

ZONING ORDINANCE NO. 2248-20

**AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE
BOROUGH OF HAWTHORNE, CHAPTER 540, ZONING, CREATING THE
R-11 MIXED USE AFFORDABLE HOUSING ZONE**

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.

PREAMBLE

WHEREAS, the Borough of Hawthorne has filed a lawsuit entitled, In the Matter of the Application of the Borough of Hawthorne, County of Passaic, Docket No. PAS-L-2412-15, the purpose being the satisfaction of the Borough's Fair Share obligation to provide the realistic opportunity for the creation of low and moderate income housing pursuant to the 2015 decision rendered by the New Jersey Supreme Court regarding the same; and

WHEREAS, 204 Wagaraw Road, LLC, the owner of property known as Block 12, Lots 8 on the Tax Map of the Borough of Hawthorne, filed an Answer to the Complaint filed by the Borough and was granted intervenor status by the Superior Court of the State of New Jersey, County of Passaic; and

WHEREAS, the Borough and representatives of 204 Wagaraw Road LLC, with assistance of the Court Appointed Special Master, engaged in Court proceedings and conferences with the purpose of attempting to reach settlement of the litigation as to said parcel of land, thereby partially satisfying the obligation of the Borough as determined by the New Jersey Supreme Court; and

WHEREAS, as a result of those actions the parties reached settlement of all issues pertaining to the litigation as it relates to the parties and have created a Settlement Agreement, the same being subject to final Court approval, which includes the rezoning of the subject property so as to meet in part the obligation of the Borough to create the realistic opportunity for the development of affordable housing;

NOW, THEREFORE, IT IS RESOLVED, by the Municipal Council of the Borough of Hawthorne that the lands in question, pursuant to the settlement agreement reached by the parties, be rezoned as follows:

SECTION 1. Article I §540-4 **Establishment of zones** is hereby amended and supplemented to add the following new zoning district:

R-11 Mixed Use Affordable Housing

SECTION 2. The official Zoning Map of the Borough of Hawthorne is hereby amended to zone tax lots 8, 9.01 and 10.01 within Block 12 as R-11, Mixed Use Affordable Housing, subject to the regulations of Article XXVI created herein.

SECTION 3. **New Article XXVI, R-11, Mixed Use Affordable Housing, MUA Zone** is hereby added as follows:

§ 540-192 Purpose.

Purpose. The purpose of this district is to encourage the production of low and moderate-income housing with mixed commercial development in conformance with the latest procedural and substantive rules for affordable housing as determined by the Courts or other applicable authority, by permitting inclusionary multi-family development subject to the MUA regulations enumerated herein. This ordinance is created in fulfillment of a Settlement Agreement by and between the Borough of Hawthorne, New Jersey, and 204 Wagaraw Road, LLC in connection with the Borough of Hawthorne's declaratory judgment action captioned "In the Matter of the Application of the Borough of Hawthorne" bearing docket number PAS-L-2412-15 pursuant to *In re the Adoption of N.J.A.C. 5:96 and 5:97 by the Council on Affordable Housing*, 221 N.J. 1 (2015).

The following standards shall apply to development within the MUA District. All other provisions of the Hawthorne Code shall apply to development in the MUA District only where

specifically indicated as applicable in §540-192 of the Hawthorne Code. When the standards herein conflict with other provisions of the Hawthorne Code, the standards herein shall apply.

The provisions of §540-3 are applicable to the MUA District.

§ 540-193 Principal permitted uses.

- A. Multiple uses and buildings on one lot is permitted.
- B. Only those uses listed below shall be permitted.
 - (1) Multifamily residential development
 - (2) Retail, including such uses as antique shops, appliance store, apparel store, bakery shops, barber shops, beauty salon, book and stationery store, butcher, candy and confectionary store, computer and electronics store, delicatessen, drug store (pharmacy), dry cleaning and tailoring, florist shop, food and grocery, furniture store, hardware store, hobby and craft store, liquor store, painting and wallpaper store, as well as other uses similar to those listed above.
 - (3) Health Club and Gym facilities
 - (4) Personal Service establishments such as travel agencies, financial and tax advisors, and insurance agencies.
 - (5) Day spas as defined by code.
 - (6) Restaurants, excluding restaurants with drive through facilities
 - (7) Self Storage facilities subject to the requirements of §540-198. Any deviations from the provisions of §540-198 shall be treated as a bulk variance and not a conditional use or conditional use variance.

