

Chapter 173

SOLID WASTE

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[HISTORY: Adopted by the Board of Trustees of the Village of Alden 9-29-1992 as L.L. No. 2-1992. Amended in its entirety 7-10-2014 by L.L. No. 5-2014. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Licenses and permits -- See Ch. 125.
Unlicensed vehicles -- See Ch. 203.
Fees -- See Ch. A220.
Garbage Fees. -- See Ch. A330.

§ 173-1. Title.

This chapter shall be known as the "Solid Waste Management Law of the Village of Alden, New York."

§ 173-2. Purpose.

- A. The reduction, reuse and recycling of solid waste are important public concerns and will aid in the protection and preservation of the environment.
- B. The Solid Waste Management Act of 1988¹ mandates passage of an ordinance or law by each local municipality within the State of New York to require that solid waste which has been left for collection or which is delivered by the generator of such waste to a solid waste management facility shall be separated in recyclable, reusable or other components for which economic markets for alternative uses exist.
- C. The control and management of solid waste is a vital concern to the residents of the Village of Alden with respect to the control of noxious and/or other hazardous odors, refuse and materials.
- D. Control of access onto the Village right of way and highways are important public health, welfare, and safety issues in addition to being a concern for the overuse of public streets by heavy equipment and vehicles.

§ 173-3. Definitions.

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

AUTHORIZED COLLECTOR -- A person, individual, association, partnership or corporation or employer or agent thereof authorized by contract or permit with the village to collect solid waste from residential, commercial and institutional properties, as herein defined, under the terms and conditions of this chapter. In the event of municipal collection, this definition shall include the governing body and employees thereof.

¹ Editor's Note: This Act was adopted as Chapter 70 of the Laws of 1988.

BULKIES -- Large items such as sofas, upholstered chairs, mattresses and box springs, but excluding large appliances, such as refrigerators, stoves, dishwashers, washers, dryers, etc., which are considered recyclable.

COMMERCIAL OPERATION -- All property used for industrial or commercial purposes, including but not limited to retail and wholesale establishments, apartments with three or more units, trailer courts, offices, garages, gas stations, manufacturing establishments, repair establishments, banks, motels, restaurants and other similar and related facilities.

CONTAINER -- Any can, bin, box, bag or other unit used for storage of garbage and recyclable materials.

FACILITY -- Any solid waste management/resource recovery facility employed beyond the initial solid waste collection process which is to be used, occupied or employed for or is incidental to the receiving, transporting, storage or processing or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom, including recycling centers, transfer stations, processing systems, resource recovery facilities, sanitary landfills, plants and facilities for composting or landspreading of solid wastes, secure land burial facilities, reprocessing and recycling facilities, surface impoundments and waste oil storage, incinerators and other solid waste disposal, reduction or conversion facilities.

HAZARDOUS WASTE -- Solid waste that is especially harmful or potentially harmful to public health. This shall include, but not be limited to, explosives, toxic materials and medical waste.

INSTITUTION -- An organization or establishment devoted to the promotion of a particular object or cause, including schools, nursing homes, retirement homes, health facilities, governmental facilities, libraries, fire halls, etc.

MUNICIPAL SOLID WASTE -- All putrescible and nonputrescible materials, including garbage, refuse and other discarded solid materials, including but not limited to solid waste materials resulting from industrial, commercial, residential and agricultural operations and from community activities. Liquids, semisolids and contained gaseous materials are hereby defined as "solid waste." It shall not include solids or dissolved material in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flows or other common water pollutants. In addition, it shall not include hazardous waste.

PERSON -- Any individual, firm, partnership, association, corporation, group of individuals, institution or other entity.

PRIVATE COLLECTOR -- Any person, firm, partnership, corporation or legal entity providing for the collection of municipal solid waste and/or recyclable materials.

PRIVATE SUBSCRIPTION -- The collection of municipal solid waste and recyclable materials where the resident contracts directly with the private collector of the subscriber's choice.

