

CHAPTER XIII

ZONING

13-1 TITLE, PURPOSE AND INTERPRETATION.

13-1.1 Title. This chapter shall be known as “The Zoning Ordinance of the Borough of Harvey Cedars.” (Ord. No. 2001-02 § 1)

13-1.2 Interpretation.

- a. For the purpose of consolidation, codification and revision, the Zoning Ordinance of the Borough, the title of which is set forth in the title hereof, and the various amendments thereof and supplements thereto, are further amended, consolidated and revised as herein provided.
- b. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements, adopted for the promotion of the public health, safety, morals, comfort, prosperity and general welfare. It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law or ordinance or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law relating to the uses of building or land, or with any private restrictions placed upon a property by covenant or deed; provided that where this chapter requires a greater width of size, or yards, courts or other open spaces, or requires a greater percentage of lot to be left unoccupied, or imposes restrictions more extensive than are required by any other statute or local ordinance or regulation, the provisions of the regulations in this chapter shall govern. (Ord. No. 2001-02 § 1)

13-1.3 Purpose. This chapter is adopted for the purpose of promoting health, safety, morals, general welfare, securing safety from fire, flood, and other dangers, preventing the overcrowding of land or buildings, and with the view of conserving the value of property and encouraging the most appropriate use of land and buildings within the Borough. (Ord. No. 2001-02 § 1)

13-1.4 Applicability of Zoning Regulations. In applying the provisions of this chapter, a departure from the literal requirement shall not be considered a violation if, in the opinion of the Zoning Officer, the departure is minimal and necessary to meet safety needs and current code. (Ord. No. 2016-15 § 1)

13-2 ZONING MAP.

13-2.1 Adopted by Reference. The Borough is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter. (Ord. No. 2001-02 § 1)

13-2.2 Official Zoning Map. The official zoning map shall be identified by the signature of the Mayor attested by the Borough Clerk, and bearing the seal of the Borough under the following words: “This is to certify that this is the Official Zoning Map referred to in Ordinance Number 66-4 of the Borough of Harvey Cedars, New Jersey”, together with the date, July 16, 1966. (Ord. No. 2001-02 § 1)

13-2.3 Changes in Zoning Map. If, in accordance with the provisions of this ordinance and R.S. 40-55-30, supplements thereto and amendments thereof, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made of the Official Zoning Map promptly after the amendment has been approved by the Mayor and Commissioners, together with an entry on the Official Zoning Map as follows: “On (date), the official action of the Mayor and Commissioners, the following change(s) were made in the Official Zoning Map; (brief description of nature of change(s),” which entry shall be signed by the Mayor and attested by the Borough Clerk. The amending ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon the Official Zoning Map. No amendment to this ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on the Map.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conforming with the procedures set forth in this chapter. Regardless of the existence of purported copies of the Official Zoning Map, which may be made or published, the Official Zoning Map which shall be located in the office of the Borough Clerk shall be the final authority as the current zoning status of land and water areas, buildings, and other structures in the Borough. (Ord. No. 2001-02 § 1)

13-2.4 Replacement of Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of the changes and additions, the Borough Commissioners may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the Borough Clerk, and bearing the seal of the Borough under the following words: This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance Number 66-4 of the Borough of Harvey Cedars, New Jersey. (Ord. No. 2001-02 § 1)

13-3 DEFINITIONS.

Whenever a term used in this chapter is defined in R.S. 40:55D-1 et seq., the term is intended to have the meaning set forth in the definition of such term in that statute. However, the following terms, as used in this chapter, shall be defined as follows:

The words “used” or “occupied” shall include the words “intended,” “designed,” or “arranged to be used or occupied”. The word “lot” shall include the words “plot” or “parcel.”

Accessory use or *accessory building* shall mean a subordinate use or subordinate building the purpose of which is incidental to that of the main use or main building and on the same lot. (Ord. No. 2007-13 § 3)

Addition shall mean an increase in the footprint area of a building, an increase in the height, or an increase in the number of stories of a building. (Ord. No. 2007-13 § 3)

Alteration shall mean the rearrangement of any space by the construction of walls or partitions or by a change in ceiling height, the addition or elimination of any door or window, the extension or rearrangement of any system, the installation of any additional equipment or fixtures and any work which reduces the loadbearing capacity of or which imposes additional loads on a primary structural component. (Ord. No. 2001-02 § 1)

Attic shall mean area between ceiling joists of top story and the roof rafters above. An attic area shall not be finished nor heated and not used for anything but storage or mechanical equipment. (Ord. No. 2007-13 § 3)

Buildable Lot Area shall mean the portion of a lot remaining after required yard areas have been set aside. (Ord. No. 2007-13 § 2)

Building shall mean any structure having a roof supported by columns, piers, or walls including tents, lunch wagons, trailers, dining cars, camp cars, or other structures on wheels or having other supports and any unroofed platform, terrace or porch having a vertical face higher than twelve (12) inches above the level on the ground from which the height of the building is measured.

Building Footprint Area shall mean the sum of the areas enclosed by the principal and accessory building lines, including any porches and decks. Building footprint area shall exclude:

- air conditioner or generator platforms twenty-four (24) square feet in area and under; (Ord. No. 2021-15 § 1)
- bay windows not extending down to finish floor, twelve (12) square feet or less in area; outdoor shower enclosures, roofed or unroofed, thirty-two (32) square feet or less;

(Ord. No. 2007-13 § 2)

- chimneys twelve (12) square feet or less in area and not projecting more than two (2) feet from the structure. (Ord. No. 2010-22 § 1)

If the above areas are exceeded, the portion of area exceeding shall be included in the building footprint area.
(Ord. No. 2007-13 § 2)

Building Height shall mean the difference in elevation from the crown of the established road, street, or easement grade at the center of the front yard to the highest point of the building or structure. Eastward of Long Beach Blvd., the established grade shall be the higher elevation of either the existing street or easement, or the established street profile. The height of properties fronting the eastward side of Long Beach Blvd. shall be based on the closest east/west easement or street on the eastward side of Long Beach Blvd. See Section 24-11.10. Westward of Long Beach Blvd., for lots that have been filled 20 inches (20") above the centerline street grade, the building height shall be increased by one foot (1'). See Section 13-7.2 for Height Limits. (Ord. No. 2021-20 § 2)

Building line shall mean a line formed by the intersection of a horizontal plane that coincides with the exterior surface of the building on any side. In case of a cantilevered or projected section of a building, the vertical plane will coincide with the most projected surface, except for roof overhangs projecting two (2) feet or less, or chimneys projecting two (2) feet or less and bay windows not extending to finish floor less than twelve (12) square feet in area. All yard requirements are measured to the building line. (Ord. No. 2007-13 § 3)

Certificate of occupancy shall mean a certificate issued by the Borough Building Administrator and enforced by the Zoning Officer upon completion of construction and/or alteration of any building, or upon the sale, conveyance, transfer of ownership or change in the use of any building and/or structure which certified that all requirements of this chapter or such adjustments thereto which have been granted by the Board of Adjustment or Planning Board and all other applicable requirements have been complied with. (Ord. No. 2001-02 § 1)

Courtesy bench shall mean an outside bench and/or seat provided for patrons as a convenience to use while consuming takeout foods. (Ord. No. 2014-08 § 1)

Deck shall mean an exterior floor system supported on at least two opposite sides by an adjoining structure and/or posts, piers, or other independent supports. Any deck area with a deck or roof above shall be considered a porch. (Ord. No. 2007-13 § 3)

Dual Use shall mean a use of land where a single parcel, site, or property is used for two distinct uses, both of which are permitted uses in the zone and meet all other town and zoning requirements, specifically a residential use and a commercial use such as a business/professional office, a retail business or a personal/household service establishment, being conducted in a single structure or on a single lot. (Ord. No. 2013-03 § 1)

Dwelling, single-family shall mean a detached residence designed for or occupied by one (1) family only.

Easement, Pedestrian Access shall mean access easements used for pedestrian traffic to gain access through a private property. No building or structure, whether principal or accessory shall be closer than eight (8) feet to the pedestrian access easement line. (Ord. No. 2017-17 § 1)

Easement, Private Access shall mean an easement created for the purpose of providing vehicular or pedestrian access across one property to another. (Ord. No. 2017-17 § 1)

Easement, Utility shall mean the right-of-way acquired by a utility or governmental agency or local utilities, included but not limited to water, sewer, stormwater and gas mains, telephone and electric poles, cables, pylons, and towers. Utility easements are not required to meet minimum setback requirements for zoning purposes. (Ord. No. 2017-17 § 1)

Easement, Vehicular also known as Right-of-Way Easement shall mean an easement created for the purpose of vehicular ingress and egress. No portion of a vehicular easement can be included in required setbacks. Setbacks shall be measured from the easement line. (Ord. No. 2017-17 § 1)

Family shall mean one (1) or more persons occupying a single housekeeping unit and using common cooking facilities provided that unless all members are related by blood or marriage, no such family shall contain over five (5) persons.

Fill – see subsection 24-11.10 regarding lot fill, and subsection 16-7.3f regarding easements and lots. (Ord. No. 2021-20 § 2)

Habitable Areas shall be the heated and air-conditioned areas of buildings utilized for living, sleeping, eating or cooking, including bathrooms, toilet compartments, closets, mezzanines, stairways, foyers, halls, storage, utility areas, and closed porches. Habitable Areas shall not include unheated attics, crawl spaces, basements or garages, decks, open porches, and floor space less than five (5) feet in height. Habitable Areas will be calculated from the exterior walls of the structure. (Ord. No. 2007-13 § 3)

Impervious Coverage shall mean the sum of the horizontal areas of generally impervious surfaces including roof areas, pools and hot tubs, roofed over decks and fiberglass decks, brick or concrete pavers, asphalt, concrete, and similar type pavements that cover the Lot. Timber or plastic decks having open joints, and gravel, shell or stone surfaces are not considered Impervious Coverage. (Ord. No. 2007-13 § 2)

Lot shall mean a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as herein required. Such lot shall have direct vehicular access to an improved public street as herein defined and may consist of:

- a. A single lot of record;
- b. A portion of a lot of record;
- c. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record;
- d. A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residential lot or parcel be created which does not meet the requirements of this chapter.

