



Bay Area Disaster Recovery Permit and Regulation Waiver Toolkit

Part 1 – Disaster Recovery Permit and Regulation Waiver Guide

Part 2 – Tools:

Disaster Recovery Permit and Regulation Waiver Process Checklist

Recovery Permit and Regulation Waiver Examples List

Legal Research Resources

APA Model Ordinance

Emergency Procurement Templates

CA Proclamation & Executive Order

Proclamation & Executive Order Template

Federal ESF and RSF Summary

Recovery Continuum

Glossary

Prepared in Partnership with:



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Foreword

In 2014, the Bay Area Urban Areas Security Initiative (UASI) planning team responded to a request from Bay Area Region emergency managers for assistance in planning for *waivers* – adjustments and temporary set-asides – to existing permits and regulations that may inhibit or detrimentally affect disaster response and recovery operations. The California Resiliency Alliance (CRA), a statewide non-profit public-private partnership organization, worked in partnership with the Bay Area UASI and its jurisdictions to engage stakeholders and develop this Bay Area Disaster Recovery Permit and Regulation Waiver Toolkit.

This Toolkit provides the emergency manager with overall concepts, background information, processes, and templates helpful in planning and preparing to request permit and regulation waivers. While it is strongly suggested that emergency managers use the toolkit to pre-plan for permit and regulation waivers after disruptive events, it also provides guidance that can be used in just-in-time operations.

The development of the Bay Area Disaster Recovery Permit and Regulation Waiver Toolkit was supported by the California Office of Emergency Services under UASI Grant #2013-001100, awarded by the U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of FEMA’s Grant Programs Directorate or the U.S. Department of Homeland Security.



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How to Use This Toolkit

This *Bay Area Disaster Recovery Permit and Regulation Waiver Planning Toolkit* (Toolkit) is designed to assist local jurisdictions in planning for and requesting waivers for various permits and regulations to expedite post-disaster recovery processes. This toolkit is helpful during both recovery planning and just-in-time operations following a disaster. The Toolkit has been prepared for the San Francisco Bay Area Region, generalizing across local jurisdictions and with input from state and Federal stakeholders. The information and guidance provided in this Toolkit is not hazard-specific. Rather, it takes an all-hazards approach acknowledging the need for flexibility in disaster response and recovery.

The toolkit works in coordination with prevalent emergency management systems outlined in the Standardized Emergency Management System (SEMS) and FEMA guidance from the National Response Framework (NRF) and National Disaster Recovery Framework (NDRF). Central amongst those are the use of Emergency Support Functions and Recovery Support Functions as guiding principles in identifying lead agencies and stakeholders

Purpose

The Purpose of the *Disaster Recovery Permit and Regulation Waiver Toolkit* is to provide Bay Area region emergency management personnel with guidance to identify and document permits, regulations, and procedures that might be considered for modification during disaster recovery. The intent is to reduce the time and effort required to research and request waivers after an incident has occurred allowing emergency managers to work effectively with government leadership and stakeholders to rebuild the community. Communities are encouraged to plan their recovery processes in advance of a catastrophic event.

Waiving existing regulation and permit processes following a disaster may facilitate more expedient recovery. This Toolkit is available for use by local and Operational Area emergency management to help them work with other government agencies, civic leaders, and cross-sector stakeholders in planning for or executing effective post-disaster recovery of critical resources, essential services, physical infrastructure, and the overall community.

Toolkit Elements

The Toolkit includes this *Disaster Recovery Permit and Regulation Waiver Guide (Guide)* and accompanying tools. The Guide provides emergency managers with the background and overall concepts needed to effectively plan for waiver requests. The Guide also walks the emergency manager through the use of the accompanying tools included in Part 2.

Two tools, the *Permit and Regulation Waiver Checklist (Checklist)* and the *Permit and Regulation Examples List (List)*, are included as a Microsoft Excel Spreadsheet on the accompanying USB thumb drive. It can also be downloaded from the Bay Area UASI website at www.bayareauasi.org. The tools in Part 2 of this Toolkit include:

- *Section 1: Permit and Regulation Waiver Checklist (Checklist)*
A process checklist, also explained in *Part 1, Section 3* of this *Guide*, is a summary of the planning process for identifying the need and requesting waivers to existing permits and regulations. The process is not intended to be strictly linear, although users may find it most helpful to execute the steps in the order presented.
- *Section 2: Permit and Regulation Examples List (List)*
Examples of the types of regulations and permits likely needed to be considered for waiver to accomplish common objectives in post-disaster recovery. This list of permits and regulations is not intended to be exhaustive, but provides a sampling to inform planning efforts.
- *Section 3: Legal Research Resources*
Research resources available to the emergency planner that provide guidance about local, state, and Federal legislation and regulations.
- *Section 4: APA Model Ordinance*
A model Pre-Event Recovery Ordinance developed by Kenneth C. Topping, FAICP for the American Planning Association (APA) and reprinted here with permission for use by emergency managers and civic leadership. It is intended as a template or guiding document for the development of an ordinance that can serve as either a forerunner or supplement to a recovery plan.
- *Section 5: Emergency Procurement Templates*
Provided as guiding documents for developing and implementing post-disaster purchasing policies, an often overlooked gap important to help track costs appropriately and facilitate reimbursement requests. Templates provided by the Martinet Group and from other sources include a Sample Post-Disaster Purchasing Ordinance, a template emergency procurement resolution, and a template Sole Source Purchase Justification.

- *Section 6: CA Proclamation & Executive Order*
A sample of a past proclamation / Executive Order presenting types of permits and regulations that have been waived in past California disasters. It serves as an end-state example for the waiver planning process.
- *Section 7: Proclamation & Executive Order Template*
Using past proclamations as a guide, a template that provides the emergency planner with a start to creating a draft proclamation that can be presented to leadership for the development of a waiver request.
- *Section 8: Federal ESF and RSF Summary*
Federal Emergency Support Functions (ESFs) and Recovery Support Functions (RSFs) from the *National Disaster Response Framework* (NDRF) are summarized and provided for quick reference to help identify lead agencies and stakeholders that will be affected by regulation and permit waivers and should be engaged in planning.
- *Section 9: Recovery Continuum Activities*
The recovery time period following a disaster event generally involves changing priorities as time passes and objectives are met. Waivers granted during Short-Term recovery may expire through Long-Term recovery, unless the waiver is given some permanence through legislative action. The recovery continuum is referenced in this plan and the pictograph representation has been reprinted in full from the NDRF for quick reference.
- *Section 10: Glossary*
Common terms and acronyms used throughout the Guide and that may be referenced in the waiver planning process.

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Table of Contents

Foreword..... i

How to Use This Toolkit iii

 Purpose iii

 Toolkit Elements iv

Table of Contents vii

Part 1: Permit and Regulation Waiver Guide..... 1

1. Introduction 1

 1.1. Recovery Timeframe 2

 1.2. Emergency Support Functions (ESFs) and Recovery Support Functions (RSFs)..... 4

2. Considerations 5

 2.1. Authorities & Stakeholders 5

 2.2. Recovery Planning..... 5

 2.2.1. Improve existing procedures..... 6

 2.2.2. Recovery Planning Examples 7

 2.3. Rebuilding 7

 2.4. Waiver Impacts 8

 2.4.1. Reduced Revenue..... 8

 2.4.2. Changing Demographics..... 8

 2.4.3. Reimbursement Requirements 9

 2.5. Waiver Applications 10

 2.5.1. Public Health 11

 2.5.2. Residential Buildings 12

 2.5.3. Roads 13

 2.5.4. Utilities 13

 2.5.5. Debris Removal 14

 2.5.6. Resource Acquisition 15

 2.6. Ordinances and Regulations 15

 2.6.1. State vs. Federal Laws 16

 2.6.2. Local Ordinances 17

3. Planning for Waivers..... 19

 3.1. Waiver Process Description 19

PART 2: Permit and Regulation Waiver Planning Tools 31

1. Disaster Recovery Permit and Regulation Waiver Checklist..... 31
2. Disaster Recovery Permit and Regulation Examples List 33
3. Legal Research Resources 39
 - 3.1 General Legal Research Resources 39
 - 3.2. City and Local Ordinances 39
 - 3.3. California Law Resources 40
 - 3.4. Federal Law Resources 40
4. APA Sample Model Ordinance 41
5. Sample Emergency Procurement Tools 59
 - 5.1. Sample Bay Area County Emergency Contracting Resolution 60
 - 5.2. Sample Purchasing Ordinance 62
 - 5.3. Sample Sole Source Purchase Justification 69
- <This page left intentionally blank> 74
6. Sample State of California Proclamation / Executive Order 75
7. Proclamation / Executive Order Template 77
8. Federal Emergency Management Agency (FEMA) Emergency Support Functions (ESFs) and Recovery Support Functions (RSFs) 79
 - 8.1. FEMA Emergency Support Functions (ESFs) 79
 - 8.2. FEMA Recovery Support Functions (RSFs) 82
9. NDRF Recovery Continuum Activities by Phase..... 85
10. Glossary and Acronyms..... 87

Part 1: Permit and Regulation Waiver Guide

1. Introduction

Emergencies occur every day. Some are smaller in scale and scope requiring a structure to be rebuilt, a piece of an infrastructure system to be repaired, or emergency supplies or personnel to be brought in from outside of the immediately affected area. To facilitate a coordinated and safe rebuilding process, there are regulations that need to be adhered to and permits that may need to be obtained before repair and rebuild can begin. These may include building permits, street closure permits, zoning regulations, transportation regulations, environmental regulations, and government procurement processes amongst others.



Then there are larger events, regional in scope, catastrophic in nature, or affecting a critical lifeline or an infrastructure system that must be returned to operation as quickly as possible. Those emergencies may require a more streamlined response, larger in scale and involving various government officials, public agencies, organizations, businesses, and community stakeholders to help the community to rebuild and rebound as quickly as possible. They may require that purchasing decisions be made immediately and without customary administrative oversight. Regardless of the scale of any emergency event, it may be necessary or prudent to evaluate existing permits, regulations, and procedures that are in place and waive them through proclamation, executive order, or legislative action in order to allow for more rapid and effective recovery.

Recovery often requires rapid decision-making. During the early phases of recovery, affected communities may require assistance to repair and rebuild infrastructure systems; obtain adequate interim and long-term housing for those that are displaced; restore health, social, and community services; support economic development; and restore natural and cultural resources. To assist those activities, it is important to consider regulations and permitting processes and how they might exacerbate or limit expedient post-disaster recovery, restoration, and rebuilding.

Regardless of the scale of any emergency event, it may be necessary or prudent to evaluate existing permits, regulations, and procedures that are in place and waive them through proclamation, executive order, or legislation in order to allow for more rapid and effective recovery.

Knowledge of the Phases of Recovery and the Recovery Timeframe help the emergency manager understand how recovery priorities change over time. Federally defined Emergency Support Functions (ESFs) and Recovery Support Functions (RSFs) introduced in the *National Disaster Recovery Framework* are used as organizing principals to identify lead agencies and affected stakeholders.

1.1. Recovery Timeframe

For the purposes of facilitating efficient and effective recovery, it is important to recognize the overlapping nature of the Disaster Recovery phases and that decisions made early in the recovery process can affect the success of recovery in later phases. When planning for recovery or when considering actions to be taken in each phase of recovery, emergency managers should do so in a forward thinking and systemic manner, taking into account both the beneficial and possibly detrimental effects of decisions that are to be made both in the present and for the future.

Recovery from disaster has been categorized and classified in a number of ways. As part of the phases of Disaster Management, it is the last of Mitigation, Preparedness, Response, and Recovery where it is defined as restoration of the services, institutions, and activities affected by a disaster's impact that allows the community to return to some sense of normalcy. In this model, recovery begins after response is complete and the impacted area has achieved some degree of physical, environmental, economic and social stability.

...it is important to recognize the overlapping nature of the Disaster Recovery phases and that decisions made early in the recovery process can affect the success of recovery in later phases.

In the *National Disaster Recovery Framework (NDRF)* of September 2011, the Federal Emergency Management Agency (FEMA) describes recovery more broadly to encompass many of the activities that occur during both Response and Recovery within the Disaster Management Phases. In the NDRF, recovery is defined as "Those capabilities necessary to assist communities affected by an incident to recover effectively." Those capabilities may, include, but are not limited to:

- damage assessment
- rebuilding and restoring infrastructure systems;
- providing interim and long-term housing;
- restoring health, social, and community services;
- debris clearance, removal, and disposal;
- economic impact analyses;
- promoting economic development;
- restoring natural and cultural resources;
- hazard mitigation and preparation for the next disaster.

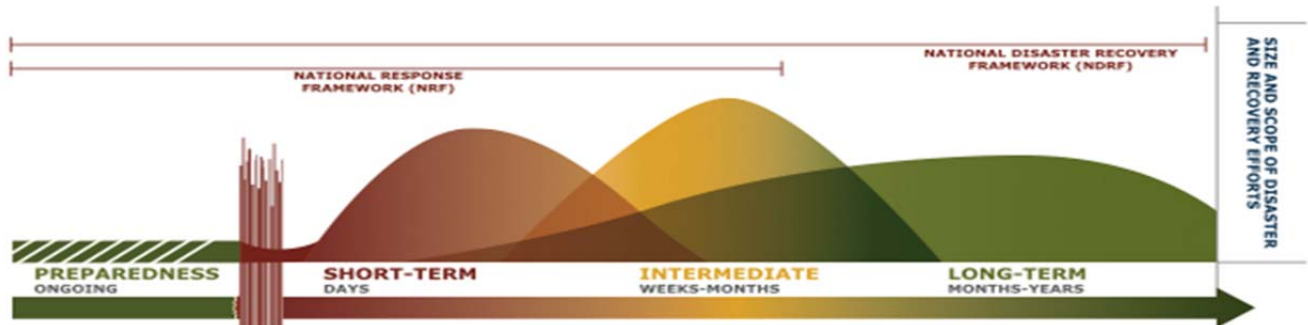


FIGURE 1: National Disaster Recovery Framework FEMA, 2011, page 8

The NDRF delineates Disaster Recovery into three phases as illustrated in Figure 1. A full reproduction of the figure with accompanying text describing each phase of recovery in more detail is provided as an accompanying tool in Part 2 of this Toolkit. The phases of recovery as described in the NDRF include:

<p><i>Short-Term Recovery:</i></p>	<ul style="list-style-type: none"> • prioritization of health and safety needs • assessment of damages • restoration of basic infrastructure • mobilization of resources to restore essential services for recovery decision-making
<p><i>Intermediate Recovery:</i></p>	<ul style="list-style-type: none"> • returning individuals, families, critical infrastructure and essential government or commercial services to a functional, if not pre-disaster, state.
<p><i>Long-Term Recovery:</i></p>	<ul style="list-style-type: none"> • may continue for months or years • complete redevelopment and revitalization of the impacted area • rebuilding or relocating damaged or destroyed social, economic, natural and built environments • a move to self-sufficiency, sustainability and resilience

1.2. Emergency Support Functions (ESFs) and Recovery Support Functions (RSFs)

The Federal Government and state governments have begun to organize response resources and capabilities under the Emergency Support Function (ESF) and Recovery Support Function (RSF) construct. ESFs and RSFs are an effective way not only to bundle and manage resources to restore and deliver core capabilities, but also to pre-identify and convene stakeholders in the planning for community recovery. ESFs and RSFs are a permanent component of the country's emergency management system. The California Office of Emergency Services (Cal OES) is in the process of developing Emergency Functions (EFs) based upon the Federal ESFs.

In Part 2 of this Toolkit, the Federal Emergency Management Agency (FEMA) Emergency Support Functions (ESFs) and Recovery Support Functions (RSFs) are referenced in the Checklist as a means of assisting the identification of lead agencies, departments, and stakeholders to engage in the waiver planning process. Additionally, a full summary of the FEMA established ESFs and RSFs are reproduced as well as guidance about the corresponding California Office of Emergency Services (Cal OES) Emergency Functions (EFs).

2. Considerations

There are several factors that the emergency manager may consider regarding the waiver of regulations and permits to expedite community recovery. This section introduces overarching concepts that should be considered when thinking systemically about the rapid and effective recovery of a community and its long-term resilience.

2.1. Authorities & Stakeholders

It is likely that many government agencies across multiple jurisdictions will be involved or affected by waiving a given regulation or permit process. Representatives from these agencies and jurisdictions – local, state, and Federal – will need to be engaged to develop an effective waiver request and to fully understand the effects of its approval.

...community stakeholders should be considered and brought in to the conversations to garner their buy-in and advocacy to civic leadership.

Additionally, there may be stakeholders outside the government sphere such as Tribal, Private Sector, and NGOs / Non-Profit agencies that should be included. Not only is the consideration of community partners suggested in Federal guidance for reimbursement, it can also be helpful to gain community support. For instance, a large percentage of the critical infrastructure providers are private sector companies. Historic associations or community groups may be non-profit organizations that need to be involved with certain actions and waivers. All of these types of community stakeholders should be considered and brought in to the conversations to garner their buy-in and advocacy to civic leadership.

2.2. Recovery Planning

The activities in the planning process described in this Toolkit emphasize the importance and value of pre-disaster planning. When compared to the outcomes of reactive disaster response

The consequences of ad hoc or reactive disaster response can range from the exacerbation of the existing hazard environment to a delay in community recovery.

approaches observed in past events, a pre-planned response is much more consistent with today’s resilience-driven disaster recovery objectives. The consequences of ad hoc or reactive disaster response can range from the exacerbation of the existing hazard environment to a delay in community recovery.

Advanced planning benefits jurisdictions in emergency response and recovery activities in several key ways. It allows jurisdictions to:

- more quickly and accurately collect and synthesize information necessary to establish objectives,
- identify potential issues and solutions,
- evaluate courses of action from multiple perspectives, and
- identify necessary tools and resources ahead of time in preparation for speedy analysis, decision-making, and action planning

Planning allows emergency management personnel to establish a collaborative stakeholder environment, develop scenario-specific solutions to anticipated problems, and create a common operating picture with shared baselines amongst affected agencies and jurisdictions.

Planning for regulatory waivers in advance of an incident can greatly reduce the time required to make decisions and begin work under the adjusted process in the incident's aftermath. The process presented in this Toolkit instructs jurisdictions on identifying potential waiver needs, identifying stakeholders, and developing the waiver request language that can be quickly accessed when needed in the aftermath of a disaster. Undertaking these steps as part of an advanced planning process allows the jurisdiction to dedicate a proper amount of time to develop scenarios, convene stakeholders, deliberate the challenges of process amendments, build broad consensus for solutions, and resolve the legal and administrative hindrances that may arise.

Samples ordinances that can be used as models for your regulation and permit waiver processes are provided as part of the Toolkit. This includes the *APA Model Ordinance* developed by the American Planning Association (APA) and a sample Post-Disaster Emergency Procurement Ordinance and Sole Source Justification template that can be used in pre-disaster procurement planning and implementation.

Planning for regulatory waivers in advance of an incident can greatly reduce the time required to make decisions and begin work under the adjusted process in the incident's aftermath.

While this Toolkit provides the user with steps to adjust a process post-disaster, the *Disaster Recovery Permit and Regulation Process Checklist (Checklist)* and the supporting information found in Section 2 of this Guide can be used to guide pre-disaster, advanced planning as well.

2.2.1. Improve existing procedures

A frequent benefit of advanced planning realized by jurisdictions is the discovery of opportunities for improvement to existing permitting and regulatory procedures and processes. When this information is available, solutions to potential post-disaster needs can be incorporated into existing codes, regulations, or processes, and can document specific triggers that activate them only within appropriate conditions. Establishing and

codifying these improvements and waivers makes them much easier to implement post-disaster, when decision-making time is reduced, and pressure to act is increased.

2.2.2. Recovery Planning Examples

Below are examples of advance planning activities that can contribute to the speed and quality of post-disaster recovery:

- *Prepare and adopt a Recovery Ordinance* to create legal authority for post-disaster intervention and establish temporary regulations covering the breadth of recovery needs, including extraordinary actions. (See *Part 2, Section 2: APA Model Ordinance*)
- *Identify interim debris handling facilities and establish necessary permits for operations.* These may need to be re-established every 5 years in sync with the jurisdiction's Debris Plan cycle.
- Within the local Building or Administrative code, as appropriate, *establish guidelines for adding capacity or altering normal operations for building inspections, triggered by a disaster declaration.* This can include establishing a "One Stop Shop", additional customer service capacity, or other process amendments. Additional activities may include providing expedited plan approval processes with instructions for administrators and departmental staff or enabling community / peer approval of neighborhood rebuilding plans.
- Determine *post-disaster procurement procedures* and develop an implementing ordinance to facilitate emergency purchasing and better ensure compliance with Federal reimbursement guidelines. An alternate procedure written with an eye toward ensuring compliance with FEMA reimbursement policies is better than a waiver that likely does not. A sample of such an ordinance is provided as a tool in *Part 2, Section 2.*

2.3. Rebuilding

In the aftermath of a disaster, local government, together with the community, must decide its approach to rebuilding the physical environment. Recovery planning with a focus on public safety and hazard mitigation can help communities build back better. Civic leadership and administration should consider the benefits and disadvantages of both:

1. *Rebuilding "as is", with no change to plans, codes, or regulations.* This may aid in the speed of recovery by re-building or repairing buildings back to their original plans.

2. *Improving or changing regulations such as rezoning with environmental and social equity considerations in mind.* This can aid in reducing future risk and creates opportunities for improving the built environment and infrastructure (“rebuild better”), but may result in complications as new regulations are considered and adopted. It will require more time for deliberation and a greater level of stakeholder engagement.

Catastrophe can be an opportunity for innovation towards sustainable and resilient communities and built environments, providing a unique chance to improve upon existing codes, conditions, social dynamics, and overall adaptability to inevitable environmental changes. Even so, these opportunities must be balanced against the desire of the community to quickly re-establish a steady state or return to a sense of normalcy.

2.4. Waiver Impacts

The jurisdiction will have to carefully consider the implications of waiving or otherwise changing permits and regulatory processes, and weigh the impacts against its intended recovery goals and objectives. These considerations can include impacts on society and the fabric of the community, economic impacts, public perception, federal reimbursement, and many others. Examples of some of those considerations are provided below.

2.4.1. Reduced Revenue

The revenue generated from permits, fines, and fees may be an anticipated and needed portion of the operating budget of an affected jurisdiction. While providing relief from these financial obligations may provide benefits to the public related to the efficiency of the recovery, it can also result in increased financial hardship to a jurisdiction that may already be suffering from a sudden and extreme decrease in other revenue streams, like taxes. Reducing or eliminating fees may not always be the best option for overall recovery.

New Orleans lost “over half of the city’s population” in the year following Katrina. Not all the people that left the city were involuntarily displaced.
The Data Center (www.datacenterresearch.org)

2.4.2. Changing Demographics

In past disasters, there have been cases where the population densities of certain areas, both urban and suburban, have either shrunk or grown as people move from damaged areas to neighboring or far away jurisdictions with available housing and services. Some examples of the effects of a change in population density include:

- New Orleans after Hurricane Katrina went from the largest city in the state of Louisiana to the 3rd largest city in regards to population. According to *The Data Center* (www.datacenterresearch.org), in the decade since the levee break and flooding in New Orleans, “the population of New Orleans fell from 484,674 before Katrina (April 2000) to an estimated 230,172 after Katrina (July 2006) — a decrease of 254,502 people and a loss of over half of the city’s population.” It is important to note that not all people that left the city within the year following Katrina were involuntarily displaced, nor were all people who moved to the city returning residents. “By July of 2012, the population was back up to 369,250 — 76% of what it was in 2000.”¹ Even with waivers to the zoning regulations, there still remain areas of unpopulated devastation in and around the New Orleans metro area without a clear plan to reclaim or improve the land.
- After the 2011 earthquake that damaged much of the urban center of Christchurch, New Zealand, city leaders worked with stakeholders, including indigenous populations and the business community, to redesign the central city to accommodate for a decrease in population and a shift in the demand for business services resulting from the disaster. Engagement and garnering input from community stakeholders was an important part of that process as well as the consideration of both positive and negative effects of the rezoning and redesign.

These are opportunities to improve the community during disaster recovery. While difficult, planning for post-disaster land use and accommodating for the likelihood of changes in population – usually downward and compressed – should be considered.

2.4.3. Reimbursement Requirements

Reimbursement of disaster response and recovery related expenses to state and local jurisdictions is an important area of focus and concern for government Emergency Managers. Before designing or implementing permit and regulation waivers, the consequences of such waivers on Federal reimbursement through Public Assistance programs should be considered.

