

ORDINANCE NUMBER ____ (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SANTA MONICA ESTABLISHING SANTA MONICA MUNICIPAL CODE ARTICLE 12
TO CREATE A SUSTAINABILITY CODE; MOVING SANTA MONICA MUNICIPAL
CODE CHAPTER 4.75 TO ARTICLE 12; AND REPEALING SANTA MONICA
MUNICIPAL CODE CHAPTERS 5.16, 5.28, 5.36 AND 7.08

WHEREAS, the City of Santa Monica adopted a Sustainable City Plan in September of 1994 to guide present and future environmental policies and practices; and

WHEREAS, the City updated its Sustainable City Plan (SCP) on February 11, 2003, October 24, 2006, and January 14, 2014; and

WHEREAS, the City is committed to fully implementing its Sustainable City Plan to further effectuate inherent rights of the people and natural communities of the City of Santa Monica; and

WHEREAS, as declared in the City's Sustainable City Plan, a healthy environment is integral to the City's long-term economic and societal interests and, accordingly, the City's decision-making is guided by the mandate to maximize environmental benefits and reduce or eliminate negative environmental impacts; and

WHEREAS, as further declared in the Sustainable City Plan, local environmental issues cannot be separated from their broader context, the City's programs and policies should be developed as models that can be emulated by other communities; and

WHEREAS, in furtherance of these commitments and goals, the City must regularly evaluate whether its plans, laws, and programs are sufficient to meet the growing environmental crisis and must explore all means of addressing the growing environmental crisis; and

WHEREAS, the City of Santa Monica has further expressed its commitment to sustainability by recognizing that Santa Monicans: have the right to clean, affordable and accessible water from sustainable water sources for human consumption, cooking, and sanitary purposes; the right to a sustainable energy future based on sustainable renewable energy sources; the right to a sustainable natural climate unaltered by fossil fuel emissions; the right to sustainable, comprehensive waste disposal systems that do not degrade the environment; the right to clean indoor and outdoor air, clean water and clean soil that pose a negligible health risk to the public; and the right to a sustainable food system that provides healthy, locally grown food to the community; and

WHEREAS, on January 24, 2012, the Council adopted Resolution No. 10654 declaring the City's commitment to sustainable rights and formally recognizing the sustainability rights of Santa Monica residents; and

WHEREAS, on April 9, 2013, the Council adopted Ordinance Number 2421 to codify the commitments made in the Sustainable City Plan to restoring, protecting, and

preserving our natural environment and all of its components and communities; to creating and promoting sustainable systems of food production and distribution, transportation, waste disposal, and water supply; and, to the full extent legally possible, subordinating the short term, private financial interests of corporations and others to the common, long-term interest of achieving environmental and economic sustainability; and

WHEREAS, it has become apparent that consolidating into one article of the Municipal Code the provisions of local law that serve principally to protect the environment will aid in achieving the City's sustainability goals; and

WHEREAS, the passage of time and advances in state and federal legislation have rendered other environmental-related chapters of the Santa Monica Municipal Code outdated and unnecessary and, therefore, should be repealed; and

WHEREAS, overall, the Council intends that its laws and policies shall serve to guide this community and other communities towards a sustainable future.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 4.75 of the Santa Monica Municipal Code is hereby repealed as Chapter 4.75 and reinstated as Article 12 as set forth in Section 10 of this Ordinance below.

SECTION 2. Chapter 5.16 of the Santa Monica Municipal Code is hereby repealed.

SECTION 3. Chapter 5.28 of the Santa Monica Municipal Code is hereby repealed.

SECTION 4. Chapter 5.36 of the Santa Monica Municipal Code is hereby repealed.

SECTION 5. Chapter 7.08 of the Santa Monica Municipal Code is hereby repealed.

SECTION 6. Chapter 5.20.020 of the Santa Monica Municipal Code is hereby amended to read as follows:

5.20.020 Definitions.

For the purpose of this Chapter, the following words and phrases shall have the following meanings:

Act. The Federal Water Pollution Control Act of 1972, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Approval Authority. The California State Water Resources Control Board.

Authorized Representative of the Industrial User.

(1) If the industrial user is a corporation, authorized representative shall mean:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production or operation facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility, including having authority to make major capital

investment recommendations, initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations, and assure that necessary systems are established to comply with industrial wastewater discharge permit requirements.

(2) If the industrial user is a partnership, association or sole proprietorship, an authorized representative shall mean a general partner or the proprietor.

(3) If the individual user is representing Federal, State or local governments, or an agent thereof, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.

(4) The individuals described in subsections 1 through 3 of this definition may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the authorization is submitted to the City.

Average Daily Flow. The number of gallons of wastewater discharged into the P.O.T.W., storm drain system or waters of the State during a twenty-four-hour period.

