

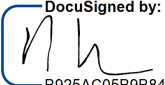


To: Honorable Mayor and City Council Members

From: Robert Buscemi RA, Community Development Director

Date: August 14, 2023, for September 6, 2023, Mayor and City Council Meeting (First Presentation – August 21, 2023)

Agenda Item: **RZ23-02** - A text amendment with respect to notification requirements for various types of land use permits and variance requests and other procedural updates to comply with latest amendment to Georgia State Zoning Procedures Law in Chapter 64, Zoning of the City of Milton City Code.

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Department Recommendation:

The Community Development Department recommends approval of the proposed text amendment.

Executive Summary:

During the 2022 Georgia legislative session, the Georgia Legislature adopted revisions to the Georgia Zoning Procedures Law (O.C.G.A. § 36-66-1, et seq. "ZPL") establishing minimum procedures for the conduct and enforcement of zoning by local jurisdictions. In addition, the revisions to the ZPL require local jurisdictions to meet certain minimum procedural requirements as part of their zoning ordinances. The City will be required to enforce these requirements no later than July 1, 2023.

The following boards and commissions will be impacted by these new changes:

- Board of Zoning Appeals
- Planning Commission
- Design Review Board – Currently does not require any notice requirements.
- Mayor and City Council

The primary change is the increase the notice of the hearing be published in the newspaper utilized by Milton as the legal organ (The Milton Herald) of 15 days minimum notice to 30 days (but not more than 45 days) prior to the public hearing. Many jurisdictions with the state did not have adequate notice requirements but the City of Milton has since its incorporation. In fact, in regard to requests for rezonings, use permits and associated concurrent variances we have required more than the required notification of 300 feet from the subject property and we require 500 feet with or until a minimum of 75 owners are included. In addition, we conduct a Community Zoning Information Meeting (CZIM) which requires certain notification prior to the meeting.

RZ23-02 – Memo for Text Amendment prepared for the City of Milton Planning Commission Meeting on July 26, 2023

On the last page, Staff has included a revised Flow Chart.

In practice, the Community Development Department has already been implementing the changes prior to the City adopting the new Zoning Procedures Law for all new applicable petitions.

Community Zoning Information Meeting – April 25, 2023: There was one member of the public who made comments/suggestions on the proposed text amendment.

Planning Commission Meeting – May 24, 2023: There was not a meeting based on the fact that there was not a quorum of the Planning Commission. Based on direction from the City Attorney, the item had to be re-advertised for the July Planning Commission meeting.

Planning Commission Meeting – July 26, 2023: Mr. Paul Frickey from the City Attorney's office presented the proposed text amendment to the Commission with a change to name the Community Development Director authorized to accept service on behalf of the respondent if an appeal is submitted to Fulton County Superior Court instead of the Chairs of the various boards and commissions. This change has been reflected in the text amendment presented. There was no one in attendance from the public. The Planning Commission unanimously recommended approval of the ordinance with the proposed amendment presented by Mr. Frickey.

Funding and Fiscal Impact:

The required additional legal advertising will increase the line item for advertising from \$9,250 in FY 23 to \$11,713 in the upcoming FY24 budget. This is an increase of \$2,463.

Alternatives:

The Mayor and City Council may choose not to approve the proposed text amendment.

Legal Review:

Paul Frickey, Jarrard & Davis, July 2023

Concurrent Review:

