



## ***Agenda Item***

**Meeting Date: January 6, 2025**

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### **SUBJECT: Public Meeting and Comment Procedures**

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**Item:** Action Item

**Department:** Planning and Zoning Department

**Presented By:** Tamaya Huff

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#### **City Council's Role in Zoning Decisions**

Per 2-1.4 Public Hearing and Decision of the City of Stone Mountain Code of Ordinances, the mayor and city council shall make all final zoning decisions. The mayor and city council shall hold public hearings in accordance with the public notice requirements outlined in the Zoning Procedures Law and the City Code of Ordinances. The City of Stone Mountain Planning Commission is an advisory body and does not render final quasi-judicial decisions; the Stone Mountain City Council determines all final hearing decisions concerning planning and zoning.

#### **Legal Requirements for Public Hearing Procedures.**

There are legal requirements for public hearing procedures in the state of Georgia and the Code of Ordinances for the City of Stone Mountain, which must be developed, prepared, and provided in writing to attendees for all zoning and comprehensive plan public hearings.

These legal requirements include:

- **Georgia Rules and Regulations 110-12-1.04 Preparation, Transmittal and Review of the Comprehensive Plan.** All required hearings should be handled in a manner that is consistent with any locally adopted ordinances or other customary processes regarding the conduct of public hearings. The Department recommends that any community which must include a Land Use Element in its plan pursuant to section [110-12-1-.03\(7\)](#) should comply with the Zoning Procedures Law (O.C.G.A. § [36-66-1](#), et seq.). Failure to handle public hearings appropriately may undermine the legal validity of the local comprehensive plan. Documentation of the required public hearings (e.g., a copy of the "tear sheet" advertising the hearing in the local newspaper, a sign-in sheet from the hearing, etc.) must be included in the appendix of community involvement activities discussed in section [110-12-1-.02\(2\)\(d\)](#).
- **Zoning Procedures Law GA Code § 36-66-5**, local governments shall adopt policies and procedures that govern calling and conducting hearings required

by Code Section 36-66-4, and printed copies of such policies and procedures shall be available for distribution to the general public. Such policies and procedures shall specify a minimum time period at hearings on proposed zoning decisions or quasi-judicial decisions for presentation of data, evidence, and opinion by proponents of each zoning decision and an equal minimum time period for presentation by opponents of each proposed zoning decision, such minimum time period to be no less than ten minutes per side. This request is being presented to the Planning Commission for consideration, to be incorporated into its corresponding bylaws, and, upon approval, printed for the general public during scheduled commission meetings.

- Section 1-1.1 Enactment of the Stone Mountain Code of Ordinances adopted the Enactment of HB51 or the Zoning Procedures law

To ensure compliance with the above-referenced regulations, state laws, and ordinances, staff is proposing approval of the Public Comment Guidelines to be used during the City Council's Zoning and Comprehensive Plan Public Hearings.

**Resource Impact:**

None

**Attachments/Exhibits:** Draft Public Comment Procedures

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**Requested Action:** City Council to approve draft public comment procedures to meet the requirements of Georgia Rules and Regulations 110-12-1.04, Zoning Procedures Law GA Code § 36-66-5, and Section 1-1.1 of the Stone Mountain Code of Ordinances



# PUBLIC COMMENT GUIDELINES FOR ZONING PUBLIC HEARINGS CITY COUNCIL

Pursuant to GA Code § 36-66-5, Local governments shall adopt policies and procedures that govern calling and conducting hearings required by Code Section 36-66-4, and printed copies of such policies and procedures shall be available for distribution to the general public. Such policies and procedures shall specify a minimum time period at hearings on proposed zoning decisions or quasi-judicial decisions for presentation of data, evidence, and opinion by proponents of each zoning decision and an equal minimum time period for presentation by opponents of each proposed zoning decision, such minimum time period to be no less than ten minutes per side.

