

# THE GENEVA CITY COUNCIL

## JOURNAL OF PROCEEDINGS

REGULAR COUNCIL MEETING

FEBRUARY 1, 2017 – 6:00PM

Presiding – Ron Alcock  
Present – Matt Horn, City Manager

1. ROLL CALL

Present: Clr. Greco, Clr. Hagerman, Clr. Camera, Clr. Gramling, Clr. Valentino,  
Clr. D'Amico, Clr. Marino, Clr. Eddington

2. EXECUTIVE SESSION – DISCUSSION REGARDING NYS OPEN MEETINGS LAW PURSUANT TO SECTION 105 (d)

ACTION TAKEN by Clr. Eddington; seconded by Clr. Greco  
MOVED THAT Council move in Executive Session for the purpose of discussing a  
matter regarding NYS Open Meetings Law Section 105 (d) at 6:00pm  
ROLL CALL: Aye – Clr. Eddington, Clr. Camera, Clr. D'Amico, Clr.  
Marino, Clr. Greco, Mayor Alcock  
Absent – Clr. Hagerman, Clr. Valentino  
Recusal – Clr. Gramling notified the Mayor in advance  
MOTION CARRIED (6-3 absent).

ACTION TAKEN by Clr. Camera; seconded by Clr. Eddington  
MOVED THAT Council exit Executive Session at 6:50pm  
MOTION CARRIED (8-1 absent)

Mayor Alcock called the regular meeting to order at 7:00pm.

3. CONSIDERATION OF MEETING MINUTES

ACTION TAKEN by Clr. Valentino; seconded by Clr. Greco  
MOVED THAT the minutes of the January 4, 2017 Regular City Council Meeting and  
minutes of the January 25, 2017 Special City Council Meeting be approved  
MOTION CARRIED UNANIMOUSLY

4. CORRESPONDENCE

The City Clerk reported that during the month of January approximately 100 Notices of Claims were filed alleging contamination to properties surrounding the Geneva Foundry.

5. PUBLIC COMMENT

Mayor Alcock opened Public Comment for agenda-related items at 7:03pm.

Robert Stewart, 217 William Street

- Zoning Board of Commission Appointments – Mr. Stewart expressed his concern about the new method of selecting and appointing members to boards/commissions. He said he received a letter today indicating he was not being recommended for reappointment to the Zoning Board, which stated that the “Zoning Board of Appeals has recommended a new member to its committee....”. He added he finds that a little precarious that the Zoning Board of Appeals, a Board that he is on, a Board that he Chairs would recommend a new member without him knowing it. He said if you talk to the members they would feel completely opposite of what the letter says, noting as a member of the Zoning Board he was not a part of any recommendation. He said he would like a little clarification on that and who made the recommendation. He asked what the criteria was, because during his interview, he was informed of what year he was first appointed on this Board and that was the extent of the interview. He added what followed that interview was a self-initiative conversation of what changes he has seen and changes and decisions he has been a part of over the years that he believes has been a positive impact in this committee. He said this whole process stinks of politics and questioned whether the decision to not recommend him is binding or is anyone on Council free to disagree.
- Keeping of Backyard Hens – Mr. Stewart said as a member of the Zoning Board and speaking for himself, he didn’t appreciate it all ending up in their laps when this Council had many opportunities to voice their own opinions on where they think things should fall. He added this new proposal is far beyond anything that they imagined as a Zoning Board that they would be considering when they approved the variance for the operation on State Street as they never intended for it to be city-wide.

Gloria Povero Ciancaglini, 62 Sprucewood Drive

- Keeping of Backyard Hens – Mrs. Ciancaglini said she came to protest the chickens. She said her story is that she and her husband build their home on Sprucewood Drive in 1955 and have paid taxes ever since. She said her husband drove back and forth to work in Rochester every day so that they could stay and live in Geneva. Noting they are City of Geneva lovers, they do not want chickens running around in their neighbor’s backyard and the possibility of foxes running around. She added she resented Mr. Henderson’s comment, “the effort to allow residents to own hens is part in parcel with a progressive community Geneva is trying to become”. She said she wants Geneva to become a progressive community and not a regressive community and to go back to the 1800’s where they maybe had chickens. She said, “We don’t want chickens in our City”.

Charles King, 363 Washington Street,

- Keeping of Backyard Hens – Mr. King said he is a member of the Geneva Peeps, enjoys the hens very much and feels it is a useful thing to teach his children about animal husbandry and about how food is produced. He reminded Council about the research he did in 2015 on the history of agricultural zoning laws in Geneva and going through the books of ordinances and reviewing Council meeting minutes back to 1947. Because the current code leaves things up to the Zoning Board, Mr. King presented Council with rules from the 1950's for what property owners could do with a lot that was zoned agricultural or industrial if it bordered a residential lot. There were different rules for physical setbacks depending on activities and materials and agricultural use. He suggested that 10ft. from the neighbor's residential lot line to a chicken yard or 20ft. from a street is consistent with the City's historical book of ordinances during Geneva's most populous era. A new residential chicken code would need to revisit the issue of how far the actual chicken house should be, suggesting that it be measured from neighboring houses and not lot lines, since the proximity issue for a well-kept chicken house is one of the mild sounds of a sunrise on summer mornings. When considering setbacks he asked that Council remember that a quarter acre lot is only about ten thousand sq. ft. of about 100ft. square if it is a square. He said he thought reviewing the history of chickens in Geneva from this perspective might be interesting and useful.

As no other persons of interest came forward, Mayor Alcock declared Public Comment closed at 7:12pm.

6. ORDINANCE AMENDING CHAPTER 277 – WATER AND SEWERS, 2<sup>ND</sup> READING

City Manager Horn presented the following ordinance for second reading and adoption:

# Chapter 277

## Sanitary Sewers

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### Article I

#### Purpose; Definitions

##### § 277-1 Purpose and policy.

- A. This chapter sets forth uniform requirements for indirect contributors into the wastewater collection and treatment system for the City of Geneva and enables the City to comply with all applicable state and federal laws.
- B. The objectives of this chapter are:
- (1) To prevent the introduction into the municipal wastewater system of pollutants which will interfere with the operation of the system or contaminate the resulting sludge;
  - (2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
  - (3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
  - (4) To provide for equitable distribution of the cost of the municipal wastewater system.
- C. This chapter provides for the regulation of indirect contributors to the municipal wastewater system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customers' capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

##### § 277-2 Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

##### **ACT or THE ACT**

The Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

##### **APPROVAL AUTHORITY**

The Commissioner of the New York State Department of Environmental Conservation if New York State has an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.

##### **AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER**

An authorized representative of an industrial user shall be:

- A. A principal executive officer of at least the level of Vice President, if the industrial user is a corporation.
- B. A general partner or proprietor if it is a partnership or proprietorship, respectively.

- C. A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

**BOD or BIOCHEMICAL OXYGEN DEMAND**

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter.

**BMPs**

The term Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in §403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

**BUILDER**

Any person, persons or corporation who undertakes to construct, either under contract or for resale within two years, any habitable building.

**BUILDING DRAIN**

The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

**BUILDING SEWER**

The extension from the building drain to the public sewer or other place of disposal.

**CITY**

The City of Geneva, New York.

**CITY ENGINEER or DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS**

The professional engineer retained as City Engineer for the City of Geneva, or his authorized deputy or agent.

**COMBINED SEWER**

A sewer receiving both surface runoff and sewage.

**CONTROL AUTHORITY**

The "approval authority," defined hereinabove; or the director if the City has an approved pretreatment program under the provisions of 40 CFR Part 403.11.

**COOLING WATER**

The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

**DEVELOPER**

Any person, persons or corporation who undertakes to construct simultaneously more than one housing unit on a given tract or land subdivision.

**DIRECT DISCHARGE**

The discharge of treated or untreated wastewater directly to the waters of the State of New York.

**ENVIRONMENTAL PROTECTION AGENCY or EPA**

The United States Environmental Protection Agency, or, where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

**GARBAGE**

Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

**GRAB SAMPLE**

A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

**HOLDING TANK WASTE**

Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

**INDIRECT DISCHARGE or DISCHARGE**

The introduction of pollutants into a POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

**INDUSTRIAL USER or USER**

A source of indirect discharge.

**INDUSTRIAL WASTES**

The liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

**INTERFERENCE**

The inhibition or disruption of the POTW treatment processes or operations which contribute to a violation of any requirement of the City's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act (33 U.S.C. § 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

**NATIONAL CATEGORICAL PRETREATMENT STANDARDS or PRETREATMENT STANDARDS or CATEGORICAL STANDARD**

Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. § 1347) which applies to a specific category of industrial users.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT**

A permit issued pursuant to Section 402 of the Act (33 U.S.C. § 1342).

**NATIONAL PROHIBITIVE DISCHARGE STANDARD or PROHIBITIVE DISCHARGE STANDARDS**

Any regulation developed under the authority of 307(b) of the Act and 40 CFR Part 403.5.

**NATURAL OUTLET**

Any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

**NEW SOURCE**

Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section.

**NYSDEC**

The New York State Department of Environmental Conservation or duly authorized official of said Department.

**PASS THROUGH**

The discharge of pollutants through the POTW into the receiving waters in quantities or concentrations which are a cause of, or significantly contribute to, a violation of any requirement of the POTW treatment plant SPDES permit, including an increase in the magnitude or duration of a violation.

**PERSON**

Any individual, firm, company, association, society, corporation or group.

**pH**

The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

**POLLUTANT**

Any substance not normally present or present in concentrations not normally found in aquatic systems, or that may be potentially toxic or otherwise objectionable.

**POLLUTION**

The man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

**POTW TREATMENT PLANT or SEWAGE TREATMENT PLANT**

That portion of the POTW designed to provide treatment to wastewater.

**PRETREATMENT or TREATMENT**

The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes by other means, except as prohibited by 40 CFR Part 403.6(d).

**PRETREATMENT REQUIREMENTS**

Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

**PROPERLY SHREDDED GARBAGE**

The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

## **PUBLICLY OWNED TREATMENT WORKS (POTW) or SEWAGE WORKS**

A treatment works as defined by Section 212 of the Act (33 U.S.C. § 1292), which is owned in this instance by the City. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City, who are, by contract or agreement with the City, users of the City's POTW.

## **PUBLIC SEWER**

A sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

## **SANITARY SEWER**

A sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

## **SEWAGE or WASTEWATER**

A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such groundwaters, surface waters and stormwaters as may be present.

## **SEWER**

A pipe or conduit for carrying sewage.

## **SHALL, MAY**

"Shall" is mandatory; "may" is permissive.

## **SIGNIFICANT INDUSTRIAL USER**

- A. Any discharger subject to a categorical pretreatment standard;
- B. Any other industrial user that discharges an average of at least 25,000 GPD of process wastewater (excluding sanitary, noncontact cooling and boiler blow down wastewaters) to the publicly owned treatment works;
- C. An IU that contributes process waste stream which is at least 5% of the average dry weather hydraulic capacity or organic capacity of the publicly owned treatment works; or
- D. Any IU so designated by the publicly owned treatment works due to the reasonable potential for adversely affecting the publicly owned treatment works' operation or violating a pretreatment standard.

## **SIGNIFICANT NONCOMPLIANCE**

Any violation that meets one or more of the following criteria:

- A. Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;
- B. Technical review criteria (TRC) violations, defined here as those in which 33% or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other

pollutants except pH);

- C. Any other violation of a pretreatment standard or requirement (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance;
- H. Any other violation or group of violations, which may include a violation of best management practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

**SPDES**

State Pollutant Discharge Elimination System.

**STANDARD INDUSTRIAL CLASSIFICATION (SIC)**

A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, or its most recent edition.

**STATE**

State of New York.

**STORM DRAIN or STORM SEWER**

A sewer which carries stormwaters and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

**STORMWATER**

Any flow occurring during or following any form of natural precipitation and resulting therefrom.

**SUSPENDED SOLIDS**

Solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

**TOXIC POLLUTANT**

Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the U.S. Environmental Protection Agency under the provision of Clean Water Act Section 307(a) or other acts.

**USER**

Any person who contributes, causes or permits the contribution of wastewater into the City's POTW.

## **WASTEWATER CONTRIBUTION PERMIT or WASTEWATER DISCHARGE PERMIT**

As set forth in § 277-47 of this chapter.

## **WATERCOURSE**

A channel in which a flow of water occurs either continuously or intermittently.

## **WATERS OF THE STATE**

All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

## **WWTF or WWTP**

Wastewater treatment facility or wastewater treatment plant.

## Article II Use of Public Sewers Required

### **§ 277-3 Prohibitions against insanitary disposal of sewage.**

It shall be unlawful for any person to improperly place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the City, or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.

### **§ 277-4 Use of natural outlet prohibited.**

It shall be unlawful to discharge to any natural outlet, either directly or through any storm sewer, within the City, or in any area under the jurisdiction of said City, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter. Use of separate storm sewers and sanitary sewers is mandatory and no combined sewers will be allowed.

### **§ 277-5 Private sanitary disposal system prohibited.**

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tanks, cesspool or other facility intended or used for the disposal of sewage.

### **§ 277-6 Connection with available public sewer system required.**

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose, situated within the City and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the City, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 90 days after the date of official notice to do so, provided that said public sewer is within 100 feet of the property line.

## Article III Private Sewage Disposal

### **§ 277-7 When private system is permitted.**

Where a public sanitary sewer is not available under the provisions of § 277-6, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article and with the provisions of the City and standard specifications of the State Department of Health.

§ 277-8 **Application and fee.**

Permits, classes and fees.

- A. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written approval signed by the Director of Public Works. The application for such permit shall be made on a form furnished by the City which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Director.
- B. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written approval from the Director of Public Works or Chief Operator. No unauthorized person shall make connection of roof downspouts, exterior foundation drains, driveway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- C. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. Work will be performed by Department of Public Works personnel. Before the commencement of work, a fee, which is to be adjusted administratively annually based on the inflation rate, is charged as listed below:
  - (1) Sewer tap fee, installed, complete from sewer main to the City right-of-way line.
    - (a) Tapping fees for four- and six-inch sewer lines:
      - [1] Service materials: \$350.
      - [2] Materials for excavation: \$1,144.
      - [3] Equipment: \$916.
      - [4] Labor: \$1,200.
      - [5] Total cost: \$3,610.
    - (b) Tapping fees for eight- and twelve-inch sewer lines:
      - [1] Service materials: \$780.
      - [2] Materials for excavation: \$1,725.
      - [3] Equipment: \$1,345.
      - [4] Labor: \$1,415.
      - [5] Total cost: \$5,265.
  - (2) Cost of tap fees larger than 12 inches in size will be determined on an individual basis.
  - (3) Disconnect fee:
    - (a) Four- to six-inch sewer lines: \$2,500.
    - (b) Cost of disconnecting a six-inch-or-larger sewer line will be determined on an individual basis.
- D. Cost to televise existing sewer laterals:

- (1) The following fees will be charged for utilization of City equipment to televise sewer laterals:
  - (a) Owner-occupied residences: \$200 (flat fee).
  - (b) Investor rental properties: \$375 (flat fee).
  - (c) Industrial/commercial/retail/not-for-profit entities: \$450 per hour.
  - (d) Senior exemption: All seniors who are income eligible pursuant to the Over 65 Property Tax Exempt Program will not be charged for this service.
- (2) Prior to utilization of City equipment, the private owner or business representatives must ensure that the sewers are snaked-cleaned. In the event that the problem is determined to be within the City right-of-way, no fee will be charged. If the problem is determined to be within the owner's property line, the fee will be billed to the property owner and, in the event of nonpayment, any such charge will be added to the next annual tax bill.
- (3) All users are responsible for maintenance of sanitary sewer lines to the City right-of-way. If a problem occurs, it is the property owner's responsibility to determine whether or not the problem is on City property. If City employees are required to respond to a problem that is not on City property, the property owner will be charged at current rates for time, equipment and material.
- (4) At no time shall City employees access a sanitary line through a private basement, commercial property or industrial property. If cleaning or inspection is required the property owner must provide sanitary access through a clean-out from the right-of-way. If the sanitary is blocked for any reason, a determination will be made as to the location of the blockage. The blockage will be repaired by City personnel only if it is within the City right-of-way. All other repairs will be made by the property owner at his or her expense.

