

## Chapter 37

### RECORDS

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[HISTORY: Adopted by the Board of Trustees of the Village of Alden: Art. I, 3-22-1978 (Ch. 37 of the 1966 Code); Art. II, 3-27-1989 (Ch. 38 of the 1966 Code). Amendments noted where applicable.]

#### GENERAL REFERENCES

Fees -- See Ch. A220.

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#### ARTICLE I Public Access to Records [Adopted 3-22-1978 (Ch. 37 of the 1966 Code)]

##### § 37-1. Purpose and scope.

- A. The people's right to know the process of government decision making and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.
- B. This Article provides information concerning the procedures by which records may be obtained from the Village of Alden.

- C. The Village of Alden personnel shall furnish to the public the information and records required by the Freedom of Information Law,<sup>1</sup> as well as records otherwise available by law.
- D. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

**§ 37-2. Designation of records access officer.**

- A. The Clerk's office shall be responsible for ensuring compliance with the regulations herein and shall designate one (1) or more persons as records access officer by name or by specific job title and business address, who shall have the duty of coordinating the response to public requests for access to records. The designation of one (1) or more records access officers shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.
- B. The records access officer is responsible for assuring that the Village of Alden personnel:
  - (1) Maintain an up-to-date subject matter list.
  - (2) Assist the requester in identifying requested records, if necessary.
  - (3) Upon locating the records, take one (1) of the following actions:
    - (a) Make records available for inspection.
    - (b) Deny access to the records in whole or in part and explain, in writing, the reasons therefor.
  - (4) Upon request for copies of records:
    - (a) Make a copy available upon payment or offer to pay established fees, if any;<sup>2</sup> or
    - (b) Permit the requester to copy those records.
  - (5) Upon request, certify that a record is a true copy.

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<sup>1</sup> Editor's Note: The statutory authority for the provisions of this chapter is Article 6 of the Public Officers Law.

<sup>2</sup> Editor's Note: See Ch. A220, Fees.

- (6) Upon failure to locate records, certify that:
- (a) The Clerk is not the custodian for such records; or
  - (b) The records of which the Clerk is a custodian cannot be found after diligent search.

**§ 37-3. Location of records.**

Records shall be available for public inspection and copying at the Village Municipal Building.

**§ 37-4. Hours for public inspection.**

- A. Requests for public access to records shall be accepted during the normal working hours of the Village of Alden Clerk.
- B. Records will be produced for examination and copying during the hours that the Clerk's office is regularly open for business.

**§ 37-5. Requests for access to records.**

- A. All requests for records shall be made in writing.
- B. Requests for records shall be honored within five (5) business days of receipt of such request.
- C. Requests shall reasonably describe the record or records sought. Whenever possible, the request shall specify dates, file designations or other information that might help in describing the record sought.
- D. Should the Clerk fail to provide or deny access to the records sought within five (5) business days of the receipt of such request, the Clerk shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied. Failure of the Clerk to either grant or deny a request within ten (10) business days after the date of acknowledgment or receipt of a request shall be construed as a denial of access that may be appealed.

**§ 37-6. Subject matter list.**

- A. The Clerk shall maintain a reasonably detailed current list by subject matter of all records in his or her possession, whether or not the records are available pursuant to Subdivision 2 of § 87 of the Public Officers Law.
- B. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- C. The subject matter list shall be updated not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

**§ 37-7. Denial of access; appeals.**

- A. The Board of Trustees shall hear appeals or shall designate a person or body to hear appeals regarding denial of access to records under the Freedom of Information Law.<sup>3</sup>
- B. Denial of access shall be in writing, stating the reason therefor and advising the person denied access of his or her right to appeal to the person or body established to hear appeals, and that person or body shall be identified by name, title, business address and business telephone number. The records access officer shall not be the appeals officer.
- C. If an agency fails to respond to a request within five (5) business days of receipt of a request as required in § 37-5D, such failure shall be deemed a denial of access by the agency.
- D. Any person denied access to records may appeal within thirty (30) days of a denial.
- E. The time for deciding an appeal by the Board of Trustees shall commence upon receipt of a written appeal identifying:
  - (1) The date and location of a request for records.
  - (2) The records that were denied.
  - (3) The name and return address of the appellant.

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<sup>3</sup> Editor's Note: See Article 6 of the Public Officer's Law.

- F. The Board of Trustees shall transmit to the Committee on Public Access to Records copies of all appeals upon receipt of an appeal. Such copies shall be addressed to:

Committee on Public Access to Records  
Department of State  
162 Washington Avenue  
Albany, New York 12231

- G. The Board of Trustees shall inform the appellant and the Committee on Public Access to Records of its determination, in writing, within seven (7) business days of receipt of an appeal. The determination shall be transmitted to the Committee on Public Access to Records in the same manner as set forth in Subsection F of this section.
- H. A final denial of access to a requested record, as provided for in Subsection G of this section, shall be subject to court review, as provided for in Article 78 of the Civil Practice Law and Rules.

**§ 37-8. Fees.<sup>4</sup>**

Except when a different fee is otherwise prescribed by law:

- A. There shall be no fee charged for the following:
- (1) Inspection of records.
  - (2) Search for records.
  - (3) Any certification pursuant to this Article.
- B. The fee for copying records shall be established from time to time by resolution of the Board of Trustees. **[Amended 3-6-1995 by L.L. No. 3-1995]**
- C. The fees for the copying of records not covered by Subsections A and B of this section shall not exceed the actual reproduction cost, which is the average unit cost for copying a record, excluding the fixed costs of the agency, such as operator salaries.

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<sup>4</sup> Editor's Note: See Ch. A220, Fees.

**§ 37-9. Public notice.**

The Board shall publicize by posting in a conspicuous location and/or by publication in a local newspaper of general circulation:

- A. The location where records shall be made available for inspection and copying.
- B. The name, title, business address and business telephone number of the designated records access officer.
- C. The right to appeal by any person denied access to a record and the name and business address of the person or body to whom an appeal is to be directed.

ARTICLE II  
**Records Retention**  
[Adopted 3-27-1989 (Ch. 38 of the 1966 Code)]

**§ 37-10. Adoption of schedule.**

Records Retention and Disposition Schedule MU-1,<sup>5</sup> issued pursuant to Article 57-A of the Arts and Cultural Affairs Law and containing legal minimum retention periods for municipal governments records, is hereby adopted for use by all municipal officers in disposing of municipal government records listed therein.

**§ 37-11. Disposal of records.**

In accordance with Article 57-A of the Arts and Cultural Affairs Law:

- A. Only those records will be disposed of that are described in Records Retention and Disposition Schedule MU-1<sup>6</sup> after they have met the minimum retention period prescribed therein.
- B. Only those records will be disposed of that do not have sufficient administrative, fiscal, legal or historical value to merit retention beyond established time periods.

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<sup>5</sup> Editor's Note: This schedule is on file in the village offices.

<sup>6</sup> Editor's Note: This schedule is on file in the village offices.