

Chapter 322. Garage Sales

[HISTORY: Adopted by the Board of Trustees of the Village of Malverne 10-15-1976 by L.L. No. 3-1976 (Ch. 19 of the 1972 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Peddling and soliciting — See Ch. 443.

Signs — See Ch. 491.

Zoning — See Ch. 600.

§ 322-1. Permit required.

It shall be unlawful for any person or persons to conduct a garage sale in the Incorporated Village of Malverne without first obtaining a permit and complying with the regulations set forth herein.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 322-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

GARAGE SALE

Includes all sales entitled "garage sale," "lawn sale," "attic sale," "rummage sale" or "flea market sale," or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of said sale.

PERSON

Includes individuals, partnerships, voluntary associations and corporations.

§ 322-3. Regulations; permit fee.

Garage sales in the Village of Malverne shall be regulated in the following manner:

- A. Merchandise. Garage sales shall offer only used, unwanted items of personal property owned by the resident of the property where the sale is held. No new merchandise shall be offered for sale nor may new merchandise from other sources be brought in and offered for sale.
- B. Hours. Garage sales shall not commence before 10:00 a.m. and must terminate by 6:00 p.m.
- C. Number of sales; length. No person shall conduct more than two garage sales on his premises in any one calendar year. Such sales may not extend for a period of more than two days.^[1]
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

D. Signs.

- (1) Garage sales may be advertised through the newspaper or other news media. A sign, not greater in size than three feet by three feet, may be installed on the property where the sale is being conducted.

(2) No sign shall be placed on the public right-of-way or on property other than where the sale is being conducted. No lighted sign shall be used.

(3) The sign shall be displayed only during the sale and shall be promptly removed after the sale.

E. Zoning. It is not the intention of this chapter to change or amend Chapter 600, Zoning, of the Code of the Village of Malverne.

F. Issuance of permit; fee. Upon application, either in person or by mail, the Village Clerk is authorized to issue a permit upon payment of a fee as set from time to time by resolution of the Board of Trustees.

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[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 322-4. Required information.

The information to be filed with the Village Clerk pursuant to this chapter shall be as follows:

A. Name of person, firm, group, corporation, association or organization conducting said sale.

B. Name of the owner of the property on which said sale is to be conducted and the consent of the owner if the applicant is other than the owner.

C. Location at which sale is to be conducted.

D. Number of days of sale.

E. Date and nature of any past sale.

F. Relationship or connection the applicant may have had with any other person, firm, group, organization, association or corporation conducting the past sale listed in Subsection E and the date or dates of such sale.^[1]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

G. Whether or not the applicant has been issued any other vendor's license or permit by any local, state or federal agency.^[2]

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

H. A sworn statement or affirmation by the person signing that the information therein given is full and true and known to him to be so.

§ 322-5. Persons and sales exempted.

The provisions of this chapter shall not apply to or affect the following persons or sales:

A. Persons selling goods pursuant to an order of process of a court of competent jurisdiction.

B. Persons acting in accordance with their powers and duties as public officials.

C. Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five in number.

D. Any publisher of a newspaper, magazine or other publication or other communication media who publishes or broadcasts in good faith without knowledge of its false, deceptive or misleading character or without knowledge that the provisions of this chapter have not been complied with.

E. Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business wherein such sale would be permitted by Chapter 600, Zoning, or under the protection of

the nonconforming use section thereof or any other sale conducted by a manufacturer, dealer or vendor and which sale would be conducted from properly zoned premises and not otherwise prohibited.

- F. Any bona fide charitable, eleemosynary, educational, cultural or governmental institution or organization; provided, however, that the burden of establishing the exemption under this subsection shall be on the organization or institution claiming such exemption.

§ 322-6. Enforcement; responsibility for good order.

- A. This chapter shall be enforced by the Police Department and the code enforcement officers or those officials designated by the Mayor.
- B. The person to whom such permit is issued and the owner or tenant of the premises on which such sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No such person shall permit loud or boisterous conduct on said premises or permit vehicles to impede the passage of traffic on any roads or streets in the area of such premises. All such persons shall obey the reasonable orders of any member of the Police Department or Fire Department of the Village of Malverne in order to maintain the public health, safety and welfare.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 322-7. Penalties for offenses.

Any person who shall violate any provision of this chapter shall be punishable as provided in Chapter 1, Article II, General Penalty, of the Village Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

Chapter 1. General Provisions

Article II. General Penalty

§ 1-14. Penalties for violations of Code provisions.

Notwithstanding anything contained in any section, article or chapter of this Code to the contrary, the following shall apply:

- A. The maximum penalty for any violation of any provision of this Code shall be a fine not in excess of \$350 for each violation and/or imprisonment for a period not to exceed 15 days, or both, for a conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed 15 days, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed 15 days, or both.^[1]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

- B. Each week's continued violation of a provision of the State Uniform Fire Prevention and Building Code (See Chapter 265) or of Chapter 600, Zoning, shall constitute a separate additional violation.
- C. The Board of Trustees may enforce obedience of any provision of the State Uniform Fire Prevention and Building Code (See Chapter 265) or of Chapter 600, Zoning, by injunction.