

## Chapter 166

### SHORT TERM RENTALS

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[HISTORY: Adopted by the Board of Trustees of the Village of Alden 8-25-2020 as L.L. No. 9-2020. Subsequent amendments noted where applicable.]

#### GENERAL REFERENCES

Zoning -- See Ch. 210.

Fees -- See Ch. A220.

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#### § 166-1. Purpose.

This Chapter is not intended to in any way to hinder, delay or interfere with legitimate business or organizational activities. The purpose of this local law is to not only control the use of short term rentals as a means of concealing unlawful and/or unruly activities, but also to eliminate disturbances and negative effects of transient individuals on adjoining properties. Many residents live in single family homes and wherever there is a source of nuisance or even harassment from individuals and groups who are not their neighbors should be subject to control. Businesses in the community have also been affected through unfair competition, littering, loitering, and a loss of parking and business to entities that are not properly registered in the Village and required to maintain the same health and safety requirements of those businesses that provide valuable tax revenue for the locality. Therefore, in order to protect the public's health, safety, and welfare, and to control access on the public thoroughfares and activities that will affect residential neighborhoods, it is necessary to regulate these practices through a registration process.

**§ 166-2. Definitions.**

CLERK -- The Village Clerk.

DAY -- Calendar day, including Saturday, Sunday, and Holidays

OWNER -- A person who is the titled owner of a piece of real property or the owner of a mobile home located within a mobile home park in the Village of Alden.

PERSON -- Any individual, group, organization, corporation, company, entity, charitable organization, partnership or similar association.

PROPERTY -- Any real property or mobile home situated on real property, whether as a rental unit or not, located within the corporate limits of the Village of Alden

RENTAL -- An agreement granting use and/or possession of a residence, in whole or in part, to a person or group in exchange for consideration valued in money, goods, barter, labor, services, credits or other valuable consideration.

RESIDENT SERVICES -- Work, labor, or services, whether bartered or not.

SHORT TERM RENTAL -- A dwelling unit that is rented, in whole or in part, to any person or entity for a period of less than thirty (30) consecutive days and is not otherwise regulated by another section of the Code of the Village of Alden.

**§ 166-3. Prohibited Practices.**

- A. It shall be unlawful for any person and/or owner to use any property within the Village for purposes of a short term rental without first obtaining a permit from the Clerk.
- B. It shall be unlawful for any person and/or owner to not display a permit or certificate of registration obtained from the Clerk on the property.
- C. It shall be unlawful for any person and/or owner to permit any individual or group using such short term rental property from engaging in illegal or other activities which a reasonable individual would consider to be disruptive to adjoining residences or the neighborhood.
- D. It shall be unlawful for any person and/or owner to permit parking in any area other than a driveway or designated parking area as determined by the Code Enforcement Officer.

**§ 166-4. Regulations.**

- A. Use of a short term rental by a record owner of a property for personal use by such owner shall not be considered a rental under this Chapter.
- B. An owner shall obtain a permit whenever a dwelling unit is used for purposes of a short term rental.
- C. Unless otherwise provided, all licenses or permits required by the ordinances or local laws of the Village of Alden shall be issued by the Village Clerk who shall collect the fees therefor.
- D. Applications for a permit or certificate of registration shall contain the following information: name, proof of age, address, and electronic mail address of the person to be conducting the sale or other activity; the name and address of the business or organization for which the permit or certificate of registration is sought; a brief description of the business or activity to be conducted; or if acting as an agent, the name, address, electronic mail address, and telephone number of the principal who is being represented, with credentials in written form establishing the relationship and the authority of the employee or agent to act for the employer or principal, as the case may be; the name, address, telephone number, cellular number, and email of any individual who shall be authorized to act on the owners behalf to promptly rectify and remedy any violations of the standards related to the permit; a copy of the current deed and survey with respect to such property; a statement as to whether or not the applicant has been convicted of a felony, misdemeanor or local law violation, the nature of the offense or violation, the penalty or punishment imposed, the date when and place where such offense occurred, and other pertinent details thereof; proof of insurance on the premises; proof of possession of any license or permit which, under federal, state or local laws or regulations, the applicant is required to have in order to conduct the proposed business, or which, under any such law or regulation, would exempt the applicant from the licensing requirements of this article; two photographs of the applicant that shall have been taken within sixty (60) days immediately prior to the date of filing of the application. The photographs shall measure one (1) inch by two (2) inches and show the head and shoulders of the applicant in a clear and distinguishing manner; and such other information as may reasonably be required by the Board of Trustees as a condition to registration or permitting or to permit investigation into the applicant's background and past practices. The application shall be signed by the applicant and all owners of the real property and shall be accompanied by the fees established in the Village's fee schedule, as amended by the Board of Trustees from time to time. All applications shall be made at least thirty (30) days prior to conducting any activities requiring a permit.

