

**BOROUGH OF EMERSON
COUNTY OF BERGEN
NOTICE OF ADOPTION**

Ordinance 1586-19

Introduced: March 5, 2019

Adopted: March 19, 2019

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 19th day of March, 2019. A copy of Ordinance 1586-19 is on file in the Borough Clerk's Office in the Municipal Building, 1 Municipal Pl., Emerson, NJ 07630.

**AN ORDINANCE AMENDING CHAPTER 27 ENVIRONMENTAL COMMISSION,
IN THE BOROUGH OF EMERSON**

Chapter 27. Environmental Commission

[HISTORY: Adopted by the Mayor and Council of the Borough of Emerson 5-28-1974 by Ord. No. 628 as Chapter 28 of the 1966 Code of the Borough of Emerson. Amendments noted where applicable.]

GENERAL REFERENCES

Land use procedures — See Ch. 47.

Flood damage prevention — See Ch. 156.

Parks, playgrounds and recreation areas — See Ch. 200.

Recycling — See Ch. 222.

Soil movement — See Ch. 244.

Stormwater management — See Ch. 247.

Subdivision of land — See Ch. 252.

Trees and shrubbery — See Ch. 266.

Zoning — See Ch. 290.

§ 27-1. Creation.

[Amended 2-18-2003 by Ord. No. 1218]

There is hereby created an Environmental Commission for the protection, development or use of the natural resources located within the territorial limits of Emerson, pursuant to the provisions of Chapter 245 of the Laws of New Jersey, 1968.¹ Said Commission shall be known as the "Environmental Commission of the Borough of Emerson."

[1]

Editor's Note: See N.J.S.A. 40:56A-1 et seq.

§ 27-2. Appointments; terms of office; compensation.

[Amended 9-9-1975 by Ord. No. 650; 4-25-2000 by Ord. No. 1135; 9-24-2002 by Ord. No. 1210; 3-15-2005 by Ord. No. 1278]

A.

The Mayor shall appoint seven citizens and residents of the Borough of Emerson to the Environmental Commission, and shall designate one of the appointments as Chairperson and presiding officer to the Commission.

B.

The terms of office of the first Commissioner shall be for one, two, or three years, to be designated by the Mayor in making these appointments, so the terms of approximately 1/3 of the members will expire each year, and their successors shall be appointed for terms of three years and until the appointment and qualification of their successors.

C.

The Mayor or governing body of the municipality may remove any member of the Commission for cause, on written charges served upon the member, and after hearing thereon at which the member shall be entitled to be heard in person or by counsel.

D.

A vacancy on the Commission occurring otherwise than by expiration of the terms shall be filled for the unexpired term in the same manner as the original appointment. Notwithstanding any other provisions of the laws to the contrary, the powers of appointment and removal hereby according to the Mayor of the municipalities shall be vested in the elected official so designated or, where there is a vacancy in the office of the Mayor, in the duly designated acting Mayor.

E.

The Mayor may also appoint two alternate members for a period of two years, except that the terms of the alternate members first appointed shall be for two years for Alternate One, and one year for Alternate Two, so that the term of not more than one alternate member shall expire in any one year. An alternate member may participate in discussions of the proceedings, but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate is to vote, Alternate One shall vote first.

§ 27-3. Powers.

[Amended 8-7-2001 by Ord. No. 1183; 9-24-2002 by Ord. No. 1210; 2-7-2017 by Ord. No. 1537-17]
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.~~ I.

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.~~ J.

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.~~ ~~K.~~

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.~~ L.

Notifying and advising the Borough's property maintenance official on violations of the Property Maintenance Code^{III} that could have adverse effects on the Borough's environmental health.

[1]

Editor's Note: See Ch. 216, Property Maintenance.

~~O.~~ M.

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.~~ N.

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. O.

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.

~~To 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.

~~To 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. P.

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.~~

§ 27-4. Acquisitions by Commission.

