

ORDINANCE NO. 2020-2

WATER UTILITY ORDINANCE

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF GENEVA, INDIANA
AMENDING AND RESTATING CHAPTER 52 OF THE GENEVA TOWN CODE INCLUDING
PROVISIONS REGARDING THE USE OF AND SERVICES RENDERED BY THE
WATERWORKS SYSTEM OF THE TOWN OF GENEVA AND CHARGES THEREFOR

WHEREAS, the Board of Trustees of the Town of Geneva has determined that there is a need to amend policies and procedures regarding issues that occur from time to time regarding the Water Utility System of the Town of Geneva, such issues dealing with property that is served by said Utility that is occupied by someone other than the owner of the property in light of the passage of Indiana House Enrolled Act No. 1165, amending IC 8-1.5-3-8(j) and (k); and

WHEREAS, this amendment shall not amend Ordinance No. 2020-1 which temporarily amended Chapter 52 of the Geneva Town Code regarding the collection of charges and penalties for late payment thereof due to the COVID-19 Public Health Disaster Emergency Declared by the Governor of the State of Indiana, which said temporary amendment to Chapter 52 shall automatically terminate on the date upon which the Governor of the State of Indiana lifts the restriction set forth in Executive Order 20-05 prohibiting discontinuance of services for non-payment or less than full payment of utility charges, at which time, the provisions set forth in this Ordinance No. 2020-3 as to §55.13(C) and (D) shall become effective; and

WHEREAS, the Board of Trustees believes that a complete restatement of Chapter 52 of the Geneva Town Code will better organize the provisions of the Code for better access, examination and analysis by the Town, its employees and citizens; and

WHEREAS, the Board of Trustees is not making any increase in the rates and charges in this Ordinance that would require a public hearing thereon.

NOW THEREFORE, BE IT RESOLVED AND ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF GENEVA, INDIANA THAT ORDINANCES CHAPTER 52 OF THE GENEVA TOWN CODE BE AMENDED AND RESTATED IN ITS ENTIRETY AS FOLLOWS:

Section 52.01 Water Usage, Customer Responsibility, Billing and Procedures.

- (A) There shall be and hereby are established for the use of and the service rendered by the Waterworks System of the Town of Geneva, procedures, rates and charges wherein the users of the utilities of each and every lot, parcel of real estate, or building that is connected to the Waterworks System shall be responsible for payment thereof. All rates, charges, and other fees for services rendered by the Town water utility for use by a person occupying the property other than the owner

are payable by the person occupying the property if the account or other customer or billing records maintained by the Town for the property indicate that 1) the property is occupied by someone other than the owner; and 2) the person occupying the property is responsible for paying the rates, charges and fees assessed for the services rendered by the Town water utility with respect to the property. Rates, charges, and fees assessed for serviced rendered by the Town water utility with respect to property occupied by someone other than the owner of the property do not constitute a lien against said property.

- (B) The following rates and charges shall be based upon the amount of water supplied during each monthly billing period.

Section 52.02 Deposit.

- (A) Upon applying for water utility service from the Town for a residence, an applicant, whether an owner, tenant or contract purchaser, shall pay to the Clerk-Treasurer a deposit in the sum of \$200.00, which sum shall be utilized by the Town to ensure payment by the person occupying the property of the rates, charges and fees assessed for the services rendered by the Town water utility with the respect to the property.
- (B) The Town shall maintain a record of each applicant or customer making a deposit that includes the following:
 - (1) The name of the customer.
 - (2) The current address of the customer so long as said customer maintains an active account with the utility in his or her name.
 - (3) The name of the owner or manager of the property.
 - (4) The current address of the property.
 - (5) The amount of deposit.
 - (6) The date the deposit was made.
 - (7) A record of each transaction affecting said deposit.
- (C) Each customer shall be provided with a receipt from the Town at the time the deposit is paid. The Town shall provide a reasonable method by which a customer who is unable to locate the receipt may establish that he or she is entitled to a refund of said deposit.
- (D) If a customer pays the deposit by check and the check is returned for insufficient

funds, then the customer shall be assessed the returned check fee set forth under IC 35-43-5-5 or any subsequent statute which addresses returned check fees.

