City Council Meeting
02-23-26
Item 5.A.

Council Agenda Report

To: Mayor Silverstein and the Honorable Members of the City Council

Prepared by: Jorge Rubalcava, Senior Civil Engineer

Reviewed by: Tatiana Holden, Interim Public Works Director/City Engineer

Approved by: Robert DuBoux, Interim City Manager

Date prepared: February 4, 2026 Meeting date: February 23, 2026

Subject: Floodplain Management Ordinance

RECOMMENDED ACTION: 1) After the City Attorney reads the title, introduce on Ordinance No. 533 amending Malibu Municipal Code Chapter 15.20 to make technical amendments to the Floodplain Management Ordinance and finding the same exempt from the California Environmental Quality Act; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 533 for the March 9, 2026 City Council Regular Meeting.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

STRATEGIC PLAN IMPLEMENTATION: This item supports the City's 2025-2028 Strategic Plan. Goal 1: Support Community Rebuilding and Long-Term Recovery.

DISCUSSION: The National Flood Insurance Program (NFIP), administered through the Federal Emergency Management Agency (FEMA), makes federally subsidized flood insurance available in those cities that have adopted floodplain management regulations designed to prevent and mitigate flood damage. In order for City residents to be eligible to purchase the federally subsidized flood insurance, cities must adopt floodplain management regulations which meet or exceed the requirements set forth in Title 44 Part 60 of the Code of Federal Regulations. As a condition of continued eligibility in the NFIP, the City must also administer and enforce those regulations.

Under the NFIP, FEMA generally discourages the placement of septic systems in coastal floodplains. However, FEMA allows such installations when a certified engineer or architect demonstrates, through a city-approved variance, that the floodplain is the only

feasible location due to unique property characteristics such as lot size, geology or proximity to the shoreline.

Under the City's current process, variance approvals are time-intensive and require a public hearing before the City Council which can significantly delay an applicant's recovery efforts.

The proposed amendments to Chapter 15.20 are necessary to facilitate timely rebuilding following the January 2025 Palisades Fire, which damaged and destroyed more than 300 coastal properties including seawalls that protect residential septic systems. FEMA considers seawalls to be obstructions within the coastal floodplain. Therefore, the new installation of a seawall would require the approval of a floodplain variance by City Council.

An amendment to Chapter 15.20 includes changes that authorize the City Council to delegate authority to the Public Works Director, acting as the designated Floodplain Administrator, to issue expedited ministerial permits for variances for seawalls solely related to protecting septic systems. This change will streamline the approval process, maintain compliance with FEMA and NFIP requirements, and support efficient rebuilding for fire-impacted property owners.

Changes to Chapter 15.20 establish procedures for the Floodplain Administrator to grant variances to allow seawalls to be constructed for septic systems protection within the FEMA-designated coastal floodplain for the Palisades Fire rebuilds only (see Attachment 2). All other development projects outside of the Palisades Fire burn scar area would require a proposed variance to be approved by City Council. Changes are summarized as follows:

- 15.20.070 – Identifies the Floodplain Administrator as the Public Works Director to grant development permits including variances in accordance with Chapter 15.20.

- 15.20.080.A.6 - Defines the Floodplain Administrator's authority to ensure that variances for septic systems and associated seawall proposals within the Palisades Fire rebuild areas meet specific mandatory FEMA design and construction regulations.

- 15.20.190.B.2.D – States that decisions made by the Floodplain Administrator for variances for septic systems and associated seawalls may be appealed to City Council.

- 15.20.210.A – Establishes an expedited administrative process for issuance of variances for seawalls protecting septic systems associated with the Palisades Fire rebuilds to be i reviewed and approved by the Floodplain Administrator.

- 15.20.210.B - This section outlines the conditions for a variance for seawalls to protect septic systems.

- 15.20.210. B.10 – Prior to the issuance of a Certificate of Occupancy, the applicant shall submit a completed FEMA Elevation Certificate and obtain approval from the Floodplain Administrator.

Staff had numerous meetings with FEMA representatives to develop the proposed variance procedures and confirm that the City's Floodplain Management Ordinance remains compliant with the NFIP. As a result of these meetings, FEMA has reviewed the proposed amendments and expressed their support.

ATTACHMENTS:

1) Ordinance 533
2) Redlined Exhibit A of Ordinance No. 533

ORDINANCE NO. 533

AN ORDINANCE OF THE CITY OF MALIBU AMENDING MALIBU MUNICIPAL CODE CHAPTER 15.20 TO MAKE TECHNICAL AMENDMENTS TO THE FLOODPLAIN MANAGEMENT ORDINANCE AND FINDING THE SAME EXEMPT FOR THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does ordain as follows:

SECTION 1. Recitals

A. The National Flood Insurance Program (NFIP), administered by the Federal Emergency Management Agency (FEMA), provides federally subsidized flood insurance to property owners in participating communities that adopt and enforce floodplain management regulations meeting or exceeding the requirements of Title 44, Part 60 of the Code of Federal Regulations.

B. City of Malibu's continued participation in the NFIP is necessary to ensure that City residents remain eligible to purchase federally subsidized flood insurance, and requires the City to administer and enforce floodplain management regulations in compliance with FEMA requirements.

C. FEMA generally discourages the placement of septic systems within coastal floodplains but allows such installations where a registered engineer or architect demonstrates, through a City-approved variance, that the floodplain is the only feasible location due to unique site characteristics, including lot size, geology, or proximity to the shoreline.

D. Under the City of Malibu's existing floodplain management procedures, approval of variances requires a public hearing before the City Council, which can be time-intensive and may significantly delay rebuilding and recovery efforts.

E. In January 2025, the Palisades Fire damaged or destroyed more than 300 coastal properties, including seawalls that protect residential septic systems, creating an urgent need for timely rebuilding within FEMA-designated coastal floodplains.

F. City of Malibu seeks to facilitate efficient rebuilding for Palisades Fire–impacted properties while maintaining full compliance with FEMA and NFIP requirements.

G. The proposed amendments to Chapter 15.20 authorize the City Council to delegate authority to the Public Works Director, acting as the designated Floodplain Administrator, to issue expedited ministerial permits for variances limited to septic systems and associated seawalls constructed solely to protect the operation of septic systems for Palisades Fire rebuilds.

