



Supplemental Council Agenda Report

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

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

Approved by: Robert Duboux, Interim City Manager

Date prepared: February 25, 2026 Meeting date: March 9, 2026

Subject: Second Reading and Adoption of Floodplain Management Ordinance and Adoption of Urgency Ordinance

RECOMMENDED ACTION: 1) Conduct the second reading, unless waived, and adopt 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 ; 2) After the City Attorney reads the title of the ordinance, adopt Urgency Ordinance No. 533U amending Malibu Municipal Code Chapter 15.20 to make technical amendments to the Floodplain Management Ordinance, declaring the urgency thereof, and finding the same exempt from the California Environmental Quality Act.

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: On February 23, 2026, the City Council introduced Ordinance No. 533 for the first reading and directed staff to make urgency findings and bring back the Urgency Ordinance amending Chapter 15.20 of Malibu Municipal Code for the Palisades Fire rebuilding efforts.

Title 44 Part 60 of the Code of Federal Regulations (CFR) sets forth the criteria Flood Plain management regulations and minimum standards for communities with special hazard areas present.

Section 60.3. Flood management criteria for flood-prone areas of the CFR includes requirements for on-site septic systems and obstructions such as seawalls:

60.3 (a) (6) (i) new and replacement sanitary sewage system to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and

(ii) onsite waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

60.3 (e) (5) Provide that all new constructions and substantial improvements within Zones V1-30, VE and V on the community's FIRM have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

However, FEMA allows deviations from the CFR criteria when a certified engineer or architect demonstrates that the floodplain is the only feasible location for an on-site wastewater system due to unique property characteristics such as lot size, geology or proximity to the shoreline. The community, through the approved process, can issue a variance for flood plain management purposes.

Section 60.6. Variances and exceptions of the CFR describes procedures for the granting of variance:

60.6 (a) (3) Variances shall only be issued by a community upon

(i) a showing of good and sufficient cause,

(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Chapter 15.20 of Malibu Municipal Code establishes the process for approval of a variance which is time-intensive and require a public hearing before the City Council. 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.

The following urgency findings were made for the coastal areas affected by the Palisades Fire.

- Protection of public health and safety by preventing the discharge of untreated water.

- Delay in approving the construction or repair of septic system and seawalls may result in environmental hazards.
- Failure to timely administer and enforce floodplains regulations in compliance with FEMA requirements may jeopardize eligibility for participation in NFIP.

The proposed Urgency Ordinance (Attachment 2) will allow the amendments to go into effect immediately upon Council approval. This action will significantly expedite approval of variances to allow seawalls to be constructed for septic systems protection within the FEMA-designated coastal floodplain and streamline the permit issuance process for the Palisades Fire rebuilds.

Changes to Chapter 15.20 are summarized as follows:

- 15.20.070 – Identifies the Floodplain Administrator as the Public Works Director to grant development permits including variances in accord 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 meet specific mandatory FEMA design and construction regulations.
- 15.20.180 – States that the Floodplain Administrator may issue variances for septic systems and associated seawalls.
- 15.20.190 – 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 including a requirement for applicants to submit a newly created city application with supporting technical documentation by a registered engineer or architect for review and approval by the Floodplain Administrator.
- 15.20.210. B.9 – Requirement that all granted variances shall be recorded with the Los Angeles County Recorder's Office and notarized acknowledgement by the property owner.
- 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 review the proposed variance procedures and confirm that the City's Floodplain Management Ordinance remains

compliant with the NFIP and as a result of these meetings, FEMA has reviewed the proposed amendments and expressed their support.

The urgency ordinance will allow these changes to be made immediately in order to protect public health, safety and coastal resources by preventing discharge of untreated wastewater into natural watercourses and bodies of water as well as neighboring properties.

ATTACHMENTS:

- 1) Title 44 Part 60 of the Code of Federal Regulations
- 2) Ordinance 533
- 3) Ordinance No. 533U
- 4) Redline Exhibit of Ordinance No. 533

This content is from the eCFR and is authoritative but unofficial.

Title 44 –Emergency Management and Assistance

Chapter I –Federal Emergency Management Agency, Department of Homeland Security

Subchapter B –Insurance and Hazard Mitigation

Part 60 Criteria for Land Management and Use

Subpart A Requirements for Flood Plain Management Regulations

- § 60.1 Purpose of subpart.
- § 60.2 Minimum compliance with flood plain management criteria.
- § 60.3 Flood plain management criteria for flood-prone areas.
- § 60.4 Flood plain management criteria for mudslide (i.e., mudflow)-prone areas.
- § 60.5 Flood plain management criteria for flood-related erosion-prone areas.
- § 60.6 Variances and exceptions.
- § 60.7 Revisions of criteria for flood plain management regulations.
- § 60.8 Definitions.

Subpart B Requirements for State Flood Plain Management Regulations

- § 60.11 Purpose of this subpart.
- § 60.12 Flood plain management criteria for State-owned properties in special hazard areas.
- § 60.13 Noncompliance.

Subpart C Additional Considerations in Managing Flood-Prone, Mudslide (i.e., Mudflow)-Prone and Flood-Related Erosion-Prone Areas

- § 60.21 Purpose of this subpart.
- § 60.22 Planning considerations for flood-prone areas.
- § 60.23 Planning considerations for mudslide (i.e., mudflow)-prone areas.
- § 60.24 Planning considerations for flood-related erosion-prone areas.
- § 60.25 Designation, duties, and responsibilities of State Coordinating Agencies.
- § 60.26 Local coordination.

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

Source: 41 FR 46975, Oct. 26, 1976, unless otherwise noted. Redesignated at 44 FR 31177, May 31, 1979.

Subpart A—Requirements for Flood Plain Management Regulations

§ 60.1 Purpose of subpart.

- (a) The Act provides that flood insurance shall not be sold or renewed under the program within a community, unless the community has adopted adequate flood plain management regulations consistent with Federal criteria. Responsibility for establishing such criteria is delegated to the Federal Insurance Administrator.
- (b) This subpart sets forth the criteria developed in accordance with the Act by which the Federal Insurance Administrator will determine the adequacy of a community's flood plain management regulations. These regulations must be legally-enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone, mudslide (i.e., mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over any less restrictive conflicting local laws, ordinances or codes. Except as otherwise provided in § 60.6, the adequacy of such regulations shall be determined on the basis of the standards set forth in § 60.3 for flood-prone areas, § 60.4 for mudslide areas and § 60.5 for flood-related erosion areas.
- (c) Nothing in this subpart shall be construed as modifying or replacing the general requirement that all eligible communities must take into account flood, mudslide (i.e., mudflow) and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use.
- (d) The criteria set forth in this subpart are minimum standards for the adoption of flood plain management regulations by flood-prone, mudslide (i.e., mudflow)-prone and flood-related erosion-prone communities. Any community may exceed the minimum criteria under this part by adopting more comprehensive flood plain management regulations utilizing the standards such as contained in subpart C of this part. In some instances, community officials may have access to information or knowledge of conditions that require, particularly for human safety, higher standards than the minimum criteria set forth in subpart A of this part. Therefore, any flood plain management regulations adopted by a State or a community which are more restrictive than the criteria set forth in this part are encouraged and shall take precedence.

[41 FR 46975, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979, as amended at 48 FR 44552, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984]

§ 60.2 Minimum compliance with flood plain management criteria.

- (a) A flood-prone community applying for flood insurance eligibility shall meet the standards of § 60.3(a) in order to become eligible if a FHBM has not been issued for the community at the time of application. Thereafter, the community will be given a period of six months from the date the Federal Insurance Administrator provides the data set forth in § 60.3 (b), (c), (d), (e) or (f), in which to meet the requirements of the applicable paragraph. If a community has received a FHBM, but has not yet applied for Program eligibility, the community shall apply for eligibility directly under the standards set forth in § 60.3(b). Thereafter, the community will be given a period of six months from the date the Federal Insurance Administrator provides the data set forth in § 60.3 (c), (d), (e) or (f) in which to meet the requirements of the applicable paragraph.
- (b) A mudslide (i.e., mudflow)-prone community applying for flood insurance eligibility shall meet the standards of § 60.4(a) to become eligible. Thereafter, the community will be given a period of six months from the date the mudslide (i.e., mudflow) areas having special mudslide hazards are delineated in which to meet the requirements of § 60.4(b).

- (c) A flood-related erosion-prone community applying for flood insurance eligibility shall meet the standards of § 60.5(a) to become eligible. Thereafter, the community will be given a period of six months from the date the flood-related erosion areas having special erosion hazards are delineated in which to meet the requirements of § 60.5(b).
- (d) Communities identified in part 65 of this subchapter as containing more than one type of hazard (e.g., any combination of special flood, mudslide (i.e., mudflow), and flood-related erosion hazard areas) shall adopt flood plain management regulations for each type of hazard consistent with the requirements of §§ 60.3, 60.4 and 60.5.
- (e) Local flood plain management regulations may be submitted to the State Coordinating Agency designated pursuant to § 60.25 for its advice and concurrence. The submission to the State shall clearly describe proposed enforcement procedures.
- (f) The community official responsible for submitting annual or biennial reports to the Federal Insurance Administrator pursuant to § 59.22(b)(2) of this subchapter shall also submit copies of each annual or biennial report to any State Coordinating Agency.
- (g) A community shall assure that its comprehensive plan is consistent with the flood plain management objectives of this part.
- (h) The community shall adopt and enforce flood plain management regulations based on data provided by the Federal Insurance Administrator. Without prior approval of the Federal Insurance Administrator, the community shall not adopt and enforce flood plain management regulations based upon modified data reflecting natural or man-made physical changes.

[41 FR 46975, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979, as amended at 48 FR 29318, June 24, 1983; 48 FR 44552, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984; 50 FR 36024, Sept. 4, 1985; 59 FR 53598, Oct. 25, 1994; 62 FR 55716, Oct. 27, 1997]

§ 60.3 Flood plain management criteria for flood-prone areas.

The Federal Insurance Administrator will provide the data upon which flood plain management regulations shall be based. If the Federal Insurance Administrator has not provided sufficient data to furnish a basis for these regulations in a particular community, the community shall obtain, review and reasonably utilize data available from other Federal, State or other sources pending receipt of data from the Federal Insurance Administrator. However, when special flood hazard area designations and water surface elevations have been furnished by the Federal Insurance Administrator, they shall apply. The symbols defining such special flood hazard designations are set forth in § 64.3 of this subchapter. In all cases the minimum requirements governing the adequacy of the flood plain management regulations for flood-prone areas adopted by a particular community depend on the amount of technical data formally provided to the community by the Federal Insurance Administrator. Minimum standards for communities are as follows:

- (a) When the Federal Insurance Administrator has not defined the special flood hazard areas within a community, has not provided water surface elevation data, and has not provided sufficient data to identify the floodway or coastal high hazard area, but the community has indicated the presence of such hazards by submitting an application to participate in the Program, the community shall:
 - (1) Require permits for all proposed construction or other development in the community, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas;

- (2) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
- (3) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall
 - (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
 - (ii) be constructed with materials resistant to flood damage,
 - (iii) be constructed by methods and practices that minimize flood damages, and
 - (iv) be constructed 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.
- (4) Review subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to assure that
 - (i) all such proposals are consistent with the need to minimize flood damage within the flood-prone area,
 - (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
 - (iii) adequate drainage is provided to reduce exposure to flood hazards;
- (5) Require within flood-prone areas new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems; and
- (6) Require within flood-prone areas
 - (i) new and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and
 - (ii) onsite waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.
- (b) When the Federal Insurance Administrator has designated areas of special flood hazards (A zones) by the publication of a community's FHBM or FIRM, but has neither produced water surface elevation data nor identified a floodway or coastal high hazard area, the community shall:
 - (1) Require permits for all proposed construction and other developments including the placement of manufactured homes, within Zone A on the community's FHBM or FIRM;
 - (2) Require the application of the standards in paragraphs (a) (2), (3), (4), (5) and (6) of this section to development within Zone A on the community's FHBM or FIRM;

