

**Town of Geneva  
Planning Board  
May 25, 2022  
DRAFT**

Present: Mary Ann Bell, Robert Gringeri, Eric Reuscher, Kenneth Nardozzi, Gary Johnson, Jeff Trickler

Staff: Floyd Kofahl, Code Enforcement Officer, Amy Naegele, Clerk of the Board

Others Present: 7 members of the public

Chair Mary Ann Bell called to order at 7:00 pm.

**Review of Proposed Local Law 4-2022**

The Town Board is holding a special meeting on May 26, 2022 where they will conduct the Public Hearing for this Local Law. A copy of the proposed law is attached at the end of these minutes.

Floyd gave an overview to the Board. He explained that the Town Board introduced Local Law No. 3 in February. Local Law No. 3 would change the definition of agricultural commerce and agricultural tourism. When they held the Public Hearing and the public expressed their concerns, Local Law No. 3 was held over. The Town Board decided to address a lot of the concerns that the public had with the creation of Local Law No. 4. Local Law No. 4 would change code section 165 to address agricultural commerce and agricultural tourism and give requirements for allowing events. It outlines that events for agricultural commerce and agricultural tourism shall be between 7 am and 10 pm and shall be strictly controlled and not open to customers between the hours of 10 pm and 7 am. The noise level is also not to exceed 75 decibels, including traffic related noises, live music, and electronically reproduced noise. Also, when the property where the events will take place abuts a residential parcel or a residence, there shall be a vegetative buffer area conforming to the standards set forth in section 165-40. Floyd explained that this section is used by the Planning Board during site plan approval and references the Town Design Standards. No more than 3 events will be allowed per week. Mary Ann asked for clarification on a week and Floyd explained that it would be Sunday to Saturday. Also, where the business holding the event is regulated by the New York State Liquor Authority, attendance shall be limited to the occupancy permitted under the New York State Uniform Fire Prevention and Building Code for the areas, including any outside areas, permitted under the license issued by the State Liquor Authority for serving alcoholic beverages. Floyd explained that the wineries and breweries are approved for outdoor serving by the Liquor Authority and it is a limited area. That area will be used to determine the maximum number of people that they can have at an event. Robert Gringeri asked if that would be indoors and outdoors. Floyd confirmed that yes, it would be both. The proposed law also includes penalties for offense, which have been increased to \$500 per day, which will be automatic if there are any violations. Floyd explained that the Town Board has asked the Planning Board to review the proposed law and provide any comments they may have.

Ken Nardozzi asked about tents. Floyd explained that tents are allowed but do require a permit and are governed by the code. He explained that in the overlay district it could be part of

their approval, such as Big aLICE. Ken asked if a tent would be for a specific event or could be up for the season. Floyd confirmed that it would be possible for a tent to remain up but would have to meet code requirements. He added that this would not allow a business to exceed their internal occupancy outside of an event.

Robert Gringeri asked if a business would have to get a permit for every event. Floyd explained that no, they would come back to the Planning Board for a modification to their site plan. If they are in the Overlay District they can be approved for specifically defined events and get an operating permit for the year. Mary Ann confirmed with Floyd that the process for the operating permits goes through him.

Ken asked about the occupancy for an event. Floyd explained that the occupancy would be whatever the internal occupancy is and the Liquor Authority area outside occupancy combined. He added that they would still need to have adequate parking and bathroom facilities. Mary Ann commented that they will need to come back in for a modification for more parking. Floyd commented that he would expect them to ask for more parking when they come in for their modification to have events.

Eric Reuscher commented that he thinks this law would supersede having any of the individual businesses come back in to ask for a modification to their site plan approval. He added that would just be a waste of time as the law is defining everything that the town is allowing them to do. He questioned why they would have to come back in and hold up their businesses during the busiest time of the year, adding that we are here to support businesses. He asked Floyd if every winery and brewery would then be coming back in for a site plan review. Floyd answered that if they are going to exceed their internal occupancy and use the outside for an event then yes. Eric commented that he would like a lawyer to look at the law and see if it supersedes having everyone come back in. Floyd commented that he knows the Overlay District talks about it in the code. Robert asked about Ardennes and confirmed that it is not in the Overlay District. Floyd confirmed that whether or not the law will supersede the need to come in for site plan modification will need to be asked. There was further discussion on this. Eric explained his position that, if approved by the Town Board tomorrow night, the new law would allow events and the wineries and breweries would not be in violation if they held an event. Floyd explained that it is his belief that they already have approvals and because those approvals did not include considerations for events, they would need to come back.

