

ORDINANCE NO. 2119-14

**AN ORDINANCE TO FURTHER AMEND AND SUPPLEMENT THE
CODE OF THE BOROUGH OF HAWTHORNE SO AS TO AMEND
CHAPTER 540, ZONING, SO AS TO SET FORTH HOUR OF
OPERATION REQUIREMENTS FOR BUSINESSES OPERATING IN
RESIDENTIAL ZONES IN THE BOROUGH OF HAWTHORNE**

WHEREAS, the Municipal Council of the Borough of Hawthorne previously enacted Ordinance 2013-10 regulating hours of operation of businesses in residential zones; and

WHEREAS, said Ordinance was deemed to be defective by order of the Superior Court of the State of New Jersey as a result of procedural deficiencies in the adoption process; and

WHEREAS, the Administration of the Borough of Hawthorne, working with its Ordinance Committee, has determined to introduce and seek adoption of a similar ordinance, bearing the same title, and having similar effect as set forth below;

NOW THEREFORE, BE IT ORDAINED, by the Municipal Council of the Borough of Hawthorne, in the County of Passaic and State of New Jersey, that:

Section 1. Chapter 540, Zoning, Section 540-8, General Regulations, is hereby amended so as create thereunder section 540-8 (U), setting forth hour of operation regulations for any businesses operating in residential zones with the same to read as follows:

Q. No business operation established in any residential zone shall have hours of operation with opening of the business earlier than 7:00 a.m. and closing of the business later than 10:00 p.m., except on Sundays, when no business may have hours of operation with opening before 12:00 noon. No deliveries to such business shall likewise commence prior to 7:00 a.m. and all deliveries must be completed before 10:00 p.m. Monday through Saturday, or before 12:00 noon on Sundays except as may be approved by any reviewing board. Nothing herein shall preclude the reviewing board hearing any application from establishing more restrictive hours for operation or delivery, based upon the nature of the proposed business operation and other facts and circumstances considered by the board. Hours of operation or delivery beyond that authorized by this Ordinance shall be prohibited. The foregoing restriction shall not apply to any business already established and in operation on the date this ordinance is adopted where approved hours of operation differ from the requirements of this subsection. No business already established and in operation as of the date of this subsection shall increase or expand hours of operation beyond existing hours of operation or the hours permitted by this subsection, whichever is the greater.

Section 2. If any section, subsection or part of this ordinance is adjudged by a Court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not impair or invalidate the remainder of this ordinance.

Section 3. The remaining portion of Chapter 540, Zoning, shall remain in full force and effect except as modified hereunder. All parts and provisions of any ordinance which are inconsistent with the provisions of this ordinance shall be repealed to the extent of such inconsistency.

Section 4. This Ordinance shall take effect upon final adoption and publication as provided by law.

Frank E. Matthews
Council President

Attest:
Lori DiBella, RMC
Borough Clerk

NOTICE OF PENDING ORDINANCE

The Ordinance published herewith was introduced and passed upon first reading at a meeting of the Municipal Council of the Borough of Hawthorne, in the County of Passaic, New Jersey, held on June 18, 2014. It will be further considered for final passage after public hearing thereon at a meeting of said Municipal Council to be held in the Municipal Building, 445 Lafayette Avenue, in said Borough on July 30, 2014, at 7:00 p.m., at which time and place all interested members of the public who desire will be given an opportunity to be heard in connection with said Ordinance. During the week prior to, up to and including the date of such meeting, copies of said Ordinance will be posted on the borough website and made available at the Clerk's Office in said Municipal Building to the members of the general public who shall request the same.

Lori DiBella, RMC
Borough Clerk

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF ORDINANCE NO. 2119-14 ADOPTED BY THE MUNICIPAL COUNCIL OF THE BOROUGH OF HAWTHORNE AT A REGULAR MEETING ON JULY 30, 2014.

ATTEST:

Lori DiBella, RMC
Borough Clerk

Frank E. Matthews
Council President

APPROVED:

Richard S. Goldberg
Mayor