§ 277-9 (Reserved)

§ 277-10 **Compliance with state requirements.**

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health of the State of New York. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

§ 277-11 **Connection with public sewer when available.**

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in § 277-6, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material. All costs associated with securing abandoned facilities shall be borne by property owner.

§ 277-12 **Owner's responsibility.**

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the City.

§ 277-13 **Requirements not exclusive.**

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the authorized representative of the New York State Department of Health.

§ 277-14 through § 277-16. (Reserved)

## Article IV Building Sewers, Connections and Fees

### § 277-17 Separate building sewers required.

A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

### § 277-18 Use of old sewers.

Old building sewers may be used in connection with a new building only when they are found, on examination and test by the Director, to meet all requirements of this chapter.

### § 277-19 Building sewer pipe.

Sanitary sewers from building discharge to sanitary main in City right-of-way shall be constructed of:

- A. Polyvinyl chloride pipe (PVC) conforming to ASTM D3034 with a minimum pipe stiffness of 46 psi at a maximum deflection of 5% and a standard dimension ratio (SDR) of 35 or less.
- B. Ductile iron pipe conforming to ASTM C151 and C110.

### § 277-20 Size and slope of building sewer.

The size and slope of the building sewer shall be subject to the approval of the Director, but in no event shall the diameter be less than four inches. The slope of such four-inch pipe shall be not less than 1/4 inch per foot. The slope of a six-inch pipe shall be not less than 1/8 inch per foot.

### § 277-21 Building sewer location.

Building sewers must be laid no closer than 10 feet from parallel water service pipes. Where building sewers must cross water pipes, the pipe length should be centered over or under the water pipe so that the pipe joints are as far as possible from the water pipe. If any joint is less than 10 feet from the water pipe, it must be encased in concrete. No building sewer shall be laid parallel to or within three feet of any bearing wall which might thereby be weakened. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The building sewer shall be laid with a minimum depth of cover of four feet. The building sewer shall be laid at a uniform grade and in straight alignment where possible. Changes in direction shall be made with fittings that have offsets of 60° or less unless a cleanout is installed and brought to the surface.

### § 277-22 Lift, when required.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

### § 277-23 Building sewer installation and backfill.

Ductile iron and PVC pipe shall be installed and backfilled in accordance with ASTM 2321. Blocking under the pipe is not permitted. Trenches may not be backfilled until the work has been inspected. If groundwater is encountered or the excavation contains stormwater, the water level in the excavation must be lowered to a level below the invert of the public sewer before removing the lateral plug. Cleanouts must be provided at City right-of-way.

### § 277-24 Joints and connections.

All joints and connections shall be gastight and watertight. Ductile iron pipe shall be installed using mechanical or push-on joints conforming to ASTM C111. PVC pipe shall be joined with push-on joints or solvent welded joints conforming to ASTM D3034.

§ 277-25 (Reserved)

§ 277-26 **Inspection; plumber's responsibility and penalties.**

- A. The plumber to whom a permit is issued shall notify the Highway/Sewer Superintendent or Code Enforcement Officer when the building sewer is ready for inspection and connection to the public sewer lateral.
- B. Building sewer pipe installations must be inspected by the Highway/Sewer Superintendent or Code Enforcement Officer before backfilling has been started and before any connection to the public sewer lateral has been started. All inspections will be performed during normal working hours for the City DPW.
- C. The backfilling of a trench or connection to a public sewer lateral before inspection by the Superintendent will subject the plumber to whom the permit has been issued to a penalty up to \$1,000 for each offense plus all costs associated to repair condition. Violation of any terms of this chapter or any other of the rules and regulations of the City by a plumber or persons in his employ may result in suspension or revocation of recognition of the plumber by the City.

§ 277-27 **Barricades and lights to protect public.**

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

## Article V Sewer Extensions

§ 277-28 **Sanitary sewer extension standards.**

All extensions to the sanitary sewer system owned and maintained by the City shall be properly designed in accordance with the Recommended Standards of Sewer Works, as adopted by the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers and in strict conformance with all requirements of the New York State Department of Environmental Conservation (NYSDEC). Plans and specifications for sewer extensions shall be submitted to, and approval obtained from, the Director of Public Works and NYSDEC before construction may proceed. The design of sewers must anticipate and allow for flows from all possible future extensions or developments within the immediate drainage area.

§ 277-29 **Construction of sewer extensions; assessment of cost.**

Sewer extensions may be constructed by the City under public contract, by City forces, if, in the opinion of City Council, the number of properties to be served by such extension warrants its costs. Property owners will be assessed the full costs of constructing an eight-inch sanitary sewer for the width of their property. Property owners may propose sewer extensions within City limits by drafting a written petition, signed by a majority of the benefiting property owners, and filing it with the City Clerk. The City Council has the right to order sewer extensions where deemed necessary for the health of the community and assess charges against property owners.

§ 277-30 **Construction of sewer extension by owner or developer.**

- A. If the City does not elect to construct a sewer extension under public contract, the property owner, builder or developer may construct the necessary sewer extension, if approved by the City Council. He or they must pay for the entire installation, including all expenses incidental thereto. Each building sewer installed must be installed and inspected as previously required and the inspection fees shall be paid.
- B. Design of sewers shall be as specified in §§ 277-28 and 277-31. The installation of the sewer extension must be subject to full-time inspection by the City Engineer, the Director of Public Works or his appointee and the expenses for this inspection shall be paid for by the owner, builder or developer. The Director of Public Work's decisions shall be final in matters of quality and methods of construction. The sewer, as constructed, must pass the leakage test required in § 277-32 before it is to be used.

§ 277-31 Sewer design and specifications.

Sewer design shall be in accordance with § 277-28 and the following provisions:

- A. Pipe shall be ductile iron conforming to ASTM C151 and/or polyvinyl chloride (PVC) conforming to ASTM D3034 with a minimum pipe stiffness of 46 psi at a maximum deflection of 5% and a standard dimension ratio (SDR) of 35 or less.
- B. Ductile iron pipe joints shall be push-on or mechanical conforming to ASTM C111.
- C. Polyvinyl chloride pipe shall be joined with push-on or mechanical conforming to ASTM C111.
- D. Joints of any of these types of pipe shall be made in accordance with the manufacturer's published recommendations.
- E. Ductile iron and PVC pipe shall be installed and backfilled in accordance with ASTM 2321. Polyvinyl chloride pipe deflection shall be checked by pulling a deflection gauge through completed pipelines by hand.
- F. Manholes shall be constructed with a poured three-thousand-psi concrete base, steel-troweled concrete or mortar inverts and precast four-foot diameter concrete manhole barrel sections and a tapered top section as specified by ASTM C0478, or cement brick or block solid. The manhole frame and cover shall be the standard design of the City and shall be set with no less than two courses of brick underneath to allow for later adjustment in elevation.

**Pipe Diameter**

<b>(inches)</b>	<b>Trench Width</b>
8	3'-3"
10	3'-6"
12	3'-9"

- G. If the trench widths are found, during field inspection, to exceed the limits in the above table, the sewer pipe shall be encased with a minimum of six inches of concrete. Pipe shall be firmly and evenly bedded on a minimum of three inches of No. 2 crushed stone (NYSDOT Specification). Pipe thickness and field strength shall be calculated on the following criteria:

Safety factor	1.5
Load factor	1.7
Weight of soil	120 lbs. cu. ft.

§ 277-32 Leakage test before approval.

All sewers shall be tested for leakage prior to being placed in service. The leakage shall be determined by exfiltration, infiltration or low-pressure air. The testing method shall be as directed by the Engineer or Director of Public Works. If the line fails the test, the contractor shall explore for and repair the cause of the excessive leakage. After repairs have been made, the line shall be retested. This procedure shall be repeated until the pipe complies.

- A. Exfiltration testing. Exfiltration tests shall be made by filling a section of pipeline with water and measuring the quantity of leakage. The head of water at the beginning of the test shall be at least two

feet above the highest pipe within the section being tested. Should groundwater be present within the section being tested, the head of water for the test shall be two feet above the level of the groundwater. Should the requirement of two feet of water above the highest pipe subject any joint at the lower end of the test section to a differential head greater than 11.5 feet, another method of testing shall be employed.

B. Infiltration testing. Infiltration tests will be allowed only when the groundwater level is two feet or more above the highest pipe of the section being tested. The quantity of water leaking into each section of pipeline shall be measured by a calibrated weir constructed at the outlet of the section being tested.

C. Allowable leakage.

(1) The allowable leakage (exfiltration or infiltration) shall not exceed the following in gallons per 24 hours per inch of diameter per 1,000 feet of pipe.

Type of Pipe	Leakage
Ductile iron, mechanical or push-on joints	10
Polyvinyl chloride, thermal plastic or fiberglass with rubber joints	10
Polyvinyl chloride, thermal plastic or fiberglass with solvent-cemented joints	0

(2) Regardless of the above allowable leakage, any spurting leaks detected shall be completely and permanently stopped.

D. Manhole testing. Each manhole shall be tested by either exfiltration or infiltration. A manhole will be acceptable if the leakage does not exceed an allowable of one gallon per vertical foot of depth for 24 hours. Regardless of the allowable leakage, any leaks detected shall be permanently stopped. Exfiltration test may be performed prior to or after backfilling. The test shall be made by filling the manhole with water and observing the level for a minimum of eight hours. Infiltration tests shall be performed when the groundwater level is above the joint of the top section of a precast manhole.

E. Air testing.

(1) Air testing shall not be performed until the backfilling has been completed. Low-pressure air tests shall conform to ASTM C828 except as specified herein and shall not be limited to type or size of pipe. All sections of pipelines shall be cleaned and flushed prior to testing.

(2) The air test shall be based on the average holding pressure of three psi gauge, a drop from 3.5 to 2.5 psi, within the period of time allowed for the size of pipe and the length of the test section. The time allowed for the one-psi drop in pressure, measured in seconds, will be computed by the Engineer/Director of Public Works and will be based on the limits of ASTM C828. When groundwater is present the average test pressure of three psig shall be above any back pressure due to the groundwater level. The maximum pressure allowed under any condition in air testing shall be 10 psig. The maximum groundwater level for air testing is 13 feet above the top of the pipe.

(3) The equipment required for air testing shall be furnished by the contractor and shall include the necessary compressor, valves and gauges to allow for the monitoring of the pressure, release of pressure and a separable test gauge. The test gauge shall be sized to allow for the measuring of the one-psig loss allowed during the test period and shall be on a separate line to the test section.

**§ 277-33 Maintenance and ownership assumed by City after final approval.**

All sewer extensions constructed at the property owner's, builder's or developer's expense, after final approval and acceptance by the City Engineer or Director of Public Works, shall become the property of the City and shall thereafter be maintained by the City.

**§ 277-34 Sewer permit required before issuance of building permit.**

No builder or developer shall be issued a building permit for a new dwelling or structure requiring sanitary facilities within the City until a sewer permit has been received from the Department of Public Works, and all new developments shall be provided with an approved system of sanitary sewers.

**Article VI  
Use of Public Sewers**

**§ 277-35 Discharging sewage to natural outlets.**

It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of said City any sewage or other polluted waters except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

**§ 277-36 Use of storm sewers.**

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Director. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the Director, to a storm sewer, or natural outlet. This approval does not diminish the responsibility of the applicant to obtain a direct discharge permit from the New York State Department of Environmental Conservation.

**§ 277-37 Prohibited discharges.**

- A. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of the Geneva POTW whether or not the user is subject to National Categorical Pretreatment Standards or any other federal, state or local pretreatment standards or requirements. A user may not contribute the following substances to the City of Geneva POTW:
- (1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than 5%, nor any single reading over 10% of the lower explosive limit (LEL) of the meter. Any pollutants which create an explosion or fire hazard in the publicly owned treatment works, including, but not limited to, waste streams with a closed cup flash point of less than 140° F. or 60° C. using the test methods specified in 40 CFR 261.21. Unless explicitly authorized by a limitation set forth in § 277-42 or a permit issued pursuant to this chapter, prohibited materials include, but are not limited to, the discharge of gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, carbides, hydrides, sulfides and any other substance in amounts and/or concentrations in which the City, State of New York, or EPA determines to constitute a fire or other hazard to the POTW.
  - (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the POTW. Unless explicitly authorized by the discharge limitations set forth in § 277-42 or a permit issued pursuant to this chapter, such substances include, but are not limited to, the discharge of grease, garbage with particles greater than 1/2 inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides, fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone, marble dust, metal, straw, shavings, grass clippings, rags, grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt, residues from refining or processing fuel or oil in any form, mud, stone or stone grindings.
  - (3) Any wastewater having a pH less than 6.0 or greater than 9.5 unless a permit is specifically issued to accommodate such wastewater, or wastewater having any other corrosive property capable of

causing damage or hazard to structures, equipment and/or personnel of the POTW.

- (4) Any wastewater containing toxic pollutants in sufficient quantity, either singularly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, create a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in the national categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.
- (5) Any pollutants which result in the presence of toxic gases, vapors or fumes within the publicly owned treatment works or the collection system in a quantity that may cause acute worker health and/or safety problems. Any noxious or malodorous liquids, gases or solids which either singularly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (6) Any substance which may cause the POTW effluent or any other product of the treatment plant, such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the treatment plant cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act; or state criteria applicable to the sludge management method being used.
- (7) Any substance which will cause the POTW to violate its New York State Pollutant Discharge Elimination System (SPDES) permit or the receiving water quality standards.
- (8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes or vegetable tanning solutions.
- (9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction to the POTW system which 40° C. (104° F.) unless a permit is issued to accommodate such temperature.
- (10) Any pollutants, including oxygen-demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW, or is in contravention of permit conditions.
- (11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the POTW in compliance with applicable state or federal regulations.
- (12) Any wastewater which causes a hazard to human life or creates a public nuisance, either by itself or in combination with any other waste.
- (13) Any commercial, industrial, institutional, or residential water or waste containing fats, waxes, greases or oils, whether emulsified or not, containing substances which may solidify or become viscous at temperatures between 32° and 104° F. (0° and 40° C.); any vegetable oil, petroleum oil, non-biodegradable cutting oil or products of mineral oil origin that will cause interference or pass through at the POTW.
- (14) Any water or waste that will cause interference or pass through.
- (15) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

- (16) Any trucked or hauled pollutants, except at discharge points designated by the publicly owned treatment works. No person shall discharge any holding tank waste into a manhole or other opening in a sanitary sewer. All holding tank waste discharged within the Geneva POTW system shall be discharged at a facility at locations designated by the Director or Chief Operator. Each separate load of holding tank waste shall be registered with the Chief Operator of the treatment facility. The user shall pay the applicable charges and fees and shall meet such other conditions as required by the Department. The Department shall have the right to inquire about the type of waste, the approximate volumes, and the origin of holding tank wastes. The transporter of such wastes shall also have a waste hauler's permit from the NYSDEC.
- (17) Unusual flow rates or concentration of wastes, constituting slugs, except by written wastewater permits.
- B. When the Director or Chief Operator determines that a user(s) is contributing to the POTW any of the above enumerated substances or any substance not listed, in such amounts as to interfere with the operation of the POTW, the Director or Chief Operator shall advise the user(s) of the impact of the contribution on the POTW pursuant to procedures in § 277-67 of this chapter.

#### § 277-38 **Interceptors.**

- A. Grease, oil and sand interceptors shall be provided when required by code and/or when the above set limits for those substances are exceeded, and/or when, in the opinion of the Director or Chief Operator, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or individual dwelling units. All interceptors shall be of a type and capacity approved by the Director or Chief Operator and shall be located as to be readily and easily accessible for cleaning and inspection.
- B. Grease, oil and sand interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place shall be gastight and watertight. All interceptors shall meet specifications and requirements as outlined in Sections 1003 and 1004 of the Plumbing Code of New York State.

