



ADOPT A PRE-EVENT RECOVERY ORDINANCE

In the immediate days and weeks following a disaster, it may be difficult to assemble a quorum of the governing body to enact emergency authorizations organizing and directing initial recovery efforts. One action a community can take in advance of a disaster to avoid this common impediment and move toward better management of post-disaster crises is adoption of a pre-event recovery ordinance.

The American Planning Association's Model Recovery Ordinance outlines a foundation for local strategic action by which a community can organize to efficiently manage short- and long-term recovery either in advance of or after a disaster. If possible, the recovery ordinance should be prepared and adopted before disaster strikes, and then updated periodically as necessary. The purpose of the Model Recovery Ordinance is to provide legal authority for actions commonly found useful in expediting recovery, together with emergency powers protecting public health and safety and fostering desired beneficial long-term recovery outcomes.

KEY POINT #1

The Model Recovery Ordinance creates overall guidance for local post-disaster recovery facilitation and intervention on behalf of planned outcomes.

KEY POINT #2

The ordinance authorizes a recovery management organization designed for cooperative action with federal, state, and local emergency management and stakeholder entities.

KEY POINT #3

The ordinance guides preparation of short-term and long-term recovery plans in concert with local emergency management and community stakeholder organizations.

KEY POINT #4

Most importantly, the ordinance establishes emergency powers for extraordinary actions facilitating short-term recovery, intervening in matters affecting private property and protecting public safety, and ensuring desired long-term recovery outcomes.



KEY POINT #1

The Model Recovery Ordinance creates overall guidance for local post-disaster recovery facilitation and intervention on behalf of planned outcomes.

The Model Recovery Ordinance provides an adjustable template for organized local action to facilitate post-disaster recovery, accelerate restoration of public and private sector services, and intervene to preserve public safety and community resources in the interests of beneficial long-term recovery outcomes.

This Model Recovery Ordinance provides a structured approach to

pre-event planning for post-disaster recovery consistent with emerging recovery management best practices. Specifically, *it is designed for adoption by the local governing body before a disaster happens*, as well as ongoing updating and amendment, as needed. The ordinance offers a template of language which can be customized to fit local needs, provides an organized format for capturing essential recovery requirements, and focuses attention on actions facilitating recovery by:

- Authorizing establishment and maintenance of an ongoing Recovery Management Organization to plan, direct, and coordinate orderly and expeditious post-disaster recovery
- Directing preparation of a pre-event Recovery Plan for short-term and long-term post-disaster recovery, to be adopted and amended periodically, as necessary
- Establishing powers to be implemented upon declaration of a local emergency by which staff of building, planning, public works, and other departments can take extraordinary action to protect public health, safety, and welfare in a manner assuring effective long-term recovery
- Identifying methods for taking cooperative action with other governmental entities to facilitate recovery
- Specifying means for consulting with and assisting citizens, businesses, and community organizations during planning and implementation of recovery

The advantage of pre-event adoption is that it prepares the community leadership and stakeholders to take extraordinary action when ultimately faced with a disaster. In this process, damage and loss scenarios are hypothetical, and realities of disaster impacts can't be exactly known. On the other hand, there is time before a disaster to give forethought to issues that might otherwise be overlooked under the duress of a post-disaster crisis.

The Model Recovery Ordinance can also be adopted or amended after a disaster when the extent and severity of damages and losses are discernible. However, this entails multiple disadvantages. After a disaster, circumstances often are chaotic and rapidly changing, victims' needs are preeminent, pressures for actions on multiple fronts are overwhelming, action priorities are unclear, and there is no time to plan.

This ordinance is organized to provide a template for capturing widely experienced recovery concepts and requirements, offering language that can be readily customized to unique local circumstances. Ordinance sections include:

- Authority
- Purposes
- Definitions
- Recovery Management Organization
- Recovery Plan
- Interim Recovery Strategy
- Hazard Mitigation Program
- General Provisions
- Temporary Regulations
- One-Stop Service Center
- Emergency Contractor Certification
- Temporary and Permanent Housing
- Demolition of Historic Buildings
- Severability

KEYPOINT #2:

The ordinance authorizes a recovery management organization designed for cooperative action with federal, state, and local emergency management and stakeholder entities.

The ordinance authorizes the establishment and maintenance of an ongoing Recovery Management Organization to plan, prepare for, direct, and coordinate expeditious and orderly post-disaster recovery strategies and actions in cooperation with federal, state, and local emergency management and stakeholder entities.

The Model Recovery Ordinance establishes a Recovery Management Organization, which encompasses members of

any existing Emergency Management Organization for coordination purposes. It is specifically empowered to exercise duties needed for purposes of planning, organizing, coordinating, and implementing the pre-event Recovery Plan and post-disaster short- and long-term recovery actions.

