

DRAFT #4 04/09/2018

TOWN OF CABOT COMMERCIAL PUBLIC ASSEMBLY ORDINANCE

I AUTHORITY AND PURPOSE

Pursuant to 24 V.S.A. § 2291(11), (14), and (15), the following ordinance is promulgated to regulate commercial public assemblies in the Town of Cabot (Town) in order to protect the public health, safety, and welfare, including without limitation the health, safety, and welfare of those who attend commercial public assemblies organized and promoted to take place in the Town, the residents, businesses, and property owners of the Town that may be impacted by a commercial public assembly, and the Town and its ability to provide municipal services as necessary for a commercial public assembly. This Ordinance is designated as a civil ordinance pursuant to 24 V.S.A. § 1971(b).

II DEFINITIONS

As used in this chapter:

- A. “commercial public assembly” or “assembly” means a gathering of five hundred (500) or more individuals in an outdoor public place at which the general public is permitted or invited to attend, conducted or promoted for profit, whether or not a profit is actually returned, where persons are admitted on payment of cash, entry fees, advance subscriptions, donations, or anything of value. For gatherings of two thousand (2,000) people or more, a permit is also required from the Department of Public Safety. Information can be found at <http://vsp.vermont.gov/permit/assembly>.
- B. “gathering” means a group of individuals in attendance at a location at a single point in time.
- C. “public place” means an open area where patrons cannot be accommodated inside a permanent building with respect to which a person permits use by the general public. A “public place” shall not include a stadium used for sporting events, or a fairground having permanent seats for patrons.
- D. “permit” means a written statement, issued by the Selectboard of the Town of Cabot or its designee, authorizing the holding of a commercial public assembly under stated conditions as to time, place and manner;
- E. “permit officer” means the Selectboard of the Town of Cabot or municipal officer designated by the Selectboard to issue permits;
- F. “person” means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;
- G. “promotional activity” means purchasing paid advertisements in any media of communication or circulation of printed material advertising the assembly;
- H. “youth athletic event” means an athletic event in which a majority of the participants are 18 years of age or younger.

III PERMIT REQUIRED

Any person who intends to hold or organize or promote a commercial public assembly within the Town of Cabot shall obtain a permit to do so.

IV EXEMPTIONS FROM PERMIT REQUIREMENT

The following assemblies are exempt from this permit requirement of this ordinance:

- A. Any assembly sponsored by the Town of Cabot.
- B. Any assembly that takes place on public lands of the Town of Cabot. Such an assembly must obtain the prior permission of the Board of Selectmen.
- C. Any assembly for a youth athletic event.

V PERMIT APPLICATION

- A. A completed application for a permit to hold a commercial public assembly shall be filed with the permit officer not less than sixty (60) days before the date of the assembly.

The Selectboard may modify the time requirements of this Ordinance for good cause shown provided the public health and safety will not be jeopardized by such action.

- B. An application for a permit to hold a commercial public assembly shall be in writing and shall be signed by an individual authorized to act for the person sponsoring it.
- C. The application shall include:
 - 1. The date and hours the assembly is to be held;
 - 2. The name, residence address, and the telephone number of the applicant, the principal officers of the applicant, the individual making the application, and any other individual authorized to represent the applicant in applying for the permit;
 - 3. The property location where the assembly is to be held;
 - 4. The written consent of the owner of the property or other person that has the authority to consent to the use of the property upon which the commercial public assembly is proposed to take place;
 - 5. The estimated number of persons expected to participate in or attend the public assembly;

6. A schedule and copies of all promotional activity the applicant has engaged in or intends to engage in;
 7. The general nature of the assembly and the arrangements made to protect the public health, safety, and welfare during the conduct of the assembly, including arrangements with respect to traffic control; police, fire and emergency services; insurance coverage; crowd control; sanitation facilities; and clean up;
- D. The Selectboard shall establish an application fee schedule and may revise such schedule from time to time in the exercise of its responsibilities and authority.

VI ACTION ON APPLICATION

- A. Within 30 days the Selectboard of the Town shall consider the completed application at a public meeting.
1. The permit officer shall provide written notice of the public meeting by mail to the landowners whose property adjoins the property upon which the commercial public assembly is proposed to take place.
 2. The Selectboard may recess the public meeting on the application as necessary to receive additional information.
- B. Within twenty (20) days of the completion of the public meeting, the Selectboard shall direct the permit officer to:
1. Issue the permit as requested;
 2. Issue the permit subject to any conditions authorized in section VII of this Ordinance, which the Selectboard or its designee deems reasonably necessary to protect the public health, safety, and welfare; or
 3. Deny the permit application with a written decision that explains the reasons for the denial.
- C. If the Selectboard fails to act on the application within ten (10) days of the completion of the public meeting, the permit application shall be deemed approved.
- D. If the proposed commercial public assembly also triggers the permit requirement of Chapter 201 of Title 20 of the Vermont Statutes Annotated pertaining to state public assembly permits, the request to obtain a local permit is waived. In such circumstance, the application shall be deemed to comply with this Ordinance and shall be approved forthwith by the permit officer if and when the applicant has received a public assembly permit from the Commissioner of Public Safety or the Commissioner's designee pursuant to 20 V.S.A. §§ 4501 et. seq. A denial of the

state public assembly permit application shall result in the denial of the application filed pursuant to this Ordinance.