- (E) Any deposit will be refunded promptly upon successful termination of utility services between the customer and the Town. The procedure following a customer request for termination of service is as follows:
- (1) The Town shall require payment of any past due balance currently invoiced and owed for said water utility.
 - (2) The Town may apply or otherwise credit all or part of said deposit to the final invoicing for unpaid rates, charges and fees assessed to the water utility customer. The use of all or part of said deposit toward said unpaid rates, charges and fees shall not prohibit the Town from taking further actions under §§52.10 through 52.13 herein.
 - (3) Any portion of the deposit remaining after the credit set forth in paragraph 2 above shall be forwarded to the customer. Water utility deposits shall only be released to a third party upon written agreement between the owner of the deposit and the third party being presented to the Town.
- (G) Unclaimed Deposits: Any deposit made by the applicant, customer or any other person to the Town for the water utility (less any lawful deductions therefrom), or any sum the Town is ordered to refund for utility service that has remained unclaimed for seven (7) years after the utility has made diligent effort to locate the person who made such deposit, shall be presumed abandoned and shall be transferred to the office of the Indiana Attorney General pursuant to IC 32-34-1.

Section 52.03 Metered Rates.

<u>Usage Per Month</u>			<u>Charge Per 1,000 Gallons</u>				
			<u>2018</u> (Effective 1/1/2018)	<u>2019</u> (Effective 1/1/2019)	<u>2020</u> (Effective 1/1/2020)	<u>2021</u> (Effective 1/1/2021)	<u>2022</u> (Effective 1/1/2022)
First	3,333	Gallons	\$7.25	\$7.76	\$7.99	\$8.23	\$8.48
Next	6,667	Gallons	6.16	6.59	6.79	6.99	7.20
Next	4,000	Gallons	5.56	5.95	6.13	6.31	6.50
Next	19,000	Gallons	4.94	5.29	5.45	5.61	5.78
Next	33,000	Gallons	4.32	4.62	4.76	4.90	5.05
Over	66,000	Gallons	3.70	3.96	4.08	4.20	4.33

Section 52.04 Minimum Monthly Charge.

All water customers of the Town of Geneva who have a meter connected to the Town's water utility shall be charged a minimum monthly charge as set forth below. The minimum charge is in recognition that customers who are connected to Town services receive a benefit of

the capability to use said services, and such customers shall as such be responsible to contribute to the cost of the improvement and maintenance of the water utility infrastructure and fixed costs of labor, operating costs, and administrative expenses. If a customer desires to no longer receive the minimum monthly charge, the customer may contact the Town to remove the meter at such property at no cost to the customer. If a property owner desires for the meter to be reinstalled after it has been removed, the Town will reinstall the meter at such location a charge of \$375.00.

<u>Meter Size</u>	<u>2018</u> (Effective 1/1/2018)	<u>2019</u> (Effective 1/1/2019)	<u>2020</u> (Effective 1/1/2020)	<u>2021</u> (Effective 1/1/2021)	<u>2022</u> (Effective 1/1/2022)
5/8 – 3/4-inch	\$ 24.16	\$ 25.86	\$ 26.63	\$ 27.43	\$ 28.26
1-inch	41.04	43.91	45.23	46.59	47.99
1-1/2-inch	82.07	87.81	90.44	93.15	95.94
2-inch	143.60	153.65	158.26	163.01	167.90
3-inch	307.83	329.38	339.26	349.44	359.92
4-inch	512.82	548.72	565.18	582.14	599.60
6-inch	1,128.42	1,207.41	1,243.63	1,280.94	1,319.37

Section 52.05 Fire Protection.