#### § 277-39 **Maintenance and accessibility of interceptors.**

Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times and shall be readily accessible and open to inspection by the Director of Public Works or Chief Operator at any time. If, at any time, City maintenance personnel find these interceptors to be not properly maintained, the City shall perform such maintenance as to make them effective. All costs associated with any maintenance by City personnel shall be passed onto the property owner.

## Article VII **Discharge Standards and Limitations**

#### § 277-40 **National Categorical Pretreatment Standards.**

Upon the promulgation of the National Categorical Pretreatment Standards for a particular industrial subcategory, the national standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The Director or Chief Operator shall notify all affected users of the applicable reporting requirements under 40 CFR Part 403.12.

#### § 277-41 **Modification of National Categorical Pretreatment Standards.**

Where the City's wastewater treatment system achieves consistent removal of pollutants limited by national pretreatment standards, the City may apply to the approval authority for modification of specific limits in the national pretreatment standards. "Consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or

harmless state in the effluent which is achieved by the system in 95% of the samples taken when measured according to the procedures set forth in 40 CFR Part 403.7(c)(2), General pretreatment regulations for existing and new sources of pollution, promulgated pursuant to the Act. The City may then modify pollutant discharge limits in the national pretreatment standards if the requirements contained in 40 CFR Part 403.7 are fulfilled and prior approval from the approval authority is obtained.

§ 277-42 **Discharge limitations.**

- A. No user shall discharge wastewater to the sanitary sewer system when any of the pollutant concentrations exceed the limits specified in the following. These concentrations shall be applied to wastewater effluents at a point just prior to discharge into the City sewer system. With the express written consent of the Director of the Department of Public Works or the Chief Operator of the POTW, users with multiple discharge outfalls may combine waste streams by calculation to report on wastewater characteristics.

**Table 1**

<b>Substance</b>	<b>Concentration Limit (mg/L)</b>
Arsenic	0.10
Cadmium	0.20
Cyanide-complex	0.80
Chromium, hexavalent	0.10
Chromium-total	1.00
Copper	1.00
Iron	10.0
Lead	0.10
Mercury	0.001
Nickel	2.00
Selenium	0.05
Silver	0.10
Zinc	0.60
Phenolic compounds	5.00
Oil and grease	100.0
Sulfide	3.00

- B. The Director of the Department of Public Works may impose mass limitations in addition to the concentration-based limitations above. The Director may also develop and impose limitations on additional parameters on a case-by-case basis.
- C. All users are prohibited from discharging those materials listed in § 277-37 in excess of the applicable limits set forth herein.

§ 277-43 **Special conditions.**

- A. No person shall discharge or permit the discharge or infiltration into the City sewer system of wastes containing the following pollutants in excess of the listed concentrations unless prior approval is granted by the Director or Chief Operator of the POTW:
  - (1) Wastes containing more than 200 mg/l of five-day biochemical oxygen demand (BOD).
  - (2) Wastes containing more than 200 mg/l of total suspended solids (TSS).
  - (3) Wastes containing more than 100 mg/l of total organic carbon (TOC).
  - (4) Wastes containing more than 400 mg/l of chemical oxygen demand (COD).
  - (5) Wastewater in volumes constituting greater than 25,000 gallons/day.
- B. Allowable increases of the pollutant concentrations in Subsection A(1) through A(4) as well as volume in Subsection A(5) may be subject to a surcharge due to extra-strength wastes, as set forth in § 277-61 of this chapter.

§ 277-44 **State requirements.**

State requirements and limitations on discharges shall apply in any case where they are more stringent than national requirements and limitations or those in this chapter.

§ 277-45 **Excessive discharge.**

No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, or in any other pollutant-specific limitation developed by the City or state.

## Article VIII Industrial Wastewater Discharge Permits and Other Requirements

§ 277-46 **Authority of Director over harmful wastes.**

- A. If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, containing any substances or possessing characteristics enumerated in this chapter, or which in the judgment of the Director or Chief Operator may have a deleterious impact on the POTW, receiving waters, POTW process residuals, or which may otherwise create a hazard to health, life or constitute a public nuisance, the Director or Chief Operator may:
  - (1) Reject the wastes;
  - (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
  - (3) Require control over the quantities and rates of discharge;
  - (4) Require payment to cover the added cost of handling and treating the wastes; and/or
  - (5) Require the discharger to apply for an industrial waste discharge permit.

- B. If the Director or Chief Operator permits the introduction of said wastes into the POTW, whether following pretreatment or an alternative discharge program, the design and installation of the plans and equipment, or implementation of the discharge program, shall be subject to the review and approval of the Director or Chief Operator, and subject to the requirements of all applicable codes, ordinances and laws.

**§ 277-47 Industrial waste discharge permits.**

- A. It shall be unlawful to discharge without a state or City permit (as applicable) to any natural outlet within the City, or in any area under the jurisdiction of said City, and/or to the POTW any wastewater except as authorized by the Director or Chief Operator in accordance with the provisions of this chapter.
- B. Each industrial user whose wastewater flow and/or wastewater strength is different from that of domestic waste (defined as having a concentration of any parameter in excess of those listed in §§ 277-42 and 277-43 of this chapter), or discharge EPA priority pollutants, NYSDEC substances of concern, or any other substance which the Director or Chief Operator deems to be of concern, must obtain an industrial waste discharge permit prior to connection or discharge to the City POTW. Each industrial user, as determined by the Director or Chief Operator, currently connected must obtain an industrial waste permit within 180 days after the effective date of this chapter.

**§ 277-48 Permit application.**

- A. Industrial users required to obtain an industrial waste discharge permit shall complete and file with the Department an application in the form prescribed by the Director or Chief Operator at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the user may be required to submit, in units and terms appropriate for evaluation, the following information:
- (1) Legal name, address and location of person, corporation or legal entity responsible for subject establishment.
  - (2) Name, address, location of subject establishment.
  - (3) Name and telephone number of person to contact regarding both industrial waste characteristics and permit application [if different than Subsection A(1) preceding].
  - (4) Wastewater constituents and characteristics, including but not limited to those mentioned in this chapter as determined by a laboratory certified by the State of New York.
  - (5) Time and duration of contribution.
  - (6) Site plans or floor plans showing all sewers, sewer connections and appurtenances by the size, where available.
  - (7) Description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged.
  - (8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, state or national pretreatment standards.
  - (9) If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.
  - (10) Any other information as may be deemed by the City to be necessary to evaluate the permit application.

(11) Completion of a NYSDEC Industrial Chemical Survey.

- B. The City will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the City may issue an industrial waste discharge permit subject to terms and conditions provided herein. The industrial waste discharge permit approval will be subject to an annual fee of \$100.

**§ 277-49 Permit conditions.**

Industrial waste discharge permits shall be expressly subject to all provisions of this and all other applicable ordinances, regulations, charges and fees established by the City. The conditions of the industrial waste discharge permit may contain the following:

- A. Effluent limitations or other appropriate limitations when toxic substances are present in the user's wastewater discharge.
- B. Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number types and standards for analytical tests and reporting schedule.
- C. Requirements for submission of technical reports or discharge reports.
- D. Pretreatment requirements.
- E. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City, and affording the City access and the ability to copy thereto.
- F. Requirements for notification of the Director or Chief Operator of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.
- G. Requirements for the submission of information concerning the disposal of waste material separated from the authorized discharge.
- H. Where it is determined that a slug control plan is necessary, the City shall add the requirement to implement a slug control plan.

**§ 277-50 Duration of permits.**

- A. Industrial waste discharge permits shall be issued for a specified period of time (normally one year), not to exceed three years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.
- B. In order to renew a permit, the permittee shall have paid all fees relating to this chapter according to the schedules set in this chapter, and submitted an up-to-date industrial waste questionnaire and other information as required by the Director or Chief Operator no later than 120 days prior to the expiration of the existing permit. If the permittee is not notified by the Department 30 days prior to the expiration of the permit, the permit shall be extended one additional year. Notification may consist of a request for additional information. The duration of a permit may be extended by the Director or Chief Operator during consideration for renewal.
- C. The terms and conditions of the permit may be subject to modification and change by the Department during the life of the permit as limitations or requirements as identified in this chapter are modified or changed. The permittee shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

**§ 277-51 Permit modifications by permittee.**

- A permittee requesting any modification of a permit shall do so at least 90 days prior to the date the

permittee plans to implement the modification. Application to the Director or Chief Operator for modification shall include any information as may be deemed necessary by the City to evaluate the modification application.

**§ 277-52 Transfer of permit.**

Industrial waste discharge permits are issued to a specific user for a specific operation. A permit shall not be reassigned, transferred or sold to a new owner, new user, different premises or a new or changed operation without the prior approval of the Director or Chief Operator. In the event of any change in ownership of the industrial facility, the permittee shall notify the new owner of the existence of the permit by letter, a copy of which shall be forwarded to the Director or Chief Operator. If the operations and processes are to remain the same, the permit may be approved by the Director or Chief Operator for the new owner. A new industrial waste discharge permit application shall be made by the new owner and facility if any other changes are made other than the control of ownership.

**§ 277-53 Suspension, modification or revocation of permits.**

Industrial waste discharge permits may be modified, suspended or revoked where the Director or Chief Operator finds after a hearing held in conformance with the procedures set forth in this chapter:

- A. A violation of any term of the permit, or any order or determination of the Director or Chief Operator promulgated under this or other applicable City ordinances;
- B. That the permit was obtained by misrepresentation or failure to disclose fully all relevant facts;
- C. A change in conditions or the existence of a condition which requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Refusal of reasonable access to the permittees' premises for the purpose of inspection or monitoring;
- E. Failure of the permittee to report significant changes in operations, or wastewater constituents and characteristics; or
- F. Failure of the permittee to pay all associated fees within 90 days of billing issuance.
- G. The terms and conditions of any permit may be subject to modification by the Director and/or Chief Operator during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in its permit at least 30 days prior to the effective date of any change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. With respect to the suspension or revocation of a permit, industrial users will be notified of the proposed revocation or termination of their permit and be offered an opportunity to show cause pursuant to § 277-69 as to why the proposed action should not be taken.
- H. Any user of the POTW aggrieved by any action taken by the Director or Chief Operator pursuant to this section may seek review of such action by filing a petition with the Sewer Complaint Review Board. A copy of the petition shall be filed with the City Manager, who shall schedule a hearing before the Sewer Complaint Review Board and notify the user of the time and place of the hearing, which shall be at least 15 days after filing the petition. The hearing proceedings shall be governed by the applicable provisions set forth in § 277-69.
- I. Any final civil penalty and/or administrative action, fine or order issued by the Sewer Complaint Review Board shall be reviewable pursuant to a proceeding commenced pursuant to Article 78 of the Civil Practice Law and Rules within 30 days of the final determination of the Sewer Complaint Review Board being filed with the City Manager.

**§ 277-54 Monitoring facilities.**

- A. Users who discharge, who propose to discharge, or who in the judgment of the Director or Chief Operator could discharge, now or in the future, wastewater with constituents and characteristics

different from that produced by a domestic premises may be required to install a monitoring facility.

- B. When, in the judgment of the Director or Chief Operator, there is a significant difference in the wastewater constituents and characteristics produced by different operations of a single user, the Director or Chief Operator may require that separate monitoring facilities be installed for each discharge.
- C. Monitoring facilities are to be constructed at a common location into which all flows from the user are combined. Monitoring facilities that are required to be installed shall be constructed, operated and maintained at the user's expense. If the monitoring facility is inside the user's fence, there shall be accommodation to allow safe and immediate access for the Department personnel such as a gate secured with a Department lock. There shall be ample room in or near such facility to allow accurate sampling and composition of samples for analysis. The entire facility and the sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition by and at the expense of the user. In the event that no special monitoring facility is required, sampling shall be conducted at a point or points selected by the Director or Chief Operator.

**§ 277-55 Inspection and sampling.**

- A. The Director or Chief Operator and other authorized employees of the Department and employees of the EPA and NYSDEC bearing proper credential and identification shall be permitted to enter all properties at all reasonable times for the purpose of inspection, observation, sampling, flow measurement and testing to ascertain compliance with this chapter. The Department shall have the right to set up on the user's property such devices as are necessary to conduct sampling or flow measurement. Where a user has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements so that upon presentation of suitable identification, personnel from the Department will be permitted to enter without delay for the purposes of performing their specific responsibilities. All costs associated with Inspection and Sampling shall be at the expense of the user.
- B. No representative is authorized to require information concerning an industrial process except to the extent necessary to ascertain the kind and source of discharge to sewers. While on private property the City's representatives shall observe all established safety rules applicable to the premises. The City shall indemnify a property owner against loss or damage to the owner's property and against third-party claims caused by representatives of the City while upon the property except for loss or damage or third-party claims caused by the negligence of the owner or the owner's failure to maintain safe conditions.

**§ 277-56 Pretreatment.**

- A. Where necessary, in the opinion of the Director or Chief Operator, users shall make wastewater acceptable under the limitations established by this chapter and by Section 307 of the National Act before discharging into the City sewer system. Any facilities required to pretreat wastewater to a level acceptable to the Department shall be provided and maintained at the user's expense. Detailed plans showing pretreatment facilities and operating procedures shall be submitted to the Director or Chief Operator for review, and shall be approved by the Director or Chief Operator before construction of the facility. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent complying with the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the Department. When pretreatment regulations are adopted by EPA or NYSDEC for any industry, then that industry must immediately conform to the EPA or NYSDEC timetable for adherence to national or state pretreatment requirements and any other applicable requirements promulgated by EPA or NYSDEC in accordance with Section 307 of the National Act. Additionally, such industries shall comply with any other stringent standards necessitated by local conditions as determined by the City.
- B. The City may adopt any charges and fees which may be necessary for reimbursement of administrative and technical costs of complying with the City's requirements under this and related

ordinances. These fees related solely to the matters covered by this chapter are separate from all other fees chargeable by the City.

§ 277-57 **Accidental discharge.**

- A. Each user shall provide protection from accidental and slug discharges of prohibited materials or other wastes regulated by this chapter. Facilities to prevent accidental and slug discharges of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Director or Chief Operator for review, and shall be approved by the Department before construction of the facility.
- B. Notification.
  - (1) Users shall notify the Department immediately upon discharging wastes in violation of this chapter due to:
    - (a) Breakdown of pretreatment equipment.
    - (b) Accidents caused by human error or negligence or mechanical failure.
    - (c) Other causes, such as acts of nature.
  - (2) Such notification will enable countermeasures to be taken by the Department to minimize damage to the City sewers, treatment facilities, treatment processes and receiving waters.
- C. In order that employees of the users be informed of Department requirements, users should make available to their employees copies of this chapter together with such other wastewater information and notices which may be furnished by the Department from time to time directed toward more effective water pollution control. A notice shall be furnished and permanently posted on the user's bulletin board advising employees whom to call in case of an accidental or slug discharge in violation of this chapter.
- D. The Director or Chief Operator shall be notified within five days of the date of occurrence by a detailed written statement describing the causes of the discharge and the measures being taken to prevent future occurrences.
- E. Such notification will not relieve users of notice as described in Subsection **B** preceding, liability for any expense, loss or damage to the sewer system, treatment facility, or treatment process, or for any fines imposed on the Department on account thereof under Section 309 of the National Act, or any liability for civil or criminal penalties.

§ 277-58 **Confidential information.**

- A. Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Director or Chief Operator at the time the information is submitted that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.
- B. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, or any state or federal agency in judicial review or enforcement proceedings involving the person furnishing the report. Information accepted by the Director or Chief Operator as confidential shall not be transmitted to any governmental agency or the general public by the Director or Chief Operator until and unless a ten-day notification

is given to the user. Wastewater constituents and characteristics will not be recognized as confidential information.

