

CHAPTER 350.

CITY OF GENEVA
ZONING CODE

ADMINISTRATION &
ENFORCEMENT

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ARTICLE 12. GENERAL REVIEW & APPLICATION PROCEDURES

§ 350-12.1 APPLICABILITY

- A. Review Required.** Any person seeking to erect, construct, enlarge, alter, improve, demolish a building or structure; or establish, operate, convert, or change the nature of the use or occupancy of any building or structure within the City of Geneva shall first submit an application(s) for such development or improvement and secure all necessary approvals and permits as required by this Chapter.
- B. Application Form.** Applications must be submitted in a form and in such numbers as outlined herein. Checklists of application submittal and review requirements may be made available within City Hall.
- C. Review Body.** For the purposes of this Chapter the terms "reviewing body" or "review body," shall refer to the City board, commission, committee, official, or other designated decision-making body that is charged with review and/or approval authority as enacted under this Chapter.
- D. Properties in Violation Prohibited.**
1. No applications that include a building, structure, property, or use that is in violation of this Chapter, Local Law of the City of Geneva, or NYS laws, rules, and/or regulations shall be accepted or processed.
 2. Applications which, in whole or in part, include a proposal to rectify and/or remove violations on such property may be considered by the appropriate review body(s) in accordance with this Chapter.

§ 350-12.2 PRE-APPLICATION CONFERENCE

- A. Optional Process.** It is recommended that applicants request a pre-application conference prior to entering the formal application review process to discuss the nature of the proposed application and to determine the best course of action for submittal.
- B. Conference Representatives.** Pre-application conferences may be held upon request of an applicant with one or more of the following City representatives:
1. Code Enforcement Officer (CEO);
 2. City Manager;
 3. Planning Board (PC) Chair;

4. Zoning Board of Appeals (ZBA) Chair; and/or
5. Historic Districts and Structures Commission (HDSC) Chair.

- C. Purpose.** The purpose of the pre-application conference is to provide an opportunity for a potential applicant to consult early and informally with the City. A pre-application conference will help to build a better understanding of the proposal and property in question, ensure an understanding of the required application process, and establish an overall approach that respects important features to the City while maximizing the potential of the property.
- D. Advisory Opinion.** In no way shall any comments or feedback provided by the City during a pre-application conference be construed as an indication of decision or be legally binding in any way.
- E. Application Material.** Materials presented during the pre-application conference may be incomplete and/or conceptual in design. A formal, complete application is required to be considered for approval prior to action.

§ 350-12.3 GENERAL APPLICATION PROCEDURES

A. Submittal.

1. Applications shall be submitted to the City Clerk, CEO, or other duly designated City official.
2. Only the property owner or their agent, with legally binding and written permission of the owner, may file an application. Where there are multiple land owners, a written consent agreement among all land owners must be included within the application.
3. Applications shall be submitted in the following form, unless otherwise directed by the CEO.
 - a) An electronic copy in PDF or other acceptable digital format;
 - b) At least one set of originals in hard copy;
 - c) At least one hard copy for each official or review board member reviewing the application; and
 - d) At least one hard copy for County Referral, where required.
4. The deadline for application submittal shall be at least two weeks (14 days) prior to the meeting at which the applicant wishes to be considered; or such other application deadline established by the rules and procedures of the reviewing body.
5. The deadline for supplemental materials and amendments to applications already under review shall be at least seven days prior to the meeting of the reviewing body.

B. Acceptance and Processing.

1. The City Clerk or CEO shall indicate that an application is considered accepted and ready for processing only if it is submitted in the required number and form, includes all required materials, and is accompanied by the required application fee.
2. The acceptance of an application by the City Clerk or CEO shall in no way be interpreted as a determination of the completeness, adequacy, or accuracy of application materials, but rather serve as an acknowledgement to the receipt of required application materials. The City Clerk or CEO may consult with other City departments, officials, boards, committees, or consultants to confirm the relevant application materials required.
3. If an application is determined to be inadequate, the City Clerk or CEO will provide paper or electronic written notice to the applicant, along with an explanation of all known deficiencies that prevent competent review.
4. No further processing of inadequate applications will occur. When the deficiencies are corrected, the application will be placed in the next available processing cycle. If the deficiencies are not corrected within 62 days, the application will be considered withdrawn.

Fee Schedule to be set and adopted by City Council.

- C. Application Fees.** All applications shall be accompanied by the required fee(s) as established by the Fee Schedule set and approved by the City of Geneva City Council. Failure to submit said fee shall deem an application unacceptable, regardless of the status of submittal on all other required materials.
- D. Applicant Responsibilities.** The applicant and/or their agent is expected to attend all meetings at which the application is to be discussed. In all cases, the burden is on the applicant to show that their application complies with the City of Geneva Code and any other applicable local laws and NYS laws, rules, and regulations.

§ 350-12.4 REVIEW BODY ACTION

In taking action on an application, the reviewing body shall complete the following general procedures, as applicable:

- A. Public Hearing.** Where required by this Chapter, the reviewing body shall hold at least one public hearing for all applications under their review prior to the issuance of a decision.
- B. State Environmental Quality of Review (SEQR).**
1. Where required by NYS Law, the review body shall complete all required documentation and procedures in accordance with the State Environmental Quality Review Act (SEQRA).
 2. It shall be the responsibility of the applicant to prepare and submit all necessary SEQR forms and materials to the reviewing board as part of the application.
- C. Issuance of Decision.**

1. The reviewing body may approve, approve with conditions or modifications, or deny a proposed application.
 2. Prior to issuing a decision on an accepted application, the reviewing body shall determine the application to be complete, noting any waived or additional application materials required.
- D. Written Findings.** Decisions shall contain written findings explaining the rationale for the decisions considering the standards contained in this Chapter. A copy of the decision shall be promptly filed in the City Clerk's Office and mailed to the applicant.
- E. Coordinated Reviews.** The following reviews may be conducted concurrently as provided herein. Where applicable, duplicate application materials may be combined to satisfy submittal requirements.
1. Site Plan Review. Where site plan review is also required, the application requirements of Article 13 shall apply.
 2. Special Use Permit. Where a special use permit is also required, the application requirements of Article 14 shall apply. In the event that the permit is denied, any other associated application decision shall be null and void.
 3. Certificate of Appropriateness. Where a certificate of appropriateness is also required, the application requirements of Article 15 shall apply. In the event that the certificate of appropriateness is denied, any other associated application decision shall be null and void.
 4. Subdivision. Where subdivision review and approval is also required, the requirements of Article 16 shall also apply.
 5. Variance. Where an application requires a variance, the requirements of Article 18 shall also apply. Should the applicant fail to secure variance approval, the associated application shall be amended accordingly.
- F. Waiving Application Requirements.** The reviewing body is authorized to waive or modify, in whole or in part, required application material if it is their determination that one or more of the following conditions apply:
1. The material, or part thereof, is found not to be requisite in the interest of the public health, safety, or general welfare;
 2. The material is inappropriate, immaterial, and/or unrelated to the application;
 3. The material is unnecessary for a complete, adequate, and informed review.
- G. Additional Application Requirements.** At any point in the review process, the reviewing body may require the applicant to provide additional material necessary for a complete, adequate, and informed review. Such additional material shall be deemed necessary by a majority vote of the reviewing body.

§ 350-12.5 REFERRALS

- A. Internal Referral.** The reviewing body may refer any application to another City board, committee, department, or official for review, comment, and advisement. Within 30 days of referral the receiving body shall submit its recommendation in writing with a summary of findings to the reviewing body.
- B. Professional Referral.** The reviewing body may seek the opinion of any engineering, architectural, historical, planning, technical, environmental, legal consultant or attorney, or other expert or professional to aid in the review of an application in accordance with Section 350-20.6 of this Chapter.
- C. County Referral.** The City shall refer all required materials to Ontario County pursuant to NYS GML 239-m and 239-n; and in accordance with any planning referral agreements between the City and County.

§ 350-12.6 EXPIRATION, REVOCATION & ENFORCEMENT

- A. Expiration.** With the exception of variance applications, the approval of an application shall expire if one of any of the following occur:
 - 1. The approved use(s) cease operation for more than 12 consecutive months for any reason;
 - 2. The applicant fails to obtain necessary building permits or certificates of occupancy within the set timeframe approved by the reviewing body or within one year of the approval date, where no such timeframe has been set;
 - 3. The applicant fails to comply with the conditions of the application's approval within one year of the date of issuance or completion of construction, where applicable;
 - 4. The applicant fails to initiate construction or operation of use within one year of the approval date;
 - 5. The applicant fails to complete construction within three years of the approval date; or
 - 6. The applicant fails to renew a time limited permit prior to the stated time period ending.
- B. Extensions.** The reviewing body may grant an extension for any condition in Subsection A upon written request by the applicant. The applicant shall include in such request the desired time period for the extension, not to exceed one year, and the reasoning for requesting the extension.
- C. Revocation.** The CEO may revoke approval and/or related permit(s) if the applicant violates the conditions of the approval or engages in any construction, alteration, or operation not authorized by the approval and/or related permit(s).

