

ORDINANCE 2022- 01 OF THE ORDINANCES FOR THE VILLAGE OF BIRCHWOOD FOR 2022.

An ordinance creating regulations concerning garage sales within the Village of Birchwood.

THE VILLAGE BOARD OF THE VILLAGE OF BIRCHWOOD DO ORDAIN AS FOLLOWS:

Section 1. Chapter 8 Article XI of the Village Code titled "Garage Sales" is hereby created to read as follows:

**Sec. 8-564. - Findings and intent.**

The Village Board finds:

- (a) Unregulated garage sales cause a disturbance to the citizens of Birchwood;
- (b) There are instances of persons conduction never ending garage sales, likely bringing in goods from off site and transforming a residence into a commercial endeavor and allowing a front or side yard to become a permanent junkyard with items for sale; and
- (c) In order to protect and promote the public health, safety, and welfare of the citizens of Birchwood, it is necessary to prohibit the infringement by such nonregulated sales into established residential areas by regulating the frequency, duration, and time of day of garage sales, so as not to disturb or disrupt the residential environment.

**Sec. 8-565. - Definitions.**

For the purposes of this Chapter 8 Article XI, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

*Garage sales* means all general sales, open to the public, conducted from or on a residential premises in any R-1 or R-2 Residence District, as defined by the Zoning Ordinance, for the purpose of disposing of personal property, including, but not limited to, all sales entitled "garage," "yard," "attic," "porch," "room," "backyard," "moving", "patio," "flea market" or "rummage" sale.

*Garage sale sign* shall mean any sign advertising a garage sale or indicating where a garage sale is located.

*Personal Property* means property which is owned, utilized, and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. The term personal property does not include merchandise which was purchased for resale or obtained on consignment.

**Sec. 8-566. - Property permitted to be sold.**

It shall be unlawful for any individual to sell or offer for sale at a garage sale property other than personal property.

**Sec. 8-567. – Manner and hours of operation.**

- (a) Garage sales shall be conducted only between the hours of 7:00 a.m. to 6:00 p.m.
- (b) No garage sale may be conducted in such a manner so as to obstruct any sidewalk, street, fire hydrant, traffic sign, or safe view of intersection.
- (c) Promptly at the conclusion of any garage sale, all remaining personal property shall be returned to and stored within the permanent structures on the premises.
- (d) Any residence conducting a garage sale shall ensure any neighboring property be free of trespass.

**Sec. 8-568. – Duration and frequency.**

- (a) No residence may conduct more than two (2) garage sales in any calendar year absent change in real estate ownership or tenancy.
- (b) No garage sale may last more than three (3) consecutive days.
  - (1) Any garage sales held on nonconsecutive days shall be counted as separate sales unless required by inclement weather.

**Sec. 8-569. – Signs.**

- (a) Any residence conducting a garage sale is permitted up to four (4) garage sale signs.
- (b) Garage sale signs shall not exceed four square feet (example: two feet by two feet).
- (c) Each garage sale sign must be affixed on its own post and may not be located on utility poles, traffic control devices, in the right-of-way, or on private property where the owner of which has not given explicit permission for its location.
- (d) The police reserve the right to remove any garage sale sign it deems is a safety hazard to the citizens of Birchwood.
- (e) Any garage sale sign must be removed within twenty-four (24) hours of the close of the garage sale.

**Sec. 8-570. - Certain persons and sales exempted.**

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

- (a) Persons selling goods pursuant to an order or process of a court;
- (b) Any auction sales conducted pursuant to Wisconsin Statute Chapter 480, subject, however, to the limit on number of sales per year.

**Sec. 8-571. - Authority of inspecting officials.**

A police officer, any other official designated by the Village Board, or any official designated by any Village ordinance to make inspections shall have the right of entry to any outdoor yard premises showing evidence of a garage sale for the purpose of enforcement or inspection and may issue a citation to any individual who violates the provisions of this chapter.

**Sec. 8-572. - Violations and penalties.**


Any person violating this chapter shall be subject to a forfeiture as provided in Chapter 1 Sections 1-15 through 1-23 of the Village Code.

**Sec. 8-573. – Severability.**

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

Section 2. This ordinance shall take effect upon the date of publication as provided in Section 61.50 (1), Wisconsin Statutes.

Dated this 10<sup>th</sup> day of MAY, 2022.

  
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Rocky VanGilder, Village President

ATTEST:

  
Ashley Beffa, Village Clerk

PASSED:  
PUBLISHED:  
POSTED: