

ORDINANCE NO. 2011-01

ORDINANCE OF THE BOROUGH OF HARVEY CEDARS, OCEAN COUNTY, NEW JERSEY AMENDING CHAPTER XIV ENTITLED, "LAND USE PROCEDURES", OF THE ADMINISTRATIVE CODE TO ESTABLISH A SINGLE LAND USE BOARD OR PLANNING BOARD TO ACT UPON ALL LAND USE MATTERS

BE IT ORDAINED by the Commissioners of the Borough of Harvey Cedars as follows:

SECTION 1. Section 14-3.1 entitled "Establishment" of the Administrative

Code is hereby deleted and in its place instead the following shall be inserted:

14-3.1 Pursuant to N.J.S.A. 40:55d-23, et. seq. a Municipal Planning Board or Land Use Board of nine (9) members is hereby established consisting of the following four (4) classes:

Class I – The Mayor, or his designee in his absence, who shall not participate in the consideration of applications for development which involve relief pursuant to N.J.S.A. 40:55d-70.

Class II – One of the officials of the Borough other than a member of the Board of Commissioners appointed by the Mayor.

Class III – A member of the Board of Commissioners to be appointed by majority of the same. However, the Class III member shall not participate in consideration of applications for development which involve relief pursuant to N.J.S.A. 40:55d-70.

Class IV – Six (6) other citizens of the Borough to be appointed by the Mayor. The members of Class IV shall hold no other Borough Office, except one (1) member may be a member of the Board of Education.

SECTION 2. Section 14-3.8 of the Administrative Code of the Borough is

hereby deleted and in its place instead the following shall be inserted:

14-3.8 Alternate Members. There shall be four (4) alternate members to the nine (9) member Planning Board known as Alternate Number "1", Alternate Number "2", Alternate Number "3", and Alternate Number "4". Alternate Members shall be appointed by the Mayor, and shall serve for two (2) years except the terms of Alternate Members shall be such that the term of not more than two (2) Alternate Members shall expire in any one (1) year and provided further that in no instance shall the terms of the Alternate Members first appointed exceed two (2) years.

A vacancy occurring otherwise than by expiration of term shall be filled by the Mayor for the unexpired term only.

Alternate Members may participate in discussion proceedings unless they have a direct or indirect personal or financial in same, but may not vote except in the absence or disqualification of a regular member of any Class. A vote shall not be delayed in order that the regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, alternate number 1 shall vote, or in their absence, the lowest alternate number shall vote.

SECTION 3. Section 14-4 of the Administrative Code of the Borough

entitled "Zoning Board of Adjustment" is hereby amended to delete Sections 14-4.1 through 14-4.4 and to insert in its place instead the following:

14-4.1 Powers, Duties and Responsibilities to be Transferred to Planning Board or Land Use Board. From and after the effective date of the within Ordinance all powers, duties, responsibilities, fees and application requirements of the Zoning Board of Adjustment shall be transferred to or applied to the Planning Board or Land Use Board of the Borough of Harvey Cedars pursuant to the provisions of N.J.S.A. 40:55d-25c. All references in the within Chapter XIV of the Administrative Code and within the Administrative Code referring to the Zoning Board of Adjustment of the Borough of Harvey Cedars shall hereafter apply to the Planning Board or Land Use Board of the Borough.

SECTION 4. This Ordinance repeals any inconsistent ordinance or ordinances or part or parts thereof.

SECTION 5. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Borough Mayor and Commissioners hereby declare that is would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 6. The within Ordinance shall take effect as upon passage and publication as required by law.

EFFECTIVE DATE: 2/24/2011