§ 350-12.7 PUBLIC HEARINGS

- A. Conducting Public Hearings.**

1. Public hearings shall be held by the reviewing body as required by this Chapter and NYS Law.
2. The reviewing body may conduct concurrent or joint public hearings for related applications under their consideration, if desired (e.g. subdivision application with associated site plan).

B. Public Hearing Notice. Public notice shall be made at least five days prior to the date of the scheduled public hearing, unless otherwise required by NYS Law. The form of such notice may include media, mailed, and posted notices as provided herein and required by NYS Law.

C. Media Notices. Media notice, where required, shall be provided to:

1. The official newspaper of the City; and
2. The official website of the City.

D. Mailed Notices. Written notice, where required by NYS Law, shall be provided by mail to the following:

1. Owners of all real property, as shown on the current tax map, located within 200 feet of the property that is the subject of the hearing. A larger area of notice shall be observed where required by NYS Law.
2. The Clerks of adjoining municipalities whose boundaries are located within 500 feet of the property that is the subject of the hearing.
3. The Ontario County Clerk where the hearing concerns property adjacent to an existing county road or proposed road shown on the official county map, adjoining other county land, or situated within 500 feet of a municipal boundary.
4. The State Commission of Transportation, where the hearing concerns property within 500 feet of a state highway.

E. Posted Notices

1. Notice shall be posted in a location plainly visible within City Hall.
2. Notice shall be posted on the property in question in a location plainly visible to passersby. The applicant shall obtain a sign of public notice from the City and ensure its placement upon the property prior to the public hearing. Upon close of the public hearing, the applicant shall return the sign to City Hall.

F. Public Notice Expenses. An applicant shall be required to reimburse the City for the publication, mailing and posting of a public notice upon written request. If said fee is not received within 62 days of the request, the application shall be considered withdrawn and any decision rendered shall be null and void.

Posting requirement
subject to review
and approval by
City Council.

ARTICLE 13. DEVELOPMENT PLAN REVIEW

§ 350-13.1 PURPOSE & INTENT

The physical form of the City of Geneva contributes to its aesthetic character, charm, quality of life, function, economic vitality, and historic integrity. The intent of the development plan review process is to provide for the following:

- A. Preservation and enhancement the physical form of the City;
- B. Achievement of compatibility with adjacent development;
- C. Mitigation of potentially negative impacts on traffic, parking, drainage and similar environmental constraints and concerns;
- D. Improvement of the overall visual, aesthetic quality of the City and enhancement of community character;
- E. Increased capability of the Zoning Code to adapt to a variety of unique circumstances; and
- F. Protection of the health, safety, and general welfare of the community.

§ 350-13.2 APPLICABILITY

- A. **Review Required.** No construction or site improvement work may commence without development plan review and approval as required by this Chapter.
- B. **Development Actions.** All proposed development actions and/or property improvements shall be subject to review in accordance with the following table.

ACTION	EXEMPT	ADMIN REVIEW	SITE PLAN REVIEW
CONSTRUCTION / EXPANSION / ALTERATION			
Primary / Accessory Use or Structure ¹			
Single-, Two-, or Three-Family	•		
Other, Up to 150 sf	•		
Other, Up to 500 sf		•	
Other, Over 500 sf			•
Landscaping, Exterior Lighting, Mechanical Equipment, or Stormwater/Green Infrastructure			
Single-, Two-, or Three-Family	•		
Other		•	
Off-Street Parking / Loading Area			
10 Spaces or Less		•	
Over 10 Spaces			•
Driveway			
Within Existing Curbcut	•		
Requiring New or Altered Curbcut			•
Other Use or Structure			
Park or Playground Equipment (Primary)			•
Short-term Rental			•
Solar Energy System (Accessory)		•	
Telecommunications Equipment			•
OTHER ACTIONS			
Ordinary Repair or Maintenance of Use or Structure ²	•		
Interior Alteration	•		
Installation, Maintenance, Replacement of Approved Sign	•		
Replacement In-Kind of Previously Approved Site Plan	•		
Amendment to Previously Approved Site Plan		•	
Demolition of Building in CB District (§350-13.6)			•
Subdivision			•
Planned Unit Development District (Article 17)			•

- NOTES:**
- 1) Accessory use or structure includes decks, patios, fencing, garages, sheds, outdoor seating or storage, etc. For full list see Section 350-7.4.
 - 2) Repair or maintenance may include, but is not limited to, repainting, tuckpointing, or repair or replacement in-kind of roofing, siding, windows, doors, and the like.

§ 350-13.3 REVIEW PROCEDURES

A. Application Processing. Site plan review applications shall be submitted, processed, and reviewed in accordance with Article 12 of this Chapter.

B. Administrative (Admin) Review.

1. Actions requiring administrative review, per §350-13.2, shall be reviewed and decided upon by the **Planning and Zoning Coordinator**.
2. The Coordinator may refer any administrative review application to the Planning Board for site plan review if, in their opinion, it is found that such application requires a discretionary or more significant review to determine the appropriateness of such proposal. Upon referral by the Coordinator, the Planning Board shall assume review and decision authority.

C. Site Plan Review. Actions requiring site plan review, per §350-13.2, shall be reviewed and decided upon by the Planning Board as provided for by this Chapter and NYS Law.

D. Public Hearings.

1. A public hearing shall be required for all site plan review applications.
2. No public hearing shall be required for applications under administrative review, unless such application has been referred to the Planning Board for site plan review.

E. Referrals. All referrals shall be made in accordance with Section 350-12.5. Administrative review applications shall not be subject to county referral, unless such application has been referred to the Planning Board for site plan review.

F. Endorsement of Approved Plan. Upon approval, the Planning and Zoning Coordinator or Planning Board Chair shall endorse its approval via signature on a copy of the development plan. For conditionally approved plans, the Coordinator or Planning Board Chair shall endorse its approval only after demonstration that the plan has been amended to reflect such conditions or modifications.

§ 350-13.4 APPLICATION REQUIREMENTS

A. Administrative Review Applications. Applications subject to administrative review shall include the following materials, as applicable. The Planning and Zoning Coordinator may require such materials be prepared by competent professionals duly licensed to prepare such drawings.

1. Required application form, including the name, address, and signature of the applicant, property owner, and developer.
2. Description or narrative of all proposed uses and structures.
3. Site plans drawn at a scale deemed appropriate by the Coordinator, with continuation on sheets as necessary for written information. The plans shall indicate the following:
 - a) The location of all properties, their ownership, uses thereon, subdivisions, streets, easements, and adjacent buildings within 100 feet of the property in question.

- b) The location and use of all existing and proposed structures on the property in question, including all building and lot dimensions.
 - c) The location of all existing and proposed topography as revealed by contours or key elevations, including final site grading.
 - d) The location and proposed impacts to environmental features, including, but not limited to, open spaces, trees, watercourses, steep slopes, wetlands, floodplains, and watersheds.
 - e) The location and dimensions of existing and proposed landscaping, screening, walls, and fences, including information regarding the size and type of plants and building materials proposed.
 - f) The location and dimensions of existing and proposed public and private streets, off-street parking areas, access drives, driveways, sidewalks, ramps, curbs, and paths.
 - g) A waste and trash management plan including the type, size, location, appearance, and operation of dumpsters or other trash receptacles.
 - h) The type, size, location, appearance, and operation of all outdoor mechanical equipment.
 - i) The location, height, intensity, bulb type, and light color of all exterior lighting fixtures.
 - j) The location, height, size, material, and design of all existing and proposed signs.
 - k) The location all new or modified downspouts or stormwater systems, including the configuration of a system for stormwater drainage or green infrastructure.
 - l) The location of existing and proposed utility systems including sewage or septic, water supply, telephone, cable, electric, internet, and fiber.
- 4. Building elevations, drawn at a scale deemed appropriate by the Coordinator and descriptions of all exterior building materials.
 - 5. Plans for disposal of construction and demolition waste.
 - 6. Identification of any state or county permits required for the project and record of application for and approval status of such permits.
 - 7. All NYS SEQRA documentation as required by law.
 - 8. Such other, further, and additional information or materials as deemed necessary by the Coordinator.
- B. Site Plan Review Applications.** Applications subject to site plan review shall include the following materials, as applicable. Such materials shall be prepared by competent professionals duly licensed to prepare such drawings, unless otherwise permitted by the Planning Board.

