Council Meeting: April 9, 2013 Santa Monica, California

ORDINANCE NUMBER 2421 (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA ESTABLISHING SUSTAINABILITY RIGHTS

WHEREAS, as declared in Santa Monica'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; and therefore 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, in the last fifty years, national and state governments have attempted to address the crisis by adopting specific environmental protection laws, such

as the Clean Water Act, Clean Air Act, National Environmental Policy Act and California Environmental Quality Act, that limit pollution and resource consumption; but those laws also have proven inadequate to provide long-term protection of our rights to clean air, water, and soil, and sustainable food systems, and the rights of natural ecosystems; and

WHEREAS, the inadequacy of these laws results, in part, from the underlying legal assumption that the natural world is "property", which may be used by its owners -- be they individuals, corporations, or other entities -- for their own, private, short-term economic benefit, generally with minimal regard for the health of the environment; and

WHEREAS, numerous specific examples show that this underlying assumption has proven destructive to the environment upon which all living things ultimately depend; and

WHEREAS, in response to the evils of treating the natural world as mere property, the world-wide, national and local environmental communities are urging governments to adopt a new paradigm based upon recognition that both individual human beings and natural communities or ecosystems have fundamental environmental rights which should be recognized by the law, that the health of the world's populations and ecosystems depends on the full protection of these rights, and that asserted corporate rights can no longer be allowed to take precedence over these rights to human and environmental health and well-being; and

WHEREAS, there are numerous examples of policy statements and laws based on this new paradigm that recognize the rights of the natural world to exist, thrive and evolve; and

WHEREAS, Ecuador amended its constitution to include the rights of nature in 2008, with the first successful case applying that right concluding in March 2011; and

WHEREAS, in December 2010, the City of Pittsburgh became the first major city in the United States to adopt a Community Bill of Rights that bans corporations from drilling natural gas within its city limits and elevates the rights of people, the community, and nature over corporate rights; and

WHEREAS, other municipalities in Pennsylvania, Virginia, Maine, Maryland, New Hampshire, New Mexico, Ohio, and New York have adopted similar measures recognizing the rights of people and natural communities and including language that would subordinate the rights of corporations to local sustainability efforts; and

WHEREAS, Santa Monica's own Task Force on the Environment has studied this growing movement and recommended that the City support it as a means of effectuating the commitments and goals already established by the Sustainable City Plan, and of recognizing the inherent rights of the people and natural communities of the City of Santa Monica; and

WHEREAS, on January 24, 2012 the Santa Monica City Council adopted a resolution declaring the City's Commitment to Sustainable Rights; 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.

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 created to read as follows:

Chapter 4.75 GENERAL PROVISIONS

4.75.010 Title

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

4.75.020 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; and

(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; and

(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.

4.75.030 Purpose

This Chapter is created and exists for the purpose of codifying Santa Monica's commitment to achieving sustainability by among other things: (1) 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; (2) creating and promoting sustainable systems of food production and distribution, energy production and distribution, transportation, waste disposal, and water supply; and (3) 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.

4.75.040 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.

4.75.050 Biennial Report

At least once during every 24 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 Chapter 4.75, 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.

4.75.060 Biennial Hearing

The City Council will bi-annually review the 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.

4.75.070 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 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:

Marsha Jones Moutrie

MARSHA JONES MOUTRIE
City Attorney

Approved and adopted this 9th day of April, 2013.

Pam O'Connor, Mayor

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

I, Sarah P. Gorman, City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2421 (CCS) had its introduction on March 12, 2013, and was adopted at the Santa Monica City Council meeting held on April 9, 2013, by the following vote:

Ayes:	Councilmembers:	Davis, Holbrook, McKeown, Vazquez, Winterer Mayor Pro Tem O'Day, Mayor O'Connor
Noes:	Councilmembers:	None
Absent:	Councilmembers:	None

A summary of Ordinance No. 2421 (CCS) was duly published pursuant to California Government Code Section 40806.

ATTEST:

Sarah P. Gorman, City Clerk