Best Management Practices (BMPs). Practices or physical devices or systems activities, prohibitions of practices, maintenance procedures, pollution prevention techniques, and other management practices designed to prevent or reduce pollutants in discharges. BMPs include, but are not limited to, treatment requirements,

operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter in five days at twenty degrees Centigrade expressed in terms of milligrams per liter (mg/l) and analyzed in accordance with 40 CFR 136, as amended.

Biohazardous Waste. Laboratory waste of human or animal specimen cultures from medical and pathology laboratories; or cultures and stocks of infectious agents from medical, research or industrial laboratories; or wastes from the production of bacteria, viruses, spores, and discarded vaccines; or human surgery specimens or tissues which may contain infectious agents; or animal parts, tissues, fluids, or carcasses which may contain infectious agents, waste blood products, waste containing materials contaminated liquid waste from humans or animals that may be infectious, and human surgery specimens or tissues with fixatives or contaminated with chemotherapeutic agents including, but not limited to, gloves, disposable gowns, towels, intravenous solution bags and attached tubing when empty.

Blood. Human or animal blood, human or animal blood components and/or products made from human or animal blood.

Blood-Borne Pathogens. Pathogenic micro-organisms that are present in human or animal blood and can cause disease in humans.

Building Sewer. A sewer conveying wastewater from the premises of a user to the P.O.T.W. system.

Bypass. The intentional diversion of wastestreams from any portion of a discharger's process or treatment facility.

Categorical Pretreatment Standards or Categorical Standards. National Categorical Pretreatment Standards, Pretreatment Standards or any other regulation containing pollutant discharge limits promulgated by the United States Environmental Protection Agency.

City. The City of Santa Monica or its duly authorized representatives.

Clean Water Act (aka the Act or CWA). The Federal Water Pollution Control Act, enacted in 1972, by Public Law 92-500, and as amended by the Water Quality Act of 1987.

Color. The optical density at the visual wavelength of maximum absorption, relative to distilled water. One hundred percent transmittance is equivalent to zero optical density.

Commercial Establishment. A private establishment such as a restaurant, hotel, laundry, store, filling station, recreational facility, or a nonprofit private or government entity such as a church, school, hospital, military facility, correctional institution or a facility owned and operated by a charitable organization.

Composite Sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on either an increment of flow or time.

Construction. The acquisition of any and all rights-of-way or real property necessary for the performance and completion of the work referred to wherever authority is given to the City for any construction under the provisions of this Chapter.

Cooling Water. The water discharged from any use including, but not limited to, air-conditioning, cooling or refrigeration, during which the only pollutant added is heat.

Direct Discharge. The discharge of wastewater to the storm drain system or the waters of the State.

Director. The Director of the Public Works Department of the City of Santa Monica or the duly authorized representative thereof.

Discharge. Unless otherwise specific in a permit, the introduction of any pollutant into the P.O.T.W., the storm drain system or the waters of the State.

Domestic Wastewater (Domestic Sewage). Water bearing wastes derived from ordinary living processes, free from industrial waste, and of such character as to permit satisfactory disposal to, and treatment in, the P.O.T.W.

Environmental Protection Agency (EPA). The United States Environmental Protection Agency, its Administrator, or its duly authorized representative.

Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication by the EPA of proposed categorical pretreatment standards in accordance with Section 307 of the Act.

Food Service Establishment. A facility engaged in preparing food for consumption by the public such as, but not limited to, a restaurant, bakery, commercial kitchen, caterer, hotel, school, hospital, correctional facility or care institution.

Grab Sample. A sample which is taken from a wastewater discharge on a one-time basis without regard to the volume of flow in the discharge.

Gravity Grease Interceptor (GGI). Unless otherwise approved by the Director, an approved device with a minimum volume of three hundred gallons that is specifically designed to separate, trap, and hold non-petroleum fats, oil and grease (FOG) from an industrial wastewater discharge, and which, unless otherwise approved by the City, shall be remotely located from where food is handled, and is identified by the following: volume, a minimum retention time of thirty minutes, baffle(s), a minimum of two compartments, and gravity separation.

Graywater. A wastewater discharge that has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes and does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. Graywater includes, but is not limited to, wastewater from domestic bathtubs, showers, bathroom washbasins, clothes washing machines and laundry tubs, but does not include wastewater from toilets, kitchen sinks or dishwashers.

Grease Interceptor. See Gravity Grease Interceptor.

Grease Trap. See Hydromechanical Grease Interceptor.

Gross Floor Area. The area included within the exterior of the surrounding walls of a building or portions thereof, exclusive of courtyards.

Holding Tank Waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

House Connection Sewer. Any sewer pipeline, or portion thereof, constructed in a street, alley, walk or other public place, or in a sewer easement granted to the City and connecting, or proposed to connect, any lot or part of a lot with any public sewer.

