

## **ORDINANCE NO. 22-014**

**An Ordinance Of The City Council Of The City Of Emeryville Repealing And Replacing Chapter 5 Of Title 4 Of The Emeryville Municipal Code, Entitled "Fire Code" And Making Required Findings Relating To The Adoption And Amendment Of The California Building Standards Code (CEQA Determination: Exempt Pursuant To CEQA Guidelines Sections 15061(b)(3) And 15378(b)(2) and (5))**

**WHEREAS**, the City of Emeryville's Fire Regulations are codified in Chapter 5 of Title 4 of the Emeryville Municipal Code and were last updated in 2019; and

**WHEREAS**, it is the desire and intent of the City Council of the City of Emeryville to provide the public with the greatest degree of fire, life, health and structural safety in buildings in the most effective manner by adopting the most current body of regulations; and

**WHEREAS**, on January 18-20, 2022, the California Building Standards Commission amended and adopted the International Fire Code as the 2022 California Fire Code (Title 24, Part 9, of the California Code of Regulations), which is part of the 2022 California Building Standards Code; and

**WHEREAS**, State law requires local jurisdictions to enforce the 2022 California Fire Code beginning January 1, 2023; and

**WHEREAS**, pursuant to Sections 13143.5, 17958.5, 17958.7, and 18941.5 of the California Health and Safety Code, a local jurisdiction may adopt amendments to the California Building Standards Code, including the California Fire Code, when such amendments are reasonably necessary because of local climatic, geological, or topographical conditions, and where such amendments establish requirements more stringent than those provided in the state code; and

**WHEREAS**, amendments are also necessary to the administration provisions to reflect Emeryville's local procedures and practices, as well as to ensure internal consistency between the various model codes that make up the Building Standards Codes; and

**WHEREAS**, the Health and Safety Code requires that the City Council, before making any modifications and changes, makes an express finding that each modification or change is needed; and

**WHEREAS**, adoption of the 2022 California Fire Code and local amendments is exempt from the California Environmental Quality Act ("CEQA") pursuant to Title 14 of the California Administrative Code, Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed ordinance may have a significant effect on the environment in that it does not propose or commit to any construction activities. This action is further exempt from the definition of Project in Section 15378(b)(2) and (5) in that it concerns general administrative policies and procedure making that will not result in direct or indirect physical changes in the environment.

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

**SECTION ONE. PURPOSE AND INTENT**

The purpose and intent of this Ordinance is to adopt the 2022 California Fire Code by repealing and replacing Chapter 5 of Title 4 of the Emeryville Municipal Code.

**SECTION TWO. REQUIRED FINDINGS**

Pursuant to Sections 13143.5, 17958.5, 17958.7, and 18941.5 of the California Health and Safety Code, a local jurisdiction may adopt amendments to the State Fire Code when such amendments are reasonably necessary because of local climatic, geological, or topographical conditions. In adopting amendments to the State Fire Code, the City Council finds such local conditions exist in the City of Emeryville as follows:

1. Emeryville is located between 2 and 4 kilometers from the North Hayward fault, considered to be an active earthquake fault, and in seismic design category (SDC) D, a very high-risk earthquake area. Buildings and other structures in SDC D can experience seismic damage which could have an adverse impact on Fire protection. Any earth movement which causes buildings to move creates cracking and warping of fire walls, smoke barriers, door frames etc., thereby negating the effectiveness of these structural elements which are intended to prevent fire and smoke from spreading within the building. In the event of a fire in a large building, fire and smoke conditions can reach a magnitude which is beyond control capabilities of the fire department, thus resulting in major fire damage. The proposed amendments to the Fire Code address the local geological conditions in Emeryville.
2. Emeryville is bisected topographically by Interstates 80 and 580. As a result the City is divided into discrete districts. To travel between districts emergency vehicles must travel under and over vehicular bridges. Heavy traffic congestion on the City's surface streets and overpasses could act as a barrier for timely arrival of emergency vehicles. In the event of an accident or overpass failure due to an earthquake, sections of the City may become isolated or response time from first responders may be significantly slowed so as to increase the risk or severity of injury or property damage. The proposed amendments to the Fire Code address the local topographical conditions in Emeryville.
3. The amendments related to automatic fire extinguishing system (i.e. sprinklers) are more restrictive than the provisions in the State Building Code in that they require such systems in certain circumstances in which they are not required by the State Building Code. These proposed amendments address the local geological and topographical conditions in Emeryville.

