

ORDINANCE NO. 2013-03 (1118)

**ORDINANCE OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN,
STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER
§ 90 OF THE BOROUGH CODE, ENTITLED “ZONING,” REGARDING
CERTAIN PROVISIONS FOR BULK REQUIREMENTS FOR HEIGHT AND
LOT COVERAGE IN FLOOD HAZARD ZONES.**

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Lavallette, in the County of Ocean, State of New Jersey, as follows:

SECTION 1. § 90-5 of the Code of the Borough of Lavallette, entitled “Definitions” is hereby amended and supplemented to modify the definition of “Building Height”.

BUILDING HEIGHT

- A. The vertical dimensions of a building measured from curb grade to the highest point of the building, said height being taken from the top of the curb at the center of the front or side of the building on which the main entrance to the upper floors is located. In instances of construction which do not abut a street, but for which approval has been obtained pursuant to N.J.S.A. 40:55D-36, building heights shall be measured from an elevation equivalent to the mean elevation of the curbs on the nearest improved street to the subject premises and the next nearest improved street of those streets running parallel to the nearest improved street.
- B. For elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section, buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred and which buildings are constructed or reconstructed so as to comply with any minimum Base Flood Elevation as established by the Federal Emergency Management Agency or as established in Chapter 31, whichever is more restrictive or new construction or reconstruction for which a permit is issued after the effective date of this section and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation as established by the Federal Emergency Management Agency or as established in Chapter 31, whichever is more restrictive, said building height means the height of the habitable portions of a building measured from the top of the sill plate for Zone A type construction to the highest point of the building and from the top of the lowest horizontal structural member for V type construction to the highest point of the building.

SECTION 2. § 90-5 of the Code of the Borough of Lavallette, entitled “Definitions” is hereby amended and supplemented to add the definition of “Freeboard”:

FREEBOARD - An additional elevation requirement some height above the base flood elevation.

SECTION 3. § 90-24 of the Code of the Borough of Lavallette, entitled “Residence District A - Area, yard and building requirements” is hereby amended and supplemented to modify building height requirements in § 90-24(C) by the addition of the following to the section entitled “Height”:

(3) The maximum building height of the habitable portions of the following buildings shall be 2 1/2 stories or 28 feet, whichever is less, measured from the top of the sill plate for Zone A type construction to the highest point of the building; and from the top of the lowest horizontal structural member for V type construction to the highest point of the building. Buildings shall contain no more than two floors, over each other, of living area. That half story of a building under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls shall not be more than two feet above the floor and shall have a ridge height of six feet or less. The half story above the two floors of living space shall only be used as storage space or to house mechanical equipment, such as heat or air conditioning. If a garage is to be a part of the house, there shall be no more than 1 1/2 stories above the garage. A detached private garage shall not exceed 18 feet in height measured from the top of the curb at the center of the front of the building on which the main entrance is located. If there is no curb in front of the building, the height of the detached garage shall be measured from the height of the crown of the center of the road at the center of the front of the building on which the main entrance is located. For oceanfront properties, the height of the detached garage shall be measured from the average height of the municipal boardwalk in front of the property; for oceanfront lots where there is no boardwalk, the height of the detached garage shall be measured from an elevation equivalent to the mean elevation of the curbs on the nearest improved street to the subject detached garage and the next nearest improved street of those streets running parallel to the nearest improved street.

- (a) For elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section;
- (b) For buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred and which buildings are constructed or reconstructed so as to comply with any minimum Base Flood Elevation as established by the Federal Emergency

Management Agency or as established in Chapter 31, whichever is more restrictive;

- (c) For new construction or reconstruction for which a permit is issued after the effective date of this section and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation as established by the Federal Emergency Management Agency or as established in Chapter 31, whichever is more restrictive.

