



AGENDA REPORT

Meeting Date: July 21, 2015
Item Number: D-6
To: Honorable Mayor & City Council
From: Laurence S. Wiener, City Attorney
Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS REVISING
AND CODIFYING RECONSTRUCTION STANDARDS
RELATING TO BUILDINGS DAMAGED BY DISASTER
Attachments: 1. Ordinance

RECOMMENDATION

It is recommended that the City Council move to waive the full reading and adopt the ordinance entitled "An Ordinance of the City of Beverly Hills Revising and Codifying Reconstruction Standards Relating to Buildings Damaged by Disaster".

INTRODUCTION

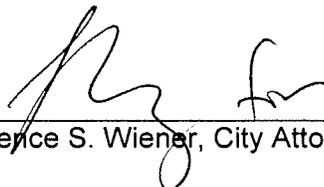
This ordinance updates, clarifies and codifies the existing disaster reconstruction regulations.

DISCUSSION

At its meeting of June 8, 2015, the City Council conducted a first reading of this ordinance and introduced it.

FISCAL IMPACT

The proposed Ordinance continues the existing policy of waiving fees for planning review after a disaster. This will result in unrecovered costs of processing the various applications after a disaster.



Laurence S. Wiener, City Attorney

Attachment 1

ORDINANCE NO. 15-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
REVISING AND CODIFYING RECONSTRUCTION
STANDARDS RELATING TO BUILDINGS DAMAGED BY
DISASTER

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS
FOLLOWS:

Section 1. On March 26, 2105 and April 9, 2015, the Planning Commission held a duly noticed public hearing after which it adopted Resolution No. 1744, recommending that the City Council amend portions of Title 10 (Planning and Zoning) of the Beverly Hills Municipal Code to establish disaster recovery regulations (collectively, the “Amendments”). On June 8, 2015, the City Council held a duly noticed public hearing, received public testimony, and thereafter introduced this Ordinance.

Section 2. The Amendments have been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City’s Local CEQA Guidelines (hereafter the “Guidelines”). The City Council finds that adoption of the Amendments will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations because the Amendments represent minor alterations in land use limitations and do not result in any changes in land use or density. Further, the ordinance would apply City-wide, which has average slopes of not more than 20%.

Section 3. The Amendments are consistent with the objectives, principles, and standards of the General Plan. Specifically, the Amendments implement General Plan Policy “S

7.14 - Post-disaster Reconstruction” which calls for the development of programs and procedures that emphasize coordination between appropriate public agencies and private entities to remove debris and promote rapid reconstruction after a disaster.

Section 4. The City Council hereby adds a new Article 46 to Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

“ARTICLE 46: DISASTER RECONSTRUCTION PERMIT:

10-3-4600: PURPOSE

This Article establishes a program to facilitate reconstruction of commercial and residential areas after a disaster. This Article does not amend or allow exemptions from the City’s technical codes, including, without limitation, the City’s building, fire, electrical, mechanical, and plumbing codes.

10-3-4601: APPLICATION OF REGULATIONS

Notwithstanding any provision of Title 10, Chapter 3 of the Beverly Hills Municipal Code, in the event of a disaster for which the Mayor or the City Council has declared or ratified a state of emergency, the zoning regulations set forth in this Article shall apply. Additionally, any provision of Title 10, Chapter 3 which does not conflict with the provisions of this ordinance shall continue to apply.

10-3-4602: DEFINITIONS

“Aggregate Floor Area” shall mean the sum of the floor areas of all independent living quarters of a structure.”

“Building Footprint” or “Footprint” shall mean that portion of a site covered by a building.

“Disaster” shall mean any fire, flood, storm, earthquake or other occurrence for which the Mayor or the City Council has declared or ratified a state of emergency.

“Height Envelope” shall mean the outline of a building indicating the height of the building at each point within the building footprint.

“Multiple-Family Residential Dwelling” shall mean any building designed for human habitation that is legally divided into two or more independent living quarters.

“Residential Building” shall mean a building designed for human habitation or a building accessory to a building designed for human habitation.

“Then Current” shall mean at the time a Disaster Reconstruction Permit under this Article is applied for.”

10-3-4603: DISASTER RECONSTRUCTION PERMIT.

The owner of any building which has been damaged by a disaster to the extent of more than fifty percent (50%) of its replacement value may obtain a permit to repair or reconstruct such building in accordance with the standards contained in this Article. A building shall be considered damaged to the extent of more than fifty percent (50%) of its replacement value if the cost to repair the building exceeds fifty percent (50%) of the cost of replacing the damaged structure with a new structure of the same size, construction material and occupancy on the same site, as determined by the Director of Community Development.