§ 540-194 Permitted accessory uses.

- A. Any use which is ordinarily subordinate and customarily incidental to the principal permitted uses allowed in the MUA zone.
- B. Surface parking limited to the rear of the buildings.
- C. Parking within enclosed garages.
- D. On-site rental and management office.
- E. Signs as permitted by ordinance.
- F. Fences and walls as permitted by ordinance.
- G. No more than 5% of the residential units may be live/work units subject to the following restrictions:
 - (i) The non-residential (work) use of the unit shall be clearly subordinate to the principal residential use and limited to ground floor units only.
 - (ii) Only the resident, lessee or owner that resides in the unit may work or provide services;
 - (iii) Not more than 1 employee (who need not be a resident, lessee or owner), in addition to the resident, lessee or owner may work or provide services;
 - (iv) The portion of the unit utilized for the performance of work or services shall not exceed 30% of the floor area of the unit.
 - (v) Permitted non-residential uses is hereby limited to the following:
 - (a) School instruction providing instruction to not more than two (2) individuals at a time.

- (b) Home offices for accountants, architects, attorneys, brokers, dentists, engineers, insurance agents, medical doctors, professional planners, realtors, and members of similar professions.
- (c) Home offices for sales and manufacturer's representatives when no retail or wholesale sales are made or transacted on the premises.
- (d) Home studios of an artist, photographer, craftsman, writer, composer, or similar person except that home based hair and nail salons are not to be considered studios as expressed herein and further, are expressly prohibited within a live/work unit.
- (vi) Outside appearance. A dwelling which contains a live/work unit shall retain the appearance of a residence. There shall be no change in the outside appearance of the building or property, or other visible evidence of the conduct of such home occupation. The public display of goods visible from the street or abutting properties and any visible advertising on the premises, including signs, shall be prohibited.
- (vii) Sales to the public prohibited. There shall be no sale to the general public of goods displayed on the premises.
- (viii) Maximum traffic generation. No traffic shall be generated by any home occupation which is greater in volume than would normally be expected for solely residential use.
- (ix) The following shall be deemed to be *prima facie* evidence of a greater volume of traffic than would normally be expected for a solely residential use:
 - (1) More than seven (7) stops per week by delivery service, such as, but not limited to, United Parcel Service, Federal Express, Express Mail, etc., for either pick-up or delivery of goods; and/or
 - (2) More than twenty (20) vehicle trips per day of any kind.
 - (3) For purposes of administering this provision, a "trip" shall be a vehicle departure or vehicle arrival; therefore, an arrival and departure by the same vehicle shall be considered two (2) trips.
- (x) Parking. Not more than two (2) motor vehicles of any non-resident employee, patron, client, or any other non-resident person associated with a live/work unit may be parked at the same time on-site.
- (xi) Commercial vehicle parking and outdoor storage of any kind shall be prohibited.
- (xii) Equipment and process limitation. No equipment or process shall be used in live/work unit which causes electrical, visual or audible interference in any radio or television receiver located off the premises or causes fluctuations in line voltage off the premises.
- (xiii) Nuisance. There shall be no noise, dust, smoke, fumes, odor, glare, flashes, vibrations, heat, electronic radiation, objectionable effluent, unusual risk of fire, explosion or activity otherwise prohibited by law or ordinance in connection with a live/work unit.

§ 540-195 Development Requirements.

- A. Development within the zone shall substantially conform to the concept plan prepared by Langan Engineering entitled "Hawthorne at the Station Concept Site Plan" dated January 14, 2020 as incorporated into the settlement agreement between the Borough of Hawthorne and 204 Wagaraw Road, LLC and the Fair Share Housing Center in connection with the Borough of Hawthorne's declaratory judgment action captioned "In the Matter of the Application of the Borough of Hawthorne" bearing docket number PAS-L-2412-15 pursuant to *In re the Adoption of N.J.A.C. 5:96 and 5:97 by the Council on Affordable Housing, 221 N.J. 1 (2015)*.
- B. Development of the zone shall satisfy the following minimum requirements:
 - (1) One unit for a superintendent and, in addition, the total number of residential units shall not exceed 117 units.

