplemental

Amount: To the extent that additional charges are incurred for police personnel in excess of the Initial Police Personnel Charge (the "Supplemental Police Personnel Charge"), the Sponsor shall pay the greater of:

- (i) \$--.00 per hour per additional officer required to be present at the Event as deemed necessary by the Chief based on the approximate number of people estimated to participate in the Event or the actual number of people who participate in the Event
- (ii) the established hourly wage for overtime work, for each of the particular officer(s) willing and available to cover the Event as deemed necessary by the Chief based on the approximate number of people estimated to participate in the Event or the actual number of people who participate in the Event

If the Initial Police Personnel Charge is in excess of the charges incurred, the Sponsor will receive a refund in the amount of the difference.

When Payable: Within thirty (30) days from the date of an invoice mailed by the Chief to the Sponsor at the address set forth on the application.

4. Road Closure Charge

Amount: \$100.00 per road, non-refundable

When Payable: With application