

ORDINANCE: CITY OF MARGATE #17 of 2013

**AN ORDINANCE AMENDING ORDINANCE NO. 1-2013,
SUPPLEMENTING AND AMENDING CHAPTER 175 (LAND USE)
OF THE MARGATE CITY CODE TO ADDRESS BUILDING HEIGHT
IN CONFORMANCE WITH F.E.M.A. FLOOD ELEVATION MAPPING**

WHEREAS, the State of New Jersey, by enacting the *Municipal Land Use Law* (N.J.S.A. 40:55d-1 et seq. ~ "MLUL"), permits municipalities to adopt and subsequently amend a zoning ordinance governing the nature and extent of the uses of land, buildings and structures within a municipality (N.J.S.A. 40:55d-62 ~ "Zoning Ordinance"); and

WHEREAS, N.J.S.A. 40:55D-2 provides among the purposes and intents of the *MLUL*,

- a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;
- b. To secure safety from fire, flood, panic and other natural and man-made disasters;
- c. To provide adequate light, air and open space;
- g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;
- i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;
- j. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land;
- m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;

and

WHEREAS, the City of Margate, Atlantic County, New Jersey ("City"), first adopted a Zoning Ordinance in 1929. Such Zoning Ordinance has been amended from time to time, with the current Zoning ordinance being Chapter 175 (Land Use) of the City Code ("Chapter 175"); and

WHEREAS, in 1983, the Federal Emergency Management Agency ("F.E.M.A.") adopted Flood Insurance Rate Maps ("F.I.R.M."), which calculate specific flood hazards for various locations ("Zones") under F.E.M.A.'s jurisdiction based on the likelihood of significant storm events. Such maps are used to determine where flood insurance is mandated under F.E.M.A.'s National Flood Insurance Program ("N.F.I.P."), and what specific flood-protection development regulations are required by the N.F.I.P. for each such Zone; and

WHEREAS, F.I.R.M. mapping classifies Margate as a Special Flood Hazard Area (“S.F.H.A.”), and classifies various sections of the City under specific S.F.H.A. Zones. Based on these classifications, Chapter 175 established specific regulations regarding minimum first floor elevation above Mean Sea Level for residential living space. Related regulations specify maximum building height of structures; and

WHEREAS, prior to the October 2012 storm event (“Sandy”), F.E.M.A. was in the process of compiling the necessary data to update the F.I.R.M. maps, which were [then] scheduled to be finalized in or about mid-2013. With the occurrence of Sandy, F.E.M.A. accelerated its updating process. The effect of such acceleration, however, was that certain information necessary to complete new F.I.R.M. mapping and generate new minimum first floor elevation requirements had not been finalized; and

WHEREAS, F.E.M.A. issued what it described as “near-term Advisory Base Flood Elevation” (“A.B.F.E.”) Maps. A.B.F.E.s were intended to provide guidance to communities during the rebuilding process as well as to designers and contractors undertaking new construction until such time as the updated F.I.R.M. maps and related regulations were formally adopted. A.B.F.E.s reflected higher minimum first floor elevation requirements than established by the 1983 F.I.R.M. maps, and expanded Flood Hazard Zones beyond those shown on the 1983 F.I.R.M.s. While advisory in nature, A.B.F.E. mapping and related advisory regulations were to be used by F.E.M.A. to determine flood insurance rates under the N.I.F.P.; and

WHEREAS,

1. after review of the A.B.F.E. maps for Margate and the relationship of the advisory regulations to existing Chapter 175 requirements, including the impact that A.B.F.E. would have on the ability to rebuild (and build new) after Sandy;
2. being mindful of the impacts that existing Chapter 175 regulations would have on the ability of residents and property owners to obtain flood insurance at reasonable rates; and
3. recognizing that the A.B.F.E. maps were not the final, updated F.I.R.M.s and that constructing / reconstructing to A.B.F.E. standards might substantially increase the costs of construction / reconstruction;

it was determined to be in the best interest of the health, safety and welfare of the community to amend Chapter 175 to retain the then existing regulations but to provide property owners with an option to construct / reconstruct to A.B.F.E. standards; and

WHEREAS, toward that end, the Board of Commissioners of the City of Margate, on January 31, 2013, adopted Ordinance 1-2013, which, in pertinent part,