- (2) The total square footage of commercial retail development shall not be less than 14,000 square feet.
- (3) A commercial self storage facility with a minimum building footprint of no less than 30,000 square feet shall be constructed as an integral feature of the zone's development and shall be constructed along the northwesterly side property line separating the MUA zone from the adjoining Industrial zone.
- (4) Timing of Development. It is recognized that all the components of development for this zone relate to and are dependent upon each other and are required to be integrated by design. It is therefore, intended that the commercial components of this mixed use development, as permitted by this zone, shall be constructed prior to, or simultaneously with the residential components. No certificate of occupancy for any residential units as part of the multi-family development shall be issued until such time as the construction of the non-residential buildings have been substantially completed.

§ 540-196 Area and Bulk Requirements.

A. Lot area, external yard and bulk requirements.

- (1) Minimum lot area (acres): 8.5 acres
- (2) Minimum distance between buildings (feet): 25
- (3) Minimum setbacks from external lot lines (feet):
 - a. Front yard: 25
 - b. Side yard: 30
 - c. Rear yard: 50
- (4) Maximum number stories and building height:
 - a. Residential 4 stories/45 feet
 - b. Commercial 1 story/25 feet
 - c. Self Storage Facility 4 stories/50 feet but in no event shall a self-storage building be constructed at a height lower than any multifamily development constructed within the zone.
- (5) Maximum building lot coverage: 25 percent
- (6) Maximum impervious lot coverage: 60 percent
- (7) Maximum building length (feet): 280 feet

B. Height exceptions.

- (1) Mechanical Equipment and Mechanical equipment screening and architectural features are exempt from the maximum height requirement provided that they may not exceed 10 feet beyond the maximum height in the zone and comprise not more than 25% of overall square foot area of the roof.
- (2) Stair and Elevator Bulkheads are exempt from the maximum height requirements provided they may not exceed 15 feet beyond the maximum height in the zone and comprise not more than 5% of the overall square foot area of the roof.

§ 540-197 Parking requirements.

- A. Parking requirements for the MUA Zone shall be based upon the unique characteristics of the MUA Zone which includes the close proximity of the zone to the Hawthorne Rail Station and the shared parking arrangement that typically results from mixed use development as permitted within the zone.

- B. Residential parking standard shall be 1.40 spaces per unit.
- C. Retail, office and commercial service parking standard shall be 1 space per 250 square feet of floor area.
- D. Total parking may be reduced by a finding by the Board that the combined total number of parking spaces satisfies on-site parking demand based upon the mix of land uses proposed for development, proximity of the MUA Zone to the Hawthorne Rail Station and the shared nature of parking as such except that the total number of parking spaces in no case shall be less than 240 parking stalls.

§ 540-198 Self Storage Requirements.

- A. Self storage facilities shall meet the following requirements:
 - (1) Self-service storage facilities are permitted only within multistory structures.
 - (2) The only activities permitted in individual storage units shall be the rental of the unit and the pickup and deposit of goods, the parking of vehicles and/or property in dead storage. Storage units shall not be used for activities such as:
 - a. Residences, offices, workshops, studios, or hobby display areas or rehearsal areas.
 - b. Manufacturing, fabrication, or processing of goods, service or repair of vehicles, engines, appliances or other electrical equipment, or any other individual activity.
 - c. Conducting retail sales of any kind, including garage or estate sales or auctions, or to conduct any other commercial activity; provided that the operator of the self-service storage may conduct a sale or otherwise liquidate the contents of any storage unit to satisfy and settle an account of unpaid rent or other charges, through public or private sale, in a manner provided by law.
 - d. Storage of flammable, perishable or hazardous materials or the keeping of animals.
 - (3) The rental of trucks, trailers or moving equipment (however, not more than 3 trucks or trailers made available to customers of the self-storage facility without additional charge may be provided as a complimentary accessory service or use by the operator of the self-storage facility) and the installation of trailer hitches are prohibited.
 - (4) Sale of boxes or packing materials is permitted but only if accessory to the self-service storage facility.
 - (5) Self-service storage facilities shall not operate or allow tenant access between the hours of 12:00 midnight and 6:00 a.m.
 - (6) All goods and property stored in a self-service storage facility shall be stored in an enclosed building. No outdoor storage of any kind, including but not limited to storage of boats, RVs, vehicles, trailers or similar vehicles, etc., or storage in outdoor storage pods or shipping containers is permitted.
 - (7) All storage units above ground level and storage units visible from an off-site residential areas shall gain access from the interior of the building(s) or site; no unit doors, loading bays, or docks may face or be seen from any off-site residential areas.

