



## Planning Commission Report

**Meeting Date:** March 26, 2015

**Subject:** Disaster Reconstruction Ordinance

**Recommendation:** Adopt a resolution recommending to the City Council an ordinance amending the Beverly Hills Municipal Code revising and codifying reconstruction standards relating to buildings damaged by disaster. Pursuant to the provisions set forth in the California Environmental Quality Act, the Commission will also consider adoption of a Categorical Exemption for the amendment.

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### REPORT SUMMARY

In the 1990s the City of Beverly Hills adopted regulations that govern certain aspects of rebuilding after a city-declared disaster; however, there is a desire to expand, update and clarify the code language in order to promote city resiliency through effective planning. The Planning Commission discussed aspects of a draft ordinance at a study session on January 22, 2015. At this meeting the commission provided comments and directed staff to return with a draft ordinance. This report summarizes the attached draft ordinance (Attachment 1) and provides information requested by the Planning Commission during the meeting on January 22, 2015.

### BACKGROUND

The City has several disaster reconstruction ordinances that were adopted in the 1990s that are in effect but were never codified<sup>1</sup>. In 1995 the City Council adopted an ordinance that established a program to facilitate the reconstruction of buildings after a disaster. This Disaster Recovery Ordinance established a "Disaster Reconstruction Permit", which allows the owner of any building which has been damaged by a disaster to the extent of more than 50% of the building's replacement value, to repair and reconstruct the building according to a set of standards set forth in the ordinance. In 1998, the City Council adopted a second ordinance, which amended the 1995 disaster recovery ordinance. A summary of the contents of the 1995 and 1998 Ordinances can be found in the January 22, 2015 staff report (Attachment 2).

At its meeting on January 22, 2015, the Planning Commission discussed the need for a disaster recovery ordinance, benefits of disaster recovery ordinances, current disaster recovery regulations in Beverly

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<sup>1</sup> The Disaster Reconstruction Ordinance should not be confused with the Seismic Safety Ordinance (1992), which lays out a series of standards to make existing unreinforced masonry buildings safer during earthquakes and allows existing buildings to be demolished and replaced with a new structure of comparable size and constructed in accordance with modern engineering standards.

#### Attachments:

1. Planning Commission Resolution and Draft Ordinance
2. January 22, 2015 Staff Report

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Hills, and staff recommendations for changes to the existing regulations. Since the January meeting, staff has worked to incorporate the Commission's comments into the attached Draft Ordinance.

The ordinances adopted during the 1990s, as well as the changes proposed in the attached Draft Ordinance, attempt to balance several goals that should be considered after a community-wide disaster. These goals include:

- Retain housing units and commercial spaces in the City so residents and businesses are not displaced
- Create processes to help residents and businesses rebuild and reestablish as quickly as possible after a disaster,
- Encourage non-conforming buildings to come into compliance with current regulations when appropriate, and
- Preserve the existing community character of the City.

The language contained in the draft Ordinance is intended to address these goals. As discussed during the January 22 study session, staff is also working to develop an internal policy document (the Director's Guidelines for Disaster Reconstruction) that will contain policies and practices to govern City processes after a disaster. Staff will return to the Planning Commission for approval of the Guidelines document.

## **DISCUSSION**

### **Summary of changes to existing regulations in Draft Ordinance**

#### Codification of Ordinance language

The attached draft ordinance would cause the disaster reconstruction regulations of the City of Beverly Hills to be incorporated into the Beverly Hills Municipal Code as Article 46 in Chapter 3 of Title 10.

#### Minor changes to update code language

The Draft Ordinance includes minor language changes that have been made to ensure that the ordinance is in compliance with the current structure and practices of the Community Development Department. These changes do not represent substantive changes to the regulations contained in the Ordinance.

#### Design Review for single family development

At the time the original Disaster Reconstruction Ordinance was written there was no design review process for single family homes in the Central Area of the City. The attached draft Ordinance includes language to require homes constructed pursuant to the Disaster Reconstruction Permit to be subject to a design review process.

Given that there could be a large number of homes that require design review in the months after a major disaster, it may be appropriate to establish a modified design review process. Staff is currently working to develop this process for post-disaster recovery that will be outlined in the Director's Guidelines for Post Disaster Reconstruction. It is important that the design review requirement does not overly burden residents of the City or greatly delay the ability of residents to rebuild their

homes. Once a draft policy has been developed, staff will return to the Planning Commission with the Director's Guidelines for approval.

#### Time limit extended for temporary structures and uses

Current regulations allow the Director of Community Development to issue permits after a declared disaster to allow temporary uses and temporary structures. The Director may allow:

- A use in an area where the use is usually not allowed or conditionally permitted, for a period of time established by the Director, as long as the Director determines that the use will serve a public need and will be compatible with neighboring uses. Examples could include the Director allowing the storage of building and construction materials on a commercial or residentially zoned property in order to make these materials available for rebuilding.
- A temporary structure to house a use that was previously in a structure that cannot lawfully be occupied due to damage, for a period of 90 days.

The Planning Commission expressed support for the establishment of a uniform time period for temporary structures and temporary uses after a disaster that is longer than 90 days. The Draft Ordinance includes language (see page 15) that establishes a period of 180 days with an optional 180-day extension for both temporary uses and temporary structures.

#### Clarification on Fine Arts Fee waiver

Currently, construction of new commercial, industrial, or mixed use buildings that are valued over \$500,000 have an obligation to provide fine art, as required by Beverly Hills Municipal Code Section 3-1-800. The existing disaster recovery regulations waive the Fine Arts Requirement for buildings that are rebuilt after a disaster. Planning staff worked with Community Services staff to clarify the language in the Disaster Recovery Ordinance and bring it into conformance with the new Fine Art Ordinance that was adopted in early 2015. The italicized language below shows the language change in the Draft Ordinance:

*"...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 requirements shall replace any destroyed fine art as set forth in Beverly Hills Municipal Code Section 3-1-810."*

#### Clarification on request for reduction in parking requirements for multi-family and commercial structures

There was a request by a commissioner during the Planning Commission study session to clarify language in the existing reconstruction ordinance that governs the ability of the Planning Commission to waive or reduce the number of parking spaces required for multi-family and commercial buildings reconstructed after a disaster.

