



## Legislation Details (With Text)

<b>File #:</b>	19-0280	<b>Version:</b>	1	<b>Name:</b>	Amending Chapter 50: FLOODS, Sec. 50-61
<b>Type:</b>	Agenda Item	<b>Status:</b>		<b>Status:</b>	Approved
<b>File created:</b>	5/14/2019	<b>In control:</b>		<b>In control:</b>	Engineering
<b>On agenda:</b>	7/23/2019	<b>Final action:</b>		<b>Final action:</b>	7/23/2019
<b>Title:</b>	Consider and take action on an ordinance amending Chapter 50 of the Code of Ordinances of the City of League City entitled Floods by amending Sec. 50-61 to adopt the final flood hazard determination for the City of League City, Galveston County, Texas by the Federal Emergency Management Agency (FEMA) as required by the National Flood Insurance Program (NFIP), by amending Sec. 50-66 to adjust variance procedures for non-inhabitable structures, and by amending Sec. 50-81 to reduce substantially improved or damaged time period to a five-year period (Director of Engineering)				

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. Data Sheet, 2. Proposed Ordinance, 3. Federal Emergency Management Agency Letter, 4. New Effective Flood Zone Map, 5. Chart on impact to City of new Maps, 6. Information on CRS Program, Activity 430-Cumulative Improvement/Damage requirements, 7. Amendments to Sections 50-61, 66, 81.10 w mark-ups, 8. Amendments to Sections 50-61, 66, 81.10 Draft Version

Date	Ver.	Action By	Action	Result
7/23/2019	1	City Council	Approved	Pass
7/23/2019	1	City Council	Approved First and Final Reading	Pass

Consider and take action on an ordinance amending Chapter 50 of the Code of Ordinances of the City of League City entitled Floods by amending Sec. 50-61 to adopt the final flood hazard determination for the City of League City, Galveston County, Texas by the Federal Emergency Management Agency (FEMA) as required by the National Flood Insurance Program (NFIP), by amending Sec. 50-66 to adjust variance procedures for non-inhabitable structures, and by amending Sec. 50-81 to reduce substantially improved or damaged time period to a five-year period (Director of Engineering)

Approval of this ordinance will amend three (3) areas of the City's existing Flood Ordinance (Chapter 50: Floods in the City's Code of Ordinances).

The first amendment the approval of this resolution will adopt the final flood hazard determinations for the City of League City, Galveston County, Texas in compliance with Title 44, Chapter I, Part 67, Section 67.11, Code of Federal Regulations. The flood hazard determinations may include addition of and/or modifications to Base Flood Elevations (BREs), base flood depths, Special Flood Hazard Areas (SFHAS), zone designations, and regulatory floodways. In July 2012, the President signed H.R. 4348 Biggert-Waters Flood Insurance Reform Act 2012 also known as BW12. In support of BW12, FEMA and NOAA have utilized the latest technology to provide more accurate Flood Insurance Studies for the United States.

The City received by CERTIFIED MAIL a February 15, 2019 notification, Attachment A, that "The FIRM for your community will become effective on August 15, 2019" and "as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 6.3(d and e) of the NFIP regulations (44 CFR 59, etc.) by the

effective date of the FIRM.”

Section 50-61 will be amended to read as follows:

“The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Study in the current scientific and engineering report entitled, “The Flood Insurance Study (FIS) for Galveston County, Texas, and incorporated areas dated August 15, 2019 , with the accompanying flood insurance rate maps and flood boundary-floodway maps (FIRM and FBFM) dated August 15, 2019, and any revisions thereto are hereby adopted by reference and declared to be part of this ordinance.”

It is important to note that by adopting the new studies and maps, the City will begin requiring all new development to design based on these documents, but citizens should not see any increase in their flood insurance rates or be required to obtain flood insurance for properties now within the 1% (100-yr) flood zones until August 15, 2019. Attached to this data sheet is a map showing the new effective flood zones. Also attached to this data sheet is a break down how this change impacts the City.

The second amendment the approval of this resolution will establish is a modification to the variance process as outlined in Section 50-66. This amendment will revise Section 50-66(a) to allow the Director of Engineering to grant variances to the Flood Ordinance for non-inhabitable structures only. Examples of this type of variance would be driveway adjustments or the new construction/modification of existing sheds, garages, barns, etc. (this would be for structures without plumbing only). Currently, the Flood Ordinance only allows for the Planning and Zoning Commission to be the body to render judgment on requests for variances. With the new maps being adopted, several areas where existing homes are currently constructed and at one time were outside flood zones will now fall within the City’s Special Flood Hazard Areas (SFHA). In those cases, the homeowner/property owner could be severely limited in adding or repairing any type of accessory structure(s). This amendment will allow the Engineering Director to review the work to be done and allow property owners to make reasonable changes to their property that may cause minimal impacts to the City’s Flood Zones without bogging down the Planning and Zoning Commission agenda with proposed work related to non-inhabitable structures. The Planning and Zoning Commission will still be the body to grant variances related to all habitable structures. All appeals to permit denials and variance request denials will still be considered by the Planning and Zoning Commission and/or City Council.

