

City Council Meeting: October 24, 2023

Santa Monica, California

ORDINANCE NUMBER 2762 (CCS)

(City Council Series)

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING PORTIONS OF ARTICLE VIII OF THE SANTA MONICA MUNICIPAL CODE TO RESTORE PREVIOUSLY APPROVED REGULATIONS INADVERTENTLY OMITTED BY SUBSEQUENT ORDINANCE APPROVALS

WHEREAS, Santa Monica Municipal Code Section 8.08.070 sets forth time frames for completion of all work authorized pursuant to permits issued under Article VIII of the Santa Monica Municipal Code, Building Regulations; and

WHEREAS, on March 13, 2020, the City Manager, in his role as the Director of Emergency Services, (“Director of Emergency Services”) proclaimed the existence of a local emergency pursuant to Chapter 2.16 of the Santa Monica Municipal Code to ensure the availability of mutual aid and an effective City response to the novel coronavirus (“COVID-19”) and this local emergency was restated on March 14, 2020, through a revised declaration of local emergency to ensure compliance with all digital signature requirements (the “Executive Order”); and

WHEREAS, on March 17, 2020, the Director of Emergency Services issued a Revised Fourth Supplement to the Executive Order which, in part, pursuant to Section 5, and due to measures taken to implement social distancing requirements, suspended planning deadlines and automatic approvals; and

WHEREAS, on April 24, 2020, the Director of Emergency Services issued a Twelfth Supplement to the Executive Order, which, in part, pursuant to Sections 1 through 3, and due to measures taken to implement social distancing requirements, including the closure of City Hall and other City facilities, that resulted in unavoidable delays in the

City's processing of planning and permit related applications and in actions required to be taken under planning entitlements and permits, tolled deadlines for reviewing and acting on planning applications, exercising rights under planning entitlements, and expiration of building permits; and

WHEREAS, on May 29, 2020, the Director of Emergency Services issued an Eighteenth Supplement to the Executive Order which, in part, pursuant to Sections 1 through 6, due to continuing social distancing requirements, including limitations on occupancy at offices and businesses and limitations on construction activities, that continued to result in unavoidable delays in the City's processing of planning and permit related applications and in actions required to be taken under planning entitlements and permits, superseded and replaced Section 5 of the Revised Fourth Supplement and Sections 1 through 3 of the Twelfth Supplement to extend for two years the deadlines for planning, review, and permit-related actions; and

WHEREAS, on November 23, 2020, the Director of Emergency Services issued a Twenty-Eighth Supplement to the Executive Order, which, in part pursuant to Sections 18 to 24, clarified that the two-year extension of deadlines for planning, review, and permit actions implemented by the Third Revised Eighteenth Supplement does not extend the deadlines for appeals as set forth in Articles VIII and IX of the Santa Monica Municipal Code; and

WHEREAS, since April 2020, the City has continued to engage in an economic recovery strategy that involves a multi-pronged approach focusing on five areas: business retention and reopening; business process and permitting; publicity and marketing, community economic development, re-employment, and local hiring; and federal and state resources; and

WHEREAS, economic uncertainty arising out of the COVID-19 pandemic continues; and

WHEREAS, the City has an important government interest in maintaining a thriving business community and protecting the health, safety, and economic welfare of its citizens and businesses; and

WHEREAS, due to social distancing requirements, including limitations on occupancy at offices and businesses and limitations on construction activities, that resulted in unavoidable delays in the City's processing of planning and permit related applications and in actions required to be taken under planning entitlements and permits, continued economic uncertainty due to the COVID-19 pandemic which has affected both business operations and the construction industry, and to further the City's economic recovery efforts, the City Council amended portions of Article VIII to codify extensions for building permits and seismic retrofit compliance previously extended through the Emergency Order; and

WHEREAS, the economic impacts of the COVID-19 pandemic devastated nearly all of the City's revenue streams, including sales tax, transient occupancy tax, parking revenue, and business license revenue; and

