



# TOWN COUNCIL AGENDA REQUEST

**Department:** Community Development

**Meeting Date:** 05/04/2023

**Staff Contact:** Phillip Trocquet

**Agenda Section:** Public Hearings

## Staff Report:

### Item Description:

### Background/History:

The following text amendments are being pursued in response to Georgia House Bill 1405 which became effective on July 1, 2022. HB 1405 is intended to clarify the process for appeals of zoning decisions and disputes with local governments.

### Findings/Current Activity:

This is an administrative change in response to State HB 1405. The attached ordinance changes reflect the appropriate response for the Town's compliance with the new State Law.

**Is this a budgeted item?** \_\_\_\_\_ **If so, include budget line number:** \_\_\_\_\_

### Actions/Options/Recommendations:

Staff Recommends approval of these text amendments. Planning Commission recommended approval of these text amendments on 04/27/2023.

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**Sec. 113-10. Appeals. NOTE – this concerns appeals of Mayor and Council decisions regarding appeals from decisions of the zoning administrator**

The mayor and council will hear appeals of decisions made by the zoning administrator. The mayor and council will make a decision concerning the appeal and record the decision in the minutes for that meeting. ~~Any person aggrieved by such a decision of the mayor and council may petition the Fayette County Superior Court for a writ of certiorari pursuant to those procedures set forth by the Official Code of Georgia Annotated. Decisions of the mayor and council made pursuant to this section shall be subject to appellate review by the superior court in the manner prescribed in Section 113-243 of this chapter.~~

**Sec. 113-68. Appeals. [NOTE – this concerns appeals of Mayor and Council decisions regarding text amendments and map amendments]**

~~Any person aggrieved by a decision of the mayor and council made pursuant to this article may appeal said decision to the Fayette County Superior Court pursuant to those procedures set forth by law. Text amendment or map amendment decisions made subject to this article shall be subject to direct constitutional challenge regarding the validity of said decisions in the superior court pursuant to its original jurisdiction over declaratory judgments and equity jurisdiction. Such challenges shall be by way of de novo review by the superior court wherein such review brings up the whole record from the town and all competent evidence shall be admissible in the trial thereof, whether adduced in the process before the town or not and employing the presumption that the town's zoning decision is valid and can be overcome substantively by a petitioner showing clear and convincing evidence that the zoning classification is a significant detriment to the petitioner and is insubstantially related to the public health, safety, morality, or general welfare. Such challenge shall be brought within 30 days of the written decision of the challenged action.~~

**Sec. 113-243. Appeals of town council decision. [NOTE – this concerns appeals of Mayor and Council decisions regarding variances]**

~~Any person aggrieved by any decision on any request for variance may appeal such decision to the Superior court of Fayette County by writ of certiorari. Decisions of the town council shall be subject to appellate review by the superior court pursuant to its appellate jurisdiction from a lower judicatory body and shall be brought by way of a petition for such review as provided in Title 5 of the Official Code of Georgia Annotated. Such matters shall be reviewed on the record which shall be brought to the superior court as provided in said Title 5. Such appeals shall be brought within 30 days of the written decision of the appealed action. The mayor, or his or her designee, shall have authority, without additional action of the town council, to approve or issue any form or certificate necessary to perfect any petition required by Title 5 of the Official Code of Georgia Annotated for review of lower judicatory bodies. Service of any such petition may be effected on or accepted by the mayor, or his or her designee, on behalf of the town council, during normal business hours, at town hall.~~