



Special City Council Meeting

City Hall Council Chamber
109 James Street
Geneva IL 60134

Monday, October 26, 2020 at 7pm

Visitors are welcome to all City meetings; however, pursuant to Governor Pritzker's Executive Order 2020-61, (limiting gatherings to the lesser of 25 persons or 25% of room occupancy) and a requirement to wear a face covering in public places, physical attendance at public meetings may be limited or restricted.

Meetings will be livestreamed for the public to provide the ability to contemporaneously hear all discussion, testimony and roll call votes of the open meeting in real time. Please visit the City [website](#) for details on how to watch the meeting live.

For more information please see the ["Notice Regarding Meeting and Public Comment Rule Modification Due to COVID-19"](#).

AGENDA

Meetings will be conducted under Robert's Rules of Order. The Mayor or Chair of the meeting will serve as the Parliamentarian. All Council members may at any time seek advice or counsel of the City Attorney as is deemed necessary to interpret, overrule and/or stay any actions by the Aldermen, Mayor or Chair.

1. Call to Order
2. New Business / Public Comment
3. Items of Business
 - a. Consider Ordinance No. 2020-33 Amending Title 10 (Building Regulations), Chapter 4 (Fire Prevention and Life Safety Codes), Section 3 (Fire Prevention Code Amendments), of the Geneva City Code.
4. Adjournment



AGENDA ITEM EXECUTIVE SUMMARY

Agenda Item:	Consider approval of Ordinance Amending Title 10 (Building Regulations) of the Geneva City Code		
Presenter & Title:	Michael K. Antenore, Fire Chief		
Date:	October 26, 2020		
Please Check Appropriate Box:			
<input type="checkbox"/>	Committee of the Whole Meeting	<input type="checkbox"/>	Special Committee of the Whole Meeting
<input type="checkbox"/>	City Council Meeting	<input checked="" type="checkbox"/>	Special City Council Meeting
<input type="checkbox"/>	Public Hearing	<input type="checkbox"/>	Other -
Associated Strategic Plan Goal/Objective: N/A			
Estimated Cost: N/A		Budgeted? <input type="checkbox"/> Yes <input type="checkbox"/> No	Other Funding? <input type="checkbox"/> Yes <input type="checkbox"/> No
If "Other Funding," please explain how the item will be funded: N/A			
Executive Summary:			
<p>On October 1, 2020 the City issued fall and winter COVID-19 outdoor seating guidance for restaurants and bars.</p> <p>On October 21, 2020 Governor Pritzker issued Executive Order 2020-61 instituting public health restrictions and mitigation measures supplementing Phase 4 guidance from the Department of Commerce and Economic Opportunity for indoor and outdoor dining effective October 23, 2020 at 12:01 am. Specifically suspending indoor on-premises consumption for all restaurants and bars.</p> <p>The 2009 International Fire Code (IFC), adopted by reference in section 10-4-1 (Fire Prevention and Life Safety Codes Adopted) of the Geneva City Code and amended in section 10-4-3 (Fire Prevention Code Amendments) of the Geneva City Code was adopted by Ordinance Nos. 2012-14 and 2012-39 in 2012.</p> <p>Amendment 10-4-3: <u>In Section 2403.8.2 Delete Exceptions</u>, deleted the 2009 IFC Section 2403.8.2 Exceptions. This amendment has created situations that restrict where tents can be physically located with respect to buildings and structures.</p> <p>After a thorough review, City Staff is recommending restoring <u>2009 IFC Section 2403.8.2 Exceptions</u> to the adopted fire code. The restored exceptions provides an international standard of fire and life safety with more flexibility when safely locating tents near buildings and structures.</p>			
Attachments: <i>(please list)</i>			
<ul style="list-style-type: none"> • Ordinance No. 2020-33 			
Voting Requirements:			
<p><i>This motion requires 6 affirmative votes for passage.</i></p> <p><i>The Mayor may vote on three occasions: (a) when the vote of the aldermen or trustees has resulted in a tie; (b) when one half of the aldermen or trustees elected have voted in favor of an ordinance, resolution, or motion even though there is no tie votes; or (c) when a vote greater than a majority of the corporate authorities is required by state statute or local ordinance to adopt an ordinance, resolution, or motion.</i></p>			
Recommendation / Suggested Action: <i>(how item should be listed on agenda)</i>			
Approve Ordinance No. 2020-33 Amending Title 10 (Building Regulations), Chapter 4 (Fire Prevention and Life Safety Codes), Section 3 (Fire Prevention Code Amendments), of the Geneva City Code.			

