



## OFFICE OF THE CITY ATTORNEY

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Long Beach, CA 90802  
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# ORD-16

**DAWN MCINTOSH**  
City Attorney

**GARY J. ANDERSON**  
Assistant City Attorney

February 14, 2023

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

### RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by amending Chapter 8.85 relating to underground and above ground storage tanks; and, amending Chapter 8.87 relating to hazardous waste control, read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

### DISCUSSION

This office has prepared and submits the above described Ordinance for your consideration.

The Department of Health and Human Services (Health Department) received a performance evaluation regarding the Long Beach Certified Uniform Program Agency (CUPA) from the California Environmental Protection Agency (CalEPA). Included in the review of the Long Beach CUPA, CalEPA requested technical amendments to the City's Municipal Code regulating hazardous waste control (Chapter 8.87) and underground and above ground storage tanks (Chapter 8.85) to remove the following information:

- References to the Signal Hill and a Joint Powers Agreement between the City and Signal Hill. The City no longer has a Joint Powers Agreement with Signal Hill and Signal Hill no longer assists in implementation of the Long Beach CUPA program.
- Removal of references to "Chapter 6.75 of Division 20 of the California Health and Safety Code" and "Chapter 18 of Division 3 of Title 23 of the California Code of Regulations" as the CUPA does not have regulatory authority under these sections of State law.

- Replace "spill prevention control and countermeasure plan" with "Aboveground Petroleum Storage Act" (APSA). APSA has other requirements besides Spill Prevention, Control, and Countermeasure (SPCC) Plan requirements and there are certain tank facilities exempt from preparing an SPCC Plan under APSA.
- Remove references to Health and Safety Code section 25270.5(c) as it requires UPA inspectors to complete and pass the initial AST inspector training program and does not apply to this program.
- Replace references to "businesses" with "facilities" as APSA regulates "tank facilities" that are used by an owner or operator at a single location or site. Tank facilities are not limited to typical businesses.

The Ordinance provided for your consideration makes the technical amendments requested by CalEPA. Upon adoption of this Ordinance, a final copy of the Ordinance will be submitted to CalEPA as proof of compliance. A redline of changes made to Chapters 8.85 and 8.87 of the Long Beach Municipal Code is enclosed as Attachment 1.

**SUGGESTED ACTION:**

Approve recommendation.

Very truly yours,

DAWN MCINTOSH, City Attorney



By

Taylor M. Anderson  
Deputy City Attorney

TMA:kd  
A22-03646  
01483646.DOCX

ATTACHMENT: Redline LBMC 8.85 AND 8.87

OFFICE OF THE CITY ATTORNEY  
DAWM MCINTOSH, City Attorney  
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Long Beach, CA 90802

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING CHAPTERS 8.85 AND 8.87, ALL RELATING TO THE LONG BEACH CERTIFIED UNIFORM PROGRAM AGENCY (CUPA)

WHEREAS,

NOW, THEREFORE, the City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 8.85 of the Long Beach Municipal Code is amended to read as follows:

Chapter 8.85

UNDERGROUND AND ABOVE GROUND STORAGE TANKS

8.85.010 Creation of Long Beach CUPA.

The purpose of this Chapter is to designate the Long Beach CUPA as the Unified Program Agency for purposes of enforcing and assuming responsibility for the regulation of the underground storage of hazardous substances within Long Beach, and as the local agency enforcing the Aboveground Petroleum Storage Act requirements under State law.

8.85.020 Definitions.

For purposes of this Chapter, the following definitions shall apply:

A. "Certified Uniform Program Agency" or "CUPA" means the agency certified by the Secretary of the California Environmental Protection

1 Agency to implement the unified program in the City of Long Beach.

2 B. "Long Beach CUPA" means the Long Beach Certified Unified  
3 Program Agency created by the City of Long Beach and certified by the  
4 Secretary of the California Environmental Protection Agency.

5

6 8.85.030 Designation of Long Beach CUPA as local agency for underground  
7 storage tanks.