1. Amended §175-2 (Definitions) to conform with F.E.M.A A.B.F.E. definitions;
2. Required all Surveys, Elevation Certifications and other related documentation submitted after March 1, 2013 to be in N.A.V.D. 1988 in order to conform with new F.E.M.A. protocols.
3. Required that Elevation Certifications, prepared by a New Jersey Licensed Land Surveyor, be submitted at time of Foundation Inspection and prior to Final Inspection, in order to certify that Finish Floor Elevations meet or exceed Ordinance requirements;

4. Established a "F.E.M.A. A.B.F.E. Overlay" for the entirety of the City, whereby developers were afforded the option to rebuild existing structures under the Finish Floor, height, yard, landscaping and other requirements of pre-existing Zoning or under revised Finish Floor, height, yard, landscaping and other requirements in order to conform with FEMA ABFE Elevation requirements without the need for variance relief;
5. Established an Advisory Base Flood Elevation Design Committee to, inter alia, review and approve, without the need for variance relief, projections and encroachments for stairs, steps, ADA-compliant ramps and related elements providing access to the first floor pursuant to §175-30C(4) and C(6), minimum landscaping requirements pursuant to §175-26 D(1) and D(4), and minimum F.F.E.-crawl space exceptions pursuant to §175-32 E;
6. Provided that the amended Chapter 175 be read in conjunction with City Code Chapter 145 (Flood Damage Prevention); and
7. Provided for, upon adoption of final F.I.R.M. mapping and related regulations, a review of the effectiveness of the A.B.F.E. Design Committee in order to determine whether or not the process as established should be retained, amended or eliminated, and to address other relevant issues.

and

WHEREAS, on January 24, 2013, the New Jersey Department of Environmental Protection ("N.J.D.E.P."), reacting to the uncertainty surrounding the "advisory" nature of the A.B.F.E.s and desiring to reduce impediments to rebuilding after Sandy, adopted emergency amendments to the rules for the New Jersey Flood Hazard Area Control Act (N.J.A.C. 7:13). In summary, such Emergency Rules established requirements and more efficient approval procedures for constructing, reconstructing, relocating and elevating buildings and other structures in Flood Hazard Areas, or to otherwise flood-proof buildings to avoid and reduce the type and severity of flood damage experienced after Sandy. The Emergency Rules, in pertinent part:

- Adopted the A.B.F.E.-mapped Flood Hazard Areas (i.e., 'A' and 'V' Zones);
- Adopted the A.B.F.E. minimum elevation requirements for new and reconstructed buildings; and
- Enacted building regulations designed to insure consistency between N.J.D.E.P. standards for elevating buildings in Flood Hazard Areas and the building standards of the Uniform Construction Code (N.J.A.C. 5:23) adopted by the New Jersey Department of Community Affairs ("N.J.D.C.A.");

and

WHEREAS, N.J.D.E.P.'s Emergency Rules were formalized as part of the New Jersey Administrative Code (N.J.A.C. 7:13) on March 25 2013 and became effective with their publication in the New Jersey Register on May 6, 2013.

WHEREAS, on or about June 14, 2013, F.E.M.A. released what it termed "Preliminary Work Maps" ("P.W.M.") for Atlantic County. Such maps, which supersede the A.B.F.E.s, reflect the results of ongoing coastal flood hazard studies and are considered the best

available flood hazard data for community use. These maps are the next step in the formal F.I.R.M. update process; and

WHEREAS, for Margate, the P.M.W.s significantly revise the scope and breadth of the "A" and "V" Zones from those established under the A.B.F.E. maps, and therefore significantly revise the impact that the A.B.F.E.s had on the construction of new and reconstruction of existing structures in the City; and

WHEREAS, it is determined to be in the best interest of the health, safety and welfare of the community to amend Ordinance No. 1-2013, and therefore Chapter 175, to the extent necessary to achieve consistency with the P.W.M. maps and N.J.A.C. 7:13.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MARGATE, that Chapter 175 of the City Code, as amended by Ordinance No. 1-2013, is hereby further amended as follows:

1. §175-2 (Definitions) is hereby amended as follows:

Definitions not addressed herein shall remain as adopted in Ordinance 1-2013.

ADVISORY BASE FLOOD ELEVATION (“A.B.F.E.”)

Base Flood Elevations prepared by the Federal Emergency Management Agency indicating the elevation of surface water resulting from a flood that has a 1 percent and 2 percent chance of equaling or exceeding that level in any given year, and whether an area is designated as a V or A flood hazard zone, based on updated information derived in or about 2011 through 2013. Superseded by the Base Flood Elevation (B.F.E.).