1. All required administrative review application materials of Subsection A.
2. A site plan showing the location of all properties, their ownership, uses thereon, subdivisions, streets, easements, and adjacent buildings within 500 feet of the property in question.
3. A certified land survey.
4. A natural resource inventory and/or tree survey.
5. A detailed traffic study.
6. A Stormwater Pollution Prevention Plan (SWPPP).
7. A schedule for completion of each construction phase.
8. Such other, further, and additional information or materials as deemed necessary by the Planning Board.

§ 350-13.5 REVIEW CRITERIA

The Planning and Zoning Coordinator and/or Planning Board shall consider the following, as applicable, during administrative or site plan review.

A. Adopted Plans and Studies. Conformance with the City of Geneva Comprehensive Plan and other adopted plans and studies, where applicable.

B. Zoning Regulations.

1. Conformance with all district, building, use, and lot requirements.
2. Conformance with all design and development standards, including, but not limited to, off-street parking, loading, and access management, landscaping and screening, building and site design, and sign regulations.

C. Development Character.

1. Compatibility of proposed uses and structures to that of adjacent properties, considering building orientation, site design, and transitional treatments.
2. Quality of building design and materials and compatibility with the desired character of the district and/or neighborhood.

D. Transportation Network.

1. Adequacy and arrangement of vehicular traffic and circulation, including intersections, road widths, traffic controls, traffic-calming measures, and accessibility to fire and emergency vehicles.
2. Adequacy and arrangement of pedestrian and bicyclist access and circulation, including separation from vehicular traffic and connections provided internally and externally to the site.

E. Environmental Resources and Sustainability.

1. Preservation and protection of natural site features, open spaces, and critical environmental resources.
2. Provision of public passive and/or active recreational facilities.
3. Preservation or enhancement of public access to Seneca Lake.
4. Adequacy of stormwater, drainage, and erosion management plans.

F. Services and Utilities.

1. Adequacy and appropriate location of utility systems.
2. Adequacy of proposed waste and trash management plan.
3. Adequacy of snow storage and/or proposed snow removal plan.

G. Other Considerations.

1. Encouragement of the most appropriate use of land and utilization of the site.
2. Adequacy and appropriateness of construction plans and phasing.
3. Potential for adverse effects to the functioning, economic stability, prosperity, and health, safety, or general welfare of nearby property owners and the community.

§ 350-13.6 DEMOLITION OF BUILDINGS IN THE CB & CB-5 DISTRICTS

A. Permit Required. The approval and issuance of a demolition permit shall be required for the following:

1. Demolition of 50% or more of the gross floor area of a building located within the CB or CB-5 District; or
2. Demolition of a historic structure located within the CB or CB-5 District.

B. Historic Structures. For the purposes of this Section, a historic structure shall be defined as any structure or property listed on the State or National Registers of Historic Places, including any structure or property located within the Geneva Downtown Commercial Historic District.

C. Planning Board Review.

1. The Planning Board shall review all demolition permit applications required under this Section.
2. The Board shall approve the issuance of a demolition permit only if it determined that the proposed work will not have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of the property itself, the district or neighboring properties in such district.

3. Prior to the issuance of a demolition permit, the applicant shall also obtain approval of a redevelopment plan through site plan review as provided for by this Article.
4. The Planning Board, at its discretion, may refer the demolition permit and site plan review application to the Historic Districts and Structures Commission for an advisory opinion.

D. Waiver of Permit Requirements.

1. The provisions of this Section may be waived by the CEO if:
 - a) The building is damaged or destroyed in whole or in part (at least 50% of assessed value) by fire or other catastrophe to the extent that it cannot be repaired; or
 - b) The building must be demolished for immediate emergency health and public safety reasons, as determined by the Fire Department or others considered by the CEO to be qualified to assess the damage.
2. In such instances, the building shall be rebuilt in its original form, unless otherwise approved by the Planning Board through site plan review.

ARTICLE 14. SPECIAL USE PERMITS

§ 350-14.1 PURPOSE

The purpose of this section is regulate those uses that have some particular impact or unique characteristics which require a case-by-case review of their location design, configuration and impacts on the surrounding area. By requiring the individual review of special use permit applications, the Planning Board helps to determine the level of compatibility and desirability of a use in its proposed location.

§ 350-14.2 APPLICABILITY

- A. **Permit Required.** Prior to the issuance of a building permit, a special use permit shall be obtained for all uses as noted in the district tables of Articles 3, 4, 5, and 6 of this Chapter.
- B. **Additional Use Regulations.** In addition to the general district and development requirements of this Chapter, specially permitted uses shall also conform to the requirements of Article 7, where applicable.

§ 350-14.3 REVIEW PROCEDURES

- A. **Application Processing.** Special use permit applications shall be submitted, processed, and reviewed in accordance with Article 12 of this Chapter.
- B. **Authorized Review Body.** Special use permit applications shall be reviewed and decided upon by the Planning Board.
- C. **Public Hearing.** A public hearing shall be held for all special use permit applications.
- D. **Referrals.** All referrals shall be made in accordance with Section 350-12.5.

§ 350-14.4 APPLICATION REQUIREMENTS

A special use permit application shall include, at a minimum, the following:

- A. An application form, including the name, address, and signature of the applicant, property owner, and developer, as applicable.
- B. A site plan denoting the location of the subject property and all structures thereon, as well as all property, uses, and structures within 300 feet of the proposed use.
- C. A description of the proposed use and nature of its operation, including but not limited to:

1. A business plan, vision, or model, and/or summary of products, goods, and services to be sold or provided;
 2. The proposed hours of operation;
 3. The number of employees at maximum shift;
 4. The maximum seat capacity;
 5. The timing and manner of any and all anticipated deliveries;
 6. A recycling and waste management plan; and
 7. The nature and type of all mechanical equipment provided and/or required.
- D.** An interior floor plan, including, but not limited to, the arrangement of seats, kitchen and/or bar size and location, storage areas, and location of machines or other mechanical equipment.
- E.** A narrative describing how the proposed use will satisfy the special use permit review criteria (Section 350-14.5).
- F.** All SEQR Documentation as required by NYS Law.

§ 350-14.5 REVIEW CRITERIA

The Planning Board shall consider the following when reviewing an application for special use permit.

- A. Adopted Plans and Studies.** Conformance with the City of Geneva Comprehensive Plan and other adopted plans and studies, where applicable.
- B. Zoning Regulations.** Conformance with all district, building, use, and lot requirements.
- C. Neighborhood Context.** Compatibility of the proposed use with adjacent properties, uses, and structures, as defined by the potential of the use to:
1. Create a hazard to the public health, safety and general welfare or create a public nuisance;
 2. Alter the character of the neighborhood or be detrimental to the residents thereof through the production of noxious or objectionable noise, dust, glare, odor, refuse, fumes, vibrations, unsightliness, contamination or other similar conditions;
 3. Cause significant traffic congestion, create a traffic hazard, or vehicular or pedestrian hazard;
 4. Cause undue harm to or destroy existing sensitive natural features on the site or in the surrounding area;
 5. Impact historic properties; and

3. Otherwise result in an excessive or significant negative impact on the community that cannot be mitigated.

D. Services and Utilities.

1. Adequacy of existing utilities and public facilities and services, such as sufficient roadway capacity, police and fire protection, drainage structures, refuse disposal, and schools, to serve the use.
2. Adequacy of off-street parking, loading, and vehicular, pedestrian, and bicycle access and accommodations on-site so as not to create a parking shortage or other problems for nearby businesses and/or residents.
3. Adequacy of proposed waste and trash management plan.

E. Other Considerations.

1. Encouragement of the most appropriate use of land and utilization of the site.
2. Adequacy of landscaping and screening provisions, including mitigating measures to reduce potential negative impacts to adjacent properties.
3. Appropriate location, arrangement, size, and design of proposed signage.
4. Potential for adverse effects to the functioning, economic stability, prosperity, and health, safety, or general welfare of nearby property owners and the community.

ARTICLE 15.

CERTIFICATES OF APPROPRIATENESS

§ 350-15.1 PURPOSE

- A. It is the purpose of this Article to ensure new construction, alteration, repair, or demolition of historic buildings and structures within the City of Geneva preserve the historic value, character, and architectural integrity of such structure and those of the surrounding area.
- B. It is not the intent of this Article to limit new construction, alteration or repair to any one period of architectural style, but rather to preserve an aesthetic whole.
- C. The reviewing body shall be lenient in its judgment of plans for new construction or for alteration, repair or demolition of structures of little historic value, except when such action would be in direct conflict with the purpose defined herein.