The Federal Emergency Management Agency (FEMA) is the Federal authority tasked with receiving, reviewing, and approving reimbursements to State and local agencies.

¹ Plyer, Allison. *Facts for Features: Katrina Impact*. The Data Center. August 24, 2014. <http://www.datacenterresearch.org/data-resources/katrina/facts-for-impact/>

Reimbursement guidelines through Federal Public Assistance programs are outlined in The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, amended in 2013 (Stafford Act). Additional

Before designing or implementing permit and regulation waivers, the consequences of such waivers on Federal reimbursement through Public Assistance programs should be considered.

regulations governing the Public Assistance Program, outlining program procedures, eligibility, and funding, are published in *Title 44 of the Code of Federal Regulations (CFR) Part 206, Subparts C and G-L (Appendix B)*. Additionally, regulations regarding grant administration and allowable

costs can be found in *44 CFR Part 13 (Appendix C) - Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*.

The post-disaster reimbursement process is often perceived by State and local jurisdiction emergency managers as cumbersome and extraordinarily burdensome, oftentimes identified as an obstacle to fast efficient, and cost-effective disaster recovery. It is important to note that included in Section 301 of the Stafford Act, there is a consideration for waiving administrative conditions for the delivery of assistance “*if requested by the applicant State or local authorities*”. Any waiver that will be considered must be requested and there is no guarantee that a waiver will be granted once it is requested, so adherence to reimbursement guidelines is imperative for recouping disaster response and recovery related costs.

Past disasters have borne out the fact that the reimbursement process requires detailed accounting and record keeping, exhaustive reporting of expenses and processes, and multiple rounds of audits and requests for additional information. Full cost-recovery can take as much as 25 years or more depending on the scale and scope of the disaster. For example, in 2014 many jurisdictions had only recently closed the books on reimbursement from the Loma Prieta earthquake that occurred in 1989.

2.5. Waiver Applications

In the wake of a disruptive event, there are numerous recovery activities that may be delayed or hindered by existing permits or regulations that at any other time are necessary and desired to ensure orderly and efficient building and delivery of services to the general public. It may be helpful to consider waiving or adjusting these permits and regulations for a period of time to support and clear away any potential obstacles to recovery.

This section provides samples of some of those areas of activity where waivers have been made in the past or may be considered. The varying agencies and government jurisdictions that should be involved and engaged to affect waivers reinforces the earlier information about the importance of recovery planning. By planning or preparing for permit and regulation waivers, emergency management and recovery personnel arm themselves with the knowledge of partner agencies within and outside of their jurisdiction that may be called upon to provide support and input to develop and implement the waiver.

2.5.1. Public Health

Public health is an area of particular importance. Who needs to be contacted, what alternatives are available, and what will be the effects of those alternatives are all important questions that must be answered before a waiver can be made. Some examples of regulation and permit waivers that address public health issues in the aftermath of a disaster include:

- *Federal Social Security Act 1135²:*
Addresses cross-jurisdictional issues, such as payment and privacy issues in the wake of a Presidential Emergency Declaration. Additionally, with certain exceptions, medical providers not certified within the disaster area are allowed to practice medicine assuming they are certified in another state.
- *Medical waste disposal:*
In California, medical waste may be incinerated using approved equipment and locations according to the Medical Waste Management Act of the California Health and Safety Code, Sect. 117600 – 118360.³ With widespread injury and death, increased medical waste production, and disruption to the transportation infrastructure in the wake of a disaster, the established and approved methods of disposal may not be viable. In order to waive or adjust these requirements, input and buy-in from medical and hazmat response professionals as well as environmental advocates and community leaders should be garnered.
- *Sewage diversion:* Wastewater systems may experience severe damage in the wake of a disaster. This could cause backed-up sewage and human waste to become a public health concern. There could be options for digging public latrines in an environmentally friendly fashion or for sewage to be diverted and dispersed into a large body of water. This would require waivers amongst a variety of government agencies and community groups across various jurisdictions. For example, the lead

² http://www.ssa.gov/OP_Home/ssact/title11/1135.htm

³ <http://www.cdph.ca.gov/certlic/medicalwaste/Documents/MedicalWaste/2013/MWMAfinal2013.pdf>

agencies for decisions about sewage diversion would be the State Water Resources Control Board and the San Francisco Bay Regional Water Quality Control Board (RWQCB). The San Francisco Bay Conservation Development Commission (BCDC) is the agency that has regulatory responsibility over development in San Francisco Bay and along the Bay's nine-county shoreline. BCDC is guided in its permitting and waiver decisions by the *McAteer-Petris Act*, the San Francisco Bay Plan, and other plans for specific areas around the Bay. BCDC's permitting and planning program is a "certified regulatory program" under Section 21080.5(d) of the California Environmental Quality Act (CEQA) and Section 15250(h) of the CEQA Guidelines. This certification exempts BCDC from the requirement to prepare an Environmental Impact Report on its actions, but BCDC's certified regulatory program remains subject to CEQA's broad policy goals. However, in an emergency following a disaster, BCDC has latitude to act expeditiously to protect public health, safety and welfare.

2.5.2. Residential Buildings

Getting people out of shelters and back into permanent housing quickly is often seen as a key measurement of successful recovery. At the same time, rebuilding rapidly without adherence to current structural safety standards may create risks to health or life safety.

In the wake of the Oakland Hills fire, waivers were used to incentivize a "building back better" approach. Prior to the fire, many damaged or destroyed homes did not adhere to modern safety standards. As an incentive for rebuilding to modern safety standards, homeowners were allowed to add 10% additional floor area to the structure without needing to acquire development permits. The funds that would have been received from the permitting process were exchanged for added safety in many buildings that ran a high risk of future damage. It also helped to speed up the repair / rebuilding process.

Additional repair / reconstruction consideration include:

- **Building Moratoriums** – It may be in the best interest of the disaster affected area to actually prevent building for a time while more comprehensive planning can occur.
- **Demolitions** – There are a variety of demolition issues such as potential threats to health and safety and debris removal, but problems can also arise in regards to demolitions of historically significant buildings or sites.

Every so often, government agencies, organizations, and associations that work with specific groups of community stakeholders will develop documents to help guide their constituents as to regulatory issues in that may arise in the aftermath of emergencies. An

example of this can be found published by the California State Parks and Recreation Department Office of Historical Preservation.⁴

2.5.3. Roads

Road repair extends beyond simply clearing away debris. Particularly when dealing with elevated roadways, there can be extensive damage that inhibits critical transit pathways. There are many methods of facilitating rapid repair and reconstruction. For example, the repair contract for repair of the I-10 Twin Spans Bridge between Slidell and New Orleans, Louisiana, that was awarded on Friday September 9, 2005, included incentives for early completion. This resulted in the project being completed 16 days early.

Road repairs often involve other city departments and organizations in the process:

- Suspension of bidding requirements – Many locations require bidding in order to ensure fair purchasing and procurement, but this may require too much time in the wake of a disaster and so single provider purchasing may be necessary. This also applies to contractors in the case of repair work. Care should be taken to ensure that waivers or adjustments to procurement procedures have been approved by Federal regulators or are in compliance with reimbursement regulations.
- Utility crossover – Many roadways are also the lines for utilities so any roadwork requires involvement of the utility companies. This can create a lengthy approval process for modifications and quite possibly inhibit temporary repair processes. The pros and cons of adjusting this process will need to be balanced in the face of recovery priorities.

2.5.4. Utilities

Utilities are a critical and priority component of the restoration process so waivers may be necessary in order to facilitate rapid repair and replacement. There are extant examples of waivers in place to facilitate these activities. For example, Federal Regulation 49 CFR 390.23 exempts commercial vehicle operators responding to disasters from limitations on hours driving. This was incorporated in the Superstorm Sandy response to ensure prompt arrival of utility vehicles to the affected areas. This greatly assisted in reestablishing utilities to numerous areas.

Given the time sensitive nature of restoring utilities, many waivers may need to be made in order to facilitate restoration:

⁴ http://ohp.parks.ca.gov/?page_id=25510

- Temporary utility pathways – in some areas with extensive damage, it may be necessary to lay temporary utility lines. This will likely involve multiple agencies like the California Utilities Emergency Association (CUEA) or the California Water Agency Response Network (CA-WARN) and jurisdictions along with various legislations governing the operation of utilities. To speed up the placement, waivers may be an important tool.
- More secure utility restoration – after the Oakland Hills Fire of 1991, the opportunity was taken to create a more secure utility network by placing power lines underground. This is an example of how disaster presents an opportunity to *build back better*.

2.5.5. Debris Removal

Debris is a particular concern in California due to the high risk of earthquake and the amount of material such an event can create, blocking major transit corridors. In many areas, particularly urban ones, debris burning is usually banned. In some areas, exceptions have been put in place in the wake of disasters addressing what kinds of debris may be burned in the time period immediately following an event. Though, it is important to note that there are Federal guidelines on materials that must still be disposed of by other means.

There are a variety of different means of debris disposal that may require modification of current legislation.

- Dumping and dispersal – Given the pervasive nature of debris in the wake of a disaster, viable locations for debris disposal may be limited. Development and approval of necessary waivers will require involvement of many community stakeholders, especially those who are familiar with the content of the debris, Hazardous Materials professionals, community members, and environmental advocates and experts. It is important to remember that CA Government Code 66600 et seq. (McAteer-Petris Act; also, 14 CCR 10110 et seq.) established the Bay Conservation Development Commission (BCDC) in response to “uncoordinated, haphazard filling” of San Francisco Bay. Removal of structures that may land in the Bay as a direct result of an earthquake would require a permit. BCDC will not allow intentional dumping of debris into the Bay. It is recommended that local debris management plans pre-identify land areas for appropriately processing debris. Any release of hazardous materials into the Bay should be reported immediately to the California Department of Fish and Wildlife (CDFW). CDFW’s Office of Spill Prevention and Response (OSPR) and BCDC will participate in the response.

- Hazardous material transport – In the case of hazardous materials, there are often very particular guidelines for appropriate transport with contracts given to specific carriers. It may be necessary to modify the selection process if damage to the transportation infrastructure renders those carriers impossible to use.

2.5.6. Resource Acquisition

Resources, particularly fuel, are often in short supply in the wake of a disaster. As mentioned previously, waivers to the bidding process may be made to facilitate rapid purchases, but there are other legislative hurdles that may prevent resource acquisition.

Resources, particularly fuel, are often in short supply in the wake of a disaster.

During Superstorm Sandy, the Jones Act, which places limits on foreign shipping access to US ports, was suspended to facilitate delivery of fuel and other resources.

There may be other ways to facilitate resource acquisition and creation, particularly fuel, in California that would otherwise be limited by legislation:

- Fuel specifications – California creates the overwhelming majority of its own fuel, but in order to meet Federal regulations, ethanol must be added. This ethanol comes in from the Midwest. Given possible damage to the transport infrastructure, it may be necessary to waive these requirements to expedite the creation of fuel for use during recovery.
- Rationing of statewide resources – Multiple states depend heavily on the fuel produced by California refineries. It may be important to create waivers to ensure that despite damage to the California infrastructure, those states are able to maintain operational capacity.

2.6. Ordinances and Regulations

As part of the planning for regulation and permit waivers, it will very likely be necessary to engage in research of local, state, and perhaps even Federal laws and legislation to identify those that may affect or be affected by disaster recovery activities. Legal research is a unique skillset that often requires an in-depth knowledge of the available resources, critical thinking, and research methodologies learned through training and experience.

Even so, there are available resources that can facilitate the legal research necessary to identify pertinent laws, legislation, regulations, and permit procedures. This may require reaching out to government partners and external stakeholders with specific expertise and resources that facilitate the research process. Rather than an obstacle, this can be taken as an opportunity to

engage representatives from other agencies and community partners in the waiver process. It can also be an opportunity for emergency management personnel to learn more about local ordinances and codes that might affect future emergency response and recovery operations, especially when engaging in a planning process.

Legal research guidance for those planning for regulation and permit waivers is provided as part of the Toolkit (Part 2, *Section 1.3*), including resources to help find Federal, state, and local legislation. There are some general guidelines about the relationship between legislation in different jurisdictions that may be helpful.

2.6.1. State vs. Federal Laws

Most legal research for permit and regulation waivers will involve state statutes rather than federal statutes. It will be much easier for local emergency managers and their partners to request and implement waivers for local and state regulations, although there may be cases where waivers of specific Federal statutes may be requested, especially in the case of Federal reimbursement process or environmental waiver requests that must be approved before they can be considered in effect.

States have the sole power to make laws in many areas, such as: child custody, divorce, landlord-tenant, small business, personal injury, and wills and trusts. A growing number of legal areas are covered by both state and federal statutes, including consumer protection, employment, and food and drug regulation.

Local laws can never be weaker than federal or state law, and they are frequently stricter.

Although, when Federal law is stricter than State laws, State laws generally give way to stricter federal laws that address the same issue.

Finally, the federal government alone creates the law for a few specific subject areas, such as copyrights, patents, bankruptcy, federal taxes, and Social Security. In the case of disaster management, response, and recovery, there are specific areas of law that the emergency manager needs to keep in mind. Some of these include:

- The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, amended in 2013 (Stafford Act). regulates the eligibility and delivery of Federal government assistance and reimbursement of post-disaster expenses to state and local entities.
- Title 44 of the Code of Federal Regulations (CFR) - Part 206, Subparts C and G-L (Appendix B) and Part 13 (Appendix C) - Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments that provide

regulations regarding Public Assistance programs, grant administration, and allowable costs.

- U.S. Title Code 42 – The Public Health and Welfare, specifically Chapter 2 that covers sanitation and quarantine and Chapters 15, 58, and 68 that describe public health services and assistance programs during disaster response and recovery.
- Title 49 of the Code of Federal Regulations (CFR) that are the principle set of rules and regulations (sometimes called administrative law) issued by the Departments of Transportation and Homeland Security regarding transportation and transportation related security.

2.6.2. Local Ordinances

City and county laws, usually known as ordinances or codes, apply to many aspects of our daily lives. Local ordinances govern matters such as:

- Building and construction standards
- Rent control
- Noise and nuisance regulations
- Public health and safety
- Business licenses
- Parking
- Civil rights, and Discrimination

Local laws can never be weaker than federal or state law, and they are frequently stricter. For instance, San Francisco Building Code earthquake safety standards are more stringent than those in the California Building Code. City or county residents, homeowners, landlords, tenants, and small business owners, are likely to be affected by local laws, ordinances, and permit requirements. When researching the laws that apply to the current situation, be sure to check your local ordinances.

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3. Planning for Waivers

This guide presents a suggested process for planning and requesting regulation and/or permit waivers in the interest of expediting disaster recovery. The accompanying *Disaster Recovery Permit and Regulation Waiver Process Checklist (Checklist) Tool* is provided in a Microsoft Excel format designed to enable local jurisdictions to customize and document their own processes as appropriate. Planning for waivers is not necessarily a linear process, but each component has value and collectively presents a comprehensive, stakeholder driven process resulting in the most appropriate waiver(s) to accomplish the recovery priorities.

While there is an emphasis on recovery planning prior to an incident, it is also recognized that the situation in the aftermath of a disaster is an unknown and can be hard to predict. Many waivers may have to be developed and created in the midst of recovery. The Checklist and process described in this section will be helpful in these ad hoc, just-in-time situations as well as with recovery planning.

3.1. Waiver Process Description

The following is an explanation of the process for developing and crafting waivers and permits. Each step is composed of multiple sub-steps. The process is presented in this way to help guide the planner in understanding and gathering information necessary beforehand to develop, write, and execute the best possible waiver to meet the defined goals and objectives.

The examples are being applied to an earthquake scenario for the sake of this document. Remember, these are meant as a general guide, not an exacting framework so examples will not be applicable in all scenarios and must be modified or replaced as necessary.

A. Establish Recovery Priorities

i. Define Desired End State

At first, the desired state may appear obvious. Emergency management is often concerned with a rapid return to "normalcy", but this ignores the fact that disasters may provide an opportunity to "build back better". As such, it is critical to identify what state all subsequent actions should aim toward achieving. "Building back better" is best addressed when utilizing this process before an actual event as disaster response is often time critical.

Examples of desired end state:	
1	Roadways are open and operating efficiently.
2	The community has adequate housing with efficient energy usage and structural resilience.
3	The sewage system adheres to current standards and needs (e.g. black/grey water systems).

ii. Identify Current State

While simple to say, this is an extremely challenging step and the essence of establishing situational awareness. In the wake of a disaster event, communication often suffers greatly and, as such, establishing a common operating picture proves difficult. Having information that is as accurate as possible will be critical to the process, but emergency managers will often be forced to operate with knowledge gaps and insufficient information.

When planning before an actual disaster, do not be constrained by "reasonable" fallout and damage estimates. After an actual disaster, it will be easier to scale back the process to allow for a smaller event than it will be to scale up.

Examples of necessary information:	
1	Percentage of city streets blocked by debris and amount of debris
2	Numbers of residents without shelter
3	Tons of sewage not being treated due to system damage

iii. Identify objectives

Noting the differences between your desired and current state may be a simple process, but when incorporating improvements, the required rebuilding may be greater than expected. Identify objectives for your community to attain the desired state.

Examples of objectives to reach the desired state:	
1	Return roadways to pre-disaster condition
2	Increase the amount of available permanent housing to allow for the growing population and accommodate low to medium income residents
3	Return sewage treatment centers to full functionality while adhering to new standards

iv. Establish milestones

This is the point where the objective is broken down into manageable steps, and milestones are established. It will be important to associate these steps with a given timeline. Utilize the SMART method which stands for Specific, Measurable, Attainable, Relevant, and Time-bound.

Examples of attainable milestones:	
1	Clear critical streets within 3 weeks of the disaster
2	Provide temporary housing to all displaced persons within 3 days
3	Have one treatment plant repaired and running within two weeks

v. Establish measurable metrics

Success of a particular objective can be identified with measurable metrics. This step may seem easy to skip and address later, but it is integral that the metrics be incorporated to ensure clarity of approach and that particular actions are moving in the right direction. These metrics will be used to determine if other courses of action are necessary.

Examples of measurable metrics:	
1	Tonnage of debris cleared, number of critical streets with functional access
2	Number of people within shelters and/or temporary housing
3	Number of treatment plants back in operation and tons of sewage being treated per day

B. Actions to Be Taken

i. Identify actions to achieve the priority objectives

Break down each of the priority objectives into multiple, manageable, actionable steps. It is important to approach this with an open mindset to allow for all possible actions to be suggested despite a perceived lack of feasibility. The more options you have, the better. Be as specific as possible. Continue to use the SMART method (Specific, Measurable, Attainable, Relevant, Time-Bound)

Objective: Increase the amount of available permanent housing to allow for the growing population and accommodate low to medium income residents	
Examples of specific actions:	
1	Approval to shelter within parked vehicles within 6 hours
2	Confirm 4 safe shelter locations within 8 hours
3	Approval to camp on public land (e.g. parks) within 6 hours

ii. Identify criteria for prioritizing actions

This step involves establishing criteria for ranking the identified actions. Be sure to identify which criteria are most important or a system for weighting the criteria as appropriate. This is different from establishing metrics in that these criteria are meant to help prioritize which actions should be implemented first as compared to monitoring the achievement of objectives.

It is best to weight the criteria based on need, limitations, and / or importance for easy comparison. Establish your criteria then select which the most critical is given the current situation. Apply every criterion to each previously identified action. Once applied to the action, rate each criterion on a scale of 1 – 5 for each action with 5 indicating a very positive rating and 1 indicating a very negative rating.

Examples of criteria to prioritize objectives:	
Time to Complete (Most Important)	1 is extremely slow to complete
	5 is completed quickly
Cost	1 extremely expensive
	5 is extremely low cost / free
Status of available materials to achieve the objective	1 is materials are currently unavailable and unlikely to be received
	5 is materials are plentiful and easily accessed
Feasibility of achieving the objective	1 is extremely low feasibility
	5 is high feasibility

iii. Rank of Actions

Review the identified actions. It will be helpful if they are written down so they can be considered independently and as a set of actions. Identify positive and negative components of each possible action and compare those to the others identified. This will also require which category is most critical (time to complete, cost, etc). Be sure to hold on to these comparisons. You may find a need to revisit these as more information is acquired or particular actions are carried out.

Now, multiply the score of your most critical criteria by 1.5 then add all of the criteria together for each action.

Examples of action comparison and ranking:					
<i>Action</i>	<i>Time to Complete (Multiply by 1.5)</i>	<i>Cost</i>	<i>Status of Available Materials</i>	<i>Feasibility</i>	<i>Score</i>
Approval to camp within parked vehicles within 6 hours	5 (7.5)	5	3 (much of population lacks cars)	5	20.5
Confirm 4 safe shelter locations within 8 hours	5 (7.5)	5	1 (building inspectors will be in short supply)	1 (Due to building inspector supply)	14.5
Approval to camp on public land (e.g. parks) within 6 hours	5 (7.5)	5	5	5	22.5

iv. Select and order actions

Now that the options have been systematically compared, select the options that will allow you to achieve your goal. Utilizing your previously established scores and incorporating extenuating circumstances, put them in a logical progression. Be sure to make note of which actions are dependent upon previous actions being performed.

Example of actions ranked and selected:		
Rank	Score	Action
1	22.5	Approval to camp on public land (e.g. parks) within 6 hours
2	20.5	Approval to camp within parked vehicles within 6 hours
3	15.5	Confirm 4 safe shelter locations within 8 hours (Not selected) due to low score)

C. Jurisdiction / Departments Affected

i. Identify Emergency Support Functions (ESFs) and Recovery Support Functions (RSFs)

The federal Emergency Support Functions (ESFs) and Recovery Support Functions (RSFs) are NIMS-based categories that help to provide a unified framework for organizing activities and organizations during a disaster. Identify which of these apply to each of the priority objectives. ESFs and RSFs are intended to unify organizational principles across all government institutions. The Emergency Support Functions specified in the Example Regulations List are those identified by the Federal Emergency Management Agency.

Examples of ESFs and RSFs:	
<i>1. Approval to camp on public land (e.g. parks) within 6 hours:</i>	
ESF 6	Mass Care, Emergency Assistance, Housing, and Human Services
ESF 13	Public Safety and Security
RSF 1	Community Planning and Capacity Building
RSF 2	Economic Recovery
RSF 4	Housing
<i>2. Approval to camp within parked vehicles within 6 hours:</i>	
ESF 1	Transportation
ESF 6	Mass care, Emergency Assistance, Housing, and Human Services
ESF 13	Public Safety and Security
RSF 1	Community Planning and Capacity Building
RSF 4	Housing

ii. Identify responsible departments, agencies, and jurisdictions

The ESFs and RSFs will serve as a guide to which departments, agencies, or jurisdictions will need to take part in the waiver process. Representatives of the different jurisdictions will be necessary as the waivers may have to go through their legislative processes. The affected jurisdictions will also guide at what level you may have to pursue a given waiver, ranging from local to Federal.

Stakeholders outside the government may include Tribal, Private Sector, and NGOs / Non-Profit agencies and organizations. For instance, a large percentage of the critical infrastructure providers are private sector companies. Historic associations or community groups may be non-profit organizations that need to be involved with certain actions and waivers. All of these should be engaged and brought in to the conversations to garner their buy-in and advocacy to civic leaders.

Examples of responsible departments, agencies, and jurisdictions:	
<i>1. Approval to camp on public land (e.g. parks) within 6 hours:</i>	
Agencies / Departments:	Law Enforcement, Care and Shelter, Housing, Parks and Recreation
Jurisdiction(s):	Local
<i>2. Approval to camp within parked vehicles within 6 hours:</i>	
Agencies / Departments:	Department of Transportation, Law Enforcement, Housing, Care and Shelter
Jurisdiction(s):	Local, County

3. Identify Relevant Adjustments

i. *Assemble stakeholders (time permitting)*

While it is important to involve relevant stakeholders throughout the waiver process, this is the point where it will be critical to engage all relevant personnel from a wide array of stakeholder groups. The individuals involved should be subject matter experts from the involved departments, agencies, or jurisdictions. Their engagement will be important for guiding the specific waiver process. They should be included in any meetings regarding the identification of relevant regulations / permits. Who is included will depend on which departments, agencies, and jurisdictions were identified earlier.

