

ORDINANCE NO. 2035-11

AN ORDINANCE TO ADOPTING A CODIFICATION OF THE ORDINANCES OF THE BOROUGH OF HAWTHORNE, COUNTY OF PASSAIC AND STATE OF NEW JERSEY; PROVIDING FOR THE MAINTENANCE OF SAID CODE; REPEALING AND SAVING FROM REPEAL CERTAIN ORDINANCES NOT INCLUDED THEREIN; ESTABLISHING A PENALTY FOR ALTERING OR TAMPERING WITH THE CODE; AND MAKING CERTAIN CHANGES IN PREVIOUSLY ADOPTED ORDINANCES

BE IT ORDAINED, by the Borough Council of the Borough of Hawthorne, in the County of Passaic and State of New Jersey, as follows:

Section 1. Chapter 1 of the Code of the Borough of Hawthorne, Article I, Adoption of Code, is hereby amended to read as follows:

§ 1-1. Adoption of Code.

Pursuant to N.J.S.A. 40:49-4, the various chapters and Articles of the Revised Ordinances, 1989 Code of the Borough of Hawthorne, and the other ordinances of the Borough of Hawthorne of a general and permanent nature adopted by the Board of Commissioners of the Borough of Hawthorne, as revised, codified and consolidated into chapters and sections by General Code Publishers Corp., and consisting of Chapters 1 through 540, are hereby approved, adopted, ordained and enacted as the "Code of the Borough of Hawthorne," hereinafter known and referred to as the "Code."

§ 1-2. Code supersedes prior ordinances.

This ordinance and the Code shall supersede the 1989 Code of the Borough of Hawthorne, and all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

§ 1-3. When effective.

This ordinance shall take effect twenty (20) days after final passage, provided that notice of the same has been duly published, all as required by law.

§ 1-4. Copy of Code on file.

A copy of the Code in loose-leaf form has been filed in the office of the Borough Clerk and shall remain there for use and examination by the public until final action is taken on this

ordinance; and, if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the Borough of Hawthorne by impressing thereon the Seal of the borough, as provided by law, and such certified copy shall remain on file in the office of the Clerk of the borough, to be made available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-5. Amendments to Code.

Any and all additions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intent of the governing body to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Borough of Hawthorne" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code, as amendments and supplements thereto.

§ 1-6. Publication; filing.

The Clerk of the Borough of Hawthorne, pursuant to law, shall cause to be published, in the manner required, a copy of this Adopting Ordinance in a newspaper of general circulation in the borough. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this Adopting Ordinance, coupled with availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Code book to be kept up-to-date.

It shall be the duty of the Clerk, or someone authorized and directed by the Clerk, to keep up-to-date the certified copy of the book containing the Code required to be filed in his office for the use of the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-8. Sale of Code book.

Copies of the Code book containing the Code may be purchased from the Clerk upon the payment of a fee to be set by resolution of the Municipal Council, which may also arrange, by resolution, for procedures for the periodic supplementation thereof.

§ 1-9. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Borough of Hawthorne to be misrepresented thereby. Anyone violating this section or part of this ordinance shall be subject, upon conviction, to a fine of not more than two thousand dollars (\$2,000.) or to imprisonment for not more than ninety (90) days, or both, in the discretion of the Judge imposing the same.

§ 1-10. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-11. Severability of ordinance provisions.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-12. Repeal of ordinances.

All ordinances or parts of ordinances of a general and permanent nature adopted and in force on the date of the adoption of this ordinance and not contained in the Code are hereby repealed as of the effective date of this Adopting Ordinance, except as hereinafter saved from repeal.

§ 1-13. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-12 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to January 1, 2011.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance, or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision, or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending, or any judgment rendered, prior to the

effective date of this ordinance, brought pursuant to any legislative provision.

E. Any franchise, license, right, easement or privilege heretofore granted or conferred.

F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing of grade, changing of name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.

G. Any ordinance or resolution appropriating money or transferring funds promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the borough's indebtedness.

H. Ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract or obligation.

I. The levy or imposition of taxes, assessments or charges.

J. The dedication of property or approval of preliminary or final subdivision plats.

K. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.

L. Any ordinance adopting or amending the Zoning Map.

M. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.

§ 1-14. Changes in previously adopted ordinances.

A. In compiling and preparing the ordinances for adoption and revision as part of the Code pursuant to N.J.S.A. 40:49-4, certain grammatical changes and other minor changes were made in one (1) or more of said ordinances. It is the intention of the Municipal Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.

B. In addition, the following changes, amendments or revisions are made herewith, to become effective upon the effective date of this ordinance: Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.

C. Nomenclature throughout the Code has been changed with the following terms updated as indicated:

1. References to "Municipal Court Clerk" are revised to read, "Court Administrator."

2. References to "Board of Commissioners" are revised to read, "Municipal Council."

3. References to "State Department of Health" are revised to read, "State Department of Health and Human Services."

D. In addition, the following changes, amendments or revisions have been made, to become effective upon the effective date of this ordinance:

1. In Sec. 491-10B the maximum fine was increased to \$2,000.

2. In Sec. 499-6 the maximum fine was increased to \$2,000. § 1-15. Violations and penalties.

A. Except as hereinafter provided, whenever in this Code or in any other ordinance or resolution of the borough or in any rule, regulation or order promulgated pursuant to such Code or other ordinance of the borough any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or in such other borough ordinance, resolution, rule, regulation or order the doing of any act is required or the failure to do any act is declared to be unlawful or an offense, where no specific penalty is provided therefor, the violation of any such provision of this Code or of any other ordinance or resolution of the borough or any rule, regulation or order promulgated pursuant to such Code or other Borough ordinance shall be punished by one or more of the following:

(1) Imprisonment in the county jail or in any place provided by the borough for the detention of prisoners for any term not exceeding 90 days;

(2) By a fine not exceeding \$2,000; or

(3) By a period of community service not exceeding 90 days.

B. Whenever any provision of the New Jersey Revised Statutes limits the authority of the borough to punish the violation of any particular provision of this Code or other borough ordinance or rule, regulation or order promulgated pursuant thereto to a fine of less amount than that provided in this section or imprisonment for a shorter term than that provided in this section, then the violation of such particular provision of this Code or other borough ordinance, resolution, rule, regulation or order shall be punished by the imposition of not more than the maximum fine or imprisonment so authorized or by both such fine or imprisonment.

C. Each day any violation of this Code or any other borough ordinance, resolution, rule, regulation or order promulgated pursuant thereto shall continue shall constitute a separate offense, unless otherwise provided.

D. Whenever any such fine is imposed upon any corporation, such fine and costs and charges incident thereto may be collected in an action of debt or in such other manner as may be provided by law.

Section 2. If any part or parts of this Ordinance are for any reason held to be invalid, such adjudication shall not affect the validity of the remaining portions of this Ordinance.

Section 3. Except as modified hereby, all ordinances or parts of ordinances herein mentioned shall remain in full force and effect. All Ordinances or parts of Ordinances which are inconsistent herewith are repealed, but only to the extent of such inconsistency.

Section 4. This Ordinance shall take effect twenty (20) days after final adoption and publication as provided by law.

Frank Matthews  
Council President

ATTEST:  
Susan Witkowski, R.M.C.  
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 March 2, 2011. 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 April 6, 2011, at 8:00 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 Clerk's Office in said Municipal Building to the members of the general public who shall request the same.

Susan Witkowski, R.M.C.  
Borough Clerk