Currently, the regulations in the Disaster Recovery Ordinance allow non-conforming commercial and multi-family structures to rebuild under the following conditions:

- Commercial building:
  - The floor area of replacement structure must be equal or less than original structure
  - The footprint of the replacement structure is within the footprint of original structure
  - The height envelope of the replacement structure is within the height envelope of the original structure.
  
- Multi-family building<sup>2</sup>:
  - The footprint of the replacement structure is within the footprint of the original structure
  - The height envelope of the replacement structure is within the height envelope of the original structure
  - The aggregate floor area in the replacement structure is equal to or less than the aggregate floor area of the original structure
  - The average unit size in the replacement structure is equal to or greater than the average unit size of the original structure
  - The number of units in the replacement structure is equal to or less than the number of units in the original structure

Parking is a common deficiency of older developments in the City, many of which were developed when parking requirements were different than today. In order to address the non-conforming parking of some buildings that would be reconstructed, the current Ordinance contains the following parking requirements:

- Commercial building: a commercial building that is non-conforming in terms of parking may rebuild without providing additional parking if the building meets the current code limitations on height and floor area ratio. If the applicant is seeking to rebuild the commercial building back to a non-conforming height or floor area ratio, the applicant must provide all current code required parking.
  
- Multi-family building: a multi-family residential building must provide one additional parking space for each unit repaired or reconstructed in excess of the current density limitations of the Municipal Code.

Because it may be difficult to reconstruct older buildings with more parking than previously provided due to financial or space constraints, the current Ordinance provides two options for applicants that wish to request a reduction or waiver of these parking requirements:

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<sup>2</sup> Additionally, owners of multiple-family buildings that are damaged for reasons other than a declared City disaster (such as a fire) may also take advantage of the disaster reconstruction standards outlined in the ordinance. Senate Bill 2112 mandates that local agencies allow the like for like rebuilding of non-conforming multiple-family residential structures, regardless of whether a state of emergency has been declared.

1. An applicant may request that the Planning Commission waive or reduce this parking requirement if the Commission determines that a waiver or reduction is necessary because:
  - a. the property cannot physically accommodate additional parking, or
  - b. if it is necessary to prevent undue economic hardship for the permittee.
2. An applicant may request to reconstruct a building so that it extends beyond the pre-damage height envelope or pre-damage building footprint, but not beyond the pre-damage total height or minimum setbacks of the damaged building in order to provide additional parking. For example, if an applicant was seeking to rebuild a multifamily building that previously had a penthouse unit that occupied 30% of the third story, the applicant could request to build a full third story in the reconstructed building in order to accommodate some or all of the code required parking. The applicant would not be able to request to build a four-story building, because that would be higher than the total height of the structure before it was damaged.

During the Planning Commission study session in January, a commissioner expressed interest in allowing an applicant to request to build outside the former building envelope only if the applicant is interested in providing all of the code required parking (not just a portion of the required parking). This would prohibit an applicant from requesting a deviation from the previous building envelope if the applicant was seeking to merely increase the number of parking spaces beyond the number previously provided on site, but not provide enough spaces to completely fulfill the existing parking requirements for the building.

The change suggested during the study session has been incorporated into the Draft Ordinance; however, staff suggests that the Planning Commission discuss this point further. Staff has concerns that this change would discourage a property owner from adding additional parking spaces in non-conforming buildings that could be beneficial to the community.

#### **Additional Information Requested by Planning Commission**

Several commissioners asked staff to return with additional information on several aspects of disaster recovery. The information requested is provided below.

#### Type of temporary structures that are common after a disaster

A Planning Commissioner had a question about the type of temporary structures that are generally used after a large-scale natural disaster. Staff research indicates that there are a variety of structures that can be used for temporary shelter or to house businesses or critical services temporarily after a natural disaster. For example, human shelter has been provided using the following in past disasters:

- Prefabricated buildings or prefabricated components that can be fashioned into a buildings
- Mobile homes or trailers
- Tents and fabric structures
- Structures built from available materials such as timber, clay, and building scraps

Each disaster is unique, and it is difficult to predict the extent of potential damage, or the type of temporary structures that may be used in any given situation.

### Type of fees levied on new projects

During the study session in January, a commissioner asked staff to provide more information about the fees levied on new developments. Staff has compiled a general list of fees that may be levied on a multi-family project in the City of Beverly Hills. The fees include<sup>3</sup>:

#### Planning Application Fees

- Development Plan Review
- Architectural Review
- Environmental Review

#### Building Permit Fees

- Plan Check Fee
- Building Permit
- Shoring/Grading Permit
- Plumbing Permit
- Electrical Permit
- Mechanical Permit
- Off-site improvements (curb and gutter permit, paving replacement inspection, utility permit, street use/hauling)

#### Taxes + Other Fees

- Park and Recreation Tax
- Dwelling Unit Tax
- School Fee

The current disaster recovery ordinance exempts applicants from the Planning Application Fees and Fine Arts Requirement (for commercial projects). The Planning Commission did not express interest in changing language in the ordinance to waive any additional fees.

### **CONSISTENCY WITH GENERAL PLAN AND OTHER CITY PLANS**

#### *General Plan*

The Safety Element of the General Plan contains language including Goal S 7.14 “Post Disaster Reconstruction” which calls for the City to “participate in the development of programs and procedures that emphasize coordination between appropriate public agencies and private entities to remove debris and promote rapid reconstruction following a disaster event.” Updating and codifying disaster reconstruction and rebuild regulations can help aid coordination between public and private agencies in order to promote rapid reconstruction following a disaster.