10-3-4604: TIME LIMITS FOR PERMIT APPLICATION

A. After a disaster, applications for a permit to repair or reconstruct a building located in a nonresidential, multiple-family residential, or RMCP zone pursuant to the provisions of this Article shall be submitted to the Community Development Department within two years after the date that the Mayor or the City Council declared or ratified a state of emergency as a result of such disaster.

After a disaster, applications for a permit to repair or reconstruct a building located in a single-family residential zone pursuant to the provisions of the Ordinance shall be submitted to the Community Development Department within five years after the date that the Mayor or the City Council declared or ratified a state of emergency as a result of such a disaster.

Nothing contained in this section shall be construed to alter the time limits set forth in Chapter 6 of Title 9 of the Beverly Hills Municipal Code concerning the completion of disaster repairs in compliance with the City’s building code and other technical codes.

10-3-4605: REPAIR STANDARDS FOR NONCONFORMING RESIDENTIAL BUILDINGS LOCATED IN RESIDENTIAL AREAS.

The following standards shall govern the repair or reconstruction of residential buildings which are located in residential zones and do not conform to the then current City zoning ordinances, provided that the repair or reconstruction is performed pursuant to a permit issued under the authority of this Article.

- A. Structures in Single Family Residential Zones.
The permittee may repair or reconstruct a building in such a manner that:
1. The floor area of the replacement structure is equal to or less than the floor area of the original structure as it is determined by the City;
 2. The footprint of the replacement structure is within the footprint of the original structure as it is determined by the City;
 3. The height envelope of the replacement structure is within the height envelope of the original structure as it is determined by the City.

Any permittee who repairs or reconstructs a building in a single-family residential zone under the provisions of this Article shall provide parking for the replacement or reconstructed building pursuant to the then current Beverly Hills Municipal Code.

The permittee may request a reduction of the applicable parking requirements by making application to the Community Development Department for a minor accommodation pursuant to Title 10, Chapter 3, Article 36, of the Beverly Hills Municipal Code. The Director of Community Development may reduce the applicable parking requirements if the Director determines that such a reduction: (1) is necessary because the subject property cannot physically accommodate additional parking; or (2) is necessary to prevent undue economic hardship for the permittee. The Director of Community Development shall not reduce the applicable parking requirements to less than the legal number of spaces that was on the subject site prior to the disaster.

The front yard paving restrictions specified in Section 10-3.2422, Section 10-3.2518, or Section 10-3.2618 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code (or their successor sections) shall apply to any repair or reconstruction in a single-family residential zone pursuant to this Ordinance. The permittee may request a relaxation of the foregoing restrictions by making application to the Department of Community Development for a minor accommodation pursuant to Title 10, Chapter 3, Article 36, of the Beverly Hills Municipal Code. The Director of Community Development may relax the foregoing paving restrictions if the Director determines that such a relaxation: (1) is necessary because the subject property cannot otherwise physically accommodate the parking required under this Section; (2) the required parking under this Section is in excess of the legal number of spaces that was on the subject site prior to the disaster, (3) such relaxation will help to provide additional necessary parking; and (4) such paving will be compatible with the character of the adjacent streetscape.

The City shall determine the pre-damage parameters of the building which define the legally permitted scale of such building. Those parameters include, but are not limited to, the building's envelope, footprint, parking, and floor area. Such determination shall be based on the records of the City, as well as any additional information provided by the owner pursuant to a request by the Director of Community Development.

No building shall be repaired or reconstructed in a single-family residential zone under the provisions of this Ordinance except in conformity with the design review requirements specified in the Director's Guidelines for Disaster Reconstruction.

B. Structures in Multiple Family Residential Zones.

1. No building shall be repaired or reconstructed pursuant to this subsection B except in conformity with the architectural review requirements of Title 10, Chapter 3, Article 30 of the Beverly Hills Municipal Code.
2. The permittee may repair or reconstruct a building in such manner that the footprint of the replacement structure is within the footprint of the original structure as it is determined by the City.