Robert asked about the fines. He brought up the approval from August 26, 2020 for Ardennes. He explained that the conditions were that there would be no events at the location, the exterior lights would go out after closing, there would be no exterior music played, there would be no reservations made for food service, and all comments in MRB's letter would be met. He explained that he knows Ardennes has been advertising food and events on their website. Floyd explained that the food part was originally because of the state requirements during Covid. There was a discussion regarding the fact that the governor had stated that this was supposed to be substantial food, not just snacks. When that ended, Floyd spoke with the town attorney and because everything is pairings, it is allowed.

Eric commented that he knows Big Alice was not approved to have live music but he has a letter from Dennis Buchholz stating that Big Alice has music playing all the time. He explained that the letter states the code enforcement officer was called and it is still going on. Eric asked why this hasn't been brought to the Planning Board's attention. Floyd explained that code violations do not come back to the Planning Board but the issue with the music is that because the Town Board is currently working on changing the code, he cannot do anything other than

inform the owners that they are in violation. Once the Town Board decides one way or another, the issues can be dealt with. Eric commented that the code change has been in the works since February but according to the letter, the music had been a problem last fall and summer. Floyd explained that there had been visits to the business but confirmed that no violations had been issued.

Mary Ann brought the conversation back to the food being served at Ardennes. Floyd explained that they are serving food as pairings with their beers which is allowed. Mary Ann asked for confirmation that this is not an event. Floyd confirmed that no, it is not an event. An event would be someone renting the space or the owners inviting more than their occupancy there for something. Floyd explained that if a winery is holding something and it does not exceed their internal occupancy it is not an event. An event kicks in as soon as the occupancy is exceeded. Mary Ann asked if Floyd would be tasked with going to these events and counting people. There was discussion on this and Floyd explained that yes, if there was a concern he would go out to check. There was further discussion on how the outside occupancy will be determined. Floyd explained that the wineries and breweries have an area outside that has been approved by the Liquor Authority. The square footage of this area will be divided by 15, which is state code, and this will give the outdoor occupancy. The outdoor occupancy plus the indoor occupancy is the maximum number that will be allowed for any event.

Robert asked about noise complaints. Floyd explained that he has a meter that he can use to measure the noise levels. Gary Johnson asked if there had been any noise complaints in the Lakeview Overlay District. Floyd explained that he has only had one noise complaint and it was addressed.

Jeff Trickler asked if the enforcement would be complaint driven or if there would be spot checks. Floyd explained that it is mostly complaint driven. Jeff expressed concern over the number of businesses that could potentially be having an event on the same night and the number of violations that there could be. Floyd explained that the Sheriff has offered to provide assistance if an event needed to be shut down.

Gary asked about the vegetative buffer listed as a requirement in section 2 for properties with residences as adjacent properties. He asked about residences across the road and Floyd explained that this is considered adjacent and the vegetative buffer would be required. Gary commented that if a business is required to plant a 15 ft wide buffer, the trees will eventually grow and hide the business. He cannot see businesses doing that. Floyd explained that if they do not, then they will not be able to have events.

Robert asked when they would lose their permit if they are in violation. Floyd explained that if there are 3 violations within a 30-day period, then their certificate of occupancy would be pulled. After that, it would go to court. Ken asked if Floyd had the authority to notify the Liquor Authority if they are in violation. Floyd explained that the Town Board would be able to do that. Jeff asked if any of this had been discussed with the judges regarding enforcement. Floyd explained that no, it had only been discussed with the town attorney. There was a discussion regarding the fine amount and the Town's ability to set the amount and the classification.