8 The City designates the Long Beach CUPA as its "local agency"  
9 pursuant to Section 25283 and Chapter 6.11 of Division 20 of the California  
10 Health and Safety Code, to be the responsible governmental agency for  
11 purposes of implementing and enforcing Chapter 6.7 of Division 20 of the  
12 California Health and Safety Code, and Chapter 16 of Division 3 of Title 23 of  
13 the California Code of Regulations, and other related statutes and  
14 regulations, all as may be amended and/or supplemented from time to time.  
15 The Long Beach CUPA may adopt and enforce requirements which are equal  
16 to or more stringent than those set forth under State law, in accordance with  
17 California Health and Safety Code Section 25283.5. The City Clerk shall  
18 cause to be filed three (3) copies of such equal or more stringent  
19 requirements with the Clerk's office, and these copies shall be maintained at  
20 all times by the City Clerk for use and examination by the public. The  
21 designation of authority granted hereunder may be modified or rescinded at  
22 any time by modification or repeal of this Section.

23

24 8.85.040 Designation of Long Beach CUPA as Unified Program Agency for  
25 above ground storage tanks.

26 The City designates the Long Beach CUPA as the Certified Unified  
27 Program Agency to enforce the Aboveground Petroleum Storage Act  
28 requirements of Chapter 6.67 of Division 20 of the California Health and

1 Safety Code and as the Uniform Program Agency under other related statutes  
2 and regulations, all as may be amended and/or supplemented from time to  
3 time. As permitted by State law, the Long Beach CUPA may adopt and  
4 enforce requirements which are equal to or more stringent than those  
5 referenced herein. The City Clerk shall cause to be filed three (3) copies of  
6 such equal or more stringent requirements with the Clerk's office, and these  
7 copies shall be maintained at all times by the City Clerk for use and  
8 examination by the public. The designation of authority granted hereunder  
9 may be modified or rescinded at any time by modification or repeal of this  
10 Section.

11  
12 8.85.050 Fees.

13 All persons and facilities governed by Chapters 6.67 and 6.7 of  
14 Division 20 of the California Health and Safety Code shall pay those fees  
15 established by the Long Beach CUPA by Ordinance or Resolution, for  
16 purposes of implementing Chapters 6.67 and 6.7 of Division 20 of the  
17 California Health and Safety Code, and all other provisions related thereto,  
18 along with all applicable regulations thereunder, including Chapter 16 of  
19 Division 3 of Title 23 of the California Code of Regulations.

20  
21 8.85.060 Violations.

22 All persons and facilities governed by Chapters 6.67 and 6.7 of  
23 Division 20 of the California Health and Safety Code shall comply with such  
24 provisions and the regulations thereunder, including, but not limited to,  
25 Chapter 16 of Division 3 of Title 23 of the California Code of Regulations. Any  
26 violation of this Chapter and the provisions of State law referenced in this  
27 Chapter is a violation of this Code and is subject to civil and criminal fines,  
28

1 penalties and other remedies as provided for under State law and this Code,  
2 including restitution and injunctive relief.

3 Section 2. Chapter 8.87 of the Long Beach Municipal Code is amended  
4 to read as follows:

5 Chapter 8.87

6 HAZARDOUS WASTE CONTROL

7  
8 8.87.010 Purpose and intent.

9 The purpose of this Chapter is to designate the Long Beach CUPA as  
10 the administering agency for the enforcement and regulation of Chapter 6.5  
11 of Division 20 of the California Health and Safety Code, and the applicable  
12 requirements thereunder, within the jurisdiction of the City.

13  
14 8.87.020 Definitions.

15 A. "Certified Uniform Program Agency" or "CUPA" means the  
16 agency certified by the Secretary of the California Environmental Protection  
17 Agency to implement the unified program in the City of Long Beach.

18 B. "Long Beach CUPA" means the Long Beach Certified Unified  
19 Program Agency created by the City of Long Beach and certified by the  
20 Secretary of the California Environmental Protection Agency.

21  
22 8.87.030 Designation of Long Beach CUPA.

23 The City designates the Long Beach CUPA as the Certified Unified  
24 Program Agency for Long Beach for the purpose of enforcing the  
25 requirements of Chapter 6.5 of Division 20 of the California Health and Safety  
26 Code and the regulations related thereto, as provided for under Section  
27 25404(c)(1) of the California Health and Safety Code, all as may be amended  
28 and/or supplemented from time to time. As permitted by State law, the Long

1 Beach CUPA may adopt and enforce requirements which are equal to or  
2 more stringent than those referenced to herein. The City Clerk shall cause to  
3 be filed three (3) copies of such equal or more stringent requirements with  
4 the Clerk's office, and these copies shall be maintained at all times by the City  
5 Clerk for use and examination by the public. The Long Beach CUPA under  
6 this Chapter shall administer its responsibilities. The designation of authority  
7 granted hereunder may be modified or rescinded at any time by modification  
8 or repeal of this Section.