The City of Stone Mountain City Council is a quasi-judicial body. It does render final quasi-judicial decisions, determines all final hearing decisions concerning planning and zoning decisions as listed below per 2-1.4 Public hearing and decision, *which states*:

This section outlines the proper process for zoning hearings and decisions. *Authority. The mayor and city council shall make all final zoning decisions. The mayor and city council shall hold the public hearing required by this article before making said zoning decisions, following the public notice requirements herein. The term "zoning ordinance" shall mean this zoning ordinance (known as Appendix A to the City Code of Ordinances) as well as the official zoning map adopted herewith and made a part thereof, as amended.*

The term "zoning decision" shall mean final legislative action by the Mayor and City Council which results in:

1. The adoption or repeal of a zoning ordinance.
2. The adoption of an amendment to the zoning ordinance, which changes the text of the zoning ordinance.
3. The adoption or denial of an amendment to the zoning ordinance to rezone property from one zoning classification to another.
4. The adoption or denial of an amendment to the zoning ordinance to zone property to be annexed to the city;
5. The grant or denial of a permit relating to a special use of property; or
6. The grant or denial of a variance or conditions concurrent and in conjunction with a decision pursuant to subparagraphs C or E of this paragraph.

## PURPOSE OF GUIDELINES

City Council Zoning Public Hearings are an opportunity for the public to share their views with elected officials. However, the meeting itself is the responsibility of the City Council. The public does not participate in the decision-making process. Instead, it provides input to elected officials, who consider public comments while making their decisions. These guidelines are intended to ensure that members of the public have a designated period during the meetings to share concerns, thoughts, and ideas regarding matters related to the Zoning and Comprehensive Plan Public Hearings heard by the City Council. Public concerns presented during meetings that exceed the mandate, role, duties, and responsibilities of the City Council during zoning public hearings are not excluded from public comments. However, it must be affirmed that the City Council is not able to exceed its authority as established in the City of Stone Mountain Charter, the Stone Mountain Code of Ordinances, as well as state laws and regulations. Where such comments are posed for consideration during the comment period of the Zoning Public Hearing or Comprehensive Plan public hearings, citizens may be directed by the Mayor to present their concerns to the appropriate department, agency, council member, or other source. This permits the contents of the zoning public hearing to focus on the facts, circumstances, and requirements necessary for the City Council to make a final decision and allows those desiring to be heard for or against the subject case an opportunity to place their concerns on public record.