Examples of stakeholders for a given action:	
<i>1. Approval to camp on public land (e.g. parks) within 6 hours:</i>	
Representatives from the police, sheriff, Housing Authority, local government, Parks and Recreation, home owners' associations near public lands	
<i>2. Approval to camp within parked vehicles within 6 hours:</i>	
Representatives from police, sheriff, department of transportation, Housing Authority, local and county government, parking lot owners	

ii. *Identify regulations / permits affecting or limiting intended actions*

Identify which regulations and/or permit processes are hindering efficient progress toward the priority objectives. This is the point where having members from the associated departments or agencies who oversee or govern the regulations and permits will be critical. The specific pieces of legislature will be difficult to identify otherwise.

Examples of regulations / permits affecting or limiting intended actions:
<p><i>1. Approval to camp on public land (e.g. parks) within 6 hours:</i></p> <ul style="list-style-type: none"> - Oakland Code of Ordinances, Title 12 - STREETS, SIDEWALKS AND PUBLIC PLACES Chapter 12.64 - PARK AND RECREATION AREA USE REGULATIONS-Article I. Generally- Sec. 12.64.110 (overnight use prohibition); - Oakland Code of Ordinances, Title 12 - STREETS, SIDEWALKS AND PUBLIC PLACES Chapter 12.64 - PARK AND RECREATION AREA USE REGULATIONS-Article I. Generally- Sec. Sec. 12.64.280 Permit required. (Special event permit issuance); - San Mateo County Code of Ordinances, Title 3 - PUBLIC SAFETY, MORALS AND WELFARE-Chapter 3.68 COUNTY PARK AND RECREATION AREA RULES-Sec. 3.68.060 Camping regulations
<p><i>2. Approval to camp within parked vehicles within 6 hours:</i></p> <ul style="list-style-type: none"> - Modesto, California Code of Ordinances Sec. 10-3.211 [Prohibits occupancy of a mobile vehicle for more than 72 hours unless for emergency, on private property for more than 120 days]

iii. Identify what changes must be made to relevant regulations / permit processes

During this step specific alterations to the legislation must be identified. It will be important to include time lines for how long waivers to particular pieces of legislation will last. This could be critical for achieving buy-in from particular departments and stakeholders.

Examples of modifications to be made to relevant regulations:
<p><i>1. Approval to camp on public land (e.g. parks) within 6 hours:</i></p> <p>Remove the overnight use prohibition in park and recreation areas for two weeks. Remove special event permitting requirements for park and recreation area usage for two weeks.</p>
<p><i>2. Approval to camp within parked vehicles within 6 hours:</i></p> <p>Remove restriction on period of habitation for mobile vehicles for two weeks.</p>

iv. Consolidate waivers

Once all potential waivers are identified, review them collectively for opportunities to consolidate them into as few requests as possible. Combined and / or broader waivers will assist in streamlining possible unforeseen actions in the future.

For an example of consolidating waivers, reference the Executive Order available in the Toolkit.

4. Outcome if Granted

i. Identify benefits of waiver approval

Consider the results of the waiver request, if granted, including any cascading effects. The purpose of this step is to think strategically about the benefits that will be achieved from the adoption of the waiver. These are the arguments that you will be using to gain buy-in from the individual(s) granting the waiver. As such, it is important to not only identify the benefits but to simplify the language used to describe it. Be sure that it is understandable by civic leaders, stakeholders, and individuals that may have minimal or no training in emergency management.

Examples of benefits of waiver approval:
<i>1. Approval to camp on public land (e.g. parks) within 6 hours:</i>
An open area is available for use by those unable to return to their homes or find other shelter. In addition, it will help to concentrate individuals for providing services and messaging.
<i>2. Approval to camp within parked vehicles within 6 hours:</i>
Individuals with access to vehicles have a source of relatively durable shelter that can be moved

ii. Identify possible consequences

Consider results of the waiver and subsequent actions that may not be perceived as positive to stakeholders or civic leaders. This information must be thought about and provided in order to provide transparency to the process. And, only by thinking through possible negative consequences can mitigating actions be taken to reduce the fall out. By thinking about and acknowledging the results you will be able to make a case for why the benefits outweigh the consequences and to describe how negative effects may be mitigated.

Examples of possible consequences of waiver approval:
<i>1. Approval to camp on public land (e.g. parks) within 6 hours:</i>
If large numbers of people go to particular areas, there will be challenges regarding providing sufficient sanitation and security in addition to the likelihood of damage to public land. These can be mitigated by proactively providing sanitation facilities and security with security personnel providing guidance to displaced people on avoiding damage to public lands.

<p>2. Approval to camp within parked vehicles within 6 hours:</p> <p>With a population spread out in vehicles, there will be challenges regarding sanitation as it is likely that normal sanitation services will not be working. In addition, security will possibly become a problem. The population will be spread out making it difficult to provide services and messaging.</p> <p>These can be mitigated by identifying specific areas for living out of vehicles and proactively providing sanitation and security services, assuming cars can be moved within the confines of the affected area.</p>

5. Outcome if not granted

i. Identify benefits of waiver denial

This will be the positive outcomes of not allowing the waiver. These will be necessary to acknowledge so that they may be effectively compared and contrasted with the alternative of the waiver being granted. In some cases, the outcome(s) of not granting the waiver may be more beneficial than granting it. Understanding these outcomes is important for creating transparency to the process and allowing the individual(s) designing the waivers to make the decisions they feel best serve the stakeholders.

Examples of benefits to waiver denial:
<p>1. Denial to camp on public land (e.g. parks) within 6 hours:</p> <p>Public lands will be preserved. The population may not become as densely focused in certain areas possibly preventing security issues. Individuals will make greater use of already established services such as shelters possibly avoiding sanitation and security issues.</p>
<p>2. Denial to camp within parked vehicles within 6 hours:</p> <p>Individuals may make use of already provided services such as shelters possibly avoiding sanitation and security issues.</p>

ii. Identify possible consequences

The possible consequences of not granting the waiver are the problem you were attempting to solve in the first place, so you likely already have a clear idea of what is needed for this step. Once again, be certain to document these in easily understood language.

Examples of possible consequences:
<i>1. Denial to camp on public land (e.g. parks) within 6 hours:</i>
The main result of this is that people without housing are left without shelter. This may result in habitation of unsafe structures, trespassing, or exposure to the elements. Another result may be overwhelming of shelters.
<i>2. Denial to camp within parked vehicles within 6 hours:</i>
The main result of this is that people without housing are left without shelter. This may result in habitation of unsafe structures, trespassing, or exposure to the elements. Another result may be overwhelming of shelters.

6. Convene Stakeholders

i. Invite Relevant Stakeholders

Use the identified jurisdictions and departments to compile a list of relevant stakeholders from those groups and organizations. Invite them to take part in the waiver planning process. It is important, to the greatest degree possible, that the individuals representing each stakeholder group have decision-making authority for their particular organization. This will dramatically accelerate the process which is of particular importance in the case of waivers being drafted in the aftermath of an event.

ii. Create a specific agenda

Particularly during meetings directly in the aftermath of a disaster, it is important to focus on very specific objectives. An agenda will help direct the discussion and lead the participants to consensus about the proposed waiver(s), specifics of the request, and authorities to be approached.

iii. Obtain input from all stakeholders

Make the best attempt at involving every stakeholder and various perspectives in the discussion. This may mean asking specific individuals for their thoughts on the subject. This may also mean agreeing to a principal of non-attribution in documenting the discussions, i.e. an agreement that neither names nor titles of agencies will be identified in the published proceedings and that, if asked, specific information or comments will not be attributed to a specific participant . This involvement is critical for creating buy-in and to ensure that all possible outcomes are considered.

iv. Obtain consensus and agreement

Obtaining consensus and possibly agreement from the involved stakeholders and participants is critical for preparing a waiver request.

7. Draft Waiver

In cooperation with the executing legislative or governing body that will implement the waiver, craft the actual legislation or executive order. It is important that the wording be as accurate as possible and reflect the consensus of the stakeholders. This may require the assistance of legal counsel or legislative advisors. If there is time or the opportunity, it is best to approve the final draft of the waiver legislation or executive order with the relevant stakeholders in order to ensure that their input has been correctly incorporated. This will be referenced as a binding legal document.

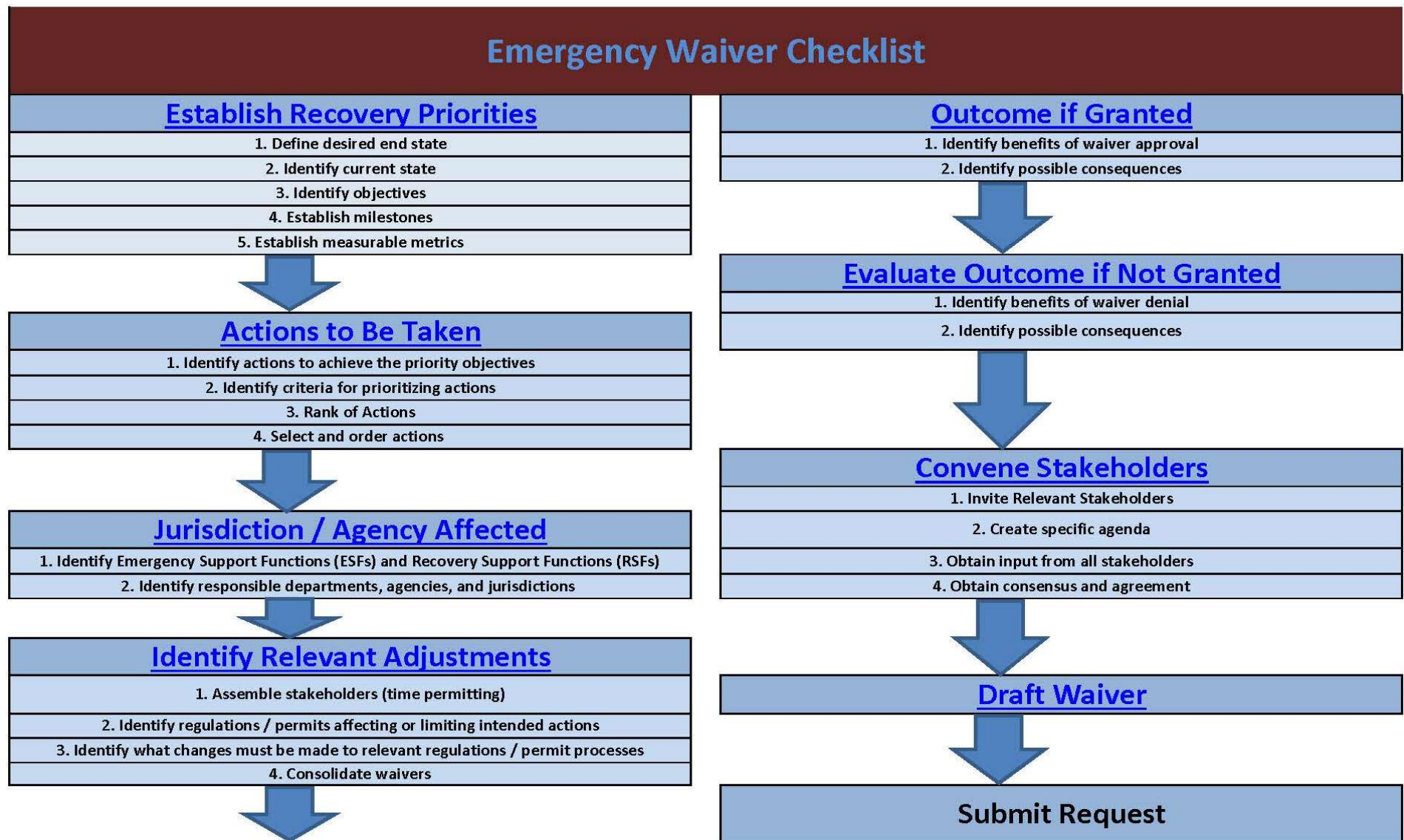
PART 2: Permit and Regulation Waiver Planning Tools

The tools in this section are designed to be used as needed. Each may be pulled from this toolkit for modification and customization as appropriate.

1. Disaster Recovery Permit and Regulation Waiver Checklist

Below is a reproduction of the Disaster Recovery Permit and Regulation Waiver Checklist (Checklist) developed to guide Emergency Managers, Planners, and other emergency recovery personnel in the development of a permit and regulation waiver or waiver.

The full checklist is provided in electronic format in MS Excel format with hyperlinks that users may use to jump to descriptions and explanations made available as part of the Checklist and reproduced in *Part 1, Section 3* of this Guide, *Planning for Waivers*. This checklist and accompanying material can also be downloaded from the Bay Area UASI website at www.bayareauasi.org.



2. Disaster Recovery Permit and Regulation Examples List

What follows is a reproduction of the Disaster Recovery Permit and Regulation Waiver Sample Regulation List (List). It is provided as a template and lists examples of the types of regulations and permits likely needed to be considered for waiver to accomplish common objectives in post-disaster recovery. This list is not intended to be exhaustive, but provides a sampling to inform planning efforts. The full list is provided in electronic format in both PDF and MS Excel formats on the accompanying USB thumb drive and can be downloaded at www.bayareauasi.org.

Considered Action / Goal	Regulation / Permit Scope	Jurisdiction (Federal, State, Local)	Code /Ordinance Examples	Waiver Goal / Description	Transportation	Communication	Construction & Repair	Fire & Safety	Management	Shelter	Resources	Health & Safety	Search & Rescue	Hazardous	Agriculture	Utilities	Law Enforcement	Community	Economic	Health and Social	Housing	Infrastructure	Natural and Cultural	Information	Local	County	State	Federal	Tribal	Private	NGO	Agencies
Housing Potentially Displaced People	Landlord responsibility and obligations, habitability requirements, minimal habitability standards.	State	California Civil Code - DIVISION 3. OBLIGATIONS- PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS- TITLE 5. HIRING, Section 1941, 1941.1	Alleviate landlord fees and liabilities to allow people to stay in their homes			X			X	X							X			X				X		X				Building Inspection, Sheltering, Community Planning, Mayor's office, Governor's office	
Housing Potentially Displaced People	Sets forth requirements for tenant relocation benefits.	State	California Health and Safety Code, Division 13: Housing, Section 17975	Alleviate landlord fees and liabilities to allow them to assist tenant relocation						X								X	X		X				X		X				Community Planning, Office of Administrator, Care and shelter, Mayor's office, governor's office	
Allow for self-sheltering in / near homes	Procedure for seeking permission to temporarily use or occupy a public street, focused on events	Local	San Francisco, California Transportation Code, Article 6- Temporary Use or Occupancy of Public Streets, SEC. 6.2	Allow residents to temporarily self-shelter or set-up community feeding stations outside near to their homes	X				X	X								X				X			X						Transportation, Emergency Management, Community Planning, Mayor's office	
Allow for self-sheltering in / near homes	Sit - Lay laws, prohibitions from obstructing sidewalks	Local	Sonoma County, California Code of Ordinances Sec. 19-7; San Francisco Police Code Sec. 168	Allow residents to occupy city streets and sidewalks	X				X	X								X				X			X						Transportation, Emergency Management, Community Planning, Mayor's office	
Housing Potentially Displaced People	Hoteling fees and regulations for private home / apartment share	Local	San Mateo County Code of Ordinances Title 5 -BUSINESS REGULATIONS Chapter 5.136 TRANSIENT OCCUPANCY TAX-	Housing strategy for displaced persons and/or DSW's						X									X		X				X				X		Housing, Care and Shelter, Red Cross, Mayor's office, private sector representation, administrator's office	
Housing Potentially Displaced People	Regulations for compensating tenants for a temporary displacement, including providing comparable rental housing	State	California Civil Code- DIVISION 3. OBLIGATIONS- PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS - TITLE 5. HIRING, Section 1947.9	Close a wide gap between displaced persons and available housing						X								X	X		X				X		X				Housing, Care and Shelter, mayor's office, governor's office, administrator's office	
Housing Potentially Displaced People	Public / Outdoor Space Use Regulations	Local	Oakland Code of Ordinances, Title 12 - STREETS, SIDEWALKS AND PUBLIC PLACES Chapter 12.64 - PARK AND RECREATION AREA USE REGULATIONS- Article 1. Generally- Sec. 12.64.110 (overnight use prohibition); Oakland Code of Ordinances, Title 12 - STREETS, SIDEWALKS AND PUBLIC PLACES Chapter 12.64 - PARK AND RECREATION AREA USE REGULATIONS- Article 1. Generally- Sec. Sec. 12.64.280 Permit required. (Special event permit issuance); San Mateo County Code of Ordinances, Title 3 - PUBLIC SAFETY, MORALS AND WELFARE-Chapter 3.68 COUNTY PARK AND RECREATION AREA RULES Sec. 3.68.060 Camping regulations	Allow sleeping in parks after dark; designate locations for sanctioned and adhoc shelter/camps;						X							X	X				X	X		X	X					Parks and Rec, Law Enforcement, Housing, Care and Shelter	
Housing Potentially Displaced People	Use and location of Housing Trailers	Local	Contra Costa County Ordinance Code Title 8 - ZONING-Division 84 - LAND USE DISTRICTS-Chapter 84-68 T-1 MOBILE HOME/MANUFACTURED HOME PARK DISTRICT-Sec. 84-68.1402	Allow for the set-up of housing trailers as temporary shelters	X					X						X		X				X			X	X					Care and Shelter, DPW, Utilities, Community Planning	
Housing Potentially Displaced People	Prohibitions from living in vehicles (vehicle occupancy time limits)	Local	Modesto, California Code of Ordinances Sec. 10-3.211 [Prohibits occupancy of a mobile vehicle for more than 72 hours unless for emergency, on private property for more than 120 days]	Allow residents to self-shelter in cars as alternative to unsafe structures or shelters	X					X							X	X				X	X								Transportation, Law Enforcement, Care and Shelter, Community Planning	
Housing Potentially Displaced People	Lease and length of habitation regulations	State	California Civil Code- DIVISION 3. OBLIGATIONS- PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS- TITLE 5. HIRING, Section 1943	Allow for extension of guest stays without restriction or penalty to landlord						X								X	X		X		X		X		X				Tax office, Housing Authority, Community Planning, Housing	
Housing Potentially Displaced People	Emergency Shelter Requirements	Local	Contra Costa County Ordinance Code Title 8 - ZONING-Division 82 - GENERAL REGULATIONS Chapter 82-46 EMERGENCY SHELTERS- Covers mandatory development standards.	Relax standards for shelter development to accommodate mass sheltering needs					X	X												X			X	X					Emergency Management, Housing, Red Cross	
Building Construction and Repair	Minimum standards to protect public safety through structural strength, egress, stability, access, ventilation, and so forth	State	California Building Code, Title 24 of the California Code of Regulations (See also The California Electrical Code, Plumbing Code, and Mechanical Code). (http://sdbi.org/codes)	Temporarily set aside standards to facilitate the rapid temporary repair of structures - alleviate sheltering needs			X											X			X				X		X				Building Inspection, Community Planning, Housing	
Building Construction and Repair	Permit requirements to build, alter, or repair structures	Local	Contra Costa County Ordinance Code-Title 7 - BUILDING REGULATIONS- Chapter 72-6 GENERAL PROVISIONS-Sec. 72-6.202 Permits - Permit needed to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure regulated by this title.	Temporarily set aside standards to facilitate the rapid temporary repair of structures - alleviate sheltering needs			X											X			X				X	X					Building Inspection, Community Planning, Housing	
Infrastructure Repair	Rebuilding of critical infrastructure (such as wells) prior to permitting approval	Local	Marin County, California Code of Ordinances Sec. 22.56.0401	Allows for immediate emergency repairs of damage due to a disaster			X				X					X		X				X			X	X					Building Inspection, Department of Public Works, Utilities	

Considered Action / Goal	Regulation / Permit Scope	Jurisdiction (Federal, State, Local)	Code /Ordinance Examples	Waiver Goal / Description	Transportation	EF1 - Communication	EF2 - Construction & Rescue	EF3 - Fire & Management	EF4 - Fire & Shelter	EF5 - Care & Shelter	EF6 - Care & Shelter	EF7 - Resources	EF8 - Public Health & Health	EF9 - Search & Rescue	EF10 - Hazardous	EF11 - Food & Agriculture	EF12 - Utilities	EF13 - Law Enforcement	Community	RSF1 - Economic	RSF2 - Economic and Social	RSF3 - Health and Social	RSF4 - Housing	Infrastructure	RSF5 - Natural and Cultural	EF15 - Public Information	Local	County	State	Federal	Tribal	Private	NGO	Agencies		
Debris Removal	Restrictions and regulations on the removal, nature, and destination of debris	Local	San Francisco, California Public Works Code, ARTICLE 17: - CONTROL OF DUMPS DISPOSING OF MATERIALS FROM CONSTRUCTION OR DEMOLITION; San Francisco, California Environmental Code, Chapter 14: CONSTRUCTION AND DEMOLITION DEBRIS RECOVERY ORDINANCE; San Francisco, California Environmental Code, Chapter 10: CHAPTER 10: - TRANSPORTATION OF AGGREGATE MATERIALS; Santa Clara County, California Code of Ordinances Sec. A8-25.010-8.25.340; Alameda County, California Code of Ordinances Sec. 13.12.190; Mendocino County, California Code of Ordinances Sec. 7.04.170; Santa Clara County, California Code of Ordinances Sec. A8-25.010-8.25.340	Relax standards and permit requirements for the rapid removal of debris			X								X											X										Department of Public Works
Debris Removal	Restrictions and regulations on the removal, nature, and destination of debris	Federal	48 CFR 26.201 [definition of emergency response regarding debris clearance] 44 CFR 206.204 [project performance of debris clearance] 44 CFR 206.346 [applicability to disaster assistance]	Relax standards and permit requirements for the rapid removal of debris			X	X					X		X											X	X	X	X							DPW, FD, DPH
Debris Removal	Restrictions and regulations on the removal, nature, and destination of debris	State	California Government Code § 8596 [Disposal of debris on private property.]; 14 CCR 17210.3 [request for emergency waiver for disposal of disaster debris]; 14 CCR 17210.5 [for reporting requirements]; 19 CCR 2925 [Debris removal eligible for state financial assistance]; 19 CCR 2970 [project performance and eligibility debris clean up];	Relax standards and permit requirements for the rapid removal of debris			X	X					X		X											X	X	X	X							DPW, FD, DPH
Debris Removal	Restrictions against burning of debris in certain areas	State	California Public Resources Code 4421, 4422, 4423 And 4425	Relax or remove prohibitions against debris burning in specified areas									X		X				X								X	X	X						FD, Emergency management, DPW, DPH, Hazmat, Law enforcement	
Debris Removal	Zero Waste initiative waiving	Local	San Francisco Government Ordinance 100-09	Remove or modify Zero Waste guidelines											X	X			X							X	X								Hazmat, Utilities (waste disposal specifically), Mayor's Office	
Historic Building and Structure Preservation	Authorizes the Secretary of the Interior to expand and maintain a National Register, procedural requirements to list and remove properties and responsibilities and supporting procedures of Federal agencies, and tax incentives	Federal	U.S. Code: National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 et seq., and E.O. 11593 [authorizes the Secretary of the Interior to expand and maintain a National Register.]; CFR Title 36: Parks, Forests, and Public Property []; National Park Service Historic Preservation Tax Incentives	Relax requirements either for designating a structure / district as historically significant or for the removal / demolition of structures / districts of historical significance that may be damaged and obstructing recovery efforts			X	X											X							X	X								DPW, FD, Building Inspection	
Historic Building and Structure Preservation	Provides protection and alternative building standards to structures listed on the National Register of Historic Places	State	California Public Resources Code Section 5028 [Natural Disaster Damage to Historic Property]; California Health & Safety Code § 18956 et. Seq., State Historic Building Code;	Relax requirements either for designating a structure / district as historically significant or for the removal / demolition of structures / districts of historical significance that may be damaged and obstructing recovery efforts			X	X											X							X	X								DPW, FD, Building Inspection	
Historic Building and Structure Preservation	Preservation, protection, enhancement, and perpetuation of resources of architectural, historical, and cultural merit	Local	Santa Clara County Code of Ordinances- TITLE C - CONSTRUCTION, DEVELOPMENT AND LAND USE-Division C17 - HISTORIC PRESERVATION	Relax requirements either for designating a structure / district as historically significant or for the removal / demolition of structures / districts of historical significance that may be damaged and obstructing recovery efforts			X	X											X							X	X								DPW, FD, Building Inspection	
Historic Building and Structure Preservation	Procedures for requesting Historic Preservation Waiver	State	Cal Pub Resource Code § 5028	Allows the removal / demolition of structures / districts of historical significance that may be damaged and obstructing recovery efforts			X	X											X							X	X								DPW, FD, Building Inspection	
Historic Building and Structure Preservation	Historic Preservation Waiver exemptions and procedures for requesting alteration and/or demolition	Local	Campbell, California Code of Ordinances Sec. 18.06.050; Monterey County, California Code of Ordinances Sec. 18.25.190	Allows the removal / demolition of structures / districts of historical significance that may be damaged and obstructing recovery efforts			X	X											X							X	X								DPW, FD, Building Inspection	
Removal of dangerous / at-risk structures	Demolition permit requirements	Local	Oakland, California Code of Ordinances, Title 15 - BUILDINGS AND CONSTRUCTION, Chapter 15.36 DEMOLITION PERMITS- Sec. 15.36.020	Allow for community / peer approval of demolition of damaged / obstructive structures with permit or fees			X	X																		X	X									