SECTION 2. California Environmental Quality Act.

The City Council hereby finds that adoption of the Ordinance is exempt from the California Environmental Quality Act ("CEQA") under the Class 7 Categorical Exemption for actions taken to assure protection of natural resources (CEQA Guideline 15307) and the Class 8 exemption for

protection of the environment (CEQA Guideline 15308). An ordinance for the protection of life and property and protection of the environment is also covered by the common sense exemption that CEQA only applies to projects which have the potential for causing significant effects on the environment. (CEQA Guideline 15061(b)(3).)

SECTION 3. Code Amendment.

Chapter 15.20, entitled, "Floodplain Management", of the Malibu Municipal Code is hereby amended and restated in its entirety as provided in Exhibit "A" attached hereto and incorporated herein by reference.

SECTION 4. Effective Date.

This ordinance shall take effect 30 days following adoption by the City Council.

SECTION 5. Severability.

Should any provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole or any remaining provisions hereof. The City Council of the City of Malibu hereby declares that it would have adopted this Ordinance despite any partial invalidity of its provisions.

SECTION 6. Certification.

The City Clerk shall certify to the passage and adoption of this Ordinance.

PASSED, APPROVED AND ADOPTED this ____ day of ____ 2026.

_____
BRUCE SILVERSTEIN, Mayor

ATTEST:

_____
KELSEY PETTIJOHN, City Clerk
(seal)

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

_____
TREVOR RUSIN, Interim City Attorney

EXHIBIT A

Chapter 15.20.

FLOODPLAIN MANAGEMENT

Sections:

15.20.005 Statutory Authorization
15.20.010 Intent.
15.20.020 Purpose.
15.20.030 Methods of reducing flood losses.
15.20.040 Definitions.
15.20.050 Lands to which this chapter applies.
15.20.060 Establishment of development permit.
15.20.070 Designation of the floodplain administrator.
15.20.080 Duties and responsibilities of the floodplain administrator.
15.20.090 Appeals.
15.20.100 Standards of construction.
15.20.110 Standards for utilities.
15.20.120 Standards for subdivisions.
15.20.130 Standards for manufactured homes and mobile homes.
15.20.140 Standards for recreational vehicles.
15.20.150 Coastal high hazard areas.
15.20.160 Mudslide (i.e., mudflow) prone areas.
15.20.170 Flood-related erosion-prone areas.
15.20.180 Nature of variances.
15.20.190 Appeal board.
15.20.200 Conditions for variances.
15.20.210 Special Variance Provisions for Seawalls to Protect Septic Systems

15.20.005 Statutory Authorization

The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Malibu of Los Angeles County does hereby adopt the following floodplain management regulations.

15.20.010 Intent.

A. The flood hazard areas of the city are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. These flood losses can be caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities can also contribute to the flood loss.

15.20.020 Purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

A. Protect human life and health;

B. Minimize expenditure of public money for costly flood control projects;

C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. Minimize prolonged business interruptions;

E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;

F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;

G. Ensure that potential buyers and property owners are notified that property is in an area of special flood hazard; and

H. Ensure that those who occupy areas of special flood hazard assume responsibility for their actions.

15.20.030 Methods of reducing flood losses.

To accomplish its purposes, this chapter includes methods and provisions to:

A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;

B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

D. Control filling, grading, dredging, and other development which may increase flood damage; and

E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

15.20.040 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

“Accessory Structure” means a structure that is either:

1. Solely for the parking of no more than 2 cars; or
2. A small, low cost shed for limited storage, less than 150 square feet and $1,500 in value.

“Accessory use” means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

“Appeal” means a request for a review of the floodplain administrator’s interpretation of any provision of this chapter.

"Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Insurance Rate Map (FIRM).

Area of Special Flood Hazard. See "Special flood hazard area."

"Base flood" means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "one hundred (100) year flood") based on a clear flow. "Base flood" is the term used throughout this chapter.

"Basement" means any area of the building having its floor subgrade, i.e., below ground level on all sides.

"Breakaway walls" are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

"Building." See "Structure."

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundations or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE, or V.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"Development permit" means plot plan, site plan or conditional use permit.

"Encroachment" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

"Existing mobile home or manufactured home park or subdivision" means a mobile home or manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before March 28, 1994.

"Expansion to an existing mobile home or manufactured home park or subdivision" means the preparation of additional sites in an existing park by the construction of facilities for servicing

the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood, flooding, or flood water" means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides; and

2. The condition resulting from flood-related erosion, see "Flood-related erosion".

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source, see "Flooding."

"Floodplain administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"Floodplain management regulations" means this chapter and planning and zoning regulations, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

"Flood-related erosion" means the collapse or subsidence of land along the beach or the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

"Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the beach or the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

"Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.

"Fraud and victimization" as related to Sections 15.20.180 through 15.20.200, variances, of this chapter, means that the variance granted must not cause fraud on or victimization of the public.

In examining this requirement, the city council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty (50) to one-hundred (100) years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

"Governing body" is the city council of the city of Malibu.

"Hardship" as related to Sections 15.20.180 through 15.20.210, variances, of this chapter means the exceptional hardship that would result from a failure to grant the requested variance. The city requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic presentation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states with approved programs.

"Levee" means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or

storage in an area other than a basement area (see "Basement") is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter. (Note: This definition allows attached garages to be built at grade. Below grade garages are not allowed as they are considered to be basements.)

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"New construction," for floodplain management purposes, means structures for which the start of construction commenced on or after March 28, 1994, and includes any subsequent improvements to such structures.

"New mobile home or manufactured home park or subdivision" means a mobile home or manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after March 28, 1994.

"Obstruction" does not include caissons or pilings, but includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

"One-Hundred Year Flood" or "100-year flood." See "Base flood."

"Primary frontal dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

"Principal structure" means a structure used for the principal use of the property on which it is located.

"Public safety and nuisance" as related to Sections 15.20.180 through 15.20.210, variances, of this chapter means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational vehicle" means a vehicle which is:

1. Built on a single chassis;

2. Four hundred (400) square feet or less when measured at the largest horizontal projection;

3. Designed to be self-propelled or permanently towable by a light-duty truck; and

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Sheet Flow Area." See "Area of shallow flooding."