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### **SECTION THREE. REPEALING CHAPTER 5 OF TITLE 4 OF THE EMERYVILLE MUNICIPAL CODE**

Chapter 5 of Title 4 of the Emeryville Municipal Code is hereby repealed in its entirety.

### **SECTION FOUR. ADOPTING CHAPTER 5 OF TITLE 4 OF THE EMERYVILLE MUNICIPAL CODE**

Chapter 5 of Title 4 of the Emeryville Municipal Code is hereby adopted to read as follows:

#### **CHAPTER 5. FIRE CODE**

##### **Sections:**

##### **4-5.1 Title**

##### **4-5.2 Adoption**

##### **4-5.3 Amendments to California Fire Code 4-5.1 Title.**

##### **4-5.1 Title**

The Ordinance codified in this Chapter shall be known and may be cited as the Fire Code of the City of Emeryville and will be referred to in this Chapter as "this code."

##### **4-5.2 Adoption.**

The following document is hereby adopted as the Fire Code of the City of Emeryville,

- A. The 2021 International Fire Code (IFC), as amended by the state and known as the 2022 California Fire Code (CFC) including Sections 101.1, 103.2 104.6, 104.11, and 107.2 and 503 (California Code of Regulations, Title 24, Part 9) as published by the International Code Council (ICC) and the California Building Standards Commission, and as further modified and amended by this Chapter.

A copy of this code is on file in the office of the City Clerk.

##### **4-5.3 Amendments to California Fire Code.**

- (a) Section 101.1 is amended to read as follows:

**101.1 Title.** These regulations shall be known as the Fire Code of the City of Emeryville hereinafter referred to as "this code".

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(b) Section 103.2 is amended to read as follows:

**103.2 Appointment.** The fire code official shall be as specified in the Agreement between the City of Emeryville and the fire department serving the City of Emeryville.

(c) Section 104.6 is amended to read as follows:

**104.6 Official records.** The City of Emeryville shall keep official records as required by Sections 104.6.1, 104.6.2, and 104.6.4. Such official records shall be retained for the longer period of time which is: 1) not less than five years; 2) for as long as the structure or activity to which such records relate remains in existence; or 3) as otherwise provided by the City of Emeryville Records Retention Schedule.

(d) Section 107.2 is amended to read as follows:

**107.2 Schedule of permit fees.** A fee for each Plan review, permit or inspection shall be paid as required, in accordance with the City of Emeryville Master Fee Schedule.

(e) Sections 903.2.1.2, 903.2.1.3, and 903.2.1.4 are deleted and Section 903.2.1 is amended to read as follows:

**903.2.1 Group A.** An automatic sprinkler system shall be installed in Group A, A-1, A-2, A-3, and A-4 occupancies as follows:

1. When there is more than 3,000 square feet of floor fire area, or
2. When the occupant load exceeds 100, or
3. When the fire area is located on a floor other than a level of exit discharge serving such occupants, or
4. When the building is 35 feet or more in height, or
5. When the building is three or more stories, irrespective of height, or
6. The fire area contains a multi-theater complex.

For Group A-5 occupancies, assembly occupancies on roofs, and multiple fire areas, automatic sprinkler systems shall be provided as indicated in Sections 903.2.1.5, 903.2.1.6, and 903.2.1.7, respectively.

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(f) Section 903.2.3 Group E is amended to read as follows:

**Section 903.2.3 Group E.** An automatic sprinkler system shall be installed in Group E occupancies as follows:

1. A group E Fire area exceeds 3,000 square feet, or
2. In rooms or areas with special hazards such as laboratories, vocational shops, and other such areas where hazardous materials in quantities not exceeding the maximum allowable quantity are used or stored, or
3. The group E fire area is located on a floor other than a level of exit discharge servicing such occupancies.

(g) Sections 903.2.4.1 and 902.4.2, and 903.2.4.3 are deleted and Section 903.2.4 Group F-1. Is amended to read as follows:

**Section 903.2.4 Group F-1.** An automatic sprinkler system shall be installed in Group F-1 occupancies as follows:

1. A group F-1 Fire area exceeds 2,500 square feet, or
2. A group F-1 fire area is located more than three stories above grade plan, or.
3. When the building is three or more stories, irrespective of height, or
4. The height of the building is 35 feet or more.

