

## **ORDINANCE NO. 17-\_\_**

### **An Ordinance Of The City Council Of The City Of Emeryville Adding Chapter 24 To Title 8 Of The Emeryville Municipal Code Relating To Lead-Safe Renovation, Repair and Painting**

**WHEREAS**, renovation, repair and painting activities can create hazardous lead dust when surfaces with lead paint, even from many decades ago, are disturbed; and

**WHEREAS**, most homes built before 1978 have lead-based paint, which, when disturbed during painting or renovation projects, can pose a serious lead hazard, especially for young children; and

**WHEREAS**, numerous residential structures in Emeryville were built prior to 1978; and

**WHEREAS**, the U.S. Environmental Protection Agency (EPA) has published a final regulation, the Lead-Based Paint Renovation, Repair and Painting (RRP) Rule, aimed at protecting the public from lead-based paint hazards associated with renovation, repair and painting activities, and has codified the RRP Rule in Subpart E of Part 745 of Title 40 of the U.S. Code of Federal Regulations (40 CFR Part 745 Subpart E); and

**WHEREAS**, EPA has requested local permitting officials to require proof of compliance with the requirements of 40 CFR Part 745 Subpart E as a condition of issuing a permit for renovations of homes built before 1978; and

**WHEREAS**, the Alameda County Healthy Homes Department, which offers services and information related to lead safety, and is an EPA accredited training provider, has requested that the City adopt an ordinance reiterating the requirements of 40 CFR Part 745 Subpart E; and

**WHEREAS**, this ordinance is in the best interest of the public health, safety and welfare of the people of Emeryville;

**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 add Chapter 24 to Title 8 of the Emeryville Municipal Code, to implement the requirements of the Lead-Based Paint Renovation, Repair and Painting Rule in Subpart E of Part 745 of Title 40 of the U.S. Code of Federal Regulations (40 CFR Part 745 Subpart E).

**SECTION TWO: ADDING CHAPTER 24 TO TITLE 8 OF THE EMERYVILLE MUNICIPAL CODE.**

Chapter 24, Lead-Safe Renovation, Repair and Painting, is hereby added to Title 8 of the Emeryville Municipal Code to read as follows:

**Chapter 24. Lead-Safe Renovation, Repair and Painting.**

**8-24.01 Certification Required.**

No permit shall be issued for any renovation of a building, facility or other structure requiring such permit if such renovation is regulated under 40 CFR §745.82, unless the applicant for the renovation complies with all of the following:

- (a) Submits and complies with a sworn written statement, on a form prescribed by the Chief Building Official, stating that:
  - 1. Individuals performing the renovation are properly trained in accordance with 40 CFR Part 745, Subpart E;
  - 2. Renovators and firms performing the renovation are certified in accordance with 40 CFR Part 745, Subpart E; and
  - 3. The work practices in 40 CFR §745.85 will be followed during the renovation; and
- (b) Submits a copy of the certifications issued to individuals, renovators and firms performing renovations pursuant to 40 CFR Part 745, Subpart E.

**8-24.02 Exemptions.**

Renovations not requiring a permit are exempt from the provisions of this Chapter, provided, however, that such exemption does not preclude application of the requirements of 40 CFR Part 745 Subpart E.

**SECTION THREE. 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 there is no possibility that this ordinance will have a significant effect on the environment. This action is further exempt from the definition of a "Project" subject to the requirements of CEQA as set forth in Section 15378(b)(3) in that this ordinance concerns general policy and procedure making.

#### **SECTION FOUR. 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.

#### **SECTION FIVE. EFFECTIVE DATE**

This ordinance shall take effect on May 1, 2018. Any application for renovation of a structure covered by this ordinance that was received by the City prior to the effective date of the ordinance is exempt from the requirements of this ordinance, even if the actual renovation itself takes place after the effective date of the ordinance. The City Clerk is directed to cause copies of this ordinance to be posted or published as required by Government Code Section 36933.

#### **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 held on Tuesday, April 18, 2017, and **PASSED AND ADOPTED** by the City Council of the City of Emeryville at a regular meeting held Tuesday, May 2, 2017, by the following vote:

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

ATTEST:

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

\_\_\_\_\_  
MAYOR

APPROVED AS TO FORM:



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