ORDINANCE 2020-33

**AN ORDINANCE (“ORDINANCE”) OF THE CITY OF GENEVA AMENDING IN PART
ORDINANCE NOS. 2012-14 AND 2012-39 AND CITY CODE TITLE 10 (BUILDING
REGULATIONS) CHAPTER 4 (FIRE PREVENTION AND LIFE SAFETY CODES
ADOPTED) SECTION 3 (FIRE PREVENTION CODE AMENDMENTS)**

PREAMBLE

Ill. Const. art. VII, § 7 provides in part:

...[M]unicipalities which are not home rule units shall have only powers granted to them by law and the powers (1) to make local improvements by special assessment and to exercise this power jointly with other counties and municipalities, and other classes of units of local government having that power on the effective date of this Constitution unless that power is subsequently denied by law to any such other units of local government; (2) by referendum, to adopt, alter or repeal their forms of government provided by law; (3) in the case of municipalities, to provide by referendum for their officers, manner of selection and terms of office; (4) in the case of counties, to provide for their officers, manner of selection and terms of office as provided in Section 4 of this Article; (5) to incur debt except as limited by law and except that debt payable from ad valorem property tax receipts shall mature within 40 years from the time it is incurred; and (6) to levy or impose additional taxes upon areas within their boundaries in the manner provided by law for the provision of special services to those areas and for the payment of debt incurred in order to provide those special services.

65 ILCS 5/11-8-2 provides:

The corporate authorities of each municipality may prevent the dangerous construction, installation and condition of chimneys, fireplaces, hearths, stoves, furnaces, pipes, ovens, boilers, fuel conduits, electric wiring and any other fire or heating apparatus used in and about any building, structure or camp accommodating persons in house trailers, house cars, and, if such enumerated are in a dangerous condition may cause them to be removed or placed in a safe condition. The corporate authorities also may cause all buildings and enclosures which are in a dangerous fire condition to be put in a safe fire condition, may regulate and prevent the carrying on of factories that are dangerous in causing or promoting fires, and may prevent the deposit of ashes in places that create a fire hazard.

65 ILCS 5/11-8-4 provides:

The corporate authorities of each municipality may regulate and prevent the storage of turpentine, tar, pitch, resin, hemp, cotton, gunpowder, nitroglycerine, petroleum, or any of their products, and other similar combustible or explosive materials; may regulate and prevent the use of lights and combustible liquids in buildings, and the building of bonfires; and may regulate and prevent the use of firecrackers, torpedoes, and all sorts of fireworks provided that such regulation or prohibition is consistent with the provisions of the following acts as such acts are heretofore and hereafter amended: “The Fireworks

Regulation Act of Illinois” and “An Act to prohibit the sale, offering or exposing for sale of fireworks; defining fireworks and to regulate the manner of using fireworks, and to provide penalties for the violation of the provisions of the Act,” approved July 1, 1941.

65 ILCS 5/11-30-4 provides in part:

The corporate authorities of each municipality may prescribe the strength and manner of constructing buildings, structures, and their accessories....