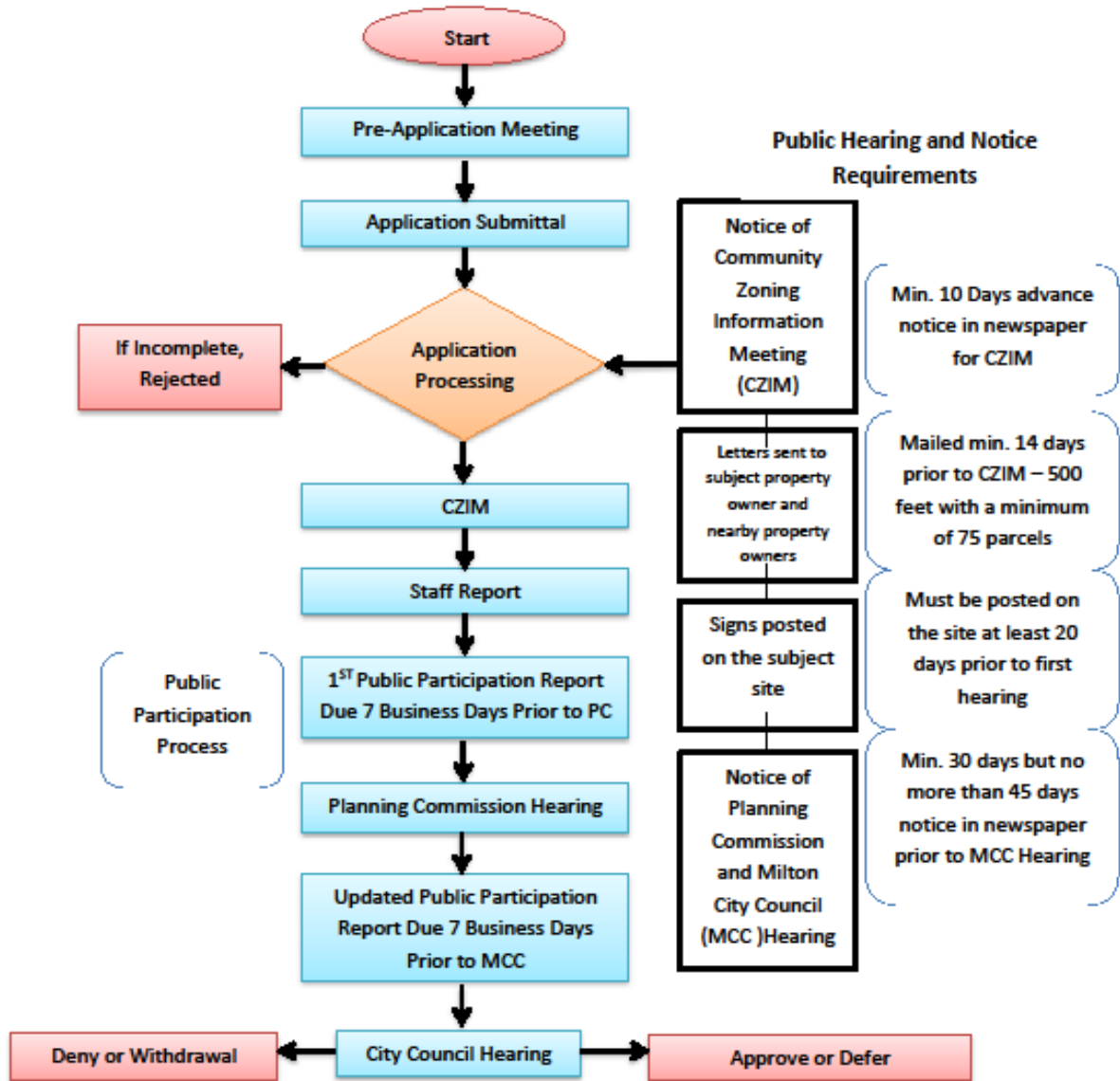
Steve Krokoff, City Manager

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Steven Krokoff
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Attachment(s):

Ordinance RZ23-02

City of Milton Rezoning / Use Permit Flow Chart



Proposed Revision May 2023

**AN ORDINANCE OF THE CITY OF MILTON, GEORGIA TO AMEND
CHAPTER 64 OF THE CODE OF THE CITY OF MILTON, GEORGIA
TO COMPLY WITH AMENDMENTS TO THE GEORGIA ZONING
PROCEDURES LAW; TO PROVIDE FOR THE REPEAL OF
CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE;
AND FOR OTHER LAWFUL PURPOSES.**

BE IT ORDAINED by the City Council of the City of Milton, Georgia while in a regular Council meeting on September 6, 2023, at 6:00 PM as follows:

WHEREAS, pursuant to its Charter and other laws of the State of Georgia, the City of Milton, Georgia has the power to adopt clearly reasonable ordinances, resolutions and regulations for the protection and preservation of the public health, safety and welfare of its citizens; and

WHEREAS, Chapter 64 of the City of Milton Code of Ordinances regulates zoning within the City of Milton, and

WHEREAS, the Georgia Legislature adopted revisions to the Georgia Zoning Procedures Law (O.C.G.A. § 36-66-1, et seq. “ZPL”) establishing minimum procedures for the conduct and enforcement of zoning by local jurisdictions; and

WHEREAS, the revisions to the ZPL require local jurisdictions to meet certain minimum procedural requirements as part of their zoning ordinances; and

WHEREAS, the Mayor and Council have determined that it is in the best interest of the City’s residents to amend the Zoning Ordinance to satisfy the minimum requirements set forth in the State ZPL;

NOW THEREFORE, THE COUNCIL OF THE CITY OF MILTON HEREBY ORDAINS as follows:

SECTION 1.