## REQUIREMENTS FOR PUBLIC COMMENTS CONDUCTED FOR ZONING CASES

- A sign-up sheet for public comments will be provided at the central desk in the City Hall foyer, just before the entrance to the City Council Chambers, 30 minutes before the start time of the Comprehensive Plan or Zoning Public meeting. Each public speaker will be required to complete a public comment form, which must be provided to the City Clerk before any speaker is permitted to present their comments.
- The Mayor and City Council will hear public comments at the time indicated on each meeting agenda, to allow public comment in response to a scheduled case or during a general comment period, as disclosed on the adopted meeting agenda.
- Each public speaker will have a maximum of 2 minutes to speak at the podium. The total time allocated for public comments is 10 minutes per scheduled case, as well as for general public comments, which are conducted at the time specified in the adopted planning commission agenda.
- All individuals wishing to make public comments are expected to conduct themselves with appropriate decorum. Courtesy and respect are required during all meetings, applying to all attendees, including Councilmembers, staff, members of other City of Stone Mountain Commissions (Historic Preservation, Planning Commission, Downtown Development Authority, etc.), and members of the public. It is important to note that the Mayor and City Council reserve the right to signal removal of any individual who recklessly or knowingly engages in behaviors that may **reasonably disrupt a lawful meeting, gathering, or procession, in accordance with** GA Code § 16-11-34. Furthermore, members of the Commission may prohibit any audible demonstrations, such as booing, hissing, clapping, insults, or other disruptions that interfere with the proper conduct of official zoning public hearings.
- Speakers must address their remarks only to the Mayor. The Mayor will usually allow each speaker to present their concerns, but may decide which issues to discuss based on time constraints and scheduled business. Responses to comments may not be provided; when the Mayor permits discussion, they will be brief and factual, without back-and-forth. Other Councilmembers will not speak during this part of the meeting. Staff will summarize public comments, and responses will be provided at a later date, after the meeting, to address public concerns, as directed by the Mayor after the public hearing closes.
- No decision to exclude a person from the hearing or to disallow a person from making or continuing to make a statement will be based on the person's viewpoint.
- If there are no public Speakers at the start time of the hearing, the Mayor and City Council will wait 1 minute. If there are still no public Speakers at 1 minute past the time when public comment is recognized, the Mayor and City Council will immediately continue the meeting. If a public speaker arrives after the hearing has begun, the Mayor will hear from the public speaker only at the Mayor's discretion.
- If the public comments conclude before the completion of the first scheduled hour of the meeting, the Mayor and City Council will wait 1 minute to ensure no additional public Speakers arrive, and if no one comes after that 1 minute, the City Council will **immediately** proceed with the meeting.
- For each zoning case, the Mayor will open the floor for public comment after staff and the applicant have presented evidence, facts, and documentation related to the zoning case under review. The Mayor will invite public speakers who have completed a public comment card to come to the podium and speak on a specific zoning case. The public speaker will be required to state their name and address and provide comments for the public record. If the public speaker refuses to state this information, the comment may not be adequately captured in the meeting record.
- Before each public meeting is opened, the Mayor will read the following information to inform the public of expectations and conduct for public speakers:

*We will now open the public meeting to gather comments regarding (the Mayor must state the property address and parcel ID for the public record). Each speaker is required to state their name and address for the public record before presenting their comments. Speakers who choose not to provide their name and address may not have their comments appropriately documented in the public record. Each speaker will have two minutes to present their comments, with a maximum of ten minutes allocated for all public comments for each zoning case.*

*Please ensure that comments are relevant to the zoning case being discussed before the Mayor and City Council. Failure to adhere to the public comment guidelines may result in the speaker being directed to the general*



*public comment period held at the general public comment portion of the meeting, where the remaining time may be utilized. If the general public comment period exceeds the number of speakers that would fit within the ten-minute limit, the Mayor may direct the speakers to submit their comments in writing to the City Clerk for inclusion in the record. Alternatively, the Mayor may request a vote by the Mayor and City Council to temporarily extend the public meeting time. If any comment cards have been submitted for the zoning case under consideration, the City Clerk will now announce the names of the speakers who will take the podium in the order called to speak.*

- Public comments during zoning public comment meetings are limited to the specific zoning case presented for discussion when the public hearing is opened. All other topics, which may be unrelated to the zoning case at hand, offered for public comment, will be directed by the Mayor to use the balance of their time during the general public comment, typically scheduled at the close of the public meeting. Refusal to comply with the Mayor's request may constitute a disruption of a lawful meeting under **GA Code § 16-11-34**, prompting the removal of the public speaker from the meeting. If the speaker, once redirected to the general public comment portion of the meeting, causes the general public meeting comment period to exceed the allotted ten (10) minutes for all speakers, then the Chair may either require the speaker to write down their comments for the meeting record or request a vote from the Planning Commission to temporarily extend the general public comment period to permit the speaker to hold their comments during the general comment meeting.
- As a reminder, all Public Comments can be submitted in writing on a comment card supplied during the meeting or by email to [info@stonemountaincity.org](mailto:info@stonemountaincity.org).

#### **LEGAL REQUIREMENTS FOR PUBLIC HEARING PROCEDURES**

- *Georgia Rules and Regulations 110-12-1.04 Preparation, Transmittal, and Review of the Comprehensive Plan*
- *Zoning Procedures Law GA Code § 36-66-5*
- *Section 1-1.1 Enactment of the Stone Mountain Code of Ordinances*