



**UNIVERSITY OF  
GEORGIA**  
Carl Vinson  
Institute of Government

COMMITTED TO EXCELLENCE IN  
GOVERNMENT

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**Zoning Law and Legal  
Landmines**

**F. Adam Nelson**

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Zoning Actions

- Rezoning
- Conditional Uses
- Special Use Permits
- Variances
- Text Amendments
- Annexations



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**Zoning Procedures Act**

O.C.G.A. §§ 36-66-1 through 36-66-7

“While recognizing and confirming the authority of local governments to exercise zoning power within their respective territorial boundaries, it is the intention of this chapter to establish as state policy minimum procedures governing the exercise and means of judicial review of the exercise of that power. The purpose of these minimum procedures is to assure that due process is afforded to the general public when local governments regulate the uses of property through the exercise of the zoning power.”


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**ZPA Procedure**

1. Newspaper Publication
  - a. Time, Place, and Purpose of Public Hearing
  - b. Location, Present Zoning, Proposed Zoning (if rezoned)
2. Signage
  - a. Conspicuous Location
3. Quasi-judicial Officer or Board
  - a. Increase time
  - b. Increase notice
4. Single-Family to Multifamily
  - a. Increase time
  - b. Increase notice


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**Local Procedures**

“[S]ince statutes or ordinances which restrict an owner's right to freely use his property for any lawful purpose are in derogation of the common law, they must be strictly construed and never extended beyond their plain and explicit terms.” [Duncan v. Entekin, 211 Ga. 311, 312 \(85 S.E.2d 771\) \(1955\)](#)


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Record Maintenance



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Record Maintenance



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Record Maintenance



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## Record Maintenance



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## Record Maintenance



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## Record Management

1. Application
2. Supporting Documents
3. Staff Documents
4. Local Government Documents
5. Staff Report
6. Documents Submitted by Public
7. Minutes/Recordings

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## Public Hearing

(a) Local governments shall adopt policies and procedures which 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.

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## Zoning Decisions

- Findings of Fact
- Application to Factors
- Record supporting Decision
- Motions
- Conditions

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## Litigation

Can't we all just get along?  
Probably Not, but ...

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## What to do if Challenged

1. Call your city/county attorney
2. Gather the Record, including Documents
3. Alert all involved parties
4. Notice your elected and appointed officials
5. Inform Staff

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