Chapter 64 – Zoning, of the Code of the City of Milton, Georgia is hereby amended as follows:

Add a new Section 64-26 – Designated Officials for Appeal Proceedings to read:

- (a) In order to comply with O.C.G.A. § 36-66-5.1(c), the Community Development Director is authorized to issue appeal bonds and certificates of costs upon confirmation with City staff that such approvals are appropriate.
- (b) For purposes of appeals pursuant to Chapter 4, of Title 5 of the Official Code of Georgia Annotated, the Community Development Director is authorized to accept service on behalf

of the Respondent. The Community Development Director is authorized to accept service of process on behalf of the City as the defendant/opposite party.

Section 64-1022 is amended to add a new subsection (c) to read:

The Design Review Board shall conduct a public hearing with respect to each application for a certificate of endorsement before considering the application. The hearing shall be conducted according to the procedures established in Section 64-2082. Notice of the hearing shall be published in the newspaper utilized by Milton as the legal organ not less than 30 and not more than 45 days prior to the date set for the public hearing. Notice shall also be mailed to the owner of the property as reflected on the current tax records of Fulton County as retrieved by the city's geographic information system.

Add a new Section 64-1573 to read:

Any administrative permit decision under this Division of Article IX of Chapter 64 may be appealed in accord with the procedures set out for secondary variances in Article X of Chapter 64.

{Adult Bookstore Use Permits} Section 64-1655(c) is amended by deleting the subsection in its entirety and replacing it with the following:

Processing. The city shall have 90 days (unless the application is suspended by failure of the applicant to provide data, information or records as reasonably requested by the city and required by this Code, to complete the investigation) from receipt of a completed application for a use permit to make a decision in which to grant or deny a use permit. The community development department and the planning commission shall make recommendations to the city council regarding the approval or denial of the use permit and the council shall make the final decision after a public hearing regarding. **Notice of the hearing shall be published in the newspaper utilized by Milton as the legal organ not less than 30 and not more than 45 days prior to the date set for the public hearing. Notice shall also be mailed to the owner of the property as reflected on the current tax records of Fulton County as retrieved by the city's geographic information system. The public hearing shall be conducted according to the procedures established in Section 64-2082.** In the event the city council has not granted or denied the application within 90 days (unless the application is suspended by failure of the applicant to provide data, information or records as reasonably requested by the city to complete the investigation), the use permit shall automatically issue.

{Adult Entertainment Establishment Use Permits} Section 64-1677(c) is amended by deleting the subsection in its entirety and replacing it with the following:

Processing. The city shall have 90 days (unless the application is suspended by failure of the applicant to provide data, information or records as reasonably requested by the city and required by this Code, to complete the investigation) from receipt of a completed application for a use permit to make a decision in which to grant or deny a use permit. The community development department and the planning commission shall make

recommendations to the city council regarding the approval or denial of the use permit and the council shall make the final decision after a public hearing regarding the same. **Notice of the hearing shall be published in the newspaper utilized by Milton as the legal organ not less than 30 and not more than 45 days prior to the date set for the public hearing. Notice shall also be mailed to the owner of the property as reflected on the current tax records of Fulton County as retrieved by the city's geographic information system. The public hearing shall be conducted according to the procedures established in Section 64-2082.** In the event the city council has not granted or denied the application within 90 days (unless the application is suspended by failure of the applicant to provide data, information or records as reasonably requested by the city to complete the investigation), the use permit shall automatically issue.

Add the following language to the end of Section 64-1885: “Any administrative variance decision under this section may be appealed in accord with the procedures set out for secondary variances in Article X of Chapter 64.”

Add the following language to the end of Section 64-1886: “Any administrative minor variance decision under this section may be appealed in accord with the procedures set out for secondary variances in Article X of Chapter 64.”