BASE FLOOD ELEVATION DESIGN COMMITTEE

A Committee consisting of the City’s Zoning Officer, Construction Code Official and member of the Planning Board to be chosen by the Board Chairman, with assistance from the City Engineer as required, empowered to review and approve certain design elements related to F.E.M.A. B.F.E. requirements.

BASE FLOOD ELEVATION (“B.F.E.”)

The elevation of surface water shown on the Flood Insurance Rate Map (F.I.R.M.) and the "Preliminary Work Maps" ("P.W.M.") released by F.E.M.A. on or about June 14, 2013, resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year.

BASEMENT

A space partially below grade level having ½ or more of its floor-to-ceiling height above the average level of the adjoining ground and with a floor-to-ceiling height of not less than 6½ feet. A basement shall be counted as a story if used for business or residential purposes or if the ceiling of the basement is more than three feet higher than the average level of the adjoining ground.

For Base Flood Elevation purposes, a “Basement” shall include any part of a building where all sides of the floor are located below ground level. Even though a room may have a window and constitute living quarters, it is considered a basement if the floor is below ground level on all sides.

CRAWL SPACE

An enclosed area beneath a building's Lowest Floor, in which the vertical distance between the floor of the enclosed area and the building's Lowest Floor is no less than twenty four (24) inches.

FLOOD HAZARD AREA CONTROL ACT

The New Jersey Flood Hazard Area Control Act, with rules established as N.J.A.C. 7:13.

FINISH FLOOR ELEVATION

The minimum elevation at which a structure's lowest floor must be elevated or floodproofed to be in accordance with State or community Floodplain Management Regulations. For the City of Margate, Finish Floor Elevation is:

- three (3) feet above B.F.E. (N.A.V.D.1988) for F.E.M.A. 'A-8' Zones; and
- two (2) feet above B.F.E. (N.A.V.D.1988) for all other F.E.M.A. Zones

See Lowest Floor

FREEBOARD

An additional amount of height above the Base Flood Elevation used as a factor of safety in determining the level at which a structure's Lowest Floor must be elevated or floodproofed to be in accordance with State or community floodplain management regulations.

HEIGHT OF BUILDING

The vertical distance above the Lowest Floor Elevation to the level of the highest point of the roof surface.

LOWEST FLOOR

The lowest floor of a building, including a basement or any other enclosed area, which is or may be used for permanent or temporary occupation by humans. An unfinished enclosure, such as a crawl space, entryway and/or garage serving a private residence, which is useable solely for building access, storage and/or parking, is not considered the Lowest Floor of a building, provided that such enclosure is constructed in compliance with all applicable design standards of N.J.A.C. 7:13-11.5(n), (o) and (p).

References to the elevation of the Lowest Floor are expressed as Lowest Floor Elevation ("L.F.E.")

See Finish Floor Elevation

MARKET VALUE

For the purposes of this Chapter 175, the assessed value of the improvement of the property in question as established by the Margate City Tax Assessor, equalized pursuant to the formula established by the Atlantic County Board of Taxation, as same may be updated from time to time.

NATIONAL GEODETIC VERTICAL DATUM OF 1929 (N.G.V.D. 1929)

National standard reference datum for elevations, formerly referred to as Mean Sea Level (M.S.L.). Superseded by North American Vertical Datum (N.A.V.D. 1988).

A general formula for converting N.G.V.D. 1929 to N.A.V.D. 1988 in the City of Margate is: $N.G.V.D. 1929 - 1.296' = N.A.V.D. 1988$. However, each specific section of the City has its own conversion factor based on curvature of the earth and other variables. An Elevation Certification, prepared by a New Jersey Licensed Land Surveyor, is required at time of Foundation Inspection and prior to Final Inspection in order to certify that Lowest Floor Elevation meets or exceeds Ordinance requirements.

In order to conform with F.E.M.A. protocols, Surveys, Elevation Certifications and other related documentation submitted after March 1, 2013 shall be in N.A.V.D. 1988. Documentation dated prior to March 1, 2013 in N.G.V.D. 1929 shall be accompanied by a letter, survey or other appropriate certification, signed and sealed by a New Jersey Licensed Land Surveyor, containing a calculated conversion to N.A.V.D. 1988.

NORTH AMERICAN VERTICAL DATUM OF 1988 ("N.A.V.D. 1988")

The vertical control datum established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988. Supersedes the National Geodetic Vertical Datum (N.G.V.D. 1929).