"Special flood hazard area (SFHA)" means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on a FIRM as Zone A, AO, A1-A30, AE, A99, AH, E, M, V1-V30, VE or V.

"Start of construction" (with reference to substantial improvement and other proposed new development) means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within one hundred eighty (180) days from the date of the permit. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the building official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a historic structure; provided that the alteration will not preclude the structure's continued designation as a historic structure.

V zone. See "Coastal high hazard area."

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

"Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. "Watercourse" includes specifically designated areas in which substantial flood damage may occur.

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

15.20.050 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city.

A. Basis for Establishing Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the Los Angeles County Flood Insurance Study (FIS), dated July 6, 1998, and accompanying Flood Insurance Rate Maps (FIRMs), and all subsequent amendments and/or revisions are adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation and which are recommended to the city council by the floodplain administrator. The FIS and FIRMs are on file at City Hall, public works department.

B. Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the requirements of this chapter (including violations of conditions and safeguards established in connection with conditions of permits issued hereunder) shall constitute a misdemeanor. Nothing herein shall prevent the city council from taking such lawful action as is necessary to prevent or remedy any violation.

C. Applicability. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another chapter, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

D. Interpretation. In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the city; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

E. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, the state of California, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

F. Severability. This chapter and the various parts thereof are declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such

decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

15.20.060 Establishment of development permit.

A development permit shall be obtained before any construction or other development begins within any area of special flood hazard established in Section 15.20.050. Application for a development permit shall be made on forms furnished by the floodplain administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required.

A. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures in Zones AE, AO, Approximate A, and VE, elevation of highest adjacent grade and proposed elevation of lowest floor, including basement, of all structures; or

B. Proposed elevation in relation to mean sea level to which any structure will be floodproofed, if required in Section 15.20.100(C)(3); and

C. All appropriate certifications listed in Section 15.20.100(C) of this chapter; and

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

E. For a crawl-space foundation, location and total net area of flood vent foundation openings as required in Section 15.20.100 of this ordinance.

F. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

15.20.070 Designation of the floodplain administrator.

The Floodplain Administrator shall administer, implement, and enforce this chapter by granting or denying development permits in accord with its provisions. .

15.20.080 Duties and responsibilities of the floodplain administrator.

The duties and responsibilities of the floodplain administrator shall include, but not be limited to the following:

A. Permit Review. Review all development permits to determine that:

1. Permit requirements of this chapter have been satisfied including determination of substantial improvement and substantial damage of existing structures;

2. All other required state and federal permits have been obtained; and

3. The site is reasonably safe from flooding.

4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the city of Malibu; and

5. All letters of Map Revision (LOMR's) flood control projects are approved prior to issuance of building permits. Building permits must not be issued based on conditional letters of map revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

6. The Floodplain Administrator shall have the authority to grant variances for properties within the effective FEMA FIRM coastal high hazard VE Zone flood zone for the construction of new and substantial improvement repairs to seawalls that are specifically intended to protect septic systems from potential wave runup damage and scouring related to the Pacific Palisades Fire rebuild projects. This authority shall be exercised in accordance with Sections 15.20.180 through 15.20.210. The granting of a variance shall be conditional upon the septic system and seawall being the smallest size and their placement as landward as possible, may not be utilized for structural support of the building, minimizes the obstruction to flood flow as much as possible, will not result in increased flood heights to the effective FEMA FIRM, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances. The granting of a variance shall be deemed to be the minimum necessary, considering the flood hazard, to afford relief to the property.

B. Development of Substantial Improvement and Substantial Damage Procedures.

1. Using FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings," develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value."

2. Assure procedures are coordinated with other departments/divisions and implemented by community staff.

C. Review and Use of Any Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 15.20.050(B), the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Section 15.20.060. Any such information shall be submitted to the city council for adoption prior to its use.

D. Notification of Other Agencies. In alteration or relocation of a watercourse:

1. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;

2. Submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency; and

3. Assure that the flood-carrying capacity within the altered or relocated portion of the watercourse is maintained.

4. Base Flood Elevation changes due to physical alterations:

   a. Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).

   b. All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

5. Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

E. Documentation of Floodplain Development. Obtain and maintain for public inspection and make available as needed the following:

1. Certification required by Section 15.20.100(C)(1) (lowest floor elevations);
2. Certification required by Section 15.20.100(C)(2) (elevation or floodproofing of nonresidential structures);
3. Certification required by Section 15.20.100(C)(3) (wet floodproofing standard);
4. Certification of elevation required by Section 15.20.120(B) (subdivision standards);
5. Certification required by Section 15.20.175(B) (floodway encroachments);
6. Information required by Section 15.20.150(F) (coastal construction standards); and
7. Reports required by Section 15.20.160(D) (mudflow standards); and
8. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency

F. Map Determinations. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, for example, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Sections 15.20.180 through 15.20.210.

G. Remedial Action. Take action to remedy violations of this chapter as specified in Section 15.20.050(B).

15.20.090 Appeals.

The city council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.

15.20.100 Standards of construction.

In all areas of special flood hazards the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. All mobile homes and manufactured homes shall meet the anchoring standards of Section 15.20.130.

B. Construction Materials and Methods. All new construction and substantial improvement shall be constructed:

1. With materials and utility equipment resistant to flood damage;
2. Using methods and practices that minimize flood damage;
3. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and if
4. Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

C. Elevation and floodproofing. (See Section 15.20.040, definitions for "new construction," "substantial damage" and "substantial improvement".)

1. Residential construction, new or substantial improvement, shall have the lowest floor, including basement;

a. In an AO zone, the lowest floor including basemen shall be elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM by at least one foot, or elevated at least three feet above the highest adjacent grade if no depth number is specified;

b. In a VE zone, the lowest horizontal support member shall be elevated to at least one foot above the base flood elevation, shown on the effective FIRM;

c. In all other zones, including Zone AE and the Unnumbered/Approximate Zone A, the lowest floor including basement shall be elevated to at least one foot above the base flood elevation shown on the effective FIRM.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, or verified by the building official to be properly elevated. Such certification or verification shall be provided to the floodplain administrator.

2. Nonresidential construction shall either be elevated to conform with subsection (C)(1) of this section or, together with attendant utility and sanitary facilities,

a. Be floodproofed below the elevation recommended under subsection (C)(1) so that the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

c. Be certified by a registered professional civil engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator.