RECYCLABLE MATERIAL -- Those materials specified by the Village of Alden for separate collection in accordance with recycling regulations. Such materials may include, but are not limited to:

- A. ALUMINUM -- Aluminum products and containers fabricated primarily of aluminum and commonly used for soda, beer, beverages or other food or drink.
- B. METAL CAN -- Containers fabricated primarily of steel or tin or bimetal cans of steel, tin and/or aluminum, other than aluminum cans.
- C. GLASS CONTAINER -- New and used glass food and beverage containers which have been rinsed and are free of food contamination, including clear (flint), green and brown (amber) colored glass bottles and jars. "Glass" shall not include ceramics, plate glass, auto glass, Pyrex, leaded glass, mirrored glass or flat glass.
- D. PLASTIC CONTAINER -- Includes high-density polyethylene (HDPE) and polyethylene terephthalate (PET) designated respectively as No. 2 and No. 1 on the recycling code located on the containers.
- E. NEWSPRINT -- Common, inexpensive machine-finished paper made chiefly from wood pulp and used for newspapers.
- F. CORRUGATED -- Wood-pulp-based material which is usually smooth on both sides with a corrugated center; commonly used for boxes, excludes material with a waxed coating.
- G. HIGH-GRADE PAPER -- White and colored office bond, duplicating paper, computer paper and other high-quality paper.
- H. MAGAZINE -- Magazines, glossy catalogs and other glossy paper.

- I. **LARGE APPLIANCE** -- Stoves, refrigerators, dishwashers, dryers, washing machines, water heaters and other large appliances, scrap metal, air conditioners, microwaves and televisions.

RECYCLING -- The separation, collection, processing, recovery and sale or reuse of metals, glass, paper, plastics and other materials which would otherwise be disposed of as solid waste.

RESIDENT -- Any person residing within the Village of Alden on a temporary or permanent basis, but excluding persons residing in hotels or motels, unless such individuals have established the same as a permanent residence.

RESIDENTIAL PROPERTY -- Properties used as dwellings, including buildings having two dwelling units in one building. Multiple-dwelling residential buildings containing three or more dwelling units, for purposes of this chapter, shall be treated as commercial properties.

SOLID WASTE MANAGEMENT -- The purposeful systematic control of the storage, collection, transportation, processing and disposal of solid waste.

SOURCE SEPARATION -- To separate the recyclable materials from the municipal solid waste stream at the point of waste generation.

YARD WASTE -- Organic yard and garden waste, leaves, grass clippings and brush.

§ 173-4. Modifications.

Nothing herein shall prevent the Village Superintendent of Public Works, the Board of Trustees, or other designated person from modifying what shall be considered recyclable materials as the need arises.

§ 173-5. Owner responsibilities.

Owners and occupiers of property are herein required to make accumulated municipal solid waste available for collection as scheduled under the terms hereof.

§ 173-6. Financial responsibilities of owner; failure to make payments; garbage fee liens.

- A. The owner of any property situated within the village limits from which any waste as defined in this Code is collected, or for which a usage charge is assessed, shall be responsible for all usage fees, levies, fines and collection fees as may be deemed warranted by the Village, and the same shall be paid pursuant to the schedule determined by the Board of Trustees. All unpaid usage fees, levies, fines and collection fees shall constitute a lien upon the real property of the owner, and the owner's failure to timely make such payments shall expressly empower the Board of Trustees or its designee or the Village Clerk with the authority to place such unpaid balances upon the real property taxes, and such unpaid balances shall be levied against the subject real property owned by the party failing to pay such levy. Nothing herein, however, shall prevent the Board of Trustees, the Village Clerk or their designees from otherwise using any other available collection means or legal redress to recover such liens, usage fees, fines, levies or fees as may be permitted by law.
- B. All property within the Village of Alden as defined herein shall be assessed a fee for administration, collection and disposal services relating to solid waste, as may be applicable depending upon such use. Such fees shall be set forth in Chapter A330 (Garbage Fees) of this Code.
- C. Upon a showing of good cause and within the discretion of the Board of Trustees, owners of real property may make written application to the Board of Trustees for a reduction of the assessed garbage fee for a specific property, provided there is a change to the status of the use of such property. No requests will be granted based on the quantity of waste being generated by said property. Any approved reduction of an assessed fee shall be effective on the next Village of Alden billing cycle following a request that has been approved prior to March 1st of any given year. If a reduction of an assessed fee is approved after the March 1st deadline, the reduction will be made on the following year's Village of Alden billing cycle. Nothing herein shall require the Board of Trustees to grant such adjustment of a garbage fee.
- D. Any changes to the status of the use of a property that results in an increase of the assessed garbage fees on said property shall be collected on a pro-rated basis prior to the issuance of any Building Permit for the subject property. The new fees shall be calculated as set forth in Chapter A330 (Garbage Fees) of this Code.
- (1) For Building Permits issued for changes prior to March 1st, the additional yearly fees for a property shall be calculated and divided

by twelve (12) to determine the per-month charge. This per-monthly charge shall then be assessed for each month remaining in the fiscal year.