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<sup>3</sup> Please note that this is a general list and projects may be subject to different fees and taxes and should be assessed on a case by case basis.

### *Hazard Mitigation Action Plan*

The City's 2010-2015 Hazard Mitigation Plan was adopted by the City in 2010 and by FEMA in 2011. This plan specifically promotes policies and programs designed to protect the public, crucial facilities, infrastructure, private and public property and the environment from natural and manmade hazards. The plan is currently being updated by staff and is expected to be considered by the City Council and reviewed by FEMA sometime in late 2015. Staff will work to ensure that the recommendations from the Planning Commission are integrated into the Hazard Mitigation and Action Plan as appropriate.

### **ENVIRONMENTAL REVIEW**

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 Planning Commission 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.

### **RECOMMENDATION**

Adopt a resolution recommending to the City Council an ordinance amending the Beverly Hills Municipal Code revising and codifying reconstruction standards relating to buildings damaged by disaster. Pursuant to the provisions set forth in the California Environmental Quality Act, the Commission will also consider adoption of a Categorical Exemption for the amendment.



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Report Reviewed By:  
Michele McGrath  
Principal Planner

**Attachment 1**  
**Planning Commission**  
**Resolution and Draft Ordinance**

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING ADOPTION OF AN ORDINANCE OF THE CITY OF BEVERLY HILLS REVISING AND CODIFYING RECONSTRUCTION STANDARDS RELATING TO BUILDINGS DAMAGED BY DISASTER.

WHEREAS, the Planning Commission has considered the proposed amendment to the City of Beverly Hills Municipal Code, as set forth and attached hereto as Exhibit A and more fully described below (the “Amendments”); and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on March 26, 2015, at which time it received oral and documentary evidence relative to the proposed Amendments; and

WHEREAS, the Planning Commission finds that the proposed Amendments are required for the public health, safety, and general welfare, and that such Amendments are consistent with the general objectives, principles, and standards of the General Plan;

NOW, THEREFORE, the Planning Commission of the City of Beverly Hills does resolve as follows:

Section 1. 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 Planning Commission recommends that the City Council find that adoption of the Amendment 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.

Section 2. As proposed, the Amendments to the Beverly Hills Municipal Code in Exhibit A would revise and codify the disaster recovery provisions of the City of Beverly Hills. The revisions consist of minor language changes to bring the program into conformance with the current structure and practices of the Community Development Department. An additional revision would extend the amount of time that a temporary structure or use, as allowed by the program, can be in place after a disaster from 90 days to 180 days, with the possibility of a one-time 180-day extension.

Section 3. The Amendments are consistent with the objectives, principles, and standards of the General Plan. General Plan Policy "S 7.14 - Post-disaster Reconstruction" 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 Planning Commission does hereby recommend to the City Council the adoption of an ordinance approving and enacting the proposed Amendments substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 5. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: February \_\_\_\_\_

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Howard Fisher  
Chair of the Planning Commission of the  
City of Beverly Hills, California

Attest:

\_\_\_\_\_  
Michele McGrath  
Secretary

Approved as to form:

Approved as to content:

\_\_\_\_\_  
David M. Snow  
Assistant City Attorney

\_\_\_\_\_  
City Planner

EXHIBIT A

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 \_\_\_\_\_, the Planning Commission held a duly noticed public hearing after which it adopted Resolution No. \_\_\_\_\_, 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 \_\_\_\_\_, 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

1. “Aggregate Floor Area” shall mean the sum of the floor areas of all independent living quarters of a structure.”
2. “Building Footprint” or “Footprint” shall mean that portion of a site covered by a building.
3. “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.
4. “Height Envelope” shall mean the outline of a building indicating the height of the building at each point within the building footprint.
5. “Multiple-Family Residential Dwelling” shall mean any building designed for human habitation that is legally divided into two or more independent living quarters.
6. “Residential Building” shall mean a building designed for human habitation or a building accessory to a building designed for human habitation.
7. “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, as determined by the Director of

Community Development, exceeds more than fifty percent (50%) of the damaged building shall mean the cost, as determined by the Director of Community Development, or replacing the damaged structure with a new structure of the same size, construction material and occupancy on the same site.

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.

B. 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.

C. 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 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.



The foregoing formula reflects the parking requirements set forth in Sections 10-3.2816 and 10-3.2817 of Article 28 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code at the time this Paragraph (8) was adopted. Should the requirements of those Sections be subsequently amended in a manner that affects the foregoing formula, the foregoing formula shall be modified to reflect those amendments.

9. 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, 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:
  - (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.

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, except in conformity with the Development Plan Review requirements contained in 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, or upon authorization by the City Manager, 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 ; 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 this 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 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:

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

ATTEST:

\_\_\_\_\_(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

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LAURENCE S. WIENER  
City Attorney

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MAHDI ALUZRI  
Interim City Manager

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SUSAN HEALY KEENE  
Director of Community Development

# Attachment 2

January 22, 2015 Staff Report



## City of Beverly Hills

### Planning Division

455 N. Rexford Drive Beverly Hills, CA 90210  
TEL. (310) 485-1141 FAX. (310) 858-5966

# Planning Commission Report

**Meeting Date:** January 22, 2015

**Subject:** Disaster Recovery Ordinance Update

**Recommendation:** Discuss Current Disaster Recovery Ordinances and Direct Staff to Return with a Draft Ordinance

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## REPORT SUMMARY

The City's zoning code establishes regulations for buildings, properties and uses in the City. In the event of an emergency or natural disaster, buildings and properties can be damaged or destroyed and are often rebuilt after the disaster. Increasingly, jurisdictions are adopting disaster recovery and rebuilding policies. The City of Beverly Hills has some regulations that govern certain aspects of disaster recovery; however, there is a desire to expand, update and clarify the code language in order to promote resiliency through effective planning. Updating the disaster recovery and rebuilding ordinances was included as part of the 2013/2014 Fiscal Year Budget for Community Development. This report summarizes the recovery ordinances that were adopted by the City in 1995 and 1998 and are currently in effect. Staff is seeking input from the Planning Commission on potential updates to these ordinances and will return at a later date with a draft updated disaster recovery ordinance for further consideration.