**§ 277-59 Special arrangement.**

No statement in this chapter shall be construed as preventing any special agreement between the Director or Chief Operator and any industrial concern whereby an industrial waste of unusual constituents or characteristics may be accepted by the Director or Chief Operator for treatment subject to the proper payment by the industrial user. Under no circumstances shall any special agreement circumvent national categorical pretreatment standards.

**§ 277-60 Analysis procedures.**

All measurements, tests and analyses of the constituents and characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest editions of Standard Methods for the Examination of Water and Wastewater; Methods for Chemical Analysis of Water and Waste of the EPA and the latest version of 40 CFR Part 136 (Analysis of Pollutants). For purposes of compliance with any requirements of this chapter, a laboratory certified by the applicable authority in the State of New York shall perform the analyses.

## Article IX Surcharge Due to Extra Strength Wastes

**§ 277-61 Imposition of surcharge.**

Any user who discharges pollutants in excess of concentrations in § 277-42 or 277-43 of this chapter may be subject to a surcharge. This surcharge may be in addition to any other fees, charges, sewer rents, fines or taxes provided by law. The Director or Chief Operator of the POTW may impose mass limitations on pollutants discharged in excess of concentrations listed in § 277-42 or § 277-43. Surcharges will be assessed based on concentrations and treatment costs as determined by the Director or Chief Operator of the POTW.

**§ 277-62 Volume determination.**

In applying the surcharge formulae the Director or Chief Operator may represent flow discharged into the sewer system by:

- A. The amount of water supplied to the premises as shown on the water meter, or water records if the premises are metered;
- B. The volume of wastewater discharged into the sewer system as determined by the measurements and samples taken at a monitoring facility installed by the owner of the property served by the sewer system;
- C. The volume of wastewater discharged into the sewer system as determined by the measurements and samples taken at a monitoring facility installed by the City;
- D. Allowances for water not discharged to the sewer system will be made at the discretion of the Director or Chief Operator; or
- E. A figure determined by the Director or Chief Operator by any combination of the foregoing or by any other equitable method.

**§ 277-63 Determination of pollutant concentration.**

The pollutant concentration of any wastewater shall be determined from the analysis of representative samples taken prior to discharge into the City sewers, taken by representatives of the Director or Chief Operator. The intent of any sampling procedure is to establish the pollutant concentration in the wastewater discharge during an average or typical working day. This concentration may be derived according to the best judgment of the Director or Chief Operator.

§ 277-64 **Pollutant concentration disputed by a user.**

In the event that the pollutant concentration of the waste discharged from a premises to a public sewer as determined under § 277-63 of this chapter is disputed by a user, a program of resampling and flow measurement with subsequent analytical determination may be instituted as follows:

- A. The person must submit a request for resampling and flow measurements of the wastes to the Director or Chief Operator.
- B. A consultant or agency of recognized professional standing in the employ of the user must confer with representatives of the Director or Chief Operator in order that an agreement may be reached as to the various factors which must be considered on a new sampling and flow measurement program.
- C. The consultant or agency of recognized professional standing employed by the user shall conduct a resampling and reanalysis program, under the direction of the Director or Chief Operator for at least two twenty-four-hour periods.
- D. The results of the resampling and the reanalysis shall be considered to be the current analysis of the wastes discharged to the sewer system and shall be used for determining the acceptability of the sampling and analysis results in question. The new results may be used in place of the results in question or in addition to other data collected by the Department for determining the industrial waste surcharge, and/or compliance with this chapter.
- E. Cost of sampling, analysis and flow measurement for regular monitoring purposes will be charged to the industry. Such activities, when in support of noncompliance or other enforcement actions, shall be billed to the user in total.
- F. Analysis of samples shall be performed by a laboratory certified by New York State.

§ 277-65 **Collection of surcharges.**

All sums charged for treatment of wastes shall be billed by the City and collected in the same manner as provided in Chapter 341, Article III, § 341-20, of the City Code, and shall be subject to penalties and suspension of water for nonpayment of either water or use of sewers, or cessation of sewer service.

## Article X Procedures

§ 277-66 **Enforcement.**

The Director or Chief Operator is hereby authorized to enforce all pretreatment requirements necessary to ensure compliance with the terms and conditions of the City of Geneva State Pollutant Discharge Elimination System Permit issued by the NYSDEC pursuant to the Act.

§ 277-67 **Harmful contribution.**

- A. The City may immediately suspend wastewater treatment service and/or an industrial wastewater discharge permit when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, cause interference to the POTW, or cause the City to violate any condition of its SPDES permit.
- B. Any person verbally or in writing notified by the City of an immediate suspension of wastewater treatment service and/or an industrial wastewater discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply immediately with the suspension notification and order, the City shall take such steps as deemed necessary, including immediate severance of wastewater treatment service and sewer connection to prevent or minimize damage to the POTW system or endangerment to any individuals or the environment. The City shall reinstate the industrial wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge.

§ 277-68 **Notice of violation.**

Whenever the Director or Chief Operator finds that any user has violated or is violating this chapter, industrial wastewater discharge permit, or any prohibition, limitation or requirement contained herein, the City may serve upon such person a written notice stating the nature of the violation. Within 15 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the Director or Chief Operator by the user.

§ 277-69 **Show-cause order and hearing.**

- A. The City may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before a Sewer Complaint Review Board why the proposed or enacted enforcement action should not be taken or continued. The Board shall consist of the Mayor of the City, the Deputy Mayor and the City Manager. A notice shall be served on the user specifying the time and place of a hearing to be held by the Board regarding the violation, the reasons why the action is to be or has been taken, the proposed or implemented enforcement action, and directing the user to show cause before the Board why the proposed or implemented enforcement action should not be taken or continued. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least 15 days before the hearing. Service may be made on any agent or officer of a corporation.
- B. Any user of the POTW aggrieved by any action taken by the Director or Chief Operator pursuant to this § 277-69 may seek review of such action by filing a petition with the Sewer Complaint Review Board. A copy of the petition shall be filed with the City Manager, who shall schedule a hearing before the Sewer Complaint Review Board and notify the user of the time and place of the hearing, which shall be at least 15 days after filing the petition. The hearing proceedings shall be governed by the applicable provisions set forth in § 277-69.
- C. Any final civil penalty and/or administrative action, fine or order issued by the Sewer Complaint Review Board shall be reviewable pursuant to a proceeding commenced pursuant to Article 78 of the Civil Practice Law and Rules within 30 days of the final determination of the Sewer Complaint Review Board being filed with the City Manager.
- D. Whenever, because of danger to the public health, safety or welfare, it appears prejudicial to the public interest to delay action for 15 days, the Director or Chief Operator may serve the respondent with an order requiring certain action or the cessation of certain activities immediately or within a specified period of less than 15 days and the Director or Chief Operator shall provide an opportunity to be heard within 15 days after the date the order is served.
- E. The Board may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the Department of Public works to:
- (1) Issue in the name of the Board notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
  - (2) Take the evidence.
  - (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Board for action thereon.
- F. In conducting any hearing proceedings authorized by this chapter, the Sewer Complaint Review Board, or its designee, shall adhere to the applicable procedures set forth in Article 3 of the New York State Administrative Procedures Act, and, in particular, be bound by the evidentiary requirements set forth in § 306 therein.
- G. The City Attorney may prefer charges, attend hearings, present the facts, and take any and all proceedings in connection therewith.

- H. At a hearing, the respondent may appear personally, shall have the right of counsel, and may cross-examine witnesses against him and produce evidence and witnesses in his behalf.
- I. A record, or summary thereof, of the proceedings of said hearings shall be made and filed with the Department. If requested to do so by any interested party concerned with said hearing, the full stenographic notes of the testimony presented at said hearing shall be taken and filed. The stenographer shall, upon the payment of his fees allowed by law therefor, furnish a certificate transcript of the whole or any part of his notes to any party to the action requiring the same.
- J. Unless precluded by law, disposition may be made of any hearing by stipulation, agreed settlement, consent order, default, or other informal method. Within 10 days of the notice specified in § **277-68**, the user may request a prehearing conference with the City's representatives for an informal disposition of any or all charges.
- K. Upon request made by any party upon the Department within a reasonable time, but prior to the time for commencement of judicial review, of its giving notice of its decision, determination, opinion or order, the Board or its representative shall prepare the record together with any transcript of proceedings within a reasonable time and shall furnish a copy of the record and transcript or any part thereof to any party as he may request. Except when any law provides otherwise, the Department is authorized to charge not more than its cost for the preparation and furnishings of such record or transcript or any part thereof, or the rate specified in the contract between the agency and a contractor if prepared by a private contractor.
- L. After conducting a hearing proceeding authorized by this section, the City, or its designee, retains its right to modify and/or amend its initial determination prior to a final ruling by the Sewer Complaint Review Board.
- M. A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in paragraph (a)(1) of Section 403.5 in CFR 40 and the specific prohibitions in paragraphs (b)(3), (b)(4) and (b)(5) of Section 403.5 in CFR 40 where the user can demonstrate that:
- (1) It did not know or have reason to know that its discharge, along or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and
  - (2) Local limit.
    - (a) A local limit designed to prevent pass through and/or interference, as the case may be, was developed in accordance with paragraph (c) of Section 403.5 in CFR 40 for each pollutant in the user's discharge that caused pass through or interference, and the user was in compliance with each such local limit directly prior to and during the pass through or interference; or
    - (b) If a local limit designed to prevent pass through and/or interference, as the case may be, has not been developed in accordance with paragraph (c) of Section 403.5 in CFR 40 for the pollutant(s) that caused the pass through or interference, the user's discharge directly prior to and during the pass through or interference did not change substantially or nature or constituents from the user's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.
- N. Nothing contained in this § **277-69** shall prevent, abridge and/or abrogate the authorities and procedures granted to the City as set forth in § **277-67** to take immediate measures to prevent or stop an actual or threatened wastewater discharge that presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, cause interference to the POTW, or cause the City to violate any condition of its SPDES permit.

## Article XI Enforcement and Penalties

### § 277-70 **Administrative sanctions.**

- A. Any person who violates any of the provisions of, or who fails to perform any duty imposed by this chapter, or any order or determination of the Director or Chief Operator issued pursuant to this chapter, or any order or determination of the Director or Chief Operator, including the terms of any permit issued hereunder, shall be liable to the City for a civil penalty to be determined in accordance with the provisions of § **277-75D(3)** and for each violation to be assessed after a hearing held in conformance with the procedures set forth in § **277-69**.
- B. In addition to the power to assess penalties as set forth in Subsection **A** above, the Director or Chief Operator shall have the power, following a hearing held in conformance with the procedures set forth in Article **X** of this chapter, to issue an order suspending, revoking or modifying the violator's permit; and enjoining the violator from continuing the violation. Any such order of the Director or Chief Operator shall be enforceable in an action brought by the City Attorney at the request of the Director or Chief Operator in the name of the Department in any court of competent jurisdiction.
- C. Any civil penalty or order issued by the Director or Chief Operator pursuant to this section shall be reviewable in a proceeding 60 days after service in person or by mail of a copy of the determination or order upon the attorney of record of the applicant and of each person who has filed a notice of appearance, or the applicant in person if not directly represented by an attorney.
- D. Any user of the POTW aggrieved by any action taken by the Director or Chief Operator pursuant to this section may seek review of such action by filing a petition with the Sewer Complaint Review Board. A copy of the petition shall be filed with the City Manager, who shall schedule a hearing before the Sewer Complaint Review Board and notify the user of the time and place of the hearing, which shall be at least 15 days after filing the petition. The hearing proceedings shall be governed by the applicable provisions set forth in § **277-69**.
- E. Any final civil penalty and/or administrative action, fine or order issued by the Sewer Complaint Review Board shall be reviewable pursuant to a proceeding commenced pursuant to Article 78 of the Civil Practice Law and Rules within 30 days of the final determination of the Sewer Complaint Review Board being filed with the City Manager.

### § 277-71 **Criminal sanctions.**

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct and be subject to recovery of costs for damages.

### § 277-72 **Civil liability.**

Any person violating any of the provisions of this chapter shall, in addition, be civilly liable to the City for any expense, loss or damage occasioned to the City by reason of such violation.

### § 277-73 **Injunction.**

The City Attorney, on his own initiative or at the request of the Director or Chief Operator, shall have the right to seek equitable relief in the name of the City to restrain the violation of, or to compel compliance with, this chapter, or any order or determination issued thereunder by the City Manager.

### § 277-74 **Summary abatement.**

- A. Notwithstanding any inconsistent provisions of law, whenever the Director or Chief Operator finds, after investigation, that any user is causing, engaging in or maintaining a condition or activity which, in his judgment, presents an imminent danger to the public health, safety or welfare, or to the environment, or is likely to result in irreversible or irreparable damage to the public sewer system, and it therefore appears to be prejudicial to the public interest to delay action until notice and an

opportunity for a hearing can be provided, the Director or Chief Operator may, without prior hearing, order such user by notice, in writing wherever practicable or in such other form as in the Director's or Chief Operator's judgment will reasonably notify such person whose practices are intended to be proscribed, to discontinue, abate or alleviate such condition or activity, or where the giving of notice is impracticable, the event of a user's failures to comply voluntarily with an emergency order, the Director or Chief Operator may take all appropriate action to abate the violating condition. As promptly as possible thereafter, not to exceed 15 days, the Director or Chief Operator shall provide the user an opportunity to be heard in accordance with the provisions of Article **X** of this chapter.

- B. The Director or Chief Operator, acting upon the belief that an emergency exists, shall be indemnified against any personal liability that may arise in the performance of his duties to protect the public health, safety or welfare, or preserve the public sewer system.

§ 277-75 **Enforcement Response Plan.**

- A. **Introduction.** The Enforcement Response Plan is an outline of the procedures to be followed to ensure compliance by industrial users with the City of Geneva's Sewer Use Ordinance, U.S. Environmental Protection Agency's and New York State's pretreatment regulations. The Enforcement Response Plan is divided into four sections. Subsection **B** describes procedures to review and update the list of industrial users, to track and screen compliance monitoring data and to schedule sampling and inspection of significant industrial users (SIU). Subsection **C** describes the type of enforcement action the City will take in response to anticipated industrial user violations and contains the enforcement response guide. Subsection **D** describes the enforcement options in detail. Subsection **E** will contain standard forms and letters to be used to implement the Enforcement Response Plan.
- B. **Administrative procedures.**
- (1) **Personnel.** The Public Works Director is responsible for the overall implementation of the pretreatment regulations and the Enforcement Response Plan. The WWTF Chief Operator is responsible for the day-to-day implementation of the Pretreatment Program and Enforcement Response Plan. The Public Works Director will annually evaluate the WWTF's staff ability to implement the program and provide the necessary level of funding and personnel to accomplish the requirements of the Pretreatment Program.
  - (2) **Industrial user inventory.**
    - (a) The general pretreatment regulations require the periodic updating of the industrial users contributing to the Geneva WWTF.
    - (b) Every five years a complete industrial user survey shall be done. At least annually the industrial user list shall be updated. New industrial users must file an Industrial Residual Waste Questionnaire and an Industrial Chemical Survey before commencing discharge to the system.
    - (c) The WWTF Chief Operator shall oversee industrial user survey. The survey shall be comprehensive and complete. The telephone book, Chamber of Commerce listing, the local business directory and inspection of commercial areas shall be used to update the master list. The master list shall include all businesses in the service area. The master list shall be surveyed to determine what industries are dry processes or wet processes. All industries that discharge to the POTW shall be sent an Industrial Chemical Survey and an Industrial Residual Waste Questionnaire to be completed and returned. All completed forms shall be reviewed to determine if they should be classified as a categorical or a significant industrial user.
    - (d) Annually the industrial user list shall be reviewed to determine if new industrial users have entered the system. This review will be based on building permits, records from the Planning Commission and Building and Code Enforcement Department. The Public Works Director will forward to the

WWTF Chief Operator a copy of all industrial permits issued for new connection to the sewer system. The Planning and Zoning Commission sends minutes of all meetings to the Public Works Director. The Public Works Director will forward any minutes to the WWTF Chief Operator that involve new industrial activity.