(4) Any building which is built, elevated or reconstructed after the effective date of this section in order to meet or exceed a minimum Base Flood Elevation level and which is located on any lot in an “A” Advisory Base Flood Elevation area established by the Federal Emergency Management Agency may include up to 2 feet of freeboard between the minimum Base Flood Elevation and the finished floor of the lowest habitable area of any building. In the event that additional freeboard over 2 feet is added to the structure to meet or exceed such minimum Base Flood Elevation level, then such additional freeboard over 2 feet shall be deducted from the habitable area of the building measured from the top of the sill plate for Zone A type construction to the highest point of the building.

(5) No building listed in § 90-24(C)(3)(a-c) built, elevated or reconstructed after the effective date of this ordinance and which is located on any lot in a “V” Advisory Base Flood Elevation area established by the Federal Emergency Management Agency shall be permitted to include any freeboard between the minimum Base Flood Elevation and lowest horizontal structural member unless such additional freeboard shall be deducted from the habitable area of the building measured from the top of the lowest horizontal structural member to the highest point of the building.

SECTION 4. § 90-24 of the Code of the Borough of Lavallette, entitled Residence District A - Area, yard and building requirements” is hereby amended and supplemented to modify the lot coverage requirements in § 90-24(D) by the addition of the following to the section entitled “Maximum Lot Coverage”.

(4) For elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section; buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred, and which buildings are constructed or reconstructed so as to comply with any minimum Base Flood Elevation applicable to the particular lot; or, for new construction or reconstruction for which a permit is issued after the effective date of this section, and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation applicable to the particular lot, primary lot coverage shall be increased to 38% in order to accommodate additional steps which may be required to meet minimum code requirements for ingress and egress. All other applicable provisions provided in §

90-24D (1) and (2) shall apply. Property owners may choose to reduce the structure coverage to increase the ground coverage, but the total coverage shall not exceed 57% nor shall structure coverage exceed 38%.

SECTION 5. § 90-32 of the Code of the Borough of Lavallette, entitled “Construction or alteration on nonconforming lots” is hereby supplemented by the addition of the following:

- A. On any nonconforming undersized lot existing as of the date of the adoption of this chapter, the construction, erection, alteration or expansion of any building that is a permitted use shall be permitted, provided that after such construction, erection, alteration or expansion the total lot coverage of all buildings on said lot shall not exceed 37%, and further provided that such construction, erection, alteration or expansion complies with all other provisions of the Zoning Ordinance and Building Code.
- B. On any nonconforming undersized lot existing as of the date of the adoption of this chapter, for elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section; buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred, and which buildings are constructed or reconstructed so as to comply with any minimum Base Flood Elevation applicable to the particular lot; or, for new construction or reconstruction for which a permit is issued after the effective date of this section, and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation applicable to the particular lot, primary lot coverage shall be increased to 38% in order to accommodate additional steps which may be required to meet minimum code requirements for ingress and egress.

SECTION 6. § 90-37 of the Code of the Borough of Lavallette, entitled “Residence District B - Area, Yard and Building Requirements” is hereby amended and supplemented to modify building height requirements in § 90-37(C) by the addition of the following to the section entitled “Height”:

(3) The maximum building height of the habitable portions of the following buildings shall be 2 1/2 stories or 28 feet, whichever is less, measured from the top of the sill plate for Zone A type construction to the highest point of the building; and from the top of the lowest horizontal structural member for V type construction to the highest point of the building. Buildings shall contain no more than two floors, over each other, of living area. That half story of a building under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls shall not be more than two feet above the floor and shall have a ridge

height of six feet or less. The half story above the two floors of living space shall only be used as storage space or to house mechanical equipment, such as heat or air conditioning. If a garage is to be a part of the house, there shall be no more than 1 1/2 stories above the garage. A detached private garage shall not exceed 18 feet in height measured from the top of the curb at the center of the front of the building on which the main entrance is located. If there is no curb in front of the building, the height of the detached garage shall be measured from the height of the crown of the center of the road at the center of the front of the building on which the main entrance is located.

