

AGENDA

June 16, 2021 ~ 7:00 PM

Location: Borough of Hawthorne Council Chambers, 445 Lafayette Avenue, 1st Floor, Hawthorne 07506



ROLL CALL:

FLAG SALUTE:

STATEMENT:

Adequate notice of this meeting has been provided by the Annual Schedule of Regular Meetings heretofore adopted and posted on the Public Bulletin Board at the Municipal Building, emailed to The Herald News, The Record, The Gazette and all persons who have requested the mailing of such schedule, and a copy of said schedule has remained on file in the office of the Borough Clerk from and since December 3, 2020.

APPROVAL OF MINUTES: Minutes for the Regular Meeting of May 19, 2021.

PUBLIC COMMENT: (Agenda Items Only – 5 minute limit)

OLD BUSINESS:

NEW BUSINESS:

ADMINISTRATIVE AGENDA PRESENTED BY MAYOR GOLDBERG:

APPOINTMENT & OATH of OFFICE:

(with Advice & Consent)

Honorable John F. Meola as Judge of the Hawthorne Municipal Court

APPOINTMENTS & OATH of OFFICE:

Andrew R. Skae to Police Officer of the Borough of Hawthorne

Sarah L. Kearsley to Special Law Enforcement Officer - Class II of the Borough of Hawthorne

Stephen T. Zukofsky to Special Law Enforcement Officer - Class II of the Borough of Hawthorne

REPORTS:

Borough Attorney Michael J. Pasquale

Borough Administrator Eric Maurer

PRESENTATION: “Proposed Water Utility Treatment Upgrade”

Dr. Stephen T. Boswell

INTRODUCTION OF ORDINANCES:

WATER UTILITY BOND ORDINANCE NO. 2275-21

WATER UTILITY BOND ORDINANCE PROVIDING FOR WATER SYSTEM INFRASTRUCTURE ANALYSIS AND DESIGN AND IMPLEMENTATION OF TREATMENT SYSTEM IMPROVEMENTS AT VARIOUS LOCATIONS AS MAY BE IDENTIFIED OR HEREAFTER DESCRIBED ALL IN AND BY THE BOROUGH OF HAWTHORNE IN THE COUNTY OF PASSAIC, NEW JERSEY, APPROPRIATING THREE HUNDRED FIFTY

THOUSAND (\$350,000) DOLLARS THEREFOR AND AUTHORIZING THE ISSUANCE OF BONDS OR NOTES OF THE BOROUGH FOR FINANCING THE SAME.

ORDINANCE NO. 2276-21

AN ORDINANCE BY THE BOROUGH OF HAWTHORNE IN THE COUNTY OF PASSAIC AND STATE OF NEW JERSEY PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES AND CREATING CHAPTER 160 OF THE CODE OF THE BOROUGH OF HAWTHORNE, CANNABIS BUSINESSES.

RESOLUTIONS:

CONSENT AGENDA: R 100-21 through R 104-21:

- R 100-21 Tax Sale Redemption
- R 101-21 Chapter 159: Budget Insertion of Body Worn Camera Grant
- R 102-21 Authorize Contracts to Bid Threshold Maximum
- R 103-21 2021-2022 Liquor License Renewals
- R 104-21 NJDOT Grant Application for Utter & Fifth Avenues Improvements

REPORTS OF SPECIAL COUNCIL COMMITTEES

CORRESPONDENCE: None.

BILLS:

PUBLIC COMMENT:

ADJOURNMENT:

**THE NEXT MEETING OF THE MUNICIPAL COUNCIL IS
WEDNESDAY, JULY 7, 2021 at 7:00 PM**

WATER UTILITY BOND ORDINANCE NO. 2275-21

WATER UTILITY BOND ORDINANCE PROVIDING FOR WATER SYSTEM INFRASTRUCTURE ANALYSIS AND DESIGN AND IMPLEMENTATION OF TREATMENT SYSTEM IMPROVEMENTS AT VARIOUS LOCATIONS AS MAY BE IDENTIFIED OR HEREAFTER DESCRIBED ALL IN AND BY THE BOROUGH OF HAWTHORNE IN THE COUNTY OF PASSAIC, NEW JERSEY, APPROPRIATING THREE HUNDRED FIFTY THOUSAND (\$350,000) DOLLARS THEREFOR AND AUTHORIZING THE ISSUANCE OF BONDS OR NOTES OF THE BOROUGH FOR FINANCING THE SAME.

