

Bill VOG 06-24.

A local law amending and restating Chapter 44 of the Code of the Village of Greenport, to modify the regulation of mass public assemblies.

Chapter 44

Assemblies, Mass Public

§ 44-1 **Intent.**

The Board of Trustees of the Village of Greenport, being concerned for the health, safety and welfare of the residents of the Village of Greenport and the public that otherwise are within the jurisdiction of the Village of Greenport, and being cognizant of the difficulties in the concentration and gatherings of persons in public places has enacted this chapter.

§ 44-1A **Definitions.**

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

ADDITIONAL EQUIPMENT OR STRUCTURES

Any temporary structure (including, tents, dance floors or stages), furnishings (including tables and chairs), sound reproduction devices (including speakers), entertainment devices (but excluding sound reproduction devices) such as bouncy houses, inflatable slides, jet skis, movie or film screens or other similar items, food trucks or carts or any other equipment (but excluding sound reproduction devices), including generators, grills, powered refrigeration units or catering trucks that is intended to be brought in specifically in connection with the hosting of any mass assembly event, but excluding, for the avoidance of doubt, any beach umbrella, any beach pop-up tent that is intended for sun protection, any beach canopy that is intended for sun protection, beach chairs, portable coolers that do not require any type of power or small tables being utilized to hold small items for personal use but not for seating or dining related purposes.

CHARITABLE ORGANIZATION

An organization as defined in New York Executive Law § 171-a, including but not limited to, not-for-profit corporations. Such charitable organizations shall be recognized as exempt from federal taxation under Internal Revenue Code § 501(c)(3), shall be duly registered with the Charities Bureau of the Attorney General of the State of New York and shall provide services or funds that benefit the Village of Greenport.

DEMONSTRATION

Any assembly or gathering of one or more persons held for the purpose of exercising free speech activity protected either by the First Amendment to the United States Constitution or Article I, Section 8 of the

New York State Constitution, which shall include conduct the sole or principal object of which is the expression, dissemination or communication of opinion, views or ideas and for which no fee or donation is charged or required as a condition of participation in, or attendance at, such assembly or gathering. Examples of a demonstration may include, without limitation, press conferences, speeches and protests.

ENTERTAINMENT PERMIT

A permit issued to any business in accordance with §150-51 in connection with such business providing entertainment (as defined in Chapter 150) or hosting catered affairs (as defined in Chapter 150).

MASS ASSEMBLY EVENT

Any organized parade, procession, walk, run, march, race, ride, motorcade, concert, theatrical event, cultural event, exhibit, fair, fundraising event, boat show, car show, sporting event, catered event or any other similar social occasion or event or activity that involves the planned one-time assembly of persons for a common purpose, with or without a requirement for the payment of any fee or donation or any sponsorship, of more than (A) to the extent utilizing in whole or in part any (i) public space, (ii) public waterway, (iii) public-right-of-way or (iv) private property located in any residential area, the lesser of (x) such number of persons as shall be prescribed for any applicable public park pursuant to Chapter 101 and (y) 50 persons or (B) in all other cases, 100 persons. Examples of mass assembly events may include, without limitation, a circus, carnival, fair, festival, block party, marathon or other running event, bicycle race or tour, sporting tournament, spectator sporting event (such as football, baseball and basketball games), art show, craft fair, barbeque, reception party, wedding, family reunion, graduation party, birthday party, dance or movie screening event.

MITCHELL PARK

Means the public park and marina located south of Front Street between Bootleg Alley and Third Street which is commonly referred to as “Mitchell Park” or “Mitchell Park Marina”.

PERSONS

An individual, association, firm, syndicate, company, trust, partnership, corporation, department, bureau or agency or any other entity recognized by law.

PUBLIC HOLIDAY

Has the meaning specified in Chapter 88.

PUBLIC PARK

Has the meaning specified in Chapter 101 and shall include for the avoidance of doubt Mitchell Park.

PUBLIC RIGHT-OF-WAY

Has the meaning specified in Chapter 88.