WHEREAS, after reviewing these impacts at its April 14, 2020 meeting, the City Council directed staff to develop a plan to restructure City operations to meet the challenges posed by COVID-19 and to balance the budget; and

WHEREAS, on May 5, 2020, the City Council adopted a restructuring plan (the "Restructuring Plan") to: merge divisions from the Planning and Community Development and Community Services Departments into the Community Development and Community Services Departments; and

WHEREAS, on January 25, 2022, the City Council adopted Emergency Ordinance 2689(CCS), amending portions of Article VIII and Chapter 9.56 of the Santa Monica Municipal Code to extend certain time frames for building permits, mandatory seismic retrofit compliance, and certificates of appropriateness, and to extend processing time frames for applications under Chapter 9.56 due to unavoidable delays caused by the COVID-19 pandemic and to further economic recovery efforts; and

WHEREAS, the California Building Standards Code exempts freestanding walls and fences of seven feet in height or less from requiring a building permit; and

WHEREAS, on May 12, 2020, Council approved Ordinance 2635 (CCS) to adopt a local amendment to the California Building Standards Code to reduce the building permit height threshold for concrete or masonry walls to four feet; and

WHEREAS, the local amendment distinctly separates freestanding masonry and concrete walls from other fence types (wood, wrought iron, chain link) and requires a building permit for masonry or concrete walls more than four feet in height;

WHEREAS, local amendments such as this are permissible by the State of California as long as the amended standard is more restrictive than the California Building Standards Code and the City makes the requisite climactic, geological, or topographical findings; and

WHEREAS, the City has previously identified the need for more restrictive standards primarily due to seismic safety, the substantial risk of geological hazards in Southern California, and the City's desire to protect against the loss of life and property in the event of a seismic event; and

WHEREAS, on October 25, 2022, the City Council adopted Ordinance 2727(CCS) amending Article VIII of the Santa Monica Municipal Code by adopting the 2022 California

Building Standards Code and local Santa Monica amendments to the California Building Standards Code; and

WHEREAS, the adoption of Ordinance 2727(CCS) on October 25, 2022, included inadvertent omissions that removed portions of Article VIII of the Santa Monica Municipal Code previously adopted by the City Council extending building permit timeframes due to the COVID-19 pandemic and reducing the building permit height threshold for concrete and/or masonry walls; and

WHEREAS, the restoration of the extended building permit timeframes in Article VIII of the Santa Monica Municipal Code, adopted by the City Council on January 25, 2022, are necessary to accomplish the intended goals of the Emergency Ordinance and the City's economic recovery efforts; and

WHEREAS, the restoration of the building permit height threshold reduction for concrete and/or masonry walls, adopted by City Council on May 12, 2022, is necessary for seismic safety due to the substantial risk of geological hazards in Southern California, and the City's desire to protect against the loss of life and property in the event of a seismic event; and

WHEREAS, based on the findings contained in this ordinance and material presented in the accompanying Staff Report, the City Council finds and declares that taking emergency action to adopt this ordinance is necessary to protect and preserve the public peace, health, and safety.

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

SECTION 1. Santa Monica Municipal Code Section 8.08.050 is hereby amended to read as follows:

8.08.050 Permits required.

(a) **General.** No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, maintain or demolish any building, structure or building service equipment regulated by this Chapter, the California Building Standards Code and related codes and standards without first obtaining an appropriate permit for each building, structure or building service equipment from the Building Officer except as specified in this Section.

No person shall do any exterior sandblasting within the City without first obtaining an appropriate permit for each separate work location or contractor.

No person shall perform any excavation or grading work without first obtaining an appropriate permit from the Building Officer except as specified in this Section.

No person shall erect any temporary structures within the City without first obtaining an appropriate permit from the Building Officer except as specified in this Section.

Exemption from the permit requirements of this Chapter shall not be deemed to grant authorization for any work to be done in violation of the provisions of applicable codes and standards or any other laws or ordinances.