The Municipal Council of the Borough of Hawthorne, in the County of Passaic, New Jersey (not less than two-thirds of all members thereof affirmatively concurring), do hereby ORDAIN as follows:

Section 1. The improvement described in Section 3 of this Bond Ordinance is hereby authorized as a water capital improvement to be made or acquired by the Borough of Hawthorne, in the County of Passaic, New Jersey. For the said improvement or purpose stated in Section 3, there is hereby appropriated the sum of \$350,000.00 said sum being inclusive of all appropriations heretofore made therefor without requirement that any sum be set forth as down payment as the purposes are self-liquidating Water Capital Improvements to be paid by the Borough of Hawthorne Water Department through self-liquidating revenues.

Section 2. For the financing of said improvement or purpose and the \$350,000 appropriation, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$350,000.00 pursuant to the Local Bond Law of New Jersey. In anticipation of the issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the Borough in a principal amount not exceeding \$350,000.00 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Law.

Section 3. (a) The improvements hereby authorized and the purpose for the financing of which said obligations are to be issued by the Borough of Hawthorne is for the making of the following specified improvements:

Engineering analysis of water system infrastructure and design of improvements to the existing water treatment system in the Borough of Hawthorne, including specifically preparation and submission of funding applications; preliminary and final design of water system treatment improvements; regulatory compliance; and installation of improvements resulting from such analysis, at various locations as may be identified during the course of the undertaking of such analysis and design phases.

(b) The estimated maximum amount of bonds or notes to be issued for said purpose is \$350,000.00.

(c) The estimated cost of said purpose is \$350,000.00, with no sum to be paid by way of down payment as the purpose is self liquidating.

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(a) The said purpose described in Section 3 of this Bond Ordinance is not a current expense and is a property or improvement which the Borough may lawfully acquire or make as a water capital improvement.

(b) The period of usefulness of said purpose within the limitations of said Local Bond Law, and according to the reasonable life thereof computed from the date of the said bonds authorized by this Bond Ordinance is forty (40) years.

(c) The supplemental debt statement required by said Law has been duly made and filed in the office of the Borough Clerk and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Finance in the Department of Community Affairs of the State of New Jersey, and such statement shows that the gross debt of the Borough as defined in said Law is increased by the authorization of the bonds and notes provided for in this Bond Ordinance by \$350,000.00 and that the said obligations authorized by this Bond Ordinance will be within all debt limitations prescribed by said Law.

(d) An aggregate amount not exceeding \$350,000.00 for items of expense mentioned in and permitted under Section 40A:2-20 of said Law may be included in the foregoing estimate of the cost of said improvement or purpose.

Section 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:2-8(a). The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate, and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 6. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the said obligations authorized by this Bond Ordinance. Said obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to

levy ad valorem taxes upon all the taxable property within the Borough for the payment of said obligations and interest thereon without limitations of rate or amount.

Section 7. The water capital budget of the Borough is hereby amended to conform with the provisions of this Ordinance to the extent of any inconsistency herewith. Resolutions in the form promulgated by the Local Finance Board showing all detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, are on file with the Borough Clerk and are available for public inspection.

Section 8. This Bond Ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by said Local Bond Law.

Frank E. Matthews
Council President

Attest:
Lori Fernandez, 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 June 16, 2021. 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 7, 2021 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 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.