- (e) The Building and Code Enforcement Department forward all cases of Sewer Use Ordinance violations to the Public Works Director, who will forward any pertinent information to the WWTF Chief Operator.
  - (f) Before new industrial users can commence discharge they must have completed an Industrial Chemical Survey and an Industrial Residual Waste Questionnaire. The Public Works Director and WWTF Chief Operator will review the forms and determine if the industrial user will be a categorical industry or a SIU. If they are determined to be either they must have valid discharge permit as required by the Sewer Use Ordinance.
- (3) Compliance monitoring.
- (a) Significant industries, as defined in the Sewer Use Ordinance, are required to conduct self-monitoring and submit self-monitoring reports in accordance with their industrial user discharge permit. The frequency of self-monitoring is determined by past history of compliance, discharge volume and the possibility for pass through, interference or the danger to POTW works. The U.S. EPA Pretreatment Compliance Monitoring and Enforcement (PCME) Guidance (July 1986) document will be used as a guide for self-monitoring frequency. Ultimately the self-monitoring program must meet the requirements and intent of the general pretreatment regulations and be effective and timely in determining compliance with categorical and local discharge limits.
  - (b) The WWTF Chief Operator must schedule at least one inspection and one sampling of a SIU annually. The sampling must be for both categorical and local limits. The sampling at a minimum must develop data that is admissible in a court of law. The sampling and testing procedures must conform to U.S. EPA standard practices. The PCME guidance document will be used as a reference for the sampling.
- (4) Screening data.
- (a) The City will monitor all industrial sampling reports for pretreatment compliance. Any instance of noncompliance, including nondischarge violations, will require an enforcement response as outlined in Subsection C.
- C. Enforcement response.
- (1) Determining enforcement response. The key element of this Enforcement Response Plan is the Enforcement Guide (Table 1.1 - 1.5). This guide is a matrix which describes violations and indicates the range of appropriate enforcement options. These options are: notice of violation, administrative fines, administrative orders, civil litigation, criminal prosecution, termination of sewer service and supplemental enforcement responses. Subsection **D** will fully describe the options. The response guide offers several levels of enforcement responses for each type of violation. In deciding what level of response is appropriate the past history of the industrial user, severity of the violation, duration of the violation, the effect of the violation on the POTW and the environment, the intent or negligence of the industrial user and the overall attitude of the industrial user should be considered. Typically for minor violations notice of violations are issued. If the industrial user does not return to compliance within the specified time frame, the enforcement response escalates until the industrial user is back in compliance. The criteria for determining the appropriate enforcement response are discussed in detail:
    - (a) Severity of the violation. Notice of violations (NOV) are used for isolated instances of noncompliance, but any violation no matter how minor must be addressed. EPA recommends an

industrial user that has a "significant noncompliance" violation, as that term is defined in § 277-2, be issued an enforceable order, i.e., administrative order, that requires a return to compliance by a specific date.

- (b) Duration of violation. Violations that extend over long periods of time should subject the industrial user to escalated enforcement actions. If the industrial user fails to comply with the administrative order, then additional fines may be applied. If the violations are causing harm to the POTW or the receiving stream, then civil action or service termination should be considered.
  - (c) Effect on the POTW or receiving stream. If any violation causes upsets, interference or pass through of the POTW to the receiving stream, it should be dealt with a severe and swift response. At a minimum the industrial user should be issued an administrative order with a fine. If the violation resulted in fines by the EPA or NYSDEC to the City, the industrial user should be responsible for the fines. If the violation resulted in increased treatment costs, harm to process equipment or treatment works, the industrial user should be responsible for the increased costs.
  - (d) Past history of the user. The past history of compliance of the industry should be considered when considering what level of enforcement is appropriate. An industrial user with a good compliance history may be given the least severe has a poor compliance history may be given a more severe enforcement response for the same violation.
  - (e) Attitude and good faith of the user. The attitude and good faith of the industrial user in correcting its noncompliance should be taken into consideration when determining the enforcement response. But a good attitude cannot eliminate the need for some type of enforcement response.
- (2) Personnel responsibilities for enforcement response. The City Manager, the Public Works Director and the WWTF enforcement guide clearly defines what actions are to be taken by the City. The City Manager, Director of Public Works and the Chief Operator are the three City personnel involved in enforcement responses. By having responsibilities explicitly spelled out, responses to noncompliance will be swift and consistent. The general rule is that the Chief Operator will issue notices of violations and administrative orders. The Public Works Director will have the authority to issue administrative orders with fines and show-cause orders. The City Manager will have the authority to issue show-cause orders, initiate civil action, initiate criminal investigation and terminate service.
- (3) Enforcement response guide. The enforcement response guide (Table 1.1 - 1.5) will be used to determine the enforcement options for industrial user noncompliance. The option selected should be based on the criteria set forth in Subsection C(1). The following are abbreviations and terms used in the enforcement response guide:

AO	-	Administrative Order
CM	-	City Manager
CO	-	WWTF Chief Operator
Civil Action	-	Civil litigation against the IU seeking equitable relief, monetary penalties and actual damages
Criminal Investigation	-	Pursuing punitive measures against an individual and/or organization through a court of law
Fine	-	Monetary penalty assessed by City
IU	-	Industrial user

NOV	-	Notice of violation
PWD	-	Public Works Director
SNC	-	Significant noncompliance
Show cause	-	Formal meeting requiring the IU to appear and demonstrate why the City should not take a proposed enforcement action or continue with an implemented action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules

### Unauthorized Discharges (no permit)

Noncompliance	Nature of the Violation	Enforcement Responses	Personnel
1. Unpermitted discharge	IU unaware of requirement; no harm to POTW/environment	Phone call; NOV with application form	CO
	IU unaware of requirement; harm to POTW	- AO with fine	PWD
		- Civil action	CM
	Failure to apply continues after notice	- Civil action	CM
		- Criminal investigation	CM
		- Terminate service	CM
2. Nonpermitted discharge (failure to renew)	IU has not submitted application within 10 days of due date	Phone call; NOV	CO

### Discharge Limit Violation

1. Exceedance of local or national standard (permit limit)	Isolated, not significant	Phone call; NOV	CO
	Isolated, significant (no harm)	AO, to develop action plan	CO
	Isolated, harm to POTW or environment	- Show cause order	CM
- Civil action			
	Recurring, no harm to POTW/environment		PWD

Recurring, significant	AO with fine	PWD
	AO with fine	

## Monitoring and Reporting Violations

1. Reporting violation	Report is improperly signed or certified	Phone call or NOV	CO
	Report is improperly signed or certified after notice by POTW	- AO	CO
		- Show cause order	PWD, CM
	Isolated not significant (10 days late)	Phone call; NOV	CO
	Significant (report 30 days late)	AO to submit with fine per additional day	PWD
	Reports are always late or no reports at all	- AO with fine	PWD
		- Show cause order	PWD, CM
		- Civil action	CM
	Failure to report spill or changed discharge (no harm)	NOV	CO
	Failure to report spill or changed discharge (results in harm)	- AO with fine	PWD
- Civil action		CM	
Repeated failure to report spills	- Show cause order	PWD, CM	
	- Terminate service	CM	
Falsification	- Criminal investigation	CM	
	- Terminate service	CM	
2. Failure to monitor	Failure to monitor all pollutants as required by permit	NOV or AO	CO
	Recurring failure to monitor	- AO with fine	PWD
- Civil action		CM	
3. Improper sampling	Evidence of intent	- Criminal investigation	CM

		- Terminate service	CM
4. Failure to install monitoring equipment	Delay of less than 30 days	NOV	CO
	Delay of more than 30 days	AO to install with fine for each additional day	PWD
	Recurring, violation of AO	- Civil action	CM
		- Criminal investigation	CM
		- Terminate service	CM
5. Compliance Schedules (in permit)	Missed milestone by less than 30 days or will not affect final milestone	NOV or AO	CO
	Missed milestone by more than 30 days or will not affect final milestone (good cause for delay)	AO with fine	CM
	Missed milestone by more than 30 days or will affect final milestone (no good cause delay)	- Show cause order	PWD, CM
		- Civil action	CM
		- Terminate service	CM
	Recurring violation or violation of Schedule in AO	- Civil action	CM
		- Criminal investigation	CM
		- Terminate service	CM

### Other Permit Violations

1. Wastestreams are diluted in lieu of treatment	Initial violation	AO with fine	PWD
	Recurring	- Show cause order	PWD, CM
		- Terminate service	CM
2. Failure to mitigate noncompliance or halt production	Does not result in harm	NOV	CO
	Does not result in harm	- AO with fine	PWD
		- Civil action	CM
3. Failure to properly operate and maintain pretreatment	See no. 2 above		

facility

### Violations Detected During Site Visits

1. Entry denial	Entry denied or consent withdrawn	Obtain warrant and return to IU	CO
	Copies of records denied		
2. Illegal discharge	No harm to POTW or environment	AO with fine	PWD
	Discharge causes harm or evidence of intent/negligence	- Civil action	CM
		- Criminal investigation	CM
	Recurring, violation of AO	Terminate service	CM
3. Improper sampling	Unintentional sampling at incorrect location	NOV	CO
	Unintentionally using incorrect sample type	NOV	CO
	Unintentionally using incorrect sample collection techniques	NOV	CO
4. Inadequate recordkeeping	Inspector finds files incomplete or missing (no evidence of intent)	NOV	CO
	Recurring	AO with fine	PWD
5. Failure to report additional monitoring	Inspection finds additional files	NOV	CO
	Recurring	AO with fine	PWD

### Timeframes for Responses

- A. All violations will be identified and documented within five days of receiving compliance information.
- B. Initial enforcement responses [involving contact with the industrial user and requesting information on corrective and preventative action(s)] will occur within 15 days of violation detection.
- C. Follow-up actions for continuing or reoccurring violations will be taken within 60 days of the initial enforcement response. For all continuing violations, the

response will include a compliance schedule.

- D. Violations which threaten health, property or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.
- E. All violations meeting the criteria for significant noncompliance will be addressed with an enforceable order within 30 days of the identification of significant noncompliance.

- D. Enforcement response options. Subsection C and the enforcement response guide (Table 1.1-1.5) will be used to determine the appropriate enforcement response. This section provides in detail the seven enforcement response options outlined in Subsection C and the enforcement response guide. The seven enforcement responses are notice of violation, administrative fines, administrative orders, civil litigation, criminal prosecution, termination of sewer service and supplemental enforcement responses.
  - (1) Notice of violation.
    - (a) A notice of violation (NOV) is a letter to an industrial user informing the industrial user of noncompliance with the Sewer Use Ordinance, industrial discharge permit or pretreatment regulations. It is used for nonsignificant violations. In the case of significant noncompliance, a NOV may be issued as a precursor to more severe enforcement action.
    - (b) The City will issue NOV to any industrial user that violates any of its permit limits (categorical or local limits). The NOV will be issued for isolated and insignificant violations, failure to submit monitoring reports, or other minor violations of the Sewer Use Ordinance as stated in the enforcement response guide. The NOV shall be issued within five days of detection of a violation. The NOV will follow the standard form set forth in Subsection E. The NOV will be hand delivered or sent via certified mail to the industrial user. Copies of the NOV shall be sent to the Public Works Director and placed in the industrial user file.
  - (2) Administrative orders. Administrative orders (AO) are enforcement documents which direct industrial users to undertake or to cease specified activities. Administrative orders are recommended as the formal response to significant noncompliance. Administrative orders may incorporate compliance schedules and administrative fines. The four types of administrative orders that are authorized by the Sewer Use Ordinance are: show-cause orders, consent orders, cease-and-desist orders and compliance orders.
    - (a) Show-cause orders. A show-cause order directs the industrial user to appear before the Chief Operator, Public Works Director or City Manager, explain its noncompliance, and show cause why more severe enforcement actions against the user should not go forward. The hearing can be either formal or informal, but the hearings should be carefully documented. The outcome of most show-cause hearings will be a consent order or compliance order and an administrative fine.
    - (b) Consent orders.
      - [1] A consent order is an agreement between the City and the industrial user that sets forth compliance schedules, remedial actions and any administrative fines. The consent order is negotiated by the industrial user and the City. The industrial user does not need to admit the noncompliance in the text of the order, but the consent order prohibits future violations and provides for corrective action on the part of the industrial user.
      - [2] In determining the terms of the consent order, the City may take extenuating circumstances into consideration. The consent order should address every identified deficiency in the user's compliance

status at the time of the order.

- (c) Cease-and-desist orders. A cease-and-desist order orders an industrial user in noncompliance to cease noncomplying discharges immediately or to terminate its discharge completely. A cease-and-desist order will be used in instances where the industrial user's discharge could cause pass through or interference, or otherwise create an emergency situation. The order should be delivered in person or by certified mail.
  - (d) Compliance orders. A compliance order directs the user to achieve or restore compliance by a date specified in the order. A compliance order does not need to be negotiated with the industry. Compliance orders are typically used when construction, process changes or modification of management practices need to be undertaken. Compliance orders set specific dates by which specified actions are to be completed. If the specific deadlines are not met, then further enforcement responses are initiated or specified series of penalties are automatically set forth. Typically fines are associated with compliance orders.
- (3) Administrative fines.
- (a) The Sewer Use Ordinance confers the authority to the City Manager and the Public Works Director to assess administrative fines on industrial users for instances of noncompliance. The ordinance sets the administrative fines not to exceed \$20,000 per violation. Administrative fines may be assessed prior to or subsequent to a hearing. The imposition of fines is subject to review as provided in § 277-69 upon petition of a user.
  - (b) The following schedule should be used as guidance for assessing administrative fines:

Unpermitted discharge	\$5,000 for first offense; \$10,000 for second offense; \$20,000 for third offense
Failure to renew permit	\$1,000 for first offense; \$5,000 for second offense; \$10,000 for third offense
Noncompliance with permit limits	\$1,000 for first offense; \$5,000 for second offense; \$10,000 for third offense
After one year of compliance fine is reset to \$1,000.	
Significant noncompliance (defined in § 277-2)	Up to \$20,000 for each offense
Reporting violation	\$1,000 for first offense; \$5,000 for second offense; \$10,000 for third offense
After one year of compliance fine is reset to \$1,000.	
Failure to report spills	\$5,000 for first offense; \$10,000 for second offense; \$20,000 for third offense
Failure to monitor	\$5,000 for first offense; \$10,000 for second offense; \$20,000 for third

- (c) The fines listed are for guidance only and do not list all possible instances of penalties that could be incurred. If a fine is to be assessed it should reflect the magnitude of the violation, the intent of the industrial user and the past history of the industrial user.
- (4) Civil litigation. The Sewer Use Ordinance allows the City to assess civil penalties of up to \$20,000 per day for each violation by industrial users of the pretreatment standards, the Sewer Use Ordinance or their industrial user permit conditions. Civil litigation is an appropriate enforcement response when enforcement efforts based on cooperation with the industrial user have not resulted in a return to compliance. Civil litigation might also be pursued in emergency conditions where injunctive relief is necessary or to impose civil penalties and recover losses incurred due to the noncompliance. The different types of civil litigation are detailed below. They include consent decrees, injunctions and civil penalties and cost recovery. Litigation need not be limited to one type; a single case may include all three types.
  - (a) Consent decrees. Consent decrees are agreements between the City and the industrial user. For a consent decree to be binding it must be signed by the City, the industrial user and the judge. Consent decrees normally include a schedule for return to compliance and a stipulated civil penalty. Consent decrees are similar to consent orders, but the industrial user acknowledges the noncompliance.
  - (b) Injunctions. Injunctions will be used if an industrial user refuses to comply with previously issued cease-and-desist order. Injunctive relief should be pursued if delays involved in filing a suit would result in harm to the POTW or the environment.
  - (c) Civil penalties and cost recovery. Civil litigation may be necessary to recover costs associated with noncompliance and to impose civil penalties. The City should seek to recover all cost associated with an industrial user noncompliance. The costs include legal fees, increased treatment costs, fines assessed against the City by the EPA or NYSDEC and the cost incurred in enforcement response actions.
- (5) Criminal prosecution. The Sewer Use Ordinance permits the City to pursue criminal prosecution of individuals or organizations for violations of the Sewer Use Ordinance. Criminal offenses are defined as either felonies or misdemeanors. Felonies are the more serious charges and are characterized by the Clean Water Act as knowing violations of the Clean Water Act and knowing endangerment of human health. Knowing violations are punishable by fines up to \$50,000 per day of violation, imprisonment of up to 15 years, or both. Fines and prison sentences under the Clean Water Act are doubled for second offense. Federal law defines misdemeanors as offenses other than felonies. Misdemeanors are punishable by fines of up to \$1,000,000 or imprisonment for less than one year. Misdemeanor offenses include tampering with monitoring equipment, falsifying self-monitoring reports and failing to report noncomplying discharges. Criminal prosecution would normally be pursued when there is evidence of criminal intent, willfulness, negligence and/or bad faith shown by the industrial user. Criminal prosecution is the most severe enforcement response at the City's disposal. The City Manager and the City Attorney will decide whether criminal prosecution is pursued. The EPA guidance document Guidance for Developing Control Authority Enforcement Response Plans, September 1989, should be used as a reference.
- (6) Termination of sewer service.
  - (a) The Sewer Use Ordinance allows the City to terminate an industrial user's right to discharge when previous enforcement responses have not returned the industrial user to compliance or a discharge is causing interference, pass through or damage to human health, the environment or the POTW. The enforcement response guide (Table 1.1 - 1.5) details the instances when termination of service shall be used as an enforcement tool.
  - (b) Termination of service can be accomplished through cease-and-desist order or injunctions. In the

most severe case the service may have to be physically broken or a plug installed.

