

City Council Meeting November 14, 2023

Santa Monica, California

ORDINANCE NUMBER 2766 (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
SANTA MONICA ADDING SECTION 7.04.880 TO THE SANTA MONICA MUNICIPAL  
CODE TO REQUIRE WASTEWATER CAPACITY STUDIES FOR NEW  
DEVELOPMENTS

WHEREAS, the City's Department of Public Works- Water Resources Division is responsible for all facilities that support the collection and conveyance of wastewater for safe collection and treatment; and

WHEREAS, the City and its wastewater infrastructure are largely built out, therefore, the wastewater collection infrastructure is already in place and generally fixed in nature; and

WHEREAS, the City, to the extent practical, will provide wastewater service when: 1) sufficient collection capacity is available to accommodate the demand approved by the City's Water Resources Division within the service area and 2) the proposed development can be provided with wastewater collection services in a fashion that meets the City's criteria as well as the City of Los Angeles' criteria; and

WHEREAS, the City currently collects and convey its wastewater to the City of Los Angeles' Hyperion Treatment Plant as part of City of Los Angeles' Amalgamated System; and

WHEREAS, the City's Water Resources Division seeks to add a new section of code to require all new multi-family, mixed-use, institutional, and commercial development in the City to conduct a wastewater capacity study to confirm available

capacity and identify local off-site water infrastructure improvements that the applicant/developer is responsible for to serve the development.

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

SECTION 1. Santa Monica Municipal Code Section 7.04.880 is hereby added to read as follows:

7.04.880 Wastewater Capacity Study Required for New Development.

(a) Applicability. Except as provided in subparagraph (g), below, an applicant for New Development in the City shall conduct a Wastewater Capacity Study to determine whether and to what extent additional local off-site wastewater infrastructure improvements are necessary to serve the development.

(b) Definitions.

i. "New Development". For the purposes of implementing this Section, New Development means any new construction with water fixtures; any increase in gross floor area of an existing development with new water fixtures; and any subdivision of land, including lot splits. Without limiting the generality of the foregoing definition, new development includes the addition of an accessory dwelling unit, as defined in Section 9.31.025, but does not include the addition of a junior accessory dwelling unit, as defined in Section 9.31.025;

ii. "Adverse Impact" means the inability to provide adequate wastewater collection service due to the size of the existing infrastructure compared with the demand for wastewater service required to serve existing and/or New Development.

iii. "Wastewater Capacity Study" means a hydraulic analysis of the City's wastewater collection system to determine if the existing infrastructure could maintain reliable service to the New Development or if off-site improvements are required to serve the New Development.

(c) Timing for Submittal of Study.

i. The need to conduct a Wastewater Capacity Study for the New Development shall be confirmed before the planning application, including but not limited to Administrative Approval Application or application for Development Review Permit, is deemed complete by the City. The Wastewater Capacity Study, if required, shall be completed based upon the guidelines published by the City's Water Resources Manager and posted on the Water Resources Division website.

ii. If a Wastewater Capacity Study is required for the New Development, the capacity study, findings of the capacity study, and the plans for any local off-site improvements required to serve the New Development shall be completed before building plans are submitted for Building Permit Plan Check.

(d) Requirements for Off-Site Improvements. If the City's Water Resources Manager or designee determines, based upon the Wastewater Capacity Study results, that additional off-site infrastructure is required to satisfy the additional demand created by the New Development, then the applicant for the New Development shall be required to construct off-site infrastructure as necessary to accommodate the New Development. Required off-site improvements shall be confirmed at the time of Building Permit Plan Check.

(e) The applicant for the New Development shall be responsible for paying all administrative fees (e.g., Sewer Study Review Fee) incurred by the City to review the Wastewater Capacity Study.

(f) The Water Resources Manager may refuse water service in areas where the New Development will cause or contribute to creation of an Adverse Impact on the City's wastewater collection infrastructure.

(g) Exemptions.

i. The City's Director of Public Works may exempt an applicant or New Development from the requirements of this Section, upon showing by the applicant that the requirements of this Section would cause undue hardship.

ii. For purposes herein, an "undue hardship" shall be found where imposition of the water capacity study and local off-site improvement requirements would deprive the applicant or New Development of all economically beneficial use of that site or otherwise be prohibited by applicable State or Federal law.

iii. 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.

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

v. 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:

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DOUGLAS SLOAN  
City Attorney

Approved and adopted this 14<sup>th</sup> day of November, 2023.

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*Gleam Davis*  
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\_\_\_\_\_  
Gleam Davis, Mayor

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

I, Esterlina Lugo, acting City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2766 (CCS) had its introduction on October 24, 2023 and was adopted at the Santa Monica City Council meeting held on November 14, 2023, by the following vote:

AYES:       Councilmembers Zwick, Parra, Brock, Torosis, de la Torre  
              Mayor Davis

NOES:       None

ABSENT:     Mayor Pro Tem Negrete

ATTEST:

DocuSigned by:  
*Esterlina Lugo*  
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\_\_\_\_\_  
Esterlina Lugo, Acting City Clerk

\_\_\_\_\_  
11/16/2023  
Date

A summary of Ordinance No. 2766 (CCS) was duly published pursuant to California Government Code Section 40806.