

BOROUGH OF EMERSON
COUNTY OF BERGEN
NOTICE OF ADOPTION

ORDINANCE NO. 1594-19

Introduced: June 25, 2019

Adopted: July 16, 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 16th day of July, 2019. A copy of Ordinance 1594-19 is on file in the Borough Clerk's Office in the Municipal Building, 1 Municipal Pl., Emerson, NJ 07630.

**AN ORDINANCE AMENDING CHAPTER 156 FLOOD DAMAGE PREVENTION TO ENSURE
THE BOROUGH OF EMERSON'S FLOODPLAIN MANAGEMENT ORDINANCE
COMPLIES WITH ALL FEDERAL REGULATIONS**

§ 156-1 Purpose.

The purpose of this chapter is to amend and replace Ordinance Nos. 760 and 921 so as to ensure that the Borough's Floodplain Management Ordinance complies with all federal regulations.

§ 156-2 Statutory authorization.

The Legislature of the State of New Jersey has, in N.J.S.A. 58:16A-1 et seq. and N.J.S.A. 40:55D-1 et seq. and N.J.S.A. 40:48-1 et seq., delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The National Flood Insurance Act of 1968 (Title 13 of the Housing and Urban Development Act of 1968) requires that local municipalities adopt an ordinance and regulations as contained herein.

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the Governing Body of the Borough of Emerson, Bergen County, New Jersey does ordain as follows:

§ 156-3 Findings of fact.

- A. The flood hazard areas of Emerson are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

§ 156-4 Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize

public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood-blight areas;
- G. Ensure that potential buyers are notified that property is in areas of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 156-5 Methods of reducing flood losses.

In order to accomplish its purpose, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

§ 156-6 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

AH Zone- Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base Flood Elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone

AO Zone- Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.

APPEAL

A request for a review of the Borough Administrator's interpretation of any provision of this chapter or a request for variance.

AREA OF SHALLOW FLOODING

A designated AO Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD

Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone V, VE, V1-30, A, AO, A1-A30, AE, A99, or AH.

BASE FLOOD

The flood having a one-percent chance of being equaled or exceeded in any given year.

Base Flood —A flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) – The flood elevation shown on a published Flood Insurance Study (FIS) including the Flood Insurance Rate Map (FIRM). For zones AE, AH, AO, and A1-30 the elevation represents the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

BASEMENT

Any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL

A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific forces without causing damage to the elevated portion of the building or supporting foundation system.

DEVELOPMENT

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

ELEVATED BUILDING

ELEVATED BUILDING

A non-basement building (i) built, in the case of a building in an Area of Special Flood Hazard, to have the top of the elevated floor, elevated above the base flood elevation plus freeboard by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement

of flood waters.

Erosion — The process of gradual wearing away of land masses.

Existing Manufactured Home Park or Subdivision — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

FLOOD INSURANCE RATE MAP (FIRM)

The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY

The official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Boundary - Floodway Map and the water surface elevation of the base flood.

FLOOD or FLOODING

A general and temporary condition of partial or complete inundation of normally dry land area from:

- A. The overflow of inland or tidal waters; and/or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPLAIN MANAGEMENT REGULATIONS

Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

Freeboard — A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to

flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Highest Adjacent Grade — The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

HISTORIC STRUCTURE

Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on the State Inventory of Historic Places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements of 44 CFR Section 60.3.

MANUFACTURED HOME

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a recreational vehicle.

MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION

Structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

RECREATIONAL VEHICLE

A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the longest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light-duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

START OF CONSTRUCTION (for other than new construction or substantial improvements under the Coastal Barrier Resource Act [P.L. 97-348])

Includes "substantial improvement" and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of pilings, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, foot-walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE

A walled and roofed building, a manufactured home, or gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

Any reconstruction, rehabilitation, addition, or other improvement of a structure the cost of which exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for the improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantial Improvement — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- a) Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

VARIANCE

A grant of relief from the requirements of this chapter which permits the construction in a manner that would otherwise be prohibited by this chapter.

Violation — The failure of a structure or other development to be fully compliant with this ordinance. A new or substantially improved structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

§ 156-7 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Emerson, County of Bergen, State of New Jersey.

156-8 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Borough of Emerson, Community No. 340030, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- a) A scientific and engineering report "Flood Insurance Study, Bergen County, New Jersey (All Jurisdictions)" dated August 28, 2019.
- b) Flood Insurance Rate Map for (Bergen) County, New Jersey (All Jurisdictions) as shown on Index and panels 34003C0181H, 34003C0182H, 34003C0183H, 34003C0184H, 34003C0201H whose effective date is August 28, 2019

§ 156-9 Penalties for noncompliance.