Lot Coverage shall be the ratio of building footprint area to upland lot area. (Ord. No. 2007-13 § 2)

Lot frontage shall mean on regular lots, the front shall be construed to be the portion nearest the public street. In determining yard requirements, all sides of any regular lot adjacent to the public street shall be considered frontage unless otherwise modified herein.

Lot width shall be determined by measurement across the rear of the required front yard, provided, however, that width between side lot lines at the points where they intersect the street line shall not be less than eighty (80%) percent of required minimum lot width, except in the case of lots on the turning circle of cul-de-sac or at points of street curvature where the radius at the right-of-way line of the street (or circle approximately following the right and intersection the foremost points of the side lot lines) is less than ninety (90) feet, in which case the eighty (80%) percent requirement shall not apply; however, the minimum width at the street line in the situation where the radius is less than ninety (90) feet, shall not be less than twenty-five (25) feet.

Parking space, off-street shall mean an off-street parking space comprising not less than one hundred eighty (180) square feet of parking stall plus necessary maneuvering space, shape for maneuvering incidental to parking or unparking shall not encroach upon any public way. Every off-street parking space shall be accessible from a public way. (Ord. No. 2001-02 § 1)

Porch shall mean one of the following:

- a. *Closed Porch* shall mean a deck area with a roof or deck entirely above and covering to the deck extents, and having solid or paneled railings, insert screening or storm panels.
- b. *Open Porch* shall mean a deck area with a roof or deck above, and railing open in area for at least one half of the porch perimeter outside of the building wall. No additional enclosure materials or walls are permitted including screening, storm windows, drop curtains, or other temporary enclosures.

(Ord. No. 2007-13 § 3)

Reconstruction shall mean any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied. Reconstruction may include repair, renovation, alteration, or any combination thereof. For further clarification of such definitions reference shall be to the New Jersey Administrative Code, N.J.A.C. 5:23-6.4 et seq.

Restaurant, full service shall mean any establishment, however designated, at which food is sold for consumption on the premises, but normally to patrons seated within an enclosed building with table service. (Ord. No. 2014-08 § 1)

Restaurant, limited service shall mean any establishment where the majority of the patrons purchase food, soft drinks, ice cream and similar confections for takeout or consumption on the premises, inside or outside the enclosed building regardless of whether or not seats or accommodations are provided for the patrons. (Ord. No. 2014-08 § 1)

Retail food shall mean any establishment which food is sold for consumption off premises with no permitted table seating. (Ord. No. 2014-08 § 1)

Retail food/limited service shall mean any establishment which food and/or sundries are sold for use off premises with permitted table seating. (Ord. No. 2014-08 § 1)

Signs shall mean any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided however, that the following shall not be included in the application of the regulations herein.

- a. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants or premises, or other identification of premises not having commercial connotations.
- b. Flags and insignias of any government except when displayed in connection with commercial promotion.
- c. Legal notices, identification, information, or directional signs erected or required by government bodies.
- d. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.
- e. Signs directing and guiding traffic and parking on private property but bearing no advertising matter.

Signs, numbers and surface area for the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered to be a single sign. The surface area of a sign shall be computed as including the entire area within a regular geometric form comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.

Sign, on-site shall mean a sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. (Ord. No. 2001-02 § 1)

Story shall be a vertical dimension and shall mean that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof above it. A split-level story shall be considered a second story if its floor level is six feet or more above the level of the line of the finished floor next below it. (Ord. No. 2007-13 § 3)

Street line shall mean the right-of-way line of a street.

Structure shall mean anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, billboards, poster panels, and decks. (Ord. No. 2001-02 § 1)

Upland Lot Area shall mean the area of a lot exclusive of any open water, lagoon or wetland areas. Open water area shall be measured from the mean high water line established on the current property survey. (Ord. No. 2007-13 § 2)

Waiting bench shall mean an outside bench and/or seat provided for patrons as a convenience to use while waiting to be seated at a table. No consumption of food is permitted on waiting benches. (Ord. No. 2014-08 § 1)

Yard shall mean a required open space other than a court, unoccupied and unobstructed by any structure or portion of a structure from twelve (12) inches above the general ground level on the graded lot upward, provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility as indicated herein.

Yard abutting public streets shall mean required yard abutting public streets to be measured in the following manner. A straight line shall be drawn between two (2) points at which lot lines intersect street lines on any face of the lot. Where property corners are rounded, such points shall be plotted by projecting lot lines to the point where they would have met the street line without rounding. Depth of required yards abutting public streets shall be measured perpendicular to such straight lines, and the inner line of such required yards shall be parallel to the outer line so established.

In any such required yard abutting a public street, no fence, wall, or hedge shall be permitted which materially impedes visibility across such yard between a height of twenty-four (24) inches and eight (8) feet. (Ord. No. 2016-15 § 2)

a. *Front yard* shall mean a yard extending between side lot lines across the front of a lot adjoining a public street. On through lots, unless the prevailing lot pattern indicates otherwise, front yards shall be provided on all frontages in accordance with the general regulations of the district concerning minimum depth of front yards. This definition shall not apply to lots which are less than one hundred (100) feet in depth. In those cases, the property owner can choose which street will be considered the Front Yard. (Ord. No. 2007-13 § 4)

b. *Side yard* shall mean a yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street.

Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

c. *Rear yard* shall mean a yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

Depth of required rear yard shall be measured in such manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line. (Ord. No. 2001-02 § 1)

13-4 ESTABLISHMENT OF DISTRICTS.

13-4.1 Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply.

- a. Boundaries indicated, as approximately following the centerlines of streets, highways, or alleys shall be construed to follow the centerlines.
- b. Boundaries indicated, as approximately following platted lot lines shall be construed as following such lot lines.
- c. Boundaries indicated as following ocean shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as following shorelines other than along ocean shall be construed to follow the exterior pier headline established by the Bureau of Navigation of the State of New Jersey.
- d. Boundaries indicated as parallel to or extensions of features indicated in paragraphs a. through c. above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- e. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by paragraphs a. through d. above, the Board of Adjustment shall interpret the district boundaries.
(Ord. No. 2001-02 § 1)

13-4.2 Application of District Regulations. The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

- a. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
- b. No building or other structure shall hereafter be erected or altered:
 1. To exceed the height;
 2. To accommodate or house a greater number of families;
 3. To occupy a greater percentage of lot area;
 4. To have narrower or smaller rear yards, front yards, side yards, or other open spaces; than herein required; or in any other manner contrary to the provisions of this chapter.

- c. No part of a yard, or other open space, or off street parking or loading space required about or in connection with any building for the purpose of complying with this chapter, shall be included as part of a yard, open space, or off street parking or loading space similarly required for any other building.
- d. No yard or lot existing on July 16, 1966 shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after July 16, 1966 shall meet at least the minimum requirements established by this chapter.
- e. All territory which may hereafter be annexed to the Borough shall be considered to be zoned in the same manner as the contiguous territory inside previous Borough limits until otherwise classified.
(Ord. No. 2001-02 § 1)

13-5 NONCONFORMING LOTS, NONCONFORMING USES OF LAND, NONCONFORMING STRUCTURES, AND NONCONFORMING USES OF STRUCTURES AND PREMISES.

13-5.1 Intent. Within the districts established by this chapter or amendments that may later be adopted there exist lots, structures, and uses of land and structures which were lawful before this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment.

It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, not be used as grounds for adding other structures or uses prohibited elsewhere in the same district. (Ord. No. 2001-02 § 1)

13-5.2 Extension. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after July 16, 1966 by attachment of a building or premises of additional signs intended to be seen from off premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved. (Ord. No. 2001-02 § 1)

13-5.3 Construction Previously Approved. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designation use of any building on which actual construction was lawfully begun prior to July 16, 1966 or date of amendment of this chapter and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved. (Ord. No. 2001-02 § 1)

13-5.4 Nonconforming Lots of Record. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record on July 16, 1966, or date of amendment of this chapter. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of area, width, and yard requirements shall be obtained only through action of the Board of Adjustment. (Ord. No. 2001-02 § 1)

13-5.5 Nonconforming Lots of Single Ownership. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record on July 16, 1966 or date of amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of the parcel shall be used or sold which does not meet lot width and area requirements established by this

chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter. (Ord. No. 2001-02 § 1)

13-5.6 Nonconforming Uses of Land. Where, on July 16, 1966, or date of amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be contained so long as it remains otherwise lawful, subject to the following provisions.

- a. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land that was occupied on July 16, 1966 or the date of amendment of this chapter;
- b. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use on July 16, 1966 or date of amendment of this chapter;
- c. If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which the land is located.
(Ord. No. 2001-02 § 1)

13-5.7 Nonconforming Structures. Where a lawful structure exists on July 16, 1966 or the date of amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No such structure may be enlarged or altered in a way which increases its nonconformity;
- b. Should the structure be destroyed by an act of God, or a natural disaster, it may be rebuilt to the extent it existed prior to its destruction, otherwise, it shall not be reconstructed except in conformity with the provisions of this chapter; subject, however, to the further provision that any such structure must be so reconstructed within one (1) year from the date of its destruction. If a nonconforming structure is demolished purposely then any replacement structure shall conform to all current zoning ordinances.
- c. Should the structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
(Ord. No. 2001-02 § 1)

13-5.8 Nonconforming Uses of Structures. If a lawful use of a structure, or of structure and premises in combination, existed on July 16, 1966, or on the date of amendment of this chapter, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

- b. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use on July 16, 1966 or of amendment of this chapter, but no such use shall be extended to occupy any land outside such building;
- c. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate conditions and safeguards in accord with the provisions of this chapter;
- d. Any structure, or structure and land combination, in or on which a nonconforming use is superseded by permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed;
- e. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months or twenty-four (24) months during any three (3) year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it was located;
- f. Where nonconforming use applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
(Ord. No. 2001-02 § 1)

13-5.9 Repairs and Maintenance. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, provided that the cubic content of the building as it existed on July 16, 1966 or amendment of this chapter, shall not be increased.

Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official. (Ord. No. 2001-02 § 1)

13-5.10 Uses Under Exception Provisions Not Nonconforming Uses. Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.
(Ord. No. 2001-02 § 1)

13-6 ESTABLISHMENT OF ZONES.

For the purpose of this chapter, the Borough of Harvey Cedars is hereby divided into the following districts:

<i>Symbol</i>	<i>Name</i>
R-A	Single-Family, Residential District
R-AA	Single-Family, Residential District
GB	General Business District
LC	Limited Commercial District
MC	Marine Commercial District
RS	Residential Boat Slip District

(Ord. No. 2017-25 § 1)

13-7 GENERAL REGULATIONS.**13-7.1 Zoning Affects Every Use and Structure.**

- a. Except as previously or hereinafter provided, it shall be unlawful to locate, relocate, erect, construct, reconstruct, enlarge or structurally alter any building or structure except in conformity with the regulations of the district in which such building or structure is located.
- b. Except as previously or hereinafter provided, it shall be unlawful to use any land or building for any purpose other than is permitted in the district in which such land or building is located.
(Ord. No. 2001-02 § 1)

13-7.2 Height Limits.

- a. No building or structure shall be built or enlarged to exceed three (3) stories from grade.
(Ord. No. 2007-13 § 5)
- b. No building or structure may exceed two (2) stories of habitable areas, excluding an entry foyer and stairway not exceeding one hundred (100) square feet in area.
(Ord. No. 2014-14 § 1)
- c. No building or structure shall exceed a maximum sloped-roof height of thirty-two (32) feet. When existing setbacks do not meet or exceed the required setbacks of the district, the height shall not exceed thirty (30) feet. A flat-roofed building with a pitch less than one in twelve, or other structure, shall not exceed twenty-eight (28) feet. Deck railings shall not exceed thirty-one (31) feet in height. (Ord. No. 2007-13 § 5)
- d. No building or structure on a lot with thirty (30) feet or less of frontage shall be built or enlarged to exceed twenty-four (24) feet in height. Lots exceeding thirty (30) feet in frontage may exceed the twenty-four (24) foot height limit at a rate of one (1) additional foot for every two (2) feet of additional lot width. In the case of cul-de-sac lots, the frontage shall be measured at the front setback line. (Ord. No. 2016-12 § 1)
- e. Exceptions to the height limit may be found in Section 13-8. (Ord. No. 2007-13 § 5)

13-7.3 Coverages.

- a. Lot coverage in the R-A, R-AA, GB and LC districts shall not be greater than thirty-three (33%) percent. Lot coverage by building footprint area exclusive of decks or open Porches shall not exceed twenty-nine (29%) percent.
- b. The ratio of the area of habitable areas to the upland lot area shall not exceed fifty (50%) percent.
- c. The ratio of the impervious coverage area to the upland lot area shall not exceed seventy-five (75%) percent. For oceanfront lots, the 75% calculation shall be made only on that area of the lot lying generally westward of the oceanfront building line. For the purposes of calculating impervious lot coverage, no portion of the lot which is mapped as wetlands, vehicular easements and no portion which is riparian shall be included in the calculation of determining permissible impervious lot coverage. (Ord. No. 2017-27 § 1)

- d. The ratio of the sum of the building footprint area and the areas of a swimming pool taken with adjacent at-grade walkways (timber or other material) and patios within three (3) feet of the pool to the upland lot area shall not exceed forty-three (43%) percent. (Ord. No. 2018-04 § 1)

13-7.4 Easements.

- a. No building or structure shall be erected on a lot of less than five thousand (5,000) square feet and having a frontage of less than fifty (50) feet upon a dedicated or approved street, road, or public or private way not less than fifty (50) feet wide, except that in that portion thereof lying southeastwardly of Long Beach Boulevard and between the southerly boundary line of the Borough and Cumberland Avenue, a building may be erected on a lot fronting on a private way not less than twenty-five (25) feet wide provided that the lot is at least six thousand (6,000) square feet in area and has a frontage on the private way of at least sixty (60) feet and has a front yard setback of at least fifteen (15) feet.
- b. Each lot must front upon an approved street at least fifty (50) feet in width, except lots fronting the “beach-dune protective facility” as shown on the map entitled “Ocean Front Building Line and Bulkhead Line for the Borough of Harvey Cedars” prepared by Thomas J. Taylor Associates, Borough Engineers, dated March 5, 1965 and on file in the office of the Borough Clerk or any revision thereof. Such lot may front the facility provided an easement, right-of-way, or a portion of the lot is provided giving access from the lot to a street or an existing easement at least twenty-five (25) feet wide. The easement, right-of-way, or portion of the lot shall not exceed one hundred fifty (150) feet in length, shall extend the entire length of any lot to which it gives access, shall be at least twenty (20) feet in width along its entire length, and shall be maintained in such a manner as to provide vehicular access to the lot and so as not to be a blighting or deteriorating influence on neighboring property. No building or structure, whether principal or accessory, shall be closer than eight (8) feet to the easement line.
- c. *A Lot May Also Front on Barnegat Bay.* Lots fronting on Barnegat Bay shall have access to a street at least fifty (50) feet wide by way of an easement or right-of-way at least fifteen (15) feet wide. Said easement shall extend the entire length of any lot to which it gives access, and shall not give access to more than one (1) lot, and shall be maintained in such a manner so as to provide vehicular access to the lot, and so as not to be a blighting or deteriorating influence on neighboring property. No building or structure, principal or accessory, shall be closer than three (3) feet to the easement line.
- d. Every lot created pursuant to this subsection shall have a minimum area of five thousand (5,000) square feet. In computation of such area, no portion of a street or easement shall be included. (Ord. No. 2001-02 § 1)
- e. Any private easement established for the purpose of ingress and egress for the benefit of properties on that easement shall be maintained by the owners thereof in such a manner as to be level, unobstructed, free of depressions, potholes and the like. They shall be of a material so as to ensure that any emergency vehicles, such as, but not limited to, fire, police and first aid, may obtain uninhibited access through said easement and further shall ensure that said emergency vehicles will not be damaged thereby and emergency personnel and/or occupants are not injured thereby.

Easements developed for the purpose of ingress and egress shall remain clear and unobstructed by trees, hedges, bushes, branches or any other growth for a minimum of fifteen (15) feet wide and unlimited height clearance so as to ensure that any emergency vehicle may obtain uninhibited access, nor shall they have any other material obstructions such as but not limited to stone walls, landscaping devices, fences, buildings or other materials on or within the easement area. See Section 13-15.4(c) regarding trash rack placement for easements. Temporary structures of any kind shall not be permitted on or within the easement area.

(Ord. No. 2011-14 § 2)

13-7.5 Area and Yard Requirements. All area and yard requirements are based on the district in which the lot lies. (Ord. No. 2001-02 § 1)

13-7.6 Required Yards Cannot Be Reduced or Used by Another Building. No open space provided around any building for the purpose of complying with the provisions of this chapter shall be considered as providing open space for any other building.

(Ord. No. 2001-02 § 1)

13-7.7 Accessory Buildings in All Districts. An accessory building shall be subject to the following requirements:

- a. All accessory buildings must meet the area and yard requirements of the district.
- b. They shall not be located in any required front yard space.
- c. Such buildings shall not exceed one (1) story or fifteen (15) feet in height.
- d. The minimum distance of any accessory building from an adjoining building shall be five (5) feet.
- e. Accessory buildings may be erected as a part of the principal building provided that all yard requirements of this chapter for the principal building are complied with.

(Ord. No. 2001-02 § 1)

13-7.8 Yards Adjacent to Barnegat Bay, Lagoons, Coves, and Other Bodies of Water. There shall be an open, unoccupied space between the shoreline at mean high water and a line drawn parallel thereto of not less than fifteen (15) feet with the exception of any structure or portion of a structure less than twelve (12) inches above the general ground level.

(Ord. No. 2001-02 § 1)

13-7.9 Lots Adjacent to the Beach-Dune Facility. All lots adjacent to the beach-dune protective facility as shown on the map entitled "Ocean Front Building Line and Bulkhead Line for the Borough of Harvey Cedars" prepared by Thomas J. Taylor Associates, Borough Engineers, dated March 5, 1965, and on file in the office of the Borough Clerk, or any revision thereof. Any residential structure built on one of these lots shall have the bottom of the first floor joist at a minimum elevation of sixteen (16) feet above mean sea level or three (3) feet above the center line elevation of the existing street grade, whichever is higher.

(Ord. No. 2001-02 § 1)

13-7.10 Delineated Wetlands Line. There shall be a minimum setback in all zones of eight (8) feet from the delineated wetlands line for all structures or buildings. (Ord. No. 2001-02 § 1)

13-7.11 Lighting. Wherever outdoor lighting or illumination of any type is to be used to illuminate any structure or use, application shall first be made to the Zoning Officer for a permit. In determining whether or not to permit the lighting or illumination, the Zoning Officer shall give due consideration to the following factors:

- a. The direct source of illumination shall not be visible from any public street.
- b. The direct source of illumination shall not reflect into or upon any structure or use not on the same lot as the source of illumination. (Ord. No. 2001-02 § 1)

13-7.12 Second Dwelling – Prohibited. There shall not be more than one principal structure or dwelling on any lot of record. (Ord. No. 2007-13 § 7)

13-7.13 Flood Zone. Habitable areas shall be constructed in accordance with applicable FEMA Flood Zone Regulations. However, entry foyers and stairways may be constructed below the mapped flood plain elevation up to a maximum of one hundred (100) square feet in area. (Ord. No. 2016-12 § 2)

13-7.14 Bulkheads.