A general formula for converting N.G.V.D. 1929 to N.A.V.D. 1988 in the City of Margate is: $N.G.V.D. 1929 - 1.296' = N.A.V.D. 1988$. However, each specific section of the City has its own conversion factor based on curvature of the earth and other variables. An Elevation Certification, prepared by a New Jersey Licensed Land Surveyor, is required at time of Foundation Inspection and prior to Final Inspection in order to certify that Lowest Floor Elevation meets or exceeds Ordinance requirements.

In order to conform with F.E.M.A. protocols, Surveys, Elevation Certifications and other related documentation submitted after March 1, 2013 shall be in N.A.V.D. 1988. Documentation dated prior to March 1, 2013 in N.G.V.D. 1929 shall be accompanied by a letter, survey or other appropriate certification, signed and sealed by a New Jersey Licensed Land Surveyor, containing a calculated conversion to N.A.V.D. 1988.

PRELIMINARY WORK MAPS ("P.W.M.")

Maps released by F.E.M.A. on or about June 14, 2013, which supersede A.B.F.E. mapping, and are considered the best available flood hazard data for community use.

RECONSTRUCT

To patch, mend, replace, rebuild and/or restore a lawfully existing structure to a usable condition after decay or damage has occurred, in which 50 percent or greater of the structure is replaced and/or the size, shape or location of the structure is altered. The percentage of replacement shall be determined by comparing the cost of the reconstruction to the market value of the building as determined before the start of construction; where the percentage of replacement is 50 percent or greater, such reconstruction shall also constitute a substantial improvement as defined in this section.

REPAIR

To patch, mend, replace, rebuild and/or restore a lawfully existing structure to a usable condition after decay or damage has occurred, in which less than 50 percent

of the structure is replaced and the size, shape or location of the structure is not altered. The percentage of replacement shall be determined by comparing the cost of the reconstruction to the market value of the building as determined before the start of construction; where the percentage of replacement is less than 50 percent, such repair shall not constitute a substantial improvement as defined in this section.

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before damage would equal or exceed 50 percent of the market value of the structure before the damage occurred. Restoration of a substantially damaged structure shall constitute a substantial improvement as defined in this section.

SUBSTANTIAL IMPROVEMENT

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure as determined before the start of construction of the improvement. This term includes structures that have sustained substantial damage regardless of the actual repair work performed. Substantial improvement does not include:

1. Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
 2. Any alteration of a building designated by the State as an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.
2. §175-10 shall be amended to establish a Base Flood Elevation Design Committee (“B.F.E. Design Committee”) as follows:
- A. Prior to the October 2012 storm event (“Sandy”), F.E.M.A. was in the process of compiling the necessary data to update its Flood Insurance Rate Maps (“F.I.R.M.”), which were [then] scheduled to be finalized in mid-2013. With the occurrence of Sandy, F.E.M.A. accelerated this updating process.

Based on information generated by F.E.M.A. as part of the F.I.R.M. update process, F.E.M.A. issued what it termed “Advisory Base Flood Elevation Maps” (“A.B.F.E.”), which were intended to provide guidance to communities during the Sandy rebuilding process, and for non-Sandy-related new construction, until such time as the updated F.I.R.Ms. and related regulations were formally adopted.
 - B. On January 24, 2013, the New Jersey Department of Environmental Protection (“N.J.D.E.P.”), reacting to the uncertainty surrounding the “advisory” nature of the A.B.F.E.s and desiring to reduce impediments to rebuilding after Sandy, adopted emergency amendments to the rules for the New Jersey Flood Hazard Area Control Act (N.J.A.C. 7:13). The Emergency Rules, in pertinent part:
 - Adopted the A.B.F.E.-mapped Flood Hazard Areas (i.e., ‘A’ and ‘V’ Zones);
 - Adopted the A.B.F.E. minimum elevation requirements for new and reconstructed buildings; and

- Enacted building regulations designed to insure consistency between N.J.D.E.P. standards for elevating buildings in Flood Hazard Areas and the building standards of the Uniform Construction Code (N.J.A.C. 5:23) adopted by the New Jersey Department of Community Affairs (“N.J.D.C.A.”).

The Emergency Rules were formalized as part of the New Jersey Administrative Code (N.J.A.C. 7:13) on March 25 2013 and became effective with their publication in the New Jersey Register on May 6, 2013.