No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined

not more than \$500 or imprisoned for not more than 90 days, or both, for each violation and, in addition, shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Borough of Emerson from taking such other lawful action as is necessary to prevent or remedy any violation.

§ 156-10 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

§ 156-11 Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

§ 156-12 Warning and disclaimer of liability.

- A. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.
- B. This chapter shall not create liability on the part of the Borough of Emerson any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

§ 156-13 Establishment of development permit.

- A. A development permit shall be obtained before construction or development begins including placement of manufactured homes, within an area of special flood hazard established in § 156-8. Application for a development permit shall be made on forms furnished by the Borough Clerk and may include, but are not limited to, plans in duplicate drawn to scale showing nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- B. Specifically, the following information is required:
 - (1) Elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures;
 - (2) Elevation, in relation to mean sea level, to which any structure has been floodproofed;
 - (3) Certification by a registered professional engineer or architect that the design and methods of construction of any floodproofed nonresidential structure are in accordance with accepted standards of practice for meeting the applicable provisions of § 156-18B. The certificate will also include the specific elevation (in relation to mean sea level) to which such structures are floodproofed.
 - (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed

development.

§ 156-14 Appointment of Borough Administrator as administrator.

The Borough Administrator is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

§ 156-15 Duties and responsibilities of administrator.

Duties and responsibilities of the Borough Administrator shall include but not be limited to:

A. Permit review:

- (1) Review all development permits to determine that the permit requirements of this chapter have been satisfied.
- (2) Review all development permits to determine that all necessary permits have been obtained from those federal, state or local government agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of § 156-19A are met.

B. Use of other base flood data: When base flood elevation and floodway data has not been provided in accordance with § 156-8, Basis for establishing areas of special flood hazard, the local administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer § 156-18A, Residential construction, and § 256-18B, Nonresidential construction.

C. Information to be obtained and maintained:

- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (2) For all new or substantially improved floodproofed structures:
 - (a) Verify and record the actual elevation (in relation to mean sea level); and
 - (b) Maintain the floodproofing certifications required in section 156-13B(2)
- (3) Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of watercourses:

- (1) Notify adjacent communities and the state coordinating agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

Notify adjacent communities and the New Jersey Department of Environmental Protection, Bureau of Flood Control and the Land Use Regulation Program prior to any alteration or

relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- E. Interpretation of FIRM boundaries: make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 156-16.

F. SUBSTANTIAL DAMAGE REVIEW

1. After an event resulting in building damages, assess the damage to structures due to flood and non-flood causes.
2. Record and maintain the flood and non-flood damage of substantial damage structures and provide a letter of Substantial Damage Determination to the owner and the New Jersey Department of Environmental Protection, Bureau of Flood Control.
3. Ensure substantial improvements meet the requirements of sections 156-18A, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, 156-18B, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION and 156-18C, SPECIFIC STANDARDS, MANUFACTURED HOMES.

§ 156-16 Variance procedure.

A. Appeals.

- (1) The Land Use Board established by the Borough of Emerson shall hear and decide appeals and requests for variances from the requirements of this chapter.
- (2) The Land Use Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Borough Clerk in the enforcement or administration of this chapter.
- (3) Those aggrieved by the decision of the Land Use Board or any taxpayer may appeal such decision to the Superior Court of New Jersey, as provided in relevant New Jersey statutes.
- (4) In passing upon such applications, the Land Use Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location, where applicable;
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion

damage;

- (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (5) Upon consideration of the factors of § 156-16A(5) and the purposes of this chapter, the Land Use Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- (6) The Borough Administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

B. Conditions for variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided the items in § 156-16A(5)(a) through (k) have been fully considered. As the lot size increases beyond 1/2 acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant a variance would result in exceptional hardship to the applicant; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or

victimization of the public as identified in § 156-16A(5), or conflict with existing local laws or ordinances.

- (6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

§ 156-17 General standards for all areas of special flood hazard.

In all areas of special flood hazard the following standards are required:

In all areas of special flood hazards, compliance with the applicable requirements of the Uniform Construction Code (N.J.A.C. 5:23) and the following standards, whichever is more restrictive, is required:

A. Anchoring.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes to be placed or substantially improved shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction material and methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters;
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
- (4) For all new construction and substantial improvements, the electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. Subdivision proposals.