Said Commission, with the approval of the Council of the Borough of Emerson, may, from time to time, acquire property, both real and personal, in the name of the Borough of Emerson, by gift, purchase, grant, bequest, devise or lease for any of its purposes, including but not limited to use as living museums, sites for scientific study, areas for the teaching of natural history and conservation, places of historic or prehistoric interest and scenic beauty and habitat for rare and endangered plants and animals, and shall administer the same for such purposes subject to the terms of the conveyance or gift. Such an acquisition may be to acquire the fee or any lesser interest, development right, easement (including conservation easement), covenant or other contractual right (including a conveyance on conditions or with limitations or reversions), as may be necessary to acquire, maintain, improve, protect, limit the future use of or otherwise conserve and properly utilize open spaces and other land and water areas in the Borough of Emerson.

§ 27-5. Commission to have exclusive control of lands.

[Amended 2-18-2003 by Ord. No. 1218]

The Environmental Commission shall, subject to the continuing approval of the Council, have exclusive control of lands acquired for the purposes herein stated and may adopt suitable rules and regulations for the use thereof and the conduct of all persons while on or using the same.

§ 27-6. Records; annual report.

Said Commission shall keep records of its meetings and activities and shall make an annual report on or before the first day of January and submit the same to the Council of the Borough of Emerson, which report shall be comprehensive and detailed, covering operations, receipts, disbursements and expenditures for the full year.

§ 27-7. Officers; adoption of bylaws.

The Mayor shall designate one of the members to serve as Chairman and presiding officer of said Commission. Said Commission is authorized to adopt bylaws governing its procedural operation.

§ 27-8. Removal of members.

The Mayor or Council of the Borough of Emerson may remove any member of the Commission for cause, on written charges served upon the member and after a hearing thereon at which the member shall be entitled to be heard in person or by counsel.

§ 27-9. Appropriations for expenses.

The Council of the Borough of Emerson shall annually fix, determine and appropriate a sum sufficient for the care, custody, policing and maintenance of such lands acquired for the uses and purposes herein stated and for the expenses of said Commission, which shall be raised by taxation in the same manner as other taxes.

§ 27-10. Appointment of employees; compensation.

[Amended 8-7-2001 by Ord. No. 1183]

Said Commission may appoint a secretary or clerk and such number of custodians, supervisors and assistants for the lands acquired for the uses and purposes herein mentioned as they shall deem necessary, and such other professionals to advise it on matters that come before it from time to time as it may require, but the salaries of all such clerks, custodians, supervisors, assistants and other professionals shall be fixed and determined by the Council of the Borough of Emerson and, in addition thereto, the total salaries shall be within the limits of funds appropriated to said Commission.

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

[Added 2-7-2017 by Ord. No. 1537-17]

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)

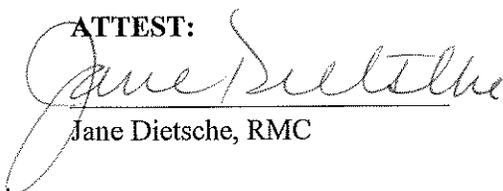
A planting in connection with Arbor Day exercises or other educational demonstrations.

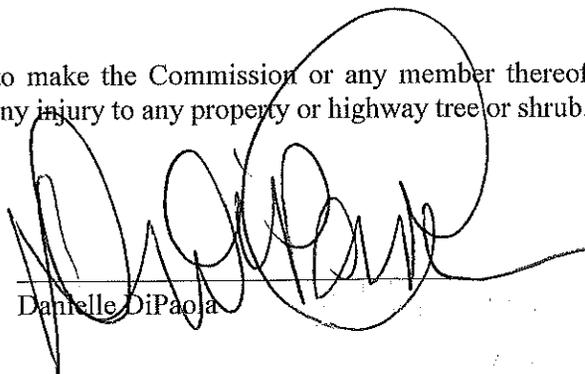
§ 27-12. 27.11 Disclaimer of liability.

[Added 2-7-2017 by Ord. No. 1537-17]

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.

ATTEST:


Jane Dietsche, RMC


Danielle DiPaola

COUNCIL	M O V E D	S E C O N D E D	A Y E S	N A Y E S	A B S E N T	A B S T A I N
Bayley			X			
Hoffman	X		X			
McGuire		X	X			
Falotico			X			
Knoller			X			
Gordon			X			

I hereby certify that the above Ordinance 1586-19 was duly adopted by the Borough of Emerson at a meeting held on March 19, 2019.

Attest:



Municipal Clerk