B. Required Parking

Parking shall be provided for 1 space per 5,000 square feet of floor area.

§ 540-199 Site Design Requirements.

A. Architectural Design Standards for Residential Buildings

(1) Façade Design.

- a. Horizontal articulation between floors. Each facade should be designed to have a delineated floor line between Lower level and upper floors. This delineation can be in the form of a masonry belt course, a concrete lintel or a cornice line delineated by wood detailing. The elevation of the articulation may fall anywhere between the level of the second floor and the third floor to provide additional variation to the façade.
- b. Vertical articulation. Each building facade facing a public right-of-way must have elements of vertical articulation comprised of columns, piers, recessed windows or entry designs, overhangs, ornamental projection of the molding, different exterior materials or wall colors, or recessed portions of the main surface of the wall itself. The vertical articulations shall be designed in accordance with the following:
 - i. Each vertical articulation shall be no greater than thirty (30) feet apart.
 - ii. Each vertical articulation shall be a minimum of one (1) foot deep.
 - iii. Each vertical projection noted above may extend into the required front yard a maximum of eighteen (18) inches in depth.
 - iv. Building walls with expansive blank walls are prohibited on any building façade regardless of its orientation.

(2) Materials. Exterior building materials shall be classified as either primary, secondary or accent materials. The facade shall be designed in accordance with the following:

- a. The primary material shall cover at least sixty percent (60%) of the facade of the building.
- b. Secondary materials shall cover not more than forty percent (40%) of the facade.
- c. Façade materials may be applied using multiple methods, i.e., wood style siding may be installed as clapboard, panel siding or board and batten all within the primary material area. The overall appearance shall be harmonious within the primary area and contrasting to the secondary material area.

(3) Rooflines. . Roofline offsets, dormers, parapets or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.

(4) All ground level retail and service uses that face a public street shall have glass on at least 40% of their facades between four and eight feet above grade.

(5) Fenestration shall be architecturally compatible with the style, materials, colors and details of the building. Windows shall be vertically proportioned.

(6) New buildings are encouraged to incorporate such building elements as entrances, corners, graphic panels, display windows, etc., as a means to provide a visually attractive environment.

(7) Cornices, awnings, canopies, flagpoles, signage, and other ornamental features should be encouraged as a means to enhance the visual environment. Such features may be

permitted to project over pedestrian sidewalks, with a minimum vertical clearance of 8.5 feet, to within two feet of a curb.

- (8) A "human scale" of development should be achieved at grade and along street frontages through the use of such elements as windows, doors, columns, awnings and canopies.
- (9) Multi-tenant buildings shall provide varied storefronts and such elements as noted above for all ground-floor tenants. Upper floors shall be coordinated with ground floors through common materials and colors.
- (10) Design emphasis should be placed on primary building entrances. They should be vertical in character, particularly when there is the need to provide contrast with a long linear building footprint, and such details as piers, columns, and framing should be utilized to reinforce verticality.
- (11) Sound attenuation features shall be incorporated into the residential building design and all walls and windows shall be constructed to attain a minimum average UL, STC rating of 32.
- (12) Refuse and recycling shall be located interior to a building or alternatively, be placed to the rear of the buildings fronting on Wagaraw Road. If located outside, the refuse area shall be appropriately screened by fencing not to exceed 6 feet.
- (13) Rooftop utilities including HVAC units shall be shielded from public view with appropriate screening that complements the character of the building's architecture.

B. Landscaping.

- (1) Landscaping shall be provided to promote a desirable visual environment, to accentuate building design, define entranceways, screen parking areas, mitigate adverse visual impacts and provide windbreaks for winter winds and summer cooling for buildings, and enhance buffer areas. The impact of any proposed landscaping plan at various time intervals shall be considered. Plants and other landscaping materials shall be selected in terms of aesthetic and functional considerations. The landscape design shall create visual diversity and contrast through variation in size, shape, texture and color. The selection of plants in terms of susceptibility to disease and insect damage, wind and ice damage, habitat (wet-site, drought, sun and shade tolerance), soil conditions, growth rate, longevity; root pattern, maintenance requirements, etc., shall be considered. Consideration shall be given to accenting site entrances and unique areas with special landscaping treatment. Flowerbed displays are encouraged.
- (2) The Borough Shade Tree Commission shall approve all trees in the right-of-way to ensure proper maintenance can be achieved. Spacing between trees shall be a maximum of 35 feet unless another vertical element, such as a decorative light fixture or blade sign, is used between the trees, in which case a maximum of 60 feet shall be permitted.
- (3) Trees along Wagaraw Road shall be in a formal arrangement, while informal planting may be provided along access roads. Street trees along Wagaraw Road shall meet the standards set forth in Subsection A(1) and (2) above.
- (4) Street trees and other plant material shall be provided at the ends of parking bays. Landscaped island should be at least four feet in width.
- (5) Parking rows longer than 35 parking spaces shall have a six-foot-wide landscape island to break the pavement after the 20th space. The landscaped area shall be six feet wide by 18 feet long to allow for sufficient landscaping.