(b) **Temporary Structures.** Temporary structures such as reviewing stands, platforms, displays and other miscellaneous structures, sheds, canopies or fences used for the protection of the public around and in conjunction with construction work may be erected by special permit from the Building Officer for a limited period of time. Buildings or structures erected under a special permit need not comply with the type of construction or fire-resistive time periods required by the Building Code. Temporary structures shall be completely removed upon the expiration of the time limit stated in the permit.

(c) **Work Exempt from Building Permit.** A building permit shall not be required for the following:

(1) One-story detached accessory buildings not more than fourteen feet in height when used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed one hundred twenty square feet, when the surface of adjacent grade does not exceed one unit vertical in 10 units horizontal (i.e., ten percent slope); the building does not contain electrical, mechanical or plumbing work and the building conforms to the applicable zoning regulations of Chapter 9.04 of the Municipal Code.

(2) Exterior freestanding masonry or concrete walls not over four feet high, and other fences not over seven ~~walls and fences not over six~~ feet high.

(3) Oil derricks.

(4) Movable cases, counters and partitions not over five feet nine inches high.

(5) Retaining walls that are not over four feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding flammable liquids.

(6) Water tanks supported directly upon grade if the capacity does not exceed five thousand gallons and the ratio of height to diameter or width does not exceed 2:1.

(7) Platforms, walks and driveways not more than thirty inches above grade and not over or surcharging any basement or story below.

(8) Painting, papering and similar finish work, including color or texture coating of exterior plaster.

(9) Flooring when installed on a concrete floor slab or when weighing not more than

four pounds per square foot or replacing the same weight per square foot.

(10) Temporary motion picture, television and theater stage sets and scenery.

(11) Prefabricated swimming pools accessory to one- and two-family dwellings in which the pool walls are entirely above the adjacent grade and the capacity does not exceed five thousand gallons and there are no electrical, gas or plumbing equipment or components associated with the prefabricated swimming pool.

(d) **Work Exempt from a Grading Permit.** A grading permit is not required for the following:

(1) Any grading work authorized by a valid combination-building permit.

(2) An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit.

(3) Cemetery graves.

(4) Refuse disposal sites controlled by other regulations.

(5) Excavations for wells or tunnels or utilities.

(6) Mining, quarrying, excavating, processing or stockpiling of rock, sand, gravel, aggregate or clay where established and provided for by law, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.

(7) Exploratory excavations under the direction of geotechnical engineers or engineering geologists.

(8) An excavation that is less than two feet in depth or does not create a cut slope greater than five feet in height and steeper than one unit vertical in one and one-half units

horizontal (sixty-six and seven-tenths percent slope).

(9) A fill less than one foot in depth and placed on natural terrain with a slope flatter than one unit vertical in five units horizontal (twenty percent slope), or less than three feet in depth, not intended to support structures, that does not exceed fifty cubic yards on any one lot and does not obstruct a drainage course.

(e) **Work Exempt from Plumbing Permit.** A plumbing permit shall not be required for the following:

(1) Any plumbing work authorized by a valid combination-building permit.

(2) The stopping of leaks in drains, soil, waste or vent pipe, provided, however, that should any concealed trap, drain pipe, soil, waste or vent pipe become defective and it becomes necessary to remove and replace the same with new material, the same shall be considered as new work and a permit shall be procured and inspection made as provided in this Code.

(3) The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, nor for the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

(f) **Work Exempt from Electrical Permit.** An electrical permit shall not be required for the following:

(1) Any electrical work authorized by a valid combination-building permit.

(2) Portable motors or other portable appliances energized by means of a cord or cable having an attachment plug end to be connected to an approved receptacle when the Electrical Code permits that cord or cable.

(3) Repair of fixed motors, transformers or fixed approved appliances of the same type and rating in the same location.

(4) Temporary decorative lighting.

(5) Repair or replacement of current-carrying parts of any switch, contactor or control device.

(6) Reinstallation of attachment plug receptacles, but not the outlets therefor.

(7) Replacement of an over-current device where the device is installed in the same location and is of the same manufacturer, same voltage, same ampere rating, same characteristics, and has an interrupting capacity meeting conditions at the time of replacement.