- a. Permit required. Before any work of the type described in this section may begin, a bulkhead permit must be obtained. Plans and specifications showing compliance with the bulkhead design standards shall be provided. Work in progress shall be subject to inspection by the Code Enforcement Officer to assure compliance.
- b. All new bulkheads shall be constructed in accordance with all applicable Borough and State statutes and amendments. The top of all bayside and lagoon bulkheads shall have a minimum elevation of five feet (5') Mean Sea Level NAVD 1988. (Ord. No. 2021-20 § 1)

13-8 PERMITTED MODIFICATIONS AND EXCEPTIONS.

13-8.1 Exceptions to the Height Limits. The following exceptions to the height limit are permitted:

- a. Roof structures for the housing of stairways, tanks, ventilating fans, air conditioning equipment, or similar equipment required to operate and maintain the building, and fire or parapet walls, towers and steeples, are permitted only on commercial structures which are located in the Limited Commercial District, General Business District and Marine Commercial District.
 1. Spires, belfries, cupolas and domes are permitted on churches only.
 2. Chimneys venting fossil burning devices may exceed the height limit by not more than two (2) feet. (Ord. No. 2002-14 § 4)

- b. Existing ocean front dwellings directly fronting the Atlantic Ocean beach front may, under the following circumstances, exceed the current height limitations. Those circumstances are:
 1. The dwellings were constructed and occupied prior to the effective date of this subsection "b." of the Zoning Ordinance.
 2. The first floor habitable living area has a finished floor elevation lower than 23.
 3. The dwelling owner may then apply to raise the dwelling so that the existing first floor habitable living area does not exceed elevation 23.
 4. This exception shall only apply to the existing homes hereinabove described and shall not apply to current structures where demolition is planned or proposed. It also shall not apply or allow a dwelling owner to add another level to the current structure but is restricted to raising the current structure as above described. Additions to the raised structure will be permitted provided they meet all zoning ordinance requirements including maximum building height as specified in 13-8.1.c below. (Ord. No. 2014-01 § 1)

- c. New ocean front dwellings fronting the Atlantic Ocean beach front:
 1. The first floor living area shall be set at a maximum elevation of 23 feet, 1988 NAVD.
 2. The height above the new first floor elevation shall not exceed 23 feet. A flat-roofed building with a pitch less than one in twelve shall not exceed twenty (20) feet.
 3. Deck railings shall not exceed twenty-three (23) feet in height above the first floor elevation.
(Ord. No. 2014-01 § 2)

13-8.2 Exceptions to Setbacks in R-A Single Family, Residential District. If a structure is to be located on a corner lot with an area of six thousand (6,000) square feet or less it shall be permitted to have one (1) front yard setback of twenty (20) feet and one (1) front yard setback of ten (10) feet at the property owners choice, provided that the location of the structure does not encroach on the site triangle as set forth in subsection 13-15.3 herein. The front yard setback of twenty (20) feet may be decreased to fifteen (15) feet for the construction of decks or open porches (see definitions). (Ord. No. 2004-21 § 1)

13-8.3 Permitted Exceptions to Setbacks in All Zones. The following shall be exempt from setback requirements in all zones:

1. Bay windows provided they do not exceed 18 inches into the required setback and do not extend downward to the finished floor
2. Roof overhangs projecting two (2) feet or less
3. Chimneys projecting two (2) feet or less

(Ord. No. 2010-22 § 2)

13-8.4 Exceptions to Houses Being Raised.

1. Construction of landings and stairs in connection with a house being raised to above the base flood elevation (BFE) level shall be allowed an additional 60 square feet for reconfigured entry and stairs and shall not be considered building coverage.
2. Construction of landings and stairs in connection with houses being raised as defined in Subsection 13-8.1b above shall be allowed an additional 200 square feet for reconfigured entry and stairs and shall not be considered in building coverage. In addition, reconfiguration of entry stairs and landings may encroach into front, side and rear yard setbacks.
3. House raises defined in Subsection 13-8,1b shall be permitted to maintain existing non-conforming setbacks.
4. All house raised under this section shall be subject to a review and approval by the Borough Engineer.

(Ord. No. 2011-14 § 3)

13-9 R-A, SINGLE-FAMILY, RESIDENTIAL DISTRICT.

The following regulations shall apply to all R-A Districts. (Ord. No. 2001-02 § 1)

13-9.1 Principal Uses and Buildings Permitted.

- a. Dwelling, single-family;
- b. Churches and other places of worship, and Sunday School buildings and parish houses;
- c. Public, parochial and private schools;
- d. Public museums and libraries;
- e. Public utilities structures;
- f. Model homes maintained in connection with real estate developments will be permitted at the discretion of the Planning Board. (Ord. No. 2001-02 § 1)

13-9.2 Accessory Uses and Buildings Permitted.

Model homes, if permitted at the discretion of the Planning Board, shall be occupied by no more than the owner and one (1) person employed in such office. (Ord. No. 2016-12 § 3)

13-9.3 Home Occupations.

Home Occupation shall mean a business, profession, occupation or trade conducted for gain or support entirely within a residential building which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such buildings. A home occupation shall further be defined as an accessory use.

- a. Home occupations shall be conducted only by members of a family residing in a dwelling unit plus not more than one (1) person not a resident of the dwelling unit, and conducted entirely within the dwelling or accessory building.
- b. All vehicles used in connection with home occupations shall be of a size, and be located on the premises in such a manner, so as to not disrupt the quiet nature and visual quality of the neighborhood.
- c. Private garages may be used provided that no more than two (2) commercial vehicles, not exceeding two (2) tons each, shall be parked or stored inside.
- d. The use of the property for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 400 square feet shall be used for the purpose of a home occupation.
- e. Two (2) off-street parking spaces are required in addition to the two (2) required for residential parking.

- f. One (1) unlighted sign of a maximum of four (4) square feet is permitted. A sign permit is required.
- g. The home occupation shall not generate the business or care of more than two (2) clients at any one time and shall be by appointment only.
- h. No home occupation shall:
 1. Store material outdoors so as to disrupt the quiet nature and visual quality of the neighborhood.
 2. Cause a nuisance to the neighborhood for reason of noise, odor, congestion, traffic, vibration, electrical or other interference and other causes.
 3. Cause vehicular traffic that will create a nuisance to the neighborhood or be detrimental to the residential character of the neighborhood.
 4. Offer for sale or sell articles except such as may be produced by members of the immediate family residing in the dwelling and others as herein provided.
 5. Include the breeding, raising, care, boarding or maintenance of animals.

(Ord. No. 2016-12 § 5)

13-9.4 Area and Yard Requirements.

- a. Every lot in the R-A District shall have a minimum width of fifty (50) feet.
- b. Every lot in the R-A District shall have a minimum area of five thousand (5,000) square feet subject to the following requirements:
 1. A front yard of twenty (20) feet shall be provided.
 2. A rear yard of ten (10) feet shall be provided.
 3. Two (2) side yards, each ten (10) feet shall be provided.
 4. The front yard setback of twenty (20) feet may be decreased to fifteen (15) feet for the construction of decks or open porches (see definitions). (Ord. No. 2002-14 § 6)
 5. The front yard setback of twenty (20) feet may be decreased to 15 feet for oceanfront properties. (Ord. No. 2004-21 § 2)
- c. Where a structure which does not meet the requirements of this section existed prior to the effective date thereof, the structure can be altered or enlarged, provided the nonconformity is not enlarged, and further provided the alteration or addition does not exceed fifty (50) percent of the replacement value of the existing structure. (Ord. No. 2010-22 § 3)

(Ord. No. 2016-12 § 4)

13-9.5 Prohibited Uses and Buildings. Any uses and buildings not listed above in subsections 13-9.1 and 13-9.2. Motels, hotels, condominiums, cooperative apartments, garden apartments, Bed and Breakfast establishments, and other multifamily uses and buildings are specifically prohibited. Dual use is prohibited. (Ord. No. 2013-03 § 2)

13-9.6 Off-Street Parking Requirements. There shall be provided at the time of erection or enlargement of any principal building or structure, minimum off-street parking space with adequate provision for ingress and egress as follows:

- a. Two (2) exterior spaces for each dwelling unit. (Ord. No. 2004-21 § 3)
- b. One space for each five (5) seats provided in school or church auditoriums or other places of public assembly. (Ord. No. 2001-02 § 1)
- c. No driveway shall exceed eighteen (18) feet in width at the street line, clearly designated by striping, paving, or otherwise delineating the selected eighteen (18) feet of driveway area. Only one (1) driveway shall be permitted for each fifty (50) feet of lot width. Lots exceeding seventy (70) feet at the street line may split the 18' driveway into two (2) nine (9) foot driveways for the purpose of maximizing street parking. Distance between the two (2) nine (9) foot driveways must be a minimum of twenty (20) feet at the street line. (Ord. No. 2016-15 § 3)

The provisions of this section shall not apply in the General Business, Limited Commercial and Marine Commercial Districts. (Ord. No. 2003-11 § 1)
(Ord. No. 2010-22 § 4)

13-9.7 Minimum Floor Area Requirements. Every new single-family building shall have a minimum first floor area of seven hundred twenty (720) square feet exclusive of porches.
(Ord. No. 2001-02 § 1)

13-10 R-AA, SINGLE-FAMILY, RESIDENTIAL DISTRICT.

13-10.1 General Regulations. All regulations applicable to R-A Residential Districts shall be applicable to the R-AA Single-Family Residential District except that area and yard requirements shall be revised as follows. (Ord. No. 2001-02 § 1)

13-10.2 Reserved.

13-10.3 Area and Yard Requirements. Some of the area within this district is still unsubdivided and unimproved acreage. It is the intention of the section to maintain a low density area ratio and at the same time afford the owners thereof flexibility in the development of this district.