- E. There shall be one functional smoke detector in each sleeping room and at least one functioning smoke detector in a least one other room in addition to a functioning fire extinguisher in the kitchen and at each exit and at least one carbon monoxide detector.
- F. The Code Enforcement Officer shall undertake an inspection prior to the issuance of any permit. Such inspection shall include, but not be limited to, the following requirements which must be retained at all times by the owner and applicant. In the event that the Code Enforcement Officer determines that the necessary requirements have not been met or that the application is incomplete or inaccurate, the Code Enforcement shall have the authority to request additional or corrected information and no permit will be issued until such information is received and reviewed within ten (10) days by the Code Enforcement Officer.
- (1) exterior doors shall be operational and all passageways to exterior doors shall be clear and unobstructed
  - (2) electrical systems shall be serviceable with no visual defects or unsafe conditions
  - (3) all fireplaces, fireplace inserts, wood stoves, or other burning heaters and furnaces shall be vented and properly installed
  - (4) each sleeping room shall have an exterior exit that opens directly to the outside or to an emergency escape or rescue window
  - (5) the house number must be affixed and readily viewable from the street
  - (6) provisions for garbage collection, retention, and removal by the owner must be provided in in conformance with the regular Village collection rules and regulations
  - (7) A site plan, drawn to scale showing all bedrooms, kitchen, the locations of any buildings, and required parking shall be included with the application.
  - (8) The property must have sufficient off street parking spaces for the owner, if owner occupied, and any guests

**§ 166-5. Investigation, Approval or Disapproval.**

- A. The Village may conduct such background checks as the Village deems necessary and prudent. The following shall be grounds for denying a permit:

- (1) Failure of an applicant to truthfully provide any information requested by the Village as part of the application process.
  - (2) Failure of the applicant to pay any required fee.
  - (3) When an applicant has a bad business reputation. Evidence of a bad business reputation may include prior revocations of any permit or license, prior convictions for violation of any federal or state law or regulation or of any local ordinance, which adversely reflects upon the person's ability to conduct the business or other operation/activity for which the permit is being sought, or prior complaints with the Village, Better Business Bureau, state Attorney General, or other similar business or consumer rights office.
  - (4) The applicant has been convicted of a felony, misdemeanor, or local law violation involving a sex offense, trafficking in controlled substances, or any violent acts against persons or property, such conviction being entered within the five (5) years preceding the date of application.
  - (5) The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the five (5) years immediately preceding the date of application.
  - (6) The applicant offers no proof of authority to serve as an agent.
  - (7) The applicant has been denied a permit under this article within the immediate past year, unless the applicant can and does show to the satisfaction of the Clerk that the reasons for such earlier denial no longer exist.
  - (8) Such other legitimate reason as may be determined by the Board of Trustees.
  - (9) The Board of Trustees may also impose such conditions on any approval that shall be deemed reasonable and prudent by the Board.
- B. Refusal of license or permit; appeal. In the event that the Clerk shall refuse to issue a license or permit, the person who has been refused a license or permit may appeal to the Board of Trustees, who shall, upon a favorable majority vote, order the Village Clerk to issue a license or permit to the applicant.