PUBLIC SPACE

Has the meaning specified in Chapter 88 and shall include for the avoidance of doubt any public park.

PUBLIC WATERWAY

Has the meaning specified in Chapter 88.

RESIDENT

With respect to any location, a natural person who makes such location their primary place of domicile as evidenced by such person using such location as (a) their address for purposes of official personal identification (i.e. a driver’s license) and (b) the primary location for purposes of income tax filings or otherwise demonstrating through other customary means that such location is the principal domicile

such person.

SOUND REPRODUCTION DEVICE

Has the meaning specified in Chapter 88.

MASS ASSEMBLY PERMIT

A permit issued by the Board of Trustees by the Village of Greenport as required under the terms of this Chapter.

SPONTANEOUS DEMONSTRATION

Any demonstration occasioned by news or affairs coming into public knowledge and initiating a peaceful public response.

§ 44-2 Special permit required for mass public assembly; Exceptions to Mass Assembly Permit Requirement; Limitations on use of Mitchell Park.

- A. (1) Subject to § 44-2(B) below, a mass assembly permit is required for all mass assembly events within the Village of Greenport, including, in any public waterway, public space or on or using any public right-of-way.
- (2) Subject to § 44-2(B) below, no person or group of persons shall maintain, conduct, promote, engage in, operate or knowingly participate in any mass assembly event within the boundaries of the Village of Greenport, including, in, on or using any public waterway, public space or public right-of-way. except pursuant to, and in accordance with, a mass assembly permit issued by the Board of Trustees of the Village of Greenport as hereinafter provided.

Any mass assembly event that is held pursuant to a mass assembly permit shall be held in accordance with the information provided in the application for such mass assembly permit and shall be subject in all respects to any other applicable provisions of Village Code, including, those set forth in Chapter 88 (Noise) and Chapter 101 (Recreation Areas and Beaches) and any other terms, conditions or limitations contained in the applicable mass assembly permit. The organizers of any mass assembly event that shall receive a mass assembly permit shall be responsible for satisfying the requirements set forth in § 44-8 below prior to the occurrence of the applicable mass assembly event or such mass assembly permit shall be considered void.

B. A mass assembly permit shall not be required for any of the following:

- (1) Any activity undertaken by any person that expressly permitted under any conditional use approval, site plan approval or entertainment permit validly issued and in effect in accordance with the provisions of Chapter 150, except to the extent of any catered event involving more than 100 persons which event shall also require the issuance of a mass assembly permit to the extent constituting a mass assembly event.(2) Any (a) spontaneous demonstration occurring between the hours of 9:00 a.m. and 10 p.m.; *provided* that such demonstration relates to events that have occurred in the immediately preceding 48 hours or (b) any other demonstration occurring between the hours of 9:00 a.m. and 10 p.m.; *provided* that the Village Clerk and the Southold Town Police Department are notified of the plan to hold such demonstration by no later than close of business of the day immediately preceding the day on which such demonstration is to be held; and *provided further* that, in either case, such demonstration does not involve the use of vehicles, animals, fireworks or equipment (other than any sound reproduction device which is otherwise expressly permitted to be used in connection therewith in accordance with Chapter 88); or
- (3) Lawful picketing; or

- (4) Funeral processions by a licensed mortuary; or
- (5) Events sponsored by the Village of Greenport, including, without limitation, an annual Halloween Parade, an annual Christmas Parade and Tree Lighting, an annual Menorah lighting, a summer concert series in Mitchell Park, an Easter Egg hunt, and other similar events; or
- (6) Regular sporting events or tournaments held at facilities intended for such purposes; or
- (7) Student assemblies at any school chartered by New York State.

