


STATE OF CALIFORNIA )  
COUNTY OF SAN MATEO )     CERTIFIED COPY OF ORDINANCE  
CITY OF EAST PALO ALTO )     SECOND READING/ADOPTION

I, Nora Pimentel, Deputy City Clerk for the City of East Palo Alto in said County of San Mateo, and State of California, do hereby certify that the attached is a true and correct copy of Ordinance No. 362, adopted by the East Palo Alto's City Council on October 1, 2013 by the following vote:

AYES:            ABRICA, MARTINEZ, GAUTHIER  
NOES:             0  
ABSTAIN:         0  
ABSENT:          WOODS, MOODY

Said ordinance shall be effective November 1, 2013

Dated this 10<sup>th</sup> day of October 2013.

  
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Nora Pimentel, CMC  
Deputy City Clerk

**ORDINANCE NO. 362**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO  
AMENDING CHAPTER 15.52 OF THE EAST PALO ALTO MUNICIPAL CODE  
RELATED TO FLOODPLAIN MANAGEMENT**

**WHEREAS**, 49% of the City of East Palo Alto is in the regulatory floodplain and is vulnerable to flooding from the San Francisco Bay and the San Francisquito Creek; and

**WHEREAS**, on July 23, 2012, the East Palo Alto Planning Commission adopted Resolution 2012-29, recommending amendments to Municipal Code Chapter 15.52; and

**WHEREAS**, these amendments recommend an increase from twelve to eighteen inches in the minimum required distance between 'the bottom of the lowest structural member of the lowest floor (excluding pilings or columns)' and the elevation of flood waters in the 100 year flood, which is the flood event having a one percent chance of being equaled or exceeded in any given year and is commonly referred to as the one percent chance flood or the base flood; and

**WHEREAS**, on April 6, 2010, the East Palo Alto City Council adopted Resolution 3040, adopting a Flood Management Action Plan and authorizing the City Manager to apply for enrollment in the Community Rating System; and

**WHEREAS**, the City of East Palo Alto enrolled in the Community Rating System and currently receives a Class 7 rating, which equates to a 15% discount in flood insurance premiums; and

**WHEREAS**, adoption of higher regulatory standards such as the required distance between the bottom of the lowest floor and the elevation of flood waters in the one percent chance flood implements Resolution 3040, the Flood Management Action Plan, and is a recommended action in the Community Rating System program; and

**WHEREAS**, on October 16, 2012, the federal government published a new Flood Insurance Study (FIS) for East Palo Alto along with four new Flood Insurance Rate Map(s) (FIRM) that delineate the flood hazard areas, replacing the 1999 FIRM; and

**WHEREAS**, these amendments to the Ordinance implement voluntary measures consistent with the National Flood Insurance Program's Community Rating System, which is known to reduce the potential for loss of life and damage to property in a flood event; and

**WHEREAS**, amendment of the Ordinance is exempt from environmental review pursuant to Section 15183(a) of the California Environmental Quality Act.

**THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO ORDAINS AS FOLLOWS:**

**SECTION 1.** Chapter 35 of the Zoning Code, inclusive of Section 6820 to 6829.4, is hereby repealed.

**SECTION 2.** Chapter 15.52 of the East Palo Alto Municipal Code is hereby amended to read as follows:

**FLOODPLAIN MANAGEMENT**

**15.52.010 - Findings.**

- A. Areas of special flood hazards exist within the city. These areas are subject to periodic inundation which may 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 are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and which may cause damages in other areas. Structures that are not adequately floodproofed, anchored, properly elevated or otherwise protected from flood damage may also contribute to the flood loss; and

**15.52.020 - Statement of 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 damage to private property, public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazards;
- C. Help maintain a stable tax base by providing for the use and development of areas of special flood hazard so as to minimize future flood blight areas and protect property located adjacent to or upstream from special flood hazard areas;
- D. Control development which will, when acting alone or in combination with similar development, create an additional burden to the public to pay the cost of rescue, relief, emergency preparedness measures, sandbagging, pumping, and temporary dikes and levees;
- E. Control development which will, when acting alone or in combination with similar development, create an unjustified demand for public investment in flood control works by requiring that uses vulnerable to floods, including public facilities which

serve such uses, shall be protected against flood damage at the time of initial construction;