	<u>2018</u> (Effective 1/1/2018)	<u>2019</u> (Effective 1/1/2019)	<u>2020</u> (Effective 1/1/2020)	<u>2021</u> (Effective 1/1/2021)	<u>2022</u> (Effective 1/1/2022)
Hydrant Rental (per annum)	\$ 380.69	\$ 407.34	\$ 419.56	\$ 432.15	\$ 445.11
Sprinkler Connection (per annum):					
6-inch	1,017.72	1,088.96	1,121.63	1,155.28	1,189.94
8-inch	1,356.95	1,451.94	1,495.50	1,540.37	1,586.58

Section 52.06 Other Water Services.

	<u>2018</u> (Effective 1/1/2018)	<u>2019</u> (Effective 1/1/2019)	<u>2020</u> (Effective 1/1/2020)	<u>2021</u> (Effective 1/1/2021)	<u>2022</u> (Effective 1/1/2022)
Public drinking fountain (per fountain/per annum)	\$447.78	\$479.12	\$493.49	\$508.29	\$523.54
Bulk water (up to 3,000 gallons)	163.50	174.95	180.20	185.61	191.18
Hydrant bulk water:					
Flat charge	27.25	29.16	30.03	30.93	31.86
Plus: Rate per 1,000 gallons	5.80	6.21	6.40	6.59	6.79
Other fees:					
Check Valve	25.00	25.00	575.00	575.00	575.00

Section 52.07 Irrigation Meters and Charges, Sprinkling Credit, Filling Swimming Pools.

At the request of a customer, the Town may install a second meter for the sole purpose of irrigation of lawns, landscaping and planting beds. The Town shall provide a meter at the cost to the Town plus 10% of such cost. The regular meter charge pursuant to Sections 52.02 and 52.03 shall be charged for the use of water through an irrigation meter, but there shall be no sewage charge levied thereon. For the billing months of July through October, for customers who sprinkle their lawns, but do not have a dedicated irrigation system, if the customer contacts the Town and requests a sprinkling credit prior to the use of water for sprinkling purposes, the Town will credit the customer's account by calculating the wastewater charge during such months at the three (3) month average (mean) wastewater billing during the previous months of January, February and March. For customers who intend to fill a swimming pool, if the customer contacts the Town and requests a credit prior to the use of water to fill said pool, the Town will credit the customer's account by calculating the wastewater charge during the month in which the pool is filled at the three (3) month average (mean) wastewater billing during the previous months of January, February and March.

Section 52.08 Automatic Sprinklers.

<u>Connection Size</u>	<u>Rate Per Year</u>
2 inch connection	\$23.00
3 inch connection	\$51.75
4 inch connection	\$92.00
6 inch connection	\$322.00
8 inch connection	\$368.00
10 inch connection	\$575.00
12 inch connection	\$828.00

Section 52.09 Connection Charge.

<u>Tap Size</u>	<u>Charge</u>
5/8 inch to 1 inch tap	\$525.00
Larger than 1 inch tap	Actual cost of labor, material and equipment, but not less than \$525.00

The Town shall also be reimbursed for all boring costs regardless of the size of the tap.

Section 52.10 Non-Sufficient Funds Charges and Procedure.

If a check for payment on an account is returned for non-sufficient funds or an automated clearing house (ACH) payment on an account is reversed for non-sufficient funds, the Town will charge an additional \$40 NSF fee to that account. The Town shall post a notice upon the property of the account that the bill shall be paid in full with the NSF fee within 3 days of the posting of said notice, and if the account is not so paid, the Town shall disconnect service to said

property. If an account paid by ACH has 2 or more NSF reversal of funds, the Town shall discontinue acceptance of ACH payments on that account.

Section 52.11 Billing Cycle, Delinquency, Disconnection, and Hearing.