- (2) For Building Permits issued for changes after March 1st, the additional yearly fees for a property shall be calculated and divided by twelve (12) to determine the per-month charge. This per-monthly charge shall then be assessed for each month remaining in the fiscal year. An additional fee equal to the yearly fee shall be collected for the next fiscal year. Nothing herein shall require the Board of Trustees to grant such adjustment of a garbage fee.

§ 173-7. Collection to be under contract or permit.

- A. All municipal solid waste accumulated on any residential property in the village shall be collected, conveyed and disposed of by the village or by an authorized collector under contract with the Village in accordance with the provisions of this chapter or pursuant to a permit issued by the Village.
- B. All municipal solid waste accumulated on commercial, industrial and institutional properties shall be collected, conveyed and disposed of by the village or authorized collectors under contract with or permitted by the Village of Alden. In such a case where a residential, commercial, institutional or industrial establishment contracts directly with a collector, the fee or payment shall be a matter of private agreement between the owners or occupiers and the collector except for any administrative fee which otherwise might exist. When approved by the village, owners of residential and nonresidential properties may collect, convey and dispose of privately generated municipal solid waste by their own containers and/or trucks, provided that they comply with the provisions of this chapter and any rules or regulations in existence which are applicable thereto and the New York State Department of Environmental Conservation regulations.

§ 173-8. Prohibited acts.

It shall be unlawful for any person to collect and dispose of any municipal solid waste within the Village of Alden except as provided for in this chapter and the rules and regulations promulgated thereunder. It shall also be unlawful for any person, owner, or organization to permit the collection and disposal of any municipal solid waste waste within the Village of Alden except as provided for in this chapter and the rules and regulations promulgated thereunder.

§ 173-9. Source separation required.

Municipal solid waste generated or originated within the Village of Alden which has been left for collection or which is delivered by the generator of such waste to a facility shall be handled in the following manner:

- A. Prior to initial collection or transport, source separation shall be required of each and every person or party discarding municipal solid waste and/or recyclable materials. Recyclable materials shall not be commingled with other solid waste during collection, transportation or storage following collection.
- B. Authorized collectors collecting residential, commercial, industrial and/or institutional municipal solid waste generated within the village shall refuse to collect municipal solid waste from any person or party who has clearly failed to source separate the recyclable materials and/or who has not properly prepared the recyclable materials to the specifications of the collector.

§ 173-10. Designated collection days.

The Superintendent of Public Works shall designate a day or days for the removal of municipal solid waste from the streets of the village.

§ 173-11. Receptacles; placement at curb. [Amended 2-9-2012 by L.L. No. 3-2012]

Upon such designated day or days, such municipal solid waste shall be placed at the curbline or in the area between the sidewalk and the pavement in front of the premises owned or occupied by that person. All municipal solid waste stored on-premises on non-pickup days must be wholly contained in a garbage can or trash receptacle with a tight-fitting lid.

- A. All municipal solid waste collected from the premises in which recyclable materials have been separated shall be placed in approved receptacles. No such receptacles so placed for municipal solid waste shall exceed fifty (50) pounds, including the weight of the contents in the container.
- B. All empty receptacles shall be removed by the owner or occupier from in front of the premises before 9:00 p.m. of the day the contents are collected. No receptacles shall be placed for collection prior to 6:00 p.m. on the day immediately preceding the day of collection.

§ 173-12. Junk; abandoned vehicles.

For provisions relating to abandoned or junk vehicles, see Chapter 203, Vehicles, Unlicensed.

§ 173-13. Authorized collectors.

- A. Only authorized collectors who are acting under authority of the Village of Alden pursuant to a contract or permit shall collect, pick up, remove or cause to be collected, picked up or removed any solid waste recyclable materials so placed for collection.
- B. Any unauthorized collection, pickup or removal shall constitute a separate and distinct violation of this chapter for each day of occurrence.

