

RESOLUTION NO. 19-131

Resolution Of The City Council Of The City Of Emeryville Adopting The 2019-2024 Local Hazard Mitigation Plan And Amending The Text On Page 6-13 Of The Safety Element Of The General Plan And The Text Of Action CSN-A-10, Implementation Actions For Conservation, Safety And Noise And Adding The Local Hazard Mitigation Plan As An Appendix To The Safety Element Of The General Plan (CEQA Determination: Exempt Per State CEQA Guidelines Sections 15308 And 15061(B)(3))

WHEREAS, the federal Disaster Mitigation Act of 2000 requires that all communities establish a Local Hazard Mitigation Plan (LHMP) as a condition of receiving federal hazard mitigation funding through the Hazard Mitigation Grant Program (HMGP), Pre-Disaster Mitigation Grant Program (PDM), and the Flood Management Assistance Grant Program (FMA); and

WHEREAS, the LHMP must be updated every five years; and

WHEREAS, the City Council adopted the initial LHMP in 2009, pursuant to Resolution No. 09-178, and requires an update; and

WHEREAS, The California Disaster Assistance Act limits the state's share for any eligible mitigation project to no more than 75% of total state eligible costs; however pursuant to AB 2140, the state's share can increase up to 100% of total state eligible costs if the local agency has adopted a Local Hazard Mitigation Plan in accordance with the federal Disaster Mitigation Act of 2000 as part of the Safety Element of its General Plan; and

WHEREAS, an update to the LHMP, the 2019-2024 Local Hazard Mitigation Plan Update has been completed for the City Council's review and adoption; and

WHEREAS, on April 17, 2019, the 2019-2024 Local Hazard Mitigation Plan Update was approved by the Federal Emergency Management Agency (FEMA) Region IX pending final adoption by the City Council; and

WHEREAS, the City Council of the City of Emeryville now wishes to adopt the 2019-2024 Local Hazard Mitigation Plan Update AND amend the Safety Element of the General Plan to incorporate the updated LHMP; and

WHEREAS, the Emeryville General Plan was adopted by the City Council by Resolution No. 09-208, on October 13, 2009; and

WHEREAS, the Safety Element of the General Plan contains several goals, policies, and implementation measures to reduce hazards that could result from natural and man-made disasters such as flooding, tsunamis, dam failure, fire, and hazardous materials, as well as the effects of climate change such as sea level rise; and

WHEREAS, the 2019-2024 Local Hazard Mitigation Plan Update is consistent with and would implement these goals and policies by providing a risk assessment of critical

facilities as well as specific mitigation goals and objectives to be utilized over the next five years to reduce the risks associated with the identified hazards in Emeryville; and

WHEREAS, No more than four General Plan amendments to each element may be adopted within one calendar year. The City Council has not adopted any amendments to the Safety Element of the General Plan in 2019 to date; and

No more than four General Plan amendments to each element may be adopted within one calendar year. The City Council has not adopted any amendments to the Safety Element of the General Plan in 2019 to date; and

WHEREAS, the Planning Commission held a duly and properly noticed public hearing on July 25, 2019 to consider the proposed amendment to the General Plan and then voted unanimously to recommend that the City Council approve the proposed amendment to the General Plan; and

WHEREAS, the City Council held a duly and properly noticed public hearing on September 3, 2019, to consider the proposed amendment to the General Plan; and

WHEREAS, the City Council has reviewed and considered the staff report and attachments thereto, all public comments, the proposed General Plan Amendment, and the applicable provisions of the Emeryville Municipal Code (“the Record”); now, therefore, be it

RESOLVED, that the City Council hereby finds that the proposed General Plan Amendment is exempt from environmental review under State CEQA Guidelines Section 15308, which applies to actions taken by regulatory agencies to assure the maintenance, restoration, enhancement, or protection of the environment, and the “general rule” at Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment; and be it further

RESOLVED, that in approving the proposed General Plan Amendment, the City Council makes the following findings as required by Emeryville Municipal Code Section 9-7.1205 based on its review and consideration of the Record:

- (a) The proposed amendment will contribute to the public health, safety, and general welfare or will be of benefit to the public.

The proposed General Plan Amendment contributes to the public interest, health, safety, and general welfare or will be of benefit to the public by assessing the risks from hazards, identifying mitigation measures which are scheduled for the next five years. The 2019 – 2024 LHMP reduces the potential loss of life, property damage, and environmental degradation from natural disaster, while accelerating economic recovery from those disasters.

- (b) The proposed amendment is consistent with the General Plan Guiding Principles, unless the Guiding Principles themselves are proposed to be amended.

The proposed General Plan Amendment adopting the Local Hazard Mitigation Plan as an appendix of the Safety Element is consistent with Guiding Principal 6, “A vibrant urban community,” which states that “Emeryville will maintain its small town ambiance through civic engagement, accessible government, and amenities and services for appropriate future residential and worker populations,” and with Guiding Principal 9, “Sustainability and innovation, with respect for the past,” which states that “the Emeryville community strives to live within means that do not compromise the ability for future generations in Emeryville to enjoy a livable, healthy, and vibrant City.”