- (a) For elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section;
 - (b) For buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred and which buildings are constructed or reconstructed so as to comply with any minimum Base Flood Elevation as established by the Federal Emergency Management Agency or as established in Chapter 31, whichever is more restrictive;
 - (c) For new construction or reconstruction for which a permit is issued after the effective date of this section and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation as established by the Federal Emergency Management Agency or as established in Chapter 31, whichever is more restrictive.
- (4) Any building which is built, elevated or reconstructed after the effective date of this section in order to meet or exceed a minimum Base Flood Elevation level and which is located on any lot in an “A” Advisory Base Flood Elevation area established by the Federal Emergency Management Agency may include up to 2 feet of freeboard between the minimum Base Flood Elevation and the finished floor of the lowest habitable area of any building. In the event that additional freeboard over 2 feet is added to the structure to meet or exceed such minimum Base Flood Elevation level, then such additional freeboard over 2 feet shall be deducted from the habitable area of the building measured from the top of the sill plate for Zone A type construction to the highest point of the building.
- (5) No building listed in § 90-37(C)(3)(a-c) built, elevated or reconstructed after the effective date of this ordinance and which is located on any lot in a “V” Advisory Base Flood Elevation area established by the Federal Emergency Management Agency shall be permitted to include any freeboard between the minimum Base Flood Elevation and lowest horizontal structural member unless such additional freeboard shall be deducted from the habitable area of the building measured from the top of the lowest horizontal structural member to the highest point of the building.

SECTION 7. § 90-37 of the Code of the Borough of Lavallette, entitled Residence District B - Area, yard and building requirements” is hereby amended and supplemented to modify the lot coverage requirements in § 90-37(D) by the addition of the following to the section entitled “Maximum Lot Coverage”:

(4) For elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section; buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred, and which buildings are constructed or reconstructed so as to comply with any minimum Base Flood Elevation applicable to the particular lot; or, for new construction or reconstruction for which a permit is issued after the effective date of this section, and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation applicable to the particular lot, primary lot coverage shall be increased to 38% in order to accommodate additional steps which may be required to meet minimum code requirements for ingress and egress. All other applicable provisions provided in § 90-37D (1) and (2) shall apply. Property owners may choose to reduce the structure coverage to increase the ground coverage, but the total coverage shall not exceed 57% nor shall structure coverage exceed 38%.

SECTION 8. § 90-37.1 of the Code of the Borough of Lavallette, entitled “Construction or alteration on nonconforming lots” is hereby created as follows:

§ 90-37.1 Construction or alteration on nonconforming lots.

- A. On any nonconforming undersized lot existing as of the date of the adoption of this chapter, the construction, erection, alteration or expansion of any building that is a permitted use shall be permitted, provided that after such construction, erection, alteration or expansion the total lot coverage of all buildings on said lot shall not exceed 37%, and further provided that such construction, erection, alteration or expansion complies with all other provisions of the Zoning Ordinance and Building Code.
- B. On any nonconforming undersized lot existing as of the date of the adoption of this chapter, for elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section; buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage

occurred, and which buildings are constructed or reconstructed so as to comply with any minimum Base Flood Elevation applicable to the particular lot; or, for new construction or reconstruction for which a permit is issued after the effective date of this section, and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation applicable to the particular lot, primary lot coverage shall be increased to 38% in order to accommodate additional steps which may be required to meet minimum code requirements for ingress and egress.

SECTION 9. § 90-44 of the Code of the Borough of Lavallette, entitled “Residence District C - Area, Yard and Building Requirements” is hereby amended and supplemented to modify building height requirements in § 90-44(C) by the addition of the following to the section entitled “Height”:

(3) The maximum building height of the habitable portions of the following buildings shall be 2 1/2 stories or 28 feet, whichever is less, measured from the top of the sill plate for Zone A type construction to the highest point of the building; and from the top of the lowest horizontal structural member for V type construction to the highest point of the building. Buildings shall contain no more than two floors, over each other, of living area. That half story of a building under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls shall not be more than two feet above the floor and shall have a ridge height of six feet or less. The half story above the two floors of living space shall only be used as storage space or to house mechanical equipment, such as heat or air conditioning. If a garage is to be a part of the house, there shall be no more than 1 1/2 stories above the garage. A detached private garage shall not exceed 18 feet in height measured from the top of the curb at the center of the front of the building on which the main entrance is located. If there is no curb in front of the building, the height of the detached garage shall be measured from the height of the crown of the center of the road at the center of the front of the building on which the main entrance is located. For oceanfront properties, the height of the detached garage shall be measured from the average height of the municipal boardwalk in front of the property; for oceanfront lots where there is no boardwalk, the height of the detached garage shall be measured from an elevation equivalent to the mean elevation of the curbs on the nearest improved street to the subject detached garage and the next nearest improved street of those streets running parallel to the nearest improved street.

- (a) For elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section;
- (b) For buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred and which buildings are constructed or reconstructed so as to comply

with any minimum Base Flood Elevation as established by the Federal Emergency Management Agency or as established in Chapter 31, whichever is more restrictive;

- (c) For new construction or reconstruction for which a permit is issued after the effective date of this section and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation as established by the Federal Emergency Management Agency or as established in Chapter 31, whichever is more restrictive.

(4) Any building which is built, elevated or reconstructed after the effective date of this section in order to meet or exceed a minimum Base Flood Elevation level and which is located on any lot in an “A” Advisory Base Flood Elevation area established by the Federal Emergency Management Agency may include up to 2 feet of freeboard between the minimum Base Flood Elevation and the finished floor of the lowest habitable area of any building. In the event that additional freeboard over 2 feet is added to the structure to meet or exceed such minimum Base Flood Elevation level, then such additional freeboard over 2 feet shall be deducted from the habitable area of the building measured from the top of the sill plate for Zone A type construction to the highest point of the building..

(5) No building listed in § 90-44(C)(3)(a-c) built, elevated or reconstructed after the effective date of this ordinance and which is located on any lot in a “V” Advisory Base Flood Elevation area established by the Federal Emergency Management Agency shall be permitted to include any freeboard between the minimum Base Flood Elevation and lowest horizontal structural member unless such additional freeboard shall be deducted from the habitable area of the building measured from the top of the lowest horizontal structural member to the highest point of the building.

SECTION 10. § 90-44 of the Code of the Borough of Lavallette, entitled Residence District C

- Area, yard and building requirements” is hereby amended and supplemented to modify the

lot coverage requirements in § 90-44(D) by the addition of the following to the section

entitled “Maximum Lot Coverage”:

(4) For elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section; buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred, and which buildings are constructed or reconstructed so as to comply with any minimum Base Flood Elevation applicable to the particular lot; or, for new construction or reconstruction for which a permit is issued after the effective date of this section, and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation applicable to the particular lot, primary lot coverage shall be increased to 38% in order to accommodate additional steps which may be required to meet minimum code requirements for ingress and

egress. All other applicable provisions provided in § 90-44D (1) and (2) shall apply. Property owners may choose to reduce the structure coverage to increase the ground coverage, but the total coverage shall not exceed 57% nor shall structure coverage exceed 38%.

SECTION 11. § 90-44.1 of the Code of the Borough of Lavallette, entitled “Construction or alteration on nonconforming lots” is hereby created as follows:

§ 90-44.1 Construction or alteration on nonconforming lots.

- A. On any nonconforming undersized lot existing as of the date of the adoption of this chapter, the construction, erection, alteration or expansion of any building that is a permitted use shall be permitted, provided that after such construction, erection, alteration or expansion the total lot coverage of all buildings on said lot shall not exceed 37%, and further provided that such construction, erection, alteration or expansion complies with all other provisions of the Zoning Ordinance and Building Code.
- B. On any nonconforming undersized lot existing as of the date of the adoption of this chapter, for elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section; buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred, and which buildings are constructed or reconstructed so as to comply with any minimum Base Flood Elevation applicable to the particular lot; or, for new construction or reconstruction for which a permit is issued after the effective date of this section, and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation applicable to the particular lot, primary lot coverage shall be increased to 38% in order to accommodate additional steps which may be required to meet minimum code requirements for ingress and egress.