Section 64-1887 is amended by deleting the second sentence and replacing it with: “Any minor variance decision under this section may be appealed in accord with the procedures set out for secondary variances in Article X of Chapter 64.”

Section 64-1940 is amended by adding new subsections (c) and (d) as follows:

(c) Any of the decisions described in subsection (b) above, may be appealed in accord with the procedures set out for secondary variances in Article X of Chapter 64.

(d) The public hearings conducted in accordance with the Subsection (a) above shall allow a minimum of 10 minutes for both proponents and opponents to present data, evidence and opinions.

Section 64-1942(a)(1) is amended by deleting “15 days” and replacing it with “30 days”.

Section 64-1942(a)(3) is amended by deleting the subsection in its entirety and replacing it with the following:

Notice of the public hearing shall be sent at least 30 days prior to the hearing date and shall be given by regular mail to the property owner and all property owners within 300 feet of the boundaries of the property who appear on the current tax records of Fulton County as retrieved by the city's geographic information system. Renotification is not required when a petition is deferred by the mayor and city council or the board of zoning appeals.

The mailing of public notices other than to the subject property owner, is not required when a secondary variance is sought by other than the property owner.

Section 64-2082(a) is amended by deleting the subsection in its entirety and replacing it with the following:

Before adopting any change to the zoning maps or text of the zoning ordinance, the mayor and city council shall hold a public hearing following a community zoning information meeting (CZIM) and a public hearing by the planning commission. **The public hearings held pursuant to this section shall allow a minimum of 10 minutes for both proponents and opponents to present data, evidence and opinions.**

Section 64-2082(c) is amended by deleting the subsection in its entirety and replacing it with the following:

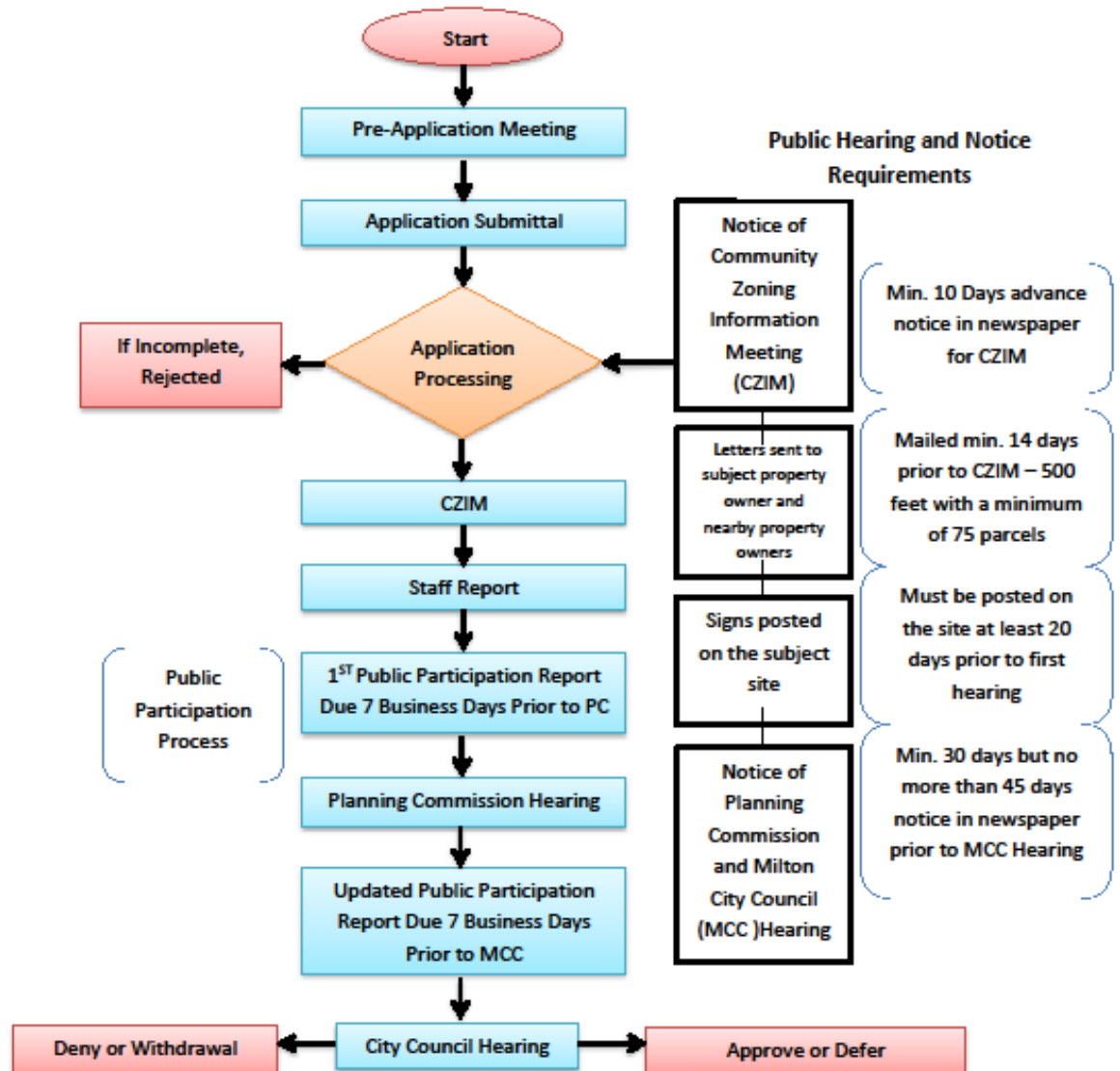
Notice of the public hearings held pursuant to this section shall be published in a newspaper of general circulation at least 30 days but not more than 45 days prior to the date of the public hearing. Renotification is not required when a petition is deferred by the mayor and city council.

