

ZONING ORDINANCE NO. 2376-25

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 540, ZONING ORDINANCE OF THE BOROUGH OF HAWTHORNE, PASSAIC COUNTY, NEW JERSEY REGULATING PREEXISTING STRUCTURES

WHEREAS, the Borough of Hawthorne zoning regulations require all changes in use to require a certificate of occupancy demonstrating compliance with all applicable zoning requirements; and

WHEREAS, the certificate of occupancy regulations is unclear as to its applicability to nonconforming structures; and

WHEREAS, the Governing Body of the Borough of Hawthorne desires to clarify the regulations as they pertain to certificate of occupancy and nonconforming structures;

BE IT ORDAINED by the Governing Body of the Borough of Hawthorne, New Jersey that it does hereby amend and supplement the Zoning Ordinance of the Borough of Hawthorne as follows:

SECTION 1. Article V, §540-35C.3, Administration, Enforcement and Fees, is hereby amended to read as follow:

3. The certificate of occupancy shall specify the use of land or building, and any circumstances or conditions imposed by any public agency, code or regulation. Any change in use, including a change from one permitted use to another kind of permitted use in the same zone, as well as any change in occupancy or tenancy in the nonresidential zones, will be treated as a new use, and a new certificate of occupancy shall be required. Prior to the issuance of a certificate of occupancy from said changes in use, all provisions of this chapter shall be complied with in the same manner as if the new use were a new structure or a new use of land, including site plan review requirements, except for those improvements or uses exempted from site plan approval pursuant to § 540-33.B.2.(a) *or permitted extensions to nonconforming buildings or structures for permitted uses pursuant to Article XXIII of the zoning code, § 540-209B*, in which case, the certificate of occupancy may be issued administratively without Planning Board review.

SECTION 2. Article XXIII, §540-209B is hereby amended to read as follows:

- B. Extension. A nonconforming use shall not be extended or expanded, but the extension of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this chapter shall not be deemed the extension of such nonconforming. A nonconforming building, rendered as such due to lot size, setback, side yard, rear yard or other standard based upon measurement, may not be extended absent grant of approval by way of application to the Board having jurisdiction over such application. Notwithstanding the same, a nonconforming building for a lawful one- or two-family house may be extended by way of addition or alteration of such building without need for the grant of approval by a reviewing Board, provided that the expansion, addition, or alteration does not create a new variance condition by virtue of an expanded encroachment into a particular yard, and provided further that the footprint or square footage at ground level of the building does not increase by more than 200 square feet. In such event, the Zoning Officer may issue a Zoning Permit allowing for such expansion, addition or*

alteration without necessity of application for approval to any reviewing Board. In the event a horizontal expansion results in the creation of a second-floor addition that would be less than five feet from any existing property line, the matter shall nevertheless be referred to the appropriate reviewing Board for variance relief. By way of example, but not limitation, a nonconforming single-family home, rendered such due to the building being located in such way as to violate the applicable side-yard set-back for the zone, may be extended vertically and horizontally without variance provided that such does not result in greater variance from any existing non-conformity, does not create a new variance condition, does not result in an increase in the footprint or square footage at ground level of the home in excess of 200 square feet and does not result in an addition to the second floor that would be less than five feet from any property line.

SECTION 3. All ordinances or parts of ordinances of the Borough of Hawthorne which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to such section, paragraph, subdivision, clause or provision and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 5. 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

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 November 5, 2025. 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 December 3, 2025, 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

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 DECEMBER 3, 2025.