Considered Action / Goal	Regulation / Permit Scope	Jurisdiction (Federal, State, Local)	Code /Ordinance Examples	Waiver Goal / Description	Transportation	Communication	Construction & Repair	Fire & Safety	Management	Health & Safety	Public Health	Search & Rescue	Hazardous	Food & Agriculture	Utilities	Law Enforcement	Community	Economic	Health and Social	Housing	Infrastructure	Natural and Cultural	Public Information	Local	County	State	Federal	Tribal	Private	NGO	Agencies
					EF1 -	EF2 -	EF3 -	EF4 -	EF5 -	EF6 -	EF7 -	EF8 -	EF9 -	EF10 -	EF11 -	EF12 -	EF13 -	RSF1 -	RSF2 -	RSF3 -	RSF4 -	RSF5 -	RSF6 -	RSF7 -	RSF8 -	RSF9 -	RSF10 -	RSF11 -	RSF12 -	RSF13 -	
Re-establishing / Reconnecting Public Utilities (electric, gas, telecommunications)	Building inspection and permit requirements to (re)connect utilities to buildings and on private property	Local	Contra Costa County Ordinance Code, Title 7 - BUILDING REGULATIONS-Chapter 72-6 GENERAL PROVISIONS-Sec. 72-6.414; Torrance, CA Code of Ordinances SECTION 92.39.060	Alleviate restrictions and required permits and fees for repair / restoration of utilities											X			X			X		X	X	X						DPW, utility companies, FD, administrator's office
Coordinating Emergency Services	Outlines responsibilities of the Administrator and related procedures	Local	Contra Costa County Ordinance Code-Chapter 42-2 DISASTER COUNCIL AND EMERGENCY SERVICES	Expand or distribute the emergency response / recovery responsibilities to local / community members					X	X						X	X		X					X	X	X			X	FD/EMS, Emergent Management, DPH, SAR, Law Enforcement	
Coordinating Medical Services	Outlines coordination of medical services	Local	Alameda County, California Code of Ordinances Sec. 6.114.460 9; Napa County, California Code of Ordinances Sec. 8.70.083	Give purview over medical services to local hospitals and health care providers					X										X					X	X	X				DPH, FD/EMS	
Remove restrictions to on-street vehicle parking	Regulates parking of vehicles - location, duration, and vehicle type	Local	San Francisco, California Transportation Code, Article 7- Violations, On-Street Parking -SEC. 7.2.24; San Francisco, California Transportation Code, Article 7- Violations, On-Street Parking -SEC. 7.2.29; San Francisco, California Transportation Code, Article 7- Violations, On-Street Parking -SEC. 7.2.36	Alleviate parking regulations to allow for self-sheltering in cars and other vehicle uses	X											X	X				X			X	X				X	Transit, law enforcement, Red Cross/mass shelter	
Allow for overweight vehicles on local streets	Regulates vehicle weight limits and exceptions for trucks transporting garbage, rubbish and/or swill.	Local	Contra Costa County Ordinance Code-Division 46 - TRAFFIC REGULATIONS-Chapter 46-4 MISCELLANEOUS PROVISIONS-Sec. 46-4.010	Allow overweight trucks carrying relief materials to traverse local streets and highways	X		X		X							X					X			X	X					Transit, roadway inspection, emergency management, law enforcement	
Facilitate vendors' public food service	Requirements and permits for food facilities and food trucks	Local	San Francisco, California Public Works, Article 5.8; Contra Costa County Ordinance Code-Chapter 413-3 ENVIRONMENTAL HEALTH PERMITS AND FEES-Sec. 413-3.604	Allow for the food vendors to establish ad-hoc feeding stations to benefit the community in which they work					X	X				X		X	X				X			X	X				X	Emergency management,	
Utilize existing small water systems for sanitation	permit requirements for waste water, small water, and medical waste systems	Local	Contra Costa County Ordinance Code, Chapter 413-3 ENVIRONMENTAL HEALTH PERMITS AND FEES-Sec. 413-3.604; Contra Costa County Ordinance Code, Division 413 - PUBLIC HEALTH LICENSES AND FEES-Division 420 - SEWAGE-Chapter 420-2 GENERAL REGULATIONS-Sec. 420-2.004 Permit	Temporarily relax standards to allow for safe removal and disposal of waste and hazardous materials that may endanger the local community	X		X	X	X		X		X							X				X	X					Transit, debris removal, FD, Emergency Management, DPH, Hazmat	
Lengthen the time limit of temporary environmental health permits	Regulates length of time for temporary permits	Local	Contra Costa County Ordinance Code, Chapter 413-3 ENVIRONMENTAL HEALTH PERMITS AND FEES-Sec. 413-3.814	Temporarily relax standards to allow for safe removal and disposal of waste and hazardous materials that may endanger the local community	X		X	X	X		X		X							X				X	X					Transit, debris removal, FD, Emergency Management, DPH, Hazmat	
Side aside waste disposal environmental requirements	Regulations and permits to protect human health and the environment from the potential hazards of waste disposal	Federal	Code of Federal Regulations Title 40 Parts 239 - 282, Resource Conservation and Recovery Act (RCRA)	Temporarily relax standards to allow for safe removal and disposal of waste and hazardous materials that may endanger the local community	X		X	X	X		X		X							X				X	X					Transit, debris removal, FD, Emergency Management, DPH, Hazmat	
Side aside waste disposal environmental requirements	Regulations and permits to protect human health and the environment from the potential hazards of waste disposal	State	California Health and Safety Code, Hazardous Waste Control Law, commencing with Section 25100; California Code of Regulations, Title 22, Division 4.5;	Temporarily relax standards to allow for safe removal and disposal of waste and hazardous materials that may endanger the local community	X		X	X	X		X		X							X				X	X					Transit, debris removal, FD, Emergency Management, DPH, Hazmat	
Transport and disposal of hazardous materials	Guidance for the transportation and storage of hazardous materials	State	California Highway Patrol Publications- CHP 800C- Trucks transporting hazardous Materials; California Highway Patrol Publication- CHP 361E-Obtain a Hazardous Material Transportation License	Temporarily relax standards to allow for safe transportation and storage of hazardous materials	X		X	X	X		X		X							X				X	X					Transit, debris removal, FD, Emergency Management, DPH, Hazmat	
Transport and disposal of hazardous materials	Regulations and permits for the transportation and storage of hazardous materials	Local	Oakland, California Code of Ordinances, Title 8: Health and Safety, Chapter 8.12 Hazardous Materials, Sec. 8.12.010; Santa Clara County, California Code of Ordinances Sec. A8-25.170; San Mateo County Code of Ordinances-Title 4 - SANITATION AND HEALTH-Chapter 4.92 STORAGE OF HAZARDOUS SUBSTANCES; Mountain View, California Code of Ordinances SEC. 19.28.1	Temporarily relax standards to allow for safe transportation and storage of hazardous materials	X		X	X	X		X		X							X				X	X					Transit, debris removal, FD, Emergency Management, DPH, Hazmat	
Set aside restrictions on the use of private property	Various regulations and permit / fee requirements on the use of private property, including beautification and sidewalk obstruction as examples	Local	San Francisco, California Public Works Code, Article 2.1- Permit Fees and Occupancy Assessments, SEC. 2.1.1; Calabasas City, CA Ordinance Sec. 17.32.010; Arcadia, CA Ordinances Sec. 9701; Ojai, CA Code of Ordinances Sec. 4-11.10; Woodland, CA Code of Ordinances Sec. 20A-1-010; Newark, CA Code of Ordinances Sec. 8.16.010; Nevada City, California Code of Ordinances Sec. 18.01.010; Los Angeles County, CA Code of Ordinances Sec. 22.44.127; Perris, CA Code of Ordinances Sec. 12.12.110; Merced, California Code of Ordinances Sec. 14.12.190; Fontana, California Code of Ordinances Sec. 25-130; El Monte, California Code of Ordinances Sec. 16.28.120	Relax "quality of life" standards that may prohibit rapid rebuilding and habitability restoration in a recovery environment					X	X	X				X	X	X			X	X			X	X			X	X	Building inspection, FD, Emergency management, DPH, DPW, utilities, law enforcement	
Temporary zoning set aside and conditional use permits	Conditional use permits related to zoning	Local	Richmond Code of Ordinances, Sec. 15.04.910	Temporary set aside of zoning restrictions to address community needs during recovery					X	X						X	X	X						X	X			X	X	Emergency management, mass care, red cross, law enforcement, private sector	

Considered Action / Goal	Regulation / Permit Scope	Jurisdiction (Federal, State, Local)	Code /Ordinance Examples	Waiver Goal / Description	Transportation	Communication	Construction & Repair	EF3 - Fire & Rescue	EF4 - Fire & Management	EF5 - Shelter	EF6 - Care & Shelter	EF7 - Resources	EF8 - Public Health & Health	EF9 - Search & Rescue	EF10 - Hazardous	EF11 - Food & Agriculture	EF12 - Utilities	EF13 - Law Enforcement	RSF1 - Community	RSF2 - Economic and Social	RSF3 - Health and Social	RSF4 - Housing	RSF5 - Infrastructure	RSF6 - Natural and Cultural	EF15 - Public Information	Local	County	State	Federal	Tribal	Private	NGO	Agencies	
Allow communities to redevelop as needed post-disaster	Provides communities with alternative procedures and requirements for redevelopment after disasters.	State	California Health and Safety Code, DIVISION 24. COMMUNITY DEVELOPMENT AND HOUSING- PART 1.5. COMMUNITY REDEVELOPMENT DISASTER PROJECT LAW [34000 - 34008]	Allows for temporary set aside of zoning restrictions and building regulations to address community needs during recovery					X	X								X	X	X						X	X						Emergency management, mass care, red cross, law enforcement, private sector	
Facilitate the restoration of public utilities and essential services	Relax procedures and standards and allow for public funding of utility restoration	State	California Code of Regulations, Title 19 Section 2960; California Public Utilities Code § 768.6; California Public Utilities Code § 325; California Public Utilities Code § 130234	Alleviate restrictions and required permits and fees for repair / restoration of utilities			X	X									X		X	X		X				X	X						building inspection, FD, DPW, utilities, administrator's office	
Empower local jurisdictions to facilitate recovery	Empower city, local governments to institute ordinances which streamline procedures and support rebuilding after a disaster.	State	California Government Code § 8877.5- Disaster Recovery Reconstruction Act of 1986; California Health and Safety Code § 50660.5	Allows local jurisdictions to adjust regulations and ordinances to streamline community recovery					X										X							X	X	X					Emergency management	
Facilitate the use of the mass use of electric generators	Relax restrictions on the widespread use of generators for local electricity generation, including air quality and use restrictions	State	California Code of Regulations, Title 17 Section 95112; California Code of Regulations, Title 20, Section 395.1;	Allow for the temporary widespread use of electricity generation to benefit the community without concerns for penalty or restriction				X	X	X			X				X		X		X	X				X	X	X					FD, Emergency management, emergency housing, DPH, DPW, utilities	
Facilitate the use of the mass use of electric generators	Relax restrictions on the widespread use of generators for local electricity generation, including air quality and use restrictions	Local	Montclair, California Code of Ordinances Sec. 10.28.240; Colfax, California Code of Ordinances Sec. 17.64.070; Richmond, California Zoning Sec. 15.04.890.070; Martinez, California Code of Ordinances Sec. 8.34.030; Seaside, California Code of Ordinances Sec. 9.12.030	Allow for the temporary widespread use of electricity generation to benefit the community without concerns for penalty or restriction				X	X	X			X				X		X		X	X				X	X	X					FD, Emergency management, emergency housing, DPH, DPW, utilities	
Facilitate the mass use of electric generators	Relax noise restrictions on the widespread use of generators for local electricity generation	Local	Alameda County Noise Ordinance Section 6.60.040	Allow usage of noise generating equipment like generators and machinery past specified hours				X									X		X							X							Emergency management, utilities, mayor's office	
Building damage assessment	Outlines procedures for preliminary building damage assessment, placarding, applications, and reporting	Federal	Code of Federal Regulations Title 44: Emergency Management and Assistance, §206.33 Preliminary damage assessment; Code of Federal Regulations Title 49: Transportation, §602.17 Application procedures. [Includes parameters for Damage Assessment Report]	Set aside official procedures for initial damage assessment and tagging to allow for the more widespread use / occupancy of buildings			X	X	X	X				X					X							X	X	X	X					Building inspection, FD, emergency management, mass sheltering, SAR, law enforcement
Building damage assessment	Outlines procedures for preliminary building damage assessment, placarding, applications, and reporting	State	California Health and Safety Code, Division 13 Housing, PART 1.5. REGULATION OF BUILDINGS USED FOR HUMAN HABITATION- CHAPTER 5. Administration and Enforcement- ARTICLE 3. Actions and Proceedings- Section 17980- (c) (1)	Set aside official procedures for initial damage assessment and tagging to allow for the more widespread use / occupancy of buildings			X	X	X	X				X					X							X	X						Building Inspection, FD, Emergency Management, mass sheltering, SAR, law enforcement	
Building damage assessment	Outlines procedures for preliminary building damage assessment, placarding, applications, and reporting	Local	San Francisco Building Code, Chapter 1A: San Francisco Administration, Section 101A.21; San Francisco Building Code, Chapter 1A: San Francisco Administration; Camarillo, California Code of Ordinances Sec. 16.04.400 [building "tagging"]; Butte County, California Code of Ordinances Sec. 26-3.4 [building "tagging"]	Set aside official procedures for initial damage assessment and tagging to allow for the more widespread use / occupancy of buildings			X	X	X	X				X					X							X	X							Building Inspection, FD, Emergency Management, mass sheltering, SAR, law enforcement
Adjust environmental restrictions and approval processes during recovery	Requires state and local public agencies to identify the environmental impacts of proposed discretionary activities or projects	State	California Environmental Quality Act (CEQA)	Temporarily set aside the environmental approval process in immediate recovery to accommodate for public health and housing of displaced peoples					X	X			X								X			X		X	X						Emergency management, housing/Red Cross, DPH, EPA	
Allow for overweight vehicles on local streets	Allowed weight limits for vehicles on general roadways.	State	California Vehicle Code Weight Sections 35550 - 35558	Allow overweight trucks carrying relief materials to traverse local streets and highways	X													X					X					X					Department of Transportation, Law enforcement, CalTrans	
Purchasing Restriction Removal	Allow purchasing from non-local businesses	Local	San Francisco Administrative Code Ch. 14B+A53:D53	Allow purchasing from unapproved non-local businesses					X		X									X						X							Administration, General services, emergency management	
Streamline purchasing procedures	Outlines program procedures, eligibility, and funding for federal Public Assistance	Federal	44 CFR Part 206 Subparts C and G-L (Appendix B) 44 CFR Part 13 (Appendix C)	Focus is on ensuring continued compliance with these guidelines during waiver process					X											X									X				Emergency Management, Administration, Financing, Federal representatives	
Streamline purchasing procedures	Consideration of waiving certain administrative conditions for delivery of assistance "if requested by the applicant State or Local authorities"	Federal	Public Law 93-288 (Stafford Act) - Section 301 specifies the capacity for "waiving administrative conditions"	Focus is on ensuring continued compliance with these guidelines during waiver process, but also identifying opportunity for waiver creation and approval					X											X									X				Emergency Management, Administration, Financing, Federal representatives	

Considered Action / Goal	Regulation / Permit Scope	Jurisdiction (Federal, State, Local)	Code /Ordinance Examples	Waiver Goal / Description	EF1 - Transportation	EF2 - Communication	EF3 - Construction & Management	EF4 - Fire & Rescue	EF5 - Management	EF6 - Care & Shelter	EF7 - Resources	EF8 - Public Health & Rescue	EF9 - Search & Hazardous	EF10 - Agriculture	EF11 - Food & Agriculture	EF12 - Utilities	EF13 - Law Enforcement	RSF1 - Community	RSF2 - Economic	RSF3 - Health and Social	RSF4 - Housing	RSF5 - Infrastructure	RSF6 - Natural and Cultural	RSF7 - Information	Local	County	State	Federal	Tribal	Private	NGO	Agencies
Streamline emergency health payment and privacy issues	Guidelines for health related payment and privacy issues post-Presidential Emergency Declaration	Federal	Federal Social Security Act 1135	Focus is on following guidelines to ensure appropriate response activities. Not intended as a piece of legislation to be waived.				X				X									X											Department of Public Health, Emergency Medical Services, Fire Department, Federal representatives
Increase available medical providers	Allow medical providers to practice outside of their certified state	Federal	Federal Social Security Act 1135	Focus is on streamlining medical provider operations. Not intended as a piece of legislation to be waived.				X				X									X										Department of Public Health, Emergency Medical Services, Fire Department, Federal representatives	
Medical Waste Disposal	Medical waste in California must be incinerated using approved equipment and locations	State	California Health and Safety Code Medical Waste Management Act 117600-118360	Remove / modify restrictions on the disposal of medical waste.	X							X		X							X								X		Department of Public Health, Hazardous materials management personnel, hazardous material transporters (likely private sector), hospital representatives, State representatives, waste disposal / incineration sites (likely private sector)	
Sewage Diversion	Permitting process for the San Francisco Bay Conservation and Development Commission (BCDC) to allow filling of the San Francisco Bay	State	California Environmental Quality Act (CEQA) Section 21080.5(d) and Section 15250(h) California Government Code 66600 McAteer-Petris Act 14 CCR 10110 San Francisco Bay Plan	In emergencies, BCDC has latitude to act expeditiously to protect public health, safety, and welfare.					X			X				X					X		X								Emergency Management, Department of Public Works, Department of Public Health, Hazardous materials management, BCDC, California Department of Fish and Wildlife	
Debris Removal	Permitting process for the San Francisco Bay Conservation and Development Commission (BCDC) to allow filling of the San Francisco Bay	State	California Environmental Quality Act (CEQA) Section 21080.5(d) and Section 15250(h) California Government Code 66600 McAteer-Petris Act 14 CCR 10110 San Francisco Bay Plan	In emergencies, BCDC has latitude to act expeditiously to protect public health, safety, and welfare.	X		X		X			X		X							X		X							X	Department of Transportation, Construction companies, Emergency management, Department of Public Health, Hazardous material management, BCDC, California Department of Fish and Wildlife	
Aid Delivery	Regulation exempting commercial vehicle operators responding to disasters from limitations on hours driving	Federal	49 CFR 390.23	A waiver already in place by the federal government that allows commercial vehicle responding to disasters to be exempt from limitations on driving hours	X				X																				X	X	Department of Transportation, Emergency Management, Federal Representatives, Representatives of Transportation Companies	
Facilitate delivery of resources	Limits foreign shipping access to US ports	Federal	46 USC Sections 30104 et seq. (The Jones Act)	Allow foreign shipping access to additional US ports for the purpose of delivering aid	X				X		X								X											X	Department of Transportation, Emergency Management, Federal Representatives, Representatives of Shipping Companies, Port Representatives	
Quarantine Control	Guidelines for quarantine of vessels and goods	Federal	42 U.S. Code Chapter 2	Waivers may modify quarantine protocols, but more likely these are important guidelines to follow	X				X			X								X	X								X	X	Department of Transportation, Port Representatives, Emergency Management, Department of Public Health, Law Enforcement, Shipping Companies, Financial Personnel, Federal Representatives	
Public Health Services	Public health services and assistance programs during disaster response and recovery	Federal	U.S. Title Code 42 Chapters 15, 58, and 68	Waivers may modify services and assistance, but more likely these are important guidelines to follow								X									X								X		Department of Public Health, Federal Representatives	

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3. Legal Research Resources⁵

3.1 General Legal Research Resources

There are several resources that are available to government emergency managers to assist in legal research. They include:

- County law libraries which have free access to many of the research tools used by professional legal librarians, including WestLaw and Lexis/Nexus databases. *Partnering with the librarians or county law libraries can be an effective way of engaging them as part of the process while also providing value to the waiver process.*
- Individual agencies like the county public health department, city building department, department of public works, or department of parks and recreation can provide copies of the rules they enforce.
- Commonly used legal research databases and publications include:
 - *State and Local Government on the Net* (<http://statelocalgov.net/state-ca.cfm>)
 - Municode (<http://municode.com>)
 - American Legal Publishing Corporation (<http://amlegal.com>)
 - FindLaw (<http://findlaw.com>)
 - WestLaw Next (<http://govt.westlaw.com/SiteList>)
 - Nolo Publishing provides guides to some of the more common types of legal research often used by small businesses: <http://www.nolo.com/legal-research>

3.2. City and Local Ordinances

- Ordinances, county, and municipal codes can be found at your county or city clerk's office or county law library. Many cities and counties also provide online access on their websites. You can find links to your local government at:
 - <http://statelocalgov.net/index.cfm>, or
 - http://dir.yahoo.com/Regional/U_S_States
- Municipal codes for many U.S. cities are also online at the Seattle Public Library website (www.spl.org/default.asp?pageID=collection_municipodes)
- California Municipal Code Library (<https://www.municode.com/library/ca>) provides links to city administrative and municipal codes. As does the American Legal Publishing Library (<http://www.amlegal.com/library/>)

⁵ Information for *Section 3.6.3. Resources* were gathered from external sources, primary amongst those is the Nolo Publishing guide to legal research - <http://www.nolo.com/legal-research>

- Examples:
 - San Francisco Municipal Code and Charter - from American Legal Publishing Online Library. (<http://www.amlegal.com/library/ca/sfrancisco.shtml>)
 - Sacramento City Code - Sacramento City Code and Charter from Quality Code Publishing. (<http://www.qcode.us/codes/sacramento/view.php?view=mobile>)
 - See more at:
<http://www.findlaw.com/casecode/california.html#sthash.UfwBxUyB.dpuf>

3.3. California Law Resources

- California Constitution - Understand the functions and powers of California government and the rights of its citizens.
- California Code (<http://codes.lp.findlaw.com/cacode>) - Search or browse the official version of California's laws on the state legislature's web site.
- California Code of Regulations - regulations issued by state agencies
[https://govt.westlaw.com/calregs/index?__lrguid=if808ffafc678470b9e13d6fc181a3cee&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/index?__lrguid=if808ffafc678470b9e13d6fc181a3cee&transitionType=Default&contextData=(sc.Default))
- Agency websites will often provide links to their rules and regulations as well as links to applicable Code of Federal Regulations sections.

3.4. Federal Law Resources

Below you'll find ways to search or browse the three main sources of federal law: the U.S. Constitution, the U.S. Code, and the Code of Federal Regulations.

- U.S. Constitution
- U.S. Code made up of laws passed by the U.S. Congress
<http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>
- Code of Federal Regulations (CFR) - Federal Regulations are rules made by federal agencies and executive departments. It is often best to utilize legal research tools and databases to find pertinent sections of the CFR.
- Federal Register (<http://www.federalregister.gov/>) - Go to the Federal Register to find rules that have not yet been added to the Code of Federal Regulations (CFR) and/or finalized by federal agencies or executive departments. The Federal Register publishes all Rules, Proposed Rules, and Notices made by federal agencies and organizations, as well as Executive Orders and Presidential Documents. Agency websites often provide links to the CFR containing their rules and procedures as well as links to other agency specific materials.

4. APA Sample Model Ordinance

Reprinted from the American Planning Association (APA) website (<http://www.planning.org>), this sample Model Ordinance, developed and written by Kenneth C. Topping, FAICP, was designed to assist communities in preparing before a hazardous event for better managing the process of recovery after a disaster.