SECTION 12. § 90-50 of the Code of the Borough of Lavallette, entitled “Residence District D - Area, Yard and Building Requirements” is hereby amended and supplemented to modify building height requirements in § 90-50(B) by the addition of the following to the section entitled “Height”:

(3) The maximum building height of the habitable portions of the following buildings shall be 2 1/2 stories or 28 feet, whichever is less, measured from the top of the sill plate for Zone A type construction to the highest point of the building; and from the top of the lowest

horizontal structural member for V type construction to the highest point of the building. Buildings shall contain no more than two floors, over each other, of living area. That half story of a building under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls shall not be more than two feet above the floor and shall have a ridge height of six feet or less. The half story above the two floors of living space shall only be used as storage space or to house mechanical equipment, such as heat or air conditioning. If a garage is to be a part of the house, there shall be no more than 1 1/2 stories above the garage.

- (a) For elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section;
 - (b) For buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred and which buildings are constructed or reconstructed so as to comply with any minimum Base Flood Elevation as established by the Federal Emergency Management Agency or as established in Chapter 31, whichever is more restrictive;
 - (c) For new construction or reconstruction for which a permit is issued after the effective date of this section and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation as established by the Federal Emergency Management Agency or as established in Chapter 31, whichever is more restrictive.
- (4) Any building which is built, elevated or reconstructed after the effective date of this section in order to meet or exceed a minimum Base Flood Elevation level and which is located on any lot in an “A” Advisory Base Flood Elevation area established by the Federal Emergency Management Agency may include up to 2 feet of freeboard between the minimum Base Flood Elevation and the finished floor of the lowest habitable area of any building. In the event that additional freeboard over 2 feet is added to the structure to meet or exceed such minimum Base Flood Elevation level, then such additional freeboard over 2 feet shall be deducted from the habitable area of the building measured from the top of the sill plate for Zone A type construction to the highest point of the building.
- (5) No building listed in § 90-50(B)(3)(a-c) built, elevated or reconstructed after the effective date of this ordinance and which is located on any lot in a “V” Advisory Base Flood Elevation area established by the Federal Emergency Management Agency shall be permitted to include any freeboard between the minimum Base Flood Elevation and lowest horizontal structural member unless such additional freeboard shall be deducted from the habitable area of the building measured from the top of the lowest horizontal structural member to the highest point of the building.

SECTION 13. § 90-50 of the Code of the Borough of Lavallette, entitled Residence District D

- Area, yard and building requirements” is hereby amended and supplemented to modify the lot coverage requirements in § 90-50(C) by the addition of the following to the section entitled “Maximum Lot Coverage”:

(4) For elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section; buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred, and which buildings are constructed or reconstructed so as to comply with any minimum Base Flood Elevation applicable to the particular lot; or, for new construction or reconstruction for which a permit is issued after the effective date of this section, and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation applicable to the particular lot, primary lot coverage shall be increased to 38% in order to accommodate additional steps which may be required to meet minimum code requirements for ingress and egress. All other applicable provisions provided in § 90-50C (1) and (2) shall apply. Property owners may choose to reduce the structure coverage to increase the ground coverage, but the total coverage shall not exceed 57% nor shall structure coverage exceed 38%.

SECTION 14. § 90-50.1 of the Code of the Borough of Lavallette, entitled “Construction or alteration on nonconforming lots” is hereby created as follows:

§ 90-50.1 Construction or alteration on nonconforming lots.

