

**BOROUGH OF EMERSON
COUNTY OF BERGEN
STATE OF NEW JERSEY**

NOTICE OF INTRODUCTION

ORDINANCE NO. 1619-20

Introduced: October 6, 2020

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 6th day of October, 2020, and that said proposed Ordinance will be further considered for final passage at the meeting of said Borough Council to be held on the 20th day of October, 2020 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 AMENDING CHAPTER 89 SHADE TREE COMMISSION SECTION 10
VIOLATIONS AND PENALTIES; ENFORCEMENT TO ADD SUBSECTION H
ENFORCEMENT OFFICIAL**

§ 89-10 **Violations and penalties; enforcement.**

A.

The Commission may prescribe a fine for violation of its ordinances in an amount not exceeding \$1,500 for each violation, and the Municipal Court of Emerson shall have jurisdiction over actions for the violation of such ordinances.

B.

The ordinances shall be enforced by like proceedings and process, and the practice for the enforcement thereof shall be the same as that provided by law for the enforcement of the ordinances of the municipality in which the Commission exists.

C.

The officers authorized by law to serve and execute process in the aforesaid courts shall be the officers to serve and execute any process issued out of any court under this chapter.

D.

A copy of any ordinance of the Commission, certified to under the hand of its Secretary or Chairman, shall be received in any court of this state as full and legal proof of the existence of the ordinance and that all requirements of law in relation to the ordaining, publishing and making of the same, so as to make it legal and binding, have been complied with, unless the contrary shall be shown.

E.

In addition to the penalties authorized by Subsection **A** of this section, the Commission may require a person who removes or otherwise destroys a tree in violation of a municipal ordinance to pay a replacement assessment to the municipality.

F.

The replacement assessment for removing or destroying a tree in violation of a municipal ordinance shall be the value of the tree as determined by the appraisal of a trained forester or certified tree expert retained by the Commission for that purpose. In lieu of an appraisal, the Commission shall adopt a formula and schedule based upon the number of square inches contained in a cross section of the trunk of the tree multiplied by a predetermined value per square inch, not to exceed \$27 per square inch. The square-inch cross section shall be calculated from the estimated diameter at breast height and, if there is a multiple stem tree, then each trunk shall be measured and an average shall be determined for the tree. For the purposes of this section "diameter at breast height" shall mean the diameter of the tree taken at a point 4.5 feet above ground level. The Commission shall modify the value of the tree upon its species variety, location and its condition at the time of removal or destruction.

G.

Any public utility or cable television company that clears, moves, cuts or destroys any trees, shrubs or plants for the purpose of erecting, installing, moving, removing, altering or maintaining any structures or fixtures necessary for the supply of electric light, heat or power, communication, or cable television services upon any lands in which it has acquired an easement or right-of-way shall not be subject to any penalty imposed by a commission pursuant to Subsections **A** through **F** of this section. This subsection shall not exempt any public utility or cable television company from any penalty or replacement assessment imposed for negligent actions.

H.

The enforcement officer for fines prescribed by the Commission for violation of its ordinances or replacement assessments for removing or destroying a tree in violation of a municipal ordinance shall be the Construction Code Official of the Borough of Emerson.

ATTEST:

Jane Dietsche, RMC, Borough Clerk

Danielle DiPaola, Mayor