

## **ORDINANCE NO. 17-**

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

**WHEREAS**, 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; and

**WHEREAS**, pursuant to the authority granted by Government Code section 8610, the City Council desires to provide for the organization, powers and duties, divisions, services, and staff of the emergency organization; and

**WHEREAS**, 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; and

**WHEREAS**, the current Chapter 2 of Title 4 of the Emeryville Municipal Code was 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; and does not align with recommendations from the 2010 State of California Governor’s Office of Emergency Services Emergency Model Ordinance; and

**WHEREAS**, the City Council wishes to update Chapter 2 of Title 4 of the Emeryville Municipal Code to reflect the current form of Council-Manager government, the Standardized Emergency Management System (SEMS), the National Incident Management Systems (NIMS), the 2015 edition of the California Emergency Services Act, and the recommendations from the 2010 State of California Governor’s Office of Emergency Services Emergency Model Ordinance; and

**WHEREAS**, the City Council also desires to authorize City officials, City employees, and registered volunteers to command the aid of citizens when necessary in the execution of their duties in a state of emergency;

**WHEREAS**, given the limited number of City officials and City employees, the City Council finds that it is appropriate to consolidate some divisions and services of the emergency organization; now therefore

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

## **SECTION ONE. FINDINGS**

The foregoing recitals are true and correct and incorporated herein by reference as findings.

## **SECTION TWO. REPEALING AND REPLACING CHAPTER 2 OF TITLE 4 TO THE EMERYVILLE MUNICIPAL CODE IN ITS ENTIRETY**

Chapter 2 of Title 4 of the Emeryville Municipal Code is hereby repealed in its entirety and replaced with the following:

### **CHAPTER 2**

#### **EMERGENCY PLANS**

##### **Sections:**

- 4-2.01 Purpose**
- 4-2.02 Definitions**
- 4-2.03 Emergency Organization - Membership**
- 4-2.04 Emergency Plan**
- 4-2.05 Disaster Council Creation and Membership**
- 4-2.06 Disaster Council Powers and Duties**
- 4-2.07 Disaster Council Offices and Officers Created**
- 4-2.08 Disaster Council Officers – Powers and Duties**
- 4-2.09 Compliance with the California Emergency Services Act**
- 4-2.10 Expenditures**
- 4-2.11 Punishment and Violations**
- 4-2.12 Repeal of Conflicting Ordinances**

#### **4-2.01 PURPOSE**

The purpose of this Chapter is to provide for: the preparation and execution of plans for the protection of persons and property within the City in the event of an emergency or disaster; the direction of the emergency organization; and the coordination of the emergency functions of the City with other public agencies and affected private persons, corporations and organizations.

#### **4-2.02 EMERGENCY DEFINED**

As used in this Chapter, “Emergency” means the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this City caused by such conditions including but not limited to air pollution, toxic release, fire, flood, storm, epidemic, riot, earthquake, or other conditions, including conditions

resulting from war or imminent threat of war or other acts of civil unrest, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City, requiring the combined forces of other political subdivisions to combat or resolve.

#### **Section 4-2.03 – EMERGENCY ORGANIZATION - MEMBERSHIP**

All appointed City officials and employees of the City and Management of Emeryville Services Authority, together with those volunteer forces enrolled to aid them during an Emergency; and all groups, organizations, and persons who may by agreement or operation of law, including persons impressed into service under the provisions of Section 4-2.06(a)(6) of this Chapter, be charged with duties incident to the protection of life and property during such emergency, shall constitute the Emergency Organization of the City of Emeryville.

#### **Section 4-2.04 – EMERGENCY PLAN**

The City of Emeryville Disaster Council shall be responsible for the approval of the Emergency Plan, which plan shall provide for the effective mobilization of all of the resources of this jurisdiction, both public and private, to meet any condition constituting a local emergency, state of emergency, or state of war emergency; and shall provide for the organization, powers and duties, services, and staff of the emergency organization. Such plan shall take effect upon adoption by resolution of the City Council.

#### **4-2.05 DISASTER COUNCIL CREATION AND MEMBERSHIP**

The City of Emeryville Disaster Council is hereby created and the City Council for the City of Emeryville shall serve as the Disaster Council. The Mayor shall be chair of the Disaster Council, and the Vice Mayor shall be vice chair of the Disaster Council.

#### **4-2.06 – DISASTER COUNCIL POWERS AND DUTIES**

It shall be the duty of the Disaster Council and it is hereby empowered, to meet as appropriate, to review and approve, emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements.

#### **4-2.07 OFFICES AND OFFICERS CREATED**

(a) There is hereby created the Office of Director of Emergency Services. The City Manager shall be the Director of Emergency Services.