VII. CRITERIA FOR IMPOSING CONDITIONS ON PERMIT

- A. If there is a reasonable likelihood that a commercial public assembly will substantially harm the public health, safety, or welfare, the Selectboard or its designee may grant the permit subject to such conditions as are reasonably necessary to avoid substantial harm to the public health, safety, or welfare.
- B. The Selectboard or its designee may impose conditions, including, but not limited to the following, to ensure:
1. The implementation of a plan to limit the number of individuals in attendance at the assembly to the maximum number authorized by the permit;
 2. The provision of adequate food, potable water, and emergency medical facilities;
 3. The provision of adequate toilet and lavatory facilities, including the source, number, location, type and means of disposing of septic waste;
 4. The collection, storage and disposal of solid waste in compliance with applicable state and federal laws and regulations and that litter and other waste incidental to the assembly will be removed and properly disposed of by the permit holder;
 5. The time, place, and duration of the assembly is suitable in view of the number of persons expected to attend;

Measures for controlling the crowd and managing the assembly are adequate, including, without limitation, a security plan detailing the number of guards; their deployment; their names, addresses, and credentials; and their hours of availability;
 6. The provision of adequate fire protection;
 7. That sound, noise and light are adequately controlled;
 8. Measures for controlling traffic and parking are adequate and will provide for suitable road access at all times for area residents and the unobstructed passage of police, fire, ambulance, and other emergency vehicles and personnel;
 9. That the assembly will not substantially impair the provision of fire and police protection, medical, and other essential public services of the Town;

10. The assembly will not unreasonably interfere with the quiet enjoyment of residences in the vicinity of the assembly;
11. The person sponsoring or holding the assembly has adequate liability insurance to cover the event subject to the application;
12. The person sponsoring or holding the assembly furnishes an adequate bond, deposit of money with the Town of Cabot, or arranges other financial security in a reasonable amount to insure reimbursement of the Town for the cost of additional law enforcement, fire, or emergency services, or the performance of other conditions attached to the permit; or
13. Any other condition that the Selectboard determines to be reasonably necessary to protect the public health, safety, and welfare.

VIII. JUDICIAL REVIEW

- A. If the Selectboard determines that there is a reasonable likelihood that an assembly will substantially harm the public health, safety, or welfare and this cannot be avoided by imposition of conditions, or if no permit for such an assembly has been applied for, the permit officer may apply to the Washington Superior Court for an order enjoining the applicant, other interested persons, or those persons the permit officer believes intend to hold an assembly without a permit, from holding the assembly.
- B. Within thirty (30) days of the issuance of a permit or the denial of a permit application, an applicant may appeal the permit decision of the Selectboard or its designee to the Washington Superior Court.
- C. An applicant may petition the Superior Court for an order declaring that the gathering is not subject to this Ordinance. The petition shall contain a copy of the application, a copy of the permit, if any, and state the grounds for the decision requested.

IX. Enforcement, Violations and Penalties.

- A. A civil penalty of not more than \$500 may be imposed for a violation of this Ordinance, including, without limitation, a violation of any requirement(s) and/or condition(s) of a permit. Each day that the violation continues shall constitute a separate violation of this Ordinance.
- B. The permit officer is authorized to recover by the issuance of a municipal complaint, civil penalties in the following amounts for each violation of this Ordinance:

First Violation	\$200
Second Violation	\$300
Third Violation	\$400
Fourth and Subsequent Violations	\$500

C. In lieu of the civil penalties provided in subsection 2 of this section, an issuing municipal official is authorized to recover a waiver fee in the following amount, from any person to whom a municipal complaint is issued, who declines to contest the municipal complaint and pays the waiver fee:

First Violation	\$100
Second Violation	\$150
Third Violation	\$200
Fourth and Subsequent Violations	\$250

D. Other Relief - In addition to the enforcement procedures available before the Traffic and Municipal Ordinance Bureau, the Town of Cabot may pursue any remedy authorized by law, including without limitation, the maintenance of a civil action in superior court pursuant to 24 V.S.A. § 1974a(b) to obtain injunctive and other appropriate relief; or the revocation of a permit.

X. Revocation of Permit Approval.

A. The Selectboard acting through the permit officer may revoke any permit issued pursuant to this Ordinance for the any of the following reasons:

1. The provision of false, fraudulent, misleading, or inaccurate information in connection with the permit application;
2. The failure to comply with any requirement(s) and/or condition(s) of any permit; or
3. The violation of or failure to comply with the provisions of this Ordinance

XI. Severability.

The provisions of this Ordinance are severable. If any provision of this Ordinance, or its application to any person or circumstances or within any part of the Town of Cabot is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the invalidity shall not apply to any other portion of this Ordinance which can be given effect without the invalid provision or application thereof.

XII. Effective Date.

This Ordinance shall become effective sixty (60) days after adoption as provided in 24 V.S.A. § 1972.

XIII. Adoption:

The foregoing ordinance is hereby adopted by the Selectboard of the Town of Cabot, Vermont, this XX day of XXXX 2018, and is effective as of this date until amended or repealed.

Approved by Cabot Selectboard Members XXX XX, 2018