

## **Chapter 78**

### **BUILDING CONSTRUCTION AND FIRE PREVENTION**

#### **ARTICLE I Administration of Standards**

- § 78-1. Purpose.**
- § 78-2. Definitions.**

#### **ARTICLE II Enforcement Personnel**

- § 78-3. Code Enforcement Officers and Inspectors.**

#### **ARTICLE III Building Permits**

- § 78-4. Building permits.**

#### **ARTICLE IV Inspections**

- § 78-5. Construction inspections.**

#### **ARTICLE V Enforcement Procedures**

- § 78-6. Stop work orders.**

#### **ARTICLE VI Certificates of Occupancy**

- § 78-7. Certificates of occupancy.**

#### **ARTICLE VII Hazard Identification and Notification**

- § 78-8. Notification regarding fire or explosion.**
- § 78-9. Unsafe buildings and structures.**

#### **ARTICLE VIII Fire Safety and Property Maintenance**

- § 78-10. Operating Permits.**
- § 78-11. Fire safety and property maintenance inspections.**

#### **ARTICLE IX Records**

- § 78-12. Complaints.**
- § 78-13. Parking garages.**
- § 78-14. Climatic and geographic design data.**
- § 78-15. Record keeping.**
- § 78-16. Program review and reporting.**

#### **ARTICLE X Violations**

- § 78-17. Violations.**

#### **ARTICLE XI Additional Standards**

- § 78-18. Fees.**
- § 78-19. Intermunicipal agreements.**
- § 78-20. Partial invalidity.**
- § 78-21. Restrictions on employees.**
- § 78-22. Electrical installations.**
- § 78-23. Plumbers to be licensed.**
- § 78-24. Control of water runoff.**
- § 78-25. Swimming pool drainage.**
- § 78-26. Stripping of topsoil.**
- § 78-27. Dumpster required.**
- § 78-28. Oversight or dereliction of Code Enforcement Officer.**
- § 78-29. Interpretation of provisions.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Alden 3-6-1995 by L.L. No. 1-1995; amended in its entirety 11-22-2022 by L.L. No. 6-2022. Subsequent amendments noted where applicable.]**

#### GENERAL REFERENCES

**Buildings, unsafe – See Ch. 81.**

**Flood damage prevention -- See Ch. 105.**

**Licenses and permits -- See Ch. 125.**

**Mobile home parks -- See Ch. 131.**

**Zoning -- See Ch. 210.**

**Fees -- See Ch. A220.**

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#### ARTICLE I

#### **Administration of Standards**

##### **§ 78-1. Purpose.**

It is the purpose of this chapter to provide for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in the Village of Alden. Except as otherwise provided in the Uniform Code, other state law, or other section of this chapter, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this chapter.

##### **§ 78-2. Definitions.**

**ASSEMBLY AREA** – An area in any building, or in any portion of a building, that is primarily used or intended to be used for gathering fifty or more persons for uses including, but not limited to, amusement, athletic, entertainment, social, or other recreational functions; patriotic, political, civic, educational, or religious functions; food or drink consumption; awaiting transportation; or similar purposes.

**BUILDING PERMIT** -- A permit issued pursuant to § 78-4 of this Chapter. The term “Building Permit” shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this Chapter.

**CERTIFICATE OF COMPLIANCE** -- A document issued by the Village of Alden stating that work was done in compliance with approved construction documents and the Codes.

**CERTIFICATE OF OCCUPANCY** – A document issued by the Village of ALden certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the Village of Alden, and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy certificate

**CODE ENFPORCEMENT OFFICER** -- The Code Enforcement Officer appointed pursuant to § 78-3B of this Chapter.

**CODE ENFORCEMENT PERSONNEL** -- The Code Enforcement Officer and all Inspectors.

**CODES** – The uniform Code and Energy Law.

**COMPLIANCE ORDER** -- An order issued by the Code Enforcement Officer pursuant to § 78-17A of this Chapter.

**ENERGY CODE** -- The State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

**FCNYS** – The Fire Code of New York State as currently incorporated by reference in 19 NYCRR Part 1225.

**FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTION** -- An inspection performed to determine compliance with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference.

**HAZARDOUS PRODUCTION MATERIALS** -- A solid, liquid, or gas associated with semiconductor manufacturing that has a degree-of-hazard rating in health, flammability, or instability of Class 3 or 4, as ranked by NFPA 704 (Standard Systems for Identification of the Hazards of Materials for Emergency Response), and which is used directly in research, laboratory, or production processes which have, as their end product, materials that are not hazardous.

