

ORDINANCE NUMBER 2545 (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
SANTA MONICA AMENDING SANTA MONICA MUNICIPAL CODE  
SECTION 7.16.050 TO REQUIRE THAT NEW DEVELOPMENT  
OFF-SET WATER USE ON-SITE OR OFF-SITE, OR, ALTERNATIVELY,  
PAY THE CITY AN IN-LIEU FEE TO FUND RETROFITTING OF  
PLUMBING FIXTURES OFF-SITE

WHEREAS, California has endured a severe multi-year drought that has threatened the water supplies of communities and residents, devastated agricultural production in many areas, and harmed fish, animals and their environmental habitats; and

WHEREAS, the City responded to the drought by reducing water use by more than 20% between June 2015 and January 2017; and

WHEREAS, despite the winter precipitation in 2017, the City desires to continue to adopt and adhere to permanent changes to use water more wisely and to prepare for more frequent and persistent periods of limited water supply.

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

SECTION 1. Santa Monica Municipal Code Section 7.16.050 is hereby amended to read as follows:

**7.16.050 Water Consumption Limits and In-lieu Fees for New Development.**

A. This section shall sunset on June 30, 2017, except as to those applications for discretionary or ministerial approvals for new development deemed complete and pending prior to July 1, 2017.

No person shall be issued a building permit for any development project unless:

- (a) The development will not affect or alter any plumbing fixture; or
- (b) The development involves a single-family residence and is not a substantial remodel as defined in the Zoning Code and will not increase by more than fifty percent the square footage of the principal building; or
- (c) The development involves a multi-family residence and is not a substantial remodel as defined in the Zoning Code and will not increase the number of dwelling units on the property; or
- (d) The person pays in advance a fee to the City sufficient to mitigate the estimated daily water consumption rate projected for the development, except that any person requesting a building permit for any low and moderate income housing development shall be required to pay a fee sufficient to mitigate only the estimated net increase in daily water consumption rate projected for the development. The City Council shall by resolution establish or amend any fee permitted by this Section.

B. This section shall become effective on July 1, 2017 and shall only apply to applications for discretionary or ministerial approvals for new development submitted or deemed complete and pending on or after July 1, 2017.

**1. Definitions.**

The following definitions shall apply for purposes of administering this Section:

(a) **100% Affordable Housing Project.** 100% Affordable Housing Project is defined in Section 9.52.020.0050 of this Code.

(b) **Baseline Water Demand.** Baseline water demand means the average water use over the previous five (5) years from the time the first application is filed on or after July 1, 2017 for any required development approval and/or building permit is submitted to the City. The most recent five-year average of water use according to City records at the proposed development site will be used; where no records exist, the five-year average water usage of water customers in the same water customer class (single-family, multi-family, mixed-use, commercial, industrial, landscape, etc.) with the same meter size will be used.

(c) **Director.** Director means the Director of the City's Public Works Department or his or her designee.

(d) **New Development.** For purposes of implementing this Section, new development means any of the following:

(i) repair, alteration, modification, addition to, or rehabilitation of an existing structure with any plumbing fixture(s), where a demolition will

occur in accordance with Section 9.25.030(A)(1)-(2) or any successor thereto.

(ii) a new structure with any interior plumbing fixture(s).

(iii) a new or enlarged pool, spa, pond or water feature.

(e) **New Water Demand.** New water demand means projected water demand for a proposed new development less baseline water demand at the proposed development site. Water demand shall be determined at the time of the City Building Official's acceptance of plan check submission.

(f) **Projected Water Demand.** The total amount of water (potable and non-potable water supplies as defined by Chapter 6 of the California Plumbing Code or any successors thereto) projected for the proposed project site, including uses such as but not limited to drinking, cleaning, industrial and landscaping.

## 2. **Water Off-Set Requirements.**

(a) No person shall be issued a temporary certificate of occupancy or certificate of occupancy, whichever occurs first, for any new development unless:

(i) The new development offsets all increases in new water demand, as follows:

(1) New water demand for new development that constitutes a 100% Affordable Housing Project, including individual units and common spaces that support those units, shall be offset at a ratio of 0.5:1.

(2) New water demand for all other new development shall be offset at a ratio of 1:1.