9  
10 8.87.040 Fees.

11 All persons and facilities shall pay those fees established by the Long  
12 Beach CUPA, by Ordinance or Resolution, for purposes of implementing and  
13 carrying out the responsibilities of the Certified Unified Program Agency  
14 under Chapter 6.5 of Division 20 of the California Health and Safety Code  
15 and all applicable regulations thereunder.

16  
17 8.87.050 Violations.

18 All persons and facilities governed by Chapter 6.5 of Division 20 of the  
19 California Health and Safety Code shall comply with such provisions and the  
20 regulations thereunder. Any violation of this Chapter and the provisions of State law  
21 referenced in this Chapter is a violation of this Code and is subject to civil and  
22 criminal fines, penalties and other remedies as provided for under State law and  
23 under this Code, including restitution and injunctive relief.

24  
25 Section 3. The City Clerk shall certify to the passage of this ordinance by  
26 the City Council and cause it to be posted in three (3) conspicuous places in the City of  
27 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the  
28 Mayor.

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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2023, by the following vote:

Ayes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Noes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

Recusal(s): Councilmembers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
City Clerk

Approved: \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Mayor

OFFICE OF THE CITY ATTORNEY  
DAWM MCINTOSH, City Attorney  
411 W. Ocean Boulevard, 9th Floor  
Lona Beach, CA 90802



## **REDLINE OF LONG BEACH MUNICIPAL CODE CHAPTERS 8.85 AND 8.87**

### **8.85.010 Creation of Long Beach/~~Signal Hill~~ CUPA.**

The purpose of this Chapter is to designate the Long Beach/~~Signal Hill~~ CUPA as the Unified Program Agency for purposes of enforcing and assuming responsibility for the regulation of the underground storage of hazardous substances within Long Beach, and as the local agency enforcing the Aboveground Petroleum Storage Act spill prevention control and countermeasure plan requirements mandated for above ground storage tanks under State law.

### **8.85.020 Definitions.**

For purposes of this Chapter, the following definitions shall apply:

- A. ~~"JPA" or "Joint Powers Agreement" means that agreement executed by the Cities of Long Beach and Signal Hill on December 21, 1995 entitled "Joint Powers Agreement Creating a Long Beach/Signal Hill Unified Program Agency", as such Agreement may be amended from time to time.~~ "Certified Uniform Program Agency" or "CUPA" means the agency certified by the Secretary of the California Environmental Protection Agency to implement the unified program in the City of Long Beach.
- B. ~~"Long Beach/Signal Hill CUPA" means the Long Beach/Signal Hill~~ Certified Uniform Program Agency created by the JPA City of Long Beach and certified by the Secretary of the California Environmental Protection Agency.

### **8.85.030 Designation of Long Beach/~~Signal Hill~~ CUPA as local agency for underground storage tanks.**

The City designates the Long Beach/~~Signal Hill~~ CUPA as its "local agency" pursuant to Section 25283 and Chapter 6.11 of Division 20 of the California Health and Safety Code, to be the responsible governmental agency for purposes of implementing and enforcing Chapters 6.7 and 6.75 of Division 20 of the California Health and Safety Code, and Chapters 16 and 18 of Division 3 of Title 23 of the California Code of Regulations, and other related statutes and regulations, all as may be amended and/or supplemented from time to time. The Long Beach/~~Signal Hill~~ CUPA may adopt and enforce requirements which are equal to or more stringent than those set forth under State law, in accordance with California Health and Safety Code Section 25283.5. The City Clerk shall cause to be filed three (3) copies of such equal or more stringent requirements with the Clerk's office, and these copies shall be maintained at all times by the City Clerk for use and examination by the public. ~~The Long Beach/Signal Hill CUPA shall administer its responsibilities under this Section pursuant to the JPA.~~ The designation of authority granted hereunder may be modified or rescinded at any time by modification or repeal of this Section.

### **8.85.040 Designation of Long Beach/~~Signal Hill~~ CUPA as Unified Program Agency for above ground storage tanks.**

The City designates the Long Beach/~~Signal Hill~~ CUPA as the Certified Uniform Program Agency to enforce the Aboveground Petroleum Storage Act spill prevention control and countermeasure plan requirements of Chapter 6.67 of Division 20 of the California Health and Safety Code, ~~Section 25270.5(c),~~ and as the Uniform Program Agency under other related statutes and regulations, all as may be amended and/or supplemented from time to time. As permitted by State law, the Long Beach/~~Signal Hill~~ CUPA may adopt and enforce requirements which are equal to or more stringent than those referenced ~~to~~ herein. The City Clerk shall cause to be filed three (3) copies of such equal or more stringent requirements with the Clerk's office, and these copies shall be maintained at all times

by the City Clerk for use and examination by the public. ~~The Long Beach/Signal Hill CUPA shall administer its responsibilities under this Section pursuant to the JPA.~~ The designation of authority granted hereunder may be modified or rescinded at any time by modification or repeal of this Section.