**INSPECTOR** -- An inspector appointed pursuant to§ 78-3D of this Chapter.

**MOBILE FOOD PREPARATION VEHICLE** -- Vehicles that contain cooking equipment that produces smoke or grease-laden vapors for the purpose of preparing and serving food to the public. Vehicles intended for private recreation shall not be considered mobile food preparation vehicles.

**OPERATING PERMIT** -- A permit issued pursuant to § 78-10 of this Chapter. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this Chapter.

**ORDER TO REMEDY** -- An order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 17 of this local law.

**PERMIT HOLDER** -- The Person to whom a Building Permit has been issued.

**PERSON** -- An individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

**PMCNYS** -- The Property Maintenance Code of New York State as currently incorporated by reference in 19 NYCRR Part 1226.

**RCNYS** -- The Residential Code of New York State as currently incorporated by reference in 19 NYCRR Part 1220.

**REPAIR** -- The reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

**STOP WORK ORDER** -- An order issued pursuant to § 78-6 of this Chapter.

**SUGARHOUSE** -- A building used, in whole or in part, for the collection, storage, or processing of maple sap into maple syrup and/or maple sugar.

**TEMPORARY CERTIFICATE OF OCCUPANCY** -- A certificate issued pursuant to § 78-7D of this Chapter.

**UNIFORM CODE** -- The New York State Uniform Fire Prevention and Building Code, Subchapter A of Chapter XXXIII of Title 19 of the NYCRR, adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

**VILLAGE** -- The Village of Alden.

ARTICLE II  
**Enforcement Personnel**

**§ 78-3. Code Enforcement Officer and Inspectors.**

- A. There is hereby designated in the village a public official, to be known as the "Code Enforcement Officer." The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this Chapter. The Code Enforcement Officer shall have the following powers and duties:
- (1) Receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications.
  - (2) Upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits, and to include in Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate.
  - (3) Conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy , Temporary Certificates and Operating Permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this Chapter.
  - (4) Issue Stop Work Orders.
  - (5) Review and investigate complaints.
  - (6) Issue orders pursuant to § 78-17A (Violations) of this Chapter.
  - (7) Maintain records.
  - (8) Collect fees as set forth by the Village of Alden Board of Trustees.
  - (9) Pursue administrative enforcement actions and proceedings.
  - (10) In consultation with the Village of Alden Attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform

Code, the Energy Code and this Chapter, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this Chapter.

- (11) Exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this Chapter.
- B. The Code Enforcement Officer shall be appointed by the Mayor with approval of the Village Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by Mayor with approval of the Village Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this Chapter.
- D. One or more Inspectors may be appointed by the Mayor with approval of the Village Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this Chapter. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- E. The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Board of Trustees.

ARTICLE III  
**Building Permits**

**§ 78-4. Building permits.**

- A. Except as otherwise provided in subdivision B of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.
- B. No Building Permit shall be required for work in any of the following categories:
- (1) Construction of temporary sets and scenery associated with motion picture, television and theater uses;
  - (2) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
  - (3) Installation of partitions or movable cases less than 5'-9" in height;
  - (4) Painting, wallpapering, tiling, carpeting, or other similar finish work;
  - (5) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
  - (6) Replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
  - (7) Repairs, provided that the work does not have an impact on fire and life safety, such as:
    - (a) Any part of the structural system;
    - (b) The required means of egress; or
    - (c) The fire protection system or the removal from service of any part of the fire protection system for any period of time.

- C. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision B of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.
- D. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:
- (1) A description of the proposed work.
  - (2) The tax map number and the street address of the premises where the work is to be performed.
  - (3) The occupancy classification of any affected building or structure.
  - (4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code.
  - (5) At least two (2) sets of construction documents (drawings and/or specifications) which:
    - (a) Define the scope of the proposed work.
    - (b) Are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law.
    - (c) Indicate with sufficient clarity and detail the nature and extent of the work proposed.
    - (d) Substantiate that the proposed work will comply with the Uniform Code and the Energy Code.
    - (e) A site plan or plat plan as required by Article VII of Chapter 210 (Zoning) of this Code, that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system,

the location of the intended work, and the distances between the buildings and structures and the lot lines.