Hydromechanical Grease Interceptor (HGI). An approved device that is installed in an industrial drainage system to separate, trap, and hold non-petroleum fats, oil and grease (FOG) from a wastewater discharge and is identified by flow rate, retention time and separation efficiency. HGI design incorporates, in combination or separately, air entrainment, hydromechanical separation, interior baffling, internal barriers, and sample box.

Indirect Discharge. The discharge of wastewater into the P.O.T.W.

Industrial User or Discharger or User or Permittee. Any person which is the source of a non-domestic discharge to the P.O.T.W. system, the storm drain or waters of the State and is subject to an Industrial Wastewater Permit.

Industrial Waste(s). Any solid, liquid, gaseous or radioactive substance that is discharged from any producing, manufacturing, processing, institutional, industrial, commercial, agricultural or similar operation from the development, recovery or processing of any material resource which will enter the P.O.T.W.

Industrial Waste Sewer Connection. Any house connection sewer, or portion thereof, used in the disposal of any and all liquid or waterborne waste from industrial or commercial processes except domestic sewage.

Industrial Waste Storm Drain Connection. Any storm drain connection carrying or intended to carry industrial waste from any industrial, manufacturing, processing or servicing establishment. These connections may require NPDES permits.

Industrial Wastewater (Industrial Waste). Any water bearing waste, excluding domestic wastewater.

Industrial Wastewater Permit. A permit issued by the Director, or authorized representative, in accordance with this Chapter.

Interceptor Sewer. A collecting sewer that intercepts and collects the sewage from a number of lateral or local public sewers.

Interference. The inhibition or disruption of the P.O.T.W. process or operations, or any action or omission which may contribute to a violation of any requirement of the City of Los Angeles' National Pollutant Discharge Elimination System (NPDES) permit or the City's Joint Powers Agreement with the City of Los Angeles. The term interference also includes prevention of sewage sludge use or disposal by the P.O.T.W. in accordance with Section 405 of the Act or any violation of criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substance Control Act, the Marine Protection, Research and Sanctuaries Act, or violation of more stringent State criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the P.O.T.W.

Lot. As defined in Chapter 9.20 of Article IX of this Code.

Medical Waste. Medical waste shall have the same meaning as defined by California Health and Safety Code Section 117690. Medical waste is:

- (1) Biohazardous waste; or
- (2) Sharps waste; or
- (3) Trauma scene waste; or
- (4) Waste which contains material that is generated or produced as a

result of any of the following actions:

- (A) Diagnosis, treatment, or immunization of human beings or animals,
- (B) Research pertaining to the activities specified in subparagraph (A),
- (C) The production or testing of biologicals. Biologicals means medicinal preparations made from living organisms and their products, including, but not limited to, serums, vaccines, antigens, and anti-toxins,
- (D) The accumulation of properly contained home-generated sharps waste,
- (E) Removal of blood or infectious materials from a trauma scene.

National Categorical Pretreatment Standard (National Standards, NCPS). Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act.

National Pollutant Discharge Elimination System Permit (NPDES Permit). A permit issued pursuant to Section 402 of the Act.

New Source. Any source of a discharge, the construction or operation of which commenced after the publication by the EPA of proposed categorical pretreatment standards in accordance with Section 307(c), provided that:

- (1) No other source is located at that site; or
- (2) The source completely replaces the process or production equipment of an existing source at that site; or
- (3) The new wastewater generating process of the source is substantially independent of an existing source at that site, and the construction of the source creates a new facility rather than modifying an existing source at that site.

Nondomestic Pollutants. Any substances other than human excrement and household graywater (shower, dishwashing operations, etc.). Nondomestic pollutants include the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).

Pass Through. A discharge which exits to the P.O.T.W. into waters of the State in quantities or concentrations which, alone or in conjunction with discharge(s) from other source(s), is a cause of a violation of any requirement of the P.O.T.W.'s NPDES permit (including an increase in the magnitude or duration of a violation).

Peak Flow. The maximum five-minute rate of wastewater flow to be generated from the premises as estimated by the Director.

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State or local governmental entities.

pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in gram equivalents per liter of solution.

Pharmaceutical Waste. A prescription or over-the-counter human or veterinary drug or process waste from the testing, formulating or manufacturing of human or veterinary pharmaceutical drugs.

Pigment. A substance that imparts black or white or a color to other materials.

Point of Discharge. Any physical location at which a discharger, directly or indirectly, disposes wastewater. The term point of discharge also includes, but is not limited to, disposal to ponds, injection wells, leach fields or surface spreading.

Pollutant. Any liquid, gas, vapor, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical waste, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, pigment, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural or other waste.

Pollution Prevention (P2), Source Reduction. Pollution prevention means “source reduction,” as defined under the Pollution Prevention Act (42 U.S.C. Section 13101 et seq.), and other practices that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources, or protection of natural resources by conservation, thus lessening the hazards to public health and the environment.