- (6) There shall be a minimum ten-foot-wide planted strip along the site frontage on Wagaraw Road, exclusive of the area necessary for vehicular access and egress to and from the property.
- (7) Landscaped islands should be, on average, at least five feet in width to accommodate plantings.
- (8) Landscaping within sight triangles shall not exceed a mature height of 30 inches.
- (9) Shade trees shall be pruned up to an 8-foot branching height above grade.
- (10) All areas that are not improved with buildings, structures and other manmade improvements shall be landscaped with trees, shrubs, ground cover, street furniture, sculpture or other design amenities.
- (11) Shade trees shall be a 2.5 to 3-inch caliper with a canopy height of at least the minimum American Nursery and Landscape Association Standards for this caliper.
- (12) Ornamental Trees shall be installed at a minimum size of 6 feet in height.
- (13) Shrubs shall be planted at a minimum size of 18 to 24 inches.
- (14) All plant material shall meet the minimum latest American Nursery and Landscape Association Standards.
- (15) Landscape Plantings. A minimum of 30 percent of the plantings proposed shall be indigenous to the region.
- (16) Landscape Plan Content. A landscape plan shall be submitted with each major site plan or major subdivision application. In addition to the major site plan or subdivision submission requirements, the landscape plan shall include and identify the following information:
 - a. Existing and proposed underground and above ground utilities such as site lighting, transformers, hydrants, manholes, valve boxes, etc. existing wooded areas, rock outcroppings and existing and proposed water bodies.
 - b. Location of individual existing trees noted for preservation within the area of development. Trees 4 inches in diameter (measured 4 1/2 feet above the existing ground level) shall be located and identified by name and diameter unless the wooded area is shown with a specific limit line. In this case, specimen trees shall be located within thirty feet of the line. Indicate all existing vegetation to be saved or removed.
 - c. Existing and proposed topography and location of all landscaped berms.
 - d. Location, species and sizes of all proposed shade trees, ornamental trees, evergreen trees and shrubs and areas for lawns or any other ground cover. Different graphic symbols shall be used to show the location and spacing of shade trees, ornamental trees, evergreen trees, shrubs and ground cover. The size of the symbol must be representative of the size of the plant shown to scale.
 - e. A plant schedule indicating botanical name, common name, size at time of planting (caliper, height and spread), quantity, root condition and any special remarks (spacing, substitutions, etc.) for all plant material proposed. Plants within the plant schedule shall be keyed to the landscape plan utilizing the first letter of the botanical plant name.

f. Planting and construction details and specifications.