Robert asked if it would make sense to have different stipulations for places that are not part of the Lakeview Overlay District. He explained that the Overlay District is considered more of a commercial district. The wineries and breweries outside of that district should have different regulations. They are in the ag tourism business, but not in a commercial area. He commented on the old code allowing for farm tours, hayrides, and petting zoos. He explained that events, parties, and loud music do not seem as consistent with the agricultural theme. He thinks there

should be a separate code for the businesses in the Overlay District. He spoke of past events, before the creation of the Overlay District, when someone wanted to put condos on a lot near his, both being residential lots. The condos were not approved. Once the Overlay District was created it became a commercial corridor. He explained how residents outside of the Overlay District should have a little more protection. If there are residents in the area, they are in the country because they don't want to be in the city and do not want all of the nonsense. He would think there should be additional regulations for areas outside of the Overlay District.

Eric asked if there had been any problems at Ardennes up to this point. Floyd explained that there is an ongoing discussion regarding the inconsistencies with shutting off the lights. He gave an example of them being closed for a holiday and the lights still coming on. Eric asked if the lights were on a timer and Floyd confirmed that they are supposed to be but he does not think they were. Eric asked if there were any other violations. Floyd explained that there was one violation for an event. Eric commented that all of this is just based on what future events they are going to have and the predicted mayhem. Mary Ann asked if most of this is about Ardennes. Floyd explained that he does not think so and gave Big aLICE as an example and how the Town needs a code that works to get them under control.

Mary Ann stated that she is sorry that they have put so much money into the project (Ardennes) and they don't feel like they are getting enough out but is disappointed that they did not just come in and ask for an event center. Floyd added that this would have had to gone to the Town Board for a PUD but that they did agree that they would not do events. Mary Ann asked for clarification of whether or not Ardennes would have to come back in for approval before having events. Floyd confirmed that this is something that will be asked. Mary Ann added that if they wanted more parking, they would have to come back in for that. Eric added that the Planning Board doesn't know how much parking or how large of events they may want. He asked if anyone had sat down with them and asked what they are looking to do. He added that if the law is passed and something happens, then a violation will be issued and the owners will be fined. He added that Covid crushed these businesses and they are scraping together to make things work. He voiced his opinion that the law is trying to help businesses. He talked about how long the property had sat abandoned and explained that someone else could have bought it and potentially put animals on the property. He talked about the amount of money that the owners have put into the project and how they are trying to make a business work. Robert added that he does not disagree, with the exception that, if it is not zoned for that type of business then it doesn't matter what a great opportunity it is unless you can get an exemption from the Zoning Board allowing for the use of a commercial business in an area not zoned for it. He explained that they could have purchased property in a zone that allows for it, acknowledging that it would not look the same. He reiterated that he thinks there should be some exemptions if they are going to allow it in a district other than the Overlay. Eric explained that he thinks that the proposed law goes a long way in the right direction and added that it is a working, malleable document. It can be changed in the future. Robert added that Bellwood Farms was a sheep farm. If not approved as a brewery, a farmer could have come in and put 600 sheep in there. That would not be a pleasant thing and would be 24/7. He added that the Planning Board should be trying to make it easier for the people coming and investing in the town but also thinks it is important to be considerate of the people who live there.

Mary Ann commented to Floyd that this will add more work for him and Floyd explained that the law does give more definition to what they can and cannot do. He added that the penalty is also substantially more.

A member of the public provided a letter to Mary Ann, explaining that it was from Mark Venuti to her and Floyd regarding the food at Ardennes. Robert asked about the state guidelines for food during Covid and Floyd explained that those requirements are no longer in effect.

Eric brought attention to a letter dropped off to his house prior to the meeting. In it there were questions for the Town Board. He explained the second question had been addressed and then read question 1, which was regarding the time limit required for submissions to the Ontario County Planning Board. Eric explained that the County Planning Board can decide to accept late submissions and that was the case here.

Ken asked Floyd if he has issued a lot of violations and/or fines during his time with the town. Floyd explained that there have not been a lot. He confirmed that businesses are usually very easy to work with in the town and willing to comply once provided with the code.

