

Letter from the HMC to Mayor and Council, Planning and Zoning Commissioners:

Honorable Mayor and Council
Honorable Planning and Zoning Chair and Commissioners
City of Madison
City Hall
Madison, Georgia 30650

It has come to our attention that the city of Madison intends for its Planning and Zoning Commission to convene April 16, 2020 in a virtual meeting to hear a text amendment and a map amendment. The staff reports were only recently added to the city website even though they were available to the city in January and March.

We are bringing this to your attention as one of the issues our citizens have encountered in the past is that of accommodating the public's right to participate in the legal processes of government. Additionally, one of the items concerns further commercialization of a residential property which affects the ongoing integrity of our historic district. The Historic Madison Coalition strongly objects that you are proceeding with limited public participation when there are zoning matters that could impact our city's historic district, which is vital to its economic success. The Bed and Breakfast amendment not only is not an emergency; it also goes against Governor Kemp's April 2, 2020 Order, "That persons required to shelter in place under any provision of this Order shall not receive visitors, except" under certain listed conditions.

Other Georgia communities, including the Morgan County Planning Commission, Cobb County, Macon-Bibb, Dunwoody, Marietta and Sandy Springs, have postponed zoning matters. We urge you to reconsider what is happening in our community.

The Georgia Municipal Association states the following in light of the Coronavirus pandemic:

It would be wise for city leaders to consider agenda items when contemplating this provision and to postpone discussion items that can wait and are not necessary to be deliberated and/or voted on under such emergency conditions. The city should also consider its own technological capabilities to provide appropriate access to the public, as well as the requirements under certain law for public hearings (the zoning procedures laws, for example) when making such decisions.

<https://www.gacities.com/GeorgiaCitiesSite/media/PDF/Coronavirus-Memo-for-Georgia-Cities-final.pdf>

We call upon you to consider the wisdom of the planning department's activities and to cancel meetings concerning zoning matters during this extraordinary time.

The Historic Madison Coalition



Coronavirus (COVID-19) Issues for Local Government

With the Coronavirus crisis evolving rapidly, GMA is sending a high-level memorandum to our members containing general information in the event of a coronavirus outbreak in your community. *City officials are strongly recommended to consult with the city attorney before taking any actions related to this crisis. The information contained in this memorandum should not be considered or construed as legal advice.*

(1) Public Meetings – The Georgia Open Meetings Act requires meetings of the city and agencies of the city to be open to the public. O.C.G.A. §50-14-1(g), however, very specifically allows cities to conduct a meeting via teleconference, without a requirement of having a quorum present in person, when “necessitated by emergency conditions,” so long as notice is provided and simultaneous access is afforded to the public to the teleconference meeting.

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By no means is this an endorsement, but cities lacking technological capabilities to host virtual meetings may look at alternative resources tailored to dealing with COVID-19. For instance, Google is offering free video conferencing services until July 1.

(2) Declarations of Emergency – As of March 13, 2020, Governor Kemp has not declared Georgia to be in a State of Emergency through his powers under O.C.G.A. §38-3-51. However, President Trump declared a National State of Emergency late on the afternoon of March 13, 2020. Some local governments have analyzed whether to declare an emergency in their particular jurisdiction. Before city leaders decide to declare an emergency in their jurisdiction, they should ask some important questions relating to the purpose of this declaration:

1. What restrictions are you hoping for with the state of emergency?
2. Can the determined restrictions/goals be achieved without declaring an emergency?

Please note that since a National State of Emergency has been declared, a local declaration might be somewhat redundant and that should be considered.

If a local emergency is declared, items for consideration might include curfews, signage concerning potential exposure and mitigation efforts which could be taken, social distancing policies, etc. It should be noted that Georgia law, in both O.C.G.A. §38-3-1 et seq. and O.C.G.A. §31-12-1 et seq. provide several laws, rules, and procedures specifically dealing with “public health emergencies” and those provisions should be analyzed and reviewed by the city attorney before taking actions at a local level.

(3) **Events Permits** – Federal, state, and health care leaders have publicly warned of the potential dangers of transmission in large group events and have encouraged both public and private parties to limit such events. Understandably, this presents issues for local governments which may have already issued permits for events or may receive such permits soon. For those previously issued permits, city leaders should consult with the city attorney about communicating with the permittee on potential delay or cancellation of the event. The city should also consult with the city attorney about the revocation process of such permits. For future applications, the city may want to consult with the city attorney about implementing a moratorium on permits for events, but the city must be legally careful with any such moratorium.

(4) **Employment and Service Issues** – If it has not done so already; the city should work with the city attorney to create a plan for potential employment issues due to COVID-19. If the crisis reaches a point requiring a government shutdown, the city should have a plan to identify key employees and services that must continue to be provided. The city needs to have a plan for necessary equipment, the supply chains which might be interrupted, and other such issues related to the provision of services.

Cities should also analyze whether it is feasible for certain employees to work remotely and what specific technological needs are required to make such teleworking options viable. The city should have a plan in place for payment of bills, employee pay and other such financial considerations in the event of a full or partial shutdown. The city needs to consider the impact on its employees for all its actions.

Many employees will not contract the virus, but they may still have personal issues such as school cancellations and elderly family members which require their attention. City leaders need to have a cohesive plan on how to address those issues fairly and evenly. If the city remains open, it should certainly address infection control measures, workplace policies and sick time policies, among other issues.

(5) **Cooperation with Other Agencies** – It will probably become necessary to work with county emergency management, the sheriff and local and state health officials within the context of whatever joint emergency agreements are in place and state law. Cities should dust off those cooperative agreements and open lines of communication with appropriate health officials. Cities should remember that defeating this crisis and succeeding in preventing a larger problem is a collective effort.

(6) **Items to Avoid** – With all the items the city could and should plan to address during this crisis, there are also items the city should be wary of addressing because of cities' lack of legal authority to take such measures. For instance, cities should not attempt to mandate citizens remain in their homes. While encouragement to remain home and self-isolate may be warranted, mandates would likely violate the law. Additionally, cities should be very careful not to publicly name persons who may have contracted the virus, as this would violate federal health protection laws.

Excerpt of the Georgia Open Meeting Act provided by City Attorney Carter
(emphasis his)

(g) Under circumstances necessitated by emergency conditions involving public safety or the preservation of property or public services, **agencies or committees thereof not otherwise permitted by subsection (f) of this Code section to conduct meetings by teleconference may meet by means of teleconference so long as the notice required by this chapter is provided and means are afforded for the public to have simultaneous access to the teleconference meeting.** On any other occasion of the meeting of an agency or committee thereof, and so long as a quorum is present in person, a member may participate by teleconference if necessary due to reasons of health or absence from the jurisdiction so long as the other requirements of this chapter are met. Absent emergency conditions or the written opinion of a physician or other health professional that reasons of health prevent a member's physical presence, no member shall participate by teleconference pursuant to this subsection more than twice in one calendar year.

OCGA § 50-14-1(g)