3. All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must exceed the following minimum criteria:

a. Be certified by a registered professional civil engineer or architect;

b. Be certified to comply with a local floodproofing standard approved by the Federal Insurance Administration, Federal Emergency Management Agency; or

c. Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above adjacent natural grade. Openings may be

equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

4. Manufactured homes and mobile homes shall also meet the standards in Section 15.20.130.

15.20.105 **Standards for Garages and low-cost accessory structures**

A. "Accessory structures" used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section 15.20.40 may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:

1. Use of the accessory structure must be limited to parking or limited storage;

2. The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
3. The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;

4. Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;

5. The accessory structure must comply with floodplain encroachment provisions in Section 15.20.150, and

6. The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 15.20.100

B. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 15.20.100.

15.20.110 Standards for utilities.

A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:

1. Infiltration of flood waters into the systems; and
2. Discharge from the systems into flood waters.

B. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

15.20.120 Standards for subdivisions.

A. All preliminary subdivision proposals shall identify the special flood hazard area and the elevation of the base flood.

B. All subdivision plans shall provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the lowest floor, pad elevations, and lowest adjacent

grade shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator.

C. All subdivision proposals shall be consistent with the need to minimize flood damage.

D. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

E. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

15.20.130 Standards for manufactured homes and mobile homes.

A. All manufactured homes and mobile homes that are placed or substantially improved, within Zones A1-30, AH, AE, V, and VE on the city's Flood Insurance Rate Map, on sites located.

1. Outside of a manufactured home or mobile home park or subdivision;
2. In a new manufactured home or mobile home park or subdivision;
3. In an expansion to an existing manufactured home or mobile home park or subdivision; or
4. In an existing manufactured home or mobile home park or subdivision on a site upon which a manufactured home or mobile home has incurred substantial damage as the result of a flood; shall be elevated on a permanent foundation such that the lowest floor of the manufactured home or mobile home is elevated to at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation collapse and lateral movement.

B. All manufactured homes or mobile homes that are placed or substantially improved on sites located within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of subsection A of this section and Section 15.20.160.

C. All manufactured homes or mobile homes to be placed or substantially improved on sites in an existing manufactured home or mobile home park or subdivision within Zones A1-30, AR, AE, V1-30, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of subsection A of this section will be elevated so that either the:

1. Lowest floor of the manufactured home or mobile home is at least one foot above the base flood elevation; or
2. Manufactured home or mobile home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

15.20.140 Standards for recreational vehicles.

A. All recreational vehicles placed on sites within Al-30, AH, AE, V, and VE on the city's Flood Insurance Rate Map will either:

1. Be on the site for fewer than one hundred eighty (180) consecutive days;

2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

3. Meet the permit requirements of Sections 15.20.060 through 15.20.090 of this chapter and the elevation and anchoring requirements for manufactured homes or mobile homes in Section 15.20.130(A).

B. Recreation vehicles placed on sites within Zones V1-30, V, and VE on the city's Flood Insurance Rate Map will meet the requirements of subsection A of this section and Section 15.20.160.

15.20.150 Coastal high hazard areas.

Within coastal high hazard areas, Zone VE, as established under Section 15.20.050(A), the following standards shall apply.

A. All new construction and substantial improvement shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by the building code.

B. All new construction and substantial improvement shall be located on the landward side of the average mean high tide line.

C. All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Section 15.20.040 of this chapter. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.

D. Fill shall not be used for structural support of buildings.

E. Manmade alteration of sand dunes which would increase potential flood damage is prohibited.

F. Seawalls designed and constructed for the sole purpose of protecting septic systems from wave runup and scouring shall be subject to the variance requirements defined in Sections 15.20.180 through 15.20.210.

G. The floodplain administrator shall obtain and maintain the following records:

1. Certification by a registered engineer or architect that a proposed structure complies with Section 15.20.160(A);

2. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

15.20.160 Mudslide (i.e., mudflow) prone areas.

A. The floodplain administrator shall review permits for proposed construction or other development to determine if it is proposed within a mudslide area.

B. Permits shall be reviewed to determine that the proposed site and improvement will be reasonably safe from mudslide hazards. Factors to be considered in making this determination include but are not limited to the:

1. Type and quality of soils;
2. Evidence of ground water or surface water problems;
3. Depth and quality of any fill;
4. Overall slope of the site; and
5. Weight that any proposed development will impose on the slope.

C. Within areas which may have mudslide hazards, the floodplain administrator shall require that:

1. A site investigation and further review be made by persons qualified in geology and soils engineering;
2. The proposed grading, excavation, new construction, and substantial improvement be adequately designed and protected against mudslide damages;
3. The proposed grading, excavations, new construction, and substantial improvement not aggravate the existing hazard by creating either on-site or off-site disturbances; and
4. Drainage, planting, watering, and maintenance not endanger slope stability.

15.20.170 Flood-related erosion-prone areas.

A. The floodplain administrator shall require permits for proposed construction and other development within all flood-related erosion-prone areas as known to the city.

B. Permit applications shall be reviewed to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing hazard.

C. If a proposed improvement is found to be in the path of flood-related erosion or would increase the erosion hazard, such improvement shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.

D. Within Zone E on the Flood Insurance Rate Map, a setback is required for all new development from the ocean, lake, bay, riverfront or other body of water to create a safety buffer consisting of a natural vegetative or contour strip. This buffer shall be designated according to the flood-related erosion hazard and erosion rate, in relation to the anticipated useful life of structures, and depending upon the geologic, hydrologic, topographic, and climactic characteristics of the land. The buffer may be used for suitable open space purposes, such as for agricultural, forestry, outdoor

recreation and wildlife habitat areas, and for other activities using temporary and portable structures only.

15.20.175 Floodways

Since floodways are an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Until a regulatory floodway is adopted, no new construction, substantial development, or other development, including fill, shall be permitted within an Approximate/Unnumbered Zone A and in Zones A1-30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the city of Malibu.

B**.** Within an adopted regulatory floodway, the City of Malibu shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

C**.** If subsections A & B are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Section 15.20.100 to 15.20.170.

15.20.180 Nature of variances.

The variance criteria set forth in this section of the chapter are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the city council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in this chapter are quite rare. .

