

ORDINANCE NO. 2022-10

**AN ORDINANCE OF THE BOROUGH OF HARVEY CEDARS, OCEAN COUNTY,
NEW JERSEY, AMENDING CHAPTER 15 OF THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF HARVEY CEDARS, ENTITLED “SITE PLAN”
AS IT PERTAINS TO ESTABLISHING A THREE-PERSON SITE PLAN EXEMPTION
COMMITTEE**

WHEREAS to lessen the burden on the Land Use Board and on applicants seeking minor changes of use or adding a temporary use for properties located in the General Business, Limited Commercial District, and Marine Commercial zoning districts, between Labor Day and Memorial Day Weekend Friday, the Board of Commissioners desires to establish a three-person Committee empowered to determine if, in particular cases, a full Land Use Board Site Plan application is required.

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

SECTION 1. Section 15.3 of the Code of the Borough of Harvey Cedars is hereby supplemented by the establishment of a three-person Site Plan Exemption Committee (“Committee”) as follows:

Section 15-3.1. Committee Established. The three-person Site Plan Exemption Committee is hereby established and shall consist of the Chairperson of the Land Use Board or the Chairperson’s designee, a Land Use Board Class IV Member designated by the Chairperson, and the Zoning Officer. The procedures established herein shall apply only to applicants seeking a temporary minor change of use or a temporary additional use for properties located in the General Business, Limited Commercial District, and Marine Commercial zoning districts, and only for activities taking place between the day after Labor Day and Memorial Day Weekend Friday.

Section 15-3.1a. Application. Any applicant who believes the nature of a proposed use, occupancy, hours of operation, number of employees, on-site or off-site parking, square footage of the retail area, loading, landscaping and/or buffering, deliveries (types of vehicles and hours) and compliance with zoning regulations in that particular district are essentially the same as the existing approved use may apply to the Committee for an exemption from the requirement to obtain full and formal site plan approval and change or addition of use.

Section 15-3.1b. Application Forms. The Land Use Board Secretary is hereby authorized to create and establish the forms necessary to process applications made pursuant to this Ordinance. All applications shall be submitted to the Land Use Board Secretary on the prescribed application and shall include the following accompanying documents.

1. Completed application.
2. Resolution of approved existing use.
3. Drawing or plan of new signage, if applicable.

Section 15-3.1c. Signage. The Committee shall consider signage amendments upon proper plans submitted with the application including the size and type of advertising sign.

Section 15-3.1d. Application Exclusions.

1. There shall be no change in the exterior of the structure or any portion thereof other than purely cosmetic changes.
2. Food preparation as a temporary use is prohibited.

Section 15-3.1e. Application Fee. There shall be a seventy-five dollar (\$75.00) administrative fee, no advertising requirement, and no need for formal notification of the application.

Section 15-3.1f. Application Process. Once an application has been submitted to the Land Use Board Secretary, it will be submitted to the members of the Committee via email or other means. A reply expressing approval or disapproval of the application shall be given within fifteen (15) business days. The Committee members shall be permitted to meet and/or confer with each other and with the Borough Commissioners to discuss the merits of the application.

Section 15-3.1g. Approved Applications. If a majority of the Committee members find that the proposed use is one of equal or lesser intensity than that of the existing and approved use for the property, the application for exemption can be approved by the Committee. Approved applications by the Committee shall be announced and read into the record at the next regularly scheduled Land Use Board meeting.

Section 15-3.1h. Denied Applications. If a majority of the Committee members vote “no” or otherwise express disapproval of the application, the applicant must proceed to a full hearing of the Land Use Board at the next available meeting, as determined by the Land Use Secretary, provided that the required fees are paid, and that applicable notice requirements are met. The seventy-five dollar (\$75.00) administrative fee shall be applied to the full Land Use Board application fee, unless the Committee unanimously waives any further application fees; however, any professional fees including, but not limited to, Land Use Board Attorney and Engineer fees, shall be paid by the applicant in accordance with the established escrow procedures. The Committee shall determine if an Engineer’s review is required.

Section 15-3.1i. Violations and Penalties. Any person, corporation or business entity operating a business as provided in Section 15-3 that violates or fails to comply with this section or any of the rules and regulations promulgated hereunder shall have their permit revoked, and, upon conviction thereof, be punishable by a fine of five hundred dollars (\$500.00) for the first

offense. Each day for which a violation of this section occurs after the first offense shall be considered a separate offense and shall be punishable by a fine of \$500 per day.

SECTION 2. This Ordinance repeals any inconsistent ordinance or ordinances or part or parts thereof.

SECTION 3. 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 Board of Commissioners hereby declare that it 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 4. This Ordinance shall take effect immediately upon its final passage and publication as required by law.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was duly introduced and passed on the first reading at a regular meeting of the Board of Commissioners of the Borough of Harvey Cedars held on **March 18, 2022**. Further notice is given that said Ordinance shall be considered for final passage and adoption at a regular meeting of said Board of Commissioners to be held on **April 18, 2022** at 4:30pm at the Borough Hall, 7606 Long Beach Blvd., Harvey Cedars, NJ, at which time and place any person desiring to be heard will be given an opportunity to be so heard.

Daina Dale, Municipal Clerk