

BOROUGH of EMERSON
County of Bergen
Notice of Adoption

Introduced: November 12th
Adopted: December 3rd

NOTICE IS HEREBY GIVEN that the following ordinance was adopted on the second reading after a Public Hearing at the Regular Meeting of the Borough Council of the Borough of Emerson on the 3rd day of December, 2013. A copy of Ordinance 1470-13 is on file in the Borough Clerk's Office in the Municipal Building, 1 Municipal Pl., Emerson, NJ 07630.

ORDINANCE NO. 1470-13

**AN ORDINANCE OF THE BOROUGH OF EMERSON ADOPTING REGULATIONS
FOR THE PLANTING, GROWING OR CULTIVATING BAMBOO**

THE BOROUGH OF EMERSON HEREBY ORDAINS:

SECTION 1. Purpose.

This Ordinance is adopted to control the planting, cultivating or growing of bamboo in the Borough of Emerson; and to require barriers to prevent the spread of existing bamboo into other areas of the Borough.

SECTION 2. Regulation of the Planting, Growing or Cultivating of Bamboo.

Subject to certain exemptions set forth in this Ordinance, no persons, or other property owners or tenants shall plant, cultivate, or cause to grow, any bamboo on any lot or parcel of ground in the Borough of Emerson, subject to the following exceptions:

1. The root system of such bamboo plants is entirely contained within an above ground level planter, barrel, or other vessel of such design, material, and location as to entirely prevent the spread of growth of the bamboo plants' root system beyond the container beyond which it is planted; or
2. The root system is contained within a properly constructed and maintained barrier system.
3. Whether planted or growing in a container, as described herein, all bamboo plants shall be located, trimmed and maintained so that no part of the plant shall be closer than 10 feet from any property line.

SECTION 3. Exemptions.

This Ordinance shall not apply to any land owner or possessor who, prior to the effective date of this ordinance, has planted or caused to grow any bamboo on any property within the borough limits unless the code enforcement officer determines on his own or upon complaint from any abutting or nearby property owner, that any portion of such bamboo has been allowed to grow upon, extend roots across, or extend branches, stalks or leaves over any public way or any private property not owned by or in the possession of such land owner or any possessor of said land.

SECTION 4. Complaint Notice, Order for Removal and Compliance.

Whenever a complaint is received by the Borough regarding the encroachment of any bamboo plant or root, or whenever the Borough on its own observations and inspections, determines that there is an encroachment of bamboo plants or roots on to the property of another land owner, or tenant in possession of the property, or both, which notice shall be substantially as follows:

1. The Notice shall be mailed by Certified mail, return receipt requested, properly addressed and with sufficient postage, and also by First Class mail. Notice by Certified mail shall be deemed complete on the date of personal delivery, or the date the Certified mail is marked refused or unclaimed or otherwise undeliverable by the United States Post Office, when the First Class mail was not returned.
2. The Notice shall specify the nature of the violation.
3. The Notice shall state that the violation must be corrected within thirty (30) days from the date of the received or returned mailing.
4. The Notice shall state specifically what must be done by the responsible party to correct the violation.

SECTION 5. Repealer.

All Ordinances of the Borough of Emerson which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

SECTION 6. Penalties.

- A. Any person determined by any court of competent jurisdiction to have violated this ordinance shall be subject to pay a fine of not less than \$25.00 per day, nor more than \$100.00 per day, or each day the violation existed after the date for removal as set forth in the Notice which was sent to violator, and received by the violator. Each day of a continuing violation shall constitute a separate offense, for which an additional fine can be levied. The per day fine will be in addition to a penalty for failure to comply with the Bamboo ordinance. This fine can be up to the maximum penalty set by the State of New Jersey.
- B. If the violation is not remedied within the time set forth in the aforesaid notice, the Borough is hereby authorized to remove or have removed any encroaching bamboo and to take all reasonable steps to eradicate the re-growth of the bamboo on the public rights of way, including sidewalks, and to restore such land to its normal condition, prior to such removal and eradication.
- C. The cost of the corrective action together with any civil penalties, legal fees and other costs shall be recoverable from the responsible party.

SECTION 7. Unlawful

If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portion of this Ordinance.

SECTION 8. Effective Date.

This Ordinance shall take effect immediately upon final passage, approval and publication by law.

ATTEST:

Carol Dray, RMC CMC CMR
Borough Clerk

Carlos Colina
Mayor