



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further recommends clarifying and increasing the readability of the Santa Monica Municipal Code by repealing certain outdated provisions.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