A variance for the construction or substantial improvement repair to a seawall that is intended only for the protection of a septic system may be issued by the Floodplain Administrator conditional upon the provisions and requirements set out in 15.20.200 and 15.20.210.

15.20.190 Appeal board.

A. In passing upon requests for variances, the city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and the:

1. Danger that materials may be swept onto other lands to the injury of others;
2. Danger of life and property due to flooding or erosion damage;
3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
4. Importance of the services provided by the proposed facility to the city;
5. Necessity to the facility of a waterfront location, where applicable;
6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. Safety of access to the property in time of flood for ordinary and emergency vehicles;
10. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

B. Any applicant to whom a variance is granted shall be given written notice over the signature of the floodplain administrator that:
1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars ($25.00) for one hundred dollars ($100.00) of insurance coverage; and
2. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the floodplain administrator in the office of the registrar recorder of Los Angeles County and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land; and

C. The floodplain administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency. .

D. Variances for Septic Systems and Seawalls to Protect Septic Systems.
Decisions made by the Floodplain Administrator under the authority granted in Section 15.20.070 may be appealed directly to the City Council if necessary. Variances granted for seawalls intended specifically to protect septic systems shall be processed on an expedited basis.

15.20.200 Conditions for variances.

A. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 15.20.060 to 15.20.090 and Sections 15.20.100 to 15.20.180 of this chapter have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in Section 15.20.040 of this chapter) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

C. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the city council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the city council believes will both provide relief and preserve the integrity of this chapter.

E. Variances shall only be issued upon a:

1. Showing of good and sufficient cause pertaining to unusual characteristics of the property;
2. Determination that failure to grant the variance would result in exceptional "hardship" (as defined in Section 15.20.040 of this chapter) to the applicant; and
3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (as defined in Section 15.20.040, see "Public safety or nuisance"), cause fraud or victimization (as defined in Section 15.20.040) of the public, or conflict with existing local laws or ordinances.

F. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of subsections A through E of this section are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

G. Upon consideration of the factors and purposes of this chapter, the city council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

15.20.210 Special Variance Provisions for Seawalls to Protect Septic Systems.

A. Expedited Variances.

The construction of new or substantial improvement repairs to seawalls specifically intended to protect septic systems from wave runup and scouring **when associated with Pacific Palisades Fire rebuilds** are eligible for expedited variances facilitate and timely development permit approvals. To facilitate this, the City Council has authorized the Floodplain Administrator to grant variances on their behalf, solely for septic systems and seawalls that protect the operation of septic systems **related to Pacific Palisades Fire rebuild projects**.

B. Conditions for Variances for Seawalls to Protect Septic Systems

All conditions for variances defined in Section 15.20.200 shall be met including the following.

1. The applicant has submitted a completed "City of Malibu Floodplain Variance for Septic System Seawalls" application for review and approval by the Floodplain Administrator, prior to the commencement of any construction activity on the property.

2. The septic system and seawall shall be designed and certified by a registered engineer or architect.

3. The design and construction or repair of the seawall will not result in any increase to the effective FEMA FIRM coastal high hazard V/ VE Zone flood heights to the property or to surrounding properties.

4. The septic system and seawall shall be the smallest size and their placement as landward as possible.

5. The design and construction of the seawall may not be utilized for structural support of the building.

6. The design and construction of the seawall shall minimize the obstruction to flood flow as much as possible,

7. The septic system and seawall must comply with all the following regulatory requirements:

7.1 The location of the septic system and seawall shall comply with the NFIP development requirements of the FEMA flood zone as shown on the effective Flood Insurance Rate Map and Flood Insurance Study.

7.2 Meet all applicable federal, state, and local safety requirements, ordinances and building regulations.

7.3 Comply with all applicable provisions of Chapter 15 – Building and Construction of the Municipal Code, including but not limited to floodplain management regulations, construction standards, and development permitting requirements.

8. The Floodplain Administrator has determined that granting of the variance is the minimum necessary, considering the flood hazard, to afford relief to the property.

9. All approved variances under 15.20.210 must be recorded with the Los Angeles County Recorder's Office and include a notarized acknowledgment by the property owner. The recorded document shall indicate that the variance pertains only to the property, is granted specifically for the construction or substantial improvement repairs to the septic system seawall only and does not constitute an exemption from future floodplain management regulations.

10. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit a completed FEMA Elevation Certificate and obtain approval from the Floodplain Administrator.

Chapter 15.20.

FLOODPLAIN MANAGEMENT

Sections:

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15.20.005 Statutory Authorization

The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Malibu of Los Angeles County does hereby adopt the following floodplain management regulations.

15.20.010 Intent.

A. The flood hazard areas of the city are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. These flood losses can be caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities can also contribute to the flood loss.

15.20.020 Purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

A. Protect human life and health;

B. Minimize expenditure of public money for costly flood control projects;

C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. Minimize prolonged business interruptions;

E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;

F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;

G. Ensure that potential buyers and property owners are notified that property is in an area of special flood hazard; and

H. Ensure that those who occupy areas of special flood hazard assume responsibility for their actions. (

15.20.030 Methods of reducing flood losses.

To accomplish its purposes, this chapter includes methods and provisions to:

A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;

B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

D. Control filling, grading, dredging, and other development which may increase flood damage; and

E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

15.20.040 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

“Accessory Structure” means a structure that is either:

1. Solely for the parking of no more than 2 cars; or
2. A small, low cost shed for limited storage, less than 150 square feet and $1,500 in value.

“Accessory use” means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

“Appeal” means a request for a review of the floodplain administrator’s interpretation of any provision of this chapter.

“Area of shallow flooding” means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Insurance Rate Map (FIRM).

Area of Special Flood Hazard. See "Special flood hazard area."

"Base flood" means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "one hundred (100) year flood") based on a clear flow. "Base flood" is the term used throughout this chapter.

"Basement" means any area of the building having its floor subgrade, i.e., below ground level on all sides.

"Breakaway walls" are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

"Building." See "Structure."

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundations or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE, or V.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"Development permit" means plot plan, site plan or conditional use permit.

"Encroachment" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

"Existing mobilehome or manufactured home park or subdivision" means a mobilehome or manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before March 28, 1994.