3. The permittee may repair or reconstruct a building in such manner that the height envelope of the replacement structure is within the height envelope of the original structure as it is determined by the City.
4. The permittee may reconstruct a garage in the rear yard of a property if the City determines that a rear yard garage existing prior to the disaster. The repaired or rebuilt garage shall be in the same location as the original garage as determined by the City.
5. The permittee may repair or reconstruct a building in such manner that the aggregate floor area in the replacement structure is equal or less than the aggregate floor area of the original structure as it is determined by the City.
6. The permittee may repair or reconstruct a building in such manner that the average unit size in the replacement structure is equal to or greater than the average unit size of the original structure as it is determined by the City.
7. The permittee may repair or reconstruct a building in such manner that the number of units in the replacement structure is equal to or less than the number of units in the original structure as it is determined by the City.
8. Excluding the parking required by paragraph (10) of subsection B of this Section, the permittee may repair or reconstruct a building, but only in such manner that the replacement structure is no more deficient in required numbers of parking spaces under the parking requirements of the then current Beverly Hills Municipal Code than the original structure may have been under the parking requirements of the then current Beverly Hills Municipal Code.
9. The City shall determine the pre-damage parameters of the existing building which define the legally permitted scale of the replacement structure. Those parameters include, but are not limited to, the building's envelope, footprint, parking, floor area, and number of dwelling units. Such determination shall be based on the records of the City, as well as any additional information provided by the owner pursuant to a request by the Director of Community Development.
10. For each unit repaired or reconstructed in excess of the then current density limitations of the Beverly Hills Municipal Code, the permittee shall provide one additional parking space up to the amount of parking otherwise required by the then current Beverly Hills Municipal Code for the replacement building.

The permittee may request a reduction of this parking requirement by making application to the Planning Commission for Development Plan Review pursuant to Title 10, Chapter 3, Article 31, of the Beverly Hills

Municipal Code. The Planning Commission may reduce or waive this parking requirement if it makes the findings required to issue a Development Plan Review Permit and findings required to issue a Development Plan Review Permit and additionally determines that such a waiver or reduction: (1) is necessary because the subject property cannot physically accommodate additional parking; or (2) is necessary to prevent undue economic hardship for the permittee. In lieu of granting a waiver or reduction, the Planning Commission may, upon request by the permittee, allow the permittee to repair or reconstruct the building so that the building extends beyond the pre-damage height envelope or footprint, but not beyond the pre-damage maximum height or minimum setback, for the sole purpose of accommodating all code required parking on the site.

Unless the permittee requests a reduction in the parking required by this section, or requests a building design that exceeds the height envelope or building footprint, the permittee shall not be required to obtain a Development Plan Review Permit in order to reconstruct the building.

Nothing in this subsection shall be construed to require the permittee to provide more parking than is required by the then current Beverly Hills Municipal Code for the replacement building, nor shall this subsection be construed to permit a building to be repaired or reconstructed without providing at least the number of parking spaces provided prior to the damage to the building.

C. Rental Units

Whenever the permittee repairs or reconstructs rental units, such units shall remain subject to the City's rent control laws. However, notwithstanding any other provisions of the Beverly Hills Municipal Code, any tenant required to vacate the rental unit due to damage or destruction, or due to repair or reconstruction of the unit, shall be provided a right of first refusal to reoccupy the unit.

10-3-4606: REPAIR STANDARDS FOR NONCONFORMING BUILDINGS LOCATED IN COMMERCIAL ZONES.

The following standards shall govern the repair or reconstruction of buildings which are located in a non-residential zone, and non-residential buildings located in a residential zone, that do not conform to then current City zoning ordinances, provided that the repair or reconstruction is performed pursuant to a permit issued under the authority of this Article.

A. The permittee may repair or reconstruct a building in such manner that:

The floor area of the replacement structure is equal to or less than the floor area of the original structure as it is determined by the City;

The footprint of the replacement structure is within the footprint of the original structure as it is determined by the City;

The height envelope of the replacement structure is within the height envelope of the original structure as it is determined by the City.

The City shall determine the pre-damage parameters of the building which define the legally permitted scale of such building. Those parameters include, but are not limited to, the building's envelope, footprint, parking, and floor area. Such determination shall be based on the records of the City, as well as any additional information provided by the owner pursuant to a request by the Director of Community Development.

- B. No building shall be repaired or reconstructed pursuant to this section except in conformity with the architectural review requirements of Title 10, Chapter 3, Article 30, of the Beverly Hills Municipal Code.
- C. No building shall be repaired or reconstructed in such manner that the height exceeds the then current maximum height permitted by the Beverly Hills Municipal Code unless a Development Plan Review authorizing the additional height is first approved pursuant to the provisions of Title 10, Chapter 3, Article 31, of the Beverly Hills Municipal Code.
- D. Any permittee who repairs or reconstructs a building which is located in a commercial zone and which does not meet the then current parking requirements of the Beverly Hills Municipal Code, may repair or reconstruct that building without providing additional parking if the replacement building does not exceed then current Beverly Hills Municipal Code limitations on height and floor area ratio.