There was a short discussion among the board members. Floyd confirmed that the Public Hearing will be held tomorrow and the Planning Board comments will be provided to the Town Board.

Motion made by Ken Nardoizzi to adjourn the meeting. 2<sup>nd</sup> by Robert Gringeri. All in favor, motion carried at 7:45.

**FILING LOCAL LAW**

New York State Department of State  
Division of Corporations, State Records and Uniform Commercial Code  
One Commerce Plaza, 99 Washington Avenue  
Albany, NY 12231-0001

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**(Use this form to file a local law with the Secretary of State)**

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  
City  
**Town of Geneva**  
Village

Local Law No. 4 of the year **2022**.

A local law **"Amending Chapter 165 (Zoning) of the Code of the Town of Geneva and the Penalty Provisions Applicable to Chapter 165"**

(Insert Title)

Be it enacted by the **Town Board** (Name of Legislative Body)

County  
City  
**Town of Geneva** as follows:  
Village

Section 1. Subsections (1) and (2) of paragraph D. of section 165-15 of the Zoning Code of the Town of Geneva are hereby amended to read as follows:

- (1) Agricultural commerce in compliance with §165-15 I;
- (2) Agricultural tourism in compliance with §165-15 I;

Section 2. Section 165-15 of the Zoning Code of the Town of Geneva is hereby amended with the insertion of a new paragraph I to read as follows:

I. Additional requirements for Agricultural Commerce and Agricultural Tourism

- (1) The hours of operation for Agricultural Commerce and Agricultural Tourism events shall be between 7:00 a.m. and 10:00 p.m. and shall be strictly controlled, i.e., not open to customers between the hours of 10:00 p.m. and 7:00 a.m., which shall be referred to herein as "hours of prohibited operation." The business may be open for preparation and cleanup during the hours of prohibited operation.
- (2) Events shall be operated in a manner that maintains a reasonable noise level. Any noise levels exceeding 75 decibels, including traffic-related noises or electronically amplified live music or electronically reproduced noise, that project beyond the property line are prohibited.
- (3) Where the property on which Agricultural Commerce or Agricultural Tourism events will take place abuts a residential parcel or a residence, there shall be a vegetated buffer area conforming to the standards set forth in section 165-40, not less than 15 feet in width, planted with trees and shrubs

spaced in a manner that will result in a continuous visual screen along the property boundary abutting the residential parcel or residence.

(4) No more than three events per week are allowed if the event is outside or the attendance is expected to or does exceed the interior permitted occupancy of the building or buildings housing the event.

(5) Where the business holding the event is regulated by the New York State Liquor Authority, attendance shall be limited to the occupancy permitted under the New York State Uniform Fire Prevention and Building Code for the areas, including any outside areas, permitted under the license issued by the State Liquor Authority for serving alcoholic beverages.

Section 3. Section 165-85 of the Zoning Code of the Town of Geneva is hereby repealed and a new section 165-85 is hereby inserted in its place to read as follows:

§165-85 Penalties for offenses.

The failure to comply with the requirements of this article or the conditions of site plan approval imposed by the Town Planning Board shall be considered a violation of Town Law for each day that the property owner or owners remain in noncompliance and shall be punishable, upon conviction, as provided in Chapter 1, General Provisions, Article III.

Section 4. Paragraph A. of section 1-16 (Penalties for offenses) of Article III (General Penalty) of Chapter 1 (General Provisions) of the Code of the Town of Geneva is hereby repealed and a new paragraph A is hereby inserted in its place to read as follows:

A. Unless otherwise specifically provided, the violation of any law, ordinance, rule, regulation or any specific provision or provisions thereof adopted by the Town Board as a part of this Code, or a violation of any condition imposed by the Town Planning Board or Town Zoning Board of Appeals under this Code, shall be deemed an offense against such law, ordinance, rule, regulation or provision thereof, punishable by a fine not to exceed \$500.

Section 5. If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 6. This local law shall take effect immediately upon filing with the Secretary of State.