§ 350-15.2 APPLICABILITY

- A. **Certificate Required.** A certificate of appropriateness shall be required for the construction or exterior alteration of any building, structure, or architectural feature in the Historic Overlay (HO) District that is, in any respect, visible from a public street, park, or any other public or private space that is accessible to the public. No building permit shall be issued until a certificate of appropriateness has been obtained where required by this Chapter.
- B. **Exemptions.** This review shall consider only exterior features of a structure and will not consider interior arrangements.
- C. **Maintenance and Repair.** Nothing contained in this Section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in either the HO District or on designated structures of historic and architectural importance which does not involve a change in design, material, color or the outward appearance thereof.

§ 350-15.3 REVIEW PROCEDURES

- A. **Application Processing.** Certificate of appropriateness applications shall be submitted, processed, and reviewed in accordance with Article 12 of this Chapter.
- B. **Authorized Review Body.** Certificates of appropriateness shall be reviewed and decided upon by the Historic Districts and Structures Commission (HDSC).
- C. **Public Hearing.** A public hearing for a certification of appropriateness application may be held at the discretion of the HDSC.

D. Referrals. All referrals shall be made in accordance with Section 350-12.5.

E. Issuance of Decision.

1. The HDSC shall review and decide upon applications in accordance with Section 350-12.4 of this Chapter.
2. If approved, the HDSC Chair shall sign the certificate of appropriateness and immediately transmit it to the CEO for a building permit. The HDSC Chair shall also stamp all prints submitted signifying its approval.
3. Failure of the HDSC to issue a decision on an application within 62 days from the date of acceptance, unless otherwise mutually agreed upon by the applicant and HDSC, shall be deemed to constitute approval and the CEO shall proceed to process the application without regard to a certificate of appropriateness.

§ 350-15.4 APPLICATION REQUIREMENTS

A certificate of appropriateness application shall include the following.

- A.** An application form, including the name, address, and signature of the applicant, property owner, and developer, as applicable.
- B.** A site plan denoting the location of the subject property and all structures thereon, as well as all property, uses, and structures within 100 feet of the property.
- C.** Building elevations, drawn at a scale deemed appropriate by the HDSC, and descriptions of existing and proposed exterior building materials.
- D.** All other plans, elevations, and information deemed necessary by the HDSC to determine the appropriateness of the exterior features or buildings in question.

§ 350-15.5 REVIEW CRITERIA

The HDSC shall consider the following when reviewing an application for a certificate of appropriateness.

- A.** The appropriateness of proposed exterior features of buildings, structures and appurtenant fixtures.
- B.** The location on the lot and removal or demolition of any building or structure under their authority.
- C.** The historical architectural value and significance of the structure and its relationship to the historic value of the surrounding area.
- D.** The general compatibility of exterior design, arrangement, texture and materials proposed to be used.
- E.** Any other factor, including aesthetic, which the HDSC deems pertinent.

ARTICLE 16.

SUBDIVISIONS

§ 350-16.1 LEGISLATIVE AUTHORITY

By authority of the City of Geneva City Council, pursuant to NYS General City Law Article 3, Sections 32, 33, and 34, the Planning Board of the City of Geneva is hereby authorized and empowered to review and approve subdivision plats.

§ 350-16.2 PURPOSE

A. Purpose. The purpose of Article is not only to provide for future growth and development, but also maintain and enhance the physical character of the City, its multi-modal transportation network, natural environment, and protect the general health, safety, and welfare of the public. The administration of this law shall be in accordance with the following objectives:

1. Ensuring subdivisions properly provide quality facilities for housing and infrastructure, including all necessary utilities and services;
2. Maintaining proper access and connectivity for pedestrians, bicyclists, and motorists and mitigating the potential negative impacts of increased traffic;
3. Protecting the City's historic character and traditional settlement pattern from suburban development pressures;
4. Employing the application of clustering and land use conservation principles in subdivision proposals;
5. Providing parks and open space in subdivisions for the betterment of resident quality of life and preservation of property values;
6. Promoting the use of green infrastructure and sustainable design practices in subdivision proposals; and
7. Considering the comfort, convenience, safety, health and welfare of the general population as future development opportunities are considered.

B. Intent. It is declared to be the intent of this subdivision law to serve as part of a plan for orderly, efficient and economical development of the City of Geneva. Land(s) to be subdivided shall:

1. Be of such character with respect to layout and size of lots to complement the traditional character of the City and be in harmony with the settlement pattern of neighboring properties;

2. Be of such character with respect to layout and size of lots so that it can be used safely for building purposes without danger to health, or peril of fire, flood, or other menace;
3. Make proper provisions for drainage, water supply, sewage, and other needed improvement and utilities;
4. Include streets of such width, grade, and location as to accommodate prospective traffic, facilitate fire protection, and provide access of emergency equipment to buildings while minimizing disruption to the natural environment;
5. Make proper provisions for leaving natural areas and corridors undeveloped to mitigate the adverse environmental impacts of subdivision, sustain a diverse population of native vegetation and wildlife, protect water resources, and scenic views, and implement the City's policies of protection of its environmental, historic, and economic resources;
6. Conform to the land use and development recommendations within the City of Geneva Comprehensive Plan; and
7. Be in conformance with this Chapter.

§ 350-16.3 REVIEW PROCEDURE

Site plan review under the provisions of this Chapter (Article 13) shall suffice for Planning Board review of subdivisions under Chapter 310 (Subdivision Regulations) of the City of Geneva Code, subject to the following conditions:

- A. The applicant shall prepare sets of subdivision plats suitable for filing with the office of the Ontario County Clerk in addition to site plan review application requirements.
- B. The applicant shall plat the entire development as a subdivision; however, planned unit developments being developed in stages may be platted and filed in the same stages.
- C. Site plan approval under this Article shall constitute final plat approval under Chapter 310 of the City of Geneva Code and provisions of NYS Law.

ARTICLE 17. PLANNED UNIT DEVELOPMENT (PUD) DISTRICTS

§ 350-17.1 PURPOSE

- A. Purpose.** The preservation of the distinctive environmental, and aesthetic character of the City of Geneva is directly related to the economic vitality of the City business districts, stability of property values, appeal of the City as a destination, and the quality of life for Geneva residents. Occasionally on larger projects, conventional use, space, dimensional, and bulk requirements contained in the underlying zoning may not be the best standards to ensure new development achieves the goals states above. It is the purpose of this Article to provide flexible performance standards for zoning districts identified as having the potential for redevelopment and new development, and which are identified in this Article. The intent of these standards is to:
1. Preserve historic resources and protect environmentally sensitive areas and natural features, including Seneca Lake;
 2. Preserve aesthetic community features and important viewsheds;
 3. Ensure a well-connected, multi-modal transportation network;
 4. Ensure new construction and development is compatible in design, scale, and use with the City and surrounding area.
- B. Intent.** The application of the PUD District review process is intended to achieve more creative land use and a higher quality of planning and a higher quality of site planning and design than can be accomplished through conventional zoning regulations.

§ 350-17.2 APPLICABILITY

- A. PUD Approval Required.** Whenever any planned unit development is proposed, before any permits for the erection of permanent buildings in such planned unit development shall be granted and before any subdivision plat or any part thereof may be filed in the office of the Ontario County Clerk, the developer or his authorized agent shall apply for and secure approval of such planned unit development in accordance with the procedures set forth in this Chapter. These procedures shall supersede any inconsistent procedures or regulations set forth elsewhere in the City codes or comprehensive plans.
- B. Eligibility.** To be eligible for the establishment of a PUD District under this Article, applicants must demonstrate the proposed project meets or exceeds two or more of the following criteria:

1. The property under consideration is at least 1 acre in contiguous and area.
2. The project proposes an overall density and/or intensity of use which would not be permitted or required by the underlying zoning while also preserving more open land or providing more amenities to the community.
3. The project proposes a use that is compatible with the surrounding context but is otherwise not permitted by the underlying zoning. In determining compatibility, the reviewing board will consider traffic generation, noise, truck traffic, scale, density, intensity of use, impact to historic resources, viewsheds, aesthetics, and impacts on existing infrastructure.
4. The project preserves natural resources, historic resources, and/or important views to a greater degree than would be possible by the underlying zoning.

C. Relief from Conventional Zoning.

1. For projects deemed eligible, the reviewing board may waive City zoning regulations that would ordinarily apply to a property where the applicant demonstrates relief from said regulations is necessary to meet the purposes described herein.
2. It is not the intent of this Article to arbitrarily dispense with underlying zoning regulations, but rather to grant the minimum relief necessary to achieve the objectives of this Article.