## BACKGROUND

### Need for a disaster recovery ordinance

As described in the Safety Element of the City's General Plan, the City of Beverly Hills is located in a region that has experienced, and will experience natural disasters in the future. Three earthquake faults, the Hollywood Fault, the Santa Monica Fault, and the Newport Inglewood Fault, run through the City. Additionally, much of the northern portion of the City is located in a very high fire hazard severity zone. As such, it is important to have standards in place that govern the process for rebuilding after a natural disaster has occurred. Generally, disaster recovery ordinances can:

- Provide development standards for legally non-conforming properties after disaster
- Outline demolition procedures for damaged structures
- Establish a process for planning and building permitting after a disaster
- Provide for and regulate the use of temporary structures on a property
- Set forth inspection service plan and procedures

#### Attachments:

1. 1995 Disaster Recovery Ordinance
2. 1998 Disaster Recovery Ordinance

#### Report Author and Contact Information:

Timothea Tway  
Associate Planner  
(310) 285-1122  
ttway@beverlyhills.org

Research on disaster recovery illustrates the importance of planning for recovery *prior* to a disaster. The benefits of a disaster recovery and rebuilding ordinance are outlined below.

Many other aspects of disaster recovery, such as the Emergency Operations Control Center, handling displaced persons, utilities, public safety, community centers, social services, and building code issues etc. are addressed by the City through other policies and programs. This study session and the disaster recovery ordinance considered by the Planning Commission will only address recovery and rebuilding regulations related to the built environment.

### **Benefits of a disaster recovery ordinance**

Including disaster recovery and reconstruction standards in the zoning code can provide benefits for property owners, business owners, residents and the City by outlining clear processes and rules that govern planning and building activities.

#### *Benefits for property owners and residents*

- Provide a level of expectation for rebuilding  
Establishing reconstruction and recovery standards can provide a level of expectation for property owners as to what uses and buildings may be rebuilt, and how, after a disaster.
- Expedite recovery time  
Establishing post-disaster policies could result in a more timely rebuilding of the city after a disaster by clearly establishing the regulations that will apply at the time. The regulations established can also be developed in a way that could expedite the recovery process by establishing shorter timelines and review periods for development applications in the period following a disaster.
- Reduce burden on property owners  
Procedures can be established that attempt to reduce monetary (fees) and time burdens on property owners to make rebuilding less costly after a natural disaster
- Reduce stress and dislocation  
Establishing clear standards for rebuilding after a disaster can reduce the stress of rebuilding and allow property owners, residents and tenants to reoccupy buildings more quickly. This can reduce the stress related to rebuilding and the potential dislocation of populations. Research indicates that retaining residents and businesses in a City immediately after a disaster can help a City recover from a disaster more effectively.

#### *Benefits for the City*

- Ensure the essential improvements in reconstructed structures  
Reconstruction standards can include regulations to ensure that buildings are rebuilt to current safety and/or zoning standards and are more resilient to future disaster events.

- Expedite the process after a disaster for recovery  
A disaster recovery ordinance and reconstruction standards can save staff time and allow more redevelopment during the post-disaster phase resulting in expedited recovery and reduced delays in rebuilding efforts. This could also help retain businesses and maintain a tax base, which would be needed in order to provide City services.
- Simplifies enforcement activities  
Clearly outlining post-disaster recovery standards and practices can make inspections and permitting more streamlined by removing uncertainty of rebuilding rules and regulations.

## DISCUSSION

### Summary of current disaster recovery regulations<sup>1</sup> in Beverly Hills

The City has several disaster reconstruction ordinances that were passed in the 1990s that are in effect but were never codified. A summary of the ordinances is provided below.

In 1995 the City Council adopted an ordinance that established a program to facilitate the reconstruction of buildings after a disaster<sup>2</sup>. This disaster recovery ordinance established a "Disaster Reconstruction Permit", which allows the owner of any building which has been damaged by a disaster to the extent of more than 50% of the building's replacement value to repair and reconstruct the building according to a set of standards set forth in the ordinance. The Disaster Reconstruction Permit and related standards would only be available to property owners if a state of emergency is declared by the City Council, except in the case of multiple-family residential structures, which are separately regulated (see page 6 of this report).

Prior to the adoption of the ordinance in 1995, if a structure was destroyed during a disaster, any new development on the site would have had to conform to all existing zoning laws. This meant that existing legally nonconforming structures, such as commercial buildings taller than three stories, could not be rebuilt to the height, mass, or density of the building that existed prior to the disaster.

The 1995 ordinance attempted to balance competing objectives related to land use and community character. If widespread disaster were to strike and a disaster were declared, the natural implementation of the City's planning and zoning standards would be interrupted through the activation of this ordinance. The activation of the ordinance would permit rebuilding after a disaster with an understanding that it may be more valuable to allow buildings to be rebuilt as they were in order to maintain the current character of the community, than requiring that they meet current code. Allowing

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<sup>1</sup> The Beverly Hills Municipal Code Title 9 Chapter 6 "Postdisaster Recovery and Reconstruction" includes information on safety assessment placards, demolition and disaster repair and reconstruction. These sections address the building and safety aspects of disaster reconstruction. The Disaster recovery regulations discussed in this report relate to planning and zoning requirements.