- (1) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage;
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed new developments which contain at least 50 lots or five acres (whichever is less).

E. Enclosure openings. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings in at least two (2) exterior walls of each enclosed area having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

§ 156-18 Specific standards for residential and nonresidential construction and manufactured homes.

In all areas of special flood hazard where base flood elevation data have been provided as set forth in § 156-8, Basis for establishing areas of special flood hazard, or in § 156-15B, Use of other base flood data, the following standards are required:

A. Residential construction.

1. New construction and substantial improvement of any residential structure located in an A or AE zone shall have the lowest floor, including basement together with the attendant utilities(including all electrical, heating, ventilating, air- conditioning and other service equipment) and sanitary facilities, elevated at or above the more restrictive base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1;
2. Require within any AO or AH zone on the municipality's DFIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated above the depth number specified in feet plus one (1) foot, above the highest adjacent grade (at least three (3) feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

B. Nonresidential construction. In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure located in an A or AE

zone shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities as well as all electrical, heating, ventilating, air-conditioning and other service equipment:

Either:

- (1) Elevated at or above the more restrictive base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1, and
- (2) Require within any AO or AH zone on the municipality's DFIRM to elevate above the depth number specified in feet plus one (1) foot, above the highest adjacent grade (at least three (3) feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;

Or:

- (3) Be floodproofed so that below the more restrictive, base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 6-1, the structure is watertight with walls substantially impermeable to the passage of water;
- (4) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- (5) Be certified by a registered professional engineer or architect that the design and methods of construction are in the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in § 156-15C(2).

C. Manufactured homes.

- (1) Manufactured homes shall be anchored in accordance with § 156-17A(2).
- (2) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall:
 - a) Be consistent with the need to minimize flood damage,
 - b) Be constructed to minimize flood damage,
 - c) Have adequate drainage provided to reduce exposure to flood damage,
 - d) Be elevated on a permanent foundation such that the top of the lowest floor is at or above the more restrictive base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1,
 - e) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

§ 156-19 Floodways.

Located within areas of special flood hazard established in § 156-8 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectile, and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements, and other

development unless a technical evaluation demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- B. If § 156-19A is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of §§ 156-17 through 156-19.
- C. In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than 0.2 foot at any point.

§ 156-20 Prohibited uses.

The regulations set forth in this chapter may contain references to various uses not presently permitted within the Borough of Emerson. Said references are not intended to indicate that said uses are now permitted, and all uses prohibited by the Zoning Code of the Borough of Emerson remain prohibited, and said code is not in any way amended by this chapter.

156-21 SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

156-22 ENACTMENT

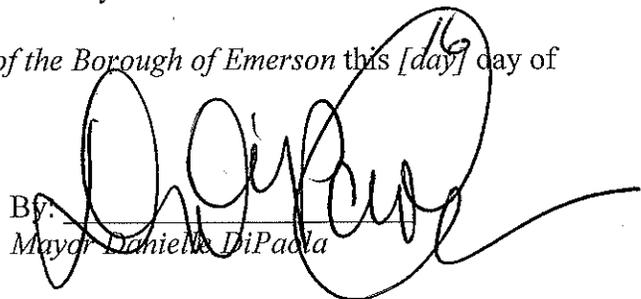
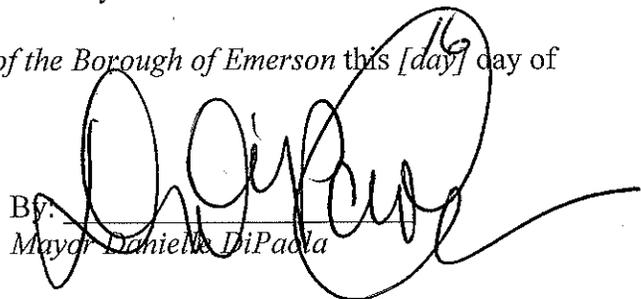
ADOPTION

This Ordinance shall be effective on July 16, 2019 and shall remain in force until modified, amended or rescinded by the Borough of Emerson, Bergen County, New Jersey.

ENACTED AND ADOPTED by the Mayor and Council of the Borough of Emerson this ¹⁶ day of ~~[month]~~ July, 2019

ATTEST:


Emerson Borough Clerk


By: 
Mayor 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			
Falotico			X			
Knoller			X			
Gordon		X	X			

I hereby certify that the above Ordinance 1594-19 was duly adopted by the Borough of Emerson at a meeting held on July 16, 2019.

Attest:

Janie Seltzer
Municipal Clerk