This sample Model Ordinance can be downloaded from the APA Website in PDF Format at:

<https://www.planning.org/research/postdisaster/pdf/modelrecoveryordinance.pdf>

MODEL PRE-EVENT RECOVERY ORDINANCE

One action a community can take to move toward better management of disaster mitigation, preparedness, response, and recovery is the adoption of an ordinance before or after a damaging event to serve as either a forerunner or supplement to a full-blown recovery plan. The Model Recovery Ordinance below outlines a foundation on which a community can organize in advance of a declared disaster to efficiently manage short- and long-term recovery.

Purposes. The Model Recovery Ordinance focuses on actions found necessary to facilitate recovery, provides a structured format for capturing essential recovery requirements, and offers prototypical language adaptable to unique local circumstances. The concept reflects some essential elements.

Among other things, the recovery ordinance should:

1. Be adopted by local governing body action before a disaster happens, as well as periodically updated and amended, as needed
2. Authorize establishment and maintenance of a local recovery management organization, coordinated closely with the local emergency management organization
3. Direct the preparation of a pre-event short- and long-term recovery plan in concert with the local emergency management organization and community stakeholder organizations
4. Establish emergency powers by which the local government staff can take extraordinary action to protect public health, safety, and welfare during post-disaster recovery
5. Identify methods for local government to take cooperative action with other entities to assure full access to all external financing resources as well as to facilitate recovery
6. Specify the means for consulting with and assisting citizens, businesses, and community stakeholder organizations during recovery planning and implementation

Form of Government. For ease of use, the Model Recovery Ordinance is written to reflect a council manager form of government used by many cities and counties. In this form, executive as well as policy-making authority resides with an elected governing body, such as a city council or county board of supervisors, and administrative powers are delegated to staff through a city manager or county administrative officer. Also in use is the mayor-council form of local government, characterized by a separately elected executive, such as a mayor or county executive. In this form, policy-making authority is shared by the elected executive and other governing body members in highly differentiated ways, depending upon location, with administrative powers delegated to staff through the executive. Although reflecting the council-manager form, the Model Recovery Ordinance can be tailored to the mayor-council form through appropriate substitution of terms.

Recovery Management Emphasis. The Model Recovery Ordinance emphasizes a recovery management process operated in conjunction with administrative powers of local government under the policy-making and/or executive powers of the governing body. It acknowledges the distinction between the vast bulk of more routine administrative actions reflected in short-term recovery provisions and the policy process more common to long-term recovery, directed through formal action by the governing body, and often marked by public hearings and controversy.

Model Recovery Ordinance Language

An ordinance establishing a recovery organization, authorizing preparation of a recovery plan, and granting emergency powers for staff actions which can ensure timely and expeditious post-disaster recovery for the City (or equivalent), and amending Section(s) __ of the Municipal Code (or equivalent).

Chapter __. Disaster Recovery

[Insert here: listing of all section and subsection titles]

WHEREAS, the City is vulnerable to various natural hazards such as earthquakes, flooding, landslides, wildfires, and severe storms causing substantial loss of life and property resulting in declared local, state, or federal level disasters;

WHEREAS, the city is authorized under state law to declare a state of local emergency and take actions necessary to ensure the public safety and well-being of its residents, visitors, business community, and property during and after such disasters;

WHEREAS, it is essential to the well-being of the City after disasters to expedite recovery, mitigate hazardous conditions threatening public safety, and improve the community;

WHEREAS, disaster recovery can be facilitated by establishment of an ongoing Recovery Management Organization within the city government to plan, coordinate, and expedite recovery activities;

WHEREAS, preparation of a pre-event Recovery Plan can help the city organize to expedite recovery in advance of a declared disaster and to mitigate hazardous conditions before and after such a disaster;

WHEREAS, post-disaster recovery can be facilitated by adoption of a pre-event ordinance authorizing certain extraordinary staff actions to be taken to expedite implementation of recovery;

WHEREAS, it is mutually beneficial to identify in advance of a declared disaster the necessity to establish and maintain cooperative relationships with other local, state, and federal governmental agencies in order to facilitate post-disaster recovery;

WHEREAS, it is informative, productive, and necessary to consult with representatives of business, industry, citizens, and community stakeholder organizations regarding the most suitable and helpful means to facilitate post-disaster recovery;

The City Council [or equivalent] does hereby ordain:

Section

1. Authority. This ordinance is adopted by the City Council [or equivalent] acting under authority of the [authorizing legislation], [State Emergency Management Act or equivalent], and all applicable federal laws and regulations.

2. Purposes. It is the intent of the City Council [or equivalent] under this chapter to:

- a. Authorize, in advance of a disaster, the establishment and maintenance of an ongoing Recovery Management Organization within the City [or equivalent] to plan, prepare for, direct, and coordinate orderly and expeditious post-disaster recovery;
- b. Direct, in advance of a declared disaster, the preparation of a pre-event Recovery Plan for short-term and long-term post-disaster recovery, to be adopted by the City Council [or equivalent] and amended periodically, as necessary;
- c. Establish, in advance of a disaster, 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 reasonably assure safe and healthy post-disaster recovery;
- d. Identify methods by which the City [or equivalent] may take cooperative action with other governmental entities to facilitate recovery;
- e. Specify means by which the City [or equivalent] may consult with and assist citizens, businesses and community organizations during the planning and implementation of recovery procedures.

3. Definitions. As used in this ordinance, the following definitions shall apply:

3.1 Development Moratorium shall mean a temporary hold, for a defined period of time, on the issuance of building permits, approval of land-use applications or other permits and entitlements related to the use, development, and occupancy of private property in the interests of protection of life and property.

3.2 Director shall mean the Director of the Recovery Organization or an authorized representative.

3.3 Disaster shall mean a locally declared emergency also proclaimed as a state of emergency by the Governor of the State and declared a disaster by the President of the United States.

3.4 Emergency shall mean a local emergency, as defined by the Municipal Code, which has been declared by the City Council for a specific disaster and has not been terminated.

3.5 Flood Insurance Rate Map (FIRM) shall mean a map showing the outer boundaries of the floodway and floodplain as determined by the FEMA Flood Insurance Administration through the Flood Insurance Rate Map program.

3.6 Hazard Mitigation Grant Program. A program for assistance to federal, state, and local agencies whereby a grant is provided by FEMA as an incentive for implementing mutually desired mitigation programs, as authorized by the Stafford Act and related federal regulations, plans, and policies.

3.7 Historic Building or Structure shall mean any building or structure included on the national, state, or municipal register of historic places, and structures having historic significance within a recognized historic district.

3.8 Individual Assistance Program. A program for providing small grants to individuals and households affected by a disaster to offset loss of equipment, damage to homes, or the cost of relocation to another home, as authorized under the Stafford Act and related federal regulations.

3.9 In-Kind shall mean the same as the prior building or structure in size, height and shape, type of construction, number of units, general location, and appearance.

3.10 Interim Recovery Strategy shall mean a post-disaster strategic program identifying major recovery initiatives and critical action priorities either in the Recovery Plan or necessitated by specific post-disaster conditions.

3.11 Local Hazard Mitigation Plan. A plan prepared for governing board adoption and FEMA approval, which, among other things, assesses the type, location, and extent of natural hazards affecting the City; describes vulnerability of people, structures, and infrastructure facilities to such hazards and estimates potential losses, and includes a mitigation strategy that provides the City's blueprint for reducing potential losses identified.

3.12 Multi-Agency Hazard Mitigation Team. A team of representatives from FEMA, other federal agencies, state emergency management agencies, and related state and local agencies, formed to identify, evaluate, and report on post-disaster mitigation needs.

3.13 Natural Hazards/ Safety Element [or equivalent] shall mean an element of the comprehensive plan that addresses protection of the community from unreasonable risks associated with earthquakes, landslides, flooding, wildland fires, wind, coastal erosion, and other natural, technological, and human-caused hazards.

3.14 Public Assistance Program. A program for providing reimbursement to federal, state, and local agencies and non-profit organizations for repair and replacement of facilities lost or damaged in a disaster, as authorized under the Stafford Act and related federal regulations, plans, and policies.

3.15 Redevelopment shall mean the rebuilding of permanent replacement housing, construction of large-scale public or private infrastructure damaged or destroyed in a major disaster, addition of community improvements, and restoration of a healthy economy.

3.16 Recovery shall mean the process by which most private and public buildings and structures not severely damaged or destroyed in a major disaster are repaired and most public and commercial services are restored to normal.

3.17 Recovery Management Organization shall mean an interdepartmental organization that coordinates city staff actions in planning and implementing disaster recovery and reconstruction functions.

3.18 Recovery Plan shall mean a pre- or post-disaster plan for recovery, comprising policies, plans, implementation actions, and designated responsibilities related to expeditious and orderly post-disaster recovery and rebuilding, as well as long-term mitigation.

3.19 "Stafford Act" shall mean the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, as amended).

4. Recovery Management Organization. There is hereby created the Recovery Management Organization [or equivalent] for the purpose of planning, organizing, coordinating, and implementing pre-event and post-disaster disaster recovery actions.

Commentary. This ordinance is written with a council-manager form of city government for a small to medium-sized community. The overall concept here is for the City Manager to run the recovery management organization on behalf of the City Council, reserving the presence of a Mayor for critical junctures following a disaster or for times when policy matters come up needing City Council involvement. In actuality, the City Manager inevitably becomes the pivotal party for informing and advising the City Council on recovery matters, interpreting Council policy and coordinating staff functions.

In a big-city environment, presence and availability of the Mayor or a Deputy Mayor may be important from a leadership standpoint, even though recovery in many instances is largely a staff-driven process with the City Manager as the primary coordinator. Either way, the intent of the following language is to assure an ongoing communications connection between staff and the City Council.

4.1 Powers and Duties. The Recovery Management Organization shall have such powers as needed to carry out the purposes, provisions, and procedures of this chapter.

4.2 Officers and Members. The Recovery Management Organization shall be comprised of the following officers and members:

- a. The City Manager [or equivalent]] who shall be Director;
- b. The Assistant City Manager [or equivalent] who shall be Deputy Director in the absence of the City Manager;
- c. The City Attorney [or equivalent] who shall be Legal Adviser;
- d. Other members include [list titles, such as chief building official, city engineer, director of community development or planning, fire chief, emergency management coordinator, general services director, historic preservation director, police chief, director of public works, director of utilities], and representatives from such other departments as deemed necessary by the Director for effective operations;

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

4.3 Relation to Emergency Management Organization. The Recovery Management Organization shall include all members of the Emergency Management Organization [or equivalent] as follows: [list titles, such as emergency management coordinator, fire chief, police chief, etc.]

Commentary. A Recovery Management Organization should encompass all members of the Emergency Management Organization because of inherent interrelationships between hazard mitigation, emergency preparedness, response, and recovery functions. A close formal relationship should be maintained before, during, and after the state of emergency. When the emergency formally ends, recovery management should continue under the umbrella of the Recovery Management Organization to coordinate short-term recovery operations. At this juncture, the Recovery Management Organization should continue 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.

4.4 Operations and Meetings. The Director shall be responsible for overseeing Recovery Management Organization operations and for calling meetings, as needed. After a declaration of an emergency, and for the duration of the emergency period, the Recovery Management Organization shall meet daily, or as frequently as determined by the Director.

4.5 Succession. In the absence of the Director, the Deputy Director shall serve as Acting Director and shall be empowered to carry out the duties and responsibilities of the Director. The Director shall name a succession of department managers to carry on the duties of the Director and Deputy Director, and to serve as Acting Director in the event of the unavailability of the Director and Deputy Director.

4.6 Organization. The Recovery Management Organization may create such standing or ad hoc committees as determined necessary by the Director.

5. Recovery Plan. The Recovery Management Organization shall prepare a Recovery Plan addressing pre-event and post-disaster recovery policies, strategies, and actions; if possible, the Recovery Plan shall be adopted by the City Council [or equivalent] before a disaster, and amended after a disaster, as needed.

5.1 Plan Content. The Pre-Disaster Recovery Plan shall be composed of pre- and post-event policies, strategies, and actions needed to facilitate post-disaster recovery. The Recovery Plan will designate lead and back-up departmental action responsibilities to facilitate expeditious post-disaster recovery as well as hazard mitigation actions. The Recovery Plan shall address 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, temporary and replacement housing, and such other subjects as may be appropriate to expeditious and wise recovery.

5.2 Coordination with Other Organizations. The Recovery Plan shall identify relationships of planned recovery actions with those of local, state, federal, mutual aid, and nonprofit organizations involved with disaster recovery, including but not limited to: the Federal Emergency Management Agency (FEMA), the American Red Cross, the Department of Housing and Urban Development (HUD), the Small Business Administration (SBA), the Environmental Protection Agency (EPA), the Department of Transportation (DOT), the State Emergency Management Agency [or equivalent] and other organizations that may provide disaster assistance. Prior to adoption or amendment of the Recovery Plan by the City Council [or equivalent], such organizations shall be notified of its proposed content, and comments shall be solicited in a timely manner.

Commentary. In contrast to most local emergency management organizations, FEMA has substantial recovery and reconstruction responsibilities. To provide direction for handling of emergency response, relief, and recovery in relation to major disasters, Congress enacted in 1988 the Robert T. Stafford Disaster Relief and Emergency Assistance Act (a.k.a. the Stafford Act), Public Law 93-288, as amended. For most communities, this is an important source of external funding to compensate for certain disaster losses. Since FEMA is an important source of post-disaster infrastructure and other funding, it is important to solicit advice from that agency before the disaster on the Recovery Plan.

5.3 Consultation with Citizens. Prior to adoption or amendment of the Recovery Plan by the City Council [or equivalent], the Recovery Management Organization shall organize and distribute public announcements, schedule and conduct community meetings, or convene advisory committees composed of representatives of homeowner, business, and community organizations, or implement other means to provide information and consult with members of the public regarding preparation, adoption, or amendment of the Recovery Plan, and their comments shall be solicited in a timely manner.

Commentary. Direct outreach to the community should be established in advance of a major disaster with the assistance of neighborhood safety or similar programs, such as local Community Emergency Response Team (CERT) organizations. Such outreach should ideally be conducted in conjunction with preparation of the 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. A critically important mechanism in establishing a successful post-disaster relationship between local government, victims, and other community stakeholders has been conduct of weekly meetings between city staff and disaster victims in disaster impacted areas. As an example of such outreach, regular meetings were sponsored by the City of Oakland following the 1991 Oakland Hills Firestorm with beneficial results.

5.4 Adoption. Following preparation, update, or revision, the Recovery Plan shall be transmitted to the City Council [or equivalent] for review and approval. The City Council shall hold at least one legally noticed public hearing to receive comments from the public on the Recovery Plan. Following public hearing(s), the City Council may adopt or amend the Recovery Plan by resolution, or transmit the plan back to the Recovery Management Organization for further modification prior to final action.

Commentary. City Council adoption of this ordinance in conjunction with a pre-event recovery plan is extremely important for successful post-disaster recovery. The Council needs to become comfortable with the concept of a pre-event plan and ordinance adoption in order to feel confident in staff during post-disaster recovery operations. If Council adoption is not possible immediately because of the press of other business, then timely opportunities should be sought for bringing the recovery plan and ordinance forward, such as when a catastrophic disaster has struck in another jurisdiction.

5.5 Amendments. The Recovery Management Organization shall address key issues, strategies, and information bearing on the orderly maintenance and periodic amendment of the plan. In preparing amendments, the Recovery Management Organization shall consult in a timely manner with the City Council [or equivalent], City departments, businesses and community organizations, and other government entities to obtain information pertinent to possible Recovery Plan amendments.

5.6 Implementation. Under policy direction from the [Mayor and/or] City Council [or equivalent] the Recovery Management Organization shall be responsible for Recovery Plan implementation. Before a declaration of emergency, the Director shall prepare and submit reports at least annually to fully advise the City Council [or equivalent] on the progress of preparation, update, or implementation of the Recovery Plan. After a declaration of emergency, the Director shall report to the City Council [or equivalent] as often as necessary on actions taken to implement the plan in the post-disaster setting, identify policy issues needing City Council [or equivalent] direction, and receive authorization to proceed with interim plan modifications necessitated by specific circumstances.

5.7 Training and Exercises. The Recovery Management Organization shall organize and conduct periodic training and exercises annually, or more often as necessary, in order to develop, communicate, and update the contents of the Recovery Plan. Such training and exercises will be conducted in coordination with similar training and exercises related to the Emergency Operations Plan.

Commentary. Recovery training and exercises should happen on a joint, ongoing basis between the Recovery Management Organization and the Emergency Management Organization. For greatest value, recovery training and exercises should include careful attention to critical relationships between early post-disaster emergency response and recovery actions that condition long-term reconstruction, such as street closings and reopenings, demolitions, debris removal, damage assessment, and hazards evaluation.

5.8 Coordination with Related Plans. The Recovery Plan shall be coordinated with the Comprehensive General Plan, the Emergency Operations Plan, the Local Hazard Mitigation Plan, and such other related plans as may be pertinent, to avoid inconsistencies between plans. Such related plans shall be periodically amended by the City Council to be consistent with key provisions of the Recovery Plan, and vice versa.

6. Interim Recovery Strategy. At the earliest possible time following a declaration of local emergency, the Recovery Management Organization shall prepare an Interim Recovery Strategy.

6.1 Content. The Interim Recovery Strategy shall identify and describe recovery initiatives and action priorities anticipated or underway that are necessitated by specific postdisaster circumstances.

6.2 Critical Action Priorities. The Interim Recovery Strategy shall identify critical action priorities, including but not limited to those actions identified under Section 9.0, Temporary Regulations of this chapter, describing for each action its objective, urgency, affected individuals and organizations, funding sources, department responsible, and likely duration. The Interim Recovery Strategy shall separately identify those recovery initiatives and action priorities that are not covered by the adopted Recovery Plan, but which in the judgment of the Director are essential to 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 impeded.

6.3 Short-Term Hazard Mitigation Program. The Interim Recovery Strategy shall include a short-term hazard mitigation program comprised of high-priority actions. Such measures may include urgency ordinances dealing with mitigation and abatement priorities identified under Section 9. Temporary Regulations, or 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 technological hazards such as toxic contamination.

6.4 Review and Consultation. The Interim Recovery Strategy shall be forwarded to the City Council [or equivalent] for review and approval following consultation with FEMA, other governmental agencies, businesses, and other citizen and stakeholder representatives. The Director shall periodically report to the City Council regarding Interim Recovery Strategy implementation, and any waivers that may be required by changing circumstances.

6.5 Coordination with Pre-Disaster Recovery Plan and Other Plans. The Interim Recovery Strategy shall form the basis for periodic amendments to the Recovery Plan, and such other related plans as may be pertinent. It shall identify needed post-disaster amendments to the Pre-Disaster Recovery, Comprehensive Plan, Emergency Operations Plan, or other plans, codes, or ordinances.

Commentary. 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 shortterm actions pending revision of the Recovery Plan. This may be essential because damage conditions are often likely to be different from those anticipated in the Pre-Disaster Recovery Plan. Preparation of such an interim strategy in the early days of recovery has the benefit of incorporating a positive, proactive emphasis to counter what can be an overwhelmingly reactive and negative context. The Interim Recovery Strategy can be updated as recovery experience is gained and new issues emerge. It also provides a source from which the Pre-Disaster Recovery Plan and related plans can be updated.

7. Hazard Mitigation Program. Prior to a major disaster, the Recovery Management Organization, with City Council concurrence, shall establish a hazard mitigation program by which natural hazards, risks, and vulnerability are addressed for prioritized short-term and long-term mitigation actions leading to reduced disaster losses. The hazard mitigation shall include preparation and adoption of a Local Hazard Mitigation Plan, amendment of the Comprehensive Plan to include a Safety Element [or equivalent], together with emergency actions dealing with immediate hazards abatement, including hazardous materials management.

7.1 Local Hazard Mitigation Plan. The Recovery Management Organization shall prepare for City Council adoption and FEMA approval a Local Hazard Mitigation Plan qualifying the City for receipt of federal Hazard Mitigation Grant Program (HMGP), Flood Mitigation Assistance Grants (FMAG), and Severe Repetitive Loss (SRL) grants, under the provisions of the Disaster Mitigation Act of 2000, as amended. The Local Hazard Mitigation Plan, shall include, among other items specified in federal law (44 CFR 201.6): a risk assessment describing the type, location, and extent of all natural hazards that can affect the City, vulnerability to such hazards, the types and numbers of existing and future buildings, infrastructure, and critical facilities located in identified hazard areas, and an estimate of the potential dollar losses to vulnerable structures; and a mitigation strategy that provides the City's blueprint for reducing the potential losses identified in the risk assessment. The Local Hazard Mitigation Plan shall be adopted as part of the Safety Element of the Comprehensive Plan.

7.2 Natural Hazard/Safety Element [or equivalent]. The Recovery Management Organization shall prepare for City Council adoption an amendment to the Comprehensive Plan known as the Natural Hazards/Safety Element [or equivalent] including proposed long- and short-term hazard mitigation goals, policies, and actions enhancing long-term safety against future disasters. The Natural Hazard/Safety Element [or equivalent] shall determine and assess the community's vulnerability to known hazards such as: severe flooding; wildland fires; seismic hazards, including ground shaking and deformation, fault rupture, liquefaction, and tsunamis; dam failure; slope instability, mudslides, landslides, and subsidence; coastal surge and erosion; hurricanes, tornadoes, and other high winds; and technological hazards, such as oil spills, natural gas leakage and fires, hazardous and toxic materials contamination, and nuclear power plant and radiological accidents.

Commentary. About a dozen states require inclusion of natural hazards as a mandated subject within their comprehensive plans. For example, a Natural Hazards Element is a required or suggested part of comprehensive plans of Colorado, Idaho, Illinois, and Iowa, and a Safety Element is a required part of comprehensive plans in Arizona, California, and Nevada. Such requirements may have encouraged disaster loss reduction. For example, per capita flood losses were found in one study to be lower for those states which required natural hazards as a subject of the comprehensive plan than for those without such a requirement. Moreover, such comprehensive plan elements provide a context into which communities can fit their Local Hazard Mitigation Plan (LHMP) required under the Disaster Mitigation Act of 2000 as a precondition for eligibility for federal hazard mitigation grants. California provides financial incentives to local jurisdictions that adopt their LHMP as part of the safety element. To the extent that hazard mitigation reduces disaster losses and facilitates recovery, communities stand to benefit from integrating such plans with the Pre-Disaster Recovery Plan.

7.3 New Information. As new information is obtained regarding the presence, location, extent, location, and severity of natural or technological hazards, or regarding new mitigation techniques, such information shall be made available to the public, and shall be incorporated as soon as possible as amendments to the Local Hazard Mitigation Plan and the Comprehensive Plan through City Council action.

8. General Provisions. The following general provisions shall be applicable to implementation of this chapter:

8.1 Emergency Powers and Procedures. Following a declaration of local emergency and while such declaration is in force, the Recovery Management Organization shall have authority to exercise powers and procedures authorized by this chapter, including temporary regulations identified below, subject to extension, modification or replacement of all or portions of these provisions by separate ordinances adopted by the City Council [or equivalent].

8.2 Post-Disaster Operations. The Recovery Management Organization shall coordinate post-disaster recovery operations, 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, temporary and replacement housing, and such other subjects as may be appropriate, as further specified below.

8.3 Coordination with FEMA and Other Agencies. The Recovery Management Organization shall coordinate recovery actions identified under this and following sections with those of state, federal, local, or other mutual organizations involved in disaster recovery, including but not limited to the Federal Emergency Management Agency (FEMA), the American Red Cross, the Department of Housing and Urban Development (HUD), the Small Business Administration (SBA), the State Emergency Management Agency [or equivalent], and other organizations that provide disaster assistance. Intergovernmental coordination tasks including but not limited to the following: providing information and logistical support; participating in the Multi-Agency Hazard Mitigation Team; cooperation in joint establishment of one-stop service centers for victim support and assistance; such other coordination tasks as may be required under the specific circumstances of the disaster.

Commentary. A substantial portion of the Stafford Act is devoted to the means by which federal funds are distributed to persons, businesses, local governments, and state governments for disaster relief and recovery. For most communities, this is an important external source from which certain disaster losses can be compensated. Although insurance may be instrumental in personal, household, or business recovery, it has little value for compensating losses incurred from disasters for which insurance is too costly or difficult to obtain, such as earthquake insurance. In addition, some federal assistance is in the form of grants and loans, involving other federal agencies such as HUD and SBA. The federal government has become increasingly interested in coordinating post-disaster victim services and mitigating hazards affecting land use and building construction. Consequently, federal assistance to localities in many instances is contingent upon the waiver of local recovery and hazard mitigation policies and practices to conform to federal standards, such as elevation of rebuilt structures in floodplain areas.