- C. On or about June 14, 2013, F.E.M.A. released what it termed "Preliminary Work Maps" ("P.W.M.") for Atlantic County. Such maps, which supersede the A.B.F.E.s, reflect the results of ongoing coastal flood hazard studies and are considered the best available flood hazard data for community use. These maps are the next step in the formal F.I.R.M. update process.
 - D. It is anticipated that F.E.M.A. minimum construction requirements will evolve between the time the P.W.M.s were released and formal adoption of the updated F.I.R.Ms. and related regulations; and that any amendments to Chapter 175 designed to address Sandy-related reconstruction will require modifications as the F.E.M.A. process evolves.
 - E. In order to provide the construction community the necessary flexibility to react to such changes as they occur without requiring lengthy and costly variance relief, Base Flood Elevation Design Committee, consisting of the City’s Zoning Officer, Construction Code Official and member of the Planning Board to be chosen by the Board Chairman, with assistance from the City Engineer as required, is herewith established.
 - F. For activities that do not otherwise require approval by the Planning Board, the B.F.E. Design Committee is hereby empowered, until such time as this Ordinance is amended to conform with final F.I.R.M. mapping and related regulations, to review and approve, without the need for variance relief, projections and encroachments for stairs, steps, ADA-compliant ramps and related elements providing access to the first floor pursuant to §175-30C(4) and C(6), minimum landscaping requirements pursuant to §175-26 D(1) and D(4) and minimum F.F.E.- crawl space exceptions pursuant to §175-32 E.
 - G. Where Planning Board approvals are otherwise required, the Board shall, as part of its process, undertake the review and approval described in subsection C. in lieu of the B.F.E. Design Committee.
 - H. Upon adoption of final F.I.R.M. mapping and related regulations, the City shall review the effectiveness of the B.F.E. Design Committee and shall decide at that time whether or not to continue the process detailed herein, to eliminate the B.F.E. Design Committee and address the relevant issues via the standard municipal review process, or to make such other amendments as may be appropriate at that time.
3. §175-14 is hereby amended as follows:

- C. Exemption of Floodproofing Renovations. For purposes of floodproofing renovations, the Lowest Floor Elevation of any existing residential structure may be increased to current Ordinance requirements without Board action, provided that, in accordance with the Floodplain Management Requirements under F.E.M.A.'s National Flood Insurance Program, the area below the Lowest Floor Elevation is not outfitted in any way for human habitation, and further provided that the use of any unfinished or flood-resistant enclosure below the Lowest Floor Elevation is limited to the parking of vehicles, building access, or storage, and is constructed in compliance with all applicable design standards of N.J.A.C. 7:13-11.5(n), (o) and (p).
4. §175-25 General Design Standards is hereby amended as follows:
- B. Design and Building Layout
 - (1) The design and layout of buildings and parking areas shall be aesthetically pleasing and provide for efficient arrangement. Particular attention shall be given to energy conservation, safety and fire protection and impact on surrounding development. Architectural design shall be compatible with the environmental and natural characteristics of the tract and, unless required by minimum Lowest Floor regulations, the surrounding neighborhood.
5. §175-26. Specific Design Standards is hereby amended as follows:
- D. Landscaping
 - (1) All residential lots shall have a minimum of 35% of the lot landscaped. All areas not occupied by buildings, parking areas, patios, walkways and/or any other impervious surface shall be suitably landscaped. No landscaping shall interfere with required sight triangles.

Such 35% landscaping minimum may be reduced to the minimum extent required to accommodate stairs, steps, ADA-compliant ramps and related elements providing access to the first floor necessary to conform with Lowest Floor requirements. In no case however, shall such percentage be lower than 30% of the lot. Until such time as this Ordinance is amended to conform with final F.I.R.M. mapping and related regulations, determination of "the extent required" shall be made by the B.F.E. Design Committee or the Planning Board, as the case may be, in accordance with section §175-10 herein.
 - (4) In all original construction or enlargement of detached housing, the following shall apply:
 - (a) Lots with 40 feet or less frontage: A minimum of 24 shrubs, no less than 18 inches high, shall be planted on the grounds, and a minimum of 50% of the shrubs shall be planted between the principal structure and the front property line.
 - (b) For each additional two feet of frontage over 40 feet, an additional shrub shall be required, of which a minimum of 50% of the total shrubs shall be planted between the principal structure and the front property line.