Potential Discharge. Any area of waste or contamination which, by virtue of its location or condition, may discharge to the storm drain, whether by act of omission, commission or act of nature.

Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less polluted state prior to or in lieu of discharging such pollutants into the P.O.T.W., storm drain system or the waters of the State. Pretreatment can be obtained by physical, chemical, or biological processes, or process changes by other means, except as prohibited by 40 Code of Federal Regulations (CFR) at Section 403.6(d).

Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a National Categorical Pretreatment Standard promulgated by EPA.

Private Sewage Disposal System (PSDS). Any system such as a septic tank, cesspool, seepage pit, leach field or any other receptacle, or any combination thereof, which receives any wastewater not discharged to a public sewer.

Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain defined types of industrial wastewater. These prohibitions appear in Section 5.20.040 of this Chapter.

Publicly Owned Treatment Works (P.O.T.W.). Treatment works as defined by Section 212 of the Act, which is wholly or partially owned by the City or the City of Los Angeles. This includes any public sewers that convey wastewater to the P.O.T.W., treatment plant, land, appurtenances, pumping stations, treatment works or equipment.

Public Sewer. Any sewer, other than a house connection sewer, which has been constructed in a public street, alley, walk or other public place, or in a sewer easement, and is part of the P.O.T.W.

Receiving Waters. Waters of the State, as defined in this Section.

Residential Users. Persons only contributing domestic sewage wastewater to the municipal wastewater system.

Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

Sharps. Hypodermic needles, hypodermic syringes, blades and broken glass. Sharps also include any device, instruments, or other objects which have acute rigid corners, edges or protuberances.

Significant Change. Alterations to the discharger's operation, process, pretreatment systems, or production, or alterations to the nature, quality, or volume of the discharger's wastewater that affect, or have the potential to affect, pretreatment standards or requirements since the issuance of the subject Industrial Wastewater Permit.

Significant Industrial User. Industrial users subject to categorical pretreatment standards and any other industrial user that: (a) discharges an average of twenty-five thousand gallons per day or more of process wastewater; (b) contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or (c) is designated as significant by the City on the basis that the industrial user has a reasonable potential for causing pass through or interference or for violating any pretreatment standard or requirement.

Slug Discharge (Slug Load, Uncontrolled Discharge). Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the P.O.T.W.'s regulations, local limits or permit conditions.

Special Drainage Connection. Any house connection sewer or storm drain connection from any swimming pool, wading pool, fountain, pond, tank, vat or receptacle which receives or disposes of rainwater or surface water.

Special House Connection Sewer. Any house connection sewer from a lot, or part of a lot, which does not have a public sewer directly in front, rear, or at the side of such lot, or part of such lot, and which has not been directly assessed for a public sewer.

Standard Industrial Classification (SIC). Classification pursuant to the Standard Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, or subsequent revisions.

State. The State of California.

Storm Drain Connection. Any pipeline, or portion thereof, constructed in a street, alley, walk, or other public place, or in an easement granted to the City or County, and connecting or proposed to connect any lot or part of a lot with any storm drain.

Storm Drain System. All of the property involved in the operation of the storm drainage collection and disposal system of the City of Santa Monica, whether operated by the City or other public agency, including conduits, natural or artificial drains, channels and watercourses, together with appurtenances, pumping stations and equipment.

Stormwater. Any discharge, drainage or runoff occurring as a result of natural precipitation including snowmelts.

Suspended Solids (SS). The total nonfilterable residue in water, wastewater, or other liquids, which is removable in accordance with the most recent publication of Standard Methods for the Examination of Water and Wastewater, prepared and published by the American Public Health Association, American Waterworks Association, and the Water Pollution Control Federation.

Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of EPA under the provisions of Section 307 of the Act, or other Federal or State statutes, rules or regulations.

Treatment Plant. That portion of the P.O.T.W. designed to provide treatment of sewage and industrial waste.

Treatment Plant Effluent. Any discharge of pollutants from the municipal wastewater system into waters of the State.

Uncontrolled Discharge. Any pollutant (including BOD) released in a discharge at a flow rate or concentration which will cause a violation of the specific discharge prohibitions of this Chapter.

User. Any person who contributes, or causes or allows the contribution of sewage or industrial wastewater into the municipal wastewater system, storm drain system or waters of the State, including persons who contribute such wastes from mobile sources.

Wastewater. The liquid and waterborne industrial or domestic wastes from facilities including, but not limited to, dwellings, commercial buildings, industrial facilities, agricultural activities, hospitals, medical facilities, and other institutions, together with other wastes which may be present, whether treated or untreated, which enter the P.O.T.W., the storm drain system or the waters of the State.

Waters of the State. All saline waters, streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or

underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of California or any portion thereof.