However, if a permittee repairs or reconstructs a building in such manner that the height exceeds the then current maximum height permitted by the Beverly Hills Municipal Code, or in such manner that the floor area ratio exceeds the then current maximum floor area ratio permitted by the Beverly Hills Municipal Code, then the permittee shall provide parking for the replacement building as required by the then current Beverly Hills Municipal Code.

The Planning Commission may reduce or waive this parking requirement as part of its consideration of the permittee's Development Plan Review application if the Planning Commission determines that such a waiver or reduction: (1) is necessary because the subject property cannot physically accommodate additional parking; or (2) is necessary to prevent undue economic hardship for the permittee. In lieu of granting a waiver or reduction, the Planning Commission may, upon request by the permittee, allow the permittee to repair or reconstruct the buildings so that the building extends beyond the pre-damage height envelope or footprint, but

not beyond the pre-damage maximum setback, for the sole purpose of accommodating parking on the site.

Nothing in this subsection shall be construed to require the permittee to provide more parking than is required by the then current Beverly Hills Municipal Code for the replacement building nor, shall this subsection be construed to permit a building to be repaired or reconstructed without providing at least the number of parking spaces provided prior to the damage of the building.

10-3-4607: DEVELOPMENT PLAN REVIEW EXEMPTION FOR CONFORMING BUILDINGS.

The repair or reconstruction of a building damaged by a disaster shall be exempt from the development plan review requirements of Title 10, Chapter 3, Article 31 of the Beverly Hills Municipal Code provided that the damaged building conformed to all of the zoning provisions of the Beverly Hills Municipal Code at the time of the disaster and the repaired or reconstructed building does not exceed the height or floor area of the original building, as determined by the city.

10-3-4608: REPAIR STANDARDS FOR ALL STRUCTURES.

Notwithstanding any other provision of this Ordinance, all permittees shall repair or reconstruct damaged buildings in such manner as to conform to any legislation which, in the opinion of the Director of Community Development, is designed to prevent or ameliorate the type of damage generally caused by the disaster.

Section 10-3-4609: EXEMPTION FROM APPLICATION FEES AND FINE ART ORNAMENTATION REQUIREMENTS

No application fee shall be required as a condition of any application for Planning Department approval, Architectural Commission approval or Planning Commission approval to repair or reconstruct any building damaged by disaster.

In addition, the repair or reconstruction of any building damaged by a disaster shall be exempt from the fine art ornamentation requirements set forth in Title 3, Chapter 1, Article 8 of the Beverly Hills Municipal Code. Buildings that previously provided fine art to fulfill the requirements of the Beverly Hills Municipal Code shall replace any destroyed fine art as set forth in Beverly Hills Municipal Code Section 3-1-810.

10-3-4610: TEMPORARY STRUCTURES.

Beginning on the date of the declaration of emergency by the Mayor or City Council, and for a period of six months thereafter the Director of Community Development may issue:

(1) a permit to construct and utilize a temporary structure for the purpose of housing a use in a zone in which the use is otherwise prohibited or conditionally

permitted if it can be determined that the proposed temporary structure will serve a public need and will be compatible with neighboring uses and, (2) a permit to construct and utilize a temporary structure if a building may not lawfully be occupied due to damage to the building, the owner of the building may request for the purpose of housing the use that previously occupied the building if it can be determined that the proposed temporary structure will not be detrimental to the public health or safety.

Permits for temporary structures and temporary uses shall remain valid for 180 days after issuance. Permittees may request one 180-day extension from the Director of Community Development.

10-3-4611: RECONSTRUCTION OF MULTIPLE-FAMILY RESIDENTIAL DWELLINGS INVOLUNTARILY DAMAGED FOR REASONS OTHER THAN A DISASTER

Notwithstanding any other provisions of this Ordinance or any provision of the Beverly Hills Municipal Code, and without a declaration of emergency by the Mayor or the City Council, the owner of any multiple-family residential dwelling that is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy may repair or reconstruct such dwelling pursuant to this Section 10-3-4611 if the owner obtains a building permit for the repair or reconstruction within two years after the damage or destruction.

