

**BOROUGH OF EMERSON  
COUNTY OF BERGEN**

**NOTICE OF ADOPTION**

**ORDINANCE No. 1537-17**

Introduced: January 17, 2017

Adopted: February 7, 2017

**NOTICE IS HEREBY GIVEN** that the following proposed Ordinance was introduced and passed on first reading at the Regular meeting of the Borough Council of the Borough of Emerson on the 17th day of January, 2017 and that said proposed Ordinance will be further considered for final passage at the meeting of said Borough Council to be held on the 7th day of February, 2017 at 7:30 p.m., or as soon thereafter as said matter can be heard at the Municipal Building, Linwood Avenue, Emerson, New Jersey, at which time and place all persons who may be interested therein shall be given an opportunity to be heard concerning same.

**AN ORDINANCE TO AMEND CHAPTER 27. ENVIRONMENTAL COMMISSION;  
REPEAL CHAPTER 89. SHADE TREE COMMISSION AND AMEND CHAPTER 266.  
TREES AND SHRUBBERY OF THE CODE OF THE BOROUGH OF EMERSON**

**BE IT ORDAINED** by the Mayor and Council of the Borough of Emerson of the County of Bergen and State of New Jersey that the Code of the Borough of Emerson be amended as follows:

**Section 1.** Chapter 27. Environmental Commission, Subsection 3, Powers. of the Code of the Borough of Emerson is hereby amended as follows:

**§27-3. Powers.**

The Commission shall have the following powers:

- A. Promoting the protection and preservation of the natural resources of the Borough of Emerson, including, but not limited to air, water, soil, wildlife, trees and shrubbery.
- B. Planning, implementing and informing the public about local environmental programs.
- C. Compiling and keeping an index of all open areas, publicly or privately owned, including open marshlands, swamps and other wetlands.
- D. The power to conduct research into the possible use of the open areas of the Borough of Emerson.

- E. Recommending to the Land Use Board plans and programs for inclusion in a Municipal Master Plan and the development and use of such areas.
- F. Advertising, preparing, printing and distributing books, charts, maps, plans and pamphlets, and utilizing various forms of electronic communication which, in its judgment, it deems necessary for its purposes.
- G. Managing donated or purchased lands for educational and conservation purposes, and operating conservation programs.
- H. Acting as the coordinating agency of the community on environmental matters and as a liaison between local environmental needs and regional, state and federal agencies ministering to those needs.
- I. Collecting, assembling and editing historical data of the Borough in the form of records, photographs, newspaper articles, etc., with the purpose of maintaining a continuous history of the Borough to be published periodically for distribution to all Borough residents.
- J. Collecting, assembling and maintaining a Borough museum to be on temporary and eventual permanent display in one of the public buildings of the Borough.
- K. Recognizing contributions to the conservation, beautification and environmental protection of the Borough of Emerson, by means of regular awards in a form suitable for display at the improvement and by presenting proclamations honoring worthy individuals.
- L. Educating the public about the Borough's recycling program and other local recycling resources, and assisting the recycling coordinator on the improvement of existing programs.
- M. Working in conjunction with administrators and educators in the Borough's public schools, to help promote environmental education and to assist with the planning and implementation of environmental projects and programs.
- N. Notifying and advising the Borough's property maintenance official on violations of the Property Maintenance Code<sup>[1]</sup> that could have adverse effects on the Borough's environmental health. <sup>[1]</sup> Editor's Note: See Ch. **216**, Property Maintenance.
- O. Assisting the Mayor and Council in the preparation of Borough ordinances that have environmental significance, and preparing and submitting resolutions of environmental, significance to the governing body for introduction and approval.

- P. Pursuant to the requirements of the Municipal Land Use Law, stating that when an Environmental Commission has prepared and submitted an index of natural resources to the Borough's Land Use Board, the Board "shall make available to the Environmental Commission an informational copy of every application for development" the opportunity to review each application and offer recommendations. Those recommendations shall be conveyed through the delegation of one of the Commission's members to testify orally at the hearing on the application and to explain any written report that may have been prepared and/or submitted to the Board by the Commission. Any such report shall be submitted to the Board Secretary at least 14 days before the scheduled public hearing on each application.
- Q. Researching and applying for grants and other forms of financial assistance as the Commission deems necessary to help fund its programs and projects.
- R. The regulation of shade and ornamental trees and shrubbery upon and in the streets, highways, public places, parks and parkways of the Borough of Emerson, except state highways unless the State Highway Department shall assent thereto, and except county highways, parks and parkways of a County Shade Tree Commission is operative and unless it gives assent thereto.
- S. Regulate and control the use of the ground surrounding the same, so far as may be necessary for their proper growth, care and protection.
- T. Move or require the removal of any tree, or part thereof, dangerous to public safety.
- U. To order treatment and/or removal of any tree situated upon private property which is believed to harbor a disease or insects readily communicable to neighboring healthy trees in the care of the municipality and to enter upon private property for that purpose with the consent of the owner thereof, provided that the suspected condition is first confirmed by a certificate issued by or on behalf of the Department of Agriculture
- V. To prepare programs and plans for consideration by the Governing Body with respect to the purchase, planting, spraying, care, rearing, trimming, preserving and control of the shade and ornamental trees.
- W. To advise, through the Borough Administrator or his/her designee, the Public Works Department concerning the maintenance, protection and replacement of ornamental and shade trees and shrubbery within the Borough.
- X. To develop programs for the systematic replacement or addition of shade trees, whether by public funds or private donations to the Borough.
- Y. Such other duties as the Mayor and Council shall from time to time, by resolution, entrust to the Commission in furtherance of the aforementioned goals and objectives.

