



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: June 20, 2017

TO: Mayor and Members of the City Council

FROM: Michael Guina, City Attorney

SUBJECT: **An Ordinance Of The City Of Emeryville Repealing And Replacing Chapter 2 Of Title 4 Of The Emeryville Municipal Code, “Emergency Plans”; CEQA Determination: Exempt Pursuant To Section 15061(b)(3) Of The California CEQA Guidelines**

RECOMMENDATION

Staff recommends that the City Council adopt the first reading of the attached ordinance repealing and replacing Chapter 2 of Title 4 of the Emeryville Municipal Code, “Emergency Plans.”

BACKGROUND

Government Code section 8610 authorizes cities to create disaster councils to develop plans to meet any condition constituting either a local or state emergency, and to provide for the effective mobilization of all resources within the City’s jurisdiction. Disaster councils provide the policy direction for emergency preparedness.

Chapter 2 of Title 4, “Emergency Plans” of the Emeryville Municipal Code provides for the preparation and execution of plans to protect persons and property within the City in the event of an emergency. The chapter also provides for the coordination of civil defense and disaster functions of the City with other public agencies. However, the current ordinance, adopted in the 1970s, pre-dates the current form of Council-Manager government, the Standardized Emergency Management System (SEMS), the National Incident Management Systems (NIMS) as well as the 2015 edition of the California Emergency Services Act. It also does not align with recommendations from the 2010 State of California Governor’s Office of Emergency Services Emergency Model Ordinance.

On March 21, 2017, the City Council considered adopting the first reading of an ordinance to repeal and replace Chapter 2 of Title 4, “Emergency Plans” of the Emeryville Municipal Code. The purpose of the change was to bring the City’s municipal code into alignment with the 2010 California Office of Emergency Services model ordinance. In addition, the proposed ordinance would allow the City to establish a Disaster Service Workers Volunteer Program (DSWVP). The DSWVP is a State

program created to provide workers' compensation benefits through the State for registered Disaster Service Worker volunteers who are injured while participating in authorized disaster-related activities, including pre-approved training. The program also provides limited immunity from liability. To participate in the DSWVP program, the City is required to become an accredited Disaster Council by demonstrating compliance with California Office of Emergency Services Rules and Regulations. The ordinance, combined with the City's Emergency Operations Plan (EOP), demonstrates the City ability to comply with the rules and regulations set forth by California's Office of Emergency Services.

The City Council declined to adopt the first reading of the ordinance on March 21, 2017. The Council expressed concern over staff's availability to respond to an emergency and Council's role in the Disaster Council and the Emergency Operations Center (EOC). Council requested staff to conduct further research and return to Council.

DISCUSSION

The purpose of the proposed ordinance is to lay the policy foundational framework on which to build emergency preparedness. The proposed ordinance is mostly the same as the ordinance presented on March 21, 2017, with the exception as to who constitutes the Disaster Council. To address Council's concern about involvement in the Disaster Council, staff proposes that the City Council serve as the Disaster Council. The Disaster Council's role is to set policy for emergency preparedness and to approve the plans that staff relies upon to implement emergency preparedness. Such a policy-setting role is consistent with the Council's role in other contexts. A redlined version of the ordinance is attached as Attachment 3 to show the modifications made. The proposed ordinance accomplishes the following:

- Changes the name of the Civil Defense and Disaster Council to Disaster Council to ensure standardization terminology with the state Emergency Services Act;
- Establishes the City Council to act as the Emeryville Disaster Council;
- Designates the City Manager as the Director of Emergency Services and authorizes the City Manager to appoint the Assistant Director of Emergency Services;
- Identifies the powers and duties of the Director of Emergency Services;
- Allows for the City, in the event of a proclaimed "state of emergency" or the existence of a "state of war emergency" to command the aid of as many citizens of the community as deemed necessary;
- Designates all appointed city officials, employees of the City and MESA, together with volunteers enrolled to aid the City during an emergency to constitute the Emergency Organization of the City.

The Disaster Council and the proposed ordinance is one component of emergency preparedness. The City also has the EOP, which was last updated in 2014. The objective of the EOP includes incorporation of city personnel into efficient support roles

capable of coordinating response efforts of an all-hazards emergency.¹ The EOP specifically addresses the operation and staffing of the EOC. The EOC is the location from which centralized management of an emergency response is performed.²

To address Council's concerns about best practices in emergency preparedness and assigned roles, staff has requested that Alameda County Fire Department present at the Council meeting to discuss the roles and responsibilities of Council, staff, volunteer organizations and members of the public during an emergency.

FISCAL IMPACT

There is no fiscal impact to the City.

ENVIRONMENTAL REVIEW

The proposed ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of the ordinance may have a significant effect on the environment.

STAFF COMMUNICATIONS WITH THE PUBLIC

Staff has not had any communications with the public on this item.

CONCLUSION

Staff recommends that the City Council take the following actions:

1. The ordinance be introduced by title only;
2. Public comment be taken on the ordinance; and
3. The City Council adopts the first reading of the ordinance.

PREPARED BY: Lori Elefant, Management Analyst
Andrea Visveshwara, Assistant City Attorney

APPROVED AND FORWARDED TO THE CITY COUNCIL OF THE CITY OF EMERYVILLE:

Michael Guina, City Attorney

¹ Emeryville Operations Plan (2014), p. vii.

² *Id.* p. 5-2.

A handwritten signature in blue ink, reading "Carolyn Zehr", positioned below a horizontal line.

ATTACHMENTS

1. Proposed Ordinance
2. Redlined Ordinance