- E. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision D of this section. Construction documents which are accepted and approved as part of the application for a Building Permit shall be marked as approved by the Code Enforcement Officer in writing or by stamp. Two sets of the approved construction documents shall be retained by the Code Enforcement Officer, and one set of the approved construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of approved construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.
- F. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code, the Energy Code, and all other applicable laws, codes and ordinances.
- G. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- H. All work shall be performed in accordance with the construction documents which were submitted with and approved as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.
- I. Building Permits shall become invalid unless the authorized work is commenced within six (6) months following the date of issuance. Building Permits shall expire twelve (12) months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon written request, for successive periods not to exceed twelve (12) months each, provided that:
  - (1) The permit has not been revoked or suspended at any time.

- (2) Such renewal is necessary as so determined by the Code Enforcement Officer and within the best interest of the village and public health and welfare.
  - (3) The relevant information in the application is up-to-date.
  - (4) The renewal fee<sup>1</sup> is paid.
- J. If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates all of the following:
  - (1) That all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code.
  - (2) All work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.
- K. The fees specified in or determined in accordance with the provisions set forth in § 78-16 (Fees) of this Chapter must be paid at the time of issuance of a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

#### ARTICLE IV

##### Inspections

#### **§ 78-5. Construction inspections.**

- A. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision B of this section is ready for inspection.

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

- B. The following elements of the construction process shall be inspected, where applicable:
- (1) Work site prior to the issuance of a Building Permit.
  - (2) Footing and foundation.
  - (3) Preparation for concrete slab.
  - (4) Framing.
  - (5) Building systems, including underground and rough-in.
  - (6) Fire resistant construction.
  - (7) Fire resistant penetrations.
  - (8) Solid fuel burning heating appliances, chimneys, flues or gas vents.
  - (9) Energy Code compliance.
  - (10) A final inspection after all work authorized by the Building Permit has been completed.
- C. At the discretion of the Code Enforcement Officer or Inspector authorized to perform construction inspections, a remote inspection may be performed in lieu of an in-person inspection when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or by such authorized Inspector that the elements of the construction process conform with the applicable requirements of the Uniform Code and Energy Code. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.
- D. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

ARTICLE V  
**Enforcement Procedures**

**§ 78-6. Stop work orders.**

- A. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:
- (1) Any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or
  - (2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or
  - (3) Any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.
- B. Stop Work Orders shall:
- (1) Be in writing.
  - (2) Be dated and signed by the Code Enforcement Officer.
  - (3) State the reason or reasons for issuance.
  - (4) If applicable, state the conditions which must be satisfied before work will be permitted to resume.
- C. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant,

contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

- D. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.
- E. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision A of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under § 78-15 (Violations) of this Chapter or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

## ARTICLE VI Certificates of Occupancy

### § 78-7. Certificates of occupancy.

- A. A Certificate of Occupancy shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy.
- B. The Code Enforcement Officer shall issue a Certificate of Occupancy if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate

of Occupancy. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy:

- (1) A written statement of structural observations and/or a final report of special inspections.
- (2) Flood hazard certifications.

C. A Certificate of Occupancy shall contain the following information:

- (1) The Building Permit number.
- (2) The date of issuance of the Building Permit.
- (3) The name, address and tax map number of the property.
- (4) If the Certificate of Occupancy is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy is issued.
- (5) The use and occupancy classification of the structure.
- (6) The type of construction of the structure.
- (7) The assembly occupant load of the structure, if any.
- (8) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required.
- (9) Any special conditions imposed in connection with the issuance of the Building Permit.
- (10) The signature of the Code Enforcement Officer issuing the Certificate of Occupancy and the date of issuance.

D. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a

Temporary Certificate unless the Code Enforcement Officer determines all of the following:

- (1) That the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely.
- (2) That any fire- and smoke-detecting or fire protection equipment which has been installed is operational.
- (3) That all required means of egress from the building or structure have been provided.

The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed ninety (90) days, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

- E. If the Code Enforcement Officer determines that a Certificate of Occupancy or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

## ARTICLE VII

### **Hazard Identification and Notification**

#### **§ 78-8. Notification regarding fire or explosion.**

The chief of any fire department providing fire fighting services for a property within the Village of Alden shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent. Notification shall be on a form provided by the Code Enforcement Officer.