<sup>2</sup> The Disaster reconstruction Ordinance should not be confused with the Seismic Safety Ordinance (1992), which lays out a series of standards to make existing unreinforced masonry buildings safer during earthquakes and allows existing buildings to be demolished and replaced with a new structure of comparable size and constructed in accordance to modern engineering standards.

building owners to replace existing buildings like for like could help retain the existing community character and also help retain the economic base of the City. For example, if the legally non-conforming buildings along Wilshire were damaged and were not able to rebuild to current height and density, the City could lose commercial space and many businesses would be forced to relocate out of the City. Additionally, because of changes in parking and height standards, it may not be economically viable for a developer to redevelop the land to current code, which could result in vacant and underutilized properties after a disaster.

In 1998 the City Council adopted a second ordinance, which amended the 1995 disaster recovery ordinance. The amendments included:

1. Extending the time limit to exercise rights under the ordinance for single family residential development from two to five years (commercial and multi-family residential development have two years to exercise rights)
2. Require parking deficient single-family residential reconstruction to meet current parking standards
3. Provide a staff-level minor accommodation for reduced parking for cases where single-family reconstruction cannot feasibly meet the current parking standards
4. Provide a staff-level minor accommodation for front yard paving for cases where single-family reconstruction cannot feasibly meet the current parking standards, and
5. Limit the bedroom density in multiple-family residential reconstruction in a manner that would prevent the resulting development from increasing a deficiency in parking relative to the current parking standards.

*Reconstruction standards:*

The following table summarizes the current disaster recovery standards for development in commercial, multi-family residential and single-family residential zones in the City as established by the 1995 and 1998 ordinances:

| <b>Disaster Reconstruction Standards</b> |                                                                         |                                                                                                                                                                                                           |                                                                           |
|------------------------------------------|-------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
|                                          | <b>Commercial</b>                                                       | <b>Multiple-Family Residential</b>                                                                                                                                                                        | <b>Single-Family Residential</b>                                          |
| <b>Density/Floor Area</b>                | Cannot exceed existing or former floor area                             | Cannot exceed existing or former number of dwelling units. Cannot exceed existing or former aggregate unit floor area. Must provide at least as much floor area per unit as the existing/former building. | Cannot exceed existing or former floor area.                              |
| <b>Height</b>                            | Must be entirely within the envelope of the existing or former building | Must be entirely within the envelope of the existing or former building                                                                                                                                   | Must be entirely within the envelope of the existing or former building.  |
| <b>Setbacks</b>                          | Must be within the footprint of the existing or former building.        | Must be entirely within the footprint of the existing or former building.                                                                                                                                 | Must be entirely within the footprint of the existing or former building. |

|                                |                                                                                                                                                                                                                      |                                                                                                                                                                                                                                              |                                                                                                    |
|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| <b>Parking</b>                 | Buildings conforming to existing height and density standards only have to replace the existing parking. Buildings exceeding either existing height or density standards must meet current parking standards.        | Existing parking must be replaced. Existing parking ratio (bedrooms) is a minimum. Where replacement/reconstructed building will exceed the current density standards, one additional parking space per unit in excess of the density limit. | Current Code requirements.                                                                         |
| <b>Front yard paving</b>       | Not applicable.                                                                                                                                                                                                      | Current Code requirement.                                                                                                                                                                                                                    | Current Code requirement. Minor accommodation can be granted to accommodate Code-required parking. |
| <b>Architectural Review</b>    | Required for all buildings                                                                                                                                                                                           | Required for all buildings                                                                                                                                                                                                                   | Not Applicable.                                                                                    |
| <b>Development Plan Review</b> | Required for buildings exceeding current height or density standards. May be used in cases to accommodate parking (either reduce amount required or allow buildings outside existing envelope for parking purposes). | Required for reconstruction where no City emergency had been declared. May be used in cases to accommodate parking (either reduce amount required or allow building outside existing envelope for parking purposes).                         | Not Applicable.                                                                                    |
| <b>Time to exercise rights</b> | Two years.                                                                                                                                                                                                           | Two years.                                                                                                                                                                                                                                   | Five years*.                                                                                       |
| <b>Fees and charges</b>        | Planning Application, Parks and Rec taxes, and Fine Arts requirements waived                                                                                                                                         | Planning application, Parks and rec taxes, and Fine Arts requirements waived                                                                                                                                                                 | Planning application, parks and rec taxes and fine arts requirements waived.                       |

*Non-conforming parking waiver:*

Parking is a common deficiency of older developments in the City, many of which were developed when parking requirements were different than today. If a property owner wishes to rebuild a building after a disaster, and the building is non-conforming in terms of parking, the owner may request relief from the requirement to provide code-required parking if the property cannot physically accommodate additional parking or if the provision of parking would present undue economic hardship for the applicants. Additionally, the applicant may be allowed to repair or reconstruct the building so that the building extends beyond the pre-damage height envelope or building footprint (but not beyond the pre-damage maximum height or minimum setback) for the sole purpose of accommodating parking on the site.

*Fees:*

The 1995 ordinance exempted applicants from Planning and Architectural Application fees as part of a repair or reconstruction effort after a disaster. Repair and reconstruction of buildings damaged by a disaster are also exempt from the fine art requirements in the Beverly Hills Municipal Code.

*Temporary structures:*

For a period of six months after the Mayor or City Council declare an emergency, or upon authorization by the City Manager, the Director of Planning may issue permits to construct and utilize temporary structures for the purpose of housing a use in a zone in which the use is otherwise prohibited or conditionally permitted. The permit shall be issued upon determining that the temporary structure will serve a public need and will be compatible with the neighborhood. The Director may impose an expiration date on the permit.