- (c) For duplex units, 30 shrubs shall be planted, and for multifamily units a total of 40 shrubs shall be planted.
 - (d) The plantings between the principal structure and the front property line detailed herein may be reduced to the minimum extent required to accommodate stairs, steps, ADA-compliant ramps and related elements providing access to the first floor necessary to conform with Lowest Floor requirements. Until such time as this Ordinance is amended to conform with final F.I.R.M. mapping and related regulations, determination of “the extent required” shall be made by the B.F.E. Design Committee or the Planning Board, as the case may be, in accordance with section §175-10 herein.
- 6. §175-29 B. is hereby amended to eliminate the “F.E.M.A. A.B.F.E. Overlay” previously established to provide flexibility given the uncertainty revolving around the A.B.F.E. regulations. The Margate Zoning Map is hereby amended to eliminate such Overlay.
 - 7. §175-29 I. establishing regulations for the F.E.M.A. A.B.F.E. Overlay is eliminated in its entirety.
 - 8. §175-29 J. is amended to read as follows:
 - J. All Applicants for Land Use Approvals and/or Building Permits are hereby advised that the City has used the best information available to it to provide owners / builders with guidance as to current F.E.M.A. requirements and standards, but that development decisions are to be made by individual Applicants based on their own due diligence. As such, Applicants are advised that they proceed at their own risk.
 - 9. §175-30 Supplementary Regulations is hereby amended as follows:
 - C. Projections and Encroachments. Yards and courts required by this article shall be free of buildings, structures or parts thereof, except permitted accessory structures, and no building or structure shall project into any front, side or rear yard required by this article, nor shall use be made of such yard, except as follows:
 - (4) Projections by stairs to the first floor (only) where not required pursuant to subsection B below, canopies, and fixed or operational awnings shall be limited to five (5) feet, but in the front yard they may not extend closer than two feet behind the front property line.

Stairs, steps, ADA-compliant ramps and related elements providing access to the first floor (only), where necessary to conform with B.F.E. Lowest Floor requirements, may project into any setback, up to but in no case beyond the property line.
 - (5) Balconies, single-story porches, second-story porches and decks of any kind must meet the principal building setback standards, except that stairs, steps, ADA-compliant ramps and related elements providing access to the first floor (only), where necessary to conform with B.F.E. Lowest Floor requirements, may project into a yard in accordance with subsection (4) herein.

10. §175-32 Height Exceptions is hereby amended to add a new section E. as follows:

E. Height Exceptions for Residential Buildings. Schedule B-1 (175 Attachment 4) provides, in pertinent part, for specific building heights and roof pitch for residential buildings. Such regulations are designed to provide for appropriate building height and architecture based on required Lowest Floor elevations.

F.E.M.A. Base Flood Elevations for the 1% flood event increase the minimum Lowest Floor Elevation in certain parts of the City to a point where it may no longer be possible to create proper crawl spaces and still achieve the required height and/or roof pitch.

Until such time as this Ordinance is amended to conform with final F.I.R.M. mapping and related regulations, determination of "minimum extent necessary to achieve proper crawl space clearance" shall be made by the B.F.E. Design Committee or the Planning Board, as the case may be, in accordance with section §175-10 herein.

11. §175-37 Nonconforming Uses, Structures and Lots is hereby amended as follows:

C. Alteration, Extension or Enlargement of Nonconforming Use or Structure.

(2)(d) The provisions of this subsection (2) notwithstanding, structural alterations intended solely to conform with B.F.E.-related changes in minimum Lowest Floor Elevation shall not be considered an expansion of a nonconforming use or structure, and shall therefore be permitted without variance relief.

(3) Structural alterations, internal rearrangements and renovations may be made in a building or structure which is nonconforming because it fails to comply with height, area, yard, off-street parking or other like requirements of this article, other than use, so long as the structural alteration or increase, internal rearrangement or renovation does not extend or enlarge the nonconformance of said building or structure, except that structural alterations intended solely to conform with B.F.E.-related changes in minimum Lowest Floor Elevation, stairs, steps, ADA-compliant ramps and related elements providing access to the first floor pursuant to §175-30C(4) and C(6), minimum landscaping requirements pursuant to §175-26 D(1) and D(4) and building height and roof pitch exceptions pursuant to §175-32 E and Schedule B-1 (175 Attachment 4) shall not be considered an expansion of a nonconforming use or structure, and shall therefore be permitted without variance relief under N.J.S.A. 55d-70(d-2).

