

**STATE OF GEORGIA**

**CITY OF HIRAM**

**ORDINANCE 2023-03**

**AN ORDINANCE OF THE GOVERNING AUTHORITY FOR THE CITY OF HIRAM, GEORGIA ISSUING A RENEWED LAND USE PERMIT ALLOWING A STRUCTURE IN A COMMERCIAL AREA LOCATED AT 590 HIRAM DOUGLASVILLE HIGHWAY, HIRAM, GEORGIA TO BE OCCUPIED FOR DWELLING PURPOSES BY THE PROPRIETOR OR MANAGER OF THE COMMERCIAL USE CONDUCTED THEREON AND PRESCRIBING CONDITIONS APPLICABLE TO SAME; TO AMEND, IF NECESSARY, THE CITY'S COMPREHENSIVE PLAN AND/OR THE OFFICIAL ZONING MAP OF THE CITY TO REFLECT THIS ORDINANCE; AND FOR OTHER PURPOSES.**

**WHEREAS**, Article IX of the City's Zoning Ordinance, codified in Appendix A to the City's Code of Ordinances, governs requests for land use permits;

**WHEREAS**, Article IX, Section A of the City's Zoning Ordinance authorizes the Governing Authority to grant a land use permit in commercial areas for structures to be used for dwelling purposes by the proprietor or manager of the commercial use conducted thereon;

**WHEREAS**, Article IX, Section B of the City's Zoning Ordinance prescribes the applicable procedures to be satisfied in connection with a request for a land use permit and prescribes the criteria to be considered in assessing whether or not a requested land use permit should be granted;

**WHEREAS**, Article IX, Section B of the City's Zoning Ordinance requires that the Paulding County Planning Commission initially hear and consider requests for land use permits and to provide a recommendation upon conducting a public hearing in accordance with the procedures applicable thereto to a rezoning;

**WHEREAS**, an application for a renewed land use permit was filed by Janet S. McMillen (the "Applicant") that was accepted and designated as Number 2023-01-LUP (CoH) (the "Application") for property located within the City of Hiram and identified as Tax Parcel Number 175.2.3.005.0000 located in Land Lot 681, District 2, Section 3, more commonly known as "590 Hiram Douglasville Highway" (the "Property");

**WHEREAS**, the Property is currently zoned "LRO (Low Rise Office)" which allows various commercial activities and as is reflected on the official zoning map of the City of Hiram maintained in the administrative offices of the City of Hiram;

**WHEREAS**, the Applicant is the owner of the Property upon which is situated a structure (the "Structure") used by the Applicant, as the proprietor, to engage in a

business activity that is currently lawfully permitted and that is not a “home occupation” as that term is defined in the City’s Zoning Ordinance;

**WHEREAS**, Applicant seeks a land use permit that would allow her to occupy the Structure on the Property for dwelling purposes as authorized by Article IX, Section A of the City’s Zoning Ordinance;

**WHEREAS**, the Application complied with all requirements to be properly accepted and processed in accordance with the City’s policies and procedures applicable to receipt and consideration of a request for a land use permit;

**WHEREAS**, the Application was advertised for public hearing by the Paulding County Planning Commission in accordance with applicable state law and City ordinances and with all other attendant requirements satisfied;

**WHEREAS**, on February 28, 2023, the Paulding County Planning Commission held the public hearing required by law and recommended approval of the Application subject to a condition that the “Owner/Occupant agrees approval of this LUP is not transferable to another owner other than the current property owner/applicant” (Janet S. McMillen);

**WHEREAS**, the Application was subsequently advertised for a public hearing on March 30, 2021 by the City’s Governing Authority in accordance with applicable state law and City ordinances and in compliance with all other attendant requirements;

**WHEREAS**, the Application was the subject of a public hearing before the City’s Governing Authority on March 28, 2023, the date coinciding with the date of the first regularly scheduled meeting of the Governing Authority subsequent to the previous February 28, 2023 hearing and permitting sufficient time for public notice as required by the City’s ordinances and state law;

**WHEREAS**, the Governing Authority was provided copies of all materials pertaining to the requested land use permit, including the Application and its supporting materials as well as recommendation of the Paulding County Planning Commission and a City staff recommendation;