A building owner may also request a permit to construct and utilize a temporary structure for a period of 90 days to house the use that previously occupied a building if the building may not be lawfully occupied due to damage. The allowance of temporary structures after a disaster can help residents stay in the City after a disaster and businesses continue to operate should their permanent structures need repair.

*Multiple family residential structures that are involuntarily damaged for reasons other than a disaster:*

Owners of multiple-family buildings that are damaged for reasons other than a declared City disaster (such as a fire) may also take advantage of the disaster reconstruction standards outlined in the ordinance. Senate Bill 2112 mandates that local agencies allow the like for like rebuilding of non-conforming multiple-family residential structures, regardless of whether a state of emergency has been declared.

## **RECOMMENDATION**

After reviewing best practices and literature on disaster recovery and analyzing the weaknesses of the existing regulations, staff recommends that the Planning Commission direct staff to:

- 1. Return with a draft ordinance to codify existing regulations and make minor changes that are needed to clarify and modernize the regulations.***

While the regulations that were adopted in 1995 and 1998 are currently in effect, they were never codified. The absence of these disaster recovery and rebuild regulations from the zoning code often leads to confusion regarding the regulations. Outlining the regulations in the zoning code will make it easier for the public and staff to access information about the regulations and to understand what can and cannot be rebuilt after a disaster.

Staff finds the current disaster recovery regulations outlined in the 1995 and 1998 ordinances to be generally in-line with best practices. However, staff recommends making several minor changes to the existing regulations. Some of the changes are needed in order to ensure that the ordinance accurately represents the current structure of the department, which has changed since the 1990s. For example, the 1998 ordinance requires applicants to submit applicants to the Department of Building and Safety, which no longer exists due to departmental restructuring and renaming.

Staff also recommends changing the regulations to allow temporary structures on a site for a period of more than 90 days after a disaster. If a building may not be lawfully occupied due to damage from a disaster, it is likely that the building owner will not be able to complete the needed repairs within 90 days of a disaster. In the interest of ensuring that residents and

businesses can remain in the City after a disaster, staff recommends that this time period is extended and that temporary structures are allowed to remain on a site for 180 days.

**2. *Develop disaster recovery guidelines that outline disaster related procedures and operations.***

The zoning regulations pertaining to disaster recovery and rebuilding should be outlined in the zoning code, however, internal policies and procedures related to procedures after a disaster are more appropriately outlined in a policy document. Staff recommends the creation of guidelines that outline procedures and policies related to planning operations after a disaster. The guidelines could address issues such as:

- The entitlement process immediately following a disaster if there are a large number of applicants at one time, or
- The establishment of a “one stop shop” for permitting after a disaster.

The creation of these guidelines will require more research into best practices as well as consultation with various departments in the City. Staff will return to the Planning Commission for another study session on the proposed guidelines as well as for final approval of the document.

**CONSISTENCY WITH GENERAL PLAN AND OTHER CITY PLANS**

*General Plan*

The Safety Element of the General Plan contains language on disaster including Goal S 7.14 “Post Disaster Reconstruction” which calls for the City to “participate in the development of programs and procedures that emphasize coordination between appropriate public agencies and private entities to remove debris and promote rapid reconstruction following a disaster event.” Updating and codifying the disaster reconstruction and rebuild regulations can help aid coordination between public and private agencies in order to promote rapid reconstruction following a disaster. Further, allowing the reconstruction of existing legally non-conforming buildings after a disaster meets the Land Use Policy LU 2.1 “City Places: Neighborhoods, Districts, and Corridors” which calls for the maintenance and enhancement of the character, built form, scale and aesthetic qualities of the City’s distinctive residential neighborhoods, business districts, corridors, and open spaces.

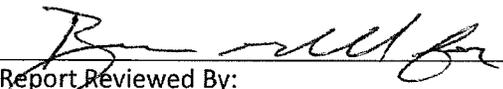
*Hazard Mitigation Action Plan*

The City’s 2010-2015 Hazard Mitigation Plan was adopted by the City in 2010 and by FEMA in 2011. This plan specifically promotes policies and programs designed to protect the public, crucial facilities, infrastructure, private and public property and the environment from natural and manmade hazards. The plan is currently being updated by staff and is expected to be considered by the City Council and

reviewed by FEMA sometime in late 2015. Staff will work to ensure that the recommendations from the Planning Commission are integrated into the Hazard Mitigation and Action Plan as appropriate.

**NEXT STEPS**

With direction from the Planning Commission, staff will return with more information on any topics related to disaster recovery that are of interest to the Planning Commission as well as a draft updated disaster recovery ordinance for consideration.

  
\_\_\_\_\_  
Report Reviewed By:  
Jay Trevino, AICP  
Interim City Planner

**Attachment 1**  
**1995 Disaster Recovery**  
**Ordinance**

ORDINANCE NO. 98 -O- 2288

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING  
URGENCY ORDINANCE NO. 95-O-2243 REVISING  
RECONSTRUCTION STANDARDS RELATING TO BUILDINGS  
DAMAGED BY DISASTER

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

**Section 1.** Section 3 of Ordinance 95-O-2243 regarding definitions is hereby amended to add a new paragraph, Paragraph (7). The new Paragraph (7) shall read as follows:

"(7) 'Then Current' shall mean at the time a Disaster Reconstruction Permit under this Ordinance is applied for."

**Section 2.** Section 5 of Ordinance 95-O-2243 is hereby amended to read as follows:

"Section 5. 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 Ordinance shall be submitted to the Department of Building and Safety 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.

B. 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 this Ordinance shall be submitted to the Department of Building and Safety 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 disaster.

C. 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 3.** Subsection A of Section 6 of Ordinance 95-O-2243 regarding repair standards for nonconforming residential

buildings located in residential areas is hereby amended to read as follows:

"A. Structures in Single Family Residential Zones.

