

A private landowner plans to hold a large festival/event on its property. What can the municipality regulate?

A municipality's legally adopted local ordinances will indicate what and how a municipality regulates a large assembly. A municipality may adopt ordinances governing noise; commercial events such as "circuses, carnivals and menageries;" public health hazards, open containers, and parking. The enabling legislation is found in 24 V.S.A. § 2291 (as well as other places in statute). A zoning bylaw may also regulate the use of the property as enabled under Chapter 117 of title 24.

Fireworks are a common harbinger of summer, and Vermont municipalities have the authority to issue permits for fireworks displays. The law requires municipalities – through either the fire and police chiefs or the selectboard when the municipality has no fire department – to issue permits 15 days in advance of the date for a fireworks display. 20 V.S.A. § 3132(d). The permit must confirm that a "competent operator" will oversee the display and that it is located and discharged in manner that is not hazardous to the public or property. The Fire Safety Division of the Vermont Department of Public Safety has sample fireworks display permit and checklists at www.dps.state.vt.us/fire/sparklers.htm.

In addition to a municipality's authority to regulate according to legally adopted ordinances, the state regulates a "commercial public assembly," which is defined as "a gathering of two thousand or more individuals in a public place 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, or donations, or any thing of value[.]" 20 V.S.A. § 4501 (5). To obtain a permit, the applicant mails the application for a state permit to the attorney general, the state's attorney having jurisdiction, and the clerk of the municipality in which the assembly is to be held. The state's authority, however, does not preempt a municipality's authority to regulate the same assembly through various ordinances. The permittee in this case would have to comply with all regulations at the state and local level.

For examples of municipal ordinances, please contact the Municipal Assistance Center at (802) 229-9111.

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