(h) Section 903.2.7.1 and 903.2.7.2 are deleted and Section 903.2.7 is amended to read as follows:

**Section 903.2.7 Group M.** An automatic sprinkler system shall be installed in Group M occupancies as follows:

1. A Group M fire area exceeds 3,000 square feet, or
2. In all buildings of Group M where storage of merchandise is in high piled or rack storage arrays, or
3. When the building is three or more stories, irrespective of height, or
4. The height of the building is 35 feet or more.

(i) Section 903.2.9.1, 903.2.9.2, 903.2.10, 903.10.1 are deleted and Section 902.2.9 is amended to read as follows:

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**903.2.9 Group S.** An automatic sprinkler system shall be provided throughout all buildings containing a Group S occupancy where one of the following conditions exists:

1. A Group S fire area exceeds 3,000 square feet, or
2. A Group S fire area is located more than three stories above grade plane, or
3. The height of the building is 35 feet or more.

(j) Section 903.2.13 is amended to read as follows:

**Section 903.2.13 Group B and U.**

**General.** An automatic fire extinguishing system shall be installed in all new Group B and U occupancies as follows:

1. A total floor area of 3,000 square feet or more, or
2. A height of 35 feet or more, or
3. Three or more stories, irrespective of height.

(k) Section 903.2.22 is added to read as follows:

**Section 903.2.22 Renovations.** Automated sprinkler systems shall be installed in all buildings or separate interest spaces that are substantially renovated as defined below.

1. **Buildings.** (Entire building in single fee title ownership). The building or portion thereof is being renovated, rehabilitated, or reconstructed and the value of the improvements is equal to or greater than 50% of the replacement cost of the building.
2. **Separate Interests in Common Interest Developments.** (Building is subdivided into multiple fee title ownership interests.) A separate interest in a common interest development is being renovated, rehabilitated, or reconstructed and the value of the improvements is equal to or greater than 50% of the replacement cost of said interest.
3. **Definition of Replacement Cost.** In absence of proof to the contrary, replacement cost as used above shall mean the market value of the building or separate interest in a common interest development as determined by the Building Official at the time of submission of a building permit application.

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(l) Section 1103.5 is amended to read as follows:

**Section 1103.5.** Sprinkler Systems. An automatic sprinkler system shall be provided in existing buildings in accordance with sections 1103.5.1 through 1103.5.6

(m) Section 1103.5.6 is added to read as follows:

**Section 1103.5.6** Automatic sprinkler systems shall be installed in all existing buildings or in any separate interest in a common interest development, as those terms are defined in California Civil Code Section 1351, with a minimum total floor area of 3,000 square feet if:

1. Subdivided Space or Subdivisions. The building or separate interest in a common interest development is being subdivided into multi-tenant spaces or being subdivided pursuant to the California Subdivision Map Act or the City's Subdivision Regulations, or:
2. Change of Use or Occupancy. The character of occupancy or use of the building or separate interest in a common interest development is being changed to a different division of the same occupancy or to a different occupancy as defined in California Building Code Chapter 3 Use and Occupancy Classification.

## **SECTION FIVE. CEQA DETERMINATION**

The City Council finds, pursuant to Title 14 of the California Administrative Code, Section 15061(b)(3) 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 Project in Section 15378(b)(2) and (5) in that it concerns general administrative policies and procedure making that will not result in direct or indirect physical changes in the environment.

## **SECTION SIX. SEVERABILITY**

Every section, paragraph, clause, and phrase of this Ordinance is hereby declared 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 sections, paragraphs, clauses, or phrases.

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## **SECTION SEVEN. EFFECTIVE DATE**

The Chief Building Official is directed to file a copy of this Ordinance with the California Building Standards Commission. Upon such filing with the California Building Standards Commission, this Ordinance shall take effect on January 1, 2023. The City Clerk is directed to cause copies of this Ordinance to be posted or published as required by Government Code Section 33633.

## **SECTION EIGHT. CODIFICATION**

Sections Three and Four of this Ordinance shall be codified in the Emeryville Municipal Code. Sections One, Two, Five, Six, Seven, and Eight 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, November 1, 2022, and **PASSED AND DOPTED** by the City Council of the City of Emeryville at a regular meeting held Tuesday, November 15, 2022, by the following vote:

AYES:	<u>5</u>	Mayor Bauters, Vice Mayor Medina and Council Members Donahue, Martinez, and Welch
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

DocuSigned by:

*John Bauters*

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MAYOR

ATTEST:

APPROVED AS TO FORM:

DocuSigned by:

*April Richardson*

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CITY CLERK

DocuSigned by:

*Christie Crowl, as Acting City Attorney*

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LEGAL COUNSEL