

## **Chapter 205**

### **WATER USE AND SERVICE**

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**[HISTORY: Adopted by the Board of Trustees of the Village of Alden 8-16-1965 as L.L. No. 2-1965 (Ch. 52 of the 1966 Code). Amended in its entirety 4-24-2014 by L.L. No. 4-2014. Subsequent amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Sewers -- See Ch. 165.

Streets and sidewalks -- See Ch. 177.

Fees -- See Ch. A220.

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**§ 205-1. Making taps; payment of charges.**

All taps to water mains of the Village of Alden shall be made only by the duly designated official of the village. The charge therefor shall be established by the Village Board of Trustees<sup>1</sup> and shall be paid at the time of application, which shall be at least twenty-four (24) hours before the tap is to be made. The size of the tap, the length of service pipe and the location of each tap, stopcock, box and pipe shall be shown in such application.

**§ 205-2. Making excavations and installing connections; fees.<sup>2</sup>**

The applicant, at his or her own expense, shall cause all necessary excavations to be made as may be directed by the Village Superintendent of Public Works for any tap to be made and installed. The applicant shall furnish and install all necessary connections, including a curb box, from the water main tap to the premises. Such connections shall be of such size and material as determined by the Superintendent of Public Works. Inspection fees for such work shall be those that are set from time to time by the Village of Alden Board of Trustees.

**§ 205-3. Plumbers to be licensed.**

All plumbers performing any work on or near public water lines must be licensed as provided for in § 78-22 of this code.

**§ 205-4. Excavations in streets; bond required.**

- A. No excavation shall be made in the street or any portion of the public way until the written permit therefor has been issued and all applicable fees have been paid. A bond or evidence of insurance coverage naming the Village of Alden as a named insured or additional insured indemnifying the village in the amount of one million dollars (\$1,000,000.00), approved as to form and sufficiency of protection by the Village Attorney, shall be given to protect and hold harmless the Village of Alden against all loss, damage or expenses of any kind or in any way. Inspection fees for such work shall be those that are set from time to time by the Village of Alden Board of Trustees.<sup>3</sup>
- B. A developer or other person installing a lateral water connection to a public water line shall post a maintenance bond with the Board Village of Alden, guaranteeing

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

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

<sup>3</sup> Editor's Note: See Ch. A220, Fees.

the installation for a period of two (2) years from the time of acceptance of the installation by the Board Village of Alden. The amount of this bond shall be as determined by the Village of Alden. During this period, any defects in the installation or appurtenances shall be corrected at the builder's expense.

**§ 205-5. Excavating in and tunneling under pavement prohibited.**

No excavation shall be made in any pavement, and no tunneling shall be made under any pavement.

**§ 205-6. Filling excavations.**

All excavations must be filled as soon as possible with well-tamped bank-run gravel or such other material as may be approved by the Superintendent of Public Works, and no depression shall be permitted to exist where any excavation has been made.

**§ 205-7. Guarding excavations; lights.**

Every excavation shall be protected by sufficient barriers and shall have adequate warning lights at all times.

**§ 205-8. Meters required; supplying water to others. [Amended 11-22-2022 by L.L. No. 10-2022]**

- A. A water meter shall be installed for each flat or apartment and for each commercial store or business establishment where each tenant of each said flat, apartment, commercial store, or business establishment is to be billed for water usage individually.
- B. Where all water usage for a structure or property is to be billed collectively, a single water meter may be installed for each said structure or property.
- C. No owner or tenant of any premises supplied with water from the Village of Alden will be allowed to sub-meter water supply and/or supply water to other persons or families and, upon so doing, will have the water supply stopped by the Village.
- D. The failure of the owner and/or tenant to allow the Village access to inspect, install, maintain, repair, modify, or otherwise change any meter may result in the

Village stopping the supply of water to such premises until such time as access is granted.

**§ 205-9. Cost and installation of meters. [Amended 11-22-2022 by L.L. No. 10-2022]**

- A. All water meters shall be purchased by the Village of Alden and shall be installed under the direction of the Superintendent of Public Works. The owner of the premises shall pay for the cost of such meter and the cost of installation on the premises when making application for installation of any meter.<sup>4</sup> The owner shall also be responsible for any repairs, replacement, modifications, and/or changes to such meter.
- B. All water meters shall be located in a tile setting, meter pit or backflow preventer enclosure (such as a hotbox) as approved by the Superintendent of Public Works, on the applicant's property near the right-of-way, where the distance from the right-of-way to the front wall of the premises exceeds one hundred fifty (150) feet.