Section 64-2082(g) is amended to add “the subject property owner and” immediately after “The department shall give notice by regular mail to”.

Section 64-2082(h) is amended by deleting the subsection in its entirety and replacing it with the following:

The hearing notices required by this section shall include the time, place and purpose of the hearing, and, where applicable, the notice shall also include the location of the property, the present zoning classification of the property and the proposed zoning classification, use permit, permit or other permission requested with respect to the property.

City of Milton Rezoning / Use Permit Flow Chart



Add a new Section 64-2427 to read:

The Design Review Board shall conduct a public hearing with respect to each demolition permit application before considering the application. The hearing shall be conducted according to the procedures established in Section 64-2082. Notice of the hearing shall be published in the newspaper utilized by Milton as the legal organ not less than 30 and not more than 45 days prior to the date set for the public hearing. Notice shall also be mailed to the owner of the property as reflected on the current tax records of Fulton County as retrieved by the city's geographic information system.

Amend Section 64-2454(d)(3) by deleting the subsection in its entirety and replacing it with the following:

“The HPC and the Milton City Council shall hold a joint public hearing at a special or regular HPC meeting on any proposed ordinance for the designation of any historic district or property. Notice of the hearing shall be published in the newspaper utilized by Milton as the legal organ **not less than 30 and not more than 45 days prior to the date set for the public hearing. Notice shall also be mailed to the owner of the property as reflected on the current tax records of Fulton County as retrieved by the city's geographic information system. The public hearing shall be conducted according to the procedures established in Section 64-2082.**

Amend Section 64-2455(e) by deleting the subsection in its entirety and replacing it with the following:

Public hearings on applications for certificates of appropriateness, notices, and right to be heard. The HPC shall hold a public hearing at which each proposed certificate of appropriateness is discussed. **Notice of the hearing shall be published in the newspaper utilized by Milton as the legal organ not less than 30 and not more than 45 days prior to the hearing. Notice shall also be mailed to the owner of the property as reflected on the current tax records of Fulton County as retrieved by the city's geographic information system. The public hearing shall be conducted in accordance with the procedures set forth in Section 64-2082.** The HPC shall provide the property owner and/or applicant an opportunity to be heard at the certificate of appropriateness hearing.

SECTION 2. That all Ordinances, parts of Ordinances, or regulations in conflict herewith are hereby repealed.

SECTION 3. This Ordinance shall become effective upon a majority vote by the City Council as ratified by the Mayor of the City of Milton, Georgia.

SO ORDAINED this the 6th day of September 2023, the public's health, safety, and welfare demanding it.

Approved:

Peyton Jamison, Mayor

Attest:

Tammy Lowit, City Clerk