C. Lighting.

- (1) All lighting fixtures and foot-candle standards for parking areas and recreation facilities should be consistent with the standards outlined by the Illuminating Engineering Society of North America (IESNA) and regulations of the Borough of Hawthorne.
- (2) The intensity, shielding, direction and reflecting of lighting shall be subject to site plan approval by the approving authority.
- (3) All parking areas, walkways, building entrances, and driveways required for uses in this zone shall be adequately illuminated during the hours of operation that occur after sunset. Any off-site adjacent residential zone or use shall be shielded from the glare of illumination from site lighting.
- (4) The use of creative lighting schemes to highlight building facades and related areas of a site shall be encouraged. The use of traditional style lanterns and similar fixtures shall also be encouraged. Exterior neon lights and lighting generating glare and unnecessary night-glow impacts shall be prohibited.
- (5) Whenever possible, light poles should be integrated into landscaped islands.
- (6) Streetscape lighting.
 - a. All lighting shall conform with the Illuminating Engineering Society Handbook, most recent edition, and the American National Practice for Roadway Lighting (RP-8), approved by the American Standards Institute, most recent edition.
 - b. Light fixtures shall be a traditional style, similar to Hagerstown Fixture (Model #S5823) with Classic I Pole (Model #SP5844), black finish, with electric outlet box, manufactured by Hadco Architectural Outdoor Lighting or approved equal.
 - c. The luminaire light distribution shall be designated as a 'cutoff' type.
 - d. Mounting height shall be 14 feet above grade unless otherwise directed by the approving authority.
 - e. The source of light shall be LED or other energy efficient lighting, as approved by the approving authority.
 - f. All luminaires shall be shielded to eliminate glare, especially on any other property and public streets. Lamps shall be recessed in the luminaire.
 - g. The maximum illumination at any point on adjacent properties (excluding public streets and rights of way) shall not exceed 0.2 footcandle.
 - h. Spacing between lights shall not exceed 75 feet.
 - i. All wires and cable will be installed underground by the applicant.
 - j. A separate detailed lighting plan with luminaire manufacturer details and illumination diagrams and specifications shall be submitted to the approving authority for review and approval.
 - k. The approving authority may modify the above requirements where there is sufficient evidence that the requirements herein are not applicable, unnecessary, or reasonable for their particular project.

D. Streetscape Design.

- (1) The use of street furniture (benches, tables, trash receptacles, etc.) shall be encouraged throughout the development, provided the materials used are consistent with the overall concept of the building design.
- (2) Sidewalks should have a width of at least five feet along main pedestrian streets where active pedestrian corridors are located and active pedestrian movements are encouraged, and located along building frontages so as to tie the various buildings together. Wider sidewalks may be designed for special places such as plazas or courts.
- (3) Sidewalks shall be stamped concrete with a running bond brick stamp. A stamped sample must be provided with the filed application.
- (4) Color shall be "quarry red" as provided by the CHROMIX admixture for color conditioned concrete supplied by Eastern Concrete Materials, Inc., or approved equal. A color sample must be provided to confirm color.
- (5) The approving authority may modify the above requirements where there is sufficient evidence that the requirements herein are not applicable, unnecessary, or unreasonable for their particular project.
- (6) Streetscape design: benches.
 - a. Benches to be provided are to be manufactured by Keystone Ridge Design, Model No. L26STL (six-foot bench, lamplighter series), black in color, or approved equal.
 - b. There shall be a minimum of 5 benches with spacing and location to be approved by the approving authority.
 - c. The approving authority may modify the above requirements where there is sufficient evidence that the requirements herein are not applicable, unnecessary, or unreasonable for their particular project.

E. Signage.

- (1) Signage shall be permitted pursuant to Article XVIII of this ordinance.
- (2) Monument signs identifying the address and development shall be permitted provided that one such sign shall be permitted at each vehicle access location to the property subject to the following requirements:
 - a. The total sign area of each sign shall not exceed a maximum of 32 square feet.
 - b. The height of the sign shall not exceed 6 feet.
 - c. The sign may be illuminated externally or internally but shall not be an animated, scrolling or flashing sign which is otherwise prohibited by ordinance.
 - d. The base of such monument sign shall be appropriately landscaped with plantings.

F. Water and Sewer Requirements.

All projects shall provide and connect to public water supply and public sanitary collections systems.

G. Sound Barrier.

- (1) A sound barrier shall be constructed along the westerly property line from a point starting 88 feet back from Wagaraw Road and continuing for a minimum of 50 feet at a height no less than 16 feet, but not to exceed 20 feet based upon an acoustical report and application by the Planning Board, between the MUA and Industrial Zones.
- (2) The sound barrier shall be designed to attenuate noise between the adjacent Industrial and MUA Zones.
- (3) The wall shall be reviewed by the Planning Board based upon an acoustical evaluation by a qualified sound engineer professional. The height restrictions of the zone shall not apply to the sound wall as approved by the Planning Board provided that the Planning Board is satisfied that the design and height of the sound barrier are the minimum required to attenuate noise impacts that may adversely effect the MUA Zone.

H. Green infrastructure.

- (1) All development shall be in accordance with the regulations set forth in the Borough's Stormwater Management Ordinance (Chapter 437). Site design is encouraged to incorporate green design elements to achieve the following goals: reduce stormwater volume, minimize impervious coverage, decrease and delay peak discharge, reduce pollution and recharge groundwater.
- (2) Various design elements may be incorporated into site design with the following specifically low impact development techniques encouraged: rain gardens, bioinfiltration planters, infiltration basins, vegetated swales and pervious paving.