- (A) Usage Period. The usage period is the month or any part of the month during which water service is provided or is available to be provided to a customer of the utility or the month or part of the month that a customer's property is physically connected to Town's water system.
- (B) Reading Date. The Reading Date shall be the first work day of the month, on which date the Town of Geneva shall read the meter at each customer's property.
- (C) Billing Date. The Billing Date upon which monthly water bills are sent to customers shall be the tenth (10th) day of the month in which the water meter is read, or if such date is on a weekend or legal holiday, then the first (1st) business day thereafter.
- (D) Due Date. The Due Date shall be the 25th day of the month in which the water bill is sent. Each monthly bill will state the date the bill is due and the date after which the bill is considered delinquent and delinquent fees will be added. The total bill shall be due and payable without penalty by the close of business (4:00 p.m.) no later than the 25th day of the month in which the billing is sent. However, if the 25th day of the month is on a Saturday, Sunday or legal holiday, then the Due Date shall be on 4:00 p.m. on the first (1st) business day after such weekend or holiday.
- (E) Delinquent Date. The Delinquent Date shall be on and after 4:01 p.m. on the 25th day of the month. However, if the 25th day of the month is on a Saturday, Sunday or legal holiday, then the Delinquent Date shall be on and after 4:01 P.M. on the first (1st) business day after such weekend or holiday.
- (F) Penalties. A penalty of ten percent (10%) of the unpaid bill for sewage, trash, storm water and the first \$3.00 of water charges shall be assessed as of the Delinquent Date, and the water charges in excess of \$3.00 shall be assessed a penalty of three percent (3%).
- (G) Delinquent Letter. If a monthly bill remains unpaid as of the Delinquent Date, then a Delinquent Letter shall be sent by regular U.S. Mail to the customer and owner stating that the delinquent amount, with penalties, shall be paid on or before 4:00 p.m. on the seventh (7th) day after such Delinquent Letter is sent. However, if the Delinquent Letter Due Date is on a Saturday, Sunday or legal holiday, then the Delinquent Letter Due Date shall be on 4:00 p.m. on the first (1st) business day after such weekend or holiday.
- (H) Water Service Disconnection (Hang Up Notice). If a monthly bill, with penalty,

remains unpaid at 4:01 p.m. on the Delinquent Letter Due Date, then the Town shall post upon the property upon which service was billed a disconnect notice along with an updated bill, including penalty, and said notice shall state that if the bill is not paid on or before the close of business (4:01 p.m.) two (2) days after the notice is posted, the Town shall disconnect water service or otherwise turn off such service without further notice. However, if the second (2nd) day after the posting of the notice falls on a Friday, Saturday, Sunday or legal holiday, then the Town shall disconnect water service or otherwise turn off such service without further notice after 4:01 p.m. on the first (1st) business day after such weekend or holiday. All water service subject to disconnection shall be disconnected by the Town utility personnel. There shall be a charge of \$25.00 added to the account upon the posting of the hang up disconnection notice. Any customer water service that is disconnected for non-payment can only be reconnected after full payment is received plus the reconnection fee as set forth in Section 52.12 herein.

- (I) Clerk Treasurer as Hearing Officer on Application for Extension on Disconnection of Service. A person owing an unpaid water bill may appeal in writing to the Clerk-Treasurer for an extension of the date when water service would be subject to discontinuation, setting forth in detail the extraordinary hardship or other unavoidable circumstances whereby the delinquent bill cannot be paid within the allowed period. The Clerk-Treasurer, acting as the Hearing Officer for the extension request, may grant or deny such request, in whole or in part. The Hearing Officer may require partial payment of the delinquent bill in return for granting an extension.
- (J) Appeal of Hearing Officers Denial of Disconnection Extension. A person owing an unpaid water bill may appeal the determination of the Clerk-Treasurer acting as Hearing Officer in Section 52.10(I) herein. The appeal shall be in writing within twenty-four (24) hours after receipt of the notice of determination by the Hearing Officer, said appeal being to an Appeal Board composed of the Board of Trustees President, the Clerk-Treasurer and Workforce Manager. The written appeal request shall set forth in the detail the 1) extraordinary hardship or other unavoidable circumstances whereby the delinquent bill cannot be fully paid within the allowed period, 2) the specific relief requested, and 3) the reason(s) that the person owing an unpaid water bill believes that the adverse determination of the Clerk-Treasurer acting as Hearing Officer was arbitrary or capricious. The Appeal Board shall hold a hearing on said appeal within ten (10) business days of the filing of the appeal. The appellant shall be given at least forty-eight (48) hours prior notice of the hearing. Any contemplated discontinuation of water service shall be deferred pending the determination of the appeal by the Appeal Board. The Appeal Board in its appeal determination may 1) deny the appeal, or 2) grant the appeal in whole or in part, and 3) may require partial payment of the delinquent bill in return for granting an extension. Upon denial of the appeal, the delinquent user shall be given forty-eight (48) hours notice of the appeal denial prior to the discontinuation of service.