- F. Control development which will, when acting alone or in combination with similar development, create an additional burden on the public for business interruptions, factory closings, disruption of transportation routes, interference with utility services, and other factors that result in loss of wages, sales, production and tax write-offs;
- G. Control development which will, when acting alone or in combination with similar development, cause flood losses if public streets, sewer, water and other utilities must be extended below the flood level to serve the development;
- H. Control floodplain uses such as fill, dumping, storage of materials, structures, buildings, and any other works which, acting alone or in combination with other existing or future uses, will cause damaging flood heights and velocities by obstructing flows and reducing valley storage;
- I. Minimize surface and groundwater pollution which will affect human, animal or plant life;
- J. Ensure that potential buyers are notified that property is located in an area of special flood hazard; and
- K. Ensure that those who occupy areas of special flood hazards assume the responsibility for their actions.

#### **15.52.030 - Methods of reducing flood losses.**

In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels and natural protective barriers which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

#### **15.52.040 - 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. The following words and phrases are defined for purposes of clarifying their use in this chapter:

- A. "Appeal" means a request for a review of the floodplain administrator's interpretation of any provision in this chapter or a request for a variance.

- B.** "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year (also called the "one hundred (100) year flood").
- C.** "Base flood elevation" or "BFE" means the height of the base flood in relation to the North American Vertical Datum of 1988.
- D.** "Basement" means any area of a structure having its floor subgrade (below ground level) on all sides.
- E.** "Breakaway walls" means 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 building to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than ten 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:
- a. Breakaway walls collapse shall result from a water load less than that which would occur during the base floods; and
  - b. 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.
- F.** "Coastal high hazard area" means the area subject to high velocity waters, including but not limited to coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE or V.
- G.** "Development" means any man-made change to improved or unimproved real estate, including but not limited to building(s) or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.
- H.** "Fill" is the placement of fill material at a specified location to bring the ground surface up to a desired elevation.
- I.** "Fill material" can be natural sand, dirt, soil or rock, and for the purposes of floodplain management, may include concrete, cement, soil cement, brick or similar material as approved on a case-by-case basis.
- J.** "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.
- K.** "Erosion" means the process of the gradual wearing away of land masses.
- L.** "Existing manufactured home park or subdivision" means a 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 the effective date of the floodplain management regulations adopted by a community.
- M.** "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites 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).

- N.** "Flood boundary and floodway map" 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 floodway.
- O.** "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.
- P.** "Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
- Q.** "Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of floodwaters; (2) the unusual and rapid accumulation of runoff of surface waters from any source; and/or (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or 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 flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.
- R.** "Flood management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- S.** "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
- T.** "Flood Hazard Boundary Map" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.
- U.** "Flood-related erosion" means the collapse or subsidence of land along a 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.
- V.** "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining a 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.

- W.** "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.
- X.** "Floodplain management" means the operation of an overall program of corrective and preventative 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.
- Y.** "Floodplain or flood prone area" means any land area susceptible to being inundated by water from any source (see definition of "flood").
- Z.** "Floodproofing" means any combination of structural and nonstructural additions, changes or adjustments to nonresidential structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, nonresidential structures and their contents.
- AA.** "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "regulatory floodway."
- BB.** "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management.
- CC.** "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.
- DD.** "Hardship" for the purposes of this chapter, means the hardship that would result from a failure to grant the requested variance and must involve circumstances that are exceptional, unusual, and peculiar to the property involved.
- EE.** "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- FF.** "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 registered historic district;
  3. Individually listed on a state inventory of historic places in states with historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or individually listed on a local inventory of historic place 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.

- GG.** "Lowest floor" means the lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable nonelevation design requirements, including, but not limited to:
1. The wet floodproofing standard in Section 15.52.070A3c;
  2. The anchoring standards in Section 15.52.070A1;
  3. The construction materials and methods standards in Section 15.52.070A2;
  4. The standards for utilities in Section 15.52.070B.
  5. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see "Basement" definition). This prohibition includes below-grade garages, recreation rooms, utility rooms and storage areas.
  6. "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 connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
- HH.** "Manufactured home park or subdivision" means a parcel or contiguous parcels of land divided into two or more manufactured home sites for sale or rent.
- II.** "Mean sea level" means, for the purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 or other datum to which the base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- JJ.** "New construction" for floodplain management purposes, means structures for which the start of construction commenced on or after the effective date of floodplain management regulation(s) adopted by this community, and includes any subsequent improvements to such structures.
- KK.** "Obstruction" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, 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.
- LL.** "One hundred year flood" means a flood which has a one percent annual probability of being equaled or exceeded. It is identical to the "base flood," which will be the term used throughout this chapter.
- MM.** "Persons" means an individual or his agent, firm, partnership, association or corporation, or agent of the aforementioned groups, or this state or its agencies or political subdivisions.
- NN.** "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.

