

ORDINANCE NO. _____

Ordinance Of The City Council Of The City Of Emeryville Adding Section 9-4.503(j) (“Prohibiting The Installation Of Turf In New Development”) To The Emeryville Municipal Code And Amending Sections 9-4.303(b)(5a), 9-4.503, And 9-8.212 Title 9 (“Open Space Standards: Public Park Requirements”, “Landscaping And Screening: General Provisions”, And “General Definitions: L Terms”) And Section 6-10.02 (“Nuisances: Weeds”) Of The Emeryville Municipal Code; CEQA Determination: Exempt Pursuant To Guidelines Section 15061(b)(3)

WHEREAS, the State Water Resources Control Board (SWRC) states that drought is a recurring feature of our climate; California experienced the 5-year drought event of 2012-2016, and other notable historical droughts included 2007-2009, 1987-1992, 1976-1977, and off-and-on dry conditions spanning more than a decade in the 1920s and 1930s; and

WHEREAS, the State of California has been in a near-constant state of drought in the recent past with the Governor declaring states of emergency on April 21, 2021, May 10, 2021, July 8, 2021, and October 19, 2021, due to the existence of drought conditions; and

WHEREAS, the SWRC notes that drought has become a permanent fixture for California with climate change being a major driver; and

WHEREAS, while the Governor’s Executive Order N-5-23 issued on March 24, 2023 recently relaxed some of the State’s drought restrictions, the Order noted that the “winter’s hydrology is uncertain and the most efficient way to preserve the State’s improved surface water supplies is for Californians to continue their ongoing efforts to make conservation a way of life”; and

WHEREAS, the California Department of Water Resources encourages all Californians to embrace wise water use as a daily habit, whether the State is experiencing a year of heavy or meager rain, and has identified indoor and outdoor conservation methods including planting drought-tolerant and drought-resistant plants and trees and replacing turf with water-wise plants; and

WHEREAS, the California Department of Fish and Wildlife (CDFW) has opined that over 80% of flowering plants require pollination services, and that pollinators such as bees, butterflies, flies, moths, beetles, and wasps are keystone species that help hold ecosystems together by supporting plant reproduction and plant diversity; and

WHEREAS, CDFW has further opined that habitat loss is one of the major threats to pollinators; 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 installation of turf in new developments and confirm that wildflower planting and growth does not constitute a nuisance under the Emeryville Municipal Code; 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 with minor changes, including an exception for residential projects with common area and clarification of the definition of turf; and

WHEREAS, the City Council considered the draft ordinance and held a duly noticed public hearing on February 20, 2024, requested minor changes to the proposed exceptions provision to require residential projects to comply with the prohibition, 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 installation of turf in new developments and declaring that wildflower growth is not a nuisance.

SECTION TWO. ADDING SECTION 9-4.503 (j), "PROHIBITING THE INSTALLATION OF TURF IN NEW DEVELOPMENT" TO THE EMERYVILLE MUNICIPAL CODE

Section 9-4.503 (j), "Prohibiting the Installation of Turf in New Development," is hereby added to the City of Emeryville Municipal Code as follows:

9-4.503 (j) - Prohibiting the Installation of Turf in New Development

- (1) Applicability. This section applies to construction of all new development projects.
- (2) Definition. Turf is a ground cover surface of mowed grass. Turf does not include artificial turf or any artificial ground cover.
- (3) Prohibition. Notwithstanding any other provision in this Title, no person shall install turf as part of the landscaping for a new development project.
- (4) Exception. Notwithstanding the prohibition in subsection (3) above, new development projects which contain a park or open space accessible to the public may install turf for the purposes of a park or open space accessible to the public.

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SECTION THREE. AMENDING SECTION 9-4.303(b)(5a) OF ARTICLE 3 OF CHAPTER 4, SECTION 9-4.503 OF ARTICLE 5 OF CHAPTER 4, AND SECTION 9-8.212 OF ARTICLE 2 OF CHAPTER 8 OF TITLE 9 OF THE EMERYVILLE MUNICIPAL CODE

Section 9-4.303(b)(5a) of Article 3 of Chapter 4, Section 9-4.503 (b) of Article 5 of Chapter 4 and Section 9-8.212 of Article 2 of Chapter 8 of Title 9 of the Emeryville Municipal Code is hereby amended as follows. Language that is deleted is denoted by ~~strikethrough~~ type and new language is denoted by underlined type. Provisions not explicitly listed are not changed.

Section 9-4.303(b)(5) (Open Space Standards: Public Park Requirements)

a. Definition. “Public Park” or “Public Open Space” means open space that is available to the general public. This includes plazas, ~~lawn~~ turf areas, play equipment, picnic areas, and recreation facilities among other users.

Section 9-4.503 (Landscaping and Screening: General Provisions)

b. Composition of Required Landscaping. All required landscaping shall include installation and maintenance of some combination of trees, ground cover, shrubs, vines, flowers, ~~lawns~~, and water features except swimming pools and spas.

Section 9-8.212 (General Definitions: “L” Terms)

a. “Landscaping” means living vegetation, planted in the ground, including some combination of trees, ground cover, shrubs, vines, or flowers, ~~or lawns~~. In addition, the combination or design may include natural features such as rock and stone; and structural features, including but not limited to, fountains, reflecting pools, artworks, screen walls, fences and benches, but not including swimming pools or spas.

SECTION FOUR. AMENDING SECTION 6-10.02, "NUISANCES: WEEDS" IN THE EMERYVILLE MUNICIPAL CODE

Section 6-10.02, “Nuisances: Weeds” is hereby amended as follows (text that is underlined is added and text marked with ~~strikethrough~~ is removed):

6-10.02 – Nuisances: Weeds

It shall be a violation of the City of Emeryville Municipal Code for any person to allow weeds, vines, shrubs, and brush which bear seeds of a wingy or downy nature, or which attain such a large growth as to become a fire menace when dry, or which

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contain poisonous oils, or which obstruct any drainage ditch or waterway, or which are otherwise noxious or dangerous to the life, health, comfort, or convenience of the community to remain upon any private property in the City after notice by the City to remove the same. Notwithstanding the foregoing, it shall not be a violation of the City of Emeryville Municipal Code to grow and maintain native plants or wildflowers in a manner that does not present a fire menace or hazard.

SECTION FIVE. 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 SIX. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION

This ordinance is exempt from the California Environmental Quality Act (CEQA) 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 SEVEN. 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.

SECTION EIGHT. CODIFICATION

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

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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: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

ATTEST:

CITY CLERK

MAYOR

APPROVED AS TO FORM:

DocuSigned by:
John Kennedy
2C8834D02DB55407

CITY ATTORNEY