- (b) There is hereby created the Offices of Assistant Director of Emergency Services and the Emergency Services Coordinator. The Director of Emergency Services shall appoint the Assistant Director of Emergency Services and Emergency Services Coordinator.

#### **4-2.08 OFFICERS – POWERS AND DUTIES**

- (a) The Director of Emergency Services is hereby empowered to:

- (1) Request the City Council to proclaim the existence or threatened existence of an Emergency or to proclaim an Emergency in the absence of the City Council. Whenever an Emergency is proclaimed by the Director of Emergency Services, the City Council shall take action to ratify the proclamation within seven (7) days thereafter or the proclamation shall have no further force or effect.
- (2) Request the Governor to proclaim a “state of emergency” when, in the opinion of the Director of Emergency Services, the circumstances are beyond the City of Emeryville’s capacity to adequately respond to or recover from the Emergency.
- (3) Direct cooperation between and coordination of services and staff of the Disaster Council; and resolve questions of authority and responsibility that may arise between them.
- (4) Represent the City in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.
- (5) In the event of the proclamation of an Emergency, the proclamation of a state of emergency by the Governor, or the existence of a state of war emergency, the Director of Emergency Services is hereby empowered:
  - A. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council;
  - B. To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the jurisdiction for the fair value thereof and, if required immediately, to commandeer the same for public use;
  - C. To require services of any officer or employee and, in the event of the proclamation of a “state of emergency” in Alameda County or the state or

the existence of a “state of war emergency,” to command the aid of as many citizens of this community as deemed necessary in the execution of duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered disaster services workers;

- D. To requisition necessary personnel or material of the departments or agencies; and
  - E. To execute all ordinary power as City Manager, all of the special powers conferred by this ordinance or by resolution or emergency plan pursuant hereto adopted by the City Council, all powers conferred by any statute, by any agreement approved by the City Council, and by any other lawful authority.
- (b) The Director of Emergency Services shall designate the order of succession to that office, to take effect in the event the Director of Emergency Services is unavailable to attend meetings and otherwise perform duties during an Emergency.
- (c) The Assistant Director of Emergency Services and Emergency Services Coordinator shall, under the supervision of the Director of Emergency Services and with the assistance of other personnel:
- (1) Develop emergency plans and maintain the emergency programs in a constant state of readiness for this jurisdiction;
  - (2) Ensure that the City of Emeryville Emergency Operations Plan is exercised in a regular and timely manner; be responsible for the condition and state of readiness of the Emergency Operations Center;
  - (3) Perform such other related duties as directed; and
  - (4) Shall have such other powers and duties as may be assigned by the Director of Emergency Services.

#### **Section 4-2.09 – COMPLIANCE WITH THE CALIFORNIA EMERGENCY SERVICES ACT**

The City of Emeryville Disaster Council shall comply with the California Emergency Services Act (California Government Code section 8551, et seq.).

#### **Section 4-2.10 – EXPENDITURES**

Any expenditure made in connection with Emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City of Emeryville.

#### **Section 4-2.11 – PUNISHMENT OF VIOLATIONS**

It shall be a misdemeanor, punishable by a fine of not to exceed one thousand dollars (\$1,000), or by imprisonment for not to exceed six (6) months, or both, for any person, during an emergency, to:

- (a) Willfully obstruct, hinder, or delay any member of the Emergency Organization in the enforcement of any lawful rule or regulation issued pursuant to this ordinance, or in the performance of any duty imposed upon such member by virtue of this ordinance.
- (b) Do any act forbidden by any lawful rule or regulation issued pursuant to this ordinance, if such act is of such a nature as to give or be likely to give assistance to the enemy or imperil the lives or property of inhabitants of the City, or to prevent, hinder, or delay the defense or protection thereof.
- (c) Wear, carry, or display, without authority, any means of identification specified by the emergency agency of the City or State.

#### **Section 4-2.12 – REPEAL OF CONFLICTING ORDINANCES**

This Chapter shall be considered a revision and continuation of the Chapter repealed by the enacting ordinance, and the status of volunteers shall not be affected by such repeal; nor shall plans and agreements, rules and regulations, or resolutions adopted pursuant to such repealed Chapter be affected by such repeal until amended, modified, or superseded as provided in this ordinance.

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

The City Council finds that adoption of this 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 this Ordinance may have a significant effect on the environment.

#### **SECTION FOUR. SEVERABILITY**

Every section, paragraph, clause, and phrase of this Ordinance is hereby declared to be 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 on Tuesday, June 20, 2017, and **PASSED AND ADOPTED** by the City Council at a regular meeting on July 11, 2017.

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

\_\_\_\_\_  
MAYOR

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY CLERK

  
\_\_\_\_\_  
CITY ATTORNEY