"Expansion to an existing mobilehome or manufactured home park or subdivision" means the preparation of additional sites in an existing park by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood, flooding, or flood water" means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides; and

2. The condition resulting from flood-related erosion, see "Flood-related erosion".

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source, see "Flooding."

"Floodplain administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"Floodplain management regulations" means this chapter and planning and zoning regulations, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

"Flood-related erosion" means the collapse or subsidence of land along the beach or the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

"Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the beach or the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

"Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.

"Fraud and victimization" as related to Sections 15.20.180 through 15.20.200, variances, of this chapter, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the city council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty (50) to one-hundred (100) years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

"Governing body" is the city council of the city of Malibu.

"Hardship" as related to Sections 15.20.180 through **15.20.210,** variances, of this chapter means the exceptional hardship that would result from a failure to grant the requested variance. The city requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic presentation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states with approved programs.

"Levee" means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area (see "Basement") is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter. (Note: This definition allows attached garages to be built at grade. Below grade garages are not allowed as they are considered to be basements.)

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"New construction," for floodplain management purposes, means structures for which the start of construction commenced on or after March 28, 1994, and includes any subsequent improvements to such structures.

"New mobilehome or manufactured home park or subdivision" means a mobilehome or manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after March 28, 1994.

"Obstruction" does not include caissons or pilings, but includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

"One-Hundred Year Flood" or "100-year flood." See "Base flood."

"Primary frontal dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

"Principal structure" means a structure used for the principal use of the property on which it is located.

"Public safety and nuisance" as related to Sections 15.20.180 through **15.20.210,** variances, of this chapter means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational vehicle" means a vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Sheet Flow Area." See "Area of shallow flooding."

"Special flood hazard area (SFHA)" means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on a FIRM as Zone A, AO, A1-A30, AE, A99, AH, E, M, V1-V30, VE or V.

"Start of construction" (with reference to substantial improvement and other proposed new development) means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within one hundred eighty (180) days from the date of the permit. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied

as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the building official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a historic structure; provided that the alteration will not preclude the structure's continued designation as a historic structure.

V zone. See "Coastal high hazard area."

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

"Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. "Watercourse" includes specifically designated areas in which substantial flood damage may occur.

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

15.20.050 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city.

A. Basis for Establishing Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the Los Angeles County Flood Insurance Study (FIS), dated July 6, 1998, and accompanying Flood Insurance Rate Maps (FIRMs), and all subsequent amendments and/or revisions are adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation and which are recommended to the city council by the floodplain administrator. The FIS and FIRMs are on file at City Hall, public works department.

B. Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the requirements of this chapter (including violations of conditions and safeguards established in connection with conditions of permits issued hereunder) shall constitute a misdemeanor. Nothing herein shall prevent the city council from taking such lawful action as is necessary to prevent or remedy any violation.

C. Applicability. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another chapter, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

D. Interpretation. In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the city; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

E. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, the state of California, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

F. Severability. This chapter and the various parts thereof are declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

15.20.060 Establishment of development permit.

A development permit shall be obtained before any construction or other development begins within any area of special flood hazard established in Section 15.20.050. Application for a development permit shall be made on forms furnished by the floodplain administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required.

A. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures in Zones AE, AO, Approximate A, and VE, elevation of highest adjacent grade and proposed elevation of lowest floor, including basement, of all structures; or

B. Proposed elevation in relation to mean sea level to which any structure will be floodproofed, if required in Section 15.20.100(C)(3); and

C. All appropriate certifications listed in Section 15.20.100(C) of this chapter; and

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

E. For a crawl-space foundation, location and total net area of flood vent foundation openings as required in Section 15.20.100 of this ordinance.

F. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

15.20.070 Designation of the floodplain administrator.

The Floodplain Administrator shall administer, implement, and enforce this chapter by granting or denying development permits in accord with its provisions.

15.20.080 Duties and responsibilities of the floodplain administrator.

The duties and responsibilities of the floodplain administrator shall include, but not be limited to the following:

A. Permit Review. Review all development permits to determine that:

1. Permit requirements of this chapter have been satisfied including determination of substantial improvement and substantial damage of existing structures;

2. All other required state and federal permits have been obtained; and

3. The site is reasonably safe from flooding.

4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the city of Malibu; and

5. All letters of Map Revision (LOMR's) flood control projects are approved prior to issuance of building permits. Building permits must not be issued based on conditional letters of map revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

6. The Floodplain Administrator shall have the authority to grant variances for properties within the effective FEMA FIRM coastal high hazard VE Zone flood zone for the construction of new and substantial improvement repairs to seawalls that are specifically intended to protect septic systems from potential wave runup damage and scouring related to the Pacific Palisades Fire rebuild projects. This authority shall be exercised in accordance with Sections 15.20.180 through 15.20.210. The granting of a variance shall be conditional upon the septic system and seawall being the smallest size and their placement as landward as possible, may not be utilized for structural support of the building, minimizes the obstruction to flood flow as much as possible, will not result in increased flood heights to the effective FEMA FIRM, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances. The granting of a variance shall be deemed to be the minimum necessary, considering the flood hazard, to afford relief to the property.

B. Development of Substantial Improvement and Substantial Damage Procedures.

1. Using FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings," develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value."

2. Assure procedures are coordinated with other departments/divisions and implemented by community staff.

C. Review and Use of Any Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 15.20.050(B), the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Section 15.20.060. Any such information shall be submitted to the city council for adoption prior to its use.

D. Notification of Other Agencies. In alteration or relocation of a watercourse:

1. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;

2. Submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency; and

3. Assure that the flood-carrying capacity within the altered or relocated portion of the watercourse is maintained.

4. Base Flood Elevation changes due to physical alterations:

   a. Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).

   b. All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

   Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

5. Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

E. Documentation of Floodplain Development. Obtain and maintain for public inspection and make available as needed the following:

1. Certification required by Section 15.20.100(C)(1) (lowest floor elevations);
2. Certification required by Section 15.20.100(C)(2) (elevation or floodproofing of nonresidential structures);
3. Certification required by Section 15.20.100(C)(3) (wet floodproofing standard);
4. Certification of elevation required by Section 15.20.120(B) (subdivision standards);
5. Certification required by Section 15.20.175(B) (floodway encroachments);
6. Information required by Section 15.20.150(F) (coastal construction standards); and
7. Reports required by Section 15.20.160(D) (mudflow standards); and
8. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency

F. Map Determinations. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, for example, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Sections 15.20.180 through **15.20.210.**

G. Remedial Action. Take action to remedy violations of this chapter as specified in Section 15.20.050(B).

15.20.090 Appeals.

The city council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.