- C. Suspension of license or permit. Where any person, owner, other entity for which a license is granted by the Village is or is about to become a nuisance or menace to the peace, comfort and health of the Village of Alden or its inhabitants, the Code Enforcement Officer shall have the right to immediately suspend such license or permit upon serving written notice to the holder of such license or permit or upon any person in charge of such short term rental, pending a decision by the Board of Trustees.

**§ 166-6. Permit expiration.**

All permits and/or certificates issued under the provisions of this Chapter shall expire on December 31<sup>st</sup> of each year.

**§ 166-7. Transfer prohibited.**

It shall be unlawful for any person to transfer the permit issued to any other person. Notice of any property transfer shall be provided to the Clerk. All permits shall immediately expire upon such property transfer and the new owner and/or person must apply for a new license and/or permit.

**§ 166-8. Permit revocation.**

- A. Any permit issued under this article may be revoked or suspended by the Clerk, after notice for any of the following reasons:
- (1) Fraud, misrepresentation or false statement contained in the application for a permit;
  - (2) Fraud, misrepresentation or false statement made by the permit holder in the course of conducting rental activities;
  - (3) Conducting rental activities contrary to the provisions of the permit;
  - (4) Conviction for any crime involving moral turpitude; or
  - (5) Conducting rental activities in such a manner as to create a public nuisance, constitute a breach of the peace or endanger the health, safety or general welfare of the public.

**§ 166-9. Notice and hearing.**

Notice of a hearing for revocation of a permit issued under this article shall be provided in writing and shall set forth specifically the grounds for the proposed revocation and the time and place of the hearing. Notice shall be faxed, sent electronically, or mailed to the permit holder at the address shown on the permit application or at the last known address of the permit holder or by causing a copy of such notice to be personally delivered to the applicant. In either case, the permit will be deemed revoked upon mailing or delivery of such notice.

**§ 166-10. Appeals.**

- A. Any person aggrieved by the action or decision of the Clerk to deny, suspend or revoke a permit applied for under the provisions of this article shall have the right to appeal such action or decision to the Mayor within fifteen (15) days after the notice of the action or decision has been mailed to the person's address as shown on the permit application form, or to his last known address.
- B. An appeal shall be taken by filing with the Clerk a written statement setting forth the grounds for the appeal.
- C. The Clerk shall transmit the written statement to the Mayor within ten (10) days of its receipt and the Mayor shall set a time and place for a hearing on the appeal.
- D. A hearing shall be set not later than twenty (20) days from the date of receipt of the appellant's written statement by the Mayor.
- E. Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of notice of action or decision.
- F. The decision of the Mayor on the appeal shall be final and binding.

**§ 166-11. License fees; expiration date.**

Unless otherwise stated, all license fees shall be paid to the Village Clerk, and all licenses shall be issued yearly and shall expire on the last day of the December. The fees<sup>1</sup> for licenses and permits shall be determined by resolution of the Board of Trustees of the Village of Alden at its organizational meeting.

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<sup>1</sup> Editor's Note: See Ch. A220, Fees.

**§ 166-12. Assignment of license.**

No license or permit shall be assigned without the consent of the Board of Trustees.

**§ 166-13. Posting or production of licenses.**

All licenses or permits issued by the Village of Alden shall be posted in a conspicuous place in the building licensed or in the place where the business licensed is carried on. All other licenses or permits shall be kept in a convenient place where they can be readily produced upon demand by the Clerk, the Board of Trustees or persons duly authorized to demand the same.

**§ 166-14. Transferability.**

No permit or certificate of registration shall be transferred to any other person other than the person to whom it was issued. Each individual person conducting activities for any organization must obtain a separate permit or certificate of registration.

**§ 166-15. Penalties for offenses.**

- A. Any person violating any of the provisions of this chapter shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.00) per day or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment.
- B. The continuation of an offense under this chapter shall constitute, for each day the offense continues, a separate and distinct violation hereunder.
- C. In addition to any criminal enforcement, the municipality or any individual may pursue any available civil remedies deemed appropriate and necessary.