- (7) Supplemental enforcement responses.
- (a) The City is required by the General Pretreatment Regulations [40 CFR 403.8(f)(2)(vii)] to annually publish in the designated official newspaper a list of industrial users that have had significant violations during the past 12 months. More frequent publication of violations can be used to deter industrial users from committing pretreatment violations.
- (b) The following may be of assistance in returning an industrial user to compliance. Issue short-term permits to industrial users that are in noncompliance. An industrial user that has infrequent violations of permit limits may be required to increase monitoring frequency to help ensure compliance. The Regional Engineer from the NYSDEC can be requested to assist in enforcement activities. Make the industrial user aware of what effects the violations have on the POTW, the environment and human health.
- E. Standard forms. (For forms please consult the City Clerk's Office or the Department of Public Works.)
- F. Any user of the POTW aggrieved by any action taken by the Director or Chief Operator pursuant to this section may seek review of such action by filing a petition with the Sewer Complaint Review Board. A copy of the petition shall be filed with the City Manager, who shall schedule a hearing before the Sewer Complaint Review Board and notify the user of the time and place of the hearing, which shall be at least 15 days after filing the petition. The hearing proceedings shall be governed by the applicable provisions set forth in § **277-69**.
- G. Any final civil penalty and/or administrative action, fine or order issued by the Sewer Complaint Review Board shall be reviewable pursuant to a proceeding commenced pursuant to Article 78 of the Civil Practice Law and Rules within 30 days of the final determination of the Sewer Complaint Review Board being filed with the City Manager.

## Article XII Validity

### § 277-76 **Repeal of prior rule and regulations.**

This chapter supersedes previous versions of this chapter promulgated prior to April 3, 1985.

ADOPTED BY THE GENEVA CITY COUNCIL ON FEBRUARY 1, 2017

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

City Manager Horn said this ordinance came before Council last month. He said these changes are recommended as a result of an EAP Audit, which found very strong operational performance at our Waste Water Treatment Plant but did recommend some minor changes, mostly vocabulary changes associated with compliance with Federal Act. There were no changes since first reading.

ACTION TAKEN by Clr. Eddington; seconded by Clr. Valentino  
MOVED THAT this ordinance be approved for second reading  
and adoption  
MOTION CARRIED UNANIMOUSLY

7. DISCUSSION REGARDING KEEPING OF BACKYARD HENS

**Existing Ordinance: Part 1, Chapter 77, Section 3**

No person shall keep or harbor any chickens, ducks, geese or other domesticated fowl in the city except in the AR, Agricultural Residential Use Districts and F Industrial Use Districts and not closer than 200 feet to any house, except the owner's, apartment building, church, school, hospital or any other building customarily used or occupied by human beings, such as but not limited to stores, hotels, restaurants, offices and factories.

**Amended Ordinance:**

The keeping of chickens, ducks, geese or other domesticated fowl in the city shall be governed by the following regulations:

A. Permitted Zones

(1) In Residential Use Districts, the following regulations shall apply:

- a. Number. No more than one such animal shall be kept on a parcel of land for each 1000 square feet of parcel or lot area. For a standard residential lot size of 5000 square feet, this regulation would permit no more than a total of five (5) such animals.
- b. Setbacks. The coops or cages housing such animals shall not be located within ten (10) feet of a side yard line or a rear yard line that forms the side lot line of an abutting property, nor within eighteen (18) inches of a rear yard line.
- c. Prohibitions. No roosters, geese, or turkeys may be kept in a Residential District. No predatory birds may be kept on any property under the regulations of this Section.
- d. Cleanliness: All animals shall be kept in a clean and sanitary condition, free of vermin, obnoxious smells, and substances.
- e. Coops and Cages. All animals shall be provided with a covered, predator-proof coop or cage or other shelter that is thoroughly ventilated, designed to be easily accessed and cleaned, and of sufficient size to permit free movement of the animals.
- f. Enclosures and Fences. Chickens and other birds shall have access to an outdoor uncovered enclosure adequately fenced to contain the birds and to prevent access by dogs and other predators and providing at least ten (10) square feet of area for each bird.

(2) In Non-Residential Districts, the following regulations shall apply:

In zoning districts other than Residential Districts, all regulations applicable in Residential Districts shall apply with the following exceptions:

- a. Number. The number of such animals shall be limited to one (1) animal for every four hundred (400) square feet of parcel or lot area.
- b. Coops and Cages. The total area of all coops and cages on a lot shall not exceed the total of five (5) square feet per animal and the height of all coops and cages, singly or in combination, shall not exceed ten (10) feet in height.

B. Licencing and Permits

- a. Licensing. Anyone proposing to keep chickens, ducks, geese or other domesticated fowl on a property in the City of Geneva shall apply for a bi-annual license from the City of Geneva through its Building and Housing Code office on a form provided by that office, with payment of a ten dollar (\$10) fee.
  1. Application Contents. The application for such license shall include information on the location of the subject property, the size of the property, the number of animals or to be kept on the property, the nature of any shelters and enclosures, a scaled drawing showing the precise location of cages, coops, enclosures, and fences in relation to property lines and to houses on adjacent properties, photos of the subject areas, and any other information items listed on the registration form, as well as a signed statement by the applicant that he or she agrees to abide by the regulations of this section of the Municipal Code with respect to the keeping of such animals.
  2. License Approval. The Code officer shall approve the issuance of such license if it determines that the application meets all requirements of this Section.
  3. License Expiration. Such license shall expire at the end of the calendar year and shall be renewed once every two years during November or December. The application for renewal of a license need not include drawings and other information regarding conditions that have not changed since submission of such information in a prior license application.
  4. Building Permits. A Building Permit shall be required for any structure exceeding thirty (30) square feet of floor area that is attached to the ground by means of a concrete foundation or similar support.
- b. Enforcement. Regulations of this Section shall be enforced in accordance with the following provisions:
  1. The Director of the Department of Building and Housing Code or the Director's designee shall have the authority to inspect any property to determine compliance with the regulations of this Section regarding the construction and permitted placement of enclosures, fences, cages, coops, and other structures used in the keeping animals subject to this Section and shall have the authority to enforce theregulations of this Section as they apply to such matters.

C. Definitions.

Terms used in this Section shall have the meanings assigned to them in the following definitions:

- a. Coop and Cage. "Coop" and "cage" mean a structure, not necessarily attached to the ground, with a top and sides and designed to provide shelter and protection for small animals and birds.
- b. Enclosure. "Enclosure" means a set of walls or fences designed to confine animals or birds to a space that is large enough to permit the animals and birds to roam relatively freely in an open yard area.
- c. Predatory Bird. "Predatory bird" means an owl, hawk, falcon, eagle or similar bird that feeds principally by catching living prey.

Clr. Camera said he would be interested in Councilor's comments relative to a draft resolution he previously shared. Clr. Camera noted the following:

- Similar resolution proposed about 3 years ago and turned down
- There is an existence of Geneva Peeps Co-op and have been no issues with the keeping of 80 chickens over the last 3 years
- Canandaigua and Ithaca have a backyard ordinance allowing residents to raise backyard chickens
- Ontario County Department of Health has no evidence of health issues associated with the chickens
- City staff and City Manager also vetted the idea and did some research and didn't find any kind of overwhelming issues with keeping of backyard hens

Clr. Camera said other such things that are in the ordinance that will be included in the resolution are setbacks from property lines, limit on number of chickens based on sq. footage of property, prohibits the keeping of roosters, requires the owners to keep chickens and chicken coops clean and protected from predators, noting there is a licensing and inspection process, as well as a complaint process.

Clr. Camera asked for discussion and feedback from Councilors and asked that folks in the audience be allowed to weigh in. He said although the Geneva Peeps Co-op doesn't have run-away chickens there are other people in the community that have chickens and release them from their cars, because the Police have had to round up chickens and return them to their owners. He added he knows of someone who has been keeping chickens in their backyard and no one has complained.

Mayor Alcock said this is Council open discussion and the public has already had an opportunity to speak during Public Comment time. He asked that this discussion be limited to Councilors only.

Clr. Greco informed Clr. Camera that if he knows of someone keeping hens in their backyards he should turn them in and they should be fined since it is against the City Code. He said Council just recently sat in a Retreat Session and heard neighbors talk about enhancing our neighborhoods and asked how chicken coops can do that and asked what happens to the value of houses when it comes time to selling them. He said he is not against chickens, but he does not agree with chickens inside the City limits. Clr. Greco said it was defeated once and he doesn't know why it was brought up again.

Clr. Hagerman said he is a Geneva Peeps member, has three young girls living in his house and they enjoy interacting with the chickens. He said he understands that people have opinions that chickens don't belong in the City environment. He clarified that the ordinance does regulate that the chickens will be under control and are not a food supply for predatory animals. As far as living in an urban environment, he cited Chicago as an urban setting that allows chickens. He added he sees this as opportunity to allow people to do more with their property as opposed to restricting it and by having guidelines ensures it will be a kept project in order not to negatively affect neighbors. Previous to the Geneva Peeps location on State Street, he said the property that was unkempt and unattractive has now evolved with a purpose. He said this speaks to the value of what chicken coops bring to families and children in public schools.

Clr. Eddington said he has received numerous phone calls since the article hit the paper and most of the callers were against having chickens in backyards throughout residential areas. He said he asked our Geneva Neighborhood Resource Department to provide a survey site so that he could get some input from citizens. He said that survey did go out; however, he received an email that there is a small glitch in the system where a person could vote several times. He said staff is working to fix the problem and surveys will be resent. Clr. Eddington asked that anyone with any questions to please contact him at 315-781-2705 and leave a message and he will return your call, noting he will make a decision based on the results he receives from the survey and citizen input.

Clr. Valentino said Jeff put a lot of work into this through a lot of opposition and created a level of success that a lot of people have complimented and he appreciates it. He added he has also received a lot of phone calls that are definitely against the regulation. Interestingly enough, he said a member of the Geneva Peeps complimented the program as it is right now but was not in favor of the resolution being proposed. Clr. Valentino said his phone number is available to everyone on the Geneva website if there are questions/concerns.

Clr. Gramling said he also released a poll as he is neutral in his opinion. He said he believes that all constituents should be considered. He said the poll is quite definitive, including gender responses. This is a dialogue and there was an overwhelming majority of people that are in favor of chickens in backyards, noting the polling is not 100% accurate since everyone is not on social media. He added he knocked on several doors and there were many folks that did not want backyard chickens. Clr. Gramling suggested the possibility of a "3-strike rule" where if you have three reports filed against you, you can no longer have backyard chickens.

Clr. D'Amico said he was part of the original discussion and it has been a bit of an emotional conversation. He agreed that conducting a poll and listening to callers are all good ways of getting information, and part of his thinking is what people in his Ward think. He said there needs to be some clarification that there were no official complaints as far as Mr. Henderson is aware of, suggesting a conversation with Ms. Cannuli take place regarding a visit he made to her house. Clr. D'Amico also clarified that this is a just a discussion and no decision will be made tonight.

Mayor Alcock said he has not changed his opinion since this discussion and vote first came to City Council. He said he recognized the Peeps are running a great organization on State Street but realizes that they are under a microscope as there are a lot of people that didn't and do not want chickens, especially those that live in that area. He said he is concerned that if this is a city-wide project, that the care will not be the same as that of the Peeps project. He said he received lot of phone calls of which none were in favor, adding he is against backyard chickens throughout the City and is not looking forward to another resolution being on the table for debating or voting on every six months to a year. He said he is ready to move on.

Clr. D'Amico added when this ordinance was first proposed it conformed to State Street as a mixed-use industrial site, which fit for State Street and needed clarification from the Zoning Board.

Clr. Marino said like Clr. Gramling, she is neutral on this issue. She said the feedback that she is getting is not positive. She believes there is a lack of information out there and

perhaps more education is needed on this and maybe how other cities deal with or have dealt with this.

City Manager Horn said the way this didn't advance previously was in a very similar way to this – with a specific ordinance in front of us, a very general conversation and in general terms City Council said we don't want to pursue it. He said for Councilors that are waiting for additional public feedback, he encouraged them to share what they know about the ordinance, especially to those that are having misconceptions. He asked for further direction from Council.

Mayor Alcock said the new ordinance as written brings into play more interactivity from the Code department who are already overtasked. He said they are not able to inspect run-down homes that we would like them to in a timely manner and adding chicken coops to the mix will make it even more difficult.

Clr. Camera said before we call a vote, we need to read the ordinance out loud and point out strengths. He said there will be a lot of properties in the City that can't do this because of the square footage limitations and setback requirements. He said we have issues with feral cats, owners that don't clean up after their dogs, etc. He added we have new information based on the Peeps experience.

General consensus is that there was nothing about the ordinance that Council was prepared to talk about changing right now. The ordinance will be placed on the May City Council agenda with or without modifications; however, in the meantime, feature a clear explanation of what we are talking about on the website and review the results of the survey regarding public feedback.

City Manager Horn suggested between now and May that Council might want to ask for comments from Planning and Zoning Boards regarding setbacks and other relative

8. DISCUSSION REGARDING NON-RESIDENT BOAT TRAILER PARKING FEE – LAKEFRONT BOAT LAUNCH



**Boat Trailer Parking**

**Kiosk Location**

City Manager Horn said with the increase in recreational activities along the lakeside, the City has been experiencing some negative impacts associated with parking of boat trailers in areas designed for smaller vehicles. He said there are about 50 spaces striped for cars. Once boat trailers start to come in, they take up a lot of space and we run out of parking space for vehicles. At a couple of Councilor's request, staff has evaluated a number of options in an effort to relocate boat parking to require permitted parking to manage volume. As a pilot program, staff has designated an area for trailer parking, which would require no green space changes. Staff would install a kiosk and sign the area for permitted parking only, require all trailers to park in grassy area and require that all trailers display a permit (City residents – issued permit at no cost, assigned to a registered trailer with registration number; non-city residents and no trailer registered to city address, go to kiosk – received a permit for a \$10 fee per day). He added there will be a significant fine associated with violators. City Manager Horn asked for Council feedback.