The permittee may repair or reconstruct a building in such 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 Ordinance 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 Department of Planning and Community Development for a minor accommodation pursuant to Title 10, Chapter 3, Article 36, of the Beverly Hills Municipal Code. The Director of Planning and 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 Planning and 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 10-3.2426, 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 Planning and Community Development for a minor accommodation pursuant to Title 10, Chapter 3, Article 36, of the Beverly Hills Municipal Code. The Director of Planning and Community Development may relax the foregoing paving restrictions if the Director determines that such a relaxation: (1) is necessary because the subject property cannot 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 Building and Safety."

Section 4. Paragraphs (8) and (9) of Subsection B of Section 6 of Ordinance 95-O-2243 is hereby renumbered as Paragraphs (9) and (10) respectively of Subsection B of Section 6 of Ordinance 95-O-2243.

Section 5. Subsection B of Section 6 of Ordinance 95-O-2243 is hereby amended to add a new paragraph, Paragraph (8). The new Paragraph (8) shall read as follows:

"(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. For the purposes of this Paragraph (8), whether a repaired or reconstructed building contains the minimum permissible number of parking spaces shall be determined as follows:

**Original Structure**

$$\boxed{\text{No. of parking spaces existing on the site}} - \left( 1 \times \boxed{\text{No. of studio units}} + 2 \times \boxed{\text{No. of one-bedroom units}} + 2.5 \times \boxed{\text{No. of two-bedroom units}} + 3 \times \boxed{\text{No. of three- or four-bedroom units}} + 4 \times \boxed{\text{No. of five- or more-bedroom units}} + \frac{\boxed{\text{Number of Dwelling Units}}}{4} \right)$$

=====SHALL BE LESS THAN OR EQUAL TO=====

**Proposed Reconstruction**

$$\boxed{\text{No. of parking spaces proposed on the site}} - \left( 1 \times \boxed{\text{No. of studio units}} + 2 \times \boxed{\text{No. of one-bedroom units}} + 2.5 \times \boxed{\text{No. of two-bedroom units}} + 3 \times \boxed{\text{No. of three- or four-bedroom units}} + 4 \times \boxed{\text{No. of five- or more-bedroom units}} + \frac{\boxed{\text{Number of Dwelling Units}}}{4} \right)$$

The foregoing formula reflects the parking requirements set forth in Sections 10-3.2816 and 10-3.2817 of Article 28 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code at the time this Paragraph (8) was adopted. Should the requirements of those Sections be subsequently amended in a manner that affects the foregoing formula, the foregoing formula shall be modified to reflect those amendments."

**Section 6.** Section 10 of Ordinance 95-O-2243 is hereby amended to read as follows:

"Section 10. Exemption from Application Fees, Public Art Requirements, and Parks and Recreational Facilities Taxes.

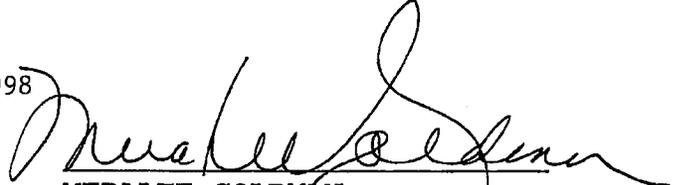
No application fee shall be required as a condition of any application for Planning Department approval, Architectural Commission approval or Planning Commission approval to repair or reconstruct any building damaged by a disaster.

In addition, the repair or reconstruction of any building damaged by a disaster shall be exempt from the Public Art requirements set forth in Title 3, Chapter 1, Article 8 of the Beverly Hills Municipal Code."

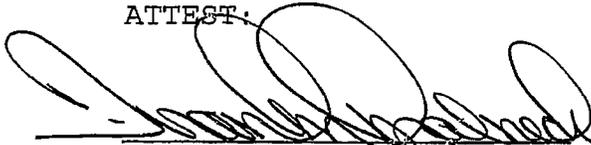
**Section 7.** Based on the initial study, the negative declaration, the comments received thereon, and the record before the City Council, the City Council hereby determines that the negative declaration represents the independent judgment of the City Council, and there is no substantial evidence that the approval of this Ordinance may have any significant environmental impact. The documents and other material which compose the record on which this decision is based are located in the Department of Planning and Community Development and are in the custody of the Director of Planning and Community Development.

Section 8. 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 her certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of the City.

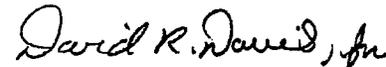
Adopted: January 6, 1998

  
MERALEE GOLDMAN  
Mayor of the City of  
Beverly Hills, California

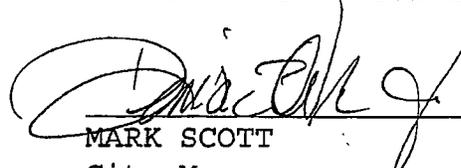
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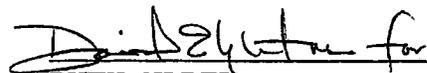
 (SEAL)  
FRANCES M. MALNECK  
City Clerk

APPROVED AS TO FORM:

  
GREGORY W. STEPANICICH  
City Attorney

APPROVED AS TO CONTENT:

  
MARK SCOTT  
City Manager

  
RUTH NADEL  
Director of Planning and  
Community Development

  
RONALD B. CLARK  
Director of Building and  
Safety

**Attachment 2**  
**1998 Disaster Recovery**  
**Ordinance**

URGENCY ORDINANCE NO. 95-O-2243

AN URGENCY ORDINANCE OF THE CITY OF BEVERLY  
HILLS REVISING RECONSTRUCTION STANDARDS  
RELATING TO BUILDINGS DAMAGED BY DISASTER,  
AND DECLARING THE URGENCY THEREOF

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

Section 1. Purpose.