SECTION 7. Chapter 5.20.210 of the Santa Monica Municipal Code is hereby amended as follows:

5.20.210 Exemptions.

An industrial wastewater permit is not required for the following dischargers or discharges to the P.O.T.W. not subject to NCPS:

Where no portion of water supplied to any premises and industrial waste stored on the premises discharges or has the potential to discharge to the P.O.T.W., storm drain system or waters of the State. This exemption does not apply to PSDS.

SECTION 8. Chapter 5.24.060 of the Santa Monica Municipal Code is hereby amended as follows:

5.24.060 Submission and review of business plan.

(a) Prior to handling of any hazardous material at a business, each handler shall submit its business plan to the Department and certify that it meets the requirement of this Chapter. For purposes of reporting to the City, all handlers that meet the requirements of this Chapter shall be deemed to have met the contingency plan requirements of California Code of Regulations, Title 22, Section 67140-67145. If, after review, the Department determines that the handler's business plan is deficient in any way, the administering agency shall notify the handler of these defects. The handler shall submit a corrected business plan within five (5) days of the notice. If a handler fails after reasonable notice to submit a business plan in compliance with this Chapter, the Department or the Fire Department shall immediately take appropriate action to enforce

this Chapter, including the imposition of civil and criminal penalties specified in this Chapter. A copy of the approved business plan and all revisions shall be maintained at the handler.

(b) The Department shall submit to the State Office of Emergency Services a schedule for the submission of the business plan and a copy of this ordinance.

(c) In addition to the requirements of 5.24.110, whenever a substantial change in the handler's operations occurs which requires a modification of its business plan the handler shall submit a copy of the plan revisions to the Department within five (5) days of the operational change.

(d) The handler shall, in any case, review the business plan submitted pursuant to subdivisions (a), (c), and (g) at least once every two years to determine if a revision is needed and shall certify to the Department that the review was made and that any necessary changes were made to the plan. A copy of these changes shall be submitted to the Department as a part of this certification.

(e) Unless exempted from the business plan requirements under this Chapter, any business which handles a hazardous material shall annually submit a completed inventory form to the Department. Notwithstanding any other provision of law, an inventory form shall be filed on or before September 1, 1987, and annually thereafter. This inventory shall be filed annually, notwithstanding the review requirements of subdivision (d).

SECTION 9. Chapter 7.18.020 of the Santa Monica Municipal Code is hereby amended as follows:

7.18.020 Purpose.

The City Council finds and determines that it is in the best interests of the City to manage groundwater resources within the City to protect the public health, safety, and general welfare of City residents, further the goals and purposes of the Sustainability Rights Ordinance (Santa Monica Municipal Code Chapter 12.02), and implement the Sustainable Groundwater Management Act (California Water Code Section 10720, et seq.).

SECTION 10. Article 12 of the Santa Monica Municipal Code is hereby added to read as follows:

Article 12 SUSTAINABILITY CODE

Chapter 12.01 INTRODUCTORY PROVISIONS

12.01.010 Title.

This Article shall be known as the City of Santa Monica Sustainability Code.

12.01.020 Purpose.

The City of Santa Monica Sustainability Code is created and exists for the purpose of codifying Santa Monica's commitment to achieving sustainability by among other things: (i) restoring, protecting and preserving our natural environment and all of its components and communities including, but not limited to, the air, water, soil, and climate

upon which all living things depend; (ii) creating and promoting sustainable systems of food production and distribution, energy production and distribution, transportation, waste disposal, and water supply; and (iii) to the full extent legally possible, subordinating the short-term, private, financial interests of corporations and others to the common, long-term interest of achieving environmental and economic sustainability.

The City acknowledges that the following chapters and sections of the Santa Monica Municipal Code play a significant role in the City's ongoing sustainability efforts:

Chapter 2.28 (Tropical Woods)

Chapter 3.06 and Section 3.12.835 (Car Share & EV parking)

Chapter 4.08.270 (Leaf Blowers)

Chapter 4.44 (Smoking/Tobacco)

Chapter 5.44 (Non-recyclable Plastic Food Containers)

Chapter 5.45 (Single Use Carry Out Bags)

Chapter 7.10 (Urban Runoff Pollution)

Chapter 7.16 (Water Conservation)

Chapter 7.18 (Sustainable Groundwater Maintenance)

Chapter 7.48 (Litter)

Chapter 7.56 (Storm Water Utility)

Chapter 7.64 (Clean Beaches Parcel Tax)

Section 10.08.340 (Prohibiting Waste Matter on Beach/In Ocean)

Chapter 12.02 SUSTAINABILITY RIGHTS

12.02.010 Title.

This Article shall be known as the City of Santa Monica Sustainability Rights Ordinance.