C. No mass assembly permit shall be issued for the holding of any mass assembly event at Mitchell Park except for the following types of events:

- (1) Any mass assembly event that is open to the public and held for the purpose of benefiting a charitable organization;
- (2) Any mass assembly event that is open to the public for cultural, arts, educational or sporting or fitness purposes, including races, marathons, yoga, tai chi or other fitness classes, theater events, musical performances and other similar events; *provided* that no such event shall require any sponsorship, the payment of any fee or the making of any donation in order to participate therein
- (3) Any mass assembly event for a private event (i.e. one that is not generally open to the public such as a birthday party, wedding, retirement party, engagement party or reunion) that is held at either (i) the carousel or in the area immediately adjacent thereto or (ii) in the area above the marina office and in the grass area adjacent to the Mitchell Park Marina Office and the Camera Obscura; *provided* that (a) such event is being held or hosted by a resident of the Village of Greenport, (b) no such event shall be permitted to occur on any (i) public holiday, (ii) Saturday or Sunday that falls immediately before or after a public holiday or (iii) day on which any other mass assembly event is occurring in Mitchell Park and (c) no more than five (5) such events shall be permitted between the period beginning on the Friday immediately preceding the last Monday in May (otherwise being known as the Friday immediately before Memorial Day) and continuing through the first Monday in September, known as Labor Day of any calendar year.
- (4) Any other mass assembly event as determined by the Board of Trustees to be consistent with the policies set forth in this Chapter.

§ 44-3 Application procedure; review; contents of mass assembly permit.

A. Application procedure.

- (1) Any person seeking to organize or host any mass assembly event shall file an application with the Village Clerk at least 60 days prior to the date or dates upon which such mass assembly event is to take place or such later date as the Village Board of Trustees may agree to but in any event a date that is no later than seven (7) days prior to any regularly scheduled meeting of the Board of Trustees that precedes the date on which such mass assembly event is to take place.
- (2) The application shall include the following:
 - (a) A description of the proposed mass assembly event, including a description of the purpose of such event, all related activities to be carried out in connection therewith and the fee, donation or sponsorship required to be made in connection with participation (if any) in such event and the proposed property or location where such event is contemplated to be located.
 - (b) The expected maximum number of persons intended to use the relevant property, or location in connection with such event, including the total number of participants, guests, organizers,

performers (if applicable), employees (if applicable), merchants (if applicable) and instructors (if applicable). In the event that any proposed mass assembly event is proposed to take place in Mitchel Park pursuant to Section 44-2(C)(3), the applicant shall also include a general description of the persons intended to be invited to attend such event (i.e relatives, friends, etc.,) and indicate approximately what percentage of such attendees reside in the Village of Greenport and/or the Town of Southold.

- (c) The proposed date or dates thereof.
- (d) The proposed duration of the event.
- (e) The means of accommodating attendees as to:
 - (i) Food and beverages, if food and beverage service is part of the event, including the name and address and telephone number of any person or persons who will be engaged in the preparation and/or sale of food and a copy of any applicable County Department of Health Services permit number.
 - (ii) Shelter (if applicable).
 - (iii) Facilities for toilet and other personal sanitary needs for men and women.
 - (iv) Emergency first aid.
 - (v) Parking of cars, showing the means of ingress, egress and parking areas for gatherings of 100 or more persons.
 - (vi) Provision for public safety, guards or special police assisting in the control of traffic and the supervision of those persons attending the event, for outdoor events.
- (f) The name, address and telephone number(s) of the person(s) organizing the event and who can be contacted prior to and during the event by the Village or any Southold Town police officer.
- (g) The names of any groups, organizations, charitable organizations, businesses or individuals who shall benefit from the proceeds of such event (if any).
- (h) Whether it is contemplated that any additional equipment or structures and/or sound reproduction devices will be used in connection with such mass assembly event and, if so, a description of such additional equipment or structures, sound reproduction devices and the proposed placement and use thereof.
- (i) Provisions for the disposition of any garbage, trash, rubbish or other refuse that arises in connection with such mass assembly event.
- (j) A description of any signage or lighting to be utilized in connection with such mass assembly event.
- (k) A description of any food, beverages, goods or other services to be sold or auctioned at, or otherwise be made available to attendees, in connection with such mass assembly event.
- (l) If a transportation shuttle is proposed, the location of parking for shuttle passengers and any pick-up/drop-off locations within the Village.

(m) Any additional information required by the Board of Trustees.