- A. On any nonconforming undersized lot existing as of the date of the adoption of this chapter, the construction, erection, alteration or expansion of any building that is a permitted use shall be permitted, provided that after such construction, erection, alteration or expansion the total lot coverage of all buildings on said lot shall not exceed 37%, and further provided that such construction, erection, alteration or expansion complies with all other provisions of the Zoning Ordinance and Building Code.
- B. On any nonconforming undersized lot existing as of the date of the adoption of this chapter, for elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section; buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred, and which buildings are constructed or reconstructed so as to comply with

any minimum Base Flood Elevation applicable to the particular lot; or, for new construction or reconstruction for which a permit is issued after the effective date of this section, and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation applicable to the particular lot, primary lot coverage shall be increased to 38% in order to accommodate additional steps which may be required to meet minimum code requirements for ingress and egress.

SECTION 15. § 90-55A of the Code of the Borough of Lavallette, entitled “B-1 Business District – Permitted principal uses and buildings” is hereby amended and supplemented to modify the lot coverage requirements in § 90-55A(1)(f)[6]. § 90-55A(1)(f)[6] shall read in its entirety as follows:

[6] Building height.

{a} The maximum building height of any apartment house, hotel, motel or boardinghouse, rooming house or bed-and-breakfast shall be 2 1/2 stories or 30 feet, whichever is less, and shall contain no more than two floors, over each other, of living area. Detached garages shall not exceed 18 feet in height.

{b} The maximum building height of the habitable portions of any apartment house, hotel, motel or boardinghouse, rooming house or bed-and-breakfast of the following buildings shall be 2 1/2 stories or 28 feet, whichever is less, measured from the top of the sill plate for Zone A type construction to the highest point of the building; and from the top of the lowest horizontal structural member for V type construction to the highest point of the building. A detached private garage shall not exceed 18 feet in height measured from the top of the curb at the center of the front of the building on which the main entrance is located. If there is no curb in front of the building, the height of the detached garage shall be measured from the height of the crown of the center of the road at the center of the front of the building on which the main entrance is located.

{1} For elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section;

{2} For buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred and which buildings are constructed or reconstructed so as to comply with any minimum Base Flood Elevation as

established by the Federal Emergency Management Agency or as established in Chapter 31, whichever is more restrictive;

{3} For new construction or reconstruction for which a permit is issued after the effective date of this section and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation as established by the Federal Emergency Management Agency or as established in Chapter 31, whichever is more restrictive.

{c} Any building which is built, elevated or reconstructed after the effective date of this section in order to meet or exceed a minimum Base Flood Elevation level and which is located on any lot in an "A" Advisory Base Flood Elevation area established by the Federal Emergency Management Agency may include up to 2 feet of freeboard between the minimum Base Flood Elevation and the finished floor of the lowest habitable area of any building. In the event that additional freeboard over 2 feet is added to the structure to meet or exceed such minimum Base Flood Elevation level, then such additional freeboard over 2 feet shall be deducted from the habitable area of the building measured from the top of the sill plate for Zone A type construction to the highest point of the building.

SECTION 16. § 90-55C of the Code of the Borough of Lavallette, entitled "B-1 Business District - Building construction" is hereby amended and supplemented to modify building height requirements in § 90-55C. § 90-55C shall read in its entirety as follows:

C. Building construction.

(1) Commercial use.

- (a) The maximum building height shall be 2 1/2 stories or 30 feet, whichever is less, and the building shall contain no more than two floors, over each other, of business area.
- (b) The height of a building shall be measured from the top of the curb at the center of the front of the building on which the main entrance is located. If there is no curb in front of the building, the building height shall be measured from the height of the crown of the center of the road at the center of the front of the building on which the main entrance is located.
- (c) Spires of churches may be erected to a height not exceeding 75 feet from the top of the curb at the center of the front or side of the church on which the main entrance is located.

(d) The maximum building height of the habitable portions of the following buildings shall be 2 1/2 stories or 28 feet, whichever is less, measured from the top of the sill plate for Zone A type construction to the highest point of the building; and from the top of the lowest horizontal structural member for V type construction to the highest point of the building. Buildings shall contain no more than two floors, over each other, of business area.

[1] For elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section;

[2] For buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred and which buildings are constructed or reconstructed so as to comply with any minimum Base Flood Elevation as established by the Federal Emergency Management Agency or as established in Chapter 31, whichever is more restrictive;

[3] For new construction or reconstruction for which a permit is issued after the effective date of this section and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation as established by the Federal Emergency Management Agency or as established in Chapter 31, whichever is more restrictive.