§ 173-14. Ownership of recyclables placed for collection.

- A. From the time any person places any recyclable materials at the curb or pavement edge for purposes of collection by the Village of Alden or its designated representatives, permit holders, or agent, those recyclable materials shall become the property of the Village of Alden or its authorized agent. No person who is not acting under the Village of Alden, a permit holder, or its authorized agent shall collect, pick up, remove or cause to be collected, picked up or removed any recyclable materials so placed for collection. Each such unauthorized collection, pickup, or removal shall constitute a separate violation of this chapter; provided, however, that where the Village of Alden has refused to collect certain recyclables because they have not been placed or treated in accordance with the provisions of this chapter, the person responsible for initially placing those materials for collection may and shall remove those materials from any curb, sidewalk or pavement edge.
- B. Nothing in this chapter shall prohibit any person from making arrangements for private collection of recyclables, provided that recyclables to be privately collected shall not be placed at the curb or pavement edge in or immediately preceding the day for municipal collection of such recyclables; and provided further, that any container used for private collection shall meet the requirements set forth in § 173-11 or such bulk container or dumpster requirements relating to public health and safety as may be established from time to time by resolution of the Board of Trustees of the Village of Alden.

- C. Nothing in this chapter shall be construed to prohibit any person from separating recyclables from other waste materials to be collected by a private collector and placing such recyclables properly contained in accordance with § 173-11 at the curb or pavement edge for collection by the Village of Alden at the time designated by the Superintendent of Public Works pursuant to § 173-10.

§ 173-15. Refusal by collector to remove.

Where the authorized collector has refused to collect certain recyclable materials because they have not been separated, placed or treated in accordance with the provisions of this chapter, the person responsible for initially placing those materials for collection shall remove those materials from any curb, sidewalk or street side immediately.

§ 173-16. Private collection.

Nothing herein shall prevent any person from making arrangements for the private collection, sale or donation of recyclable materials prior to placement at the curbside.

§ 173-17. Issuance of permits; fees.

All private and authorized collectors must obtain a solid waste collection permit for each collection vehicle from the Village of Alden. A fee for such permit shall be set by the Village Board of Trustees on an annual basis,² and all permits shall be issued for the calendar year or such portion thereof. There shall be no reduction in the fee for any permit issued after the beginning of any calendar year. A separate fee shall be imposed for the use of the highways and right of ways in the Village as so determined by the Board of Trustees on an annual basis. These fees shall be in addition to any administrative fees that may be imposed upon any property owner or for the collection of any bulky goods or recyclable materials.

§ 173-18. Collector stickers.

An authorized collector sticker shall be permanently displayed on each vehicle operated by or on behalf of the authorized collector. The failure to maintain such sticker shall be considered a separate violation of this law for every day that such sticker is not displayed.

² Editor's Note: See Ch. A220, Fees.

§ 173-19. Denial of applications.

Authorized collector applications may be denied if the applicant or permit holder has been adjudged or administratively determined to have committed one or more violations of this chapter during a preceding village fiscal year.

§ 173-20. Liability.

As a condition of being granted a permit or a contract, aAll authorized collectors' permits or other permit holders shall defend, indemnify and otherwise hold harmless the Village of Alden and its employees, elected officials and agents from any pending, threatened or actual claims, causes of action, suits or liability or expenses arising from the omissions and/or solid waste disposal activities by the authorized collector.

§ 173-21. Application for permit.

Each collector who shall apply for a permit under this section, on forms provided by the Village Clerk, shall state the manner of collection, the place and method of disposal of the municipal solid waste and recyclable materials from its residential, commercial, industrial and institutional customers. Each authorized collector shall maintain separate monthly records of solid waste and recyclable materials collected, transported or disposed of by the authorized collector, which shall include, but not be limited to, the following information:

- A. The geographical area and number of units in which the solid waste or recyclable material was generated.
- B. The quantity, by ton, of solid waste and of each type of recyclable material collected.
- C. The quantity, by ton, of recycled materials delivered to a recycling facility(ies) and the location of the recycling facility(ies).
- D. The quantity, by ton, of solid waste delivered to each facility.
- E. The specific location of each such collection.

§ 173-22. Reports.