(K) Application of Payments When Payment is Less Than Total Billing. When a utility payment is received by the Town from a customer, and said payment is less than the amount billed, the customer's payment shall be applied as follows:

- (1) The payment shall be applied first to the water charges on said account until said water charges are fully paid, and then to any water taxes, penalties and other charges for the water portion of the account.
- (2) The payment shall then be applied to the sanitation charges on said account until said sanitation charges are fully paid.
- (3) The payment shall then be applied to the stormwater charges on said account until said stormwater charges are fully paid.
- (4) The payment shall be applied to the sewage charges on said account until said sewage charges are fully paid, and then to any sewage penalties and other charges for the sewage portion of the account.
- (5) Any funds remaining in the customer's payment after the aforementioned charges, taxes and penalties have been paid in full shall be applied toward to the next month's account billing.

(L) Application of Payments When Payment is More Than Total Billing. When a utility payment is received by the Town from a customer, and said payment is more than the amount billed, the customer's payment shall be credited to the customer's water account.

(M) Disputed utility bills. A customer may request an in person conference regarding any dispute over a disputed utility bill or other service matter before the Town Council, or its designee, to hear such matters. All such matters will be resolved in accordance with IC 8-1-2-103 and IC 8-1.5-3.5, the written policies of the Town of Geneva and the judgment of the Board of Trustees of the Town of Geneva.

Section 52.12 Tampering With or Obstructing Meters.

Any customer or owner who tampers with or obstructs a water meter, or allows a water meter to be tampered with or obstructed, without authorization of the Town, will be subject to a charge of \$50.00 per occurrence, plus the costs of any repairs, plus the normal invoicing for the water, sewer and other charges for the use thereof, and shall further be subject to criminal prosecution therefor.

Section 52.13 Reconnection Charge.

Any person, firm, corporation, partnership or association who shall hereafter request a reconnection into the Waterworks System of the Town shall pay a reconnection charge in the amount of \$40.00 prior to reconnection into the Waterworks System.

Section 52.14 Review of Connection and Reconnection Charges.

Due to increase of costs pertaining to tap and reconnection fees, a review of Sections 52.08 and 52.13 shall be made every three (3) years from the date of passage of this section to determine whether or not the fees remain appropriate or are insufficient and in need of amendment due to increased costs.

Section 52.15 Water Loss Audit.

The Town will inspect and test the meters and stand pipes of an industrial customer every three (3) years in order to ascertain whether the industrial customer has a leak in its system.

Section 52.16 Procedures for Removal of Lead Lines.

In the event that a water user desires to have lead service lines replaced, the Town Water Department will first verify whether the service has not yet been replaced by digging at the curb shut off and physically examining both sides of the shut off. The user is responsible replacing any lead service lines on the user's side of the shut off, and the Town will replace any lead service line between the shut off and the main. If a replacement is deemed necessary, then the user shall replace the user's side, and then upon the Town's satisfactory inspection of the user's replacement of the line, the Town shall then replace its line between the shut off and the main.

Section 52.17 Cross Connection Control.