9.0 Temporary Regulations. The Recovery Management Organization shall have the authority to administer the provisions of this section temporarily modifying provisions of the Municipal Code [or equivalent] dealing with building permits, demolition permits, and restrictions on the use, development, or occupancy of private property, provided that such action, in the opinion of the Director, is reasonably justifiable for protection of life and property, mitigation of hazardous conditions, avoidance of undue displacement of households or businesses, or prompt restoration of public infrastructure.

Commentary. The following temporary regulations are at the heart of the recovery process. Although state law or city ordinances may authorize some of these functions, it is preferable to have a source of locally adopted regulation which provides direct authority for staff actions taken on behalf of the City Council in line with the Recovery Plan, and provides a rationale for intervention in matters dealing with private property. Among these temporary regulations are provisions dealing with their duration, environmental clearances, debris clearance and hazard abatement, damage assessment and placarding, development moratoria, temporary use permits, temporary repair permits, deferral of fees for repair and rebuilding permits, nonconforming buildings and uses, one-stop service centers, and demolition of damaged historic buildings. Each of these topics needs careful adaptation to local conditions. It is not possible to fully anticipate in advance the magnitude and distribution of disaster damages, but these preadopted temporary regulations provide a basis for more efficient action substantially less subject to uncertainties found in cities which have not prepared in this manner.

9.1 Duration. The provisions of this section shall be in effect subject to review by the City Council for a period of 90 days from the date of a local emergency declaration following a disaster, or until such time as they are extended, modified, replaced, or terminated in whole or in part by action of the City Council through separate ordinance.

Commentary. This provision allows for flexibility in the duration of application of the temporary regulations, so that any portion can be terminated, modified, or extended depending upon local circumstances. It also reflects a recognition that "temporary" regulations may be in effect for an extended period of time beyond either termination of the local state of emergency or the 90-day period. Depending upon the severity of disaster damage, it may be necessary for temporary provisions to remain in effect for several years after the disaster.

9.2 Environmental Clearances. The provisions of this section enable actions that in the judgment of the Director are justifiable for protection of public health and safety and, therefore, can be reasonably declared to qualify under statutory exemptions of environmental regulations contained in other chapters of the Municipal Code, and within state and federal law. The Director shall provide ongoing monitoring reports to the City Council on environmental issues arising in relation to the Interim Recovery Strategy, the Pre-Event Recovery Plan, and the statutory exemptions.

9.3 Debris Clearance and Hazard Abatement. The Director shall have the emergency authority to undertake the following actions:

- a. **Debris Removal**—Remove from public rights-of-way and/or private property adjoining such rights-of-way any debris, rubble, trees, damaged or destroyed cars, trailers, equipment, or other items of private property, posing a threat to public health or safety;
- b. **Hazardous Materials**—Remove and/or abate hazardous and toxic substances threatening public health and safety;
- c. **Temporary Setbacks**—Create and maintain such additional temporary building setbacks to assure emergency and through movement of vehicles and pedestrians essential for recovery management;
- d. **Prohibition of Access**—Prohibit public access to areas damaged and/or hazardous to public health;
- e. **Other**—Take such other actions, which, in the judgment of the Director, are reasonably justified for protection of public health and safety, provision of emergency ingress and egress, assurance of firefighting or ambulance access, restoration of infrastructure, and mitigation of hazardous conditions.

Commentary. Although clearance of privately owned debris is routinely considered a function of local government, it can become very controversial where owners take the position that such property is salvageable and has value (e.g., used brick after an earthquake). Pre-event adoption of such a provision reinforces the expectation that debris clearance functions will be carried out decisively, thus minimizing a problem otherwise compounded by hesitation or ambiguity of intention on the part of the city.

9.4 Damage Assessment and Placarding. The Director shall direct damage assessment teams having authority to conduct field surveys of damaged structures and post placards designating the condition and permitted occupancy of such structures as follows:

Commentary. Damage assessment and the placement of placards identifying whether buildings are safe or unsafe to occupy are two functions having perhaps more profound effects on life, property, and recovery than any other within the post-disaster decision sequence towards which provisions of these temporary regulations are directed.

Damage assessment is undertaken by various entities following a major disaster, usually the city and FEMA. There is at least a twofold purpose for these inspections. One purpose is to determine the degree of structural damage of each building and notify the public about the relative safety of entry and occupancy. This has been a long-standing duty under local government health and safety responsibilities with which building departments are familiar. The other purpose is to quickly estimate the approximate replacement costs of damaged buildings and other property in order to inform the state and federal governments of dollar amounts needed for emergency legislative authorizations. The latter purpose is fraught with difficulty to the extent that hurriedly conducted damage assessments can miss substantial elements of damage and corresponding costs. Moreover, local expertise tends to be limited in the area of deploying common standards and procedures for determining structural damage in order to assess damage in a truly comparable manner.

*The most important element of all these concerns is the establishment of standard identification of structural damage both in gross general terms reflected in the red, yellow, and green tag placard systems. The placard language below is adapted from **Model Ordinances for Post-Disaster Recovery and Reconstruction** initially published by the California Governor's Office of Emergency Services, now the California Emergency Management Agency. The procedures used to make these basic safety distinctions in the California model ordinance are based on detailed post-disaster inspection methods described by the Applied Technology Council in **ATC-20, Procedures for Postearthquake Safety Evaluation of Buildings** and **ATC-20-2 Addendum**:*

a. **Inspected—Lawful Occupancy Permitted** is to be posted on any building in which no apparent structural hazard has been found. This does not mean other forms of damage that may not temporarily affect occupancy.

Commentary. This is commonly known as the "green tag" placard.

b. **Restricted Use** is to be posted on any building in which damage has resulted in some form of restriction to continued occupancy. The individual posting this placard shall note in general terms the type of damage encountered and shall clearly and concisely note the restrictions on continued occupancy.

Commentary. This is commonly known as the "yellow tag" placard.

c. **Unsafe—Do Not Enter or Occupy** is to be posted on any building that has been damaged to the extent that continued occupancy poses a threat to life safety. Buildings posted with this placard shall not be entered under any circumstances except as authorized in writing by the department that posted the building or by authorized members of damage assessment teams. The individual posting this placard shall note in general terms the type of damage encountered. This placard is not to be considered a demolition order. This chapter and section number, the name of the department, its address, and phone number shall be permanently affixed to each placard. Once a placard has been attached to a building, it shall not be removed, altered, or covered until done so by an authorized representative of the department or upon written notification from the department. Failure to comply with this prohibition will be considered a misdemeanor punishable by a \$500 fine.

Commentary. This is commonly known as the "red tag" placard.
<https://www.atcouncil.org/vmchk/Postearthquake-Damage-and-Safety-Evaluation-of-Buildings/Procedures-for-Postearthquake-Safety-Evaluation-of-Buildings-Addendum/flypage.tpl.html>

9.5 Development Moratorium. The Director shall have the authority to establish a moratorium on the issuance of building permits, approval of land use applications or other permits and entitlements related to the use, development, and occupancy of private property authorized under other chapters and sections of the Municipal Code and related ordinances, provided that, in the opinion of the Director, such action is reasonably justifiable for protection of life and property and subject to the following:

- a. **Posting**—Notice of the moratorium shall be posted in a public place and on the Internet, and shall clearly identify the boundaries of the area(s) in which moratorium provisions are in effect, and shall specify the exact nature of the development permits or entitlements that are temporarily held in abeyance;
- b. **Duration**—The moratorium shall be in effect subject to review by the City Council at the earliest possible time, but no later than 90 days, at which time the Council shall take action to extend, modify, replace, or terminate such moratorium through separate ordinance.

Commentary. After disasters, a prevailing sentiment may often be to act quickly to replicate pre-disaster building patterns in an effort to “restore normalcy.” In many instances, this sentiment prevails as public policy despite the presence of a severe natural hazard condition, thereby reinforcing the chances of repetitive losses. Many examples exist of communities which have allowed rebuilding in a manner that ignored known hazardous conditions, whereas intervention was needed to create greater safety.

To prevent or reduce repetitive losses, a city may choose to interrupt and forestall rebuilding long enough to assess options for avoiding placing buildings and people back in harm’s way. This can be done by establishing an emergency moratorium on issuance of repair and rebuilding permits or on land-use approvals in areas where severely hazardous conditions are identified. The hazard may be newly detected, as in a postearthquake circumstance where the pattern of structural damage, recent flooding, fresh landslides, or ground subsidence may indicate the need for engineering studies to clearly identify hazards and determine proper solutions.

A moratorium on development may be important for a city to undertake from the standpoint of informed public policy. However, such actions tend to be controversial and unpopular, so it is important to lay the groundwork with the community in advance, if possible. This subsection provides prior authorization through adoption of this ordinance before a major disaster, enabling city staff to act expeditiously in a post-disaster setting to forestall premature issuance of permits in areas shown to be hazardous. Such action is necessarily subject to Council review, ratification, modification, or termination.

9.6 Temporary Use Permits. The Director shall have the authority to issue permits in any zone for the temporary use of property that will aid in the immediate restoration of an area adversely impacted by a major disaster, subject to the following provisions:

- 1. **Critical Facilities**--Any police, fire, emergency medical, or emergency communications facility that will aid in the immediate restoration of the area may be permitted in any zone for the duration of the declared emergency.
- 2. **Other Temporary Uses**--Temporary use permits may be issued in any zone, with conditions, as necessary, provided written findings are made establishing a factual basis that the proposed temporary use: 1) will not be detrimental to the immediate neighborhood; 2) will not adversely affect the Comprehensive General Plan or any applicable specific plan; and 3) will contribute in a positive fashion to the reconstruction and recovery of areas adversely impacted by the disaster. Temporary use permits may be issued for a period of one year following the declaration of local emergency and may be extended for an additional year, to a maximum of two years from the declaration of emergency, provided such findings are determined to be still applicable by the end of the first year. If, during the first or the second year, substantial evidence contradicting one or more of the required findings comes to the attention of the Director, then the temporary use permit shall be revoked.

*Commentary. Most zoning ordinances have no provisions for temporary use of property following a disaster. A few allow temporary placement of mobile homes on residentially zoned sites pending reconstruction of a residence. Time limits vary, but are usually for a two-year period. After a disaster, special latitude may be needed, however, to support various recovery needs. Care must be taken not to set precedents that will erode or destroy a pre-existing pattern of zoning that the city may wish to protect. The language within this section is modeled after provisions of the Los Angeles recovery ordinance adopted after the Northridge earthquake, titled **Temporary Regulations Relating to Land Use Approvals for Properties Damaged in a Local Emergency**. That ordinance was geared toward the needs of a large and diverse city. Smaller communities may wish to restrict temporary uses to those already allowed by existing zoning, limiting the provision to temporary structures such as tents, domes, or mobile units.*

9.7 Temporary Repair Permits. Following a disaster, temporary emergency repairs to secure structures and property damaged in the disaster against further damage or to protect adjoining structures or property may be made without fee or permit where such repairs are not already exempt under other chapters of the Municipal Code. The building official must be notified of such repairs within 10 working days, and regular permits with fees may then be required.

*Commentary. This provision is specifically written for repairs which may not be exempt under standard building code permit exemptions but which are justifiable from a public health and safety standpoint to avoid further damage to property after a disaster. It is modeled after a provision of a post-disaster rebuilding ordinance adopted in 1992 by the County of San Bernardino shortly after the Landers-Big Bear earthquake. Written before the earthquake, the ordinance was based on a pre-event study titled **Post-Disaster Rebuilding Ordinance and Procedures**, which included a survey of top managers and elected officials regarding various post-disaster rebuilding provisions, such as for nonconforming buildings and uses. Because of the pre-event involvement of top managers and elected officials, it was adopted after the earthquake with no controversy.*

9.8 Deferral of Fees for Repair and Rebuilding Permits. Except for temporary repairs issued under provisions of this chapter, all other repairs, restoration, and reconstruction of buildings damaged or destroyed in the disaster shall be approved through permit under the provisions of other chapters of this Code. Fees for such repair and reconstruction permits may be deferred until issuance of certificates of occupancy.

Commentary. Pressure to waive processing fees frequently arises after a disaster when victims are unsure of their sources of financing for rebuilding. It may be inadvisable to succumb to pressures to waive fees due to the ongoing need for cost recovery for disaster-related services at a time revenue flows are uncertain. As an alternative, local governments can buy time by deferring fees to determine the degree to which funds will be found at a later time to help offset victims' fee costs. For example, sometimes the cost of processing fees may be covered by insurance or by federal funds. Deferral of fees until occupancy permit issuance buys time during which to ascertain possible alternate sources without injuring necessary revenue flows to the city treasury. This provision is modeled after similar language in the Los Angeles temporary regulations.

9.9 Nonconforming Buildings and Uses. Buildings damaged or destroyed in the disaster that are legally nonconforming as to use, yards, height, number of stories, lot area, floor area, residential density, parking, or other provisions of the Municipal Code may be repaired and reconstructed in-kind, provided that:

- a. The building is damaged in such a manner that the structural strength or stability of the building is appreciably lessened by the disaster and is less than the minimum requirements of the Municipal Code for a new building;
- b. The cost of repair is greater than 50 percent of the replacement cost of the building;
- c. All structural, plumbing, electrical, and related requirements of the Municipal Code are met at current standards;
- d. All natural hazard mitigation requirements of the Municipal Code are met;
- e. Reestablishment of the use or building is in conformance with the national Flood Insurance Rate Map requirements and procedures;

- f. The building is reconstructed to the same configuration, floor area, height, and occupancy as the original building or structure;
- g. No portion of the building or structure encroaches into an area planned for widening or extension of existing or future streets as determined by the comprehensive general plan or applicable specific plan;
- h. Repair or reconstruction shall commence within two years of the date of the declaration of local emergency in a major disaster and shall be completed within two years of the date on which permits are issued.
- i. Nothing herein shall be interpreted as authorizing the continuation of a nonconforming use beyond the time limits set forth under other sections of the Municipal Code that were applicable to the site prior to the disaster.

Commentary. No recovery issue can be more vexing to planners than whether or not to encourage reestablishment of nonconforming uses and buildings after a disaster. Planners have sought for decades to write strict provisions in zoning ordinances designed to gradually eliminate nonconforming uses or buildings as they were abandoned, changed owners, or were damaged by fire, wind, or water. Such provisions normally prohibit reestablishment of nonconforming uses and buildings where damage exceeds a certain percentage of replacement cost, most often 50 percent. This approach is logical, orderly, and normally equitable when weighing community interests balanced with those of the property owner. However, the thinking behind such provisions has been geared to incremental waivers or termination of such uses over time, not to sudden circumstances forcing disposition of such uses as a class at a single point in time.

In theory, disasters are seen as an opportunity to eliminate uses that conflict with the prevailing pattern in a neighborhood but that remain because of legal nonconforming status—for example, scattered industrial uses in a residentially zoned neighborhood. In reality, local governments are beset after a disaster by pressures from property owners and other interests to reestablish the previous development pattern, including nonconforming buildings and uses. Such pressures extend beyond the demand to reestablish nonconforming buildings or uses to include waiver of current building, plumbing, and electrical code provisions to the standards in place at the time of construction.

From a risk management, liability exposure, or public safety standpoint, acquiescence to the reduction of such basic health and safety standards in the face of a known hazard can be seen as unacceptable. However, zoning provisions hindering reestablishment of nonconforming buildings or uses tend to be more arguable and are more likely to be modified by city councils under pressures of the moment to restore the status quo. In recognition of such pressures, this model ordinance language offers a straightforward tradeoff approach allowing reestablishment of a nonconforming use or building in return for strict adherence to current structural, plumbing, and electrical code and hazard mitigation requirements. The language assumes existence of a provision commonly found in the Municipal Code authorizing repair or reestablishment of a nonconforming use or building where damage is less than 50% of the replacement cost. It also assumes the building was substantially weakened by the disaster and is below code requirements.

This compromise approach recognizes that its application may require the unwelcome decision to accept continuation of disorderly land-use patterns, unless a solution can be found through redevelopment or rezoning. Instead, it places a high value on life safety.

It is important to note that the language of these provisions includes the following important limitations on the economic incentive to reestablish the nonconforming use or building. 1) It does not extend any previously stipulated life of the nonconforming use— this is an important disincentive if the costs of replacement cannot be offset by insurance, FEMA assistance, SBA loans or other sources of financial support. 2) It does not allow the extent of nonconformance to be increased over that which existed prior to the disaster, thwarting another common pressure. 3) It requires strict adherence to current structural, plumbing, electrical, and other requirements of the Municipal Code as well as any street setbacks stipulated within the comprehensive plan circulation element and related ordinances. This may be especially costly from a structural standpoint, for example, when replacing previously unreinforced masonry buildings after a devastating earthquake. 4) It recognizes that compliance with more stringent hazard mitigation requirements may be needed, especially in cases involving increased on-site hazards because of fault rupture, landsliding, coastal erosion, or severe flooding where upgrading to current structural, plumbing, and electrical code requirements isn't enough.

Compliance with the latter provision may also be sufficiently costly to discourage reestablishment of the use or other nonconforming feature.

The relative importance of post-disaster reestablishment of nonconforming uses and buildings may vary from one jurisdiction to another. Therefore, the most useful time to assess this aspect of post-disaster recovery is before a major disaster, in the course of pre-event planning. Education of the city council in advance can help lessen post-disaster tendencies to compromise critical hazard mitigation and public safety requirements, notwithstanding the outcome on nonconforming use and building requirements.

10.0 One-Stop Service Center for Permit, Economic, and Housing Assistance. The Recovery Management Organization shall coordinate the establishment of a one-stop center, staffed by representatives of pertinent City departments, and staff of cooperating organizations, for the purpose of providing coordinated services and assistance to disaster victims for purpose including but not limited to: permit processing to expedite repair of buildings, provision of housing assistance, and encouragement of business resumption and industrial recovery. The Director shall establish such center and procedures in coordination with other governmental entities that may provide services and support, such as FEMA, SBA, HUD, or the State Emergency Management Agency (or equivalent).

Commentary. One-stop service centers have become more common with recent disasters, often combining the presence of multiple agencies to provide better coordination of information needed by disaster victims to obtain essential public and insurance services and to rebuild. A prime example was the Community Restoration and Development Center established by the City of Oakland shortly after the 1991 Oakland Hills Firestorm and operated until mid-1994 with financial support from FEMA. Benefits to be gained for establishing a special one-stop center include accelerated information, integration of services, and expedited permitting. Setting up a specialist team working exclusively on repair and rebuilding permit issues has the added advantage of insulating normal development review from disruption by the recovery process and vice versa.

11.0 Emergency Contractor and Volunteer Certification. The Recovery Management Organization shall have authority to establish a standard certification process for all contractors and volunteers seeking to provide clean-up, repair, or construction services within areas that have experienced disaster damage. In order to be eligible, contractors and volunteers must obtain the proper certification using the following process.

1. **Application for Contractor Certification.** Contractors must apply for Contractor Certification at a one-stop center with the location and hours identified by the City. An application processing fee of \$25.00 is required for each contractor firm and may be paid in cash or by check made payable to the City.
2. **Application Requirements.** Contractors seeking certification must meet the following minimum insurance and background check requirements.
 - a. Staff will verify that contractors are properly registered and/or licensed with the state contractors' agency of the state within which their business is headquartered.
 - b. The Police Department will conduct a criminal background check on each worker that will be performing services for the contractor's firm.
 - c. Contractors must be licensed for their respective trades through the state contractors' licensing agency within which their business is headquartered and meet minimum insurance required by that state. All other contractor firms seeking to perform projects with a scope of work that exceeds a cost of \$2,000 must provide proof of a general liability insurance policy for an amount not less than \$1,000,000.
3. **Certification Enforcement.** Contractors are subject to the following certification enforcement requirements.
 - a. Proof of certification will be a City-issued photo identification badge for each worker performing clean-up, repair, or construction services within disaster-damaged areas. This must be displayed by each worker at all times within the designated area. Replacement badges will be issued at a cost of \$10.00.

- b. Individuals without an identification badge will not be permitted to perform cleanup, repair, or construction services.
- c. Contractors failing to register will be subject to a fine of \$100.00 per day or be subject to imprisonment for not more than 30 days. Each day a violation occurs will constitute a separate offense.
- d. The City retains the right to suspend or revoke the Contractor Certification.

4. Volunteer Certification. Persons volunteering their efforts without compensation for disaster clean-up, repair, or construction services must also apply for emergency certification as a volunteer at a one-stop center and receive a photo identification badge. No application processing fee is required for a Volunteer Certification. However, volunteers certified to assist with clean-up, repair, or construction services must be affiliated with a charitable, non-profit organization meeting all preceding Contractor Certification insurance and enforcement requirements.

Commentary. The phenomenon of unscrupulous actions by contractors or persons posing as contractors after a disaster by which advantage is taken of helpless disaster victims is a widely recognized and repetitive problem for which there is little guidance in the professional recovery management literature. The preceding emergency contractor certification provisions have been adapted from a program established by the City of Cedar Rapids, Iowa, following a severe flood in 2008. Through implementation of this program, the City of Cedar Rapids turned down over 200 applications for emergency contractor certifications, and made over 30 arrests for program violations. Through notification of over 10,000 contractors, the program also had a substantial preventive effect, discouraging otherwise unscrupulous persons from attempting to take advantage of the post-flood recovery situation.

Although volunteers were certified and issued badges without charge by the City of Cedar Rapids, their program did not explicitly address volunteer certification. Therefore, language is included that addresses this need. Since many cities do not wish to discourage volunteer assistance by the imposition of a seemingly unnecessary requirement, it is a sensitive provision and should be thought through carefully as to how it might work without posing needless barriers to volunteer efforts before inclusion in a local ordinance.

12.0 Temporary and Permanent Housing. The Director shall assign staff to work with FEMA, SBA, HUD, the State Emergency Management Agency (or equivalent), and other appropriate governmental and private entities to identify special programs by which provisions can be made for temporary or permanent replacement housing which will help avoid undue displacement of people and businesses. Such programs may include deployment of mobile homes and mobile home parks under the temporary use permit procedures provided in Section 9.6 of this chapter, use of SBA loans and available Section 8 and Community Development Block Grant funds to offset repair and replacement housing costs, and other initiatives appropriate to the conditions found after a major disaster.

Commentary. The issue of post-disaster temporary and permanent replacement housing has grown to one of critical dimensions since Hurricane Katrina. After that event, thousands of households were temporarily housed in trailers for periods far longer than anticipated, under unhealthy conditions due to faulty mobile home design. Relatively little progress has been made since then in finding effective ways by which to handle this issue on a broad scale. This section is essentially a placeholder for language that preferably should be made more specific on the basis of a pre-event plan that anticipates the local levels of housing vulnerability and identifies potential solutions. A great deal more research is needed to find satisfactory solutions for prompt, efficient provision of both interim and replacement housing. With possible downsizing of federal budgets in future years, this issue will become more critical. Also needed is research on feasible incentives for retrofitting a substantial portion of the existing housing stock to reduce vulnerability and risk. This is true in western states susceptible to heightened earthquake risk and for Midwestern and southeastern states under continuing threats of hurricane, tornado, and severe storm damage.

13.0 Demolition of Damaged Historic Buildings. The Director shall have authority to order the condemnation and demolition of buildings and structures damaged in the disaster under the standard provisions of the Municipal Code, except as otherwise indicated below:

13.1 Condemnation and Demolition. Within days after the disaster, the building official [or equivalent] shall notify the State Historic Preservation Officer that one of the following actions will be taken with respect to any building or structure determined by the building official to represent an imminent hazard to public health and safety, or to pose an imminent threat to the public right of way:

- a. Where possible, within reasonable limits as determined by the building official, the building or structure shall be braced or shored in such a manner as to mitigate the hazard to public health and safety or the hazard to the public right-of-way;
- b. Whenever bracing or shoring is determined not to be reasonable, the building official shall cause the building or structure to be condemned and immediately demolished. Such condemnation and demolition shall be performed in the interest of public health and safety without a condemnation hearing as otherwise required by the Municipal Code. Prior to commencing demolition, the building official shall photographically record the entire building or structure.