(ii) The water offsets required by this Section shall be achieved with on-site water efficiency measures unless the Director determines that such efficiency measures cannot be reasonably achieved on-site. In the event that the Director determines that such efficiency measures cannot be reasonably achieved on-site, the applicant for a building permit may satisfy the off-set requirements by:

(1) payment of the in-lieu fee set forth under subsection 6, below; and/or

(2) performing or undertaking to perform the off-set requirements at an off-site location within the City of Santa Monica. Such work shall be performed at the applicant's sole risk and cost. The criteria for equivalent performance of the off-set requirements at an off-site location shall be approved in writing by the Director prior to commencement of such work. All work performed or undertaken to be performed by the applicant shall be subject to all laws and regulations generally applicable to such work.

(iii) The owner or building permit applicant submits sufficient documentation as determined by the Director to demonstrate that the water offset requirements in this Section can be achieved.

### **3. Verification of Water Off-Set Requirements.**

No temporary certificate of occupancy or final certificate of occupancy, whichever is issued first, shall be issued for the new development until -:

(a) The on-site or off-site water offset provisions approved by the Director have been installed and demonstrated to be operational; and/or

(b) Alternatively, the owner or building permit applicant has paid the in-lieu water off-set fee in accordance with Subsection 6.

#### **4. Implementing Regulations.**

The Director shall adopt written administrative regulations or guidelines that are consistent with and that further the terms and requirements set forth within this Section.

#### **5. Administrative Fee.**

An administrative fee shall be assessed and paid to the City by the building permit applicant at the time of issuance of the building permit. The administrative fee shall be imposed to cover cost of administering and implementing the water off-set requirements of this Section, and shall be set by City Council resolution.

#### **6. In-Lieu Water Off-Set Fee.**

(a) The water off-set requirements in Subsection 2 may be satisfied by payment of a one time in-lieu water offset fee, as provided by this Subsection. The fee shall be paid by the owner or building permit applicant, as follows:

50% shall be paid at the time of issuance of the building permit and the remaining 50% shall be paid at the time of the issuance of the temporary certificate of occupancy or certificate of occupancy, whichever occurs first.

(b) Funds collected by the in-lieu water off-set fee shall be deposited into a dedicated fund used by the City to reduce new water demand citywide.

(c) Payment of the in-lieu water off-set fee shall constitute full satisfaction of the water off-set requirements in Subsection B.

(d) The in-lieu water off-set fee shall be non-refundable.

(e) Payment of the in-lieu water off-set fee does not represent an obligation of the City to reduce new water demand by any particular means.

(f) The in-lieu water off-set fee shall be set by City Council resolution.

## **7. Hardship.**

(a) The Director may exempt an owner or a building permit applicant from the requirements of Subsection 2, upon showing by the owner that the requirements of Subsection 2 would cause undue hardship.

(b) For purposes herein, an "undue hardship" shall be found where imposition of the water off-set requirements would deprive the owner of a development site of all economically beneficial use of that site or otherwise be prohibited by applicable state or federal law.

(c) An undue hardship application shall include all information necessary for the Director to make a finding of undue hardship, including but not limited to documentation showing the factual support for the claimed undue hardship.

(d) The Director may approve the undue hardship exemption application, in whole or in part, with or without conditions.

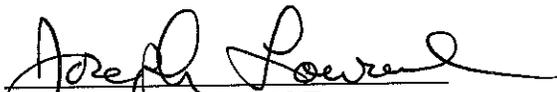
(e) Any exemption granted by the Director is effective immediately.

SECTION 2. 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 3. 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 4. 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 become effective 30 days from its adoption.

APPROVED AS TO FORM:

  
JOSEPH LAWRENCE  
Interim City Attorney

Approved and adopted this 23<sup>rd</sup> day of May, 2017.



Ted Winterer, Mayor

State of California            )  
County of Los Angeles       ) ss.  
City of Santa Monica         )

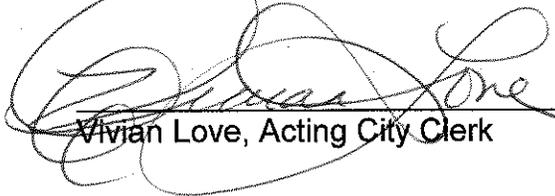
I, Vivian Love, Acting City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2545 (CCS) had its introduction on May 23, 2017, and was adopted at the Santa Monica City Council meeting held on May 9, 2017, by the following vote:

AYES: Councilmembers Himmelrich, McKeown, O'Connor, O'Day, Vazquez  
Mayor Pro Tem Davis, Mayor Winterer

NOES: None

ABSENT: None

ATTEST:

  
\_\_\_\_\_  
Vivian Love, Acting City Clerk

6/20/17  
\_\_\_\_\_  
Date

A summary of Ordinance No. 2545 (CCS) was duly published pursuant to California Government Code Section 40806.