- (3) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data;
 - (4) Obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, including data developed pursuant to paragraph (b)(3) of this section, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community's FHBM or FIRM meet the standards in paragraphs (c)(2), (c)(3), (c)(5), (c)(6), (c)(12), (c)(14), (d)(2) and (d)(3) of this section;
 - (5) Where base flood elevation data are utilized, within Zone A on the community's FHBM or FIRM:
 - (i) Obtain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures, and
 - (ii) Obtain, if the structure has been floodproofed in accordance with paragraph (c)(3)(ii) of this section, the elevation (in relation to mean sea level) to which the structure was floodproofed, and
 - (iii) Maintain a record of all such information with the official designated by the community under § 59.22 (a)(9)(iii);
 - (6) Notify, in riverine situations, adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Insurance Administrator;
 - (7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;
 - (8) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- (c) When the Federal Insurance Administrator has provided a notice of final flood elevations for one or more special flood hazard areas on the community's FIRM and, if appropriate, has designated other special flood hazard areas without base flood elevations on the community's FIRM, but has not identified a regulatory floodway or coastal high hazard area, the community shall:
- (1) Require the standards of paragraph (b) of this section within all A1-30 zones, AE zones, A zones, AH zones, and AO zones, on the community's FIRM;
 - (2) Require that all new construction and substantial improvements of residential structures within Zones A1-30, AE and AH zones on the community's FIRM have the lowest floor (including basement) elevated to or above the base flood level, unless the community is granted an exception by the Federal Insurance Administrator for the allowance of basements in accordance with § 60.6 (b) or (c);
 - (3) Require that all new construction and substantial improvements of non-residential structures within Zones A1-30, AE and AH zones on the community's firm
 - (i) have the lowest floor (including basement) elevated to or above the base flood level or,

- (ii) together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (4) Provide that where a non-residential structure is intended to be made watertight below the base flood level,
 - (i) a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of paragraph (c)(3)(ii) or (c)(8)(ii) of this section, and
 - (ii) a record of such certificates which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained with the official designated by the community under § 59.22(a)(9)(iii);
- (5) Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement 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 floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (6) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites
 - (i) Outside of a manufactured home park or subdivision,
 - (ii) In a new manufactured home park or subdivision,
 - (iii) In an expansion to an existing manufactured home park or subdivision, or
 - (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation collapse and lateral movement.
- (7) Require within any AO zone on the community's FIRM that all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);
- (8) Require within any AO zone on the community's FIRM that all new construction and substantial improvements of nonresidential structures

- (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities be completely floodproofed to that level to meet the floodproofing standard specified in § 60.3(c)(3)(ii);
- (9) Require within any A99 zones on a community's FIRM the standards of paragraphs (a)(1) through (a)(4)(i) and (b)(5) through (b)(9) of this section;
- (10) Require until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated 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 community.
- (11) Require within Zones AH and AO, adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.
- (12) Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A-1-30, AH, and AE on the community's FIRM that are not subject to the provisions of paragraph (c)(6) of this section be elevated so that either
 - (i) The lowest floor of the manufactured home is at or above the base flood elevation, or
 - (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.
- (13) Notwithstanding any other provisions of § 60.3, a community may approve certain development in Zones A1-30, AE, and AH, on the community's FIRM which increase the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision, fulfills the requirements for such a revision as established under the provisions of § 65.12, and receives the approval of the Federal Insurance Administrator.
- (14) Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either
 - (i) Be on the site for fewer than 180 consecutive days,
 - (ii) Be fully licensed and ready for highway use, or
 - (iii) Meet the permit requirements of paragraph (b)(1) of this section and the elevation and anchoring requirements for "manufactured homes" in paragraph (c)(6) of this section.

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.

- (d) When the Federal Insurance Administrator has provided a notice of final base flood elevations within Zones A1-30 and/or AE on the community's FIRM and, if appropriate, has designated AO zones, AH zones, A99 zones, and A zones on the community's FIRM, and has provided data from which the community shall designate its regulatory floodway, the community shall:

- (1) Meet the requirements of paragraphs (c) (1) through (14) of this section;
 - (2) Select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation of that flood more than one foot at any point;
 - (3) Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge;
 - (4) Notwithstanding any other provisions of § 60.3, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision, fulfills the requirements for such revisions as established under the provisions of § 65.12, and receives the approval of the Federal Insurance Administrator.
- (e) When the Federal Insurance Administrator has provided a notice of final base flood elevations within Zones A1-30 and/or AE on the community's FIRM and, if appropriate, has designated AH zones, AO zones, A99 zones, and A zones on the community's FIRM, and has identified on the community's FIRM coastal high hazard areas by designating Zones V1-30, VE, and/or V, the community shall:
- (1) Meet the requirements of paragraphs (c)(1) through (14) of this section;
 - (2) Within Zones V1-30, VE, and V on a community's FIRM,
 - (i) obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures, and whether or not such structures contain a basement, and
 - (ii) maintain a record of all such information with the official designated by the community under § 59.22(a)(9)(iii);
 - (3) Provide that all new construction within Zones V1-30, VE, and V on the community's FIRM is located landward of the reach of mean high tide;
 - (4) Provide that all new construction and substantial improvements in Zones V1-30 and VE, and also Zone V if base flood elevation data is available, on the community's FIRM, are elevated on pilings and columns so that
 - (i) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level; and
 - (ii) 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 applicable State or local building standards. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of paragraphs (e)(4) (i) and (ii) of this section.

- (5) Provide that all new construction and substantial improvements within Zones V1-30, VE, and V on the community's FIRM have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
- (i) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and,
 - (ii) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.

Such enclosed space shall be useable solely for parking of vehicles, building access, or storage.