Lori Fernandez, RMC, CMC
Borough Clerk

ORDINANCE NO. 2276-21

AN ORDINANCE BY THE BOROUGH OF HAWTHORNE IN THE COUNTY OF PASSAIC AND STATE OF NEW JERSEY PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES AND CREATING CHAPTER 160 OF THE CODE OF THE BOROUGH OF HAWTHORNE, CANNABIS BUSINESSES

WHEREAS, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults at least 21 years of age; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

WHEREAS, the Act establishes six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchases items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

WHEREAS, section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in section 3 of the Act as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location manner and times operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

WHEREAS, section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021); and

WHEREAS, pursuant to section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

WHEREAS, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

WHEREAS, the Act provides for the creation of a Cannabis Regulatory Commission which was given 180 days from the date of the legislation to publish regulations for the licensure of the businesses authorized by the Act; and

WHEREAS, the said Commission has conducted several public meetings but has yet to publish any regulations or guidelines for use by municipalities in determining a course of action regarding Cannabis operations; and

WHEREAS, the Municipal Council of the Borough of Hawthorne has determined that, due to present uncertainties resulting from the failure to create regulations at a State level and the potential future impacts that allowing one or more classes of cannabis business might have on New Jersey municipalities in general, and on the Borough of Hawthorne in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of Hawthorne's residents and members of the public who visit, travel, or conduct business in Hawthorne, to amend the Code of the Borough of Hawthorne to prohibit all manner of marijuana-related business and development within the geographic boundaries of the Borough of Hawthorne; and

WHEREAS, due to the complexity and novelty of the Act; the many areas of municipal law that are or may be implicated in decisions as to whether or to what extent cannabis or medical cannabis should be permitted for licensing, business operation and land use purposes or otherwise regulated in any particular municipality; and the relatively short duration in which the Act would allow such decisions to be made before imposing an automatic authorization of such uses in specified zoning districts subject to unspecified conditions, the most prudent course of action for all municipalities, whether or not generally in favor of cannabis or medical cannabis operations and uses, would be to prohibit all such uses within the Act's 180-day period in order to ensure sufficient time to carefully review all aspects of the Act and its impacts;

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

Section 1. Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the Borough of Hawthorne, except for the delivery of cannabis items and related supplies by a delivery service.

Section 2. There is hereby created Chapter 160 of the Code of the Borough of Hawthorne, Cannabis Businesses, with the said Chapter to read as follows:

Chapter 160 Cannabis Businesses

§160-1 Preamble

§160-2 Prohibition of Cannabis Businesses

§160-3 Enforcement and Penalties

§160-1 Preamble. The "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act" (the "Act"), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing

scheme for commercial recreational (adult use) cannabis operations, use and possession, at Section 31b of the Act, authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality. The Municipal Council of the Borough of Hawthorne, based upon uncertainty in the development of regulations and implementation of the terms of said law has determined it advisable, at this time, to prohibit operation of any class of cannabis business in the Borough of Hawthorne as provided for in the Act.

§160-2 Prohibition of Cannabis Businesses. All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service, is hereby prohibited anywhere within the borders of the Borough of Hawthorne. No agency operating within the borders of the Borough of Hawthorne shall have the right to operate any such business and no board or body of the Borough of Hawthorne shall have the authority to grant permission to any such business to operate a cannabis business in the Borough of Hawthorne.

§160-3. Enforcement and Penalties. The provisions of this Chapter shall be enforceable by any law enforcement officer in the Borough of Hawthorne as well as the Land Use Officer or Zoning Official to the extent any use of property is made in furtherance of any prohibited business operation. Any person violating any provision of this Chapter shall, upon conviction, in addition to any other penalty or remedy authorized, be subject to payment of a fine not to exceed \$2,000 for each offense, which may be deemed a recurring offense, or imprisonment of a term not to exceed 90 days or the requirement to perform community service for not more than 90 days or any combination thereof.

Section 3. Any article, section, paragraph, subsection, clause, or other provision of the Code of the Borough of Hawthorne inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

Section 4. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

Section 5. This ordinance shall take effect upon its passage and publication as provided for by law.

Frank E. Matthews
Council President

ATTEST:

Lori Fernandez, 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 June 16, 2021. 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 7, 2021, 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 on the borough website, www.hawthornenj.org, and at the Clerk's Office in said Municipal Building to the members of the general public who shall request the same.

Lori Fernandez, RMC, CMC
Borough Clerk