#### **8.85.050 Fees.**

All persons and ~~businesses~~ facilities governed by Chapters 6.67, ~~and 6.7 and 6.75~~ of Division 20 of the California Health and Safety Code shall pay those fees established by the Long Beach/Signal Hill CUPA by Ordinance or Resolution, for purposes of implementing Chapters 6.67, ~~and 6.7 and 6.75~~ of Division 20 of the California Health and Safety Code, and all other provisions related thereto, along with all applicable regulations thereunder, including Chapters 16 ~~and 18~~ of Division 3 of Title 23 of the California Code of Regulations.

#### **8.85.060 Violations.**

All persons and ~~businesses~~ facilities governed by Chapters 6.67, ~~and 6.7 and 6.75~~ of Division 20 of the California Health and Safety Code shall comply with such provisions and the regulations thereunder, including, but not limited to, Chapters 16 ~~and 18~~ of Division 3 of Title 23 of the California Code of Regulations. Any violation of this Chapter and the provisions of State law referenced in this Chapter is a violation of this Code and is subject to civil and criminal fines, penalties and other remedies as provided for under State law and this Code, including restitution and injunctive relief.

### **CHAPTER 8.87 HAZARDOUS WASTE CONTROL**

#### **8.87.010 Purpose and intent.**

The purpose of this Chapter is to designate the Long Beach/Signal Hill CUPA as the administering agency for the enforcement and regulation of Chapter 6.5 of Division 20 of the California Health and Safety Code, and the applicable requirements thereunder, within the jurisdiction of the City.

#### **8.87.020 Definitions.**

- A. "JPA" or "Joint Powers Agreement" means that agreement executed by the Cities of Long Beach and Signal Hill on December 21, 1995 entitled "Joint Powers Agreement Creating a Long Beach/Signal Hill Unified Program Agency", as such Agreement may be amended from time to time. "Certified Uniform Program Agency" or "CUPA" means the agency certified by the Secretary of the California Environmental Protection Agency to implement the unified program in the City of Long Beach.
- B. "Long Beach/Signal Hill CUPA" means the Long Beach/Signal Hill Certified Unified Program Agency created by the JPA City of Long Beach and certified by the Secretary of the California Environmental Protection Agency.

#### **8.87.030 Designation of Long Beach/Signal Hill CUPA.**

The City designates the Long Beach/Signal Hill CUPA as the Certified Unified Program Agency for Long Beach for the purpose of enforcing the requirements of Chapter 6.5 of Division 20 of the California Health and Safety Code and the regulations related thereto, as provided for under Section 25404(c)(1) of the California Health and Safety Code, all as may be amended and/or supplemented from time to time. As permitted by State law, the Long Beach/Signal Hill CUPA may adopt and enforce requirements which are equal to or more stringent than those referenced to herein. The City Clerk shall cause to be filed three (3) copies of such equal or more stringent requirements with the Clerk's office, and these copies shall be maintained at all times by the City Clerk for use and

examination by the public. The Long Beach/Signal Hill CUPA under this Chapter shall administer its responsibilities pursuant to the JPA. The designation of authority granted hereunder may be modified or rescinded at any time by modification or repeal of this Section.

#### **8.87.040 Fees.**

All persons and businesses/facilities shall pay those fees established by the Long Beach/Signal Hill CUPA, by Ordinance or Resolution, for purposes of implementing and carrying out the responsibilities of the Certified Unified Program Agency under Chapter 6.5 of Division 20 of the California Health and Safety Code and all applicable regulations thereunder.

#### **8.87.050 Violations.**

All persons and businesses/facilities governed by Chapter 6.5 of Division 20 of the California Health and Safety Code shall comply with such provisions and the regulations thereunder. Any violation of this Chapter and the provisions of State law referenced in this Chapter is a violation of this Code and is subject to civil and criminal fines, penalties and other remedies as provided for under State law and under this Code, including restitution and injunctive relief.