The formal structure of a Recovery Management Organization will differ from community to community. Department manager and officer titles used locally vary widely. The important thing is inclusion of the widest array of functions having a direct or indirect role in recovery.

Under the ordinance, the Recovery Management Organization is composed of members such as the city manager (or equivalent) functioning as director, the assistant city manager functioning as deputy director, the city attorney functioning as legal adviser, and such other members as needed to carry out short- and long-term recovery plans. These include, but are not limited to, chief building official, city engineer or public works director, community development or planning director, police chief, fire chief, emergency management director, historic preservation officer, or their equivalents.

The ordinance is written for a council-manager form of city government for a small to medium-sized community, the most common form of local government, but can be adapted to other forms, including counties, towns, and special districts. The overall concept is for the city manager to run the recovery management organization on behalf of the city council or governing body, reserving the presence

of a mayor for critical junctures or for times when policy matters come up needing council involvement.

In a big-city environment, the presence and availability of the mayor or deputy mayor may be important from a leadership standpoint, even though recovery in many instances is largely a staff-driven process with the chief administrative officer as primary coordinator. In actuality, within either environment, the city manager or chief administrative officer inevitably becomes the pivotal party for informing and advising the city council on recovery matters, interpreting council policy and coordinating staff functions.

A Recovery Management Organization encompasses all members of the Emergency Management Organization because of inherent interrelationships between hazard mitigation, emergency preparedness, response, and recovery functions. A close formal relationship must be maintained before, during, and after the state of local emergency. When the local emergency formally ends, recovery management continues under the umbrella of the Recovery Management Organization to coordinate remaining recovery operations. At this juncture, the Recovery Management Organization continues as an important source of coordination of staff inputs on complex long-term recovery planning and redevelopment issues, community workshops that may involve controversy, and city council hearings to determine preferred policy outcomes.

The Recovery Management Organization serves as the fulcrum for taking cooperative action with federal, state, and other governmental entities, as well as consultation with citizens, businesses, and community organizations during pre- and post-event planning of recovery. For example, the Federal Emergency Management Agency (FEMA), U.S. Department of Housing and Urban Development (HUD), and other federal agencies, as well as state emergency management organizations, have substantial recovery and reconstruction responsibilities and represent important sources of external funding for post-disaster infrastructure and hazard mitigation. It is thus important to establish close working relationships with such agencies as part of Recovery Management Organization activities, preferably in advance of a disaster.

Likewise, citizen outreach for recovery is best established in advance of a major disaster with the assistance of neighborhood safety programs, such as local Community Emergency Response Team organizations.

Such outreach should ideally be conducted in conjunction with preparation of the pre-event Recovery Plan.

Following a major disaster, proactive outreach is critical to establishing a two-way flow of information, without which controversy inherent in post-disaster settings can become severe. At a minimum, post-disaster outreach must begin at the inception of the recovery process and continue through long-term recovery, a process which can sometimes take years.

KEYPOINT #3:

The ordinance guides preparation of short-term and long-term recovery plans in concert with local emergency management and community stakeholder organizations.

The Model Recovery Ordinance calls for the preparation by the Recovery Management Organization of a Recovery Plan addressing pre-event and post-disaster recovery policies, strategies, and actions. The Recovery Plan is to be adopted, if possible, by the city council before a disaster, and amended during the post-disaster period, as needed.

The Pre-Disaster Recovery Plan should be composed of pre- and post-event policies, strategies, and actions needed to facilitate recovery. The Recovery Plan designates lead and back-up departmental action responsibilities to facilitate expeditious post-disaster recovery actions. The Recovery Plan addresses short-term and long-term recovery subjects, including but not limited to business resumption, damage assessment, demolitions, debris removal, expedited repair permitting, hazards evaluation and mitigation, historical buildings, moratorium procedures, nonconforming buildings and uses, rebuilding plans, restoration of infrastructure, and temporary and replacement housing. To the extent possible, the Pre-Disaster Recovery Plan should reflect a holistic approach, including language aimed toward constructing a mutually agreed upon vision of community resilience, as well as language reflecting local perspectives on climate adaptation and sustainability.

The Recovery Plan should identify relationships of planned recovery actions with those of local, regional,

state, federal, mutual aid, and nonprofit organizations involved with disaster recovery, including but not limited to FEMA, the American Red Cross, HUD, the Small Business Administration, the U.S. Environmental Protection Agency, the Department of Transportation, the state emergency management agency, and other organizations that may provide disaster assistance. Such organizations should be notified of the plan's proposed content, and comments should be solicited in a timely manner prior to adoption or amendment by the city council.