This Ordinance establishes a program to facilitate reconstruction of commercial and residential areas after a disaster. This Ordinance 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. This Ordinance is intended to be an interim measure while the City develops a comprehensive regulatory scheme to address the reconstruction of buildings and facilities after a disaster.

Section 2. 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 Ordinance shall apply. Additionally, any provision of Title 10, Chapter 3 which does not conflict with the provisions of this Ordinance shall continue to apply.

Section 3. Definitions.

The following definitions shall govern the construction of this ordinance.

- (1) "Aggregate Floor Area" shall mean the sum of the floor areas of all independent living quarters of a structure.
- (2) "Building Footprint" or "Footprint" shall mean that portion of a site covered by a building.
- (3) "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.
- (4) "Height Envelope" shall mean the outline of a building indicating the height of the building at each point within the building footprint.

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

(6) "Residential Building" shall mean a building designed for human habitation or a building accessory to a building designed for human habitation.

#### **Section 4. 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 Ordinance. 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, as determined by the Director of Building and Safety, exceeds more than fifty percent (50%) of the cost to replace the damaged building. The cost to replace the damaged building shall mean the cost, as determined by the Director of Building and Safety, of replacing the damaged structure with a new structure of the same size, construction material and occupancy on the same site. The cost to replace the damaged building shall be calculated by using the City of Beverly Hills Building and Safety Department Building Valuation Guide Sheet.

#### **Section 5. Time Limits for Permit Application.**

After a disaster, applications for a permit to repair or reconstruct a building pursuant to the provisions of this Ordinance shall be submitted to the Department of Building and Safety 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. 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 6. 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 Ordinance.

A. Structures in Single Family Residential Zones.

The permittee may repair or reconstruct a building in such 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.

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 Building and Safety.

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 existed 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 to 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) 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, 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 Building and Safety.

(9) 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 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 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 provision of the Beverly Hills Municipal Code, any tenant required to vacate a rental unit due to the disaster or due to repair or reconstruction of the unit shall be provided a right of first refusal to reoccupy the unit.

**Section 7. 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 Ordinance.

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

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 Building and Safety.

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, or in such manner that the floor area ratio exceeds the then current floor area ratio permitted by the Beverly Hills Municipal Code, except in conformity with the Development Plan Review requirements contained in 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 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 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 to the building.

**Section 8. 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.

**Section 9. 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 Building and Safety, is designed to prevent or ameliorate the type of damage generally caused by the disaster.

**Section 10. 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 a 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.

**Section 11. Temporary Structures.**

Beginning on the date of the declaration of emergency by the Mayor or the City Council, or upon authorization by the City Manager, and for a period of six months thereafter:

(1) The Director of Planning may issue 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. The Director of Planning shall issue such a permit upon determining that the proposed temporary structure will serve a public need and will be compatible with neighboring uses. The Director of Planning may impose an expiration date upon such permit; and

(2) If a building may not lawfully be occupied due to damage to the building, the owner of the building may request a

permit from the Director of Building and Safety to construct and utilize a temporary structure for a period of ninety (90) days for the purpose of housing the use that previously occupied the building. The Director of Building and Safety shall issue such a permit upon determining that the proposed temporary structure will not be detrimental to the public health or safety.

**Section 12. Reconstruction of Multiple-Family Residential Dwellings Involuntarily Damaged for Reasons other than a Disaster**

Notwithstanding any other provision 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 12 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 of Building and Safety.

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 the 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.

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.

(3) 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 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 to the building.

C. 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 reoccupy the unit.

**Section 13. 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.

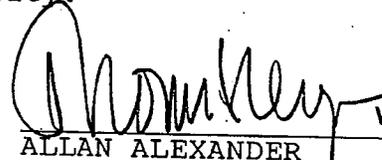
**Section 14.** The adoption of this ordinance is for the immediate preservation of the public peace, health and safety. The City has no current program to enable the replacement of buildings that are damaged by a disaster for which a local emergency is declared in a manner which maintains these structures' original dimensions. Such an ordinance must be adopted and must become effective immediately in order to allow the expeditious, orderly, economically feasible, and safe repair of buildings which may be damaged by a sudden emergency. Without the immediate adoption of such an ordinance, building owners would be unable to immediately repair their buildings in conformance with their predamaged configurations which may lead to a delay in reconstruction and restoration of the public peace, health and safety after a local emergency. Also, without the immediate adoption of this Ordinance, after a local emergency building owners would be unable to lawfully erect temporary

structures to address immediate housing needs and to serve other public needs.

**Section 15.** This ordinance is an urgency ordinance for the immediate preservation of the public peace, health and safety and therefore shall be passed immediately upon its introduction and shall become effective immediately upon its adoption.

**Section 16.** 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 her certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of the City.

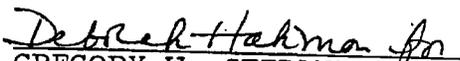
Adopted: July 18, 1995

  
VICE-MAYOR  
ALLAN ALEXANDER  
Mayor of the City of  
Beverly Hills, California

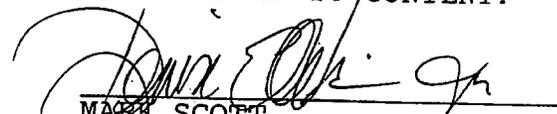
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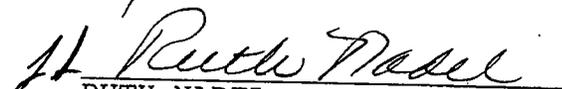
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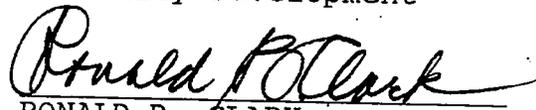
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