- (c) The proposed amendment retains the internal consistency of the General Plan and is consistent with other adopted plans, unless concurrent amendment to those plans is also proposed and will result in consistency.

The Safety Element of the General Plan also contains a number of goals, policies, and implementation measures to reduce hazards that could result from natural disasters as well as other effects of climate change such as sea level rise and flooding. The LHMP is consistent and would implement these goals and policies as it provides a risk assessment of critical facilities as well as specific mitigation goals and objectives that will be utilized over the next five years to reduce risks associated with, the identified hazards in Emeryville, including those resulting from Earthquakes, hazardous materials, climate change, fires, floods, civil unrest, infrastructure/utility failure, terrorism, and biological threats.

General Plan goals, policies, and implementation actions with which the LHMP is consistent include the following:

GOALS:

CSN-G-8 Protection from Natural and Man-Made Hazards – Protection of life, natural environment, and property from natural and manmade hazards due to seismic activity, hazardous material exposure or flood damage.

POLICIES:

CSN-P-34 The City will continue to regulate development, including remodeling or structural rehabilitation, to ensure adequate mitigation of safety hazards on sites having a history or threat of seismic dangers, erosion, subsidence, or flooding.

CSN-P-37 The City will enforce regulation of potentially hazardous structures to be retrofitted and made safe and encourage property owners to abate or remove structural hazards that create unacceptable levels of risk

CSN-P-46 The City will cooperate with State and federal agencies to address flooding risks due to dam inundation, tsunamis, sea level rise, or major flood events.

IMPLEMENTATION ACTIONS:

CSN-A-8 Cooperate with appropriate government agencies and public and private organizations to address seismic hazards and flooding risks due to dam inundation, tsunamis, sea level rise, or major flood events.

CSN-A-9 Implement and update emergency management operations plans, including evacuation routes, cache of supplies, training of City staff, as necessary, as the city continues to develop.

- (d) The proposed amendment has been reviewed in compliance with the requirements of the California Environmental Quality Act.

The proposed amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Sections 15308, which applies to actions taken by regulatory agencies to assure the maintenance, restoration, enhancement, or protection of the environment, and the “general rule” at Section 15061(b)(c) because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment.

- (e) The proposed amendment complies with State law for the preparation, adoption, and amendment of general plans at California Government Code Section 65350 et seq.

The proposed General Plan Amendment complies with applicable State law in that the procedures required by Government Code Section 65350 et seq. are satisfied. The standard public noticing for a General Plan Amendment was accomplished through a legal advertisement that was published in the Oakland Tribune.

and be it further

RESOLVED, that the City Council hereby approves a General Plan Amendment amending the Safety Element of the General Plan by adding the 2019-2024 Local Hazard Mitigation Plan, attached hereto as Exhibit A, as an appendix, and by amending the text

of the General Plan as follows (deletions are indicated by ~~strikethrough-type~~ and additions are indicated by double-underlining):

The text on page 6-13 of the Safety Element located in Chapter 6 (Conservation, Safety and Noise) of the General Plan is modified to read:

~~"In 2009, the City is expected to complete a Local Hazard Mitigation Plan to mitigate natural hazards and enhance resistance. The Local Hazard Mitigation Plan (LHMP) identifies mitigation actions that the City is taking or considering taking, subject to funding availability and/or other agencies approvals, to reduce the risk of a disaster, whether natural or man-made, on Emeryville residents, businesses and essential government services. On September 1, 2009, the City Council adopted the City's initial LHMP. The 2019-2024 LHMP Update, adopted by the City Council on September 3, 2019 will serve as an "Implementation Appendix" to the Conservation, Safety and Noise Element and is included in the Emeryville General Plan as an appendix. Although earthquakes are the primary threat addressed by the LHMP, the plan also addresses hazardous materials releases, climate change, fire, floods, civil unrest, utility/infrastructure failure, terrorism, and biological threats."~~

Action CSN-A-10 in Table 8-5, Implementation Actions for Conservation, Safety and Noise, is modified to read:

~~"Periodically update the Local Hazard Mitigation Plan (LHMP). Continue participation in regional disaster planning initiatives and maintain and update the City's Local Hazard Mitigation Plan every five years to maintain a current and accurate plan consistent with FEMA Guidelines. The updated LHMP shall be reviewed by the Planning Commission and adopted by City Council but shall not require a subsequent amendment to the General Plan when required updates occur."~~


ADOPTED by the City Council of the City of Emeryville/Disaster Council at a regular meeting held on Tuesday, September 3, 2019, by the following vote:

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



MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

ATTACHMENT

- Exhibit A: 2019-2024 Local Hazard Mitigation Plan