**§ 78-9. Unsafe buildings and structures.**

Unsafe buildings, structures, and equipment in the Village of Alden shall be identified and addressed in accordance with the procedures established by Chapter 81 (Unsafe Buildings) of this Code.

ARTICLE VIII  
**Fire Safety and Property Maintenance**

**§ 78-10. Operating permits.**

- A. Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:
- (1) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled “Fire Code of New York State” and incorporated by reference in 19 NYCRR section 1225.1.
  - (2) Hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling.
  - (3) Use of pyrotechnic devices in assembly occupancies.
  - (4) Buildings containing one or more assembly areas.
  - (5) Outdoor events where the planned attendance exceeds 1,000 persons.
  - (6) Facilities that store, handle or use hazardous production materials.
  - (7) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Village of Alden Board of Trustees.
  - (8) Other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by the Village of Alden Board of Trustees.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision A shall be required to obtain an Operating Permit prior to commencing such activity or operation.

- B. An application for an Operating Permit shall be in writing on a form provided by the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- C. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit. Such inspections shall be performed either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or Inspector authorized by the Code Enforcement Officer that the premises conform with the applicable requirements of the Uniform Code and the code enforcement program. Should a remote inspection not afford the Village of Alden sufficient information to make a determination, an in-person inspection shall be performed. After inspection, the premises shall be noted as satisfactory and the operating permit shall be issued, or the operating permit holder shall be notified as to the manner in which the premises fail to comply with either or both of the Uniform Code and the code enforcement program, including a citation to the specific provision or provisions that have not been met.
- D. In any circumstance in which more than one activity listed in subdivision A of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.
- E. Operating permits shall be issued for a specified period of time, but in no event to exceed as follows:
  - (1) Not exceed one hundred eighty (180) days for tents, special event structures, and other membrane structures;

- (2) Not to exceed sixty (60) days for alternative activities at a sugarhouse;
  - (3) Not to exceed three (3) years for the activities, structures, and operations determined in section §78-10(8) of this Code.
  - (4) Not to exceed one (1) year for all other activities, structures, and operations identified in section §78-10 of this Code.
- F. The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.
- G. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.
- H. The fee specified in or determined in accordance with the provisions set forth in §78-16 (Fees) of this Chapter must be paid prior to the issuance of an Operating Permit, an amended Operating Permit, or for reissue or renewal of an Operating Permit.

**§ 78-11. Fire safety and property maintenance inspections.**

- A. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:
  - (1) Fire safety and property maintenance inspections of buildings or structures which contain an assembly area shall be performed at least once every twelve (12) months.
  - (2) Fire safety and property maintenance inspections of buildings or structures being occupied as public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining, or recreational facilities, shall be performed at least once every twelve (12) months.

- (3) Fire safety and property maintenance inspections of all multiple dwellings and all non-residential occupancies, shall be performed at least once every thirty-six (36) months.
  - B. At the discretion of the Code Enforcement Officer or Inspector authorized to perform fire safety and property maintenance inspections, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or such authorized Inspector that the premises conform with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.
  - C. In addition to the inspections required by subdivision A of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at any time upon any of the following:
    - (1) The request of the owner of the property to be inspected or an authorized agent of such owner.
    - (2) Receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist.
    - (3) Receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist.
- Nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.
- D. Nothing in this section or in any other provision of this Chapter shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire

Administrator under Executive Law section 156-e and Education Law section 807-b.

- E. The fee specified in or determined in accordance with the provisions set forth in §78-18 (Fees) of this Chapter must be paid prior to the time each inspection is performed pursuant to this section.

## ARTICLE IX

### Records

#### § 78-12. Complaints.

- A. The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this Chapter, or any other law, ordinance, or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include any of the following steps as the Code Enforcement Officer may deem to be appropriate:
- (1) Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection.
  - (2) If a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 78-17 (Violations) of this Chapter.
  - (3) If appropriate, issuing a Stop Work Order.
  - (4) If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

