ORDINANCE NO. 2026-18 (1303)

AN ORDINANCE OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING CHAPTER 90, "ZONING," ARTICLE III, "GENERAL REGULATIONS," SECTION 90-8, "ACCESSORY BUILDINGS AND USES," OF THE CODE OF THE BOROUGH OF LAVALLETTE TO EXTEND THE WATERFRONT REAR SETBACK FOR ACCESSORY BUILDINGS, STRUCTURES AND USES TO ALL RESIDENTIAL PROPERTIES FRONTING ON THE BARNEGAT BAY, ANY LAGOON, OR ANY TRIBUTARY OF THE BARNEGAT BAY

WHEREAS, the Borough of Lavallette is authorized by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and specifically N.J.S.A. 40:55D-62, to adopt and amend zoning ordinances regulating the nature and extent of the uses of land and of buildings and structures thereon; and

WHEREAS, Section 90-8A of the Code of the Borough of Lavallette, as amended on July 5, 2022 by Ordinance No. 2022-04 (1222), currently prohibits accessory buildings, structures and uses within a rear setback of at least twenty (20) feet from the property line or bulkhead line for residential properties bordering on the Barnegat Bay; and

WHEREAS, residential properties fronting on the Borough's lagoons and on the tributaries of the Barnegat Bay present the same concerns that the existing setback was intended to address, including the protection and maintenance of bulkheads, access for bulkhead repair and replacement, stormwater management and flood resilience, the preservation of open space and water views, and the consistent treatment of similarly situated waterfront properties; and

WHEREAS, the Mayor and Borough Council have determined that it is in the best interest of the health, safety and general welfare of the Borough and its residents to apply the waterfront rear setback uniformly to all waterfront residential properties within the Borough.

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

SECTION 1. Amendment of § 90-8A.

Chapter 90, "Zoning," Article III, "General Regulations," Section 90-8, "Accessory buildings and uses," Subsection A of the Code of the Borough of Lavallette is hereby amended and supplemented to read as follows (language to be added is shown in bold; language to be deleted is shown in strikethrough):

§ 90-8. Accessory buildings and uses.

An accessory building or use in any zone shall be subject to the following requirements:

A. No accessory building or use shall be located in any required front or side yard space, except as otherwise provided in this chapter. For any residential property which is a waterfront property, as defined in Subsection A(1) below, no accessory building, structure or use shall be located in

the rear setback of at least 20 feet from the property line or bulkhead line, whichever is closer to the street which runs parallel to the water, exclusive of any riparian grants. This shall exclude in-ground pools and required fencing in compliance with Chapter 26 of the Borough Code.

(1) For purposes of this subsection, "waterfront property" shall mean any residential lot or parcel, including any lot improved with a single-family, two-family or multifamily dwelling, which borders on, abuts or has frontage upon any of the following:

(a) The Barnegat Bay;

(b) Any lagoon, whether natural or man-made;

(c) Any tributary of the Barnegat Bay, including, without limitation, any creek, cove, channel, canal or other waterway that flows into or is connected to the Barnegat Bay; or

(d) Any other body of water or waterway within or adjoining the Borough, such that every residential lot having water frontage shall be deemed a waterfront property.

(2) Where a waterfront property has water frontage along more than one property line, or where the water frontage does not run parallel to a street, the setback required by this subsection shall be measured from each property line or bulkhead line abutting the water, whichever is closer to the principal building, exclusive of any riparian grants.

SECTION 2. Remaining Provisions Unaffected.

Except as expressly amended herein, all other provisions of Section 90-8 and of Chapter 90 of the Code of the Borough of Lavallette shall remain in full force and effect.

SECTION 3. Repealer.

All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. Severability.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, which shall remain in full force and effect.

SECTION 5. Planning Board Referral and County Notice.

Prior to final adoption, this Ordinance shall be referred to the Borough of Lavallette Planning Board for review pursuant to N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64, and notice of the public hearing shall be given to the Ocean County Planning Board as required by N.J.S.A. 40:55D-15.

SECTION 6. Effective Date.

This Ordinance shall take effect upon final passage, publication in accordance with law, and filing with the Ocean County Planning Board pursuant to N.J.S.A. 40:55D-16.

NOTICE

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NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Borough Council on first reading at a meeting held on the November 16, 2026. It was further considered for second reading and final passage at a meeting of the Borough Council held on the 22nd day of December 2026 at 7:00 pm at the Council Chambers in the Municipal Building Complex located at 1306 Grand Central Avenue, Lavallette, New Jersey at which time and place persons desiring to be heard upon the same were given the opportunity to be heard.

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Donnelly Amico
Municipal Clerk