(8) Repair or replacement of electrodes or transformers of the same size and capacity for signs or gas tube systems.

(9) Taping joints.

(10) Removal of electrical wiring.

(11) Temporary wiring for experimental purposes in suitable experimental laboratories.

(12) The wiring for temporary theater, motion picture or television stage sets.

(13) Electrical wiring, devices, appliances, apparatus or equipment operating at less than twenty-five volts and not capable of supplying more than fifty watts of energy.

(14) Low-energy power, control and signal circuits of Class II and Class III as defined in the Electrical Code.

(15) Installation, alteration or repair of electrical wiring, apparatus or equipment or the

generation, transmission, distribution or metering of electrical energy or in the operation of signals or the transmission of intelligence by a public or private utility in the exercise of its function as a serving utility.

(g) **Work Exempt from Mechanical Permit.** A mechanical permit shall not be required for the following:

(1) Any mechanical work authorized by a valid combination-building permit.

(2) Portable heating appliance, ventilating equipment, cooling unit or evaporative cooler.

(3) Closed system of steam, hot or chilled water piping within heating or cooling equipment regulated by the California Mechanical Code.

(4) Replacement of any component part of assembly of an appliance that does not alter its original approval and complies with other applicable requirements of applicable codes and standards.

(5) Refrigerating equipment that is part of the equipment for which a permit has been issued pursuant to the requirements of applicable codes and standards.

(6) A unit refrigerating system as defined in the Mechanical Code.

(h) **Work Exempt from All Permitting Requirements.** Reinstallation of new toilets, urinals, and irrigation timers, in programs entirely undertaken by the City of Santa Monica and directly supervised by the Building Officer shall not require any building, mechanical, electrical, or plumbing permit. This exemption only applies to the fixture or equipment but does not exempt plumbing, piping, drainage, electrical work associated with the replacement. This exemption does not apply to installations in new buildings.

SECTION 2. Santa Monica Municipal Code Section 8.08.070 is hereby amended to read as follows:

8.08.070 Permit issuance, extension and renewal.

(a) **Issuance.** If the Building Officer finds that the work described in an application for a permit and submittal documents conforms to the requirements of this Article, the California Building Standards Code and other pertinent laws and ordinances, and that the applicant has paid all required fees, the Building Officer shall issue a permit for the work to the applicant. When a permit is issued for which plans are required, the construction documents shall be approved in writing or by stamp.

No building permit or demolition permit shall be issued by the City for any development that requires a coastal development permit under the California Coastal Act of 1976, Public Resources Code Section 30000 et seq., until such time as a coastal development permit has been issued for such development.

(b) **Partial Permit.** The Building Officer may issue a permit for the construction of part of a building, structure or building service equipment before the entire plans and specifications for the whole building, structure or building service equipment have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements. The holder of a partial permit shall proceed without assurance that the permit for the entire building, structure or building service will be granted.

(c) **Expiration.** Every permit issued under the provisions of this Code expires by limitation and becomes null and void when any of the following circumstances is applicable:

(1) **Failure to Start Construction.** If the building or work authorized by

such permit is not started within one year from the date of permit issuance;

(2) **Cessation of Work.** If the building or work authorized is suspended or abandoned at any time after the work has started, for a period of one hundred eighty days or more;

(3) **Time to Complete.** In addition to subsections (1) and (2) above, every permit issued under the provisions of this Chapter expires by limitation and becomes null and void when the time allowed to complete all work authorized by the permit exceeds the following time periods set forth in this subsection, based on valuation. When a project is divided into separate permits for the convenience of the owner or tenants, and the work on such permits is to be done concurrently, the time allowed to complete all work on each separate permit shall be equal to the time period for the total valuation of the separate permits.