§ 350-17.3 REVIEW PROCEDURES

- A. Pre-Application Conference.** A pre-application conference per Section 350-12.2 is strongly encouraged prior to submitting a PUD application.
- B. Application Processing.** PUD applications shall be submitted, processed, and reviewed in accordance with Article 12 of this Chapter.
- C. Planning Board Review and Recommendation.** The Planning Board shall conduct a review of the PUD application, site plan, and related documents and provide a recommendation of decision to the City Council.
- D. City Council Review and Decision.** Upon receipt of a recommendation from the Planning Board, the City Council shall review and decide upon such application as an amendment, in accordance with Article 18. If the City Council approves the PUD application, the zoning map and text shall be amended and filed accordingly.
- E. Public Hearings.** A public hearing shall be held by the City Council for all PUD applications.
- F. Referrals.** All referrals shall be made in accordance with Section 350-12.5.

§ 350-17.4 APPLICATION REQUIREMENTS

- A. Site Plan.** All PUD applications shall include the required site plan review application materials as noted in Article 13.

B. PUD District. In addition to the required site plan application materials, all PUD applications shall include:

1. Documentation that the applicant's particular mix of land uses meets existing community demands. Documentation may be in the form of specific studies or reports initiated by the applicant or in the form of references to existing studies or reports relevant to the project in question.
2. All interior streets, roads, easements and their planned public or private ownership, as well as all points of access and egress from existing public rights-of-way.
3. Specific definition of all uses, indicating the number of residential units and the density of each residential housing type, as well as the overall project density.
4. The overall water and sanitary sewer system with proposed points of attachment to existing systems, and the proposed stormwater drainage system and its relation to existing systems.
5. Description of the manner in which any areas that are not to become publicly owned are to be maintained, including open space, streets, lighting and others, according to the proposals.
6. If the development is to be phased, a description and graphic representation of the phasing of the entire proposal in terms of length of time, type and number of units or activities completed per phase.
7. A description of any covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings or structures, including proposed easements for public utilities.
8. Documentation as required by the City Council of the applicant's ability to complete the proposed planned unit development. The applicant should be aware that at all subsequent stages, plans must be prepared by professionally competent site planners.

C. Final Site Plan. The final submission of site plan material approved by the Planning Board and forwarded to the City Council for PUD approval shall also contain:

1. The final site plan at a scale of one inch equals 50 feet. Where more than one sheet is required to show the entire development, a key map shall be provided.
2. The lines of existing and proposed streets and sidewalks immediately adjoining and within the PUD.
3. The names of existing and proposed streets.
4. Typical cross sections of proposed streets and sidewalks.
5. Profiles of proposed streets at suitable vertical scale showing finished grades in relation to existing ground elevation.

6. Layouts of proposed lots, including lot numbers and proposed numbering system for buildings.
7. The location and size of any existing and proposed sewers (stormwater and/or sanitary), water mains, and pipes on the property or into which any connection is proposed.
8. Provisions for water supply and sewage disposal and evidence that such provisions have received approval of the Department of Health.
9. Locations of survey monuments.
10. A complete grading and drainage plan showing all existing and proposed contours and elevations and the complete storm drainage plan.
11. A planting plan indicating locations, varieties, and minimum sizes of trees to be planted and of existing trees to be preserved. Existing wooded areas need not be itemized but should be generally described.
12. Brief specifications, or reference to City standards, for all public facilities to be constructed or installed within the PUD.

§ 350-17.5 REVIEW CRITERIA

- A. **Site Plan.** All site plan elements of a PUD application shall be considered as provided by Article 13 of this Chapter.
- B. **Subdivision.** The associated subdivision plat of a PUD application shall be considered as provided by Article 16 of this Chapter.
- C. **Zoning Amendment.** All PUD applications shall also be subject to the review criteria of Article 18 of this Chapter.

§ 350-17.6 APPROVAL NOT GUARANTEED

The fact that an application complies with all of the specific requirements set forth herein shall not be deemed to indicate the proposed development would result in a more efficient and desirable development than could be accomplished by the use of conventional zoning categories or than would result in compatibility with the surrounding development; nor shall such compliance, by itself, be sufficient to require the approval of the site plan or the granting of the zoning amendment to create a PUD District.

§ 350-17.7 STAGING

- A. If the applicant wishes to stage the PUD development, then they may submit only those stages they wish to develop for site plan approval in accordance with the presented staging plan.
- B. Any plan which requires more than 24 months to be completed shall be required to be staged and a staging plan must be developed.

- C. It is the intent of this Article that individual stages of the PUD will have an integrity of use in their own right so that if for any reason the entire PUD would not be completed, those portions of the PUD already constructed will be an asset to the community by themselves. Staging plans must take account of this objective, and developers proposing individual stages that deviate significantly from the overall character of the PUD should present convincing evidence that such a stage is in keeping with this Section.

§ 350-17.8 **AMENDMENTS & MODIFICATIONS**

- A. Except as otherwise may be provided by the Planning Board, all land use activities situated within and in existence on the effective date of a final site plan approval or developed in accordance with an approved project plan as provided herein shall be subject to the issuance of a project plan amendment by the Planning Board in the event of the following:
 - 1. Change in or location of enumerated land uses.
 - 2. Demolition of a principal structure, except where mandated by the CEO in the interest of public safety.
 - 3. Establishment of new streets or other public/common areas.
 - 4. Any changes which may otherwise be regulated by the adoption of controls made specifically applicable to such district, either at its inception or subsequently.
- B. Except as otherwise provided, any modification not addressed above shall be reviewed and approved by the Planning Board prior to the issuance of permits for construction.

ARTICLE 18. AMENDMENTS, APPEALS & VARIANCES

§ 350-18.1 AMENDMENTS & REZONINGS

A. Authority to File.

1. Pursuant to the General City Law and the Geneva City Charter and all applicable provisions of this Chapter, this Chapter may be amended, supplemented and repealed.
2. Amendments to the text or map of this zoning law may be initiated by the City of Geneva City Council, Planning Board, or by a petition by property owners as proved by NYS City Law.

B. Authorized Review Bodies.

1. The Planning Board shall serve in an advisory role to the review of proposed amendments and issue a recommendation of decision to the City Council.
2. The City Council shall review and issue the final decision on all proposed amendments.

C. Public Hearing. A public hearing shall be held by City Council for all proposed amendments.

D. Referrals. All referrals shall be made in accordance with Section 350-12.5.

E. Review Procedure.

1. Each application shall be referred to the Planning Board. The Planning Board shall report its recommendations thereon to City Council, accompanied by a full statement of the reasons for such recommendations.
2. If the Planning Board fails to report within a period of 62 days from the date of receipt of notice or such longer time as may have been agreed upon by it and City Council, the Council may act without such report.
3. After receiving the report of the Planning Board, City Council shall issue a decision on the proposed amendment within 62 days. The Council may also return the application to the Planning Board for further consideration, together with a written explanation of the reasons for doing so.
4. City Council may act by a simple majority vote, except when a valid protest petition has been submitted in accordance with NYS Law. In the case of a

valid protest petition, approval requires a three-fourths vote of the members of City Council.

5. If the City Council approves the amendment, supplement, change or modification to the zoning law, the Zoning Code and Map, as applicable, shall be amended after publication and filing with the City Clerk, County Clerk, and Secretary of State as required by NYS Law.

F. Review Criteria. In reviewing and making decisions on zoning amendments, the reviewing body must consider the following criteria, as applicable:

1. Whether the proposed amendment corrects an error or inconsistency in the zoning law or meets the challenge of a changing condition;
2. Whether the proposed amendment is in substantial conformance with the adopted plans and policies of the municipality;
3. Whether the proposed amendment is in the best interests of the municipality as a whole;
4. Whether public facilities (infrastructure) and services will be adequate to serve development allowed by any requested re-zoning;
5. Whether any re-zoning will substantially harm the public health, safety or general welfare or the value of nearby properties;
6. Whether any re-zoning is compatible with the zoning and use of adjacent property;
7. Whether the property in question is suitable for the uses and development to which it has been restricted under the existing zoning regulations; and
8. Whether the gain, if any, to the public health, safety and general welfare due to denial of the application outweighs that of the hardship imposed upon the landowner, if any, as a result of denial of the application.

§ 350-18.2 APPEALS

- A. Applicability.** Appeals may be made where it is alleged there has been an error in interpretation of any zoning code provisions or in any order, requirement, decision, or determination made by the CEO or other administrative officials under the City Code.
- B. Right to Appeal.** Appeals may be filed by any person aggrieved by an administrative decision of the CEO or other agent duly designated to the administration and enforcement of this Chapter.
- C. Stay Upon Appeal.** An appeal shall stay all proceedings in furtherance of the appealed action, unless the CEO certifies to the ZBA a stay would, in their opinion, cause imminent peril to life or property. Then the proceedings shall not be stayed otherwise than by a restraining order granted by the ZBA or by a court of record on application, to the CEO.