A. Determination of Specifications.

If a multiple-family residential dwelling is destroyed by fire, other catastrophic event or the public enemy, the City shall determine the pre-damage parameters of the dwelling which define the legally permitted scale of such dwelling. Those parameters include, but are not limited to, the dwelling's height envelope, footprint, parking, floor area, and number of dwelling units. Such determination shall be based on the records of the City, as well as any additional information provided by the owner pursuant to a request by the Director Community Development.

B. Development Plan Review

1. No building shall be repaired or reconstructed pursuant to this Section except in conformity with the Development Plan Review requirements contained in Title 10, Chapter 3, Article 31, of the Beverly Hills Municipal Code.
2. Unless the Planning Commission otherwise conditions the repair or reconstruction pursuant to this Development Plan Review process, the owner may repair or reconstruct the dwelling in such manner that:
 - a. The average unit size in the replacement structure is equal to or greater than the average unit size of the original structure as it is determined by the City;
 - b. The height envelope of the replacement structure is within the height envelope of the original structure as it is determined by the City;

- c. The footprint of the replacement structure is within the footprint of the original structure as it is determined by the City;
 - d. The aggregate floor area of the replacement structure is equal to or less than the aggregate floor area of the original structure as it is determined by the City;
 - e. A garage may be rebuilt in the rear yard of a property if the existence of a rear yard garage is verified by the City, provided that the replacement garage shall be in the same location as the original garage.
3. However, the Planning Commission may not impose any condition upon the repair or reconstruction which would prohibit the repair or reconstruction of the aggregate floor area of the original building or would prohibit repair or reconstruction of the total number of dwelling units of the original building, unless the Planning Commission determines that:
- a. The repair or reconstruction will be detrimental or injurious to the health, safety, or general welfare of persons residing or working in the neighborhood, or will be detrimental or injurious to property and improvements in the neighborhood; or
 - b. The existing nonconforming use of the building or structure would be more appropriately moved to a zone in which the existing nonconforming use is permitted.

C. Parking

For each unit repaired or reconstructed in excess of the then current density limitations of the Beverly Hills Municipal Code, the permittee shall provide one additional parking space up to the amount of parking otherwise required by the then current Beverly Hills Municipal Code for the replacement building. The Planning Commission may reduce or waive this parking requirement as part of its approval of the permittee's Development Plan Review application if the Planning Commission determines that such a waiver or reduction: (1) is necessary because the subject property cannot physically accommodate additional parking; or (2) is necessary to prevent undue economic hardship for the permittee. In lieu of granting a waiver or reduction, the Planning Commission may, upon request by the permittee, allow the permittee to repair or reconstruct the building so that the building extends beyond the pre-damage height envelope or footprint, but not beyond the pre-damage maximum height or minimum setback, for the sole purpose of accommodating parking the site.

Nothing in this subsection shall be construed to require the permittee to provide more parking than is required by the then current Beverly Hills Municipal Code for the replacement building, nor shall this subsection be construed to permit a building to be repaired or reconstructed without providing at least the number of parking spaces provided prior to the damage to the building.

D. Rental Units

Whenever an owner repairs or reconstructs rental units pursuant to this Section, such units shall remain subject to the City's rent control laws. However, notwithstanding any other provision of the Beverly Hills Municipal Code, any tenant required to vacate a rental unit due to damage or destruction, or due to repair or reconstruction of the unit, shall be provided a right of first refusal to occupy the unit.

3-10-4612: ABANDONMENT OF RIGHTS

The failure to obtain a building permit for the repair or reconstruction of a building within two (2) years after issuance of a permit pursuant to this Ordinance shall constitute an abandonment of such permit. Additionally, expiration of the building permit to repair or reconstruct a building damaged by a disaster shall also constitute an abandonment of the permit issued pursuant to this Ordinance. Upon abandonment, all rights granted by the permit shall lapse and the property affected thereby shall be subject to all provisions of Title 10, Chapter 3 of the Beverly Hills Municipal Code.

Nothing contained in this section shall be construed to alter the time limits set forth in Chapter 6 of Title 9 of the Beverly Hills Municipal Code concerning the completion of disaster repairs in compliance with the City's building code and other technical codes.

Section 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

Section 6. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 7. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

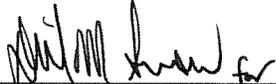
Adopted:
Effective:

JULIAN A. GOLD, M.D.
Mayor of the City of
Beverly Hills, California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
Interim City Manager



SUSAN HEALY KEENE
Director of Community Development