(A) Except as provided in subsection (B), the time allowed to complete all work authorized by a permit shall be as follows:

Valuation	Time Allowed
Under \$300,000.00	12 months
\$300,001.00 to \$1,000,000.00	24 months
\$1,000,001.00 to \$20,000,000.00	36 months
Over \$20,000,000.00	48 months

(B) Notwithstanding subsection (A), the time allowed to complete all work authorized by a permit (i) issued and active as of March 13, 2020; (ii) issued between March 13, 2020 and December 31, 2022; or (iii) issued pursuant to a complete application submitted between March 13, 2020 and December 31, 2022, shall be as follows:

<u>Valuation</u>	<u>Time Allowed</u>
<u>Under \$300,000.00</u>	<u>36 months</u>
<u>\$300,001.00 to \$1,000,000.00</u>	<u>48 months</u>
<u>\$1,000,001.00 to \$20,000,000.00</u>	<u>60 months</u>
<u>Over \$20,000,000.00</u>	<u>72 months</u>

~~When a project is divided into separate permits for the convenience of the owner or tenants and the work on such permits is to be done concurrently, the time allowed to complete all work on each separate permit shall be equal to the time period for the total valuation of the separate permits.~~

(d) **Extensions.**

(1) Extensions of time from the stated periods in subsection (c) above may be permitted for good reason, provided such requests are submitted to the Building Officer in writing prior to permit expiration. The written request must demonstrate that:

(A) Due to circumstances beyond the owner's or permittee's control, construction could not be commenced, continued or completed in the authorized time period;

(B) If construction has started, substantial progress has been made;

(C) The condition of the property presents no health or safety hazard; and

(D) The continued delay will not create any unreasonable aesthetic impact to the neighborhood or substantial economic detriment to neighboring property owners.

(2) The time periods set forth to start construction within 180~~one~~

~~hundred eighty~~ days or resume construction after cessation of work for 180~~-one hundred eighty~~ days may each be extended no more than once, and the time period set forth to complete construction may be extended no more than three times; however, if the project includes the preservation of a designated City of Santa Monica landmark, the period to complete construction may be extended no more than four times. Each extension of time shall not exceed 180~~-one hundred eighty~~ days.

(e) **Extension Request Appeals.** The decision of the Building Officer may be appealed to the Director of Planning and Community Development, who shall conduct a de novo review. Any such appeal shall be filed in writing within seven days of the decision of the Building Officer. The decision of the Director of Planning and Community Development shall be final.

(f) **Renewal.** Before any work authorized under an expired permit can be recommenced, the permit holder shall file an application for renewal. Such application shall include all original submittal documents and shall identify any changes that have been made or will be made in the original plans and specifications for such work.

If the Building Officer finds that the work remaining to be completed under the permit conforms to the requirements of applicable codes and standards and other pertinent laws and ordinances, and that the applicant has paid all required fees, the Building Officer shall renew the permit for the work to the applicant. No work shall recommence until the renewal application and submittal documents are approved.

SECTION3. 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.

SECTION4. 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.

SECTION5. 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. Pursuant to Sections 615 and 619 of the City Charter, for the reasons stated in the above recitals, the staff report dated October 24, 2023, accompanying this ordinance, oral and written testimony received by the City Council, and City Council discussion, the City Council declares this ordinance to be necessary as an emergency measure for preserving the public peace, health, and safety, with the result that this ordinance shall be introduced and adopted at the same meeting upon its adoption.

APPROVED AS TO FORM:

DocuSigned by:
DOUGLAS SLOAN
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DOUGLAS SLOAN
City Attorney

Approved and adopted this 24th day of October, 2023.

DocuSigned by:
Gleam Davis
8FE4004DAD0B40B...

Gleam Davis, Mayor

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

I, Denise Anderson-Warren, City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2762 (CCS) had its introduction and adoption at the Santa Monica City Council meeting held on October 24, 2023, by the following vote:

AYES: Councilmembers Zwick, Parra, Brock, Torosis
 Mayor Pro Tem Negrete, Mayor Davis

NOES: None

ABSENT: Councilmember de la Torre

ATTEST:

DocuSigned by:
Denise Anderson-Warren
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Denise Anderson-Warren, City Clerk

10/30/2023

Date

A summary of Ordinance No. 2762 (CCS) was duly published pursuant to California Government Code Section 40806.