13.2 Notice of Condemnation. If, after the specified time frame noted in Subsection 8.1 of this chapter and less than 30 days after the disaster, a historic building or structure is determined by the building official to represent a hazard to the health and safety of the public or to pose a threat to the public right of way, the building official shall duly notify the building owner of the intent to proceed with a condemnation hearing within business days of the notice in accordance with Municipal Code Section ; the building official shall also notify FEMA, in accordance with the National Historic Preservation Act of 1966, as amended, of the intent to hold a condemnation hearing.

13.3 Request to FEMA to Demolish. Within 30 days after the disaster, for any historic building or structure that the building official and the owner have agreed to demolish, the building official shall submit to FEMA, in accordance with the National Historic Preservation Act of 1966, as amended, a request to demolish. Such request shall include all substantiating data.

13.4 Historic Building Demolition Review. If after 30 days from the event, the building official and the owner of a historic building or structure agree that the building or structure should be demolished, such action will be subject to the review process established by the National Historic Preservation Act of 1966, as amended.

Commentary. A difficult aspect of recovery in older communities is dealing with damaged historic structures. Since these can be very old, measures needed to make them structurally sound may be more difficult and costly than normal. Because of the controversy frequently associated with this issue, vocal opposition may emerge when a badly damaged historical structure is considered for demolition. Therefore, it is wise to have language already in place to guide planning and building officials who may be involved. The National Historic Preservation Act of 1966, as amended, identifies steps that must be taken by a jurisdiction or owner to mitigate public health and safety hazards resulting from disaster-caused damage. The intent is to establish predictable rules by which proposed demolitions, except in extreme cases of danger to the public, can be reviewed by state and federal officials in order to provide time to identify preservation options. The review process is intended to discourage hasty demolition action by local officials when such action may not be justified.

*The preceding language is adapted from provisions of the **Uniform Code for the Abatement of Dangerous Buildings**. It provides specific time frames and actions for abatement of hazards created by damage to historic buildings. The important element of judgment here is the establishment of a specific time frame for declaring a structure an imminent hazard to public health and safety justifying immediate demolition without a condemnation hearing. Such time frames are generally from three to five days, though sometimes stretched to ten. After the established time frame, the threat may no longer be justified as imminent and, therefore, the remaining procedures kick in.*

14.0 Severability. If any provision of this chapter is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions, which can be implemented without the invalid provision, and, to this end, the provisions of this ordinance are declared to be severable.

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5. Sample Emergency Procurement Tools

The purpose of a disaster purchasing policy is to reduce the normal policy requirements, while giving the organization the flexibility to respond effectively to emergency circumstances. This can be done by creating a local government ordinance describing the parameters by which emergency procurement procedures can be executed. Generally a Board of Supervisors or a City Council Resolution is needed to accept such an ordinance. The ordinance will usually name a lead agency responsible for leading the procurement effort and reporting back to the City or County leadership.

Each jurisdiction must define how they will execute emergency purchasing and contracting. Convening an internal stakeholder group of key agencies to determine the best local government process to follow to develop the ordinance and/or resolution language, as well as how best to gain approval to enact a local government emergency purchasing and contracting procedure, is a common way to accomplish this task. Agencies such as Public Works, Office of Emergency Services, County/City Legal Counsel, City Managers and/or County Administrators Office, Health and Human Services, Fire and Law Enforcement agencies are usually key stakeholders in this process.

Procurement limits and sole source contractual specifics may be stipulated in a disaster purchasing ordinance. It is particularly important to establish sole source contract stipulations in an emergency purchasing ordinance BEFORE a disaster. It is not sufficient to merely waive existing policies. For reimbursement, FEMA requires agencies to follow their own policies *and those* laid out in FEMA guidelines, whichever are more stringent⁶. When requirements are “waived” in an ad-hoc fashion there is effectively no policy in place which can be followed.

A sample resolution (Section 1.1)⁷, policy language options for ordinance content (Section 1.2) and a template for sole source justification (Section 1.3)⁸ are included below.

⁶ According to 2 CFR 200.318: OMB Guidance for General procurement standards, adopted December 26, 2013.

⁷ Sample resolution is based on Marin County Resolution #2006-192 – *Adopting Emergency Contracting Procedures* delegating purchasing authority to the county’s Department of Public Works.

⁸ The Sample Purchasing Ordinance, Template Sole Source justification and much of the accompanying information included in this section are excerpted from information developed and produced by Michael Martinet and The Martinet Group, LLC and are reprinted here with full knowledge and approval

5.1. Sample Bay Area County Emergency Contracting Resolution

Resolution of County Board of Supervisors Adopting Emergency Contracting Procedures

WHEREAS, Section _____ of the Public Code provides that the County may, by resolution, establish emergency contract procedures.

NOW, THEREFORE, BE IT RESOLVED, the County Board of Supervisors does hereby establish emergency contracting procedure as follows:

1. In the case of an emergency that poses an immediate threat to life, property, or public safety, the County may repair or replace a public facility, take any directly related and immediate action required by that emergency and procure necessary equipment, services and supplies for those purposes without giving notice for bids to let contracts.
2. Prior to taking action described in section 1, the below named authorized administrative officer shall find, based on substantial evidence, that the emergency will not permit a delay resulting from competitive solicitation for bids, and that the action is necessary to respond to the emergency.
3. The Board of Supervisors hereby delegate to the Director of (INDEMNIFIED AGENCY) (Director) the authority to order any action described in Sections 1 and 2 in compliance with all terms and conditions set forth herein.
4. If the Director orders any action described in Sections 1 and 2, the Director shall report to the Board at its next meeting required under the emergency declaration the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency.
5. Contractors shall be chosen from the Department’s list of contractors which have been preauthorized and determined capable and responsible to perform emergency work.

6. The initial call to contractors shall determine their availability to respond immediately to the emergency with the necessary personnel and equipment to address the emergency.
7. The contractor shall be compensated in accordance with the Caltrans rates and requirements for the time and materials work.
8. Upon the contractor’s arrival onsite, County staff shall review and confirm the scope of work. County staff shall monitor the contractor to ensure that the work is being carried out expeditiously and efficiently.
9. As soon as reasonably possible after the contractor begins work, County staff shall prepare a written contract/agreement for the contractor’s signature with a clearly defined scope of work and a “not to exceed” amount provision for the contract.
10. The Director may contact the state OES to ensure proper guidelines are followed to use the Time and Materials Contract.
11. The Director shall prepare detailed reports regarding the project progress status. The Director shall maintain work diaries as appropriate.
12. Upon completion of the contract’s operations, the Director shall prepare a written report of the event which describes the nature of the emergency threat, the need for an emergency response, why the particular contractor was chosen, and any other information pertinent to the emergency work. The report shall be presented to the Board of Supervisors.

PASSED AND ADOPTED at a regular meeting of the County Board of Supervisors held on the day of _____ (DATE) _____, by the following vote:

AYES: _____

NOES: _____

ABSENT:

PRESIDENT, BOARD OF SUPERVISORS

5.2. Sample Purchasing Ordinance

The following Sample Purchase Ordinance is concerned only with an agency’s internal purchasing process and do not address the larger Federal reimbursement concerns associated with 44 CFR §13.36, although local internal procedures often do address some of the issues in 44 CFR §13.36.

To address these issues, there should be additional procedures in place that may not be reflected in the purchasing policy itself. For instance, all contracts should have specific language that directs the vendor or contractor how to provide detailed invoices that properly document the how, when, where and why of disaster related materials delivery or the contract invoicing. A contractor may work on several different projects, and their billing must separate the work done at each location or each project to meet Federal tracking requirements.

In the following table, the first column contains the suggested policy language; and the second column provides the rationale for including the policy language in a disaster purchasing policy. Only the language in the first column should be included in a disaster purchasing policy.

Policy Language	Rationale
<p>§ 1 Purpose. This Policy modifies the City’s normal purchasing practices to assure that, in exigent circumstances caused by a proclaimed disaster or emergency, the City is able to acquire the goods and services required to address <u>an immediate threat to life, public health, or safety or an immediate threat of significant damage to improved public and private property</u> while still maintaining an effective purchasing process and complying with applicable local and state purchasing laws.</p> <p>Where the City is included in a major disaster or emergency declared by the President of the United States, this Policy also assures that City procurements comply with federal regulations applicable to FEMA disaster grant reimbursement.</p>	<p>The underlined text is the precise language used by FEMA to justify certain emergency actions.</p>
<p>§ 2 Definitions. For purposes of this Policy, (a) a proclaimed disaster or emergency exists if (I) the Governor has declared a state of emergency for an area which includes the geographic territory of the City; or (ii) the Chief Executive Officer of the City has declared an emergency in the City.</p> <p>(b) “Exigent Circumstances” are situations in which (I) a disaster or emergency has been proclaimed, and (ii) the public exigency for goods and services required to address an immediate threat to health, safety, or improved property” will not permit competitive solicitation.</p>	<p>Note: this definition of “proclaimed disaster or emergency does not require a federal declaration. A federal declaration cannot exist without a state declaration.</p> <p>The definition of exigent circumstances tracks the definition in FEMA’s regulations allowing expedited procurement. (44 CFR 13.36(d)(4))</p>
<p>§ 3 Delegations of Purchasing Authority In Exigent Circumstances.</p> <p>(a) if the City Manager determines that goods and services must be procured before the City Council is able to assemble and approve purchases, the City Manager has authority, subject to the limitations set forth in subparagraphs (a)(I) and (a)(ii), to approve the immediate rental or purchase of any equipment, supplies, services or other items necessary to respond to an immediate threat to health, safety or improved property.</p>	<p>Management must have the authority to take action in an emergency, and there must be policy to provide that authority.</p>

Policy Language	Rationale
<p>Limits of Single Purchase Authority. The City Manager, shall have the authority to make individual purchases up to \$xxx,xxx on his or her signature alone. The City Manager shall have the authority to make purchases in excess of \$xxx,xxx up to a maximum of \$x,xxx,xxx when countersigned by the Mayor or in the Mayor’s absence countersigned by another council member.</p>	<p>Purchases made without proper authorization may be disallowed by FEMA as out-of-policy. FEMA specifies that the local agency must follow its own policies.</p>
<p>(ii) Limits of Aggregate Purchase Authority. The City Manager shall have the authority to make aggregate purchases up to \$x,xxx,xxx on his or her signature alone. The City Manager shall have the authority to make purchases in excess of \$xxx,xxx up to a maximum of \$x,xxx,xxx when countersigned by the Mayor or in the Mayor’s absence countersigned by another council member.</p>	<p>Absent an “emergency or disaster policy” the local agency must follow its own regular policy, which may be too inflexible for a disaster response.</p>
<p>(b) Sub-delegation to EOC Director. The EOC Director shall be a designee of the City Manager at any time that the City Manager is not available to approve purchases as allowed in this section.</p>	
<p>(c) Sub-delegation of Purchasing Authority to Department Heads. If neither the City Manager nor the EOC Director is available, the police department watch commander, duty fire battalion chief, and/or duty public works department manager have authority to rent or purchase from the nearest available source any equipment, supplies, services, or other items necessary for his or her department to respond to an immediate threat to health, safety, or improved property, up to a maximum of \$xxx,xxx.</p>	<p>Purchases made without proper authorization may be disallowed by FEMA as out-of-policy. FEMA specifies that the local agency must follow its own policies.</p>

<p>(d) Administrative Procedures: Reporting Requirements.</p> <p>(1) As soon as possible after purchases are made under this section 3, the City Manager, EOC Director, or department head shall submit to the Purchasing Officer a requisition and a notation that the commodity has been ordered on an emergency basis from the vendor designated.</p> <p>(2) The Purchasing Officer will inform the City Manager and the City Council of any individual purchase under this section with a contract amount greater than \$xxx,xxx, and also whenever the aggregate of purchases under this section is greater than \$xxx,xxx thousand dollars.</p> <p>(3) The Purchasing Officer will obtain the City Manager's (or EOC Director as the City Manager's designee) approval prior to any purchase by a department head if the amount is \$xxx,xxx thousand dollars or more.</p> <p>(4) If the City Manager/EOC Director is unavailable, and the delay in getting his/her signature would imperil life, safety or improved property, the police department watch commander, duty fire battalion chief, and/or duty public works department manager or his/her designee may approve the emergency purchase of \$xxx,xxx thousand dollars or more. (5)The Purchasing Officer shall have the authority to approve all disaster related purchases under \$xxx,xxx thousand dollars. (6) The Purchasing Officer will expedite the verification of funds available and complete the preparation of the purchase order.</p>	<p>Absent an “emergency or disaster policy” the local agency must follow its own regular policy, which may be too inflexible for a disaster response.</p>
<p>§ 4 Procurement Procedures in Exigent Circumstances.</p> <p>Upon receipt of requisitions under Section 3, the Purchasing Officer shall prepare purchase orders for the emergency equipment, supplies, services or other items in accordance with the requirements of this section.</p>	
<p>(a) Exempt Purchases. Purchases below \$xxx,xxx shall not be required to be formally bid. Purchases greater than \$xxx,xxx may be made following the procedures specified in this section. The signature(s) of the City Manager, Purchasing Officer and or Department Head are still required as provided in Section 3.</p>	<p>Absent an “emergency or disaster policy” the local agency must follow its own regular policy, which may be too inflexible for a disaster response.</p>

Policy Language	Rationale
<p>(b) Justification of “Sole Source” or “No-bid” Contracts. Where exigent circumstances require immediate procurement from the nearest available source:</p> <p>(I) the Procurement Officer shall use the "Justification Form For Emergency Sole Source or No-Bid Purchase."</p> <p>(ii) procurement should be limited to that portion of the work that must be performed immediately, allowing subsequent procurement by competitive proposals of the remainder of the work.</p> <p>(iii) “Sole source” or “no-bid” acquisitions shall be necessary for one of the following reasons: placement of emergency protective measures; procurement of scarce commodities, goods, or services; or acquisition or rental of emergency equipment, emergency consulting services, emergency road clearance or other emergency requirements.</p>	<p>Using this or a similar process may ease potential problems during an audit.</p>
<p>(c) Provision for Alternate Bid Solicitation Procedures. The City's normal requirements for sealed bids shall not apply to acquisitions under Section 3. However, the Procurement Officer shall conduct telephonic or other electronic bid solicitation from potential vendors or suppliers, in lieu of written and/or sealed bids, in an effort to obtain multiple competitive proposals when and if time allows in light of the exigent circumstances.</p>	<p>Absent an “emergency or disaster policy” the local agency must follow its own regular policy, which may be too inflexible for a disaster response.</p>
<p>(d) Locations of Postings for Requests for Proposals or Solicitation of Bids. The Procurement Officer may waive normal requirements for public posting of requests for proposals or solicitation of bids. Notices soliciting bids or requests for proposals shall be posted at the Emergency Operations Center or Alternate Emergency Operations Center, if the Primary Emergency Operations Center is not being used.</p>	<p>In the event that City Hall and/or other normal posting places are damaged or otherwise not functional, the posting of notices will be unaffected during a disaster.</p>
<p>(e) Length of Time for Posting Requests for Proposals or Solicitation of Bids. The Procurement Officer may shorten the normal bid period from xx days to expedite the award of contracts for emergency equipment, goods, or services. The Procurement Officer should seek to assure that the shortened bid period allows multiple suppliers to submit bids.</p>	<p>Absent an “emergency or disaster policy” the local agency must follow its own regular policy, which may be too inflexible for a disaster response.</p>

Policy Language	Rationale
(f) Number of Bids Required. Solicited bids that are non-responsive shall count towards the minimum numbers of bids required when there is a declared emergency or disaster in the City.	This will help, when you simply can't get bids or at least enough bids to meet requirements.
<p>§ 5 Notification and Ratification</p> <p>(a) Posting of Contract Awards. Under this section, all contracts awarded that exceed \$xxx,xxx shall be presented to the City Council for ratification and thereafter shall be publicly posted within sixty (60) days of the award.</p>	Absent an “emergency or disaster policy” the local agency must follow its own regular policy, which may be too inflexible for a disaster response.
(b) Authority to Cancel Emergency Procurements. As a provision of this ordinance, the City has the absolute authority to rescind a contract for non-performance within 24 hours when a contractor or vendor, once awarded a contract, is unable to perform under the terms of the contract and the resulting delay or non-performance presents an immediate threat to life, safety or improved property.	This gives the city much greater flexibility in dealing with disaster situations.
(c) Notification Requirement for Emergency Purchases. For any purchase in excess of \$xxx,xxx, the City Manager shall report all such purchases to the City Council within thirty (xx) days of the onset of the disaster.	This is more of an internal control policy rather than a FEMA requirement.
(d) Requirement for Separate Invoicing. All purchases or rentals made during proclaimed emergency or disaster conditions shall require separate invoicing from routine (non-disaster related) purchases. All invoices shall state the goods, services or equipment provided and shall specify where the goods or services were delivered.	Disaster purchases must be separated from day to day purchases to be reimbursible. Invoices must specify each different location where work is done or goods are provided in compliance with Federal requirements.
(e) Auditing of Invoices for Debris Clearance Prior to Payment. All invoices for debris clearance and removal shall be audited by the City prior to payment to the vendor. Vendors shall be notified of this requirement prior to the awarding of any contract for debris clearance and/or removal. Audits shall be in accordance with procedures for debris removal monitoring specified in FEMA’s Publication 325, Debris Management Guide.	This provides protection for the city against incorrect or fraudulent invoices from debris removal contractors.

Policy Language	Rationale
<p>(f) Limitations of Disaster Purchasing Policy. For the purposes of this section, an emergency or disaster shall be deemed to exist when a condition exists that presents <u>an immediate threat to life, public health, or safety or an immediate threat of significant damage to improved public and private property</u> and a local emergency or disaster has been proclaimed. Any purchases that do not meet the standard of being necessary for responding to an immediate threat to health, safety or improved property shall follow the City's regular purchasing provisions.</p>	<p>There are very tight limits when “sole source” or “no-bid” purchases may be made. All other purchases must follow agency policy.</p>
<p>The city purchasing officer shall comply with all applicable provisions of 44 CFR §13.36 and the applicable provisions of 2 CFR Part §225.</p>	<p>When Federal grant funds are available, these regulations must be followed to maintain reimbursement eligibility.</p>

5.3. Sample Sole Source Purchase Justification

City of South Bay - Disaster Purchasing System Sole Source Purchase Justification

When a proclamation of a local disaster is made ¹, the disaster purchasing process is activated for equipment, supplies and services that are directly related to imminent threats to life, public health and improved property. Individual disaster purchases or equipment rentals under \$xx,000 ² do not have to be bid nor do they require the completion of this form. They do need to specify the location and type of work done and have all other necessary documentation required to meet FEMA regulations, including damage documentation before work is begun.

Individual disaster purchases over \$xx,000 and less than \$xxx,000 require the completion of this form to demonstrate the immediate and emergency nature of the purchase or rental of disaster response resources and to demonstrate the reasonableness of the cost of the good or services rendered. Any individual purchases over \$xxx,000 requires the use of this form AND the signature of the EOC Director, City Manager, Mayor or their designee. All “routine” ³ disaster purchases must be made following the city’s normal purchasing process and full compliance with 44 CFR §13.36.

Item: _____ Amount: \$ _____

Vendor: _____ Estimated Delivery: _____

Rationale: For disaster purchase orders over \$XX,000 check the appropriate box.

- A. Emergency Protective Measures:** This classification is for extraordinary measures that may be needed when life, public health or improved property are in imminent danger. For instance, during the winter season, the purchase of sand and sand bags would not constitute an extraordinary measure. Purchases of sand and sandbags should be a normal purchase and anticipated before the winter season arrives. An extraordinary protective measure could be the rental of temporary fencing to cordon off structures in imminent danger of collapse.
- B. Scarce Commodity:** To procure a commodity that is in critical short supply, such as fuel, potable water, MRE’s porta-potties, etc. and the vendor will be out of inventory if the bid process is followed. (This option is not permitted once inventories begin to normalize.)
- C. Emergency Consulting Services:** The procurement is for a technical consulting

¹ A disaster proclamation or declaration by either the city, county, state or Federal government will satisfy this requirement when the city is within the defined disaster area.

² \$xx,000 and \$xxx,000 indicate amounts established by local ordinance or in compliance with 44 CFR §13.36

³ “Routine” disaster purchases are those made during a disaster when there is not an immediate threat to life safety or property.

**City of South Bay - Disaster Purchasing System
Sole Source Purchase Justification**

service of an immediate nature, such as inspection of a heavily damaged structure to determine if a collapse is imminent or inspection of a slope to determine the nature and extent of landslide potential.

- D. Emergency Road Clearance:** Services needed to clear roads to provide access for emergency services vehicles. This is not to be used for general debris removal.
- E. Other Emergency Requirement:** Purchase necessary for the preservation of life, public health or improved property due to imminent danger. Provide a brief explanation of the immediate problem and include the potential consequences if left unaddressed.
- F. Non-Responsive Bids:** Bids were solicited, but no responsive bid has been received from requested bidders. A copy of all bids and a list of other solicited vendors must be attached.
- G. Pre-Existing Contract:** The purchase was made under terms of a pre-existing competitively bid disaster services, materials, or supplies contract.

Narrative Justification – Explain the following. Be very precise when filling in this section.

- Describe what is being purchased or rented.
- Describe where the equipment, material or services will be used.
- Specify the immediate hazard or threat that poses imminent danger. (The phrase “earthquake damage” is insufficient. Provide detail: “A three story unreinforced masonry building is severely damaged and appears to be in imminent danger of collapse onto the public right of way.”)
- Describe the minimum acceptable actions that can be taken to reduce or eliminate the hazard i.e., “Install temporary chain link fencing around the structure at a distance of 20 feet from building.”
- State that there are no acceptable substitutes. “Closing the street to avoid the hazard is not practical because the street is a disaster route.”
- Describe consequences if left unaddressed. “The building may collapse injuring bystanders.”

Product or service to be purchased: _____

Location of product or service use: _____

Specific hazard or threat: _____

Minimum action to reduce threat: _____

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City of South Bay - Disaster Purchasing System Sole Source Purchase Justification

Alternate action possible: _____

Consequences if unaddressed: _____

Cost Reasonableness: The cost of the equipment, supplies or services procured are deemed to be reasonable by virtue of the following circumstances. Check the appropriate box(es) below.

- A. The prices charged are in line with the prices paid for similar goods or services within the last 12 months by the City of _____.
- B. Because of the scarcity of the goods or services, the prices are within reason because of demand and the prices do not exceed 15% of the prices paid for similar goods or services within the last 12 months by the City of _____.
- C. Using readily available catalogs or price lists, a determination is made that the costs are reasonable within the exigent circumstances at hand. (Attach copies)
- D. The prices paid for the goods or services exceed normative pricing, but the exigent circumstances required their purchase, and only enough of the goods or services were purchased to deal with the specific emergency at hand. All additional purchases of the same goods or services will be made through normal procedures.

Cost Reasonableness Documentation:

Attach any documentation such as copies of catalog pages or other cost data that supports the reasons provided above when a sole source purchase is made under emergency or disaster conditions.

Authorizations:

Requesting Section or Department: _____

Print Requestor's Name: _____

Requestor's Signature: _____

Date: _____ Time: _____

EOC Finance Section Coordinators Name: _____

EOC Finance Section Coordinators Signature: _____

**City of South Bay - Disaster Purchasing System
Sole Source Purchase Justification**

Alternate action possible: _____

Consequences if unaddressed: _____

Cost Reasonableness: The cost of the equipment, supplies or services procured are deemed to be reasonable by virtue of the following circumstances. Check the appropriate box(es) below.

- A. The prices charged are in line with the prices paid for similar goods or services within the last 12 months by the City of _____.
- B. Because of the scarcity of the goods or services, the prices are within reason because of demand and the prices do not exceed 15% of the prices paid for similar goods or services within the last 12 months by the City of _____.
- C. Using readily available catalogs or price lists, a determination is made that the costs are reasonable within the exigent circumstances at hand. (Attach copies)
- D. The prices paid for the goods or services exceed normative pricing, but the exigent circumstances required their purchase, and only enough of the goods or services were purchased to deal with the specific emergency at hand. All additional purchases of the same goods or services will be made through normal procedures.

Cost Reasonableness Documentation:

Attach any documentation such as copies of catalog pages or other cost data that supports the reasons provided above when a sole source purchase is made under emergency or disaster conditions.