65 ILCS 5/1-3-2 provides:

A municipality may adopt by reference, as criteria for the issuance of construction, reconstruction, alteration, or installation permits, all or part of the provisions of regulations without setting forth those provisions in full if at least one copy of those regulations is filed in the office of the clerk of the municipality and is kept available for public use, inspection, and examination. A municipality may likewise adopt by reference the provisions of public records if at least 3 copies of the public record are filed with and kept on file in the office of the clerk of the municipality as provided for regulations. The filing requirement is not deemed to be complied with unless the required copy of the regulations or copies of the public record are filed with the clerk of the municipality for a period of 30 days before the adoption of the ordinance that incorporates the regulations or public record by reference. Regulations or a public record of a jurisdiction other than the State of Illinois may not be adopted by reference covering any subject matter for which standards are available in any public record of the State of Illinois.

65 ILCS 5/1-3-1 provides:

As used in the text of this Division 3, the following terms shall have the meanings indicated as follows, unless the context otherwise requires:

(a) “**Municipality**” means any city, village or incorporated town having power to legislate on the subject matters mentioned in this Code;

(b) “**Regulations**” means any published compilation of rules and regulations which have been prepared by nationally recognized technical trade or service associations and shall include specifically, building codes; plumbing codes; electrical wiring codes; fire prevention codes; codes for the slaughtering, processing, and selling of meats and meat products for human consumption; codes for the production, pasteurizing and sale of milk and milk products;

(c) “**Public record**” means any municipal, state, or federal statute, rule, or regulation and any ordinance or resolution of the county in which the municipality is located, adopted prior to the exercise by any municipality of the authority to incorporate by reference herein granted; however, this definition shall not include the municipal ordinances, rules or regulations of any municipality except those of the municipality which is exercising the

right to incorporate by reference, nor shall this definition include the state laws, rules, or regulations of any state other than the State of Illinois;

(d) “**Published**” means printed, lithographed, multigraphed, mimeographed, or otherwise reproduced.

65 ILCS 5/1-2-3.1 provides in part:

Beginning on the effective date of this amendatory Act of the 92nd General Assembly, any municipality with a population of less than 1,000,000 adopting a new building code or amending an existing building code must, at least 30 days before adopting the code or amendment, provide an identification of the code, by title and edition, or the amendment for identification under Section 10.18 of the Capital Development Board Act.

For the purposes of this Section, “building code” means any ordinance, resolution, law, housing or building code, or zoning ordinance that establishes construction related activities applicable to structures in the municipality.

20 ILCS 3105/10.18 provides:

All municipalities with a population of less than 1,000,000 or a county adopting a new building code or amending an existing building code must, at least 30 days before adopting the code or amendment, provide an identification of the code, by title and edition, or the amendment to the Capital Development Board. The Capital Development Board must identify the proposed code, by the title and edition, and note if any amendments were made to the public on the Capital Development Board website.

For the purposes of this Section, “building code” means a model building code regulating the construction and maintenance of structures within the municipality or county.

65 ILCS 5/1-2-4 provides in part:

All ordinances of cities, villages and incorporated towns imposing any fine, penalty, imprisonment, or forfeiture, or making any appropriation, shall (1) be printed or published in book or pamphlet form, published by authority of the corporate authorities, or (2) be published at least once, within 30 days after passage, in one or more newspapers published in the municipality, or if no newspaper is published therein, then in one or more newspapers with a general circulation within the municipality.... However, ordinances establishing rules and regulations for the construction of buildings or any part thereof, ..., where such rules and regulations have been previously printed in book or pamphlet form, may by their terms provide for the adoption of such rules and regulations or portions thereof by reference thereto without further printing, or publication, if not less than one copy of such rules and regulations in book or pamphlet form has been filed in the office of the clerk of the municipality for use and examination by the public at least 30 days prior to the adoption thereof.

On March 5, 2012, the City Council adopted Ordinance No. 2012-14 incorporating by reference the 2009 edition of the International Fire Code (“**2009 International Fire Code**”) as provided in City Code Section 10-4-1. 2009 International Fire Code, Section 2403.8.2, including its exceptions states:

2403.8.2. Location.

Tents or membrane structures shall not be located within 20 feet (6096 mm) of *lot lines*, buildings, other tents or membrane structures, parked vehicles or internal combustion engines. For the purpose of determining required distances, support ropes and guy wires shall be considered as part of the temporary membrane structure or tent.