**§ 205-10. Sealing meters; tampering with meters.**

The village shall remain the owner of all meters. After installation, every meter shall be sealed. No person shall interfere with or disconnect or remove a water meter from any service, nor shall the seal be broken for any purpose or use. No person shall tamper with, disconnect, remove or damage any water meter lock-out device placed upon said meter by the Village of Alden. The owner of the property where any meter is installed shall be responsible for any tampering or damage of any meter, and any costs associated with materials and labor for repair and/or replacement.

**§ 205-11. Repair or replacement of meters.**

Any repair or replacement of a meter, when deemed necessary by the Superintendent of Public Works, shall be done only by authorized agents of the Village of Alden. The owner shall also be responsible for any repairs, replacement, modifications, and/or changes to such meter.

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

**§ 205-12. Repairing leaks, replacing piping.**

All service laterals from the main pipe to the premises are the responsibility of the owner of the premises. All leaks on service lateral pipes in the street and any connection from the main, and in and upon all premises supplied with water must be promptly repaired and/or replaced by the owner or occupant of the premises, upon written notice by the Village of Alden. Upon the failure to make such repairs within the time frame set forth by the Village of Alden, the water supply will be turned off until the repairs and/or replacements are made and approved by the Village of Alden. In the event of an emergency as deemed by the Superintendent of Public Works, the Village of Alden may make emergency repairs and/or replacements and such costs shall be charged to the owner of the premises and shall be a lien as set forth under Section 205-21 herein. A further charge for shutting off and restoring the water supply shall be assessed against the owner and collected as part of the water rents.<sup>5</sup> If it is determined that during any repair and/or replacement of any pipes, fittings, valves, connections and/or any other appurtenance that same contains lead and/or any lead components, such valve, connection, pipe, fittings and/or other appurtenances whatsoever shall be immediately replaced by the owner.

**§ 205-13. Vacating premises; notice to shut off water.<sup>6</sup>**

Consumers closing or vacating their premises must give notice at the office of the Village Clerk that the water is to be shut off, or they will be held responsible for the water bill until such notice is given. A charge set by the Village Board will be made for turning on the water thereafter. No individual, resident, organization, and/or entity shall be permitted to open a new account or have water turned on at any new location until such time as all prior water bills have been paid, including, but not limited to, any spouse and/or family member of the consumer provided that such consumer resides, maintains any form of ownership interest, and/or maintains any form of tenancy at the new location.

**§ 205-14. Charge when meter defective; repair costs.**

Any consumer whose water meter fails to register or is otherwise improperly functioning will be charged at the average rate of consumption as shown by the meter when in proper working order. Each consumer must properly protect the meter from injury from any cause. Repair costs resulting from failure to protect the meter will be billed to the consumer.

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<sup>5</sup> Editor's Note: See Ch. A220, Fees.

<sup>6</sup> Editor's Note: See Ch. A220, Fees.

**§ 205-15. Laying service pipes; bypassing meter. [Amended 10-25-2018 by L.L. No. 10-2018].**

- A. All service pipes must be laid four and one-half (4 ½) feet below the surface of the ground. No fixture or device of any description for the use of water shall be attached to the service pipe between the main and the meter, and all water used must first pass through the meter. Any maintenance and/or repairs on all laterals and service pipes extending from the main shall be the sole responsibility of the property owner.
- B. In the event that property owner wishes to replace their water lateral, and the original tap is not used, the original tap must be disconnected and capped as per this article.
  - (1) Written notice of such intent to replace a water lateral that connects to the Village system must be provided to the Village Clerk and Superintendent of Public works at least thirty (30) days prior to the date of any work being performed.
  - (2) Any work must be done by a plumber licensed with the Village and all costs associated with such work and restoration of the excavation site are the sole responsibility of the property owner.

**§ 205-16. Private fire hydrant inspection and maintenance. [Amended 11-22-2022 by L.L. No. 10-2022]**

- A. The Village of Alden shall perform a routine inspection and maintenance on all private fire hydrants within the Village of Alden.
- B. Owners of property containing fire hydrants shall be charged an annual maintenance fee per private fire hydrant. Said maintenance fee shall be set by resolution and as amended from time to time.<sup>7</sup>
  - (1) Routine inspection and maintenance of fire hydrants shall include the following:
    - (a) Check oil level, add oil as needed.
    - (b) Grease all thread connections.