- Z. All statutory powers previously assigned to the Borough of Emerson Shade Tree Commission are hereby delegated to the Emerson Environmental Commission who shall succeed to all the rights and responsibilities previously conferred on the Shade Tree Commission.

**Section 2.** Chapter 27. Environmental Commission, of the Code of the Borough of Emerson is hereby amended to include a new subsection 11 as follows:

**§27-11. Planting and removal of trees; costs to be lien upon property.**

- A. Planting. In every case where a property owner will be chargeable with the cost of the planting of any shade tree or trees, the Commission shall give notice of the meeting at which it is proposed to consider said planting by publishing the notice at least once, not less than 20 days before the meeting, in a newspaper circulating in the municipality or by personal service of a copy of the notice upon the abutting owner at least 10 days before the meeting. The notice shall specify the street, streets or portions thereof on which such planting is proposed and require all persons who may object thereto to present their objections in writing at the office of the Commission at or before the meeting. Before final action shall be taken, all objections so filed shall be considered.
- B. Removal of trees. The Commission shall give reasonable notice of its intention to remove, or cause the removal of, a tree or part of a tree dangerous to public safety, unless public safety required immediate removal, in which case no notice shall be necessary.
- C. Costs of trees and improvements to be lien upon property. The initial cost of all trees planted by the Commission, the cost of planting the same, the cost of posts and boxes or guards used for the protection thereof and the cost of the removal of any tree or part thereof dangerous to public safety shall be a charge upon the real estate in front of which such tree or trees shall be planted or removed as an improvement thereof. Such cost, if it is so determined that it is to be paid by the owner, shall, unless paid directly to the Commission, be certified by it to the Collector of Taxes of the municipality, shall thereupon become and be a lien upon said real estate, shall be included in the next tax bill rendered to the owner or owners thereof and shall be collected in the same manner as other taxes against that property.
- D. The provisions of this section shall not apply to:
  - (1) A planting to replace a tree or trees theretofore planted by the Commission
  - (2) A planting in connection with Arbor Day exercises or other educational demonstrations

**Section 3.** Chapter 27. Environmental Commission, of the Code of the Borough of Emerson is hereby amended to include a new subsection 12 as follows:

**§ 27-12 Disclaimer of liability.**

Nothing in the chapter contained shall be construed to make the Commission or any member thereof responsible for the death or injury of any person or for any injury to any property or highway tree or shrub.

**Section 4.** Chapter 89. Shade Tree Commission, of the Code of the Borough of Emerson is hereby repealed. All statutory powers previously assigned to the Shade Tree Commission of the Borough of Emerson are hereby delegated to the Environmental Commission of the Borough of Emerson, who shall succeed to all the rights and responsibilities.

**Section 5.** Chapter 266. Trees and Shrubbery. of the Code of the Borough of Emerson is hereby amended to clarify that wherever this chapter delegated authority to the Shade Tree Commission of the Borough of Emerson shall now mean the Environmental Commission of the Borough of Emerson, who shall succeed to all rights and responsibilities.

**Section 6.** Chapter 266. Trees and Shrubbery. Article II. Tree Preservation and Woodlands Management, Subchapter 6 of the Code of the Borough of Emerson is hereby amended to remove paragraph D.

**Section 7.** Chapter 266. Trees and Shrubbery. Article II. Tree Preservation and Woodlands Management, Subchapter 9 of the Code of the Borough of Emerson is hereby amended as follows:

§266-9. Environmental Commission duties.

The Environmental Commission shall provide to the Land Use Board review and comments on any application for development pending before the Board where there is a tree management plan, or where the Board feels that shade trees may be impacted by the development. Said comments and review shall be provided on an advisory basis.

**Section 8.** Chapter 266. Trees and Shrubbery. Article II. Tree Preservation and Woodlands Management, Subchapter 11.F. of the Code of the Borough of Emerson is hereby amended as follows:

- F. The procedures for reviewing the submitted tree management plan shall be the following:
- (1) The Land Use Board shall act on the application within 45 days of its acceptance by the Borough Engineer or within such additional time as is consented to by the applicant. The application and management plan shall not be accepted if they fail to meet the requirements set forth in § 266-12 of this chapter.
  - (2) The Land Use Board shall refer the accepted management plan to the Environmental Commission for its written report and recommendations.

- (3) The Land Use Board may request that members of the Environmental Commission appear before the Board to answer questions regarding the report and shall rely on the report and recommendations of the Environmental Commission in reaching its decision to approve the management plan, disapprove the management plan or approve the management plan subject to such conditions as have been recommended by the Environmental Commission in accordance with the terms of this chapter. Failure of the Land Use Board to act within 45 days of the date of the application's acceptance by the Borough Engineer or any extension thereof shall be deemed to be an approval of the management plan and, thereafter, the Code Enforcement Office of the Borough of Emerson shall issue a tree removal permit based thereon.

**Section 9. Severability and Repealer.**

- A. If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.
- B. All ordinances or parts of ordinances, which are inconsistent with any provisions of this ordinance, are hereby repealed as to the extent of such inconsistencies.

**Section 10. Effective Date.**

This ordinance shall take effect immediately upon adoption and publication in accordance with the laws of the State of New Jersey.

Attest:

---

Jane Dietsche, RMC  
Clerk

---

Louis Lamatina  
Mayor