

**ORDINANCE NO. 2242-19**

**AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE BOROUGH OF HAWTHORNE CHAPTER 540, ZONING, TO CREATE NEW ARTICLE XXVII, MUNICIPAL HOUSING LIAISON, FOR THE PURPOSE OF ADMINISTERING THE BOROUGH'S AFFORDABLE HOUSING PROGRAM PURSUANT TO THE FAIR HOUSING ACT**

**BE IT ORDAINED** by the Municipal Council of the Borough of Hawthorne in the County of Passaic and State of New Jersey that the following amendments be made to Chapter 540, Zoning, so as to create Article XXVIII, Municipal Housing Liaison.

SECTION 1. Chapter 540, Zoning, is hereby amended and supplemented so as to create Article XXVIII, Municipal Housing Liaison, with the said Article to read as follows

**ARTICLE XVIII  
MUNICIPAL HOUSING LIASON**

**§ 540-195. Municipal Housing Liaison**

A. The position of Municipal Housing Liaison (MHL) for the Borough of Hawthorne is established by this ordinance. The Mayor shall make the actual appointment of the MHL, subject to adoption of a memorializing resolution.

1. The MHL must be either a full-time or part-time employee of Hawthorne.
2. The person appointed as the MHL must be reported to the Court and thereafter posted on the Borough's website.
3. The MHL must meet all the requirements for qualifications, including initial and periodic training, if such training is made available by COAH or the DCA.
4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Hawthorne, including the following responsibilities which may not be contracted out to an Administrative Agent, or the Administrative Agent appointed by a specific developer:
  - a) Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
  - b) The implementation of the Affirmative Marketing Plan and affordability controls;
  - c) When applicable, supervising any contracting Administrative Agent;
  - d) Monitoring the status of all restricted units in the Borough's Fair Share Plan;
  - e) Compiling, verifying and submitting annual reports as required;
  - f) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
  - g) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ), if such continuing education opportunities are made available by COAH or the DCA.

B. The Housing Liaison shall serve as the Administrative Agent for the Borough of Hawthorne to administer and to affirmatively market the affordable units constructed in the Borough in accordance with UHAC and this Ordinance. This is in addition to any Administrative Agent retained by a specific developer. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and may be subject to approval of the Court appointed Special Master or the Court. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of any outside Administrative Agent(s). The Municipal Housing Liaison shall supervise the work of any outside Administrative Agent(s).

**§ 540-196 Administrative Agent.**

- A. An Outside Administrative Agent may be either an independent entity serving under contract to and reporting to the Borough or reporting to a specific individual developer. ***The fees of any Outside Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required.*** The Borough Administrative Agent shall monitor and work with any Outside Administrative Agents appointed by individual developers. The Borough Administrative Agent and any Outside Administrative Agent(s) shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:
1. Affirmative Marketing:
    - a) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Hawthorne and the provisions of N.J.A.C. 5:80-26.15; and
    - b) Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
  2. Household Certification:
    - a) Soliciting, scheduling, conducting and following up on interviews with interested households;
    - b) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
    - c) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
    - d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
    - e) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;
    - f) Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Hawthorne when referring households for certification to affordable units; and
    - g) Notifying the following entities of the availability of affordable housing units in the Borough of Hawthorne: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Passaic County Branch of the NAACP, Senior Citizens United Community Services (S.C.U.C.S.), and the Supportive Housing Association.
  3. Affordability Controls:
    - a) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
    - b) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
    - c) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Passaic County Register of Deeds or Passaic County Clerk's office after the termination of the affordability controls for each restricted unit;
    - d) Communicating with lenders regarding foreclosures; and
    - e) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
  4. Resales and Re-rentals:

- a) Instituting and maintaining an effective means of communicating information between owners and the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, regarding the availability of restricted units for resale or re-rental; and
  - b) Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.
5. Processing Requests from Unit Owners:
- a) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
  - b) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
  - c) Notifying the municipality of an owner's intent to sell a restricted unit; and
  - d) Making determinations on requests by owners of restricted units for hardship waivers.
6. Enforcement:
- a) Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
  - b) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer;
  - c) Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, where complaints of excess rent or other charges can be made;
  - d) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
  - e) Establishing a program for diverting unlawful rent payments to the Borough's Affordable Housing Trust Fund; and
  - f) Creating and publishing a written operating manual for each affordable housing program administered by the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, to be approved by the Borough Council and the Court, setting forth procedures for administering the affordability controls.
7. Additional Responsibilities:
- a) The Borough's Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
  - b) The Borough's Administrative Agent shall prepare monitoring reports for submission in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance. The Borough's Administrative Agent will be responsible for collecting monitoring information from any Administrative Agents appointed by specific developers.
  - c) The Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

SECTION 2. If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this Ordinance.

All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

SECTION 3. This Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law.

Frank E. Matthews  
Council President

Attest:  
Lori DiBella, RMC, CMC  
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 December 11, 2019. 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 January 22, 2020 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, and during the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the Borough of Hawthorne website, [www.hawthornenj.org](http://www.hawthornenj.org) and at the Clerk's Office in said Municipal Building during regular business hours at no cost to the members of the general public who shall request the same.

**THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF AN ORDINANCE ADOPTED BY THE MUNICIPAL COUNCIL OF THE BOROUGH OF HAWTHORNE AT A REGULAR MEETING ON JANUARY 22, 2020.**

ATTEST:

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Frank E. Matthews, Council President

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Lori Fernandez, RMC, CMC, Borough Clerk

APPROVED: \_\_\_\_\_  
Richard S. Goldberg, Mayor