- (6) Prohibit the use of fill for structural support of buildings within Zones V1-30, VE, and V on the community's FIRM;
- (7) Prohibit man-made alteration of sand dunes and mangrove stands within Zones V1-30, VE, and V on the community's FIRM which would increase potential flood damage.
- (8) Require that manufactured homes placed or substantially improved within Zones V1-30, V, and VE on the community's FIRM on sites
- (i) Outside of a manufactured home park or subdivision,
 - (ii) In a new manufactured home park or subdivision,
 - (iii) In an expansion to an existing manufactured home park or subdivision, or
 - (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, meet the standards of paragraphs (e)(2) through (7) of this section and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones VI-30, V, and VE on the community's FIRM meet the requirements of paragraph (c)(12) of this section.
- (9) Require that recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's FIRM either
- (i) Be on the site for fewer than 180 consecutive days,
 - (ii) Be fully licensed and ready for highway use, or
 - (iii) Meet the requirements in paragraphs (b)(1) and (e) (2) through (7) of this section.

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.

- (f) When the Federal Insurance Administrator has provided a notice of final base flood elevations within Zones A1-30 or AE on the community's FIRM, and, if appropriate, has designated AH zones, AO zones, A99 zones, and A zones on the community's FIRM, and has identified flood protection restoration areas by designating Zones AR, AR/A1-30, AR/AE, AR/AH, AR/AO, or AR/A, the community shall:
- (1) Meet the requirements of paragraphs (c)(1) through (14) and (d)(1) through (4) of this section.
 - (2) Adopt the official map or legal description of those areas within Zones AR, AR/A1-30, AR/AE, AR/AH, AR/A, or AR/AO that are designated developed areas as defined in § 59.1 in accordance with the eligibility procedures under § 65.14.
 - (3) For all new construction of structures in areas within Zone AR that are designated as developed areas and in other areas within Zone AR where the AR flood depth is 5 feet or less:
 - (i) Determine the lower of either the AR base flood elevation or the elevation that is 3 feet above highest adjacent grade; and
 - (ii) Using this elevation, require the standards of paragraphs (c)(1) through (14) of this section.
 - (4) For all new construction of structures in those areas within Zone AR that are not designated as developed areas where the AR flood depth is greater than 5 feet:
 - (i) Determine the AR base flood elevation; and
 - (ii) Using that elevation require the standards of paragraphs (c)(1) through (14) of this section.
 - (5) For all new construction of structures in areas within Zone AR/A1-30, AR/AE, AR/AH, AR/AO, and AR/A:
 - (i) Determine the applicable elevation for Zone AR from paragraphs (a)(3) and (4) of this section;
 - (ii) Determine the base flood elevation or flood depth for the underlying A1-30, AE, AH, AO and A Zone; and
 - (iii) Using the higher elevation from paragraphs (a)(5)(i) and (ii) of this section require the standards of paragraphs (c)(1) through (14) of this section.
 - (6) For all substantial improvements to existing construction within Zones AR/A1-30, AR/AE, AR/AH, AR/AO, and AR/A:
 - (i) Determine the A1-30 or AE, AH, AO, or A Zone base flood elevation; and
 - (ii) Using this elevation apply the requirements of paragraphs (c)(1) through (14) of this section.
 - (7) Notify the permit applicant that the area has been designated as an AR, AR/A1-30, AR/AE, AR/AH, AR/AO, or AR/A Zone and whether the structure will be elevated or protected to or above the AR base flood elevation.

[41 FR 46975, Oct. 26, 1976]

Editorial Note: For FEDERAL REGISTER citations affecting § 60.3, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 60.4 Flood plain management criteria for mudslide (i.e., mudflow)-prone areas.

The Federal Insurance Administrator will provide the data upon which flood plain management regulations shall be based. If the Federal Insurance Administrator has not provided sufficient data to furnish a basis for these regulations in a particular community, the community shall obtain, review, and reasonably utilize data available from other Federal, State or other sources pending receipt of data from the Federal Insurance Administrator. However, when special mudslide (i.e., mudflow) hazard area designations have been furnished by the Federal Insurance Administrator, they shall apply. The symbols defining such special mudslide (i.e., mudflow) hazard designations are set forth in § 64.3 of this subchapter. In all cases, the minimum requirements for mudslide (i.e., mudflow)-prone areas adopted by a particular community depend on the amount of technical data provided to the community by the Federal Insurance Administrator. Minimum standards for communities are as follows:

- (a) When the Federal Insurance Administrator has not yet identified any area within the community as an area having special mudslide (i.e., mudflow) hazards, but the community has indicated the presence of such hazards by submitting an application to participate in the Program, the community shall
 - (1) Require permits for all proposed construction or other development in the community so that it may determine whether development is proposed within mudslide (i.e., mudflow)-prone areas;
 - (2) Require review of each permit application to determine whether the proposed site and improvements will be reasonably safe from mudslides (i.e., mudflows). Factors to be considered in making such a determination should include but not be limited to
 - (i) the type and quality of soils,
 - (ii) any evidence of ground water or surface water problems,
 - (iii) the depth and quality of any fill,
 - (iv) the overall slope of the site, and
 - (v) the weight that any proposed structure will impose on the slope;
 - (3) Require, if a proposed site and improvements are in a location that may have mudslide (i.e., mudflow) hazards, that
 - (i) a site investigation and further review be made by persons qualified in geology and soils engineering,
 - (ii) the proposed grading, excavations, new construction, and substantial improvements are adequately designed and protected against mudslide (i.e., mudflow) damages,
 - (iii) the proposed grading, excavations, new construction and substantial improvements do not aggravate the existing hazard by creating either on-site or off-site disturbances, and
 - (iv) drainage, planting, watering, and maintenance be such as not to endanger slope stability.
- (b) When the Federal Insurance Administrator has delineated Zone M on the community's FIRM, the community shall:
 - (1) Meet the requirements of paragraph (a) of this section; and
 - (2) Adopt and enforce a grading ordinance or regulation in accordance with data supplied by the Federal Insurance Administrator which

- (i) regulates the location of foundation systems and utility systems of new construction and substantial improvements,
- (ii) regulates the location, drainage and maintenance of all excavations, cuts and fills and planted slopes,
- (iii) provides special requirements for protective measures including but not necessarily limited to retaining walls, buttress fills, sub-drains, diverter terraces, benchings, etc., and
- (iv) requires engineering drawings and specifications to be submitted for all corrective measures, accompanied by supporting soils engineering and geology reports. Guidance may be obtained from the provisions of the 1973 edition and any subsequent edition of the Uniform Building Code, sections 7001 through 7006, and 7008 through 7015. The Uniform Building Code is published by the International Conference of Building Officials, 50 South Los Robles, Pasadena, California 91101.

