

ORDINANCE NO. 24-002

Ordinance Of The City Council Of The City Of Emeryville Adding Chapter 16, (“Prohibiting The Use Of Neonicotinoids And Rodenticides On City-Owned, Managed And Leased Property Except For The Use Of Rodenticides In City Parks”), To Title 6 Of The Emeryville Municipal Code; And Authorizing The City Manager To Take Actions Related To Implementation And Enforcement; CEQA Determination: Exempt Pursuant To Guideline Section 15061(b)(3)

WHEREAS, neonicotinoids are a class of synthetic, neurotoxic insecticides that are used on agricultural crops, lawns, gardens, golf courses, and in flea and tick pet treatments; and

WHEREAS, neonicotinoids, which are banned in the European Union, are the most popular insecticides in the United States even though numerous studies have shown that they play a major role in population-level declines of bees, birds, butterflies and freshwater invertebrates; and

WHEREAS, in 2022, the Environmental Protection Agency released final biological evaluations confirming that three widely used neonicotinoid insecticides likely harm roughly three-fourths of all endangered plants and animals, including all 39 species of amphibians protected under the Endangered Species Act; and

WHEREAS, neonicotinoids are used by Safe Harbors, on leased City property in the Marina, but not by Emeryville staff or contractors; and

WHEREAS, notwithstanding existing state law, local entities may enact restrictions that regulate or restrict pesticide use in their own operations and on City owned or leased property; and

WHEREAS, in 2021, state law went into effect which prohibits the use of second-generation anticoagulant rodenticides with some exceptions and, on January 1, 2024, additional state regulations will go into effect which expand the existing regulations of second-generation anticoagulant rodenticides; and

WHEREAS, neither City staff nor City contractors regularly use rodenticides including in any City buildings or facilities; however, given that difficulty in controlling rodents in parks and open spaces which burrow holes that create an injury risk to the public, the City’s landscape contractor occasionally uses lawful rodenticides to reduce the gopher population; and

WHEREAS, a City Council study session was held on October 17, 2023, and the Council gave direction to draft an ordinance that would ban neonicotinoids on City owned and leased property and by City contractors, and limit the use of rodenticides to City parks only; and

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WHEREAS, the Planning Commission considered the draft ordinance and held a duly noticed public hearing on January 25, 2024 and recommended that the Council adopt the ordinance; and

WHEREAS, the City Council considered the draft ordinance and held a duly noticed public hearing on February 20, 2024, waived first reading, and introduced the ordinance by title only; and

WHEREAS, the Council considered the draft ordinance again at its meeting on March 19, 2024, where it waived the second reading and voted to adopt the ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EMERYVILLE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE. PURPOSE AND FINDINGS.

The above recitals being true and correct and incorporated by reference, the purpose of this Ordinance is to improve public health, safety, and quality of life by prohibiting the use the use of neonicotinoids and rodenticides on City-owned and leased property within Emeryville.

SECTION TWO. ADDING TITLE 6, CHAPTER 16, "PROHIBITING THE USE OF NEONICOTINOIDS AND RODENTICIDES ON CITY-OWNED, MANAGED AND LEASED PROPERTY" TO THE EMERYVILLE MUNICIPAL CODE

Chapter 16, "Prohibiting the Use of Neonicotinoids and Rodenticides on City-Owned, Managed and Leased Property," of the Emeryville Municipal Code is hereby added as follows:

6-16.01 - Definitions

"Neonicotinoid pesticide" means acetamiprid, clothianidin, dinotefuran, imidacloprid, and thiamethoxam, or any other chemical designated by the California Department of Food and Agriculture as belonging to the neonicotinoid class of chemicals.

"Rodenticide" means any pesticide designed to kill rodents including second generation anticoagulant rodenticides that contain any of the following active ingredients: (A) Brodifacoum, (B) Bromadiolone, (C) Difenacoum, or (D) Difethialone.

6-16.02- Neonicotinoid and Rodenticide Pesticide Use Prohibition.

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- (a) No person shall use neonicotinoid pesticide for application to outdoor plants, trees, or any other use on property which is owned, managed or leased by the City of Emeryville including public parks and municipal buildings.

- (b) No person shall use rodenticides for the extermination of rodents including rats, mice, gophers or other rodents on property which is owned, managed or leased by the City of Emeryville, including municipal buildings, with the exception of City owned, managed or leased parks.

6-16.03 – Penalties and Remedies.

It shall be a violation of the Emeryville Municipal Code, subject to administrative citation under Chapter 7 of Title 1 of this Code, for a Person to violate Section 6-16.02.

SECTION THREE. SEVERABILITY

The City Council of the City of Emeryville declares that each section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance. If any section, sub-section, paragraph, sub-paragraph, sentence, clause or phrase of this ordinance is held invalid, the City declares that it would have adopted the remaining provisions of this ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated.

SECTION FOUR. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION

This ordinance is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that these amendments to the Emeryville Municipal Code will have a significant effect on the environment. The amendments do not authorize construction or other activities that could impact the environment; instead, these amendments are intended to protect the environment by conserving water resources and protecting pollinators.

SECTION FIVE. EFFECTIVE DATE

This Ordinance shall take effect 30 days following its final passage. The City Clerk is directed to cause copies of this Ordinance to be posted or published as required by Government Code section 36933.

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SECTION SIX. CODIFICATION

Section Two of this Ordinance shall be codified in the Emeryville Municipal Code. Sections One, Three, Four, Five, and Six shall NOT be so codified.

This Ordinance was **INTRODUCED AND FIRST READ** by the City Council of the City of Emeryville at a regular meeting held Tuesday, February 20, 2024, and **PASSED AND ADOPTED** by the City Council of the City of Emeryville at a regular meeting held Tuesday, March 19, 2024, by the following vote:

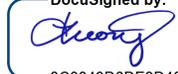
AYES:	<u>5</u>	Mayor Welch, Vice Mayor Mourra and Council Members Bauters, Kaur and Priforce
NOES:	<u>0</u>	_____
ABSTAIN:	<u>0</u>	_____
ABSENT:	<u>0</u>	_____

DocuSigned by:

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 MAYOR

ATTEST:

DocuSigned by:

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 DEPUTY CITY CLERK

APPROVED AS TO FORM:

DocuSigned by:

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 SPECIAL COUNSEL