

FREQUENTLY ASKED QUESTIONS ABOUT QUASI-JUDICIAL CITY COUNCIL PROCEEDINGS

Some city council decisions are characterized as "quasi-judicial" and require certain rules and procedures to protect the constitutional rights of those involved. These frequently asked questions and responses to those questions provide a general and brief explanation of those procedures.

What is a Quasi-Judicial Case?

A quasi-judicial case is one in which the councilmembers are acting as judges rather than legislators; city council is not making new laws, but rather applying existing laws to specific facts, concerning one person or a small number of people rather than the entire city, at a public hearing. In other words, much like a court, the Council is applying the law to the facts gathered at the trial to arrive at its decision. Quasi-judicial proceedings usually only involve individual properties and are not effective citywide.

At the public hearing, city council is provided professional assessments and recommendations from city staff, may hear testimony from the applicant, as well as take public comment on the application. In quasi-judicial matters, all of the evidence that may be considered by councilmembers must be presented at the public hearing. This procedure is required in order to afford due process to those individuals who may be affected by the decision.

What Types of Applications Are Quasi-Judicial?

Determining whether a particular city council decision involves quasi-judicial action sometimes requires analysis of court decisions. However, "site-specific" land use decisions (including rezoning, conceptual site plans, and planned development zoning) are generally quasi-judicial. Area-wide rezoning on the other hand, is generally legislative. Other quasi-judicial matters include historic preservation district permits, conditional and specific use permits, and variances.

How Do Quasi-Judicial Rules Affect the Hearing Process?

Councilmembers may not have substantive communications with anyone regarding a quasi-judicial matter once an application has been filed with the city. In making quasi-judicial decisions, due process (constitutionally fair procedure) generally requires that the decision-maker (city council) only consider evidence and testimony that it receives at the hearing on the matter. That testimony and evidence make up the record of the proceeding. If there is an appeal of the Council's decision, the reviewing court will look to see if evidence in the record supports the Council's decision. If a councilmember receives information outside of the hearing (known as *ex-parte* communications) that influences their decision, that may be grounds to overturn the Council decision.

This rule against *ex-parte* communication ensures impartial decisions by requiring disclosure of all evidence and argument presented to the decision maker. The rule also gives everyone involved a fair chance to respond to all evidence and argument that may affect the decision. You would not want a judge to take evidence from any party outside of the trial proceeding. The rule is similar for the city council.

How can citizens communicate their concerns to the city council in quasi-judicial applications?

The public hearing is an opportunity for anyone to express his or her views to the city council on a quasi-judicial matter. The city posts the date, time and place of every public hearing in the designated locations at City of Thornton facilities, and also provides that information on this [website](#). If you are unable to attend the public hearing, you have the opportunity to submit your comments in writing, preferably prior to 5:00pm MDT/MST on the Friday preceding the public hearing either via email to citydevelopment@thorntonco.gov or by mail to Thornton City Hall, City Development Department, 9500 Civic Center Drive, Thornton, CO 80229. All written comments are conveyed to the city councilmembers and become part of the record of the application, alongside the testimony and other evidence presented at the public hearing.

Do the Same Limitations on Communications with Councilmembers Apply to Other Types of Council Decisions?

No. Citizens are encouraged to talk with their Councilmembers about other matters. If council is considering a new city-wide policy or ordinance and acting in a legislative capacity, input from citizens is always welcome.