[41 FR 46975, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979, as amended at 48 FR 44552, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984]

§ 60.5 Flood plain management criteria for flood-related erosion-prone areas.

The Federal Insurance Administrator will provide the data upon which flood plain management regulations for flood-related erosion-prone areas shall be based. If the Federal Insurance Administrator has not provided sufficient data to furnish a basis for these regulations in a particular community, the community shall obtain, review, and reasonably utilize data available from other Federal, State or other sources, pending receipt of data from the Federal Insurance Administrator. However, when special flood-related erosion hazard area designations have been furnished by the Federal Insurance Administrator they shall apply. The symbols defining such special flood-related erosion hazard designations are set forth in § 64.3 of this subchapter. In all cases the minimum requirements governing the adequacy of the flood plain management regulations for flood-related erosion-prone areas adopted by a particular community depend on the amount of technical data provided to the community by the Federal Insurance Administrator. Minimum standards for communities are as follows:

- (a) When the Federal Insurance Administrator has not yet identified any area within the community as having special flood-related erosion hazards, but the community has indicated the presence of such hazards by submitting an application to participate in the Program, the community shall
 - (1) Require the issuance of a permit for all proposed construction, or other development in the area of flood-related erosion hazard, as it is known to the community;
 - (2) Require review of each permit application 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 flood-related erosion hazard; and
 - (3) If a proposed improvement is found to be in the path of flood-related erosion or to increase the erosion hazard, require the improvement to be relocated or adequate protective measures to be taken which will not aggravate the existing erosion hazard.
- (b) When the Federal Insurance Administrator has delineated Zone E on the community's FIRM, the community shall
 - (1) Meet the requirements of paragraph (a) of this section; and

- (2) Require a setback 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 will be designated by the Federal Insurance Administrator according to the flood-related erosion hazard and erosion rate, in conjunction with the anticipated "useful life" of structures, and depending upon the geologic, hydrologic, topographic and climatic characteristics of the community's 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.

[41 FR 46975, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979, as amended at 48 FR 44552, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984]

§ 60.6 Variances and exceptions.

- (a) The Federal Insurance Administrator does not set forth absolute criteria for granting variances from the criteria set forth in §§ 60.3, 60.4, and 60.5. The issuance of a variance is for flood plain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance. The community, after examining the applicant's hardships, shall approve or disapprove a request. While the granting of variances generally is limited to a lot size less than one-half acre (as set forth in paragraph (a)(2) of this section), deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. The Federal Insurance Administrator may review a community's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound flood plain management, the Federal Insurance Administrator may take appropriate action under § 59.24(b) of this subchapter. Variances may be issued for the repair or rehabilitation of historic structures 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. Procedures for the granting of variances by a community are as follows:
 - (1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;
 - (2) Variances may be issued by a community for new construction and substantial improvements 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, in conformance with the procedures of paragraphs (a) (3), (4), (5) and (6) of this section;
 - (3) Variances shall only be issued by a community upon
 - (i) a showing of good and sufficient cause,
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
 - (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 - (5) A community shall notify the applicant in writing over the signature of a community official that

- (i) 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 \$25 for \$100 of insurance coverage and
- (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph (a)(6) of this section; and

(6) A community shall

- (i) maintain a record of all variance actions, including justification for their issuance, and
- (ii) report such variances issued in its annual or biennial report submitted to the Federal Insurance Administrator.

(7) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that

- (i) the criteria of paragraphs (a)(1) through (a)(4) of this section are met, and
- (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(b)

(1) The requirement that each flood-prone, mudslide (i.e., mudflow)-prone, and flood-related erosion prone community must adopt and submit adequate flood plain management regulations as a condition of initial and continued flood insurance eligibility is statutory and cannot be waived, and such regulations shall be adopted by a community within the time periods specified in § 60.3, § 60.4 or § 60.5. However, certain exceptions from the standards contained in this subpart may be permitted where the Federal Insurance Administrator recognizes that, because of extraordinary circumstances, local conditions may render the application of certain standards the cause for severe hardship and gross inequity for a particular community. Consequently, a community proposing the adoption of flood plain management regulations which vary from the standards set forth in § 60.3, § 60.4, or § 60.5, shall explain in writing to the Federal Insurance Administrator the nature and extent of and the reasons for the exception request and shall include sufficient supporting economic, environmental, topographic, hydrologic, and other scientific and technical data, and data with respect to the impact on public safety and the environment.

(2) The Federal Insurance Administrator shall prepare a Special Environmental Clearance to determine whether the proposal for an exception under paragraph (b)(1) of this section will have significant impact on the human environment. The decision whether an Environmental Impact Statement or other environmental document will be prepared, will be made in accordance with applicable environmental and historic preservation laws, regulations, Executive Orders, and agency policy. Ninety or more days may be required for an environmental quality clearance if the proposed exception will have significant impact on the human environment thereby requiring an EIS.