D. Authorized Review Body. Appeals shall be reviewed by the Zoning Board of Appeals (ZBA).

E. Application Processing.

1. Appeal applications shall be submitted, processed, and reviewed in accordance with Article 12 of this Chapter.
2. Appeal applications must be filed within 30 days of the date of the decision being appealed.
3. Every appeal application shall refer to the specific provision of this Chapter involved and shall exactly set forth the interpretation that is claimed.

F. Public Hearing Required.

1. A public hearing shall be held by the ZBA prior to issuing a decision.
2. A motion for the ZBA to hold a rehearing to review any order, decision or determination not previously reheard, may be made by any member of the ZBA. A unanimous vote of all members of the ZBA then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the ZBA may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the ZBA finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

G. Referrals. All referrals shall be made in accordance with Section 350-12.5.

H. Issuance of Decision.

1. In exercising the appeal power, the ZBA has all the powers of the City official or agent from whom the appeal is taken.
2. The ZBA may reverse the appeal or affirm the appeal, in whole or in part, or modify the decision being appealed.
3. In acting on the appeal the ZBA must grant to the decision or action a presumption of correctness, placing the burden of persuasion of error on the appellant.

§ 350-18.3 ARTICLE 78 PROCEEDING

- A.** Any person or persons, jointly or severally aggrieved by any decision of the ZBA or other such review board charged with the administration and enforcement of this Chapter may apply to the NYS Supreme Court for review by a proceeding under Article 78 of the Civil Practice Laws and Rules.
- B.** Such proceeding shall be instituted within 30 days after the filing of the review board's decision in the office of the City Clerk.

- C. Costs shall not be charged to the City unless it shall appear to the Court that it acted in gross negligence or in bad faith or with malice in making its decision.

§ 350-18.4 VARIANCE PROCEDURE

- A. **Applicability.** The Zoning Board of Appeals (ZBA) shall have the power, on appeal from the decision or determination of any administrative official charged with enforcement of this Chapter, to reverse or affirm, wholly or partly, or modify an order, requirement, decision, interpretation, or determination by the granting of either use variances or area variances as authorized by NYS City Law. The variance procedures may not be used to:
 - 1. Waive, modify or otherwise vary any of the review and approval procedures of this Article; or
 - 2. Waive, vary, modify or otherwise override a condition of approval or requirement imposed by another authorized review board or commission.
- B. **Transferability.** Zoning variance approval runs with the land and is not affected by changes of tenancy, ownership, or management.
- C. **Authorized Review Body.** Appeals shall be reviewed by the Zoning Board of Appeals (ZBA).
- D. **Burden of Proof.** The applicant seeking the variance shall have the burden of presenting sufficient evidence to allow the ZBA to reach a conclusion as set forth below as well as the burden of persuasion on those items.
- E. **Application Processing.**
 - 1. Variance applications shall be submitted, processed, and reviewed in accordance with Article 12 of this Chapter.
 - 2. Every variance application shall refer to the specific provision of this Chapter involved and shall exactly set forth the interpretation that is claimed.
- F. **Public Hearing Required.** A public hearing shall be held by the ZBA prior to issuing a decision.
- G. **Referrals.** All referrals shall be made in accordance with Section 350-12.5.

§ 350-18.5 USE VARIANCES

- A. **Authorization.** A use variance authorizes the use of land for a purpose that is otherwise not allowed or prohibited by this Chapter. A finding of unnecessary hardship is required to properly grant a use variance.
- B. **Review Criteria.** The ZBA shall not grant a use variance without the applicant having shown that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, per NYS City Law, the applicant shall demonstrate to the ZBA that for each and every permitted

use under the zoning regulations for the particular district where the property is located the following conditions exist:

1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
2. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
3. The requested use variance, if granted, will not alter the essential character of the neighborhood; and
4. That the alleged hardship has not been self-created.

C. Minimum Variance Allowable. The ZBA, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

§ 350-18.6 AREA VARIANCES

A. Authorization. An area variance authorizes the use of land that is not allowed by the dimensional or physical requirements set forth in this Chapter. An area variance is one that does not involve a use that is otherwise prohibited by this Chapter. A finding of practical difficulty is required to properly grant an area variance.

B. Review Criteria. In making its determination, the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider the following as required by NYS City Law:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
3. Whether the requested area variance is substantial in relation to the requirement;
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
5. Whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.

C. Minimum Variance Allowable. The ZBA, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the

same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

ARTICLE 19.

REVIEW BODIES

§ 350-19.1 CITY COUNCIL

- A. Applicability.** The requirements of this Article are intended to apply solely to the role of the City of Geneva City Council with respect to this Chapter. As such, the City Council shall have full authority to administer and enforce this Chapter.
- B. Staff Appointments and Confirmations.** The City Council may confirm clerks or other employees serving at its pleasure, upon appointment of such by the Mayor. The City Council may also confirm clerks or other employees to serve at the pleasure of the Historic Districts and Structures Commission, Planning Board, or Zoning Board of Appeals upon appointment of such by the Mayor.
- C. Final Decision Authority.** Pursuant to this Chapter and NYS City Law, the City Council is hereby authorized and empowered with final decision authority to approve, approve with modifications or conditions, or deny applications for the following:
 - 1. Amendments to the text and/or map of this Chapter (re-zonings); and
 - 2. Planned Unit Development (PUD) Districts.
- D. Additional Powers.** The City Council shall hold all additional powers and duties provided by the laws, rules, and regulations of New York State and the code and local laws of the City of Geneva.

§ 350-19.2 PLANNING BOARD

- A. Establishment.** Per NYS City Law the Planning Board previously established under local law and still in existence at the time of this Chapter's enactment shall hereby be continued.
- B. Membership and Terms.**
 - 1. The Planning Board shall consist of nine members appointed by the Mayor and approved by the City Council.
 - 2. The terms of the members of the Planning Board shall be three years.
 - 3. Removal of members, alternates, and vacancies shall be addressed as provided for in NYS City Law.
 - 4. The members shall serve without compensation.
- C. Advisory Authority.** Pursuant to this Article and NYS City Law, the Planning Board is hereby authorized and empowered with review and advisory authority for the following actions:

1. Amendments to the text and/or map of this Chapter (re-zonings); and
2. Planned Unit Development (PUD) Districts.

D. Final Decision Authority. Pursuant to this Article and NYS City Law, the Planning Board is hereby authorized and empowered with final decision authority to approve, approve with modifications or conditions, or deny applications for the following:

1. Special use permits;
2. Site plan review;
3. Subdivisions; and
4. Demolition permits.

E. Additional Powers. The Planning Board may exercise additional powers as directed by the City Council, as may be described elsewhere in this Chapter, and as permitted by NYS City Law.

§ 350-19.3 ZONING BOARD OF APPEALS (ZBA)

A. Establishment. Per NYS City Law the Zoning Board of Appeals (ZBA) previously established under local law and still in existence at the time of this Chapter's enactment shall hereby be continued.

B. Membership and Terms.

1. The ZBA shall consist of seven members appointed by the Mayor and approved by the City Council.
2. The terms of the members of the ZBA shall be three years.
3. Removal of members, alternates, and vacancies shall be addressed as provided for in NYS City Law.
4. The members shall serve without compensation.

C. Final Decision Authority. Pursuant to this Article and NYS City Law, the ZBA is hereby authorized and empowered with final decision authority to approve, approve with modifications or conditions, or deny applications for the following:

1. Variances;
2. Appeals; and
3. Code Interpretations.

D. Additional Powers. The ZBA may exercise additional powers as may be described elsewhere in this Chapter and as permitted by NYS City Law.

§ 350-19.4 HISTORIC DISTRICTS & STRUCTURES COMMISSION

A. Creation of Commission. In order to execute the purposes declared in this Article, there is hereby created a commission to be called the "Historic Districts and Structures Commission (HDSC)." The HDSC still in existence as the time of this Chapter's enactment shall hereby be continued.

B. Membership and Terms.

1. The HDSC shall consist of seven members whose residences are located in the City of Geneva, as appointed by the Mayor and approved by City Council.
2. The terms of the members of the HDSC shall be three years.
3. Before making HDSC member appointments, the City Council shall request the Board of Directors of the Geneva Historical Society for recommendations. In no event is the City Council required to accept any recommendations so made to it.
4. A vacancy occurring in the membership of the HDSC for any cause shall be filled by a person appointed and confirmed by the City Council for the unexpired term.
5. The members shall serve without compensation.