**OO.** "Remedy a violation" means to bring the structure or other development into compliance with state or local floodplain management regulations, or if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts can be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter, or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

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

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

**RR.** "Special flood hazard area" or "SFHA" means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. SFHA may also be designated by the City of East Palo Alto Community Development Department for riverines not shown on the FIRM, when a hydraulic study has defined the base flood elevations and the area of inundation.

**SS.** "Start of construction" means and includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was 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.

**TT.** "Structure" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**UU.** "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.

- VV.* "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. If multiple or phased improvements are involved, total costs shall be cumulative for a five consecutive year period prior to the start of construction. 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 local code enforcement official and which are the minimum necessary to assure safe living conditions; or
  2. Any alteration of a historic structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration will not preclude the structure's continued designation as a historic structure.
- WW.* "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.
- XX.* "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.
- YY.* "Water surface elevation" or "WSE" means the height, in relation to the North American Vertical Datum of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
- ZZ.* "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.

#### **15.52.050 - General provisions.**

- A. This chapter shall apply to all areas of special flood hazard within the city.
- B. Basis for Establishing Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated October 16, 2012, and accompanying Flood Insurance Rate Map (FIRM), 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 of this chapter and which are recommended to the city council by the floodplain administrator. The study and FIRM are on file at the City of East Palo Alto Community Development Department.

- C. 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. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing in this chapter shall prevent the city council from taking such lawful action as is necessary to prevent or remedy any violation.
- D. Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate or impair any existing easement, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever poses the more stringent restrictions shall prevail.
- E. 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 governing body; and
  3. Deemed neither to limit nor repeal any other powers granted under federal or state statutes.
- F. 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 man-made or natural causes. This chapter does not imply that land outside of the areas of special flood hazards or uses permitted within such areas will be free from flooding. This chapter shall not create liability on the part of the city, any officer or employee thereof, the state, the Federal Emergency Management Agency or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.
- G. Penalties. Any person or business entity, whether as principal, agent, employee, or otherwise, who violates any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the county jail not exceeding one year or by both fine and imprisonment.

The city's building official or designated authority are authorized to issue citations for the violation of any provision of this chapter.

Any structure or improvement constructed, affixed, located, extended, enlarged, converted or altered contrary to the provisions of this chapter or any use of any land or structure contrary to the provisions of this chapter or contrary to a permit or variance or the terms and conditions imposed therein shall be, and the same is declared to be, unlawful and a public nuisance, and the duly constituted authorities of the city shall immediately commence action or proceedings to abate, remove and enjoin thereof in the manner provided by law.

The remedies provided for in this chapter shall be cumulative and not exclusive.

## 15.52.060 - Development review procedures.

A. Establishment of a Development Permit. A development permit shall be obtained before construction or development begins within any area of special flood hazards, established in Section 15.52.050B. 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 quadruplicate, drawn to scale showing the nature, location, dimensions and elevation of the area in question; existing and proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

1. A development permit need not be a separate permit document but, at the discretion of the Community Development Director or designee, may consist of a clearance signature integrated into an existing approval process. The issuance of a development permit may follow a decision on a discretionary permit.
  2. Application for a development permit shall be submitted to the Community Development Director or designee on forms provided by that division. Such applications shall be submitted concurrently with applications for any other permits or approvals required (i.e., planning approvals, grading permit, etc.) for the project by the federal, state, local laws or East Palo Alto policies and shall include the following in addition to plans and information required for other permits or approvals:
    - a. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
    - b. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;
    - c. All appropriate certifications listed in Section 15.52.060C4 of this chapter; and
    - d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- B. Designation of the floodplain administrator. The Community Development Director or designee is appointed to administer and implement this chapter by granting or denying development permits in accordance with its provisions.
- C. Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the floodplain administrator shall include, but not be limited to:
1. Permit Review.
    - a. Review all development permits to determine that the permit requirements of this chapter have been satisfied;
    - b. All other required state and federal permits have been obtained;
    - c. The site is reasonably safe from flooding; and
    - d. 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. For purposes of this chapter, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated

- development will increase the water surface elevation of the base flood more than one foot at any point.
2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 15.52.050B, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer Section 15.52.070
  3. Whenever a watercourse is to be altered or relocated:
    - a. Notify adjacent communities and federal and state agencies as applicable, including but not limited to the California Department of Water Resources prior to such alteration or relocation of a watercourse, and submit written evidence of such notification to the Federal Emergency Management Agency; and
    - b. Require that the flood carrying capacity of the altered or relocated portion of such watercourse is maintained.
  4. Obtain and maintain for public inspection and make available as needed:
    - a. The certification required in Section 15.52.070A3a (lowest floor elevations);
    - b. The certification required in Section 15.52.070A3b (elevation or floodproofing of nonresidential structures);
    - c. The certification required in Section 15.52.070A3c (wet floodproofing standards);
    - d. The certification required in Section 15.52.070C (subdivision standards);
    - e. The certification required in Section 15.52.070E1 (floodway encroachments); and
    - f. The information required in Section 15.52.070F6 (coastal construction standards).
  5. 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 boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 15.52.080
  6. Take specific action to remedy violations of this chapter as specified in Section 15.52.050C.

#### **15.52.070 - Provisions for flood hazard reduction.**

- A. Standards of Construction. In all areas of special flood hazards, the following standards are required:
  1. Anchoring.
    - a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and

- b. All manufactured homes shall meet the anchoring standards of Section 15.52.070D.
2. Construction Materials and Methods.
- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
  - b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage; and
  - c. All new construction and substantial improvements shall 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.
3. Elevation and Floodproofing.
- a. New construction and substantial improvement of any structure shall have the lowest floor, including basement elevated eighteen inches above the base flood elevation. Nonresidential structures may meet the standards in Section 15.52.070A3b. Upon the completion of the structure, the elevation of the lowest floor including the basement shall be certified by a registered professional engineer or surveyor, and verified by the community building official to be properly elevated. Such certification and verification shall be recorded and filed at the community development department, planning division.
  - b. Nonresidential construction, new or substantial improvement, shall either be elevated to conform with Section 15.52.070A3a or together with attendant utility and sanitary facilities:
    - i. Be floodproofed to the elevation required under Section 15.52.070A3a so that the structure is watertight with walls substantially impermeable to the passage of water;
    - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
    - iii. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the floodplain administrator.
  - c. Require for all new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and that 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 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.

- d. Manufactured homes shall also meet the standards in Section 15.52.070D.

B. Standards for Utilities.

1. All new and replacement water supplies and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from systems into floodwaters; and
2. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

C. Standards for Subdivisions.

1. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood;
2. All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the building site is filled, the final pad elevations shall be eighteen inches above the base flood elevation and be certified by a registered professional engineer or surveyor and provided to the floodplain administrator.
3. All subdivision proposals shall be consistent with the need to minimize flood damage;
4. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage; and
5. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

D. Standards for Manufactured Homes. All new, substantially improved, replacement manufactured homes and additions to manufactured homes shall:

1. Be elevated so that the lowest floor is elevated eighteen inches above the base flood elevation; and
2. Be securely anchored to a permanent foundation system to resist flotation, collapse or lateral movement.

E. Floodways. Located within areas of special flood hazard established in Section 15.52.050 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge; and
2. If Section 15.52.070E1 is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of Section 15.52.070

- F. Coastal High Hazard Areas. Within coastal high hazard areas established in Section 15.52.050, the following standards shall apply:
1. All new construction and substantial improvements 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 eighteen inches above the base flood elevation. The pole 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;
  2. All new construction and other development shall be located landward of reach of mean high tide;
  3. All new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls. Such temporarily enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or limited storage;
  4. Fill shall not be used for structural support of buildings;
  5. Man-made alteration of sand dunes which would increase potential flood damage is prohibited; and
  6. The floodplain administrator shall obtain and maintain the following records:
    - a. Certification by a registered engineer or architect that a proposed structure complies with Section 15.52.070F1, and
    - b. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) or all new and substantially improved structures, and whether such structures contain a basement.