**§ 78-13. Parking garages.**

A. Definitions. For the purposes of this section:

- (1) **CONDITION ASSESSMENT** -- An on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;
- (2) **DETERIORATION** -- The weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component;
- (3) **PARKING GARAGE** -- Any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:
  - (a) Buildings in which the only level used for parking or storage of motor vehicles is on grade;
  - (b) An attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and
  - (c) A townhouse unit with attached parking exclusively for such unit;
- (4) **PROFESSIONAL ENGINEER** -- An individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations;
- (5) **RESPONSIBLE PROFESSIONAL ENGINEER** -- The professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term “responsible professional engineer” shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment.
- (6) **UNSAFE CONDITION** -- The conditions identified as “unsafe” in section 304.1.1, section 305.1.1, and section 306.1.1 of the PMCNYS; and

- (7) UNSAFE STRUCTURE -- A a structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.
- B. The owner operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in subdivision (c) of this section, periodic condition assessments as described in subdivision (d) of this section, and such additional condition assessments as may be required under subdivision (e) of this section. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared, and provided to the Village of Alden, in accordance with the requirements of subdivision (f) of this section. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.
- C. Each parking garage shall undergo an initial condition assessment as follows:
- (1) Parking garages constructed on or after August 29, 2018, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.
  - (2) Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:
    - (a) If originally constructed prior to January 1, 1984, then prior to October 1, 2019;
    - (b) If originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and
    - (c) If originally constructed between January 1, 2003 and August 28, 2018, then prior to October 1, 2021.
  - (3) Any parking garage constructed prior to the effective date of the local law enacting this provision that has not undergone an initial condition assessment prior to that effective date shall undergo an initial condition assessment prior to April 1, 2022.
- D. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed three (3) years.

E. Additional Condition Assessments.

- (1) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.
- (2) If the Village of Alden becomes aware of any new or increased deterioration which, in the judgment of the Village of Alden, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the Village of Alden to be appropriate.

F. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the Village of Alden within thirty (30) days. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:

- (1) An evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;
- (2) An evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;
- (3) An evaluation and description of the unsafe conditions;
- (4) An evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;

- (5) An evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;
  - (6) An evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;
  - (7) The responsible professional engineer's recommendation regarding preventative maintenance;
  - (8) Except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and
  - (9) The responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in their professional judgment.
- G. The Village of Alden shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the Village of Alden shall, by Order to Remedy or such other means of enforcement as the Village of Alden may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraphs (2) and (3) of subdivision (f). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the Village of Alden to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

- H. The Village of Alden shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the Village of Alden with a written statement attesting to the fact that he or she has been so engaged, the Village of Alden shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The Village of Alden shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.
- I. This section shall not limit or impair the right or the obligation of the Village of Alden:
- (1) to perform such construction inspections as are required by section 5 (Construction Inspections) of this local law;
  - (2) to perform such periodic fire safety and property maintenance inspections as are required by section 11 (Fire Safety and Property Maintenance Inspections) of this local law; and/or
  - (3) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the Village of Alden by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

**§ 78-14. Climatic and geographic design criteria.**

- A. The Code Enforcement Officer shall determine the climatic and geographic design criteria for buildings and structures constructed within this Village of Alden as required by the Uniform Code. Such determinations shall be made in the manner specified in the Uniform Code using, where applicable, the maps, charts, and other information provided in the Uniform Code. The criteria to be so determined shall include but shall not necessarily be limited to, the following:
- (1) Design criteria to include ground snow load; wind design loads; seismic category; potential damage from weathering, frost, and termite; winter design temperature; whether ice barrier underlayment is required; the air freezing index; and the mean annual temperature;

- (2) Heating and cooling equipment design criteria for structures within the scope of the RCNYS. The design criteria shall include the data identified in the Design Criteria Table found in Chapter 3 of the RCNYS; and
  - (3) Flood hazard areas, flood hazard maps, and supporting data. The flood hazard map shall include, at a minimum, special flood hazard areas as identified by the Federal Emergency Management Agency in the Flood Insurance Study for the community, as amended or revised with:
    - (a) The accompanying Flood Insurance Rate Map (FIRM);
    - (b) Flood Boundary and Floodway Map (FBFM); and
    - (c) Related supporting data along with any revisions thereto.
- B. The Code Enforcement Officer shall prepare a written record of the climatic and geographic design criteria determined pursuant to subdivision (a) of this section, shall maintain such record within the office of the Code Enforcement Officer, and shall make such record readily available to the public.