- (A) A cross connection shall be defined as any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the Town water system, and the other, water from a private source, water of unknown or questionable safety, or steam, gases, or chemicals, whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.
- (B) No person, firm, or corporation shall establish or permit to be established or maintain or permit to be maintained any cross connection. No interconnection shall be established whereby potable water from a private, auxiliary, or emergency water supply other than the regular public water supply of the Town may enter the supply or distribution system of said municipality, unless such private, auxiliary, or emergency water supply and the method of connection and use of such supply shall have been approved by the Town utilities and by the Indiana Department of Environmental Management in accordance with 327 LAC 8-10.
- (C) It shall be the duty of the Town water utility to cause inspections to be made of all properties served by the public water system where cross connections with the public water system is deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be as established by the

Town water utility.

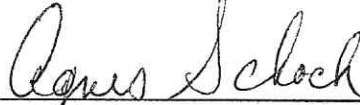
- (D) Upon presentation of credentials, the representative of the Town water utility shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the Town for cross connections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of access or refusal of requested pertinent information shall be deemed evidence of the presence of cross connections.
- (E) The Town water utility is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice is served on the owner, lessee, or occupants of the property or premises where a violation is found or suspected to exist. Water service to such property shall not be restored until the cross connection(s) has been eliminated in compliance with the provisions of this section.
- (F) If it is deemed by the Town water utility that a cross connection or an emergency endangers public health, safety, or welfare and requires immediate action, and a written finding to that effect is filed with the Town Clerk and delivered to the consumer's premises, service may be immediately discontinued. The consumer shall have an opportunity for hearing within ten days of such emergency discontinuance.
- (G) Pursuant to 327 IAC 8-4, the following consumers shall be designated as cross connection hazards, and shall install and maintain a reduced-pressure-principle backflow preventer in the main water line serving each building on the premises. The backflow preventer must be installed in an easily accessible location not subject to flooding or freezing. Said presumed cross connection hazards are as follows:
 - (1) Aircraft and missile manufacturing plants;
 - (2) Automotive plants, including those plants that manufacture motorcycles, automobiles, trucks, recreational vehicles, and construction and agricultural equipment;
 - (3) Beverage bottling plants, including dairies and breweries;
 - (4) Canneries, packing houses, and reduction plants;
 - (5) Car washes;

- (6) Chemical, biological, and radiological laboratories, including those in high schools, trade schools, colleges, universities, and research institutions;
- (7) Hospitals, clinics, medical buildings, autopsy facilities, morgues, other medical facilities, and mortuaries;
- (8) Metal and plastic manufacturing, fabricating, cleaning, plating, and processing facilities;
- (9) Plants manufacturing paper and paper products;
- (10) Plants manufacturing, refining, compounding, or processing fertilizer, film, herbicides, natural or synthetic rubber, pesticides, petroleum or petroleum products, pharmaceuticals, radiological materials, or any chemical that could be a contaminant to the public water supply;
- (11) Commercial facilities that use herbicides, pesticides, fertilizers, or any chemical that could be a contaminant to the public water supply;
- (12) Plants processing, blending, or refining animal, vegetable, or mineral oils;
- (13) Commercial laundries and dye works, excluding coin-operated laundromats;
- (14) Sewage, storm water, and industrial waste treatment plants and pumping stations;
- (15) Waterfront facilities, including piers, docks, marinas, and shipyards;
- (16) Industrial facilities that recycle water; and
- (17) Restricted or classified facilities (federal government defense or military installations), or other facilities closed to the supplier of water or to the Commissioner.

All ordinances and parts of ordinances in conflict herewith are hereby repealed. This ordinance shall be effective upon passage.

Duly passed, adopted and resolved by the Board of Trustees of the Town of Geneva,
State of Indiana, on June 9, 2020.

BOARD OF TRUSTEES OF THE TOWN OF GENEVA



Agnes Schoch, President



Richard Clutter, Trustee



Gary Hendershot, Trustee



Arlen Mitchell, Trustee

James Timmons, Trustee

ATTEST:


Jane Kaverman, Clerk-Treasurer