Authorizations:

Requesting Section or Department: _____

Print Requestor's Name: _____

Requestor's Signature: _____

Date: _____ Time: _____

EOC Finance Section Coordinators Name: _____

EOC Finance Section Coordinators Signature: _____

**City of South Bay - Disaster Purchasing System
Sole Source Purchase Justification**

Date: _____ Time: _____

Signature of EOC Director, City Manager, Mayor or designee for individual purchases over \$xx,000
Print Name: _____
Title: _____
Signature: _____
Date: _____ Time: _____

Buyer Name: _____

Purchase Order #: _____

Date & Time Order Placed: _____

Vendor Company Name: _____

Vendor Contact Name: _____

Vendor Phone #: _____

Vendor Email Address: _____

Note: This form has not been reviewed or approved by FEMA. It's exclusive purpose is to provide in-house documentation when the circumstances of a disaster require an immediate purchase of goods or services that because of exigent conditions cannot follow an agencies regular purchasing procedures and 44CFR §13.36. This form should be reviewed by the agency's legal counsel before use to determine applicability. This form should be part of a comprehensive disaster purchasing program, including pre-disaster contracts for goods and services whose need can be reasonably foreseen.

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6. Sample State of California Proclamation / Executive Order

A reprint of Executive Order S-13-10 issued by Governor Arnold Schwarzenegger in response to a fire in Kern County, California in July of 2010. This Executive Order was chosen as it represents many of the waivers and waivers that are most commonly included in response to disasters and disruptive events. This Executive Order is provided as an example only for reference purposes when developing proclamations and Executive Orders, either as templates during pre-planning or in response in the aftermath of an emergency event.

Sample California State Executive Order:

EXECUTIVE ORDER S-13-10

WHEREAS due to the destruction caused by wildfires beginning on July 26, 2010, I have proclaimed a State of Emergency to exist in the County of Kern; and

WHEREAS these fires caused harm to people and property, burned approximately 18,000 acres, damaged or destroyed numerous homes and other structures, forced evacuations, and caused damage to resources and watershed; and

WHEREAS these fires caused the loss of valuable personal and business records; and

WHEREAS the people who lost or sustained damage to their homes, property, businesses or places of employment, may need to obtain or replace important government records such as certificates of birth, death, fetal death, or marriage, as well as marriage dissolution records, driver's licenses, identification cards, vehicle registration certificates, and certificates of title, in order to obtain assistance from federal, state and local governmental agencies, make claims for and collect insurance, find new employment, and for other purposes related to losses suffered in the fire; and

WHEREAS those who need to obtain or replace important government records to mitigate their losses and rebuild their lives as a consequence of the fires require immediate assistance from state and local governmental agencies to replace those records; and

WHEREAS existing law requires the Office of Vital Records of the Department of Public Health, along with local registrars, county recorders and county clerks, to impose fees upon persons requesting copies of certificates of birth, death, fetal death, marriage, and marriage dissolution records; and existing law requires the State Department of Motor Vehicles to impose fees upon persons requesting replacement driver's licenses, identification cards, vehicle registration certificates, and certificates of title; and

WHEREAS existing law requires the State Department of Motor Vehicles to impose late fees on persons who are late in renewing their vehicle registration or late in transferring ownership of a vehicle; and

WHEREAS the local government public safety agencies budgets have been further impacted by the unanticipated costs of responding and recovering from the fires; and

WHEREAS Local Assistance Centers can assist with the coordination of aid and expedite disaster assistance to those affected by an emergency.

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, in accordance with the authority vested in me by the Constitution and statutes of the State of California, including the Emergency Services Act

and in particular Government Code sections 8567 and 8571, do hereby issue this Executive Order, effective immediately, to mitigate the effects of the emergency due to the wildfires in the County of Kern:

1. The provisions of Health and Safety Code sections 103525.5 and 103625, and the provisions of Penal Code section 14251, requiring the imposition of fees, are hereby suspended with regard to any request for copies of certificates of birth, death, fetal death, marriage, or marriage dissolution records by any resident of Kern County who suffered a loss of a family member, or who suffered loss or damage to property, business, or employment, as a result of the wildfires. Copies of such records shall be provided to such persons without charge.
2. The provisions of Vehicle Code sections 9265(a), 9867, 14901, 14902 and 15255.2, requiring the imposition of fees, are hereby suspended with regard to any request for replacement of a driver's license, identification card, vehicle registration certificate or certificate of title by any resident of Kern County who suffered a loss of such documents as a result of the wildfires. A replacement driver's license, identification card, vehicle registration certificate, or certificate of title shall be provided to such persons without charge.
3. The provisions of Vehicle Code sections 4602 and 5902, requiring the timely registration or transfer of title, are hereby suspended with regard to any registration or transfer of title by any resident of Kern County who suffered a loss of such registration or title documents as a result of the wildfires. The time covered by this suspension shall not be included in calculating any late penalty pursuant to Vehicle Code section 9554.
4. The California Emergency Management Agency (Cal EMA) shall coordinate assistance programs offered by all relevant federal, state and local agencies and departments, including, but not limited to, the California Conservation Corps, the Department of Public Health, the Department of Health Care Services, the Department of Mental Health, the Department of Social Services, the Department of Consumer Affairs, the Department of the Highway Patrol, the Department of Forestry and Fire Protection, the Department of Veterans Affairs, the Department of Aging, the Department of Transportation, the Department of Insurance, Department of Housing and Community Development, and California Volunteers.
5. Cal EMA shall provide financial assistance to the local agencies and non-profit organization, as eligible, under the California Disaster Assistance Act.
6. All State agencies with responsibility, regulatory authority, or expertise related to recovery efforts in connection with these fires shall cooperate fully and act expeditiously in coordination with the California Resources Agency and the California Environmental Protection Agency, to facilitate the mitigation of the effects of the fires and the environmental restoration of the affected areas.
7. State agencies shall, as necessary for the protection of public health and the environment, assist local governments to enter into contracts and arrange for the procurement of materials, goods, and services necessary to quickly remove dangerous debris, repair damaged resources, and restore and protect the impacted watershed. Because strict compliance with the provisions of the Government Code and the Public Contract Code applicable to state contracts would prevent, hinder, or delay these efforts, applicable provisions of those statutes, including, but not limited to, advertising and competitive bidding requirements, are suspended to the extent necessary to address the effects of the fires.
8. The Department of Forestry and Fire Protection, the California Department of Corrections and Rehabilitation, and the California Conservation Corps, shall use employees, corps members, inmate and ward labor, where appropriate, to protect public health, safety, and water quality on public lands or where otherwise requested by private property owners.

This Executive Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this Order shall be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this Order.

7. Proclamation / Executive Order Template

This skeleton template for an official proclamation or Executive Order has been provided as a structure upon which to base the development of an Executive Order that may be the result of the Regulation and Permit Waiver Process. A sample of an Executive Order may be found in Appendix C-2 as well as within the Sample Model Ordinance in Appendix C-1.

Put simply, the first part of the template requires that the situation necessitating the waiver or waiver be described in a summary fashion while still incorporating the details important to communicate the severity of the situation and need. The second part describes in detail the specific statutes that are to be adjusted and any other pertinent details, including the nature of the waiver (fee waiver, regulation set-aside, etc.) and the time frame in which the waiver is meant to apply.

WHEREAS <Insert Text>

This is where the current state of the situation is explained.

WHEREAS <Insert Text>

Make certain to identify the specific issue or issues that are going to be adjusted in this document.

WHEREAS <Insert Text>

Be certain to include all pertinent situational analysis and stakeholder / community needs in separate “Whereas” statements to be sure the issuing authority has the full picture.

NOW, THEREFORE, I, <Name of Official>, <Title>,

Then identify what specific statutes empower the official to make the modifications that are about to be made.

do hereby issue this Executive Order, effective immediately (or even retroactively), to mitigate the effects of the emergency due to <Insert emergency>

- At this point, list the specific statutes or pieces of legislation that are going to be adjusted. Provide a brief explanation of the purpose of each piece of legislation and exactly what modifications are being made.
- Group the modifications by particular areas of focus and divide them by numbers.
- If there is a limited time frame in which the waiver is intended to apply, include it here.

I FURTHER DIRECT THAT <insert text>

Include text that orders the filing of this material in the appropriate location with the appropriate authority

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8. Federal Emergency Management Agency (FEMA) Emergency Support Functions (ESFs) and Recovery Support Functions (RSFs)

8.1. FEMA Emergency Support Functions (ESFs)⁹

Emergency Support Function (EF)	Federal	Lead Agency	Scope	Corresponding California – Emergency Function (EF)
1	Transportation	Department of Transportation	Aviation/airspace management and control Transportation safety Restoration/recovery of transportation infrastructure Movement restrictions Damage and impact assessment	EF 1 – Transportation
2	Communications	DHS/NCS	Coordination with telecommunications and information technology industries Restoration and repair of telecommunications infrastructure Protection, restoration, and sustainment of national cyber and information technology resources Oversight of communications within the Federal incident management and response structures	EF 2 – Communications
3	Public Works and Engineering	DOD/USACE	Infrastructure protection and emergency repair Infrastructure restoration Engineering services and construction management Emergency contracting support for life-saving and life-sustaining services	EF 3 – Construction and Engineering
4	Firefighting	USDA/FS	Coordination of Federal firefighting activities Support to wildland, rural, and urban firefighting operations	EF 4 – Fire and Rescue

⁹ PDF Version document with this information can be found at:
http://www.fema.gov/media-library-data/20130726-1825-25045-0604/emergency_support_function_annexes_introduction_2008_.pdf

5	Emergency Management	DHS/FEMA	Coordination of incident management and response efforts Issuance of mission assignments Resource and human capital Incident action planning Financial management	EF 5 – Management
6	Mass Care, Emergency Assistance, Housing and Human Services	DHS/FEMA	Mass care Emergency assistance Disaster housing Human services	EF 6 – Care and Shelter
7	Logistics Management and Resource Support	DHS/FEMA GSA	Comprehensive, national incident logistics planning, management, and sustainment capability Resource support (facility space, office equipment and supplies, contracting services, etc.)	EF 7 – Resources
8	Public Health and Medical Services	HHS	Public health Medical Mental health services Mass fatality management	EF 8 – Public Health and Medical
9	Search and Rescue	DHS/FEMA DHS/USGC DOI	Life-saving assistance Search and rescue operations	EF 9 – Search and Recue

10	Oil and Hazardous Materials Response	DHS / UCSG FCC	Oil and hazardous materials (chemical, biological, radiological, etc.) response Environmental short- and long-term cleanup	EF 10 – Hazardous Materials
11	Agriculture and Natural Resources	USDA DOI	Nutrition assistance Animal and plant disease and pest response Food safety and security Natural and cultural resources and historic properties protection and restoration Safety and well-being of household pets	EF 11 – Food and Agriculture
12	Energy	DOE	Energy infrastructure assessment, repair, and restoration Energy industry utilities coordination Energy forecast	EF 12 – Utilities
13	Public Safety and Security	DOJ	Facility and resource security Security planning and technical resource assistance Public safety and security support Support to access, traffic, and crowd control	EF 13 – Law Enforcement
14	<i>See Recovery Support Functions</i>	<i>See Recovery Support Functions</i>	Replaced in FEMA National Disaster Recovery Framework with 6 <i>Recovery Support Functions</i>	N/A
15	External Affairs	DHS/FEMA	Emergency public information and protective action guidance Media and community relations Congressional and international affairs Tribal and insular affairs	EF 15 - Public Information

8.2. FEMA Recovery Support Functions (RSFs)

Recovery Support Functions (RSFs)	Federal	Agency	Mission
1	Community Planning and Capacity Building	FEMA	Supporting and building recovery capacities and community planning resources of local, State and Tribal governments needed to effectively plan for, manage and implement disaster recovery activities in large, unique or catastrophic incidents.
2	Economic	DOC	The mission of the Economic Recovery Support Function is to integrate the expertise of the Federal Government to help local, State and Tribal governments and the private sector sustain and/or rebuild businesses and employment, and develop economic opportunities that result in sustainable and economically resilient communities after large-scale and catastrophic incidents.
3	Health and Social Services	HHS	The Health and Social Services Recovery Support Function mission is for the Federal Government to assist locally-led recovery efforts in the restoration of the public health, health care and social services networks to promote the resilience, health and well-being of affected individuals and communities.
4	Housing Recovery	HUD	Address pre- and post-disaster housing issues and coordinate and facilitate the delivery of Federal resources and activities to assist local, State and Tribal governments in the rehabilitation and reconstruction of destroyed and damaged housing, whenever feasible, and development of other new accessible, permanent housing options.
5	Infrastructure Systems	USACE	Facilitate the integration of the capabilities of the Federal Government to support local, State and Tribal governments and other infrastructure owners and operators in their efforts to achieve recovery goals relating to the public engineering of the Nation’s infrastructure systems.
6	Natural and Cultural Resources	DOI	Integrate Federal assets and capabilities to help State and Tribal governments and communities address long-term environmental and cultural resource recovery needs after large-scale and catastrophic incidents.

PDF Version document with this information can be found at:

https://www.fema.gov/pdf/recoveryframework/community_planning_capacity_building_rsf.pdf

https://www.fema.gov/pdf/recoveryframework/economy_rsf.pdf

https://www.fema.gov/pdf/recoveryframework/health_social_services_rsf.pdf

https://www.fema.gov/pdf/recoveryframework/housing_rsf.pdf

https://www.fema.gov/pdf/recoveryframework/infrastructure_system_rsf.pdf

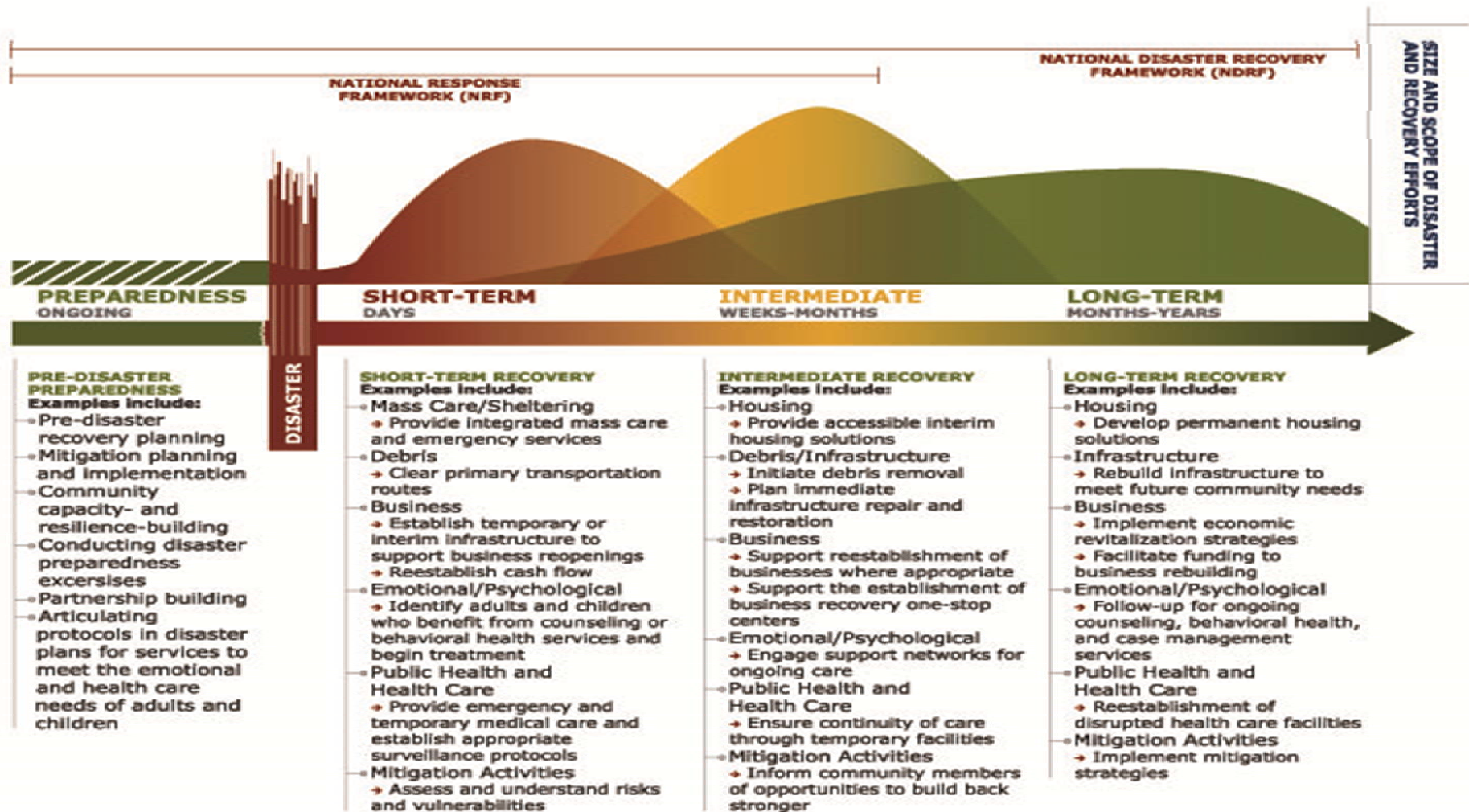
https://www.fema.gov/pdf/recoveryframework/natural_cultural_resources_rsf.pdf

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9. NDRF Recovery Continuum Activities by Phase

The full Recovery Continuum reprinted from the *National Disaster Recovery Framework* developed by the Federal Emergency Management Agency (FEMA) in September, 2011. is reprinted here. It is provided for ease-of-use by Emergency Managers when discussing and garnering buy-in from community stakeholders in the permit waiver process.

FIGURE 1. RECOVERY CONTINUUM – DESCRIPTION OF ACTIVITIES BY PHASE



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10. Glossary and Acronyms

All Hazards Approach	The approach where plans and actions are intended to address all prospective conditions instead of being designed to account for one particular disaster
APA	American Planning Association
CA	California
CalOES	California Office of Emergency Services
Capacity	A combination of all the strengths and resources available within a community, society or organization that can reduce the level of risk, or the effects of a disaster. (From the U N International Strategy for Disaster Reduction.)
Capacity Building	Efforts aimed to develop human skills or societal infrastructure within a community or organization needed to reduce the level of risk, or the effects of a disaster. (From the U.N. International Strategy for Disaster Reduction.)
Catastrophic Incident	Any natural or man-made incident, including terrorism that results in extraordinary levels of mass casualties, damage, or disruption severely affecting the population, infrastructure, environment, economy, national morale, and/or government functions. A catastrophic event could result in sustained national impacts over a prolonged period of; almost immediately exceeds resources normally available to local, State, Tribal, and private sector authorities in the impacted area; and significantly interrupts governmental operations and emergency services to such an extent that national security could be threatened.
CERT	Community Emergency Response Team
CFR	Code of Federal Regulations
Checklist	A list of items or actions used as a guide or reminder. In the case of this Waiver Toolkit, the <i>Checklist</i> refers to the <i>Disaster Recovery Permit and Regulation Waiver Process Checklist</i> .

Community	A network of individuals and families, businesses, governmental and nongovernmental organizations and other civic organizations that reside or operate within a shared geographical boundary and may be represented by a common political leadership at a regional, county, municipal or neighborhood level.
CRA	California Resiliency Alliance
Critical Infrastructure	Systems and assets, whether physical or virtual, so vital that the incapacity or destruction of such may have a debilitating impact on the security, economy, public health or safety, environment, or any combination of these matters, across any local, State, Tribal and Federal jurisdiction
Cultural Resources	Aspects of a cultural system that are valued by or significantly representative of a culture or that contain significant information about a culture. Cultural resources may be tangible entities or cultural practices. Tangible cultural resources are categorized as districts, sites, buildings, structures, and objects for the National Register of Historic Places and as archeological resources, cultural landscapes, structures, museum objects and archives, and ethnographic resources for Federal management purposes. Also includes cultural items as that term is defined in section 2(3) of the <i>Native American Graves Protection and Repatriation Act</i> [25 USC 3001(3)]; and archeological resources, as that term is defined in section 3(1) of the <i>Archaeological Resources Protection Act</i> of 1979 [16 USC 470bb(1)].
Debris	The remains of something broken down or destroyed.
DHS	Department of Homeland Security
DOD	Department of Defense
DOE	Department of Energy
DOI	Department of the Interior
DOT	Department of Transportation

EF	Emergency Function. A concept utilized by the California Office of Emergency Management in state emergency operations plans to group state agencies, departments, and other stakeholders with similar functional activities working together in a discipline-specific environment. It is a similar concept to the ESFs used by the Federal government.
EOC	Emergency Operations Center
EPA	Environmental Protection Agency
ESF	Emergency Support Function. Utilized by the Federal government and established in the NRF, Emergency Support Functions (ESFs) is the grouping of governmental and certain private sector capabilities into an organizational structure to provide support, resources, program implementation, and services that are most likely needed to save lives, protect property and the environment, restore essential services and critical infrastructure, and help victims and communities return to normal following domestic incidents. It is a similar concept to the EFs used by the California government.
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
GSA	General Services Administration
HHS	Department of Health and Human Services
Historic Properties	Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the National Register of Historic Places, including artifacts, records and material remains which are related to such district, site, building, structure, or object. [(16 USC Section 70(w)(5)].
HMGP	Hazard Mitigation Grant Program
HUD	Department of Housing and Urban Development
ICS	Incident Command System

Just-in-time	“Just-in-time” indicates that a particular resource or procedure is used as it is needed, likely immediately post-disaster, instead of being established earlier through a designated planning period, likely pre-disaster.
Major Disaster	As defined by the Stafford Act, any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought) or, regardless of cause, any fire, flood or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this act to supplement the efforts and available resources of local, State governments and disaster relief organizations in alleviating the damage, loss, hardship or suffering caused thereby.
Mitigation	Capabilities necessary to reduce loss of life and property by lessening the impact of disasters. Mitigation capabilities include, but are not limited to, community-wide risk reduction projects; efforts to improve the resilience of critical infrastructure and key resource lifelines; risk reduction for specific vulnerabilities from natural hazards or acts of terrorism; and initiatives to reduce future risks after a disaster has occurred.
Natural Resources	Land, fish, wildlife, biota and water. Water means salt and fresh water, surface and ground water used for drinking, irrigation, aquaculture and recreational purposes, as well as in its capacity as fish and wildlife habitat.
NCS	National Communications System
NDRF	The National Disaster Recovery Framework (NDRF) is a conceptual guide designed to ensure coordination and recovery planning at all levels of government before a disaster, and defines how we will work together, following a disaster, to best meet the needs of states, local and tribal governments and communities and individuals in their recoveries.
NGO	Non-governmental organizations
NIMS	National Incident Management System

NRF	The National Response Framework (NRF) is a guide to how the Nation responds to all types of disasters and emergencies. It is built on scalable, flexible, and adaptable concepts identified in the National Incident Management System to align key roles and responsibilities across the Nation.
Operational area	Specific geographic area that contains the primary effects of the disaster event
Recovery	Those capabilities necessary to assist communities affected by an incident to recover effectively, including, but not limited to, rebuilding infrastructure systems; providing adequate interim and long-term housing for survivors; restoring health, social, and community services; promoting economic development; and restoring natural and cultural resources.
Redevelopment	Rebuilding degraded, damaged or destroyed social, economic and physical infrastructure in a community, State or Tribal government to create the foundation for long-term development
Resilience	Ability to adapt to changing conditions and withstand and rapidly recover from disruption due to emergencies.
Response	Those capabilities necessary to save lives, protect property and the environment, and meet basic human needs after an incident has occurred.
Restoration	Returning a physical structure, essential government or commercial services or a societal condition back to a former or normal state of use through repairs, rebuilding or reestablishment,
RSF	The Recovery Support Functions, established by FEMA in the NDRF, groups long-term recovery efforts into similar functions with the purpose of supporting local governments by facilitating problem solving, improving access to resources and by fostering coordination among State and Federal agencies, nongovernmental partners and stakeholders.
RWQCB	San Francisco Regional Water Quality Control Board
SBA	Small Business Administration

Stakeholder	Individual either involved in the execution of an action or influenced by its effects
Sustainability	Meeting the needs of the present without compromising the ability of future generations to meet their own needs.
UASI	Urban Area Security Initiative
USACE	United States Army Corps of Engineers
Waiver	An exemption to or set-aside of current legislative statutes and procedures, usually temporary with a defined timeframe that the waiver is in effect unless given permanence through legislation
Whole Community	The approach to disaster management embracing all components of a community; public, private, and non-governmental