**§ 78-15. Record keeping.**

- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of all of the following:
- (1) All applications received, reviewed and approved or denied.
  - (2) All plans, specifications and construction documents approved.
  - (3) All Building Permits, Certificates of Occupancy, Temporary Certificates, Stop Work Orders, and Operating Permits issued.
  - (4) All inspections and tests performed.
  - (5) All statements and reports issued.
  - (6) All complaints received.
  - (7) All investigations conducted.
  - (8) All condition assessment reports received.

- (9) All fees charged and collected.
  - (10) All other features and activities specified in or contemplated by § 78-4 through § 78-11 of this Chapter.
- B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

**§ 78-16. Program review and reporting.**

- A. The Code Enforcement Officer shall annually submit to the Village of Alden Board of Trustees a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in § 78-15 (Record Keeping) of this Chapter and a report and summary of all appeals or litigation pending or concluded.
- B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of the Village of Alden, on a form prescribed by the Secretary of State, a report of the activities of the Village of Alden relative to administration and enforcement of the Uniform Code.
- C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials the Village of Alden is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of the Village of Alden in connection with administration and enforcement of the Uniform Code.

**ARTICLE X**  
**Violations**

**§ 78-17. Violations.**

- A. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this Chapter. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall:
- (1) Be in writing
  - (2) Be dated and signed by the Code Enforcement Officer.
  - (3) Specify the condition or activity that violates the Uniform Code, the Energy Code, or this Chapter.
  - (4) Specify the provision or provisions of the Uniform Code, the Energy Code, or this Chapter which is/are violated by the specified condition or activity.
  - (5) Shall include a statement substantially similar to the following:  
“The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by \_\_\_\_\_ [specify date], which is thirty (30) days after the date of this Order to Remedy.”
- B. The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy:
- (1) To begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or
  - (2) To take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this local law or by any other applicable statute, regulation, rule, local law

or ordinance, and which the Code Enforcement Officer may deem appropriate, during the period while such violations are being remedied.

- C. The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.
- D. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.
- E. In addition to those penalties prescribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this Chapter, or any term or condition of any Building Permit, Certificate of Occupancy, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this Chapter, shall be punishable by a fine of not more than two hundred fifty dollars (\$250.00) per day of violation, or imprisonment not exceeding thirty (30) days, or both.
- F. In addition to those penalties prescribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this Chapter, or any term or condition of any Building Permit, Certificate of Occupancy, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this Chapter, shall be liable to a civil penalty of not more than two hundred fifty dollars (\$250.00) for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Village of Alden.
- G. An action or proceeding may be instituted in the name of the Village of Alden, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this Chapter, or any term or condition of any Building Permit, Certificate of Occupancy, Temporary Certificate, Stop Work Order, Operating Permit, Compliance Order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this Chapter. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation

of any provision of the Uniform Code, the Energy Code, this Chapter, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this Chapter, an action or proceeding may be commenced in the name of the Village of Alden, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Village of Alden Board of Trustees.

- H. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in § 78-6 (Stop Work Orders) of this Chapter, in any other section of this Chapter, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in certified mail 78-6 (Stop Work Orders) of this Chapter, in any other section of this Chapter, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 381 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 381 of the Executive Law.

## ARTICLE XI Additional Standards

### **§ 78-18. Fees<sup>2</sup>.**

A fee schedule shall be established by resolution of the Village of Alden Board of Trustees. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this Chapter. Such fees shall be payable to the Village of Alden.

### **§ 78-19. Intermunicipal agreements.**

The Village of Alden Board of Trustees may, by resolution, authorize the Mayor of the Village of Alden to enter into an agreement, in the name of the Village of Alden, with other governments to carry out the terms of this Chapter, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

### **§ 78-20. Partial invalidity.**

If any section of this Chapter shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this Chapter.

### **§ 78-21. Restrictions on Village employees.**

No officer or employee of the village appointed pursuant to this chapter shall, except with prior written approval of the Board of Trustees, engage in any activity inconsistent with his/her duties or with the interests of the village, nor shall he/she, during the term of his/her employment, engage directly in any building construction or alteration or building repair business in the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building or the preparation of plans or specifications thereof within the village, except that this provision shall not prohibit any employee

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

engaging in such activities in the connection of construction, alteration or repair of his/her personal residence, a building or structure owned by him/her or his/her relatives.

#### **§ 78-22. Electrical installations.**

All electrical installations must comply with the requirements of the Uniform Fire Prevention and Building Code of the State of New York. It is required that all work be filed within and inspected by competent inspector(s) acceptable to the Code Enforcement Officer and Village of Alden Board of Trustees. Each inspector(s) must demonstrate to the satisfaction of the Code Enforcement Officer that he/she has been trained and is qualified in the inspection and enforcement of the applicable codes.