(e) Any building which is built, elevated or reconstructed after the effective date of this section in order to meet or exceed a minimum Base Flood Elevation level and which is located on any lot in an "A" Advisory Base Flood Elevation area established by the Federal Emergency Management Agency may include up to 2 feet of freeboard between the minimum Base Flood Elevation and the finished floor of the lowest habitable area of any building. In the event that additional freeboard over 2 feet is added to the structure to meet or exceed such minimum Base Flood Elevation level, then such additional freeboard over 2 feet shall be deducted from the habitable area of the building measured from the top of the sill plate for Zone A type construction to the highest point of the building.

(2) Residential use.

(a) The maximum building height shall be 2 1/2 stories or 30 feet, whichever is less, and shall contain no more than two floors, over each other, of

living area. That half story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls shall not be more than two feet above the floor and shall have a ridge height of six feet or less. The half story above the two floors of living space shall only be used as storage space or to house mechanical equipment, such as heat or air conditioning. If a garage is to be a part of the house, there shall be no more than 1 1/2 stories above the garage. A detached private garage shall not exceed 18 feet in height.

- (b) The height of a building shall be measured from the top of the curb at the center of the front of the building on which the main entrance is located. If there is no curb in front of the building, the building height shall be measured from the height of the crown of the center of the road at the center of the front of the building on which the main entrance is located.
- (c) The maximum building height of the habitable portions of the following buildings shall be 2 1/2 stories or 28 feet, whichever is less, measured from the top of the sill plate for Zone A type construction to the highest point of the building; and from the top of the lowest horizontal structural member for V type construction to the highest point of the building. Buildings shall contain no more than two floors, over each other, of living area. That half story of a building under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls shall not be more than two feet above the floor and shall have a ridge height of six feet or less. The half story above the two floors of living space shall only be used as storage space or to house mechanical equipment, such as heat or air conditioning. If a garage is to be a part of the house, there shall be no more than 1 1/2 stories above the garage. A detached private garage shall not exceed 18 feet in height measured from the top of the curb at the center of the front of the building on which the main entrance is located. If there is no curb in front of the building, the height of the detached garage shall be measured from the height of the crown of the center of the road at the center of the front of the building on which the main entrance is located.

[1] For elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section;

[2] For buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred and which buildings are constructed or reconstructed so as to comply with any minimum Base Flood

Elevation as established by the Federal Emergency Management Agency or as established in Chapter 31, whichever is more restrictive;

- [3] For new construction or reconstruction for which a permit is issued after the effective date of this section and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation as established by the Federal Emergency Management Agency or as established in Chapter 31, whichever is more restrictive.

- (d) Any building which is built, elevated or reconstructed after the effective date of this section in order to meet or exceed a minimum Base Flood Elevation level and which is located on any lot in an "A" Advisory Base Flood Elevation area established by the Federal Emergency Management Agency may include up to 2 feet of freeboard between the minimum Base Flood Elevation and the finished floor of the lowest habitable area of any building. In the event that additional freeboard over 2 feet is added to the structure to meet or exceed such minimum Base Flood Elevation level, then such additional freeboard over 2 feet shall be deducted from the habitable area of the building measured from the top of the sill plate for Zone A type construction to the highest point of the building.

SECTION 17. § 90-55D of the Code of the Borough of Lavallette, entitled "B-1 Business District - Yard requirements" is hereby amended and supplemented to modify the lot coverage requirements in § 90-55D(2)(c). § 90-55D(2)(c) shall read in its entirety as follows:

(c) Maximum lot coverage.

- [1] The combined building area of all structures on the property shall not exceed 37% of the area of the lot.