- a.
 1. Every lot in the R-AA District shall have a minimum width of fifty (50) feet.
 2. Every lot in the R-AA District shall have a minimum depth of seventy-five (75) feet.
- b. The lots on each subdivision in the R-AA District shall have a minimum area of seven thousand five hundred (7,500) square feet exclusive of streets and water areas, subject to the following minimum requirements:
 1. A front yard of at least twenty-five (25) feet shall be provided.
 2. A rear yard of at least fifteen (15) feet shall be provided.
 3. Two (2) side yards, each at least ten (10) feet shall be provided.
- c. Existing lots within the R-AA District on July 16, 1966 shall be deemed to conform with the area provisions herein notwithstanding they have an average area of less than seven thousand five hundred (7,500) square feet provided the same comply with the minimum requirements set forth in paragraph b. above. (Ord. No. 2001-02 § 1)
- d. Where a structure which does not meet the requirements of this section existed prior to the effective date thereof, the structure can be altered or enlarged, provided the nonconformity is not enlarged, and further provided the alteration or addition does not exceed fifty (50) percent of the replacement value of the existing structure.
(Ord. No. 2010-22 § 5)

13-10.4 Prohibited Uses and Buildings. Any uses and buildings not permitted in the R-A District are also prohibited in the R-AA District. (Ord. No. 2001-02 § 1)

13-11 GB, GENERAL BUSINESS DISTRICT.

13-11.1 General Regulations. The following regulations shall apply to all GB Districts. (Ord. No. 2001-02 § 1)

13-11.2 Principal Uses and Buildings Permitted.

- a. All uses permitted in the R-A District.
- b. Any retail shopping facility or service establishment which supplies commodities or performs a service primarily for residents of the community, such as grocery store, delicatessen, meat market, drug store, variety store, antique and gift shop, furniture store, bakery shop, restaurant, luncheonette, tavern, package liquor store, barber shop, beauty parlor, clothes cleaning and laundry pickup establishment, bank, real estate office, business or professional office.
- c. Gasoline or oil stations, automobile service stations and public garages may be permitted provided the following standards and conditions are complied with:
 - 1. A set of plans, specifications and plot plans shall be submitted to the appropriate approving authority together with an application for a conditional use permit in accordance with the provisions of the Borough Land Use Procedure Ordinance and the Municipal Land Use Law, R.S. 40-55D-1 et seq., as amended and supplemented. Said plans and specifications shall show all structures, pumps, storage tanks, parking areas and driveways for ingress and egress.
 - 2. All pumps shall be located outside of buildings and on private property and in no case, within twenty (20) feet of any street line, and subject to such conditions and safeguards as the Board of Adjustment may impose with respect to, among other matters, the location and adequacy of entrances and exits.
 - 3. All automobile parts, dismantled vehicles and similar articles are stored within a building; all fuel oil or similar substances are stored at least thirty-five (35) feet from any street or lot line.
 - 4. In no event shall a permit be granted for such a use located within two hundred (200) feet of a school, hospital, infirmary, church, museum, public library or institution, or theater, club or place of public assembly having a capacity of over one hundred (100) persons.
 - 5. Furthermore, the granting of such a permit shall not be detrimental to the health, safety and general welfare of the community, and shall be reasonably necessary for the convenience of the community in the judgment of the Board of Adjustment.
 - 6. The appropriate approving authority shall grant or deny the application for a conditional use permit in accordance with the provision of this chapter, the Borough Land Use Procedure Ordinance and the Municipal Land Use Law, R.S. 40-55D-1 et seq.
(Ord. No. 2001-02 § 1)

13-11.3 Area and Yard Requirements.

- a. The minimum width of a business lot in the GB District shall be determined by the off-street parking and loading provisions of this section.
- b. The minimum area of a business lot in the GB District shall be determined by the off-street parking and loading provisions of this section and be subject to the following requirements:
 1. Front yards shall have a minimum depth of fifteen (15) feet from the street line.
 2. Rear yards shall have a minimum depth of ten (10) feet.
 3. Side yards shall have a minimum width of ten (10) feet each from the side lot lines.
- c. Every lot used for residential purposes or other uses permitted in the R-A District, or uses partly for residence and partly for business purposes, shall conform to the area and yard requirements of the R-A District.
- d. An attached group of stores may be considered as one (1) building in applying the above yard space requirements. (Ord. No. 2001-02 § 1)

13-11.4 Prohibited Uses and Buildings.

- a. Carousels, roller coasters, merry-go-rounds, Ferris wheels or other mechanical rides, pony tracks, miniature golf course, golf driving ranges, wild animal exhibits, trampolines and similar jumping or bounding devices and amusement centers in general.
- b. Any type of business using jukeboxes, record players with external speakers, or other noise making devices designed to attract attention to the business being conducted within the premises.
- c. Any business using sidewalk displays.
- d. Any process of assembly and/or manufacture using power in excess of twenty-five (25) horsepower or constituting a nuisance by reason of odor, smoke and noise. (Ord. No. 2001-02 § 1)
- e. All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service. (Ord. No. 2021-07 § 3)

13-11.5 Off Street Parking Requirements.

- a. For residential and other R-A uses – same as R-A District.
- b. For other permitted uses:
 1. Retail Business Use and Personal Service Establishments
 - One (1) off-street parking space for each two hundred (200) square feet of gross floor area

2. Retail Food
 - One (1) off-street parking space for each two hundred (200) square feet of gross floor area
 - No seating
 - Courtesy benches permitted
3. Retail Food/Limited Service
 - One (1) off-street parking space for each two hundred (200) square feet of retail store area
 - One (1) off-street parking space for each 3 seats of limited service area
 - Courtesy benches permitted
4. Restaurants, Limited Service
 - One (1) off-street parking space for each three (3) seats
 - Courtesy benches permitted
5. Restaurants, Full Service
 - One (1) off-street parking space for each three (3) seats
 - Bench restaurant seats shall be counted as one seat for each 30 inches of length (Ord. No. 2018-07 § 1)
 - Waiting benches permitted
6. Business and Professional Offices, Banks and Fiduciary Institutions
One (1) off-street parking space for each two hundred (200) square feet of gross floor area
7. Employee Parking
In addition to the above off-street parking requirements, one (1) off-street parking space shall be provided for each person now employed or expected to be employed in the business.

This requirement shall not apply under the following conditions:

- i. An operating restaurant that has an established and approved employee parking space or spaces may add that number of parking spaces to their total customer required spaces and increase their seating accordingly if they establish and file a plan to have their employees park upon a Borough approved parking area. The plan must be filed annually by May 1st of each year with the Zoning Department and the restaurant shall supply one (1) windshield placard for each employee. It will be the restaurant's responsibility to transport the employees to and from their vehicles. If it is determined that the restaurant is in violation of this requirement they will lose the benefit of said seats.
 - ii. Compliance will be monitored from Memorial Day through Labor Day.
 - iii. Any change in location of seating must be approved by the Land Use Board.
8. The off-street parking area may be located on the same lot as the business building or within a distance of not more than two hundred (200) feet therefrom; providing said lot is within the general business district. Leasing of off-street parking is permitted for the exclusive use of the lessee and shall cease upon termination of lease. (Ord. No. 2013-03 § 3)
(Ord. No. 2014-08 § 2)

c. Violations and Penalties.

- i. Sections 13-11.5b subsections 5 through 8 are the result of the Borough attempting to allow restaurants to create additional seating by taking advantage of off-street parking for employees and by allowing additional off-street parking off-site under certain conditions. The Borough has assumed additional enforcement duties that are time consuming, labor intensive and are mainly effective on weekends and holidays. For these reasons the Borough requests the consideration of minimum fines.
- ii. Any person, corporation or business entity operating a restaurant as provided in Section 13-11.5(b)5 through 8 that violates or fails to comply with these sections or any of the rules and regulations promulgated hereunder shall, upon conviction thereof, be punishable by a minimum 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. Any subsequent offense conviction shall be punishable by a minimum fine of \$750.00 for 1-5 seats over the permitted limit, \$1000.00 for 6-10 seats over the permitted limit, and \$1,250.00 for 11 or more seats over the permitted limit.
- iii. Any other violations of Chapter 13 shall be dealt with pursuant to Section 13-19 of this Chapter.

(Ord. No. 2018-07 § 2)

13-11.6 Minimum Floor Area of Residential Buildings. The minimum floor area shall be the same as in the R-A District. (Ord. No. 2001-02 § 1)

13-11.7 Off-Street Loading Space Requirements. Each business use shall provide off-street loading space at the rear of the building at the rate of one (1) space (10 feet X 25 feet) with adequate ingress and egress for each five thousand (5,000) square feet of floor area or fraction thereof in each building.

(Ord. No. 2001-02 § 1)

13-12 MC, MARINE, COMMERCIAL DISTRICT.

13-12.1 Regulations. The following regulations shall apply to all MC Districts.
(Ord. No. 2001-02 § 1)

13-12.2 Principal Use and Building Permitted.

- a. All uses permitted in the R-A District subject to the regulations set forth therein.
- b. Marine services primarily designated to meet the needs of the residents of this community, such as:
 - 1. Dockage, minor boat repairs, and marine gasoline pumps on docks or bulkheads. In the event dockage facilities are provided, on-shore rest room facilities must be available at all times for use by boat owners and their guests.
 - 2. Boat sales, provided, however, that the same are limited to the sale of boats not exceeding twenty-one (21) feet in length.
 - 3. Marine engine sales and repairs.
 - 4. Marine supplies and equipment sales.
 - 5. Bait and tackle sales.
 - 6. Outside storage of boats in conjunction with marine operations provided, however, that the storage shall be limited to boats not exceeding twenty-five (25) feet in length and subject, nevertheless, to further provisions of this section.
 - 7. Any accessory uses and structures customarily associated with a permitted use or structure and clearly incidental to the principal use or structure permitted on the lot.
 - 8. Sailing schools, including the sale and rental of sailboats.
(Ord. No. 2001-02 § 1)
- c. Haberdashery and apparel stores
(Ord. No. 2007-14 § 1)
- d. Antique and gift shops
(Ord. No. 2007-14 § 1)
- e. Hardware and household supply stores
(Ord. No. 2007-14 § 1)
- f. Barber and beauty shops
(Ord. No. 2007-14 § 1)
- g. Business and professional offices including banks and real estate offices
(Ord. No. 2007-14 § 1)

13-12.3 Area and Yard Requirements.