**15.52.080 - Variance procedures.**

- A. Appeal Board.
1. The city council of the city shall hear and decide appeals and requests for variances from the requirements of this chapter;
  2. The city council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this chapter;
  3. In passing upon such applications, the city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter; and:
    - a. The danger that materials may be swept onto other lands to the injury of others,
    - b. The danger to life and property due to flooding or erosion damage,
    - c. The susceptibility of the proposed development to flood damage and the effect of such damage on the individual owner,



- d. The importance of the services provided by the proposed facility to the community,
  - e. The necessity of a waterfront location for the proposed facility, where applicable,
  - f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage,
  - g. The compatibility of the proposed use with existing and anticipated development,
  - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area,
  - i. The safety of access to the property in times of flood for ordinary and emergency vehicles,
  - j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site, and
  - k. The 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;
4. Generally, variances may be issued 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 elevation required in Section 15.52.070A3, providing items in Section 15.52.080A3a through Section 15.52.080A3k have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases;
  5. Upon consideration of the factors of Section 15.52.080A3 and the 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; and
  6. 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.
- B. Conditions for Variances.
1. Variances may be issued for the repair, rehabilitation or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;
  2. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result;
  3. Variances shall only be issued upon the determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
  4. Variances shall only be issued upon:
    - a. A showing of good and sufficient cause,

- b. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
  - c. 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 or victimization of the public, or conflict with existing local laws or ordinances;
5. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the provisions of Sections 15.52.080B1 through 15.52.080B4 are satisfied and that 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; and
  6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor below the required elevation in Section 15.52.070A3a and that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- C. Application Procedure. Application for a variance from the provisions of this chapter may be made by the property owner or the owner's representative on forms provided by the floodplain administrator. Applications for variances shall be processed in accordance with the provisions established by the floodplain administrator and the application material shall include:
1. A complete application form, environmental information form and filing fees as set by the city;
  2. Complete site plans, floor plans, exterior elevations and grading plans in quadruplicate drawn to scale, showing the location, dimensions, contours and elevations above mean sea level of areas proposed for development, existing and proposed structures, streets, roads, drainage facilities, utilities, areas of fill and locations of North American Vertical Datum of 1988;
  3. The proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures, based on North American Vertical Datum of 1988; in Zone AO, elevation of the existing grade and proposed elevation of the lowest floor of all structures, based on North American Vertical Datum of 1988; and
  4. Proposed elevation in relation to mean sea level to which any structure will be floodproofed, based on North American Vertical Datum of 1988.

#### **15.52.090 - Nonconforming uses.**

- A. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:
  1. The structure or use shall comply with the regulations contained in the City Zoning Ordinance.

2. Structural alterations, maintenance or repair of a nonconforming building may be allowed provided:
  - a. The cubical contents of the building as it existed at the time it became nonconforming is not increased; or
  - b. The building is permanently changed to a conforming use.
- B. Structures or adjuncts thereof which are/or become nuisances shall not be entitled to continue as nonconforming uses.
- C. Except as provided in Section 15.52.080B, any use which has been permitted following approval of variance by the city, as provided for in Section 15.52.080, shall be considered a conforming use.
- D. Any alteration, addition or repair to any nonconforming structure which would result in substantially increasing its flood damage potential shall be protected by measures pursuant to Section 15.52.080

**15.52.100 - Abrogation and greater restrictions.**

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. Whenever the provisions of this chapter conflict with the provisions of City of East Palo Alto Building Code relating to flood prone areas, the more restrictive language shall govern.

**15.52.110 - Severability.**

The provisions of this chapter are hereby declared to be severable. Should any portion 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 one so declared to be unconstitutional or invalid.

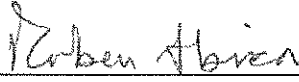
**SECTION 3. ENVIRONMENTAL DETERMINATION**

The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15183(a) that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA).


Introduced at a regular meeting of the City Council on September 17, 2013 and adopted at a regular meeting of the City Council on October 1, 2013, by the following vote:

<b>AYES:</b>	<b>ABRICA, MARTINEZ, GAUTHIER</b>
<b>NAES:</b>	<b>0</b>
<b>ABSENT:</b>	<b>WOODS, MOODY</b>
<b>ABSTAIN:</b>	<b>0</b>

**SIGNED:**

  
\_\_\_\_\_  
Ruben Abrica, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Nora Pimentel, Deputy City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
John A. Nagel, City Attorney