

**ORDINANCE NO. \_\_\_\_\_**

**Ordinance Of The City Council Of The City Of Emeryville Amending Section 7-7.01 Of Chapter 7 Of Title 7 Of The Emeryville Municipal Code To Delegate Discretionary Authority To The Public Works Director And Authorized Delegees To Approve The Plan Or Design Of Improvements To Public Property; CEQA Determination: Not A Project And Exempt Pursuant To CEQA Guidelines Sections 15378(a), 15378(b)(3) And 15061(b)(3)**

**WHEREAS**, in the contexts of premises liability and/or liability for an alleged dangerous condition, it is in the City of Emeryville's best interest to be able to assert the design immunity defense provided for in Section 830.6 of the California Government Code; and

**WHEREAS**, to successfully assert the design immunity defense, the City of Emeryville must establish, among other things, that its legislative body, or some other body, officer, or employee exercising discretionary authority, approved the plan or design prior to construction, or the plan or design was prepared in conformity with standards previously approved; and

**WHEREAS**, the City Council has delegated discretionary authority to approve plans or designs to the City Engineer; and

**WHEREAS**, the City Engineer is not a standalone position within the City of Emeryville and at times may not be member of City staff, and, therefore, it is in the City's best interest to also delegate discretionary authority to approve plans or designs to the Public Works Director and to authorize the City Engineer or Public Works Director to further delegate their discretionary authority to approve plans or designs to a delegee; and

**WHEREAS**, the City Engineer's or Public Works Director's delegation of discretionary authority to a delegee shall be memorialized in a written memorandum on a project-by-project basis.

**NOW THEREFORE THE CITY COUNCIL OF THE CITY OF EMERYVILLE HEREBY ORDAINS AS FOLLOWS:**

**SECTION ONE. PURPOSE AND INTENT**

The purpose and intent of this Ordinance is to amend Section 7-7.01 of Chapter 7 of Title 7 of the Emeryville Municipal Code to delegate discretionary authority to approve the plan or design of improvements to public property to the Public Works Director, in addition to the City Engineer, and the City Engineer's or Public Works Director's authorized delegee(s).

**SECTION TWO. AMENDING SECTION 7-7.01 OF CHAPTER 7 OF TITLE 7 OF THE EMERYVILLE MUNICIPAL CODE**

Section 7-7.01 of Chapter 7 of Title 7 of the Emeryville Municipal Code is hereby amended as follows, with additions in underline text and deletions in ~~strikeout~~ text:

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### **7-7.01 Adoption of Standard Specifications – Delegation of Authority to Approve Plan or Design of Improvement to Public Property.**

- (a) The City Council shall adopt, by separate resolution, standard specifications, which are hereby incorporated by reference and made part of this chapter as though set forth in this chapter in full.
- (b) The City Engineer or Public Works Director is hereby granted ~~the exclusive~~ authority to approve and exercise discretionary authority as to the plan or design of a construction of, or an improvement to, public property in advance of the construction or improvement. Further, the City Engineer or Public Works Director may delegate their authority under this subsection, on a project-by-project basis, to a City employee who is a licensed civil engineer, as memorialized in a written memorandum.
- (c) The City Engineer or Public Works Director (or authorized delegee pursuant to Section 7-7.01(b)) shall affix the following statement, his or her signature, and the date thereof to the plan or design of a construction of, or an improvement to, public property before said plan or design is advertised for public bid, and to any amendment, alteration or change to said plan or design of improvement to public property before said improvement is constructed:

In accordance with Section 7-7.01(b) of Chapter 7 of Title 7 of the Emeryville Municipal Code, ~~as City Engineer for the City of Emeryville,~~ I do hereby exercise the discretion delegated to me and approve the plan or design of a construction of, or an improvement to, public property to which this statement and my signature is affixed. Executed this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
[Name], [Title] ~~City Engineer~~

### **SECTION THREE. CEQA DETERMINATION**

The City finds, pursuant to Title 14 of the California Administrative Code, Section 15061(b)(3) and Section 15378(a), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. This action is further exempt from the definition of a Project in Section 15378(b)(3) in that it concerns general policy and procedure making.

### **SECTION FOUR. SEVERABILITY**

Every section, paragraph, clause, and phrase of this Ordinance is hereby declared

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severable. If, for any reason, any section, paragraph, clause, or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining section, paragraphs, clauses, or phrases.

**SECTION FIVE. EFFECTIVE DATE**

This Ordinance shall take effect thirty (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 33693.

**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, October 7, 2025, and **PASSED AND ADOPTED** by the City Council of the City of Emeryville at a regular meeting held Tuesday, October 21, 2025, by the following vote:

AYES: \_\_\_\_\_  
NOES: \_\_\_\_\_  
ABSTAIN: \_\_\_\_\_  
ABSENT: \_\_\_\_\_

ATTEST:  
  
\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR  
  
APPROVED AS TO FORM:  

Signed by:

Christie Crowl, Acting City Attorney

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\_\_\_\_\_  
SPECIAL COUNSEL