C. Procedures and Rules of Commission.

1. The Historic Districts and Structures Commission shall elect from its membership annually a Chairman and Vice-Chairman from its own number.
2. The Chairman shall preside over the Commission and shall have the right to vote. The Vice-Chairman shall, in cases of absence or disability of the Chairman, perform the duties of the Chairman.
3. All Commission members shall have voting rights. The Commission may adopt rules and regulations not inconsistent with the provisions of this Article.
4. The Commission shall adopt rules which shall provide for the time and place of holding regular meetings. It shall provide for the calling of special meetings by the Chairman or by at least three members of the Commission.
5. At least four members of the Commission shall constitute a quorum for the transaction of its business.
6. All meetings of the Commission shall be open to the public, and any person or his duly constituted representative shall be entitled to appear and be heard on any matter before the Commission before it reaches its decision.
7. The Commission shall be furnished with a secretary by the City who shall keep a record of all resolutions, proceedings and actions of the Commission. This shall constitute a record which shall be open to public view. The concurring affirmative vote of four members shall constitute approval of plans before it for

review or for the adoption of any resolution, motion or other action of the Commission.

- D. Final Decision Authority.** Pursuant to this Chapter, the HDSC is hereby authorized and empowered with final decision authority for the following:
 - 1. Certificates of Appropriateness.
- E. Additional Powers.** The HDSC may exercise additional powers as directed by the City Council, as may be described elsewhere in this Chapter, and as permitted by NYS Law.

ARTICLE 20. CODE ENFORCEMENT

§ 350-20.1 CODE ENFORCEMENT OFFICER (CEO)

- A. Enforcement Authority.** This Chapter shall be enforced by the Code Enforcement Officer (CEO) designated in Chapter 22, Enforcement Officers, of the City of Geneva Code.
- B. Permit Issuance.** No building permit or certificate of occupancy shall be issued by the CEO, and no permit or license for any other purpose shall be issued by any other official or employee of the City, if the same would be in conflict with the provisions of this Chapter.
- C. Powers and Duties.** Except as otherwise specifically provided by law, ordinance or regulation, the CEO shall:
1. Administer and enforce all of the provisions of this Chapter.
 2. Receive applications and issue permits for the erection, alteration, removal and demolition of buildings or structures or parts thereof.
 3. Issue all appropriate notices or orders to remove illegal or unauthorized construction or to cease and desist any illegal or unauthorized uses.
 4. Examine the premises for which applications have been received or permits have been issued for the purpose of ensuring compliance with the provisions of this Chapter.
 5. Maintain permanent official records of all transactions and activities concerning the enforcement of this Chapter, including all applications received, permits or certificates issued, fees charged and collected, inspection reports and notices and orders issued.
 6. Submit to the City Council a written annual report and summary of all business conducted by his office.
- D. Stop Orders.** Whenever the CEO has reasonable grounds to believe that work on any building or structure is being prosecuted in violation of the provisions of the applicable building and zoning laws, ordinances or regulations, or not in conformity with the provisions of an application, plans or specifications on the basis of which a building permit was issued, or in an unsafe and dangerous manner, they shall notify the owner of the property, or the owner's agent, or the person performing the work to suspend all work, and any such persons shall forthwith stop such work and suspend all building activities until the stop order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him or by posting the same upon a conspicuous portion of the building under construction and sending a copy of the same by registered mail.

- E. **Right of Entry.** The CEO or any designated subordinate, upon the showing of proper credentials and in the discharge of his duties, may enter any building, structure or premises at any reasonable hour, and no person shall interfere with or prevent such entry.

§ 350-20.2 BUILDING PERMITS

- A. **Building Permit Required.** No person shall commence the erection, construction, enlargement, alteration, removal, improvement, demolition, conversion or change in the nature of the occupancy of any building or structure, or cause the same to be done, without first obtaining a building permit from the CEO.
- B. **Permit Exemptions.** No building permit shall be required for the performance or ordinary repairs or improvements which are not structural in nature or if the total estimated cost including labor is less than \$500. If the work is to be performed by the owner or by another individual without compensation, the reasonable value of such labor shall be included to determine the estimated cost.
- C. **Application Requirements.**
1. Applications shall be made by the owner or lessee, or agent of either, or by the architect, engineer or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner or applicant that the proposed work is authorized by the owner and that the applicant is authorized to make such application.
 2. Application for a building permit shall be made to the CEO on forms provided by his office and shall contain the following information:
 - a) A description of the land on which the proposed work is to be done.
 - b) A statement of the present and proposed use or occupancy of all parts of the land and of the building or structure.
 - c) The valuation of the proposed work.
 - d) The full name and address of the owner and of the applicant and the names and addresses of their responsible officers if any of them are corporations.
 - e) A brief description of the nature of the proposed work.
 - f) A duplicate set of plans and specifications as set forth in Subsection 3 of this Section.
 - g) Such other information as may be reasonably required by the CEO to establish compliance of the proposed work with the requirements of the applicable building and zoning laws, ordinances and regulations.
 - h) An overall plan for proposed landscaping in regard to the site location of the subject structure or building will be required if the landscaping causes the alteration of the existing topography of the land or other

environmental features which would have an impact on neighboring structures or the overall preexisting appearance of the neighborhood.

- i) Where the plans require compliance with the State Environmental Quality Review Act (SEQR), the appropriate proceedings must be completed pursuant to Part 617 of the NYCRR and any other applicable regulations before approval may be granted. It is the applicant's responsibility to assure the requirements of the SEQR process are met.
3. Each application for a building permit shall be accompanied by duplicate copies of plans and specifications, including a plot plan, drawn to scale, showing the location and size of all proposed new construction and all existing structures on the site, the nature and character of the work to be performed and the materials to be incorporated, distance from lot lines, the relationship of structures on adjoining property, widths and grades of adjoining streets, walks and alleys, and, where required by the CEO, details of structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data. Plans and specifications shall bear the signature of the person responsible for the design and drawings.
4. The CEO may waive the requirement for filing plans, and except further that details of structural, mechanical and electrical work, including computations, stress diagrams and other technical data, shall not be required for one- and two-family dwellings when a statement is made that the proposed construction will be in accordance with the provisions and standards of the State Building Construction Code applicable to one- and two-family dwellings.
5. Amendments to the application or to the plans and specifications accompanying the same may be filed at any time prior to the completion of the work, subject to approval of the CEO.

D. Issuance of Building Permit.

1. The CEO shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith. They shall approve or disapprove the application within a reasonable time and subject to all other requirements and procedures of this Chapter and any other ordinance, local law, rule or regulation of the City.
2. Upon approval of the application and upon receipt of the legal fees therefor, they shall issue a building permit to the applicant upon the form prescribed to him and shall affix his signature or cause his signature to be affixed thereto.
3. Upon approval of the application, both sets of plans and specifications shall be endorsed with the word "Approved." One set of such approved plans and specifications shall be retained in the files of the CEO and the other set shall be returned to the applicant together with the building permit and shall be kept at the building site open to inspection by the CEO or his authorized representative at all reasonable times. The building permit shall be posted upon the premises in a conspicuous place so as to be visible from the street throughout the period of construction.

4. If the application, together with the plans, specifications and other documents filed therewith, describes proposed work which does not conform to all of the requirements of the applicable building and zoning regulations, the CEO shall disapprove the same and shall return the plans and specifications to the applicant. Upon the request of the applicant, the CEO shall cause such a refusal, together with the reasons therefor, to be transmitted to the applicant in writing.
- E. Completion of Work.** Work authorized by a building permit must be started within six months after the date of the permit and completed within 12 months of the effective date of the permit. If work is not commenced within six months of the effective date, the permit shall be considered void. If work is not completed within 12 months of the effective date of the building permit, the CEO may allow one six-month extension.
- F. Revocation of Building Permit.** The CEO may revoke a building permit theretofore issued and approved in the following instances:
1. Where they find that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.
 2. Where they find that the building permit was issued in error and should not have been issued in accordance with the applicable law or ordinance.
 3. Where they find that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.
 4. Where the person to whom the building permit has been issued fails or refuses to comply with a stop order issued by the CEO.

§ 350-20.3 CERTIFICATES OF OCCUPANCY

A. Certificate of Occupancy Required.

1. No building hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the CEO, except for single-family dwellings legally established under this Chapter.
2. No change shall be made in the use or type of occupancy of an existing building unless a certificate of occupancy shall have been issued by the CEO.
3. Certificates of occupancy shall be applied for coincident with the application for a building permit, and no building permit shall be issued until application shall have been made for a certificate of occupancy.
4. No building hereafter enlarged, extended, or altered, or upon which work has been performed which required the issuance of a building permit, shall continue to be occupied or used for more than 30 days after the completion of the alteration or work unless a certificate of occupancy shall have been issued by the CEO.