(c) A community may propose flood plain management measures which adopt standards for floodproofed residential basements below the base flood level in zones A1-30, AH, AO, and AE which are not subject to tidal flooding. Notwithstanding the requirements of paragraph (b) of this section the Federal Insurance Administrator may approve the proposal provided that:

- (1) The community has demonstrated that areas of special flood hazard in which basements will be permitted are subject to shallow and low velocity flooding and that there is adequate flood warning time to ensure that all residents are notified of impending floods. For the purposes of this paragraph flood characteristics must include:
 - (i) Flood depths that are five feet or less for developable lots that are contiguous to land above the base flood level and three feet or less for other lots;
 - (ii) Flood velocities that are five feet per second or less; and
 - (iii) Flood warning times that are 12 hours or greater. Flood warning times of two hours or greater may be approved if the community demonstrates that it has a flood warning system and emergency plan in operation that is adequate to ensure safe evacuation of flood plain residents.
- (2) The community has adopted flood plain management measures that require that new construction and substantial improvements of residential structures with basements in zones A1-30, AH, AO, and AE shall:
 - (i) Be designed and built so that any basement area, together with attendant utilities and sanitary facilities below the floodproofed design level, is watertight with walls that are impermeable to the passage of water without human intervention. Basement walls shall be built with the capacity to resist hydrostatic and hydrodynamic loads and the effects of buoyancy resulting from flooding to the floodproofed design level, and shall be designed so that minimal damage will occur from floods that exceed that level. The floodproofed design level shall be an elevation one foot above the level of the base flood where the difference between the base flood and the 500-year flood is three feet or less and two feet above the level of the base flood where the difference is greater than three feet.
 - (ii) Have the top of the floor of any basement area no lower than five feet below the elevation of the base flood;
 - (iii) Have the area surrounding the structure on all sides filled to or above the elevation of the base flood. Fill must be compacted with slopes protected by vegetative cover;
 - (iv) Have a registered professional engineer or architect develop or review the building's structural design, specifications, and plans, including consideration of the depth, velocity, and duration of flooding and type and permeability of soils at the building site, and certify that the basement design and methods of construction proposed are in accordance with accepted standards of practice for meeting the provisions of this paragraph;
 - (v) Be inspected by the building inspector or other authorized representative of the community to verify that the structure is built according to its design and those provisions of this section which are verifiable.

[41 FR 46975, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979, as amended at 48 FR 44543 and 44552, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984; 50 FR 36025, Sept. 4, 1985; 51 FR 30308, Aug. 25, 1986; 54 FR 33550, Aug. 15, 1989; 81 FR 56533, Aug. 22, 2016]

§ 60.7 Revisions of criteria for flood plain management regulations.

From time to time part 60 may be revised as experience is acquired under the Program and new information becomes available. Communities will be given six months from the effective date of any new regulation to revise their flood plain management regulations to comply with any such changes.

§ 60.8 Definitions.

The definitions set forth in part 59 of this subchapter are applicable to this part.

Subpart B—Requirements for State Flood Plain Management Regulations

§ 60.11 Purpose of this subpart.

- (a) A State is considered a “community” pursuant to § 59.1 of this subchapter; and, accordingly, the Act provides that flood insurance shall not be sold or renewed under the Program unless a community has adopted adequate flood plain management regulations consistent with criteria established by the Federal Insurance Administrator.
- (b) This subpart sets forth the flood plain management criteria required for State-owned properties located within special hazard areas identified by the Federal Insurance Administrator. A State shall satisfy such criteria as a condition to the purchase of a Standard Flood Insurance Policy for a State-owned structure or its contents, or as a condition to the approval by the Federal Insurance Administrator, pursuant to part 75 of this subchapter, of its plan of self-insurance.

[41 FR 46975, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979, as amended at 48 FR 44552, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984]

§ 60.12 Flood plain management criteria for State-owned properties in special hazard areas.

- (a) The State shall comply with the minimum flood plain management criteria set forth in §§ 60.3, 60.4, and 60.5. A State either shall:
 - (1) Comply with the flood plain management requirements of all local communities participating in the program in which State-owned properties are located; or
 - (2) Establish and enforce flood plain management regulations which, at a minimum, satisfy the criteria set forth in §§ 60.3, 60.4, and 60.5.
- (b) The procedures by which a state government adopts and administers flood plain management regulations satisfying the criteria set forth in §§ 60.3, 60.4 and 60.5 may vary from the procedures by which local governments satisfy the criteria.
- (c) If any State-owned property is located in a non-participating local community, then the State shall comply with the requirements of paragraph (a)(2) of this section for the property.

§ 60.13 Noncompliance.

If a State fails to submit adequate flood plain management regulations applicable to State-owned properties pursuant to § 60.12 within six months of the effective date of this regulation, or fails to adequately enforce such regulations, the State shall be subject to suspensive action pursuant to § 59.24. Where the State fails to adequately enforce its flood plain management regulations, the Federal Insurance Administrator shall conduct a hearing before initiating such suspensive action.

[41 FR 46975, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979, as amended at 48 FR 44552, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984]

Subpart C—Additional Considerations in Managing Flood-Prone, Mudslide (i.e., Mudflow)-Prone and Flood-Related Erosion-Prone Areas

§ 60.21 Purpose of this subpart.

The purpose of this subpart is to encourage the formation and adoption of overall comprehensive management plans for flood-prone, mudslide (i.e., mudflow)-prone and flood-related erosion-prone areas. While adoption by a community of the standards in this subpart is not mandatory, the community shall completely evaluate these standards.

§ 60.22 Planning considerations for flood-prone areas.

