



The Office of The Chief of Police

CITY OF STONE MOUNTAIN
POLICE DEPARTMENT
875 Main Street
Stone Mountain, GA 30083
(770) 879-4980

COUNCIL AGENDA ITEM

Agenda Title:

Amendment to Chapter 17, Article V, Sec. 17-101 – *Loitering or Prowling*

Submitted By: Chief of Police James Westerfield

Department: Police Department

Action Requested:

Approval of an ordinance amendment to Chapter 17, Article V, Sec. 17-101, revising the offense from “Loitering” to “Loitering or Prowling,” and incorporating statutory language and standards consistent with O.C.G.A. § 16-11-36.

Executive Summary:

This amendment modernizes the City’s ordinance by aligning it with current Georgia law and regional municipal standards. The revision enhances legal defensibility, strengthens enforcement capabilities, and ensures consistency with neighboring jurisdictions within DeKalb County. The update also reinforces constitutional safeguards while providing officers with clearer statutory guidance when addressing suspicious behaviors linked to criminal activity.

Background and Need:

The current ordinance references “loitering” in a manner that is narrower and less aligned with state law. Modern policing and prosecution standards recognize “**loitering or prowling**” as a combined offense that captures behaviors indicative of potential criminal intent.

Key concerns with the current ordinance:

- Limited alignment with state statute language
- Reduced prosecutorial effectiveness due to outdated terminology
- Lack of explicit statutory reference guiding officer discretion
- Inconsistency with surrounding DeKalb County municipalities

This amendment addresses these gaps by incorporating language and standards consistent with state law and prevailing regional practices.

Legal Justification:

The proposed amendment is grounded in O.C.G.A. § 16-11-36, which defines “loitering or prowling” and establishes constitutionally sound procedures for enforcement.

Key legal enhancements:

- **Statutory Alignment:** Direct reference to state law strengthens ordinance validity and reduces challenges based on vagueness
- **Articulable Suspicion Standard:** Clarifies that enforcement must be based on reasonable alarm for safety of persons or property
- **Due Process Safeguards:** Maintains requirement that officers provide individuals an opportunity to dispel alarm prior to arrest (when practical)
- **Judicial Sustainability:** Aligns with case law standards requiring clear, objective enforcement criteria

This alignment significantly improves the City’s ability to successfully prosecute violations while minimizing legal exposure.

Comparative DeKalb County Analysis:

A review of municipal codes across DeKalb County indicates that many jurisdictions have already adopted language consistent with state statute, including the use of “loitering or prowling.”

Regional Observations:



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- Multiple DeKalb municipalities mirror state statute language for consistency and enforceability
- Standardized terminology supports interagency coordination and mutual aid enforcement

Operational Impact:

- Enhances consistency across jurisdictional boundaries
- Reduces ambiguity for officers operating in overlapping or adjacent areas

Enforcement Considerations:

Officer Guidance:

- Incorporates state-level standards for consistency in training and application

Training Implications:

- Minimal additional training required due to alignment with existing Georgia law
- Can be incorporated into roll call training and legal updates

Prosecution:

- Improved case acceptance by solicitors and prosecutors
- Reduced likelihood of dismissal due to vague or outdated ordinance language

Fiscal Impact:

No direct fiscal impact. Implementation will be managed within existing departmental resources.

Recommendation:

Approval is recommended to enhance public safety, improve legal defensibility, and align the City of Stone Mountain with state law and regional best practices.

Attachments:

- Redlined Ordinance Amendment (Chapter 17, Article V, Sec. 17-101)



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Chapter 17, Article V

Sec. 17-101. – ~~Loitering~~ **Loitering or Prowling.**

(a) A person commits the offense of ~~loitering~~ *loitering or prowling* when the person is in a place at a time or in a manner not usual for law-abiding individuals, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity. *Such circumstances shall be evaluated consistent with the standards set forth in O.C.G.A. § 16-11-36.*

(b) Among the circumstances which may be considered in determining whether alarm is warranted ~~is~~ *are* the fact that the person takes flight upon the appearance of a law enforcement officer, refuses to identify ~~him or herself~~ *himself or herself*, or refuses to provide a credible account of his or her presence and conduct. ~~or any object.~~ *The officer may also consider whether the person is attempting to conceal himself or herself or any object.*

~~Unless flight by the person or other circumstances make it impractical, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself or herself and explain his or her presence and conduct.~~

Unless flight by the person or other exigent circumstances make it impractical, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern by requesting the person to identify himself or herself and explain his or her presence and conduct, consistent with O.C.G.A. § 16-11-36.

~~No person shall be convicted of an offense under this section if the law enforcement officer failed to comply with the foregoing procedure or if it appears at trial that the explanation given by the person was true and would have dispelled the alarm or immediate concern.~~

No person shall be convicted of an offense under this section if the law enforcement officer failed to comply with the foregoing procedure, or if it appears at trial that the explanation given by the person was true and, if believed at the time, would have dispelled the alarm or immediate concern.

Key Enhancements Embedded

- Aligns terminology with state statute (“**loitering or prowling**”) for prosecutorial consistency
- Explicitly ties officer decision-making to **state law standards**
- Strengthens articulable factors (concealment, refusal to provide credible explanation)
- Preserves constitutional safeguards (opportunity to dispel alarm) while tightening language for enforcement defensibility