5. Upon transfer of title to a new owner, execution and recording of a mortgage or upon said building becoming vacant, no two-family dwelling, no mixed occupancy containing two or more families and no multiple dwelling shall be occupied in whole or in part until the issuance of a current certificate of occupancy by the CEO certifying that said dwelling conforms to the requirements of the City of Geneva Minimum Housing and/or Multiple Residence Codes. The certificate of occupancy shall also certify that the use of such building conforms to this Chapter. A "current certificate of occupancy," as used in this subsection, shall mean a certificate of occupancy issued within 60 days of the transfer of title to a new owner or the execution and recording of a mortgage.

B. Conditions. The CEO in his discretion may issue a certificate of occupancy with conditions where:

1. The subject dwelling is in compliance with this Chapter;
2. The subject dwelling is near substantial compliance with the codes, ordinances and rules; and
3. The work required to bring the dwelling into full compliance is not essential to making the building habitable.

C. Temporary Certificate of Occupancy. Upon request, the CEO may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the building permit shall have been completed provided such portions as have been completed may be occupied safely without endangering life, property, or the public welfare.

D. Inspection Required.

1. Before issuing a certificate of occupancy, the CEO shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, enlarge, alter, repair, remove, demolish, or change the use or occupancy, and they may conduct such inspections as they deem appropriate from time to time during and upon completion of the work for which a building permit has been issued.
2. There shall be maintained in the office of the CEO a record of all such examinations and inspections together with a record of findings or violations of the law.

E. Issuance of Certificate of Occupancy.

1. When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable building and zoning laws, ordinances and regulations, and also in accordance with the application, plans and specifications filed in connection with the issuance of the building permit, the CEO shall issue a certificate of occupancy upon the form provided by them. If it is found that the proposed work has not been properly completed, the CEO shall refuse to issue a certificate of occupancy and shall order the work completed in conformity with the building permit and in conformity with the applicable building and zoning regulations.

2. The certificate of occupancy shall certify that the work has been completed and that the proposed use and occupancy are in conformity with the provisions of the applicable building laws, ordinances and regulations and shall specify the use or uses and the extent thereof to which the building or structure or its several parts may be put, except that such certificate of occupancy shall not be considered as certification of location of lot boundaries or property division lines.

F. Tests. Whenever there are reasonable grounds to believe that any material, construction, or equipment or the location of a building or structure does not conform to the requirements of the applicable building laws, ordinances or regulations, the CEO may require the same to be subjected to tests and measurements in order to furnish proof of such compliance prior to the issuance of a certificate of occupancy.

§ 350-20.4 NONCONFORMITIES

A. Continuation of Nonconforming Building or Use.

1. Any lawful building, structure or use of premises existing at the time of enactment of this Chapter, or any subsequent amendment thereof applying to such building, structure or use of premises, may be continued although such building, structure or use of premises does not conform to the provisions thereof.
2. Any undeveloped lot in a subdivision which was not properly approved by the Planning Board and/or not filed in the office of the County Clerk and whose area and/or depth is less than the specified minimum lot requirements and average density requirements of this Chapter shall be considered a violation of this Chapter.

B. Discontinuance of Nonconforming Use.

1. Any building or land used for or occupied by a nonconforming use which is changed to or replaced by a conforming use shall not thereafter be used for or occupied by a nonconforming use.
2. If for a continuous period of two years either the nonconforming use of land with minor improvements is discontinued or the active operation of substantially all the nonconforming uses in any building or other structure is discontinued, such land or building or other structure shall thereafter be used only for a conforming use. Intent to resume active operation shall not affect the foregoing. The provisions of this subsection shall not apply if such discontinuance of active operations is directly caused by war, strike or other labor difficulties, a governmental program of materials rationing, or the construction of a duly authorized improvement project by a governmental body or a public utility company.

C. Necessary Maintenance and Repairs. A building or structure of nonconforming use may be repaired or restored to a safe condition. Any such repair or restoration shall be subject to the following provisions:

1. Such repair or restoration shall be permitted only upon the same lot as was in existence on the date the use became nonconforming.
2. Any increase in the volume, area or extent of the nonconforming use shall not be permitted.
3. If a structure has been damaged or destroyed to the extent of more than 75% of its assessed value, repair or reconstruction of the structure shall be prohibited except in compliance with all currently effective zoning regulations, as well as the provisions of the New York State Uniform Fire Prevention and Building Code.
4. Under no circumstances shall "repaired or restored" be construed to include the total demolition and rebuilding of a structure. In such an instance, the provisions of Subsection 3 above shall apply.

D. Extension or Change of Use.

1. A nonconforming use of a building, structure or land or any portion thereof cannot be extended or expanded in any manner; provided, however, that such nonconforming use may be changed to a conforming use.
2. A nonconforming building or structure cannot be increased in size or area except in conformity with the provisions of this Chapter.

E. Existing Undersized Lots.

1. Any lot held in single and separate ownership prior to the adoption of this Chapter and whose area and/or width and/or depth is less than the specified minimum lot requirements of this Chapter for the district may be considered as complying with such minimum lot requirements and no variance shall be required, provided that:
 - a) Such lot does not adjoin any other lot or lots held by the same owner whose aggregate area is equal to or greater than the minimum lot area required for that district.
 - b) Such lot has an area of at least 3,000 square feet and a minimum width of at least 40 feet at the required setback line if it is to be used for residential purposes.
 - c) All other bulk and dimensional requirements for that district are complied with.
2. In any district where residences are permitted, such undersized nonconforming lots may be used for not more than one single-family dwelling.
3. A lot of nonconforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's or owners' property or properties.
4. The front yard of such lot will be considered that yard upon which the primary entrance to the dwelling faces.

5. Any application for a building permit for an existing undersized lot shall be referred to the Zoning Board of Appeals for approval prior to issuance of the building permit.

F. **Reduction in Lot Size.** No lot shall be reduced in area so that it creates a nonconforming bulk or use in violation of any regulations contained in this Chapter.

§ 350-20.5 PENALTIES

All penalties subject to review by City Attorney

A. Penalties for Offenses; Injunction.

1. Any violation of this Chapter, as the case may be, shall be punishable as provided in § 1-17 of Chapter 1, General Provisions, of the City of Geneva Code.
2. Notwithstanding the foregoing and in addition thereto, the City may bring an action for a mandatory injunction to compel compliance with the provisions of this Chapter.

B. Penalties for Failure to Obtain Building Permit.

1. Whenever the CEO has reasonable grounds to believe that work on any building or structure is being performed without a required building permit, they shall notify the owner of the property, or the owner's agent, or the person performing the work, to suspend all work, and any such person shall stop such work and suspend all building activities until submission of the proper application to obtain a building permit.
2. Unless good cause is shown, the CEO shall thereafter be authorized to:
 - a) Double fees as set forth in the fee schedule, with a minimum of \$250 and a maximum of \$1,000 for the following projects:
 - i. Additions.
 - ii. New construction.
 - iii. Adding new apartments to existing buildings.
 - iv. Parking.
 - v. Renovations, for change of use.
 - b) Double fees as set forth in the fee schedule, with a minimum of \$100 and a maximum of \$250:
 - i. Decks.
 - ii. Pools.
 - iii. Fences.
 - iv. Sheds.

- v. Signs.
 - vi. Patios.
 - vii. Basketball, tennis courts.
 - viii. Renovations, no change of use.
3. The above penalties shall be in addition to any building permit applicable as provided above, and shall be paid before any permits issued.

§ 350-20.6 CONSULTANT FEES

- A. Board Consultation.** Any authorized review body, in the review of an application as provided for in this Chapter, may refer any such application presented to them to an engineering, architectural, historical, planning, technical, environmental, or legal consultant, or attorney, as reasonably necessary to enable them to review such application and adequately perform their duties.
- B. Determination of Fee.** The amount of the fee shall be determined by the respective board, in the case of the City Clerk such determination should be made by the City Council, and the professional consultant at the time the application is made. Each of the consultants shall estimate their fees based on the services to be rendered on behalf of the City from a review of the application, including such documents, maps, plans, specifications, drawings and the like as may be a part of the same.
- C. Escrow Deposit.** The consultant will be retained pursuant to the **City Procurement Policy**. The applicant shall make an escrow deposit with the City, equal to the amount of the fees so determined. This escrow deposit shall be utilized to pay the cost of the special consultant's fees involved. The applicant's application shall not be deemed complete until such time as said escrow deposit has been made. If during the course of the review the need for further specialist consultation is deemed reasonably necessary by the Board, the same cost estimate and escrow deposit procedure shall be followed.
- D. Resolution.** Upon completion of said review and within a period of 45 days thereafter, the Board shall adopt a resolution specifying whether the escrow deposit amount specified was sufficient, excessive or insufficient. In the event that a respective Board should determine that said amount is excessive, then the balance shall be returned to the applicant within 60 days. In the event that the Board should determine that the escrow deposit was insufficient, it shall so specify and the applicant shall be required to make payment of such additional amount within 60 days.