12.02.020 Findings.

The City Council finds and declares:

(a) With the exponential growth in human population and its increasing per capita resource consumption, the planet cannot sustain our current way of life, which is destructive to the natural elements upon which all species depend: the air, water, climate, soil and other fundamental elements of the world;

(b) Like all other communities, Santa Monica's welfare is inextricably bound to the welfare of the natural environment; and the City has therefore long been committed to protecting, preserving and restoring the natural environment and providing a model of environmental sustainability for other communities to utilize;

(c) The City Council of Santa Monica has expressed this commitment through a multitude of enactments and actions, including recognizing both the rights of natural communities and ecosystems within Santa Monica to exist, thrive and evolve and the rights of the individual human beings that make up the City of Santa Monica to a clean, healthy and sustainable environment. The peoples' rights include, but are not limited to: the right to affordable and accessible water from sustainable water sources for

human consumption, cooking, and sanitary purposes, as referenced in Calif. AB 685 (2012); the right to a sustainable energy future based on sustainable renewable energy sources; the right to a sustainable natural climate unaltered by fossil fuel emissions; the right to sustainable, comprehensive waste disposal systems that do not degrade the environment; the right to clean indoor and outdoor air, clean water and clean soil that pose a negligible health risk to the public; and the right to a sustainable food system that provides healthy, locally grown food to the community;

(d) These rights are not sufficiently safeguarded by the existing body of local, national and international environmental policies and laws, which are grossly inadequate to avert the mounting environmental crisis; and

(e) The inadequacy of the current framework of state, national and international policies and laws necessitates re-examination of the underlying societal and legal assumptions about our relationships with the environment and a renewed focus on effectuating these rights.

12.02.030 Rights of Santa Monica residents and the natural environment.

(a) All residents of Santa Monica possess fundamental and inalienable rights to: clean water from sustainable sources; marine waters safe for active and passive recreation; clean indoor and outdoor air; a sustainable food system that provides healthy, locally grown food; a sustainable climate that supports thriving human life and a flourishing biodiverse environment; comprehensive waste disposal systems that do not degrade the environment; and a sustainable energy future based on renewable energy sources.

(b) Natural communities and ecosystems possess fundamental and inalienable rights to exist and flourish in the City of Santa Monica. To effectuate those rights on behalf of the environment, residents of the City may bring actions to protect these natural communities and ecosystems, defined as: groundwater aquifers, atmospheric systems, marine waters, and native species within the boundaries of the City.

(c) All residents of Santa Monica possess the right to self-governance and to a municipal government which recognizes that all power is inherent in the people, that all free governments are founded on the people's authority and consent, and that corporate entities, and their directors and managers, do not enjoy special privileges or powers under the law that subordinate the community's rights to their private interests.

12.02.040 Biennial report.

At least once during every twenty-four-month period, City staff shall prepare a written report to the community on the state of the local environment, the realization of the rights recognized in this Chapter, and the City's progress in effectuating and enforcing the Sustainable City Plan and the policies and provisions of this Chapter. The report shall include recommendations for advancing and ensuring compliance with the Sustainable City Plan.

12.02.050 Biennial hearing.

The City Council will bi-annually review the Sustainability Rights Biennial Report, conduct a public hearing, assess the City's progress in effectuating and enforcing both the Sustainable City Plan and the policies and provisions of this Chapter, and provide direction to staff to ensure compliance with the Plan's provisions and with the inherent rights of the people and natural communities of the City of Santa Monica described herein.

12.02.060 Compliance assurance.

The City or any City resident may bring an action to enforce any provision of the Santa Monica Municipal Code that advances the goals identified as enforceable in the Sustainable City Plan.

SECTION 11. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 12. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 13. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall take effect 30 days after adoption.

APPROVED AS TO FORM:

LANE DILG
City Attorney



City Council Report

City Council Meeting: June 11, 2019
Agenda Item: 7.A

To: Mayor and City Council
From: Susan Cline, Director, Public Works, Office of Sustainability & the Environment
Subject: Introduction and first reading of an ordinance creating Article 12 of the Santa Monica Municipal Code titled "Sustainability" to integrate new ordinances related to sustainability and protecting the rights of natural environments

Recommended Action

Staff recommends that the City Council:

1. Introduce for first reading the attached ordinance creating Article 12 of the Santa Monica Municipal Code titled "Sustainability" (Attachment A) related to sustainability and protecting the rights of natural environments, moving Santa Monica Municipal Code Chapter 4.75 to Article 12, and repealing Santa Monica Code Chapters 5.16, 5.28, 5.36, and 7.08.
2. Consider the Task Force on the Environment's request that Council direct staff to evaluate the feasibility of developing and implementing a process for staff to determine the consistency of proposed projects, policies, and ordinances that meet a certain threshold with the City's Sustainability Rights ordinance and the staff recommendation against initiating such a study at this time.