- (a) The flood plain management regulations adopted by a community for flood-prone areas should:
 - (1) Permit only that development of flood-prone areas which
 - (i) is appropriate in light of the probability of flood damage and the need to reduce flood losses,
 - (ii) is an acceptable social and economic use of the land in relation to the hazards involved, and
 - (iii) does not increase the danger to human life;
 - (2) Prohibit nonessential or improper installation of public utilities and public facilities in flood-prone areas.
- (b) In formulating community development goals after the occurrence of a flood disaster, each community shall consider—
 - (1) Preservation of the flood-prone areas for open space purposes;
 - (2) Relocation of occupants away from flood-prone areas;
 - (3) Acquisition of land or land development rights for public purposes consistent with a policy of minimization of future property losses;
 - (4) Acquisition of frequently flood-damaged structures;
- (c) In formulating community development goals and in adopting flood plain management regulations, each community shall consider at least the following factors—
 - (1) Human safety;
 - (2) Diversion of development to areas safe from flooding in light of the need to reduce flood damages and in light of the need to prevent environmentally incompatible flood plain use;

- (3) Full disclosure to all prospective and interested parties (including but not limited to purchasers and renters) that
 - (i) certain structures are located within flood-prone areas,
 - (ii) variances have been granted for certain structures located within flood-prone areas, and
 - (iii) premium rates applied to new structures built at elevations below the base flood substantially increase as the elevation decreases;
- (4) Adverse effects of flood plain development on existing development;
- (5) Encouragement of floodproofing to reduce flood damage;
- (6) Flood warning and emergency preparedness plans;
- (7) Provision for alternative vehicular access and escape routes when normal routes are blocked or destroyed by flooding;
- (8) Establishment of minimum floodproofing and access requirements for schools, hospitals, nursing homes, orphanages, penal institutions, fire stations, police stations, communications centers, water and sewage pumping stations, and other public or quasi-public facilities already located in the flood-prone area, to enable them to withstand flood damage, and to facilitate emergency operations;
- (9) Improvement of local drainage to control increased runoff that might increase the danger of flooding to other properties;
- (10) Coordination of plans with neighboring community's flood plain management programs;
- (11) The requirement that all new construction and substantial improvements in areas subject to subsidence be elevated above the base flood level equal to expected subsidence for at least a ten year period;
- (12) For riverine areas, requiring subdividers to furnish delineations for floodways before approving a subdivision;
- (13) Prohibition of any alteration or relocation of a watercourse, except as part of an overall drainage basin plan. In the event of an overall drainage basin plan, provide that the flood carrying capacity within the altered or relocated portion of the watercourse is maintained;
- (14) Requirement of setbacks for new construction within Zones V1-30, VE, and V on a community's FIRM;
- (15) Requirement of additional elevation above the base flood level for all new construction and substantial improvements within Zones A1-30, AE, V1-30, and VE on the community's FIRM to protect against such occurrences as wave wash and floating debris, to provide an added margin of safety against floods having a magnitude greater than the base flood, or to compensate for future urban development;
- (16) Requirement of consistency between state, regional and local comprehensive plans and flood plain management programs;
- (17) Requirement of pilings or columns rather than fill, for the elevation of structures within flood-prone areas, in order to maintain the storage capacity of the flood plain and to minimize the potential for negative impacts to sensitive ecological areas;

- (18) Prohibition, within any floodway or coastal high hazard area, of plants or facilities in which hazardous substances are manufactured.
- (19) Requirement that a plan for evacuating residents of all manufactured home parks or subdivisions located within flood prone areas be developed and filed with and approved by appropriate community emergency management authorities.

[41 FR 46975, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979, as amended at 50 FR 36025, Sept. 4, 1985; 54 FR 40284, Sept. 29, 1989]

§ 60.23 Planning considerations for mudslide (i.e., mudflow)-prone areas.

The planning process for communities identified under part 65 of this subchapter as containing Zone M, or which indicate in their applications for flood insurance pursuant to § 59.22 of this subchapter that they have mudslide (i.e., mudflow) areas, should include—

- (a) The existence and extent of the hazard;
- (b) The potential effects of inappropriate hillside development, including
 - (1) Loss of life and personal injuries, and
 - (2) Public and private property losses, costs, liabilities, and exposures resulting from potential mudslide (i.e., mudflow) hazards;
- (c) The means of avoiding the hazard including the
 - (1) availability of land which is not mudslide (i.e., mudflow)-prone and the feasibility of developing such land instead of further encroaching upon mudslide (i.e., mudflow) areas,
 - (2) possibility of public acquisition of land, easements, and development rights to assure the proper development of hillsides, and
 - (3) advisability of preserving mudslide (i.e., mudflow) areas as open space;
- (d) The means of adjusting to the hazard, including the
 - (1) establishment by ordinance of site exploration, investigation, design, grading, construction, filing, compacting, foundation, sewerage, drainage, subdrainage, planting, inspection and maintenance standards and requirements that promote proper land use, and
 - (2) provision for proper drainage and subdrainage on public property and the location of public utilities and service facilities, such as sewer, water, gas and electrical systems and streets in a manner designed to minimize exposure to mudslide (i.e., mudflow) hazards and prevent their aggravation;
- (e) Coordination of land use, sewer, and drainage regulations and ordinances with fire prevention, flood plain, mudslide (i.e., mudflow), soil, land, and water regulation in neighboring communities;
- (f) Planning subdivisions and other developments in such a manner as to avoid exposure to mudslide (i.e., mudflow) hazards and the control of public facility and utility extension to discourage inappropriate development;

- (g) Public facility location and design requirements with higher site stability and access standards for schools, hospitals, nursing homes, orphanages, correctional and other residential institutions, fire and police stations, communication centers, electric power transformers and substations, water and sewer pumping stations and any other public or quasi-public institutions located in the mudslide (i.e., mudflow) area to enable them to withstand mudslide (i.e., mudflow) damage and to facilitate emergency operations; and
- (h) Provision for emergencies, including:
 - (1) Warning, evacuation, abatement, and access procedures in the event of mudslide (i.e., mudflow),
 - (2) Enactment of public measures and initiation of private procedures to limit danger and damage from continued or future mudslides (i.e., mudflow),
 - (3) Fire prevention procedures in the event of the rupture of gas or electrical distribution systems by mudslides,
 - (4) Provisions to avoid contamination of water conduits or deterioration of slope stability by the rupture of such systems,
 - (5) Similar provisions for sewers which in the event of rupture pose both health and site stability hazards and
 - (6) Provisions for alternative vehicular access and escape routes when normal routes are blocked or destroyed by mudslides (i.e., mudflow);
- (i) The means for assuring consistency between state, areawide, and local comprehensive plans with the plans developed for mudslide (i.e., mudflow)-prone areas;
- (j) Deterring the nonessential installation of public utilities and public facilities in mudslide (i.e., mudflow)-prone areas.