#### **§ 78-23. Plumbers to be licensed.**

- A. No person shall engage in any plumbing work relating to the tapping, connection or repair of village water and sewer lines within the village unless he/she shall be duly licensed by and have a proper bond or certificate of insurance on file with the Village of Alden.
- B. Application for a plumbing license shall be made on a form supplied by the Village of Alden and shall be accompanied by an applicable fee<sup>3</sup>. All licenses shall be valid only for the calendar year in which they are issued.

#### **§ 78-24. Control of water runoff.**

Any structure for which a building permit is issued is required to have sufficient gutters and downspouts installed on that portion of the structure that work is being performed upon, to allow proper drainage of water runoff. These gutters and downspouts must be installed to ensure water runoff does not discharge onto adjoining properties. This section shall not apply to detached storage buildings with a building footprint area of three hundred (300) square feet or less.

#### **§ 78-25. Swimming pool drainage.**

A swimming pool shall be provided with adequate drainage. Drainage shall be into the sanitary-sewer system. Upon inspection of the property by the Code Enforcement Officer, approval may be issued by him or her to discharge the pool water onto a lawn, in

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

fields or woods or to an existing drainage system, provided that the water does not overflow into adjoining properties.

**§ 78-26. Stripping of topsoil.**

- A. No person shall strip or excavate topsoil for the purpose of the construction of any building until a building permit has been issued therefore.
- B. No person shall remove topsoil for sale or for use other than on the premises from which the same shall be taken.
- C. The following materials shall not be used as fill or brought onto any property within the Village limits to be used or stored on any property without the prior approval of the Board of Trustees and after an inspection by the Code Enforcement Officer and Superintendent of Public Works: concrete, brick, and rock used as aggregate, asphalt pavement and millings used in road, parking lot, and driveway construction, plastic, construction debris, garbage, tires, white goods, hospital waste, junk, solid waste as defined in this Code, or any fill material generated outside of the Village of Alden.
- D. Any developer, contractor, person, organization, company, or entity which brings fill materials and topsoil into the Village of Alden from any source outside of the Village of Alden must notify the Code Enforcement Officer at least five (5) days prior to bringing such materials into the Village and must further certify to the satisfaction of the Code Enforcement Officer that such materials contain no hazardous materials or are otherwise contaminated. Such developer, contractor, person, organization, company, or entity shall further certify that no items listed in section 78-24C, whether from a source within the Village or from the outside are contained within such materials.
- E. A violation of this section shall be considered a misdemeanor punishable by a fine not to exceed One Thousand Dollars (\$1000.00) or fifteen (15) days in jail, or both. Each incident shall constitute a separate violation.

**§ 78-27. Dumpster required.**

A dumpster shall be required to be placed on the site of construction where a building permit has been issued for the duration of construction, or an approved debris removal service shall be provided. All construction debris must be placed and kept in the dumpster at all times during construction.

- A. This requirement shall apply to:

- (1) New primary commercial structures.
- (2) Commercial additions with a gross floor area of three hundred (300) square feet or more.
- (3) Accessory commercial structures with a gross floor area of three hundred (300) square feet or more.
- (4) New residential dwellings.
- (5) Residential additions with a gross floor area of three hundred (300) square feet or more.
- (6) Accessory residential structures with a gross floor area of three hundred (300) square feet or more.

**§ 78-28. Oversight or dereliction of Code Enforcement Officer.**

No oversight or dereliction of duty on the part of the Code Enforcement Officer or on the part of any employee of the village shall legalize the erection, construction, alteration, removal, use or occupancy of a building or structure that does not conform to the applicable building laws, ordinances or regulations or that does not conform to the provisions of an application, plans or specifications on the basis of which a building permit was issued or that does not conform to the applicable provisions of the village zoning regulations.<sup>4</sup>

**§ 78-29. Interpretation of provisions.**

The powers enumerated in this chapter shall be interpreted liberally to effectuate the purposes thereof and shall not be construed as limitations of powers.  
building or structure owned by him/her for his/her personal residence and not constructed and/or altered for sale and/or rental purposes.

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<sup>4</sup> Editor's Note: See Ch. 210, Zoning.