

# BOROUGH OF HARVEY CEDARS

PO BOX 3185

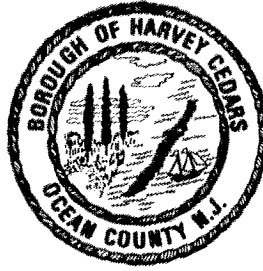
HARVEY CEDARS, NEW JERSEY 08008-0319

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## ORDER PURSUANT TO THE DECLARATION OF DISASTER AND EMERGENCY

### TO ALL RESIDENTS AND PERSONS WITHIN THE MUNICIPALITY OF THE BOROUGH OF HARVEY CEDARS IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY AND TO ALL DEPARTMENTS OF THE MUNICIPAL GOVERNMENT OF THE BOROUGH OF HARVEY CEDARS

**WHEREAS** pursuant to the powers vested by Chapter 251 of the laws of 1942, as amended and supplemented, N.J.S.A. App. A: 9-30, *et seq.*, N.J.S.A. 40:48-1, *et seq.*, and all applicable statutory law and regulations, the Borough of Harvey Cedars declared on March 24, 2020, that a local disaster/emergency exists within by and through the required authorization of the Mayor and the Emergency Management Coordinator; and

**WHEREAS** it is evident the Covid-19 pandemic has and will continue to have catastrophic consequences for the Borough's small businesses and economy, including, but not limited to, the restaurants and their owners and employees located in the Borough; and

**WHEREAS** the CDC and State of New Jersey have stated that social distancing guidelines and other health measures will continue to be required while the State relaxes the scope of the isolation orders and begins to reopen the economy; and

**WHEREAS** in order to further protect the public health, welfare, and safety, support the seasonal economy and restaurants in their slow and difficult recovery, and support the Borough's position as a premier summer destination for families, the Borough deems it necessary and compelling to authorize the expansion of outdoor restaurant seating and serving areas for the summer 2020 season; and

**WHEREAS** any permitted expansion shall require the approval of the Borough and shall further require certain additional restrictions relating to the indoor seating arrangements and capacity of the restaurants as set forth herein.

**NOW, THEREFORE**, in accordance with the aforesaid laws and recitals, which are incorporated herein by reference, it is promulgated and declared that until further Order of the Borough, the following emergency restrictions and regulations are effective immediately.

- A. Except as provided herein, the terms of this Order shall be effective when the State reopens restaurants for in-person dining and is subject to the terms of the State's regulations to the extent they conflict with the terms set forth herein.

- B. All restaurants may seek approval to create and/or expand outdoor seating areas. For purposes of this Order, restaurants shall mean any commercial establishment approved for interior seating and in-person dining.
- C. Subject to the approval of the proposed seating and area layout, at the sole and absolute discretion of the Borough, restaurants shall be permitted to create and/or expand outdoor seating areas into the adjacent parking lot areas owned by the restaurant. Such areas shall be located within the property lines of the lot of where the restaurant structure is located and owned by the restaurant and allow for a minimum of six (6) feet for pedestrian traffic on sidewalks. The Borough's discretion over the location, scope, setbacks, and size of outdoor seating areas and related structures is absolute and the Borough may condition approval based upon such requirements and any other consideration, including, but not limited to, parking requirements, pedestrian safety, neighborhood concerns, and the public health, welfare, and safety.
- D. The maximum permitted occupancy of a restaurant may be revised at the Borough's discretion in order to ensure that all restaurants comply with the CDC and State recommended social distancing guidelines. In addition, the Borough may establish and apportion new maximum occupancy numbers between the inside and outside dining areas. This regulation shall apply to all restaurants, regardless of whether the restaurants apply for outdoor seating pursuant to this Order.
- E. In addition to the creation of the outdoor seating areas, restaurants shall be permitted to apply to install temporary awnings, tents, pergolas, and other structures authorized by the Borough to protect the outdoor seating area from the elements.
- F. Borough restaurants shall be required to apply to the Borough for approval to create and/or expand their outdoor seating areas. Each applicant shall be required to provide plans establishing the proposed indoor and outdoor seating areas, the property lines and location of the proposed seating areas, plan for outdoor trash management, and the proposed structures to protect the outdoor seating area from the elements. All applications shall be approved or denied at the sole discretion of the Board of Commissioners with the input from the Chief of Police, Borough Engineer, and Zoning Officer, and any approval may be subject to additional conditions of approval, including revisions to the maximum seating occupancy in the total or either area, the type or scope of structures, the location of the proposed areas, and so on. The applications shall be available at the Municipal Clerk's Office and online on the Borough's website.
- G. Upon approval of the application for the proposed outdoor seating area, the restaurants shall be permitted to engage in all otherwise lawful permitted activity engaged inside in the approved outdoor seating areas. Alcohol beverage licensees should consult or apply with the NJ Division of ABC regarding seating requirements and the service of alcohol.
- H. All outdoor seating areas shall be closed to all lawful permitted activities, including dining, by the restaurant on or before 10:00 p.m. each day.
- I. The emergency regulations set forth herein shall be effective on or about May 21, 2020, through October 1, 2020. The effective dates are subject to State Executive Orders and further Borough Orders.

- J. Each specific violation of this Order shall be considered a separate violation, the owners of restaurants shall be subject to potential multiple violations during the course of each day, and each day in violation shall be considered a separate violation.
- K. The Emergency Management Coordinator, the Borough Police Department, and the Construction Department shall be charged with the enforcement of the terms of this Order.
- L. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A :9-49 and -50, and the Borough Code, and the temporary grant provided herein to restaurants may be revised or revoked by the Borough.
- M. Unless otherwise expressly provided by this Order, all terms and requirements of the Borough Code shall continue to apply to the restaurants and the proposed structures, including, but not limited to, construction permits for the installation of any proposed structures at the restaurant property. The Borough shall have absolute discretion to amend any approval, condition, and restriction set forth in this Order.
- N. Applicant proposing to relocate existing tables/seats shall indemnify and hold harmless the Borough, its employees, agents, and/or officers from all claims, losses, liens, expenses, suits and attorney's fees arising out of the placement, operation, and maintenance of the Outdoor Seating Area. Applicants must name the Borough, its employees, agents, and /or officers as additional insureds under the Applicant's general liability insurance, bodily injury, property damage, and personal injury insurance policies, required to have a minimum limit of One Million (\$1,000,000.00) Dollars, and provide proof of same to the Borough Clerk, and proof that said policies have been amended to reflect the coverage for the proposed outdoor dining area.

Dated: 5/5/20

  
JONATHAN OLDHAM  
MAYOR / OEM COORDINATOR

Dated: 5/5/20

  
JOHN IMPERIALE, COMMISSIONER

Dated: 5/5/2020

  
PAUL RICE, COMMISSIONER