- [2] For elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section; buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred, and which buildings are constructed or reconstructed so as to comply with any minimum Base Flood Elevation applicable to the particular lot; or, for new construction or reconstruction for which a permit is issued after the effective date of this section, and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation

applicable to the particular lot, primary lot coverage shall be increased to 38% in order to accommodate additional steps which may be required to meet minimum code requirements for ingress and egress.

SECTION 18. § 90-56C of the Code of the Borough of Lavallette, entitled B-2 Downtown Business District - Building construction” is hereby amended and supplemented to modify building height requirements in § 90-56C. § 90-56C shall read in its entirety as follows:

C. Building construction.

- (1) The maximum building height shall be 2 1/2 stories or 30 feet, whichever is less, and the building shall contain no more than two floors, over each other, of business area.
- (2) The height of a building shall be measured from the top of the curb at the center of the front of the building on which the main entrance is located. If there is no curb in front of the building, the building height shall be measured from the height of the crown of the center of the road at the center of the front of the building on which the main entrance is located.
- (3) A detached garage shall not exceed 18 feet in height.
- (4) Spires of churches may be erected to a height not exceeding 75 feet from the top of the curb at the center of the front or side of the church on which the main entrance is located.
- (5) The maximum building height of the habitable portions of the following buildings shall be 2 1/2 stories or 28 feet, whichever is less, measured from the top of the sill plate for A type construction to the highest point of the building; and from the top of the lowest horizontal structural member for V type construction to the highest point of the building. Buildings shall contain no more than two floors, over each other, of business area.
 - [a] For elevated buildings as defined in Ordinance §31-5 elevated after the effective date of this section;
 - [b] For buildings which are repaired or reconstructed after the effective date of this section as a result of damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred and which buildings are constructed or reconstructed so as to comply with any minimum Base Flood

Elevation as established by the Federal Emergency Management Agency or as established in Chapter 31, whichever is more restrictive;

- [c] For new construction or reconstruction for which a permit is issued after the effective date of this section and which new construction or reconstruction is constructed so as to comply with any minimum Base Flood Elevation as established by the Federal Emergency Management Agency or as established in Chapter 31, whichever is more restrictive.
- (6) Any building which is built, elevated or reconstructed after the effective date of this section in order to meet or exceed a minimum Base Flood Elevation level and which is located on any lot in an "A" Advisory Base Flood Elevation area established by the Federal Emergency Management Agency may include up to 2 feet of freeboard between the minimum Base Flood Elevation and the finished floor of the lowest habitable area of any building. In the event that additional freeboard over 2 feet is added to the structure to meet or exceed such minimum Base Flood Elevation level, then such additional freeboard over 2 feet shall be deducted from the habitable area of the building measured from the top of the sill plate for Zone A type construction to the highest point of the building.

SECTION 19. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 20. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion hereof.

SECTION 21. This ordinance shall take effect after second reading and publication as required by law.

**BOROUGH OF LAVALLETTE
NOTICE**

ORDINANCE NO. 2013-03 (1118)

**ORDINANCE OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN,
STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER § 90
OF THE BOROUGH CODE, ENTITLED "ZONING," REGARDING CERTAIN
PROVISIONS FOR BULK REQUIREMENTS FOR HEIGHT AND LOT COVERAGE
IN FLOOD HAZARD ZONES.**


NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Borough Council on first reading at a meeting held on January 7, 2013. It was further considered for second reading and final passage at a meetings of the Borough Council held on the 19th day of February, 2013 at 7:00 pm at the Gymnasium in the Lavallette Elementary Building located at 105 Brooklyn Avenue, Lavallette, New Jersey at which time and place persons desiring to be heard upon the same were given the opportunity to be heard.

Said Ordinance was duly adopted on the 19th day of February, 2013 and shall take effect upon publication as required by law.

(SEAL)


CHRISTOPHER F. PARLOW
Municipal Clerk

APPROVED:


WALTER G. LaCICERO
Mayor

Date: February 19, 2013

LaCicero	Morad	Seccato	Apa	Ray	Phelan	Absent
		✓	✓			
	✓		✓			
			✓			✓
			✓			
			✓			
			✓			