F. (2) Any existing nonconforming setbacks from streets, side lot lines or rear lot lines shall not be made more nonconforming, including any vertical additions of any type, except construction of stairs, steps, ADA-compliant ramps and related elements providing access to the first floor may project into setbacks in accordance with §175-30 C(4) and C(6) herein, and further except that the building height / roof pitch exceptions of §175-32 E and Schedule B-1 (175 Attachment 4) shall be permitted without variance relief.

BE IT FURTHER ORDAINED:

1. Schedule B-1 (175 Attachment 4) is hereby amended as follows:

<p align="center">Schedule B-1 City of Margate Schedule of Standards Residential Standards</p>								
	<p align="center">All One-and Two-Family Structures</p>							<p align="center">MF*</p>
	S-60	S-50	S-40	S-30	S-25	S-25 (H)	TF	
Minimum Lot Area (square feet)	6,000	5,000	4,000	3,000	2,500	2,500	3,200	4,400
Minimum Lot Width (feet)	50	50	50	40	40	40	40	40
Maximum Principal Building Coverage **	Lots of 5,000 + square feet: 30%							45%
	Lots between 3,000 square feet and 4,999 square feet: The principal building coverage may be increased on a sliding scale, enlarging the 30% by multiplying the number of square feet less than 5,000 by .00005 and converting the result into a percentage figure.							
	Lots less than 3,000 square feet: 40%							
Yards								
Minimum Front Yard	Prevailing setback within 200 feet in the same block. Eliminate the high and low values before the average is calculated.							
	Regardless of the average, minimum setback of at least 5 feet shall be provided.							
Minimum Rear Yard	20% of lot depth or 10 feet, whichever is greater.							Minimum rear yard landscape buffer: 10 feet
								Minimum rear yard: 20 feet
Minimum Side Yard	Lots with 60 feet or more of frontage: total side yards: 37% of total lot width; minimum 10 feet each							8 feet or 10 feet with driveway
	Lots with 50 feet to 59.99 feet of frontage: total side yards: 37% of total lot width; minimum: 8 feet							
	Lots with less than 50 feet of frontage: total side yards: 37% of total lot width; 5 feet minimum							
	Regardless of lot width, the maximum combined yard requirements shall not exceed 22 feet							
Maximum Height	See Residential Height Regulating Map. ¹ Any third-floor living space where the ceiling height is in excess of five feet shall be less than 50% of the floor area of the floor immediately below							2 habitable floors over parking or 2½ habitable floors without parking and 30 feet above Lowest Floor.
Minimum Roof Pitch	5 on 12 required for roofs above the first floor level.							
Maximum Density	NA							1 unit / 2,200 square feet of lot area
Maximum FAR	NA							1.0

Schedule B-1 City of Margate Schedule of Standards Residential Standards								
	All One-and Two-Family Structures							MF*
	S-60	S-50	S-40	S-30	S-25	S-25 (H)	TF	
Landscaping								
Front Yard Landscape Requirements	<p>No less than 60% of the front yard extending to the side property lines shall be landscaped with grass or other vegetative cover, shrubs and trees. This landscaped area shall not include parking, driveways, walkways, stones, wood, and any other non-vegetative cover or material.</p> <p>Such 60% landscaping minimum may be reduced to the extent required to accommodate front access stairs necessary to conform with Lowest Floor Elevation requirements. In no case however, shall such percentage be lower than 50% of the Front Yard. Until such time as this Ordinance is amended to conform with final F.I.R.M. mapping and related regulations, determination of "the extent required" shall be made by the B.F.E. Design Committee in accordance with section §175-10 herein.</p>							
Minimum Total Landscaping Coverage	<p>No less than 35% of any residential lot shall be covered by grass or other vegetative ground cover. Areas under building projections, and cantilevers, except roof overhangs, shall not be counted toward meeting the landscape requirements.</p> <p>Such 35% landscaping minimum may be reduced to the extent required to accommodate front access stairs necessary to conform with Lowest Floor Elevation requirements. In no case however, shall such percentage be lower than 30% of the lot. Until such time as this Ordinance is amended to conform with final F.I.R.M. mapping and related regulations, determination of "the extent required" shall be made by the B.F.E. Design Committee in accordance with section §175-10 herein. Areas under projections permitted by §175-30C(4) and C(6) shall not be counted toward meeting the landscape requirements.</p>							
Minimum Distance between External Walls of Principal Buildings	Side yards shall be provided so as to maximize the distance between buildings on adjacent lots; however, in no case shall the distance between the external walls of principal buildings be less than 10 feet.						NA	

NOTES:

* Regardless of zone, the table to the left shall apply to the development of any single-family or two-family home in the City of Margate.