B. In making a determination as to whether to grant an application for a mass assembly permit, the Board of Trustees of the Village of Greenport shall review the application and consider the following:

- (1) The size and capacity of the proposed area where the mass assembly event is scheduled to take place to accommodate the proposed mass assembly event without unduly impinging on the public's right to access or use of any associated public space, public waterway or public right-of-way.
- (2) The impact of the proposed mass assembly event on the safe and orderly movement of traffic in the area directly surrounding the proposed mass assembly event and in the Village more generally
- (3) The need for the Southold Town Police Department or any emergency services to be present in connection with the proposed mass assembly event.
- (4) The potential impact of the proposed mass assembly event on fire and police protection and ambulance service to the areas contiguous to the proposed mass assembly event and to the Village in general.
- (5) The potential impact of the proposed mass assembly event on the movement of firefighting equipment or ambulance service in the Village of Greenport.
- (6) The potential impact of the proposed mass assembly event on adjacent property owners and the surrounding neighborhood.
- (7) Possible conflicts with other events and seasonal demands which may overtax or cause an undue burden on the Village of Greenport and/or Town of Southold. As a general rule, mass assembly events in public parks should be avoided on public holidays and Saturdays or Sundays immediately following or preceding any such public holiday except to the extent open to the general public and specifically related to such public holiday.
- (8) Whether the applicant is the subject of any outstanding violations in respect of the provisions of this Chapter or any other provisions of the Code.
- (9) The frequency of the proposed mass assembly event and whether it constitutes a use of the applicable property compatible with its character and that of the surrounding area.
- (10) Whether the proposed mass assembly event has a high probability of disorderly conduct likely to endanger public safety or to result in significant public damage.
- (11) The availability of parking for the event.
- (12) Any other matters that relate to the health, safety and welfare of the general public.

A mass assembly permit is a privilege and not a right and may be denied (a) if the applicant fails to comply with any applicable provision of this Chapter or (b) for any other reason not prohibited by law.

C. The Board of Trustees may issue a mass assembly permit upon such terms and conditions as the Board of Trustees deems necessary and proper to ensure the public health, safety and welfare. In particular, but without limitation, the Board of Trustees may place limitations on (1) the use or placement of any additional equipment or structures in connection with a particular mass assembly event, (2) the hours

during which such mass assembly event may occur, (3) the total number of participants or guests permitted to attend such mass assembly event and (4) the use and placement of sound reproduction devices in connection with such mass assembly event.

- D. A mass assembly permit shall include the following information: (1) The location of the applicable mass assembly event and date, starting and endings times therefore.
- (2) Whether such mass assembly event is permitted to utilize any additional equipment and structures or sound reproduction devices and, if so, any limitations applicable thereto. In the event that a mass assembly permit does not include a specific authorization for any of the foregoing, the use thereof shall not be permitted if otherwise prohibited pursuant to the terms of Chapter 88 or 101 or any other provision set forth in this Code.
- (3) The maximum number of participants permitted in connection with such mass assembly event or, if such mass assembly event consists of a parade, motorcade or other similar moving event, the maximum number of vehicles and/or length of such parade, motorcade or event.
- (4) Any requirements for the presence of Southold Town police or any emergency services in connection with such mass assembly event.
- (5) Any conditions around the use of signage in respect of such mass assembly event.
- (6) The name and contact details of the organizers of the applicable mass assembly event.
- E. No mass assembly permit is transferable and shall expire at the close of the mass assembly event for which it is issued.
- F. An applicant who is denied a mass assembly permit by the Board of Trustees may apply to the Board of Trustees for reconsideration of the application by filing an appeal with the Village Clerk within 10 days of the date of the denial. A complete copy of the original application for the applicable mass assembly event shall accompany the request for reconsideration. The Board of Trustees may, following a public hearing, affirm, amend or reverse the determination of its prior decision subject to any conditions deemed appropriate under the circumstances.

§ 44-4 Concurrent remedies.