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<sup>7</sup> Editor's Note: See Ch. A220, Fees.

- (c) Open and flush hydrant.
  - (d) Pump out hydrant.
- C. All other necessary repairs and/or replacements found to be necessary in a private fire hydrant during the Village of Alden's routine inspection and maintenance shall be corrected within thirty (30) days of written notice, to the satisfaction of the Village of Alden, at the property owner's expense. The property owner may contract with the Village of Alden for necessary repairs or utilize an outside contractor, provided the contractor is approved by the Village of Alden and demonstrates their ability to perform said repairs to the standards of the Village of Alden.

#### **§ 205-17. Establishment of water rates.**

The rates payable for water supplied by the Village of Alden may be designated as water rents or other water charges and shall be established from time to time by the Village Board of Trustees,<sup>8</sup> as authorized by the laws of New York State or applicable local law. These rates shall include any fees or charges associated with the supply of water to private properties, as specified in the schedule of fees.

#### **§ 205-18. Payment of bills; late payment. [Amended 7-28-2020 by L.L. No. 2-2020]**

All water bills shall be paid at the office of the Village Clerk. A penalty, as determined by the Board of Trustees from time to time,<sup>9</sup> shall be added to the amount of each bill which has not been paid within twenty (28) days after the date of billing. When bills, whether for water use or for any repairs, maintenance, and/or installation, are not paid within such time, the water may be shut off by the village as specified in the water shutoff procedure of the Village of Alden and additional late charges as so determined by the Board of Trustees shall be added after the twenty-eighth day and after the fiftieth day.<sup>10</sup> The water shall not be turned on until all amounts due have been paid, including a charge for shutting off and resuming the water supply. Such charge is to be determined by resolution of the Board of Trustees at its annual organizational meeting.

Notwithstanding any provision herein to the contrary, the Board of Trustees at an official session of the Board, upon good and sufficient cause shown (e.g., late mailing, change of address, extraordinary personal circumstances, etc.), may waive any additional penalties set forth in this Chapter upon a super majority vote of not less than two-thirds of the

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<sup>8</sup> Editor's Note: See Ch. A220, Fees.

<sup>9</sup> Editor's Note: See Ch. A220, Fees.

<sup>10</sup> Editor's Note: The water shutoff procedure is on file in the Village Clerk's Office.

entire Board. Such written request shall be filed with the Village Clerk as soon as practicable and, to the extent possible, prior to the due date of the bill, absent extenuating circumstances which shall be set forth in the request. Such written submission shall also provide the basis for the request. Any individual seeking such waiver shall appear before the Board of Trustees to address the request.

#### **§ 205-19. Use of water at construction sites.**

The water rent or charge for water supplied during the construction of any building, dwelling, structure or improvement, including sidewalks, curbs or driveways, shall be metered, and the metered rate shall apply. A minimum deposit established from time to time by resolution of the Board of Trustees<sup>11</sup> shall be paid with the request for a temporary installation, which deposit includes a charge for the meter installation and any damage to the meter. Such amount as not required for water consumed and the charge<sup>12</sup> will be returned to the applicant upon completion of such construction.

#### **§ 205-20. Right of access.**

The Superintendent of Public Works or his/her designee(s) shall, at all reasonable hours, have free access to all parts of premises to which water is supplied for the purpose of installation, repair, maintenance, modification, and/or inspection of all fixtures, pipes, meters, and appurtenant parts. Such individual shall provide the owner and/or tenant with proper identification stating the person's affiliation with the village for purposes of examination of fixtures and other investigation, installation, maintenance, repair, and/or modification and all persons using water must, at all times, frankly and with no concealment, answer all questions relating to the water consumption. The failure of the owner and/or tenant to allow the Village access to inspect, install, maintain, repair, modify, or otherwise change any meter may result in the Village stopping the supply of water to such premises until such time as access is granted.

#### **§ 205-21. Inspection upon sale of property.**

It shall be the responsibility of the owner of any property to provide notice of the transfer of ownership of any real property whether by sale, exchange, testamentary transfer, intestacy transfer, or some other means of transfer of real property within the Village of Alden to the Superintendent of Public Works prior to the closing and/or transfer of title of the property. The purpose of this notice is to allow an inspection of such premises by the Superintendent of Public Works or his/her designee. Such inspection will be for the

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<sup>11</sup> Editor's Note: See Ch. A220, Fees.