Executive Summary

Established in the guiding principles of the Sustainable City Plan, "Santa Monica is committed to protecting, preserving and restoring the natural environment (Attachment B). City decision-making will be guided by a mandate to maximize environmental benefits and reduce or eliminate negative environmental impacts." Over the years, the City has made numerous changes to its laws to help advance its efforts to protect the environment. However, these laws are spread across many places in the Santa Monica Municipal Code. Staff recommends creating a new article titled "Sustainability" and moving Chapter 4.75 addressing Sustainability Rights to this article to increase its prominence and begin the process of creating a more cohesive regulatory system for environmental laws in the Santa Monica Municipal Code. Staff further recommends clarifying and increasing the readability of the Santa Monica Municipal Code by repealing certain outdated provisions.

The City's Task Force on the Environment's recommends going further and requests that Council direct staff to evaluate the feasibility of developing and implementing a process for staff to determine the consistency of proposed projects, policies, and ordinances that meet a certain threshold with the City's Sustainability Rights ordinance. Given the City's pressing challenges in implementing Zero Waste and Water Self-Sufficiency goals as well as the recently enacted food waste packaging ordinance and Climate Action Plan, staff recommends against initiating such a study at this time.

Background

The City's Task Force on the Environment initiated the efforts to establish a Sustainability Bill of Rights for Santa Monica in 2011 by establishing a sub-committee to look at the issue. That subcommittee drafted a proposed framework (Attachment C) for the Sustainability Bill of Rights to: recognize the rights of people, natural communities and ecosystems to exist, regenerate and flourish; authorize individuals to sue to effectuate the rights of the natural world; subordinate corporate rights insofar as those rights threaten sustainability; and commit the City to meeting specified environmental goals by specified dates and taking other specified actions to fulfill the commitments made in the Sustainable City Plan.

The Council adopted Resolution No. 10654 (CCS) declaring the City's commitment to sustainability rights (Attachment D) in January 2012. This resolution was developed by staff based on the work of the Task Force on the Environment and represents a formal recognition by the City of the rights of Santa Monica residents to have access to: clean, affordable and accessible water from sustainable water sources; a sustainable energy future based on renewable energy sources; a sustainable natural climate system unaltered by fossil fuel emissions; a sustainable, comprehensive waste disposal system that does not degrade the environment; clean indoor and outdoor air, clean water and clean soil that pose negligible health risks to the public; and a sustainable food system that provides healthy, locally grown food to the community. The Sustainability Rights Ordinance was then adopted by Council a year later in 2013.

Since the adoption of the Ordinance, Council has taken additional measures to ensure the protection of the natural environment and that all specified ecosystems are able to flourish. For example, on August 28, 2018, the City Council adopted Ordinance No. 2584, now codified in Article 7 Public Works, prohibiting the installation of new groundwater wells or the expansion of existing wells unless and until a Groundwater Sustainability Plan is adopted (Attachment E) in order to protect the City’s aquifers against overdraft, pollution, and contamination. Currently, provisions such as Ordinance No. 2584 related to sustainability and protecting our natural resources are organized under different articles of the Santa Monica Municipal Code. The proposed ordinance is a first step toward bringing these various provisions together as a whole.

Past Council Actions

9/20/1994 (Attachment B)	Adoption of Sustainable City Plan
01/24/12 (Attachment D)	Resolution declaring the City’s Commitment to Sustainability Rights
04/09/13 (Attachment F)	Adoption of Sustainability Rights Ordinance
08/28/18 (Attachment E)	Ordinance prohibiting the installation of new wells or the expansion of existing wells

Discussion

Environmental crises such as climate change, resource depletion, habitat destruction and species extinction, and soil, air and water pollution continue to grow throughout the world. In response, Santa Monica’s local environmental community and national environmental leaders urged Council to adopt an ordinance that would recognize the rights of both humans and the natural environment to exist and flourish. Chapter 4.75, the Sustainability Rights ordinance, adopted in 2013, is based on the belief that Earth is a community whose members are humans, animals, plants, rivers, streams, and eco-systems and where all members of the community must have rights to ensure the sustainability of the whole.

Currently, Chapter 4.75 Sustainability Rights ordinance of the Santa Monica Municipal Code is organized under Article 4 Public Welfare, Morals and Policy. The ordinance is

separate and isolated from other ordinances in the code that are related to protecting the natural environment.

To ensure that the City's sustainability laws are prominently featured within the Municipal Code and guide a cohesive regulatory system, staff recommends creating Santa Monica Municipal Code Article 12, titled "Sustainability," to house and reference City legislation related to sustainability and protecting the rights of the natural environment.