15.20.100 Standards of construction.

In all areas of special flood hazards the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

2. All mobilehomes and manufactured homes shall meet the anchoring standards of Section 15.20.130.

B. Construction Materials and Methods. All new construction and substantial improvement shall be constructed:

1. With materials and utility equipment resistant to flood damage;

2. Using methods and practices that minimize flood damage;

3. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and if

4. Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

C. Elevation and floodproofing. (See Section 15.20.040, definitions for “new construction,” “substantial damage” and “substantial improvement”.)

1. Residential construction, new or substantial improvement, shall have the lowest floor, including basement;

a. In an AO zone, the lowest floor including basemen shall be elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM by at least one foot, or elevated at least three feet above the highest adjacent grade if no depth number is specified;

b. In a VE zone, the lowest horizontal support member shall be elevated to at least one foot above the base flood elevation, shown on the effective FIRM;

c. In all other zones, including Zone AE and the Unnumbered/Approximate Zone A, the lowest floor including basement shall be elevated to at least one foot above the base flood elevation shown on the effective FIRM.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, or verified by the building official to be properly elevated. Such certification or verification shall be provided to the floodplain administrator.

2. Nonresidential construction shall either be elevated to conform with subsection (C)(1) of this section or, together with attendant utility and sanitary facilities,

a. Be floodproofed below the elevation recommended under subsection (C)(1) so that the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

c. Be certified by a registered professional civil engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator.

3. All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and

which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must exceed the following minimum criteria:

a. Be certified by a registered professional civil engineer or architect;

b. Be certified to comply with a local floodproofing standard approved by the Federal Insurance Administration, Federal Emergency Management Agency; or

c. Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above adjacent natural grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

4. Manufactured homes and mobilehomes shall also meet the standards in Section 15.20.130.

15.20.105 Standards for Garages and low-cost accessory structures

A. "Accessory structures" used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section 15.20.40 may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:

1. Use of the accessory structure must be limited to parking or limited storage;

2. The portions of the accessory structure located below the BFE must be built using flood-resistant materials;

3. The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;

4. Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;

5. The accessory structure must comply with floodplain encroachment provisions in Section 15.20.150, and

6. The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 15.20.100

B. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 15.20.100.

15.20.110 Standards for utilities.

A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:

1. Infiltration of flood waters into the systems; and

2. Discharge from the systems into flood waters.

B. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

15.20.120 Standards for subdivisions.

A. All preliminary subdivision proposals shall identify the special flood hazard area and the elevation of the base flood.

B. All subdivision plans shall provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the lowest floor, pad elevations, and lowest adjacent grade shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator.

C. All subdivision proposals shall be consistent with the need to minimize flood damage.

D. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

E. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

15.20.130 Standards for manufactured homes and mobilehomes.

A. All manufactured homes and mobilehomes that are placed or substantially improved, within Zones A1-30, AH, AE, V, and VE on the city's Flood Insurance Rate Map, on sites located.

1. Outside of a manufactured home or mobilehome park or subdivision;
2. In a new manufactured home or mobilehome park or subdivision;
3. In an expansion to an existing manufactured home or mobilehome park or subdivision; or
4. In an existing manufactured home or mobilehome park or subdivision on a site upon which a manufactured home or mobilehome has incurred substantial damage as the result of a flood; shall be elevated on a permanent foundation such that the lowest floor of the manufactured home or mobilehome is elevated to at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation collapse and lateral movement.

B. All manufactured homes or mobilehomes that are placed or substantially improved on sites located within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of subsection A of this section and Section 15.20.160.

C. All manufactured homes or mobilehomes to be placed or substantially improved on sites in an existing manufactured home or mobilehome park or subdivision within Zones A1-30, AR, AE, V1-30, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of subsection A of this section will be elevated so that either the:

1. Lowest floor of the manufactured home or mobilehome is at least one foot above the base flood elevation; or
2. Manufactured home or mobilehome chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

15.20.140 Standards for recreational vehicles.

A. All recreational vehicles placed on sites within Zones Al-30, AH, AE, **V,** and VE on the city's Flood Insurance Rate Map will either:

1. Be on the site for fewer than one hundred eighty (180) consecutive days;

2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

3. Meet the permit requirements of Sections 15.20.060 through 15.20.090 of this chapter and the elevation and anchoring requirements for manufactured homes or mobilehomes in Section 15.20.130(A).

B. Recreation vehicles placed on sites within Zones V1-30, V, and VE on the city's Flood Insurance Rate Map will meet the requirements of subsection A of this section and Section 15.20.160.

15.20.150 Coastal high hazard areas.

Within coastal high hazard areas, Zone VE, as established under Section 15.20.050(A), the following standards shall apply.

A. All new construction and substantial improvement shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by the building code.

B. All new construction and substantial improvement shall be located on the landward side of the average mean high tide line.

C. All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Section 15.20.040 of this chapter. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.

D. Fill shall not be used for structural support of buildings.

E. Manmade alteration of sand dunes which would increase potential flood damage is prohibited.

F. Seawalls designed and constructed for the sole purpose of protecting septic systems from wave runup and scouring shall be subject to the variance requirements defined in Sections 15.20.180 through 15.20.210.

G. The floodplain administrator shall obtain and maintain the following records:

1. Certification by a registered engineer or architect that a proposed structure complies with Section 15.20.160(A);

2. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

15.20.160 Mudslide (i.e., mudflow) prone areas.

A. The floodplain administrator shall review permits for proposed construction or other development to determine if it is proposed within a mudslide area.

B. Permits shall be reviewed to determine that the proposed site and improvement will be reasonably safe from mudslide hazards. Factors to be considered in making this determination include but are not limited to the:

1. Type and quality of soils;
2. Evidence of ground water or surface water problems;
3. Depth and quality of any fill;
4. Overall slope of the site; and
5. Weight that any proposed development will impose on the slope.