Nothing contained herein shall be deemed or construed so as to prevent the enforcement of any other remedy at law, concurrent or otherwise, available to the Board of Trustees or other law enforcement authority to avoid or prevent any violation or attempted violation of this chapter, such as but not limited to an injunction or restraining order. The Village of Greenport may maintain any action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

§ 44-5 Supplementary provisions.

This chapter is in addition to any other law, ordinance or regulation affecting the subject matter herein and is not in limitation thereof.

§ 44-6 Penalties for offenses.

Any person or persons, who shall violate or aid in, take part in or assist in the violation of this chapter shall be subject to: (a) a minimum fine of not less than \$500 and not more than \$1,000 for the first offense and (b) a minimum fine of \$1,000 or a maximum fine of \$5,000 for each additional offense occurring within twelve (12) months of the first offense. Any penalties payable under this § 44-6 shall be in addition to any other penalties that such person or persons may be liable for pursuant to any other provision of this Code,

including, without limitation, pursuant to Chapter 88 or Chapter 101.

§ 44-7 Revocation of Permit.

Any mass assembly permit may be summarily revoked by the Mayor or Board of Trustees at any time, when, by reason of disaster, public calamity, riot or other emergency, it is determined that the safety of the public or property requires such revocation. Notice of such action revoking a permit shall be delivered in writing to the permittee by certified mail or by such other notice as the Board of Trustees may designate from time to time.

§ 44-8 Other Applicable Requirements.

- A. Each applicant for a mass assembly permit shall be required to pay to the Village Clerk an application fee of not less than \$150 or such greater amount as the Board of Trustees may prescribe from time to time by resolution; *provided* that an applicant may include a request for approval of up to *six* (6) different mass assembly events in connection with any application for a mass assembly permit (without any greater cost in respect of the fee for such application
- B. Each applicant for any mass assembly event to be held at any public space, public right-of-way or public waterway shall be required to provide a certificate of general liability insurance naming the Village of Greenport as an additional insured with limits of \$1,000,000 per occurrence or such other limit as may be required by the Village Board of Trustees in connection with approving the applicable mass assembly permit for events where expected attendance is anticipated to exceed 100 persons.
- C. Each applicant that is hosting a mass assembly event to be held at any public space, public right-of-way or public waterway shall be required to make (1) a minimum clean up deposit with the Village of Greenport of \$500 which shall be returned upon a demonstration that no damage has occurred as a result of such mass assembly event and that all garbage, trash, rubbish, signage and other refuse has been satisfactorily disposed of in accordance with the provisions of this Section and any other applicable provisions of the Code, including Chapter 101 and (2) at the discretion of the Board of Trustees, a deposit in an amount to be determined based upon the estimated direct costs attributable to any additional police or emergency costs associated with the relevant mass assembly event. Any such deposit shall be used to cover any applicable costs associated with clean up or the provisions of additional police or emergency services and any monies remaining will be returned to the applicant.
- D. For all mass assembly events which anticipate attendance in excess of 100 persons, the organizers must retain the services of a security professional possessing either a private investigator's license or a watch, guard or patrol agency license from the State of New York. Said security professional shall submit to the Village Clerk and the Southold Town Police Department a detailed security plan, in a form acceptable to the Southold Town Police Department outlining potential security threats affecting the applicable mass assembly event and plans to mitigate the same. The Southold Town Police Department shall approve the security plans in order for any applicable mass assembly permit to be issued.
- E. The Board of Trustees for the Village of Greenport may waive in whole or in part any of the requirements set forth above in clauses A, B, C or D.
- F. No additional equipment or structures may be placed on the location of the proposed mass assembly event to be held at any public space, public right-of-way or public waterway prior to the date on which such event is permitted to occur and all such structures shall be removed at the close of such mass assembly event unless the mass assembly permit shall expressly provide for different time periods.

- G. No signage associated with the mass assembly event shall be permitted to be put up in any public space or public right-of-way more than five (5) days prior to the occurrence of such event and all such signage put up in connection with any mass assembly event shall be removed and disposed of offsite by no later than two (2) days after the end of such mass assembly event.