Clr. Camera said there is a traffic and demand problem. He asked if we investigated the fee amounts from other municipalities. City Manager Horn said the numbers he provided are not binding and would be in accordance with that kind of analysis. Clr. Camera expressed concern over the amount of suggested fines and feels it is bad advertisement.

Clr. Eddington said he is one of the Councilors that brought this to his attention and he said to the best of his knowledge, Geneva is the only launch on Seneca Lake that is free, and so he thinks this is a good idea.

Clr. Valentino asked if there is any consideration during Memorial Day weekend to promote the Trout Derby when it is going on. City Manager Horn said they would treat events differently by making sure this fits in with the site plans for the Lake Trout Derby logistics.

When Clr. Hagerman questioned how the marking on the grassy area would be done this year, City Manager Horn said he will leave that up to DPW to find the best method. In terms of the fee, Clr. Hagerman feels that you might find that no one will use that area except for the City of Geneva. City Manager Horn said our idea is to curb it and give Geneva residents first preference.

Clr. Marino asked if long term plans included paving that area. City Manager Horn said that this would give us a flavor for what the annual demand is and what potential revenues might be. He said we definitely want to retain the green look and the green usability that we think we can achieve with using Purvis pavers.

City Manager Horn will prepare an ordinance for review at the March 1<sup>st</sup> meeting for first reading and again at the April 5<sup>th</sup> meeting for second reading.

9. RESOLUTION ENDORSING CITY MANAGER'S PERFORMANCE RATING AND APPROVING PERFORMANCE INCENTIVE

Mayor Alcock presented the following resolution:

**WHEREAS**, City Council has established Strategic Imperatives for Success, under which the City Manager is expected to execute City operational activities; and

**WHEREAS**, under the City Manager's employment agreement, the City Council conducts a Performance Evaluation against the Manager's activities for the preceding year; and

**WHEREAS**, the employment agreement provides for performance incentives if Council goals are met; and

**WHEREAS**, City Council has conducted an evaluation of the City Manager's performance for the 2016 operating year and found his efforts to meet or exceed Council's expectations.

**NOW, THEREFORE BE IT RESOLVED**, that the Geneva City Council, hereby and in due form, does authorize a performance incentive for the City Manager, in the form of a base salary increase of \$8,177 per year and an increase in vehicle allowance of \$773 per year.

**RESOLVED** this 1<sup>st</sup> day of February, 2017.

Mayor Alcock read the above resolution aloud. Clr. Valentino added "job well done and very much appreciated". He said if anyone has any discrepancies, his contact information is on the City website. Clr. D'Amico echoed that from Clr. Valentino and said while going through this process he feels they all feel the same and with a great 2016 and good leadership it is easy for him to support this and glad to see it. Clr. Eddington added to both Councilors echoes and said he too totally agrees and feels that what we are getting from Matt, his compensation is well under what other executives are receiving in this area. He said we are getting a very good deal for what we are paying him. While he agrees with all the above comments, Clr. Camera said it is really more than that. He added Matt has been a great City Manager in terms of dealing with the staff, cultivating and challenging them to get better. He said he is proud of the job he and staff have done this past year. He also thanked him for all of the help he has given him over the year. Clr. Hagerman said it wasn't just the DRI but it was the tourism money and additional money that was secured for the City. He thanked Matt for a remarkable year. Clr. Greco told Matt that he has come a long way, has done a lot for them and he thinks Courtney has a lot to do with it. Mayor Alcock said it has been a real privilege for him to work so closely with Matt over the past five years and has seen steady improvement year after year and has seen super improvement the last couple of years that will impact the whole region. Clr. Gramling echoed all that has been said. He said people may not see how well-rounded Matt is and all the work that he does on the inside. He added his ability to do his job with such integrity doesn't go unnoticed. Clr. Marino added she 100% supports this resolution and as a first year Councilor, she appreciates all the extra time he has put in to be sure she has all the resources and tools she needs to be able to do her job.

ACTION TAKEN by Mayor Alcock; seconded by Clr. Eddington  
MOVED THAT this resolution be approved  
MOTION CARRIED UNANIMOUSLY

10. RESOLUTION FOR 2016 URBAN FORESTRY TREE MAINTENANCE PROGRAM

City Manager Horn presented the following resolution:

**WHEREAS**, the City of Geneva is applying to the New York State Department of Environmental Conservation for a project grant under the Urban and Community Forestry Program to be located in the City of Geneva, a site located within the territorial jurisdiction of this City Council; and

**WHEREAS**, the City of Geneva is a Tree City USA and has an active Shade Tree Committee of which the members assist city staff with recommendations regarding the pruning, removal and replacement of street trees, and

**WHEREAS**, the City of Geneva recently completed a tree inventory project through the same grant program and identified maintaining and caring for our stock of trees as a top priority; and

**WHEREAS**, as a requirement of these programs, said City of Geneva must obtain the approval of the governing body of the municipality in which the project will be located.

**NOW, THEREFORE BE IT RESOLVED**, be it resolved that the City Council of Geneva hereby does approve and endorse the application of the City of Geneva for a grant under the Urban and Community Forestry Program for a project known as the "Geneva Tree Maintenance and Community Care Project."

**RESOLVED** this 1<sup>st</sup> day of February, 2017.

City Manager Horn said we are fortunate to have a solid urban forest as we have a lot of great parks that are well planted. He said we are working on our street tree program. He said the grant application that we are making this year to the Urban Forestry Program is for tree maintenance support, inclusive of pruning some identified trees, education courses for homeowners that have street trees or other trees and maintenance items and an intern to provide some management over site to the program. He added we are writing the application now and you can apply for up to \$50,000 and requires only in-kind support as a match.

Clr. Camera said he would like us to be bias toward pruning first as it is less expensive and preserves them for a longer period of time, which allows us to enjoy how nice they are. Clr. Marino said it will give them more resources to get more people out there so that it doesn't result in the fact that we have to take down an entire tree because it's been neglected for so long. She said this grant will allow us to get enough people trained and go out and do that work. Clr. Camera asked if it is possible to delay the removal of marked trees so that we can do a pruning screening. City Manager Horn said we would have to wait too long for the grant but once the tree has been marked that means our tree arborist has investigated it and found that it needs to be removed. Clr. Camera asked if there are guidelines associated with maximizing the life of a tree. Clr. Eddington explained that the City is under contract with an Urban Forestry and they inspect the trees based on certain criteria. He said we've been a tree city for years and they do excellent work. He said once an urban forester identifies a problem with a tree and action is not taken, the City becomes liable.

City Manager Horn said this is not a "planting grant" but we do get planting grants. He said anyone that will take a tree or two in their yard, we would ask that you contact us. Clr. Hagerman said we often forget is that trees have a life span although they outlive most of us they go through a life cycle growth and eventually need to be removed. He said he is pleased that we are partnering with HWS Finger Lakes Institute.

ACTION TAKEN by Clr. Camera; seconded by Clr. Greco  
MOVED THAT this resolution be approved  
MOTION CARRIED UNANIMOUSLY

11. RESOLUTION DECLARING CERTAIN ITEMS AS SURPLUS AND DIRECTING DISPOSAL

City Manager Horn presented the following resolution:

**WHEREAS**, the City of Geneva maintains and inventory of equipment and supplies for the provision of certain municipal services; and

**WHEREAS**, the attached schedule of items and supplies no longer contributes value to the City's operations; and

**WHEREAS**, the equipment and supplies in the attached schedule may either be destroyed, sold or auctioned to derive any final value to the City.

**NOW, THEREFORE BE IT RESOLVED**, that the Geneva City Council, hereby and in due form, does direct the City Manager to dispose of the equipment in the attached schedule; the proceeds of any sale shall be applied to the Equipment Amortization Fund.

**RESOLVED** this 1<sup>st</sup> day of February, 2017.

City Manager Horn said these are 100% bikes (approximately over 50) collected through the police departments work whether it was received by what appeared to be stolen cash, found property and sold at auction.

Clr. Valentino requested we contact Geneva Bike Shop and at least have a conversation whether there is some viable reuse of these bikes that might benefit the City. City Manager Horn will make that recommendation. When Clr. Greco asked if we could offer these bikes to those that cannot afford bikes, City Manager Horn said the challenge is comes in the law about "gifting".

CR#	BAR CODE	DATE REC'D	REASON
12-6550	13126	4/8/2012	Assault
09-2550	9893	8/5/2009	PI
13-11246	14187	6/20/2013	petit
11-12913	12161	7/15/2011	burg
13-11246	14189	6/20/2013	petit
13-9514	14093	5/26/2013	PI
14-8522	15249	6/20/2014	Resisting
14-5549	15154	4/24/2014	petit
14-13618	15553	9/20/2014	found
14-12630	15554	9/2/2014	found
14-13860	15556	9/25/2014	warrant
14-13930	15558	9/27/2014	found
14-11188	15559	8/8/2014	crim mis
14-14813	15560	10/14/2014	found
14-12562	15561	9/1/2014	found
15-4623	16104	4/7/2015	found
15-357	16105	1/8/2015	found
15-357	16106	1/8/2015	found
15-783	16107	1/18/2015	found
15-9290	16108	6/20/2015	found
15-6825	16109	5/13/2015	found
14-15798	16110	11/2/2014	found
15-7132	16112	5/17/2015	found
15-9290	16113	6/20/2015	found
15-13343	16458	8/26/2015	found
15-14186	16459	9/7/2015	found
15-12568	16460	8/14/2015	found
15-10508	16461	7/10/2015	found
15-11955	16462	8/3/2015	found
15-11381	16463	7/25/2015	found
15-11096	16464	7/20/2015	found
15-14237	16467	9/8/2015	found
15-14049	16469	9/5/2015	found
15-15941	16536	10/5/2015	burglary
15-17068	16537	10/22/2015	found
15-14538	16698	9/13/2015	found
15-18878	16699	11/23/2015	found
15-19520	16702	12/4/2015	found
15-5427	16111	4/22/2015	found
14-187	15158	1/4/2014	found
14-7772	15250	6/6/2014	found
14-6636	15153	3/15/2014	found
14-7659	15251	6/4/2014	found

14-9389	15253	7/6/2014	found
14-6970	15150	5/22/2014	found
14-9431	15254	7/7/2014	petit
14-11616	15557	8/15/2014	found
14-9876	15256	7/14/2014	found
14-11953	15555	8/21/2014	found
14-9431	15255	7/7/2014	petit
14-6681	15151	5/6/2014	found
14-8332	15248	6/17/2014	found
14-8037	15247	6/11/2014	found
13-11099	14188	6/18/2013	warrant
14-7597	15252	6/3/2014	found
14-6970	15149	5/22/2014	found
13-18817	15157	10/21/2013	petit
14-7066	15148	5/24/2014	found
14-6970	15147	5/22/2014	found
14-10462		7/25/2014	found
13-13588	14518	7/3/2013	petit
13-19807	15156	11/7/2013	found
15-11986	16465	8/4/2015	found
14-4258	15155	4/17/2014	found
14-5618	15152	4/25/2014	found
11-12187	12163	7/1/2011	safe keeping
14-4430	15146	3/31/2014	AUO
14-4430	15145	3/31/2014	AUO
	2850		
14-8423	15195	6/8/2014	Endangerment
NO CR			No Value - No Use
15-9399	16117	6/22/2015	petit
15-9399	16118	6/22/2015	petit
15-9399	16119	6/22/2015	petit
15-9399	16120	6/22/2015	petit
15-15544	16466	10/13/2015	burglary
15-16142	16468	10/8/2015	Rec stolen
15-18480	16700	11/16/2015	safe keeping
15-19188	16701	13-11099	arrest

ITEM DESCRIPTION
Spider-Man bike
grn Roadmaster
gy free spirit
bk\rd Nishiki
pl mongoose
bk freestyle
bk genesis
bl Schwinn
purple huffy
rd bmx
bl Mongoose
gy Next
bl Schwinn
pl Roadmaster
rd Next
blgy Next
or Mongoose
pk\bk DBX
bk Schwinn
bk\rd Roadmaster
bk Next
rd Genesis
grn Kent
rd Fuji
bk Roadmaster
pk Huffy
bl Schwinn
grn Genesis
gy Mongoose
bl Roadmaster
gy Roadmaster
grn Freestyle
pm Mongoose
bk Element
gy Mongoose
or chopper
brn Mongoose
wh Mongoose
child's bike
bk bike
bl Schwinn
gy Roadmaster
grn Chaos
rd bike

pl Murray
wh Roadmaster
bk mt bike
rd Huffy
bl Roadmaster
bl Next
gy GT
wh Razor
bk Next
bl Roadmaster
slv Next
bl Next
Omega
rd Columbia
rd Huffy
rd Magna
bl Columbia
bk bmx
bl Murray
skateboard
pk child's
rd Genesis
bl Bridgestone
Moped
mini bike
Block Buster videos
gas can
X \$4Police MTB
bk Next
bk Giant
bl Roadmaster
gy Giant
rd Shwinn
wh Nishiki
rd coke
pl Roadmaster

ACTION TAKEN by Clr. Valentino; seconded by Clr. Eddington  
MOVED THAT this resolution be approved  
MOTION CARRIED UNANIMOUSLY

12. BOARDS/COMMISSIONS APPOINTMENTS

Clr. D'Amico reported that the Recreation Advisory Committee recommended new appointments of Chrissy Bennett West and Jim Horton to replace David Hathaway and Kim Ess, and new appointment of Mike McWilliams, which will fill the remaining vacant seat.

ACTION TAKEN by Clr. D'Amico; seconded by Clr. Greco  
MOVED THAT the appointments of Chrissy Bennett West, Jim Horton and Mike McWilliams be approved  
MOTION CARRIED UNANIMOUSLY

Clr. D'Amico reported that the Zoning Board of Appeals recommended new appointment of Shawn Beam and reappointment of Nicholas Gillotti.

ACTION TAKEN by Clr. D'Amico; seconded by Clr. Eddington  
MOVED THAT these appointments be approved

Clr. Camera said he doesn't understand what Bob Stewart brought to us earlier. Clr. D'Amico said during the course of the interviews it was discussed on how people would hear back from the Council liaison in terms of letting people know. He said he asked the Clerk to send a letter thanking them for the time they spent serving the City. He said it was be the recommendation of the Council liaison(s) relative to going through the interview process. City Manager Horn said the appointment process is to the Council liaison, to the Board or Commission to determine whether they want to involve other Board members in interviews (some do some don't) or other Council members (some do and some don't). He said City Council has a policy that City Council makes the appointment which is considered upon the recommendation of the Council liaison to that Board.

Clr. Valentino said no reappointment is taken for granted and it doesn't happen automatically like it used to. He said we stopped that practice in an effort to be fair to everyone, so that new applicants and reappointments would go through the interview process, noting very seldom does a reappointment not get reappointed. He said members of his Board or Commission are invited to participate in the interview process. He asked if Bob was up for reappointment and not selected.

Clr. Eddington explained that he interviewed Bob, as well as Nick Gillotti (both up for reappointment). He added Bob had been on the Board for 22 years, since 1995 which is great. He said this Council has been encouraging new people to come on board. He said he explained to Bob in an email what his criteria was and the reason why he would not be recommending him for reappointment. He added there are a lot of young people and it is discouraging to him and to candidates when you bring them in for an interview and say I like would you could possibly bring to the table but I cannot appoint you because we have to reappoint someone else. He said Bob has done a great job for 22 years and felt it was time to let someone else get involved so that we can continue our process with encouraging new people to get involved. He said there is a long list of interested people and he thinks we need to give other people a chance to serve.

Clr. D'Amico said other things that go into consideration are political affiliation and number of meetings attended during the past year. He said he would like to possibly modify the process to be more inclusive to people that have no party affiliation. He said he was not a fan of just being handed a name of a person that has no expertise on a specific Board or Commission that he believes is so important. He said part of it was to try to get more people involved and put people on the board that know a little bit about what the Board is about. He said the process is working, but some of the recommendations may not be well-received by all.