C. Within areas which may have mudslide hazards, the floodplain administrator shall require that:

1. A site investigation and further review be made by persons qualified in geology and soils engineering;
2. The proposed grading, excavation, new construction, and substantial improvement be adequately designed and protected against mudslide damages;
3. The proposed grading, excavations, new construction, and substantial improvement not aggravate the existing hazard by creating either on-site or off-site disturbances; and
4. Drainage, planting, watering, and maintenance not endanger slope stability.

15.20.170 Flood-related erosion-prone areas.

A. The floodplain administrator shall require permits for proposed construction and other development within all flood-related erosion-prone areas as known to the city.

B. Permit applications shall be reviewed to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing hazard.

C. If a proposed improvement is found to be in the path of flood-related erosion or would increase the erosion hazard, such improvement shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.

D. Within Zone E on the Flood Insurance Rate Map, a setback is required for all new development from the ocean, lake, bay, riverfront or other body of water to create a safety buffer consisting of a natural vegetative or contour strip. This buffer shall be designated according to the flood-related erosion hazard and erosion rate, in relation to the anticipated useful life of structures, and depending upon the geologic, hydrologic, topographic, and climactic characteristics of the land. The buffer may be used for suitable open space purposes, such as for agricultural, forestry, outdoor recreation and wildlife habitat areas, and for other activities using temporary and portable structures only.

15.20.175 Floodways

Since floodways are an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Until a regulatory floodway is adopted, no new construction, substantial development, or other development, including fill, shall be permitted within an Approximate/Unnumbered Zone A and in Zones A1-30 and AE, unless it is demonstrated that the cumulative effect of the proposed

development, when combined with all other development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the city of Malibu.

B. Within an adopted regulatory floodway, the City of Malibu shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

C. If subsections A & B are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Section 15.20.100 to 15.20.170.

15.20.180 Nature of variances.

The variance criteria set forth in this section of the chapter are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the city council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in this chapter are quite rare.

A variance for the construction or substantial improvement repair to a seawall that is intended only for the protection of a septic system may be issued by the Floodplain Administrator conditional upon the provisions and requirements set out in 15.20.200 and 15.20.210.

15.20.190 Appeal board.

A. In passing upon requests for variances, the city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and the:

1. Danger that materials may be swept onto other lands to the injury of others;
2. Danger of life and property due to flooding or erosion damage;
3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
4. Importance of the services provided by the proposed facility to the city;
5. Necessity to the facility of a waterfront location, where applicable;
6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. Safety of access to the property in time of flood for ordinary and emergency vehicles;
10. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and

11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

B. Any applicant to whom a variance is granted shall be given written notice over the signature of the floodplain administrator that:

1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars ($25.00) for one hundred dollars ($100.00) of insurance coverage; and

2. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the floodplain administrator in the office of the registrar recorder of Los Angeles County and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land; and

C. The floodplain administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

D. Variances for Septic Systems and Seawalls to Protect Septic Systems.
Decisions made by the Floodplain Administrator under the authority granted in Section 15.20.070 may be appealed directly to the City Council if necessary. Variances granted for seawalls intended specifically to protect septic systems shall be processed on an expedited basis.

15.20.200 Conditions for variances.

A. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 15.20.060 to 15.20.090 and Sections 15.20.100 to 15.20.180 of this chapter have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the repair or rehabilitation of “historic structures” (as defined in Section 15.20.040 of this chapter) upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

C. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary considering the flood hazard, to afford relief. “Minimum necessary” means to afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the city council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the city council believes will both provide relief and preserve the integrity of this chapter.

E. Variances shall only be issued upon a:

1. Showing of good and sufficient cause pertaining to unusual characteristics of the property;

2. Determination that failure to grant the variance would result in exceptional "hardship" (as defined in Section 15.20.040 of this chapter) to the applicant; and

3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (as defined in Section 15.20.040, see "Public safety or nuisance"), cause fraud or victimization (as defined in Section 15.20.040) of the public, or conflict with existing local laws or ordinances.

F. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of subsections A through E of this section are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

G. Upon consideration of the factors and purposes of this chapter, the city council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

15.20.210 Special Variance Provisions for Seawalls to Protect Septic Systems.

A. Expedited Variances.

The construction of new or substantial improvement repairs to seawalls specifically intended to protect septic systems from wave runup and scouring when associated with Pacific Palisades Fire rebuilds are eligible for expedited variances facilitate and timely development permit approvals. To facilitate this, the City Council has authorized the Floodplain Administrator to grant variances on their behalf, solely for septic systems and seawalls that protect the operation of septic systems related to Pacific Palisades Fire rebuild projects.

B. Conditions for Variances for Seawalls to Protect Septic Systems

All conditions for variances defined in Section 15.20.200 shall be met including the following.

1. The applicant has submitted a completed "City of Malibu Floodplain Variance for Septic System Seawalls" application for review and approval by the Floodplain Administrator, prior to the commencement of any construction activity on the property.

2. The septic system and seawall shall be designed and certified by a registered engineer or architect.

3. The design and construction or repair of the seawall will not result in any increase to the effective FEMA FIRM coastal high hazard V/ VE Zone flood heights to the property or to surrounding properties.

4. The septic system and seawall shall be the smallest size and their placement as landward as possible.

5. The design and construction of the seawall may not be utilized for structural support of the building.

6. The design and construction of the seawall shall minimize the obstruction to flood flow as much as possible,

7. The septic system and seawall must comply with all the following regulatory requirements:

7.1 The location of the septic system and seawall shall comply with the NFIP development requirements of the FEMA flood zone as shown on the effective Flood Insurance Rate Map and Flood Insurance Study.

7.2 Meet all applicable federal, state, and local safety requirements, ordinances and building regulations.

7.3 Comply with all applicable provisions of Chapter 15 – Building and Construction of the Municipal Code, including but not limited to floodplain management regulations, construction standards, and development permitting requirements.

8. The Floodplain Administrator has determined that granting of the variance is the minimum necessary, considering the flood hazard, to afford relief to the property.

9. All approved variances under 15.20.210 must be recorded with the Los Angeles County Recorder's Office and include a notarized acknowledgment by the property owner. The recorded document shall indicate that the variance pertains only to the property, is granted specifically for the construction or substantial improvement repairs to the septic system seawall only and does not constitute an exemption from future floodplain management regulations.

10. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit a completed FEMA Elevation Certificate and obtain approval from the Floodplain Administrator.

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