At this time, Article 12 would also cross-reference certain existing chapters of the Santa Monica Municipal Code that relate to environmental protection and sustainability in order to highlight provisions critical to the City's sustainability efforts. At this time, staff recommends cross-referencing the following existing chapters:

- Chapter 2.28 (Tropical Woods)
- Chapter 3.06 and Section 3.12.835 (Car Share & EV parking)
- Chapter 4.08,270 (Leaf blowers)
- Chapter 4.44 (Smoking/tobacco)
- Chapter 5.44 (Non-marine Degradable Food Service Ware)
- Chapter 5.45 (Single Use Carry Out Bags)
- Chapter 7.10 (Urban Runoff Pollution)
- Chapter 7.16 (Water Conservation)
- Chapter 7.18 (Sustainable Groundwater Management)
- Chapter 7.48 (Litter)
- Chapter 7.56 (Storm Water Utility)
- Chapter 7.64 (Clean Beaches Parcel Tax)
- Section 10.08.340 (Prohibiting waste matter on beach/in ocean)

Staff recommends repealing the following chapters of the Santa Monica Municipal Code that are outdated and unnecessary due to advances in state and federal law:

- Chapter 5.16 (Toxic chemical disclosure law)
- Chapter 5.28 (Regulation of ozone-depleting compounds)
- Chapter 5.36 (Toxic and hazardous products labeling)
- Chapter 7.08 (Wastewater control)

Reporting

Chapter 4.75.05 requires staff to “prepare a written report to the community on the state of the local environment, the realization of the rights recognized in this chapter, the City’s progress in effectuating and enforcing the Sustainable City Plan and the policies and provisions of this Chapter.” This written report shall be prepared at least every two years.

To date, no formal reports have been published in effectuating the Sustainability Rights ordinance. Staff has worked with the Task Force on the Environment to develop a set of performance metrics to use for reporting. Staff was instructed to postpone reporting data on the Sustainable City Plan and Sustainability Rights ordinance in order to avoid confusion with the Wellbeing Index and align with the City’s Framework for a Sustainable City of Wellbeing. Now that the Wellbeing Index and the Framework for a Sustainable City of Wellbeing are established, data collection and reporting efforts for the Sustainability Rights ordinance are underway. In accordance with the ordinance, staff will produce a written report with data sets related to sustainability objectives and present to Council every two years starting fall 2019. Staff will provide thorough data analysis on the ecosystem health metrics, as well as any Council actions taken during the reporting period related to sustainability.

In addition, the Sustainability Rights ordinance language has been integrated into the Framework for a Sustainable City of Wellbeing in the Health outcome area. The definition of “environmental health” is pulled directly from the Sustainability Rights ordinance. This will ensure the City’s budget and work plans are consistent with the Sustainability Rights ordinance. Staff identified a list of eight key target objectives (Table

1) to report on the health of these local ecosystems. Table 1 provides a summary of the key target objectives and metrics that will be analyzed biennially.

Table 1: List of Key Target Objectives

Key Target Objectives	Metric
Affordable and Accessible Water	Percent water sourced locally
Renewable Energy	Amount of on-site solar energy generated for City-operated facilities
Natural climate	Percentage of reduction in carbon emissions
Waste disposal system	Percent materials diverted from landfill
Clean air	Number of days with ozone levels exceeding .075 parts per million during an eight-hour period
Clean Water and Soil	Percentage of City Projects in compliance with soil and water quality regulations
Healthy Food	Annual sales from farmers market produce
Urban Forest	Percentage of tree canopy coverage

Task Force on the Environment

At the February 26, 2019 Task Force on the Environment special meeting, the Task Force on the Environment adopted the following motion:

“In addition to the recommendation to finalize Article 12 and to complete the long waiting biennial reporting, the Task Force on the Environment strongly recommends that Council require sustainable rights ordinance consistency determination for all projects, policies, and ordinances that meet a certain threshold as determine by Council.”

As noted, staff agrees with the Task Force that the new Framework performance measurement efforts and Citywide Dashboard should fully comply with the existing ordinance and will take steps to ensure this is accomplished. However, tasking the City Manager’s Office (CMO) and City Attorney’s Office (CAO) with evaluating the feasibility

of developing an entirely new legal compliance regime for “all projects, policies and ordinances that meet a certain threshold as determined by the Council” would involve a considerable work effort. Given the priority the Council has given for implementation of specific, aggressive environmental sustainability efforts (Zero Waste, Water Self-Sufficiency, Climate Action and Adaptation Plan etc.) as well as other citywide priorities currently requiring attention from the CMO and CAO, staff recommends against pursuing this complex and potentially contentious policy change at this time.

Financial Impacts and Budget Actions

There is no immediate financial impact or budget action necessary as a result of the recommended action.

Prepared By: Amanda Grossman, Sustainability Analyst

Approved

Forwarded to Council



Susan Cline, Director

6/4/2019



Rick Cole, City Manager

6/5/2019

Attachments:

- A. Ordinance - PW - OSE - Article 12 Sustainability - 06.11.2019
- B. September 20, 1994 Staff Report - 1994 Sustainable City Plan
- C. Task Force on the Environment Framework
- D. January 24, 2012 - Declaration of Commitment to Sustainable Rights Council Report
- E. August 28, 2018 - Sustainable Groundwater Management Ordinance
- F. April 9, 2013 - Sustainability Rights Ordinance Staff Report
- G. Written Comments
- H. PowerPoint Presentation