Reports containing the information required as stated above shall be compiled and delivered to the Superintendent of Public Works or other designated individual on a quarterly basis.

§ 173-23. Unacceptable waste.

Authorized collectors shall not accept for collection municipal solid waste which has not been source separated in conformity with this chapter.

§ 173-24. Inspection of collection vehicles and containers.

All portions of vehicles and containers used to haul, transport or dispose of recyclable materials, including such containers placed outside residences, shall be subject to inspection to ascertain compliance with this chapter by the Superintendent of Public Works, and/or any other public official designated by the Village of Alden.

§ 173-25. Enforcement authority; issuance of tickets.

The Superintendent of Public Works is hereby authorized and directed to issue appearance tickets for violations of this chapter.

§ 173-26. Failure to comply.

- A. When the Superintendent of Public Works determines that a failure to comply with this chapter may have occurred, that individual shall recommend to the village that the authorized collector or permit holder application or permit be denied, suspended or revoked or its holder subjected to a reprimand or fine or that the generator or originator of the solid waste or recyclable materials be subject to sanctions, fines or penalties as hereinafter set forth.
- B. Notification.
 - (1) The affected generator, applicant or permit holder shall be notified of the alleged failure, in writing, which shall include the following:
 - (a) A statement of the condition allegedly violated, referring to the pertinent ordinance, law, rule or regulation.

- (b) A short and plain statement of the alleged misconduct.
 - (c) A statement of the time, place and nature of any hearing or proceeding.
- (2) The notice shall be personally served or sent by registered mail to the generator, applicant or permit holder's last known address, at least ten (10) days before the date of any hearing or proceeding, with a copy of such notice to the Mayor of the village. In the event that personal service cannot be reasonably made or the generator, applicant or permit holder refuses to accept any registered mail, notice shall be deemed sufficient if sent by regular mail.
 - (3) All such hearings and/or proceedings shall be held before the Village Justice, who shall make a determination of the scope and nature of the violation. Such proceeding shall be conducted within thirty (30) days of the date of service of the notice.
 - (4) Nothing shall prevent the parties to the proceeding from entering into any form of stipulation, agreed settlement, consent order or other resolution prior to any determination by the Village Justice.

§ 173-27. Penalties for offenses.

- A. The failure of any person engaged in the business of collecting municipal solid waste and/or recyclable materials or rendering solid waste and/or recycling services who is not authorized by the Village of Alden or anyone who collects, picks up, removes or causes to be collected, picked up or removed municipal solid waste or recyclable materials in a manner not in compliance with this chapter shall be guilty of a violation, punishable by a fine of not less than five hundred dollars (\$500.00) or by imprisonment for a term not to exceed fifteen (15) days, or both. Each day such violation occurs or continues shall constitute a separate offense.
- B. Failure of a waste generator or collector to comply with the provisions of this chapter or any rule or regulation promulgated thereunder designated as a violation shall be punishable as follows:
 - (1) For the first conviction: by a fine not less than two hundred and fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00).
 - (2) For a second conviction: by a fine not less than five hundred dollars (\$500.00) nor more than seven hundred and fifty dollars (\$750.00).

- (3) For a third conviction: by a fine not less than seven hundred and fifty dollars (\$750.00) nor more than one thousand dollars (\$1,000.00).
 - (4) For a fourth and each subsequent conviction thereafter: by a fine not less than one thousand dollars (\$1,000.00).
- C. Any penalties or damages recovered or imposed under this chapter are in addition to any other remedies available at law or equity.

§ 173-28. Other remedies.

Nothing herein shall prevent the Village Justice from ordering any other form of remedial action or making any other such determination consistent with the purposes of this chapter in addition to the fines set forth herein.

§ 173-29. Superintendent of Public Works to prepare rules and regulations.

The Board of Trustees hereby directs the Superintendent of Public Works to prepare rules and regulations regarding the collection of municipal solid waste within the corporate limits of the Village of Alden. Upon approval by the Board of Trustees, such rules and regulations shall be applicable to all waste generators, persons, facilities, permit holders and authorized collectors within the Village of Alden.

§ 173-30. Severability.

If a court of competent jurisdiction finds any provision of this chapter or the corresponding rules and regulations invalid, in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid, and all other provisions of this chapter and the corresponding rules and regulations shall continue to be separate and fully effective.