- a. All buildings including accessory buildings shall not cover more than twenty-five (25%) percent of the lot.
- b. Lot area shall not be less than five thousand (5,000) square feet and lot width not less than fifty (50) feet, subject to the following minimum requirements:
 1. A front yard with a depth of not less than fifteen (15) feet. (Ord. No. 2010-22 § 6)
 2. A rear yard with a depth of not less than ten (10) feet.
 3. Two (2) side yards, each with a depth of no less than ten (10) feet.
(Ord. No. 2001-02 § 1)

13-12.4 General Regulations and Prohibitions.

- a. No gasoline pump, gasoline storage tank nor any structure used for storing any fuel or oil shall be situated nearer than one hundred (100) feet to adjacent residential districts.
- b. Commercial boat launching ramps designed primarily for the launching of transient boats for a fee are prohibited.
- c. The use of marine toilet facilities or the discharge of waste from boats of any type is specifically prohibited in waters within the jurisdiction of the Borough.
(Ord. No. 2001-02 § 1)

13-12.5 Off-Street Parking. At least one and one-half (1 1/2) spaces for each boat slip excluding space used for staging areas for boats, lifts or gasoline pumps shall be provided.
(Ord. No. 2001-02 § 1)

13-13 LC, LIMITED COMMERCIAL DISTRICT.

13-13.1 Intent. It is recognized that the area encompassed by this district is suitable for commercial development by virtue of its existing development characteristics predominantly commercial. The high density of population in this section of the community and the frontage of the district on Long Beach Boulevard further contribute to its suitability for commercial development. However, it is also recognized that the land immediately to the east of that fronting the boulevard is ideal for residential development due to its proximity to the ocean and, for the same reason, there is considerable pedestrian traffic moving to and from the beach along the streets lying east of the boulevard. This district is being created in order to permit commercial uses to develop fronting the boulevard but not to encourage them to generate traffic along the streets leading to the ocean, which will pose a potential danger to pedestrian traffic and which could devalue residential properties lying east of this district. (Ord. No. 2001-02 § 1)

13-13.2 Principal Uses and Buildings Permitted.

- a. All uses permitted in the R-A District subject to the regulations of that district.
- b. Retail shopping facilities, including but not necessarily limited to:
 1. Grocery stores, meat markets and delicatessens
 2. Drug stores
 3. Bakery shops
 4. Haberdashery and apparel stores
 5. Antique and gift shops
 6. Hardware and household supply stores
- c. Service establishments, including but not necessarily limited to:
 1. Barber and beauty shops
 2. Clothes cleaning and laundry pick-up establishments
 3. Business and professional offices including banks and real estate offices
 4. Restaurants and luncheonettes
(Ord. No. 2001-02 § 1)

13-13.3 Area and Yard Requirements.

- a. The minimum width of a lot used for a use permitted under subsection 13-13.2 above shall be determined by the off-street parking and loading provisions of this section.

- b. The minimum area of a lot used for a use permitted under subsection 13-13.2 above shall be determined by the off-street parking and loading provisions of this section subject to the following minimum requirements.
 1. Front yards shall have a minimum depth of fifteen (15) feet from the street line.
 2. Rear yards shall have a minimum depth of ten (10) feet.
 3. Side yards shall have a minimum width of ten (10) feet each from the side lot lines.
(Ord. No. 2001-02 § 1)

13-13.4 Reserved.

13-13.5 Off-Street Parking Requirements. The off-street parking requirements shall be the same as required in subsection 13-11.5 subject to the following conditions:

- a. Parking is not permitted in any required side yard.
- b. Driveways are not permitted within ten (10) feet of any residential district.
(Ord. No. 2001-02 § 1)

13-13.6 Reserved.

13-13.7 Off-Street Loading Space Requirements. The off-street loading requirements shall be the same as required under subsection 13-11.7. (Ord. No. 2001-02 § 1)

13-14 SIGNS.

13-14.1 Signs in R-A, R-AA and Residential Districts. No signs, billboards, advertising structures or similar items are permitted, except as follows:

- a. One (1) lighted professional office announcement sign not over two (2) square feet in area for each office use.
- b. One (1) unlighted home occupation announcement sign not over two (2) square feet in area for each dwelling conducting a home occupation.
- c. One (1) lighted sign not to exceed twenty (20) square feet in area at each driveway to a church, public museum or similar use plus signs not to exceed four (4) square feet in area necessary to provide direction to a specific building or to off-street parking areas. Such sign cannot be in any right-of-way or sight triangle.
- d. During the construction, repair or remodeling of a single building, one (1) sign may be maintained on the construction site by each of the contractors and subcontractors working thereon, provided each sign does not exceed six (6) square feet, and further provided that all signs are removed prior to the issuance of a certificate of occupancy or within forty-eight (48) hours of termination of the work or construction as determined by the Building Inspector or Code Enforcement Officer.
- e. Directional signs are permitted for churches, boat yards and marinas, and public buildings where the foregoing are permitted uses, provided, however, that:
 1. Each sign shall not be greater than twenty (20) square feet in area, not over five (5) feet in length and the top of the sign shall not be more than six (6) feet above the street grade. These directional signs may be lighted.
 2. Each use shall be permitted no more than one (1) sign per driveway.
(Ord. No. 2001-02 § 1)
- f. Signs advertising a garage sale are permitted provided the following:
 1. A garage sale permit has been obtained.
 2. The placement of one (1) sign on the property where the sale is to be held and a maximum of two (2) signs to serve as directional aids located remotely.
 3. Signs must be placed in public right-of-way only and shall not block any sight triangles and shall not be placed on pavement or attached to utility poles, trees, stumps, sign posts or any other type of permanent structure.
 4. Signs are not permitted on private property without the property owner's permission.
 5. Signs shall not be over four (4) square feet in size and no more than twenty (20) inches from the ground.
 6. No lighted signs and no attachments to the signs such as, but not limited to, balloons, ribbons, streamers or banners.
 7. Signs may be displayed on the property of the sale up to five (5) days prior to the sale and must be removed immediately after the event. Signs posted remotely may only be posted on the day of the sale and must be removed the same day the sale is concluded.

(Ord. No. 2018-12 § 1&2)

13-14.2 GC, General Commercial District; MC, Marine Commercial District; and LC, Limited Commercial District.

- a. Any sign permitted under subsection 13-14.1.
- b. In places of business, two (2) of the following three (3) types and locations of signage may be chosen:
 1. A sign not exceeding thirty-two (32) square feet in area may be erected as accessory to the business on the lot, provided the same is placed on the same lot, or extended from the building wherein the business to be advertised is located.
 2. The proprietor of a business may maintain on the exterior wall of the building wherein the business is to be conducted, one (1) sign not exceeding thirty-two (32) square feet in area.
 3. In addition to such signs, lettering having a maximum height of twelve (12) inches and limited to the name of the business and a “one (1) word” description may be maintained on the exterior wall of the building wherein the business is to be conducted.
- c. These signs may be lighted during hours of operation.
- d. Prior to erecting any sign provided for in this subsection, a permit therefore shall be obtained from the Zoning Officer. (Ord. No. 2001-02 § 1)

13-14.3 Prohibited Features.

- a. No advertisement, advertising structure, billboard, building structure or other object shall be erected, used or maintained which in any way simulates official, directional or warning signs erected or maintained by the State of New Jersey, by any county or municipality thereof, or by any public utility or similar agency concerned with the protection of the public health or safety.
- b. Lighted signs, where permitted, exclude neon, LED or flashing signs. (Ord. No. 2018-12 § 3)
- c. The following advertisements are specifically prohibited:

Any advertisement which uses a series of two (2) or more signs placed in a line parallel to the highway or in similar fashion all carrying a single advertising message, part of which is contained in each sign. (Ord. No. 2001-02 § 1)

13-14.4 Signs for Oversized Parcels – One Acre (43,560 SF) and Over.

- a. Any sign permitted under subsection 13-14.1.
- b. Two (2) signs not exceeding thirty-two (32) square feet in area may be erected as accessories to the lot provided the same is placed on the same lot, height no exceeding six (6) feet above grade. (Ord. No. 2011-02 § 1)

13-14.5 Real Estate Signs.

- c. One (1) unlighted on-site sign not over four (4) square feet in size, advertising a dwelling or building located on the property for sale or rent, provided the same is in compliance with all side yard requirements of this chapter, is erected and set back a minimum of ten (10) feet from the street line and the bottom of said sign is no more than twenty (20) inches from the ground.
- d. No more than one (1) sign advertising vacant land for sale or rent, not exceeding four (4) square feet in area, may be placed on the property to be rented or sold. In the case of housing development projects, as a part of the Planning Board application, the developer may receive permission to maintain on his tract not more than two (2) signs, limited to advertising his development, with the total area of each sign not exceeding thirty-two (32) square feet. Such permit shall be issued by the Zoning Officer at the current rate for sign permits.
- e. A maximum of two (2) directional “Open House” signs, are permitted provided the following:
 - 1. The placement of two (2) signs shall serve as directional aids located remotely from each other.
 - 2. Signs must be placed in public right-of-way only and shall not block any sight triangles and shall not be placed on pavement or attached to utility poles, trees, stumps, sign posts or any other type of permanent structure.
 - 3. Signs are not permitted on private property without the property owner’s written permission.
 - 4. Signs shall not be over four (4) square feet in size and no more than twenty (20) inches from the ground.
 - 5. No lighted signs and no attachments to the signs such as, but not limited to, balloons, ribbons, streamers or banners.
 - 6. Signs may only be displayed between the hours of 10:00am and 5:00pm on the day of the event and must be removed immediately after the event.
 - 7. The Code Enforcement Officer or a duly-designated representative may cause any sign which is an immediate peril to persons or property to be removed. Signs will be held for reclamation at the Borough for a maximum of fourteen (14) days. At the discretion of the Code Enforcement Officer, repeated offenses by the same agent, agency or salesperson shall be subject to a removal fee of not more than fifty (\$50) dollars.