**No floor area of any building shall exceed the maximum area allowed by the principal building coverage limitation; in the case of nonconforming second floors, the half-story calculation shall be based on the maximum second floor which would be permitted by principal building coverage.

¹ Editor's Note: The Margate Single-Family and Two-Family Residential Height Regulating Map is on file in the City offices.

2. Schedule B-2 (175 Attachment 4) is hereby amended as follows:

Schedule B-2 City of Margate Schedule of Standards Nonresidential Standards**						
	CBD	C-1*	C-2*	WSD*	GO	R
Minimum Lot Area (square feet)	4,000	4,000	4,000	4,400	4 acres	5,000

Schedule B-2 City of Margate Schedule of Standards Nonresidential Standards**						
	CBD	C-1*	C-2*	WSD*	GO	R
Minimum lot width (feet)	50	50	50	50	–	50
Maximum Principal Building Coverage (%)	60	60	50	50	–	–
Yards						
Minimum Front (feet)	0	Prevailing setback within 200 feet in same block or 10 feet minimum	10	Prevailing setback within 200 feet in same block or 10 feet minimum	–	–
Minimum Rear (feet)	5	5	7	10	–	–
Minimum Side (feet)						
Each	0	3	5	8	–	–
Combined		10	12½	20		
Maximum Height***	34 feet above curb or 30 feet above Lowest Floor, whichever is greater					

NOTES:

* Residential projects in the C and WSD Zones shall comply with the MF standards. Mixed-use projects shall comply with the MF density standards and all other applicable standards in the C Zone.

** Regardless of zone, any single-family or two-family home in the City shall comply with Schedule B1A.

*** Except where otherwise required by the Construction Code, in zones requiring ground floor commercial uses, the lowest floor of any such building shall be located within one foot of grade inside the sidewalk line.

3. The Legend for the *Single Family and Two Family Residential Height Regulating Map*, last revised May 2008, is hereby revised as follows:

LEGEND		
	Unless a greater Freeboard or other elevation figure is required by F.E.M.A. or relevant State Agencies, in which case such greater figure shall govern:	
	Lowest Floor Elevation =	B.F.E. + 3' Freeboard (N.A.V.D. 1988) for FEMA 'A-8' Zones
		B.F.E. + 2' Freeboard (N.A.V.D. 1988) for all other FEMA Zones
No Change	Height Zone A:	Maximum Height: 28' above Lowest Floor Elevation as defined herein. Dormers are permitted; however, they shall be limited to 15% of the 3 rd floor habitable floor area.
No Change	Height Zone B:	Maximum – 2.5 habitable floors, 2.5 stories total. Maximum Height: 28' above Lowest Elevation as defined herein.
No Change	Height Zone C:	Maximum – 2.5 habitable floors, 2.5 stories total. Maximum Height: 30' above Lowest Elevation as defined herein.

No Change	Height Zone D:	Maximum Height: 25' above Lowest Floor Elevation as defined herein. Maximum – 2 habitable floors, 2 stories total. Minimum roof pitch requirements shall not apply. Habitable attics, as per NJUCC 206, International Residential Code, NJ Edition, shall not be permitted.

- An Elevation Certification, prepared by a New Jersey Licensed Land Surveyor, is required at time of Foundation Inspection and prior to Final Inspection in order to certify that Lowest Floor Elevation meets or exceeds Ordinance requirements. In order to conform with F.E.M.A. protocols, Elevation Certifications submitted after March 1, 2013 shall be in N.A.V.D. 1988. Elevation Certifications dated prior to March 1, 2013 in N.G.V.D. 1929 shall be accompanied by a letter, survey or other appropriate certification, signed and sealed by a New Jersey Licensed Land Surveyor, containing a calculated conversion to N.A.V.D. 1988.

BE IT FURTHER ORDAINED:

- All ordinances or parts of ordinances inconsistent with any terms of this ordinance are hereby repealed to the extent of such inconsistency only.
- This ordinance shall take effect upon its final passage and publication as required by law.

 Board of Commissioners of the City of Margate City, NJ

Introduction: August 1, 2013

Enactment: _____
 August 15, 2103