City Manager Horn clarified the difference between a past practice and what the Charter actually says. He said the past practice has been no more than the bare majority of the party in power, which means if the Democrats hold the majority of Council, you are required to have four Democrats on the Planning Board. The Charter actually says no Board or Commissions shall consists of not more than a bare majority of any set of adherence of the same political party, which says based on the number of members on the Board the set of adherence could change.

Clr. Hagerman said it's hard to understand that you had a person who went from "chairing" a committee to not being on the committee at all and it sounds like there was not much of an interview process. He said he does like that there is a large number of people that want to be involved.

Clr. Camera said he thinks Clr. Hagerman makes a good point that it is one thing to be voted out by his peers on the Committee and another to be removed altogether by a Councilor recommendation without consultation with anyone else on the Committee. He said he is not okay with removing the Chair of a committee in order to get "new blood", especially since the Chair was not aware of this. Clr. Camera said he is not going to vote for this.

City Manager Horn said the Charter does state that City Council appoints the Chair.

Clr. Eddington said Neal Braman and he interviewed candidates. Clr. Gramling said the process is in place and he thinks if we feel that we should give the power to the Board then we should change it. Clr. Valentino said he used to be the liaison for the Zoning Board and he remembers Peter Readell was a long-time Chair and when he stepped down, the Board was challenged with leadership and Bob stepped up. Clr. Valentino said he would like to amend the motion or delay the vote. Clr. Camera said new blood is good and the majority of our staff is young and he feels that we should keep the Chair and ask Shawn to wait since he is a young person. Clr. Eddington said he doesn't want to say anything bad about Bob, but he has attended the majority of the meetings and there have been some inconsistencies. Clr. D'Amico said this is part of the change that Council agreed to.

ACTION TAKEN by Clr. Valentino; seconded by Clr. Camera

MOVED THAT these appointments be **amended** and be voted on separately

ROLL CALL: Aye – Clr. Valentino, Clr. Marino, Clr. Hagerman,  
Clr. Gramling, Clr. Camera

Nay – Clr. D'Amico, Clr. Eddington, Clr. Greco,  
Mayor Alcock

MOTION CARRIED

ACTION TAKEN by Clr. D'Amico; seconded by Clr. Eddington  
MOVED THAT the reappointment of Nicholas Gillotti be approved  
MOTION CARRIED UNANIMOUSLY

ACTION TAKEN by Clr. Valentino; seconded by Clr. Hagerman  
MOVED THAT that new appointment of Shawn Beam be **tabled**  
pending additional information  
ROLL CALL: Aye – Clr. Valentino, Clr. Hagerman, Clr Camera,  
Clr. Gramling  
Nay – Clr. D'Amico, Clr. Marino, Clr. Eddington,  
Clr. Greco, Mayor Alcock

#### **MOTION DEFEATED**

ACTION TAKEN by Clr. D'Amico; seconded by Clr. Eddington  
MOVED THAT the new appointment of Shawn Beam to the  
Zoning Board be approved  
ROLL CALL: Aye – Clr. D'Amico, Clr. Marino, Clr. Greco, Clr.  
Eddington, Mayor Alcock  
Nay – Clr. Hagerman, Clr. Camera, Clr. Gramling,  
Clr. Valentino

#### **MOTION CARRIED**

City Manager Horn said that at some point in the near future, Council will want to make a determination of whether they want to continue with your current practice of allowing the Board to self-select a Chair or ratify that.

Clr. D'Amico reported that the Planning Board recommended a new appointment of Justin Vollenweider to replace Richard Sheils and reappointments of Don Cass and Geza Hrazdina.

ACTION TAKEN by Clr. D'Amico; seconded by Clr. Eddington  
MOVED THAT these appointments be approved

Clr. Valentino questioned whether this is a lack of a reappointment or is he stepping down and he asked why one was being "replaced" in the Planning Board recommendation and it was not stated as such in the Zoning Board recommendation. The Clerk responded she didn't know that information at the time it was given to her. Mr. Sheils was up for reappointment, was interested in reappointment, interviewed and not selected.

Clr. D'Amico said Clr. Marino and Clr. Eddington asked to join in on the interviews and Clr. Marino and he shared the liaison appointment. He also said Mr. Vollenweider is an Architect who believes he can enhance the Planning Board with his expertise and they felt he could do a good job for the City. Members of the Planning Board were not involved in the interview process. Clr. Camera said he has a bad feeling and he feels this is political and he doesn't trust the process that was followed. Clr. Camera said he is not going to vote for any of these guys.

ACTION TAKEN by Clr. Valentino; seconded by Clr. Hagerman  
MOVED THAT these appointments be **amended** and voted on  
separately

ROLL CALL: Aye – Clr. Valentino, Clr. Hagerman  
Nay – Clr. D’Amico, Clr. Marino, Clr. Eddington,  
Clr. Greco, Clr. Camera, Clr. Gramling,  
Mayor Alcock

#### **MOTION DEFEATED**

ACTION TAKEN by Clr. D’Amico; seconded by Clr. Eddington  
MOVED THAT the original appointments be approved

ROLL CALL: Aye – Clr. D’Amico, Clr. Marino, Clr. Greco, Clr.  
Eddington, Mayor Alcock

Nay – Hagerman, Clr. Camera, Clr. Gramling, Clr.  
Valentino

#### **MOTION CARRIED**

### 13. PUBLIC COMMENT

Mayor Alcock opened Public Comment for any agenda or non-agenda related items at 8:58pm.

Jim Gregoire, 529 Exchange Street

- Hens – Mr. Gregoire said he is in support of having hens in the City since the Geneva Peeps has been a success for two or three years with very few minor problems, and it’s time to move ahead. He said any foreseen problems that residents may have he believes it would be easy to manage. He said he would like to see Geneva as a progressive City and is something he thinks the City needs.

Jeff Henderson, 399 S. Main Street

- Chicken Ordinance – Mr. Henderson said in hearing all the discussions about the chickens in Geneva, he would like to withdraw the resolution and would like to explain why. He said he does come to these conversations with an open mind, noting he tries to hear people’s opinions and points of view. He said this is something that he firmly believed would be a good thing for Geneva, as he finds this a positive experience as well as the Geneva Peeps. He said some of the opinions expressed by some of the Councilors tonight show a marked low opinion of the residents of Geneva and is disheartening to him. He said there are residents who currently keep chickens responsibly and the Geneva Peeps have assisted with picking up chickens that have escaped. He said the idea behind an ordinance and regulating them is so that you have the venue for taking care of the chickens and the people that own them. He said if someone gets sick from chicken keeping or goes to the hospital they’re going to be hesitant to convey the information about keeping the chickens because it’s illegal in the City. He said it happens already, and if you regulate something that is already happening, it gives you a venue for dealing with the issues that come up. Although overwhelmingly underrepresented tonight, he said the Latino community overwhelmingly keeps the chickens. He said this past summer he walked door to door and asked residents about their experience with the chicken coop. He said this is probably not the time to keeping chickens in Geneva if your honest feedback from constituents is that

they don't want chickens in Geneva, but if you're hearing from them the reasons they don't want to keep chickens is that they smell or cause diseases, those things have been disproven. He said so if you're overlooking in favor of "I don't like chickens", he doesn't think that is responsible governance. He said the resolution does not provide a provision for inspection of coops but is a provision for regulating chicken keeping and if there are problems they can be dealt with appropriately. In closing, he said if there is no education, no outreach, no understanding of what it means to keep chickens in the City, perpetuating this conversation does a disservice to that practice. He added all of the work they're doing at the Geneva Peeps is because they feel strongly about what they are doing. He said if the next three months will not result in a better understanding of chicken keeping and better outreach, then he doesn't want it to continue, because it will never be a possibility in Geneva and it's never going to have a chance to succeed and that is what the residents deserve.

As no other persons of interest came forward, Mayor Alcock closed Public Comment at 9:04pm.

#### 14. MAYOR AND COUNCIL REPORTS

Clr. Gramling reported the following:

- Recreation Advisory Board – Board of Commission candidates were interviewed and they now have 3 new members.
- Black History Month – first day of celebrating accomplishments of African Americans in this Country. He thanked Matt and staff for becoming a much more inclusive City within our highly diverse population, specifically Erica Collins and Jessica Rivera, both Spanish speaking individuals working in City Hall. He thanked Clr. Greco for his efforts of including him in the reading of the Martin Luther King, Jr. Proclamation during that celebration on January 16<sup>th</sup>. Clr. Gramling also thanked the constituents who continually advocate for equality and justice in our great City.

Clr. Marino reported the following:

- College Livability Task Force – met last month. A local landlord joined the committee who she feels will be a great addition.
- Shadetree Committee – discussing plans for the Arbor Day celebration in April
- South Lake Neighborhood – planning 2017 garden walk/drive
- Geneva Gardens – possibility of piloting a community-compost site in their Play Park Garden and would like to utilize the 2017 Map Grant funds in order to support the project and support from City Council on what direction to take moving forward. She also provided them with Clr. Camera and the At Large Councilors contact information, as well as contact information for the Green Committee and Sustainability Committee.

Clr. D'Amico reported the following:

- Planning Board – met this past Monday and approved a site plan and architectural review for a new home to be built on Larchmont Drive (2<sup>nd</sup> home built there this year)
- LDC – met at noon and discussed the project on 2 North Exchange Street and merging the properties as much as possible, as they have ownership from the

City, IDA and LDC and are looking to make that combination a little more nimble if they're moving forward with the developer.

- LDC Work Plan – committed to advancing the Comprehensive Plan with an emphasis to prioritize.
- 2017 Retreat – City Manager Horn introduced a Triple Bottom Line concept where all projects will be measured based on a financial, social and ecological point system and those receiving the highest point value will be advanced.
- Trees – he mentioned a situation where a resident neighbor's tree fell down on another resident's property and broke their fence. Clr. D'Amico said since the neighbor had not notified the insurance company about the tree, the resident is unable to seek reimbursement for damages, because the insurance company had no prior knowledge of a "bad tree".
- Boards/Commissions – Clr. D'Amico said the lists need to be updated. In terms of appointments made tonight, he said the Recreation Department had people wanting to be reappointment and they weren't. He questioned why there was not the same interest from some members of Council to treat that in the same manner as Planning and Zoning Boards were. He said he would welcome a future agenda item to modify the current process. As for it being political, he said appointments have been political for 50 years. He added it is not easy to make these decisions and if you don't trust the people that are making these decisions, then he is not sure how we can advance from there.

Clr. Valentino reported the following:

- Historical Society – met and presentations with representatives from the Geneva School District and HWS Community to find more ways to include local history in the social studies classes, noting they plan to use the Geneva Historical Society materials as a prop for that type of education. He said grades 1, 2 and 3 visited the Prouty Chew Museum for the mid-19<sup>th</sup> Century Christmas decoration display
- Lakefront – complimented the lakefront sign, which looks really nice
- Clr. Valentino said on January 2<sup>nd</sup> there were people in boats shooting guns about 20 feet away from the seawall. He is concerned about rules that are not on city property.
- 2017 Retreat – Clr. Valentino thanked all the presenters and participants at the Council Retreat. He said it was an awesome learning opportunity and we addressed a lot of issues and set a nice course of action for 2017.
- Recreation Appointments – Clr. Valentino said he is disappointed that Board members were not included in the interview process, which would make the process more inclusive and much more of a buy-in in the decision making process.

Clr. Greco reported the following:

- Aid to Handicapped Committee – met and there was talk about changing the name, but after discussions with the committee members, it was decided to leave the name of the committee as it is. Clr. Greco said the committee is concerned that there are not many handicapped parking spaces in the downtown, noting on Seneca Street there are only 3 spaces (one by the crosswalk across from The Smith and 2 in front of the crosswalk in front of the bank); on Exchange Street there is only 1 (down near Lyon's Bank); on Castle Street there is only 1 (in front of the Post Office) and in our parking lots there is none, except for where Ontario County DMV Offices are located.

City Manager Horn said a parking analysis is being conducted right now and he'll be sure that gets looped into the conversation.

- Lehigh Gardens – meeting is scheduled for next week
- Geneva Housing Authority – meeting is scheduled next week.

Clr. Hagerman reported the following:

- BID –
  - BID Annual Dinner and Awards Presentation, February 23<sup>rd</sup> at 6:00pm at Cosentino's, Council is encouraged to attend and is open to the public - \$55pp or \$100p couple. All 13 new businesses that opened in 2016 will be recognized and some as businesses of the year: FLX Table, Finger Lakes Sausage and Beer, Geneva Gelato, The GF Restaurant, La Mia Bella Sicilia, The Linden Social Club, Serendipity Boutique, Wicked Water
  - Two new businesses opening up on Castle Street – Kowalski Legal (first graduate of Port 100) and Small Grid
  - Joe's Hots is up for sale
  - Next Geneva Night Out – February 3, 2017 @5:00pm

Clr. Camera reported the following:

- Geneva Green Committee – working on trash haulers license and ordinance revisions, and it has been sent to legal and is ready for presentation to Council in March for first reading. He said their next project will be the recycling ordinance for the City.
- Sludge Disposal – waiting for certification from the DEC but in the interim, they're looking to send it to a firm that can compost it for us at two-thirds of the cost. He they are considering bringing back the Transfer Station and may partner with the Town of Geneva who is also interested in this.

Clr. Eddington reported the following:

- Zoning Board – met last week and approved a special use permit for the Linden Social Club neon sign for their front window.
- Council Retreat – he thanked Matt and his staff for a great Council Retreat. He added it was a good 20 hours of education for all of them.
- DRI Meetings – he thanked the Local Planning Committee (LPC) and staff for the work in putting together the list of projects and he appreciates everyone's time and efforts.

Mayor Alcock said the DRI held their final prioritization meeting, the public provided their input and Consultants will reconvene the LPC if they feel changes to the list are needed. He said he feels they have created a robust list of items that will really boost Geneva dramatically. He said it shows terrific use of the money that is being allocated by the State and will turn it into a lot more money, noting the deadline to send the final plan to the State is February 28<sup>th</sup>.

Mayor Alcock echoed his compliments to Matt and staff for a great Retreat. He also thanked Andy Tyman and his staff at Geneva Housing for providing their space to us.

15. CITY MANAGER REPORT

On the Retreat side, City Manager Horn thanked all the neighborhood leaders who came out to present. He said it was good to hear from people that deal with the fallout of our decisions. He said feedback was very positive and we are open to supporting them in their efforts moving forward. He said Sam Cappiello presented on the Code of Ethics which was very well received. He added the City's Attorney Emil Bove presented on Conduct of Executive Sessions and Rhonda Everdyke facilitated the neighborhood session but had a good solid communications engagement presentation and Adam Blowers on a great Debt presentation. He thanked his staff for attending in order to hear what everyone had to say. He thanked the DRI members as this was a challenging and fast process. Noting there is no perfect list, he said the City's application was in complete alignment with the Comprehensive Plan. He said when it was time to prioritize and deal with funding sources, the funding sources came back and requested a much more narrow focus which drove some of the final conversations. He said we have fourteen plus years of work to do on the Comprehensive Plan, so he doesn't want anyone to feel discouraged because their project listed in the Plan isn't there in DRI that it isn't going to happen. He said we have a lot of work to do so keep moving forward and help leverage the next set of dollars that come along. He said the LPC team is 100% volunteer based and he is very proud of that team.

City Manager Horn said he appreciates the support Council has given him over the last nearly nine years here in Geneva. As mentioned in the Retreat, he said the City is successful for two reasons, 1) this Council lets staff get way out in front of things and experiment and be nimble and thoughtful on how to deliver really creative programs and 2) this amazing team that he has between department heads, mid-managers and action level staff and it doesn't get any better. He said he gets a lot of credit but he tries to reflect as much back to understand what a great community we have here, adding it is a lot of fun. He thanked Council for their vote of confidence and support.

16. ADJOURNMENT

ACTION TAKEN by Clr. Eddington; seconded by Clr. Greco  
MOVED THAT this meeting be adjourned at 9:38pm  
MOTION CARRIED UNANIMOUSLY