§ 540-200 Application Requirements.

A. Application Requirements.

- (1) An applicant for development in the MUA Zone shall submit a site plan indicating the manner in which the site is to be developed. Said plan shall include all the data required by ordinance for site plan review unless otherwise waived by the Board.
- (2) The application shall contain, in addition to the site plan application checklist provisions, a report detailing the following:
 - a. The total number of dwelling units by bedroom count. The total number of units shall be indicated and intensity of use of the entire tract shall be noted.
 - b. The total square footage of all nonresidential development shall be indicated by use.

B. Application Process.

Notwithstanding the provisions of § 540-200 A. above, it is the intent of this ordinance for the Planning Board to expedite its review of any application submitted for this zone within the time frames established under N.J.S.A. 40:55D-1 et. seq. It is further the intent of this ordinance to not require off-site or off-tract improvements for development, unless the need for such improvements arise from the development within the zone as for example, sewer and water improvements due to increased utility demand and roadway improvements that will be required at the intersection of Wagaraw Road and Lafayette Avenue nor shall the approving authority require items deemed as “cost-generating” as defined by N.J.A.C 5:93-10.1 et. seq. except as otherwise required under the settlement agreement between the Borough of Hawthorne and 204 Wagaraw LLC.

- C. Development within the MUA Zone shall be coordinated such that all phases of development shall proceed together or within a reasonable time frame as determined by a phasing schedule as approved by the Planning Board or by developer's agreement with the Borough.

§ 540-201 Low and Moderate-Income (Mount Laurel) Housing Requirements.

The following requirements as to the density and distribution of low-and moderate-income dwelling units shall apply.

- A. Low- and moderate-income (Mount Laurel) housing requirements:
- (1) Market-rate and minimum low- and moderate-income housing set aside: The total number of housing units (not including a superintendent's unit) shall not exceed 117 units and the total number of affordable housing units shall not be less than 17.
 - (2) All low- and moderate-income housing units shall be in conformance with the latest applicable rules for affordable housing as determined by the Council on Affordable Housing, the Courts or other applicable authority, as determined appropriate, including such issues as phasing of building low- and moderate-income units in concert with market rate units.
 - (3) Bedroom distribution of low- and moderate-income housing units. Subject to the most current applicable COAH or other rules, the bedroom distribution of low- and moderate-income units for affordable units constructed in the MUA Zone shall be as follows:
 - a. No more than 20 percent of the low- and moderate-income units shall be one bedroom units.
 - b. At least 20 percent of the low- and moderate-income units shall be three bedroom units.
 - c. At least 30 percent of the low- and moderate-income units shall be two bedroom units.
 - (4) Low- and moderate- income unit split. The distribution of inclusionary affordable units to be provided as part of this development shall be permitted to be located in whole or in part on the first floor of the residential building or, alternatively, in accordance with those requirements as set forth by COAH rules or otherwise deemed appropriate by the Court.
- B. Procedures regarding affirmative marketing of low- and moderate-income units and other requirements of inclusionary development units are subject to and determined by COAH rules or other rules determined appropriate by the Court.

§ 540-201 Ordinance Requirements.

Any relief required from the requirements of §540-192 to §540-202 shall be treated as a "c" variance pursuant to N.J.S.A. 40:55D-70(c).

SECTION 4. This Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law.

Frank E. Matthews, Council President

Attest:
Lori Fernandez, RMC, CMC
Borough Clerk

The foregoing Ordinance was introduced at a regular meeting of the Municipal Council of the Borough of Hawthorne held on February 19, 2020 and was read for the first time. This ordinance will be further considered for final passage by the said Municipal Council of the Borough of Hawthorne at the Municipal Building, 445 Lafayette Avenue, Hawthorne at a meeting beginning at 7:00 p.m. to be held March 18, 2020 or at any time and place to which such meeting may be adjourned. All persons interested will be given the opportunity to be heard concerning such ordinance. Copies of said Ordinance are available on the borough website, www.hawthornenj.org and at the Municipal Clerks Office, 445 Lafayette Avenue, Hawthorne 07506.

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 MARCH 18, 2020.

ATTEST:

Frank E. Matthews, Council President

Lori Fernandez, RMC, CMC, Borough Clerk

APPROVED: _____
Richard S. Goldberg, Mayor