Exceptions:

1. Separation distance between membrane structures and tents not used for cooking is not required where the aggregate floor area does not exceed 15,000 square feet (1394 m²).
2. Membrane structures or tents need not be separated from buildings when all of the following conditions are met:
 - 2.1. The aggregate floor area of the membrane structure or tent shall not exceed 10,000 square feet (929 m²).
 - 2.2. The aggregate floor area of the building and membrane structure or tent shall not exceed the allowable floor area including increases as indicated in the *International Building Code*.
 - 2.3. Required *means of egress* are provided for both the building and the membrane structure or tent including travel distances.
 - 2.4. Fire apparatus access roads are provided in accordance with [Section 503](#).

On March 5, 2012, the City Council adopted Ordinance No. 2012-14 and on November 5, 2012 the City Council adopted Ordinance No. 2012-39, which together established certain local amendments to the 2009 International Fire Code. These amendments are stated in City Code Section 10-4-3, Fire Prevention Code Amendments. One of the amendments stated City Code Section 10-4-3 provides, “In Section 2403.8.2 Delete Exceptions.” If adopted this Ordinance amends Ordinance Nos. 2012-14 and 2012-39 and City Code Section 10-4-3 in part to eliminate this amendment to the 2009 International Fire Code.

This Ordinance seeks to eliminate a local amendment to the 2009 International Fire Code. It does not incorporate by reference: (i) a regulation or public record; or (ii) an amendment to a regulation or public record. Also, this Ordinance does not amend a model building code regulating the construction and maintenance of structures within the City. For these reasons, this Ordinance was not required to be filed with the City Clerk or the Illinois Capital Development Board 30 days in advance of its consideration by the City Council. Nevertheless, the 2009 International Fire Code, including the Section 2403.8.2 exceptions have been on file with the City Clerk since at least

March 2012 (i.e., for more than 30 days in advance of the City Council’s consideration of this Ordinance).

65 ILCS 5/3.1-40-40 provides in part:

The passage of all ordinances for whatever purpose, shall require the concurrence of a majority of all members then holding office on the city council, including the mayor, unless otherwise expressly provided by this Code or any other Act governing the passage of any ordinance....

Accordingly, six affirmative votes are required to adopt this Ordinance.

ORDAINING CLAUSE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GENEVA, KANE COUNTY, ILLINOIS:

SECTION 1: That Ordinance Nos. 2012-14, 3-5-2012; and Ord. No 2012-39, 11-4-2012 of the City of Geneva adopting City of Geneva City Code Section 10-4-3, Fire Prevention Code Amendments, are hereby amended in part to delete the following text:

In Section 2403.8.2 Delete Exceptions

Except as otherwise specifically provided by this Ordinance, Title 10 (Building Regulations) of the City of Geneva City Code and Ordinance Nos. 2012-14, 3-5-2012 and Ord. No 2012-39, 11-4-2012 of the City of Geneva adopting City of Geneva City Code Section 10-4-3, Fire Prevention Code Amendments, remain in full force and effect.

SECTION 2: That if any section, subsection, sentences, clauses or phrase of this ordinance is, for any reason, held to be unconstitutional, void, or otherwise invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this Ordinance. The city council and the mayor hereby declare that they would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional, void, or otherwise invalid or unenforceable.

SECTION 3: That nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court or before any administrative body, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed by this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

SECTION 4: This Ordinance is effective from and after its passage as in accordance with law. Consent is hereby given for publication of this ordinance in pamphlet form.

PASSED by the City Council of the City of Geneva, Kane County, Illinois, this _____ day of _____ 2020.

AYES: _____ NAYS: _____ ABSENT: _____ ABSTAINING: _____ HOLDING OFFICE: _____

APPROVED by me as Mayor of the City of Geneva, Kane County, Illinois, this _____ day of _____ 2020.

Mayor

ATTEST:

City Clerk