The Recovery Management Organization should conduct outreach to community stakeholder groups, organize and distribute public announcements, schedule and conduct community workshops and meetings, and/or convene advisory committees composed of representatives of home owner, business, and community organizations, or implement other means to provide information and consult with members of the public regarding the preparation, adoption, or amendment of the Recovery Plan. Public comments should be solicited in a timely manner during Recovery Plan formulation, adoption, and amendment processes during initial and intermediate stages of Recovery Plan formulation as well as prior to its adoption or amendment by the city council.

The ordinance also calls for preparation of an Interim Recovery Strategy, to be prepared at the earliest possible time following a declaration of local emergency. The purpose of the Interim Recovery Strategy is to structure the flow of local post-disaster short- and long-term recovery actions around a unifying concept that: 1) acknowledges real damage and loss conditions experienced, 2) modifies scenarios underlying the Pre-Disaster Recovery Plan, and 3) translates the new reality into short-term actions pending revision of the Recovery Plan.

The Interim Recovery Strategy should identify critical action priorities, describing for each action its objective, urgency, affected individuals and organizations, funding sources, department responsible, and likely duration. The Interim Recovery Strategy also specifically identifies those recovery initiatives and action priorities insufficiently covered by the adopted pre-event Recovery Plan that are essential to the expeditious fulfillment of victims' needs, hazard mitigation imperatives, critical infrastructure restoration, and rebuilding needs, and without which public health, safety, and welfare might otherwise be compromised.

The Interim Recovery Strategy is to be forwarded to the city council for review and approval following consultation with FEMA, other governmental agencies, businesses, infrastructure operators, and other citizen and stakeholder representatives. It serves as a bridge to necessary amendments to the pre-event Recovery Plan, as well as the Comprehensive Plan, Emergency Operations Plan, or other plans, codes, or ordinances.

KEYPOINT #4:

Most importantly, the ordinance establishes emergency powers for extraordinary actions facilitating short-term recovery, intervening in matters affecting private property and protecting public safety, and ensuring desired long-term recovery outcomes.

The Model Recovery Ordinance is designed specifically to fill a void that often appears during immediate post-disaster hours, days, and weeks when it is difficult to obtain a city council quorum for the purpose of adopting emergency authorization for staff actions needed to protect public health and safety.

It provides special regulatory tools by which a community can establish extraordinary powers that can be executed by staff upon the declaration of a local emergency in the form

of temporary regulations allowing either facilitation or intervention actions otherwise not covered under existing ordinances.

The ordinance strikes a balance between regulatory streamlining needed to facilitate recovery and intervention necessary to preserve recovery choices for the future. While quick actions, regulatory waivers, and modification of standard practices are important for jump-starting recovery, the intense pressure for action can lead to compromised outcomes. Therefore, regulatory intervention may be necessary to protect public safety and preserve recovery choices for the future.

For example, the ordinance includes a hazard mitigation program composed of anticipated high-priority actions. Such measures may include emergency provisions dealing with mitigation and abatement priorities

requiring special land-use and development restrictions or structural measures in areas affected by flooding, urban/wildland fire, wind, seismic, or other natural hazards, or remediation of known human-induced or technological hazards such as toxic contamination.

Temporary and special regulations are at the heart of the early recovery process. Although state law or city ordinances may authorize certain incidental emergency functions, it is desirable to have a source of regulation providing explicit advance authority for staff actions taken on behalf of the governing body to implement the pre-event Recovery Plan through either modification of standard regulations to expedite recovery or intervention on matters dealing with private property to protect public health and safety, together with a rationale for such extraordinary actions. Among these special regulations are provisions dealing with:

- Environmental clearances
- Debris clearance and hazard abatement
- Damage assessment and placarding
- Development moratoria to assure public health and safety
- Temporary use and repair permits
- Deferral of fees for repair and rebuilding permits
- Continuity of nonconforming buildings and uses, accompanied by safety upgrades
- One-stop service centers
- Demolition of damaged historic buildings
- Emergency contractor certification

Although temporary regulatory modifications outlined here are associated with the municipal code, federal and state disaster assistance will be contingent upon compliance with requirements of federal laws and programs, such as the National Flood Insurance Program, Stafford Act, National Environmental Policy Act, National Historic Preservation Act, and Endangered Species Act. Changes to local ordinances, though temporary, will not change these federal requirements.

RESOURCES

APA Model Recovery Ordinance. 2014. Available at www.planning.org/research/postdisaster/pdf/modelrecovery-ordinance.pdf.

This briefing paper was written by Kenneth C. Topping, former Los Angeles planning director and a lecturer in the City & Regional Planning Department at Cal Poly, San Luis Obispo. Contact him at kentopping@aol.com.

Cover photo: James Schwab, AICP

Copyright © 2014 by the American Planning Association, 205 N. Michigan Ave., Suite 1200, Chicago, IL 60601-5927. www.planning.org