(Ord. No. 2018-12 § 4)

13-15 FENCES, VEGETATION, LANDSCAPE, AND TRASH ENCLOSURES.

13-15.1 General Provisions.

- a. See Section 13-7.3 entitled “Coverages” for regulations pertaining to impervious coverage. (Ord. No. 2010-22 § 7)
- b. A zoning permit shall be required for the installation of any material which increases coverage as herein before defined. The zoning permit application must be accompanied by a calculation of total lot coverage. (Ord. No. 2004-08 § 2)
(Ord. No. 2021-15 § 2)

13-15.2 Fence Permit.

- a. No fences shall be hereafter erected, which exceed forty-eight (48) inches above the established grade of the lot and which exceed seventy (70) inches above the center of the crown of the road. If this provision prevents the construction of a fence in accordance with the Uniform Construction Code for the enclosure around pools, then the provisions of the Uniform Construction Code shall prevail. The post may exceed the fence height limit by not more than ten (10%) percent. (Ord. No. 2016-12 § 6)

Fences abutting commercially used properties may be erected not to exceed seventy-two (72) inches. (Ord. No. 2005-08 § 1)

- b. Any fence erected, regardless of design or zone, shall have an unrestricted opening therein of a minimum of twelve (12) feet, which opening shall front on a street or vehicular easement as defined in this chapter.
- c. A fence permit is required for new or replacement fences from the zoning office. (Ord. No. 2016-12 § 7)
- d. Properties fronting Long Beach Boulevard shall comply with the regulations as set forth in Section 13-16.2 paragraph d.5 entitled “Properties fronting Long Beach Boulevard”. (Ord. No. 2014-14 § 2)
- e. Existing lots of record which adjoin filled lots, as per Section 24-11.10 entitled “Lot Elevation”, may erect a fence to a height not to exceed that of the adjoining filled lot fence. This shall only apply to fences along the property lines which abut the filled lot, as per Section 24-11.10, until such a time that elevations are matched and fences will be lowered to meet the four-foot (4’) height requirement. (Ord. No. 2021-20 § 2)

13-15.3 Vision Clearance on Corner Lots. In any district on any corner lot, no fence, sign, or other structure, planting or other obstruction to vision, higher than twenty-four (24) inches above the existing grade at the centerline, shall be erected or maintained within the line connecting points on the two (2) street lot lines at a distance of twenty-five (25) feet from the corner. This shall be known as the sight triangle.

In addition, the area within the right of way of the roadways adjoining the sight triangle area shall have no obstructions and shall consist of a level walkable surface, i.e. grass, gravel, maximum ½ inch stone or other level surface. No uneven surfaces will be permitted.
(Ord. No. 2014-14 § 3)

13-15.4 Use of Contiguous Borough Right of Way.

- a. Any improvement located in the Borough of Harvey Cedars or Ocean County right of way placed there by a property owner shall be the sole responsibility of said property owner, and may be removed or relocated by the Borough or County for improvement or maintenance with no liability to the Borough or County.
- b. Designated driveways shall conform to the requirements in Section 13-9.5(c).
- c. Trash location and enclosures.
 1. Any trash enclosure placed in the Borough right of way shall be located a minimum of five (5) feet from the edge of the pavement.
 2. Trash enclosures shall not exceed 4' in height, and be no higher than 18" from grade on the pickup side.
 3. Trash and recycling receptacles on private easements shall be located where the property owners have a common pickup location, which is acceptable to all property owners on said easement. In all other events trash and recycling pickup shall be located on the property owner's lot, provided the Borough and or its waste collectors agree that the location is accessible to its collection vehicles. (Ord. No. 2010-22 § 8)

(Ord No. 2021-06 § 1)

- d. No improvement higher than twelve inches (12"), i.e. landscaping, shall be placed closer than five (5) feet from the edge of the pavement. Permitted exceptions:
 1. Mailboxes
 2. Properties along easements
 3. Streets at least fifty feet (50') in width on the west side of Long Beach Blvd.
 4. Designated No Parking streets at least fifty feet (50') in width on the west side of Long Beach Blvd.

(Ord No. 2021-06 § 2)

13-15.5 Retaining Walls. Any retaining wall fronting the ocean dunes shall first receive a permit or letter of "no interest" from the New Jersey Department of Environmental Protection before a zoning permit can be obtained. (Ord No. 2004-08 § 6)

13-16 ADMINISTRATION.

13-16.1 Enforcement. The provision of this chapter shall be administered and enforced by the zoning office of the Borough. In no case shall a permit be granted for the construction or alteration of any building where the proposed construction, alteration or use thereof would be in violation of any provision of this chapter. It shall be the duty of the Zoning Officer or his duly authorized assistants to cause any building plans or premises to be inspected or examined and to order in writing the remedying of any conditions found to exist in violation of any provision of this chapter, and he shall have the right to enter any building or premises during reasonable daylight hours in the course of his duties. (Ord. No. 2001-02 § 1)

13-16.2 Certificates and Permits.

a. *Zoning Permits.*

- 1. If a building permit is needed, then a zoning permit is also required.
- 2. The following is a list of fees for permits:

(a) Maintenance, sheds, air conditioning platforms & other minor work	\$25.00
(b) All new structures and relocation of existing structures	\$250.00
(c) Major enlargements or renovations increasing habitable area by 25% or more.	\$225.00
(d) Additions and/or renovations increasing habitable area by 24% or less	\$75.00
(e) Fence permit (for new or replacement fences)	\$25.00
(f) Resale C/Os (for all new owners) per living unit	\$50.00
(g) Reinspection fee (at the discretion of the Zoning Officer)	\$25.00
(h) Sign permits:	
Permanent signs (per application)	\$25.00
Development signs (as authorized by Planning Board)	\$50.00 for two
(i) Construction trailer permit	\$25.00
(j) Paver/impervious coverage permit	\$75.00
(k) Work approved by Zoning Board or Planning Board variance	\$25.00
(l) Bulkhead permit	\$50.00
(m) Pool & fence permit	\$100.00
(n) Sign removal maximum fee	\$50.00

(Ord. No. 2018-12 § 5)

- b. *Conditional Use Permits.* Applications for conditional uses as permitted by this chapter shall be made to the appropriate approving authority in accordance with the provisions of the Borough Land Use Procedure Ordinance and the Municipal Land Use Law, RS 40:55D-1 et seq. The approving authority may grant such permit if, in its judgment, the proposed use will not be detrimental to the health, safety and general welfare of the Borough and is deemed necessary for its convenience.

In approving any such application, the approving authority may impose any condition that it deems necessary to accomplish reasonable compliance with the provisions of intent of this chapter and may deny any such application, but only if such compliance cannot be achieved.

In approving such applications, the Board of Adjustment may impose any conditions that it deems necessary to accomplish the reasonable application of application, but only in accordance with the standards.

In the event that the decision of the Board of Adjustment does not correspond with the recommendation of the Planning Board, the question shall be resolved by the Board of Commissioners in accordance with the procedure outlines in the New Jersey Statutes.

- c. *Temporary Use Permits.*

It is recognized that it may be in accordance with the purpose of the chapter to permit temporary activities for a limited period of time, which activities may be prohibited by other provisions of this chapter. If such uses are of such a nature and are so located that at the time of the petition, they will:

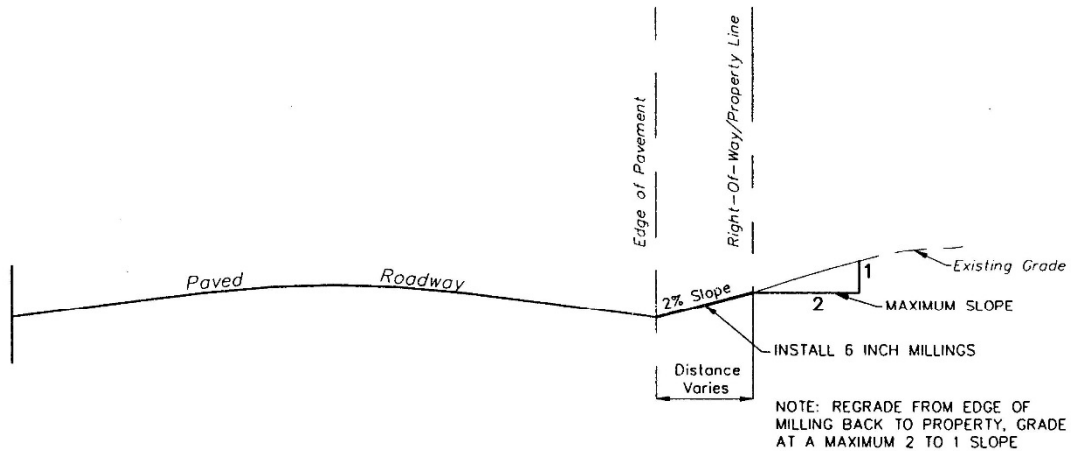
8. In no way exert a detrimental effect upon the uses of land and activities normally permitted in the zones.
9. Contribute materially to the welfare of the Borough, particularly in a state of emergency, under conditions peculiar to the time and place involved.

Then the approving authority may, subject to compliance with all regulations for the issuance of a conditional use permit, direct the Zoning Officer to issue a permit for a period not to exceed six (6) months. Such permits may be extended not more than once for an additional period of six (6) months.

- d. *Certificate of Occupancy.*

1. *New Uses.* No building, structure or land shall be occupied or used until such time as a certificate of occupancy is issued by the building administrator.
2. *Change in Use.* A new certificate of occupancy shall be obtained, whenever there occurs a change in the use of a building, structure or land to assure compliance with this chapter and all other applicable laws, codes, ordinances and regulations. For the purpose of this section, the term "change in use" shall be broadly construed.