§ 60.24 Planning considerations for flood-related erosion-prone areas.

The planning process for communities identified under part 65 of this subchapter as containing Zone E or which indicate in their applications for flood insurance coverage pursuant to § 59.22 of this subchapter that they have flood-related erosion areas should include—

- (a) The importance of directing future developments to areas not exposed to flood-related erosion;
- (b) The possibility of reserving flood-related erosion-prone areas for open space purposes;
- (c) The coordination of all planning for the flood-related erosion-prone areas with planning at the State and Regional levels, and with planning at the level of neighboring communities;
- (d) Preventive action in E zones, including setbacks, shore protection works, relocating structures in the path of flood-related erosion, and community acquisition of flood-related erosion-prone properties for public purposes;
- (e) Consistency of plans for flood-related erosion-prone areas with comprehensive plans at the state, regional and local levels.

§ 60.25 Designation, duties, and responsibilities of State Coordinating Agencies.

- (a) States are encouraged to demonstrate a commitment to the minimum flood plain management criteria set forth in §§ 60.3, 60.4, and 60.5 as evidenced by the designation of an agency of State government to be responsible for coordinating the Program aspects of flood plain management in the State.
- (b) State participation in furthering the objectives of this part shall include maintaining capability to perform the appropriate duties and responsibilities as follows:
 - (1) Enact, whenever necessary, legislation enabling counties and municipalities to regulate development within flood-prone areas;
 - (2) Encourage and assist communities in qualifying for participation in the Program;
 - (3) Guide and assist county and municipal public bodies and agencies in developing, implementing, and maintaining local flood plain management regulations;
 - (4) Provide local governments and the general public with Program information on the coordination of local activities with Federal and State requirements for managing flood-prone areas;
 - (5) Assist communities in disseminating information on minimum elevation requirements for development within flood-prone areas;
 - (6) Assist in the delineation of riverine and coastal flood-prone areas, whenever possible, and provide all relevant technical information to the Federal Insurance Administrator;
 - (7) Recommend priorities for Federal flood plain management activities in relation to the needs of county and municipal localities within the State;
 - (8) Provide notification to the Federal Insurance Administrator in the event of apparent irreconcilable differences between a community's local flood plain management program and the minimum requirements of the Program;
 - (9) Establish minimum State flood plain management regulatory standards consistent with those established in this part and in conformance with other Federal and State environmental and water pollution standards for the prevention of pollution during periods of flooding;
 - (10) Assure coordination and consistency of flood plain management activities with other State, areawide, and local planning and enforcement agencies;
 - (11) Assist in the identification and implementation of flood hazard mitigation recommendations which are consistent with the minimum flood plain management criteria for the Program;
 - (12) Participate in flood plain management training opportunities and other flood hazard preparedness programs whenever practicable.
- (c) Other duties and responsibilities, which may be deemed appropriate by the State and which are to be officially designated as being conducted in the capacity of the State Coordinating Agency for the Program, may be carried out with prior notification of the Federal Insurance Administrator.
- (d) For States which have demonstrated a commitment to and experience in application of the minimum flood plain management criteria set forth in §§ 60.3, 60.4, and 60.5 as evidenced by the establishment and implementation of programs which substantially encompass the activities described in paragraphs (a), (b), and (c) of this section, the Federal Insurance Administrator shall take the foregoing into account when:

- (1) Considering State recommendations prior to implementing Program activities affecting State communities;
- (2) Considering State approval or certifications of local flood plain management regulations as meeting the requirements of this part.

[51 FR 30309, Aug. 25, 1986]

§ 60.26 Local coordination.

- (a) Local flood plain, mudslide (i.e., mudflow) and flood-related erosion area management, forecasting, emergency preparedness, and damage abatement programs should be coordinated with relevant Federal, State, and regional programs;
- (b) A community adopting flood plain management regulations pursuant to these criteria should coordinate with the appropriate State agency to promote public acceptance and use of effective flood plain, mudslide, (i.e., mudflow) and flood-related erosion regulations;
- (c) A community should notify adjacent communities prior to substantial commercial developments and large subdivisions to be undertaken in areas having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards.

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 Zones A1-30, 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 to facilitate 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.

ORDINANCE NO. 533U

AN URGENCY 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. Functioning septic systems are necessary to protect public health and safety by preventing the discharge of untreated wastewater into ocean waters, beaches, groundwater, and neighboring properties.

H. Under the City's existing Floodplain Management Ordinance, approval of floodplain variances requires a public hearing before the City Council, which can significantly delay rebuilding and recovery efforts.

I. Delay in approving the construction or repairs of septic systems and their related seawalls may result in continued environmental hazards; increased risk of damage or destruction to septic systems; and threats to public health, coastal waters, and other environmental resources.

J. The City participates in the National Flood Insurance Program. Continued eligibility in this program is important and essential to ensure that City residents remain eligible to participate in and obtain federally subsidized floor insurance. Failure to timely administer and enforce floodplains regulations in compliance with FEMA requires may jeopardize that eligibility.

K. The amendments adopted by this Urgency Ordinance do not weaken FEMA standards, but instead streamline the local review process by delegating limited variance authority to the Public Works Director acting as Floodplain Administrator, subject to strict compliance with NFIP regulations and all applicable floodplain performance standards.

L. Immediate implementation of these procedural amendments is necessary to prevent unnecessary delay in post-fire rebuilding, to protect public health and coastal resources, and to maintain compliance with FEMA and NFIP requirements.

M. 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.

N. Based on the foregoing facts, the City Council finds that this Ordinance is necessary for the immediate preservation of the public peace, health, and safety within the meaning of Government Code section 36937(b). These threats to public safety, health, and welfare justify adoption of this Ordinance as an urgency ordinance to be effective immediately upon adoption by a four-fifths vote of the City Council.

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 takes effect immediately upon its adoption.

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 Zones A1-30, 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 to facilitate 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:

- 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 mobilehomes.
- 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 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 A1-30, 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.