<sup>12</sup> Editor's Note: See Ch. A220, Fees.



purpose of verifying that all water service connections are in accordance with all local, county, state, and federal regulations. Such inspection shall be undertaken during regular business hours no later than thirty (30) calendar days prior to any closing and/or transfer of title. In the event that deficiencies are found, the Superintendent of Public Works shall be notified of the completion of such work to remedy said deficiencies and a final inspection shall take place no later than five (5) days prior to such closing and/or transfer of title.

**§ 205-22. Taking water from fire hydrants; prosecution.**

Any person or persons, other than those authorized by the Village Board of Trustees, who shall open or take water from any fire hydrant or who shall maliciously or willfully injure or destroy any fire hydrant or other property in connection with the waterworks system will be held for all costs and charges therefor and will be prosecuted to the full extent of the law.

**§ 205-23. Lien for rents and charges.**

All water rents, charges, penalties and interest thereon and all charges for tapping, connecting and disconnecting and any other charges provided for by this or other law shall be a lien on the real property upon which the water is used, and such lien shall be prior and superior to every other lien or claim except the lien of an existing tax. The Board of Trustees of the Village of Alden may certify to the Village Clerk the amount of any such lien which has not been paid at the time and in the manner prescribed by such Board, with a description of the real property affected thereby, and the Village Board of Trustees may include such amount in the annual tax levy and shall have such levy made upon the real property affected herein.

**§ 205-24. Permanent termination of water service. [Amended 8-8-2024 by L.L. No. 5-2024].**

It is the intent of these provisions that the integrity of the Village Water System be maintained such that all properties located within the Village shall remain part of the Village Water System on the basis that the shared costs will be more equitably maintained by not permitting individual properties to leave the Village Water System. Recognizing the economies related thereto, all properties within the Village of Alden must remain part of the Village Water system unless the County or the Erie County Water Authority shall extend service throughout the entire Village. Partial connections to individual properties within the Village shall not be permitted unless such properties cannot be serviced by the Village of Alden. Thereafter, should a property with a water connection to the Village Water system seek to permanently disconnect from the Village

system, the water lateral must be disconnected at the Village water main. Such disconnection shall be permitted only upon the approval of the Board of Trustees.

- A. Prior permission to disconnect must be obtained from both the Board of Trustees and the Department of Public Works. It is the intent of these provisions that any disconnection from the Village Water system is to be done in only the rarest of circumstances in light of the negative impacts that such disconnection will have with respect to other users. Significant justification must exist in the sole discretion of the Board of Trustees prior to the grant of any right to disconnect.
- B. Written notice of such intent to disconnect from the Village system must be provided to the Village Clerk and Superintendent of Public works at least thirty (30) days prior to the date of any disconnection.
- C. Any disconnection must be done by a plumber licensed with the Village and all costs associated with the disconnection and restoration of the excavation site are the sole responsibility of the property owner.
- D. The terminated connection shall be capped and inspected as per the requirements of the Department of Public Works. The costs of all such inspections shall be a charge against the property owner.
- E. Should a structure with water service be demolished, the water lateral must be permanently disconnected within thirty (30) days of the date of demolition.
  - (1) Such disconnection requirement may be waived by the Board of Trustees upon the initial approval of the Superintendent of Public Works upon evidence, satisfactory to the Village, that any structure shall be fully rebuilt within one (1) year from the date of the demolition.
  - (2) The failure of any property owner to permanently disconnect within the time limits set forth herein shall result in the Village undertaking such disconnection with all charges relating thereto, including, but not limited to any engineering and restoration charges, being charged to the property owner. All unpaid charges, 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, fines, levies or charges as may be permitted by law.

- F. In the event that a disconnection is granted, such property owner shall still be charged for any Operations and Management Costs as well as Sewer taxes in the same manner as an out of district customer.

**§ 205-25. Enforcement authority.**

The Superintendent of Public Works is hereby authorized and directed to enforce this chapter and issue appearance tickets for violations of this chapter. The Superintendent shall also have the right to shut of water at any location not in compliance with this ordinance after reasonable notice to the owner or tenant of such premises as may be deemed appropriate by the Superintendent.

**§ 205-26. Penalties for offenses.**

Any person or persons, firm, entity, organization, or corporation that violates any provisions of this chapter shall be punishable by a fine of up to two hundred fifty dollars (\$250.00) per day of each violation or imprisonment for up to fifteen (15) days, or both.