3. Transfer of ownership. A new certificate of occupancy shall be obtained whenever there occurs a sale, conveyance, transfer of ownership or change in occupancy of a building or structure to assure compliance with the provisions of this chapter and all other applicable laws, codes, ordinances and regulations.
4. Requirements. Prior to issuance of a Certificate of Occupancy for new construction, major renovation, or the resale of property located within the Borough of Harvey Cedars, the property owners shall remove and/or relocate all obstructions, i.e. fences, etc., within the roadway Right-of-Way and re-grade the area. (Ord. No. 2014-14 § 5)
5. Properties fronting Long Beach Boulevard.
 - a. When new construction or major renovations are undertaken on properties fronting Long Beach Boulevard, the owner shall install six (6) inches of road gravel (not fill) in accordance with the Pedestrian Walkway detail drawing, up to a maximum of ten (10) feet from the paved portion of Long Beach Boulevard.
 - b. When new construction, major renovations or the resale of property are undertaken on properties fronting Long Beach Boulevard, all fences shall be set back a minimum of two (2) feet from the property line along Long Beach Boulevard. Further, the area between the edge of pavement on Long Beach Boulevard and a distance of two (2) feet into the property shall be maintained as a level surface with no other obstructions within the area, i.e. no mailboxes, decorative ornaments, landscape etc. Installation of a walkable surface within this area will be required, i.e. grass, gravel, maximum ½ inch stone or other level surface. No uneven surfaces will be permitted. (Ord. No. 2014-14 § 6)



PEDESTRIAN WALKWAY AREA DETAIL

N.T.S.

6. It shall be unlawful to use or occupy or to permit the use or occupancy of any building, structure, land or part thereof until all the certificate of occupancy requirements of this section are met. No such certificate shall be issued unless the land, building or structure and use thereof comply with the provisions of this chapter and all other applicable laws, codes, ordinances and regulations.
(Ord. No. 2001-02 § 1)
7. Any property owner who undertakes new construction or a major renovation on an Ocean County road must post a five hundred (\$500.00) dollar cash bond, which shall be returned upon the issuance of a certificate of occupancy. (Ord. No. 2005-16 § 1)
8. Major renovation is defined as any construction which exceeds fifty percent (50%) of the replacement value of the structure on the property. (Ord. No. 2010-22 § 11)

13-16.3 Records.

It shall be the duty of the Zoning Officer to keep a record of all permits issued and a record of all certificates of occupancy which he countersigns, together with a notation of all special conditions involved. He shall file and safely keep copies of all plans submitted and the same shall form a part of the records of his office and shall be available for the use of the Board of Commissioners.

The Zoning Officer shall prepare a monthly report for the Board of Commissioners summarizing for the period since his last previous report all zoning permits issued and certificates countersigned by him and all complaints of violations and the action taken by him consequent thereon. A copy of each such report shall be filed with the Borough Tax Assessor at the same time it is filed with the Board of Commissioners.

The above reports and records are declared to be public records and shall be made available to the public for its examination during reasonable business hours. (Ord. No. 2001-02 § 1)

13-16.4 Construction Trailers.

- a. A zoning permit shall be required for the use of a construction trailer located within the Borough, which permit shall be good for one (1) year, renewable for one (1) year periods after expiration.
- b. During the months of June, July and August construction trailers may not be located on any street, easement or right of way.
- c. No construction trailer may remain on a street, easement, or right of way, when permitted, after the structure is framed or after six months of the issuance of a permit, whichever occurs sooner.
(Ord. No. 2004-08 § 7)

13-17 SWIMMING POOLS AND HOT TUBS.

13-17.1 General. Pools used for swimming or bathing shall be in conformity with requirements of this chapter, provided, these regulations shall not be applicable to any pool less than twenty-four (24) inches deep or having a surface area of less than two hundred fifty (250) square feet, except when such pools are permanently equipped with a water recirculating system or involve structural materials. For purposes of this chapter, pools are classified as private swimming pools or public and semi-public swimming pools as defined hereafter.

(Ord. No. 2001-02 § 1)

Hot tubs shall be defined as follows:

A self contained spa or hot tub: A factory-fabricated unit consisting of a spa or hot tub vessel with all water-circulating heating, and control equipment integral to the unit. Equipment may include pumps, air blowers, heaters, lights, controls, sanitizers, etc. (Ord No. 2004-02 § 2)

13-17.2 Classification. Any swimming pool or hot tub which is used or intended to be used as a swimming pool or hot tub in connection with a single family residence and available only to the family of the householder and his private guest shall be classified as a private swimming pool or hot tub. (Ord. No. 2004-02 § 4)

Any swimming pool other than a private swimming pool shall be classified as a public or semi-public swimming pool. (Ord. No. 2001-02 § 1)

13-17.3 Compliance with Building Code. Pools and hot tubs used for swimming or bathing shall be in conformity with the requirements of this chapter and current with the New Jersey U.C.C. regulations. (Ord. No. 2004-02 § 3)

13-17.4 Permits. Swimming pools and hot tubs must receive permits from the Borough, County, and/or State authorities having jurisdiction prior to applying for a permit from the construction official for installing, altering, enlarging, or constructing a pool or hot tub. Certified copies of these approvals shall be filed as part of the data for the application for the permit.

A building permit shall be required for the installation, alteration or enlargement of any hot tub which exceeds twenty-four (24) inches in depth or to be installed on an elevated deck.

(Ord. No. 2004-02 § 5)

13-17.5 Swimming Pools.

a. *Plan Requirements.* Plans shall accurately show dimensions in construction of pools and appurtenances and properly establish distances to property lines, buildings, walks, required pool coping and fences; details of water supply system, drainage and water disposal systems, and all appurtenances pertaining to the swimming pool. Detailed plans of structures, vertical elevations, and sections through the pool showing depth shall be included. Plans for a pool ten (10) feet wide or smaller are required to show a three (3) foot wide coping along three sides of the pool. Plans for pools with a width of greater than ten (10) feet are required to show a three (3) foot wide coping along all sides of the pool. The required coping will be used in the maximum calculation for pool coverage.

(Ord. No. 2018-04 § 2)

b. *Structural Design.* The pool structure shall be engineered and designed to withstand the expected forces to which it will be subjected. Pools shall be constructed in conformity with construction codes of the State of New Jersey and the Borough of Harvey Cedars, and shall be supported by pilings in conformity with said building codes.

- c. *Locations.* Swimming pools no higher than twelve (12) inches from grade shall not be any closer than ten (10) feet from any side yard, and shall not be any closer than five (5) feet from the rear property line and shall not be any closer than ten (10) feet from the bulkhead line from Barnegat Bay, lagoons, coves, and other bodies of water. There shall be a minimum distance of eight (8) feet between a pool and a primary structure. Minimum distance of five (5) feet is required between a primary structure and an accessory structure.

Any accessory structure requires a minimum distance of three (3) feet to the pool. Refer to Section 13-7.7 Accessory Buildings for other requirements.

Swimming pools shall be prohibited between a primary structure and any street or easement provided that the section is used as the main access point to the property.

(Ord. No. 2018-04 § 2)

- d. On raised deck pool installations which are considered part of the primary structure, the pool shall maintain a distance of 8 feet from any portion of the remaining primary structure or deck above the pool elevation except overhangs other than decks. See Section 13-7.8, yards adjacent to bodies of water. (Ord. No. 2014-11 § 2)
- e. Distance measurements for pools are taken from the pool's water line. (Ord. No. 2018-04 § 2A)

13-17.6 Hot Tubs.

- a. *Plan Requirements.* A plan for the installation of a hot tub shall accurately show dimensions, location in relation to setbacks, primary and accessory structures on the lot. All proposed or existing decks or walkways above twelve (12) inches from grade shall be shown.
- b. *Structural Design.* Any hot tub other than a factory-fabricated self-contained unit shall abide by 13-17.5.
- c. *Locations.* A hot tub shall not be placed any closer than ten (10) feet from any side yard and shall not be any closer than four (4) feet from Barnegat Bay, lagoons, coves, and other bodies of water. No minimum distance from a primary structure is required. Hot tubs on elevated decks must be approved by the construction official if a permit is required and may not be closer than two (2) feet from any exterior railing on such deck. Hot tubs in the front of a structure must meet front yard setbacks.
(Ord. No. 2004-02 § 7)

13-17.7 Reserved. (Ord. No. 2004-02 § 8)

13-17.8 Zoning Requirements and Lot Coverage.

See Section 13-7.3d, permitted coverage with a swimming pool. (Ord. No. 2014-11 § 3)

The total square footage of all structures above twelve (12) inches above grade on a given building lot may not exceed thirty-three (33%) percent of the total square footage of that building lot. The primary structure, all accessory buildings, the swimming pool, and required copings (walkways) around the pool shall not cover more than forty-three (43%) percent of the total square footage of the lot. (Ord. No. 2018-04 § 3)

13-18 RS, RESIDENTIAL BOAT SLIP DISTRICT.

13-18.1 Residential Boat Slip District. This district is made up of Block 30, Lots 64 through 118 on the Harvey Cedars Tax Map.

13-18.2 Principal Uses. The District is limited to the use of residential boat slips. No one shall reside on or stay overnight on any docked boat for more than 48 hours.

(Ord. No. 2017-25 § 3)

13-19 VIOLATIONS AND PENALTIES.

Unless another penalty is expressly provided in a section of this Chapter, any person who shall violate any of the provisions of the chapter or fail to comply therewith or with any of the requirements thereof, or who shall erect, structurally alter, enlarge, rebuild or move any building or buildings or any structure or who shall put into use any lot or land in violation of any detailed statement of plan submitted and approved hereunder, or who shall refuse reasonable opportunity to inspect any premises, shall upon conviction thereof be liable to a fine as stated in Chapter III, Section 3-9. (Ord. No. 2014-08 § 3)

The owner of any building or structure, lot or land, or part thereof, where anything in violation of this chapter shall be placed or shall exist and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violation shall each be guilty of a separate violation, and upon conviction thereof shall be liable to a fine as stated in Chapter III, Section 3-9.

(Ord. No. 2017-25 § 2)