Land Use and Permitting Issues: 
Buying Time to Plan with a Recovery Ordinance

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Recovery Ordinance Purposes

1. Create legal authority for post-disaster intervention – if possible, adopt before a disaster
2. Authorize local recovery management organization
3. Direct preparation of interim and long-term recovery plans
4. Establish temporary regulations covering extraordinary actions regarding private property
5. Identify processes for communities to take cooperative action with state-federal entities
6. Specify process for consulting with/assisting citizen, business, and stakeholder groups
Recovery Ordinance Structure

1. Authority
2. Purposes
3. Definitions
4. Recovery Management Organization
5. Recovery Plan
6. Interim Recovery Strategy
7. Hazard Mitigation Program
9. Temporary Regulations
10. One-Stop Service Center
11. Emergency Contractor and Volunteer Certification
12. Temporary and Permanent Housing
13. Demolition of Historic Buildings
14. Severability
General Provisions

• Emergency Powers and Procedures – designates Recovery Management Organization for a broad exercise of powers, subject to extension, modification or replacement of provisions

• Post-Disaster Operations – designates the Recovery Management Organization for coordinating post-disaster recovery operations, e.g.: business resumption, damage assessment, demolitions, debris removal, expedited permitting, hazard mitigation, historical buildings, moratorium procedures, nonconforming buildings and uses, rebuilding plans, restoration of infrastructure, temporary housing

• Coordination with FEMA and Other Agencies – authorizes Recovery Management Organization to coordinate recovery actions with those of state, federal, local, or other organizations involved in disaster recovery
Recovery Management Organization

- Umbrella organization for short- and long-term recovery
- Not limited to emergency operations organization departments – includes others, e.g., planning, building, engineering, public works, economic development, etc.
- Outlives the formal emergency period – lives into long-term reconstruction phase
- City manager (or mayor in big city) runs recovery management organization on behalf of city council
- Strong staff orientation in EOC, requires clear communications city council on long-term policy matters needing time for resolution
Recovery Plan

- **Scope** – comprehensive short-/long-term recovery policies, strategies, actions
- **Adoption/amendment** by city council with noticed public hearing
- **Coordination/consultation** - identifies recovery working relationships with local, state, federal, and nonprofit organizations as well as public process leading to adoption or amendment
- **Implementation** – designates Recovery Management Organization as responsible for implementation under city council direction
- **Coordination with Other Plans** - coordinated with Comprehensive Plan, Emergency Operations Plan, Local Hazard Mitigation Plan, etc.
- **Training** - Recovery Management Organization conducts training annually or more often
Interim Recovery Strategy

- Placeholder recovery strategy bridging urgent short-term actions and long-term Plan
- Focuses on recovery initiatives and action priorities necessitated by specific post-disaster circumstances
- Ties recovery initiatives and action priorities to those identified in Section 7.0 Hazard Mitigation Program and Section 9.0 Temporary Regulations
Hazard Mitigation Program

• Hazard Mitigation Program – pre-event program by which natural hazards, risks, and vulnerability are addressed for prioritized short-term and long-term mitigation actions leading to reduced disaster losses

• Flood Hazard Mitigation under the National Flood Insurance Program

• Local Hazard Mitigation Plan – qualifies the City for receipt of federal Hazard Mitigation Grant Program (HMGP), Flood Mitigation Assistance Grants (FMAG), and Severe Repetitive Loss (SRL) grants, under the Disaster Mitigation Act of 2000

• Natural Hazard/Safety Element - an element of the Comprehensive Plan including proposed long- and short-term hazard mitigation goals, policies, and actions enhancing long-term safety against future disasters
Temporary Regulations

• At the heart of the recovery process

• Purpose: short-term interventions providing “time to think” and prepare long-term elements of Recovery Plan

• Types of temporary regulations:
  – Environmental clearance
  – Debris clearance and hazard management
  – Damage assessment and placarding
  – Development moratorium
  – Nonconforming buildings and uses
  – Temporary Use Permits
  – Temporary Repair Permits
  – Deferral of Fees for Repair and Rebuilding Permits
Oakland Hills (Tunnel) Fire, October 1991

• Over 3,400 housing units destroyed (2,900 structures)

• 25 people killed

• Most devastating wildfire in California history until then

Source: Cal EMA
Critical Recovery Issues

- 2-month moratorium
- One-stop permit center
- 10% added floor area (fuel) allowed w/o development permit, higher increases with
- Improved construction – new roof, overhang, and deck standards; internal sprinklers
- Vegetation management
- Street width, continuity

Rebuilding begins
Development Moratorium

• Buys time for alternate land use and permitting decisions
• Acts as placeholder providing more leeway for long-term recovery planning – “give the bird room to fly”
• Prevents replacement of development “as was” when the community is envisioning the possibility of gaining something better
• Can be unpopular and strategically difficult but worthwhile
Missed Recovery Opportunity - Oakland Hills narrow, winding roads
- Charing Road
- 12 people died here
- Only road widened in reconstruction
Nonconforming Buildings and Uses

• Allows continuation of nonconforming uses, buildings, parking, etc., where damage exceeds 51% of value

• Approach: replacement in-kind provided all safety-related code provisions and hazard mitigation requirements are met

• Maintains original amortization period
Emergency Contractor and Volunteer Certification

- Purpose: to reduce unscrupulous post-disaster predator activity
- Requires contractor and volunteer certification in disaster clean-up and reconstruction
- City verifies that contractors are properly registered and/or licensed with the state contractors’ licensing agency of the state
- Contractors must comply with state licensing
- Based on successful application in Cedar Rapids, IA
  - Notification of over 10,000 contractors
  - 200 applications for emergency contractor certifications
  - Made over 30 arrests for program violations
Questions?