**WHEREAS**, Applicant has agreed to and understands the condition recommended that the land use permit sought, if granted, will not be transferable to another owner;

**WHEREAS**, Applicant has agreed to and understands as a condition of the LUP that her hours of operation may not be changed from their current 10:00 a.m. to 8:00 p.m. status;

**WHEREAS**, Applicant was previously granted LUP’s (Ordinances 2021-04, 2018-10, and 2016-05) subject to the same terms and conditions as agreed to herein;

**WHEREAS**, all requirements applicable to the public hearing by the Governing Authority were satisfied, the matter was heard, and the public hearing was closed;

**WHEREAS**, consideration of the Application was placed on the agenda for the Governing Authority's regular session scheduled for April 11, 2023; and

**WHEREAS**, the agenda was published in accordance with all applicable requirements of City ordinances and state law and the regular session scheduled for April 11, 2023 was properly noticed in compliance with applicable City ordinances and state law.

**THE GOVERNING AUTHORITY SO ORDAINS AS FOLLOWS:**

**SECTION 1.** Upon considering the Application and assessing it against the standards prescribed in Article IX, Section B of the City's Zoning Ordinance, the Governing Authority finds that the Application is well-taken and should be granted in accordance with Article IX of the City's Zoning Ordinance and subject to the condition recommended by the Paulding County Planning Commission and the condition that hours of operation for the business conducted on the Property must remain as 10:00 a.m. to 8:00 p.m.

**SECTION 2.** Consistent with Section 1 above, the Governing Authority hereby grants to Applicant a land use permit allowing her to occupy the Property for dwelling purposes for a period of two (2) years, to the fullest extent authorized by Article IX. Further, this land use permit is and shall be revoked automatically within the aforesaid two (2) year period upon Applicant discontinuing to reside upon or otherwise vacating the Property and/or should Applicant cease to operate as the proprietor or manager a lawfully permitted business from the Property and/or should the business permit be revoked for the current lawfully permitted business on the Property. This land use permit is and shall be revoked automatically also within the aforesaid two (2) year period should business conducted on the Property occur prior to 10:00 a.m. or after 8:00 p.m. As agreed to by Applicant, this land use permit is nontransferable to another owner of the Property.


**SECTION 3.** To the extent necessary and required, the City's Comprehensive Plan shall be updated to reflect the land use permit. The official zoning map for the City is hereby incorporated and amended to reflect this land use permit, is as much a part of this Ordinance as if fully described herein, and the same shall be available for public inspection.

**SECTION 4.** This Ordinance shall become effective immediately upon its adoption by the Governing Authority.

**SECTION 5.** All ordinances, resolutions or parts thereof, in conflict with this Ordinance are hereby repealed.

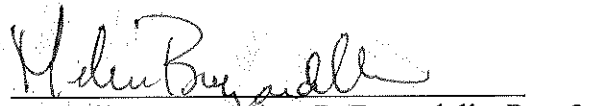
**SECTION 6.** In the event a court of competent jurisdiction declares any word, phrase, clause, sentence, or paragraph of this Ordinance invalid, unenforceable, or unconstitutional, such ruling shall not affect the remaining words, phrases, clauses, sentences, and paragraphs of this Ordinance, but the invalidated provisions shall be severed from the Ordinance and the remaining contents shall stand with their validity in no way affected.

**SO ORDAINED THIS** 11th day of April, 2023.

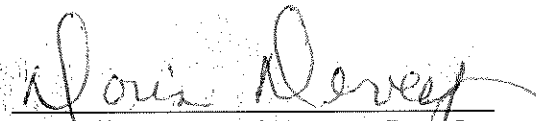
  
Mayor Frank Moran

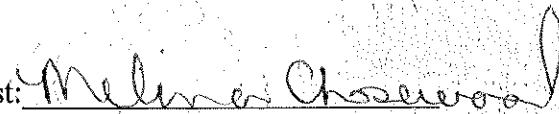
  
Mayor Pro Tem Teresa Philyaw, Post 1

  
Councilperson Kathy Bookout, Post 2

  
Councilperson Melissa R. Bayardelle, Post 3

  
Councilperson Derrick Battle, Post 4

  
Councilperson Doris Devey, Post 5

Attest:   
Melissa Chosewood, City Clerk