Section 50-66a will be amended to read as follows:

“The Planning and Zoning Commission, as established by the City, shall hear and render judgment on requests for variances from the requirements of this article. The Director of Engineering may grant variances from the requirements of this article for non-inhabitable structures only.”

The third amendment the approval of this resolution provides is two-fold:

First, it will reduce the amount of time used when determining if a structure is substantially improved or damaged. The current wording of Section 50-81.10 requires staff to deem a structure substantially improved or damaged if the cumulative costs of the improvements or damage repairs over a 10-year period is equal to or exceeds 50% of the market value of the structure. This 10-year period was established when the City entered into the NFIP’s Community Rating System (CRS). By choosing a 10-year period, the City was able to maximize the available points under Activity 430 (Higher Regulatory Standards) in the CRS program. The City is required to maintain permit records by parcel number or address so that the history of improvements to a particular structure can be checked before the next

permit is issued. If at any time over that 10-year period the cumulative total of improvements and/or repairs equal 50% of the market value of the structure, then the structure must be brought up to the current requirements of the Flood Ordinance. This means that the majority of permits pulled for a given residence, such as roofing, electrical, HVAC, etc., would be counted towards the cumulative costs within a given 10-year period. In some cases, this can and has prevented property owners from properly maintaining structures for several years because an HVAC replacement would push them over the 50% threshold. Staff feels that a 5-year period is more appropriate for this requirement. During the City's 2018 CRS program Audit, the 10-year period for cumulative improvements/repairs provided a total of 73 points. By keeping the 50% cumulative improvement/repair threshold but lowering the time period to 5-years, the City would lose 24 points (from 73 points to 49 points), but still maintain a Class 6 CRS rating which allows for a 20% reduction in rates residents pay for Flood Insurance within the City. By lowering the timeframe to 5-years, the Staff is able to more efficiently track cumulative improvements/repairs to structures which streamline permit review times and allows for Staff to track such changes more efficiently and property owners are allowed to update their structures without fear of a small improvements over the course of a decade triggering a massive project to bring their structure up to current requirements.

Secondly, Section 50-81.10 will be amended to remove properties within the 0.2% (500-yr) flood zone from the substantially improved/damaged requirements. Last year when the City was updating the Flood Ordinance, the 0.2% flood zone was included as part of the City's SFHA which goes above the requirement outlined by FEMA. The CRS program only requires structures with the FEMA recognized Special Flood Hazard Areas (SFHA) to be tracked. Properties within the 0.2% zone are not federally required to have Flood Insurance. As Staff reviewed the preliminary flooding maps, in general the areas within the "current" 500-yr flood zone would become the "new" 1% flood zone when FEMA officially adopted the preliminary maps. Staff wanted to ensure that everything possible was being done to lessen the impacts of flooding, so at that time, staff made a conscious decision to keep the "current" 0.2% flood zone in the substantially improved or damaged requirements. Now that the preliminary FEMA maps are being adopted, Staff believes that Section 50-81.10 should be amended to exclude the new 0.2% flood zones since those properties are not required to carry flood insurance. In speaking with FEMA recently, Staff was informed that an exclusion statement within the ordinance would be needed for the 0.2% Flood Zone areas to be removed from the requirement.

Section 50-81.10 will be amended to read as follows:

"A structure shall be deemed to be substantially improved or substantially damaged when the cumulative costs of the improvements or damage repairs, when combined incrementally over a five-year period of time, equal or exceed 50 percent of the market value of the structure. Structures located within the 0.2% Flood Zone will be excluded from this requirement."

By amending this Section 50-81.10, the definition for "Cumulative Substantial Improvements//Damages" within Section 50-35 will also need to be modified to reflect the following:

"Cumulative substantial improvements/damages mean any structure wherein the cumulative costs of the improvements or damage repairs when combined incrementally over a five-year period of time, equal or exceed 50 percent of the market value of the structure. When the cost of the work reaches 50 percent, the structure must be brought into compliance with current ordinances and codes."

The fourth and final amendment the approval of this resolution provides will alter the requirements for fill being placed within the 0.2% flood zone. As explained above, when Chapter 50 was revised last year, the intent

was to protect properties within the current 0.2% flood zone that Staff knew would be transitioning to the 1% flood zone when the new FEMA maps became effective. Part of the revisions made last year was to include the 0.2% flood zone into Section 50-81.15. This inclusion meant that any fill placed within the 0.2% flood zone would have to be mitigated which means that fill placed would have to be offset by “cut” sections so that the storage volume within the flood zone was not reduced. With the new FEMA maps becoming effective, this creates a very strict development standard. Staff feels that by modifying this section, it will allow the development of properties within the 0.2% flood zone and still allow for the protection of surrounding properties.

Section 50-81.15 will be amended to read as follows:

“When fill or any other development is placed in the special flood hazard area that has the effect of reducing the storage volume of flood waters in the floodplain, then an equal amount of storage volume must be created in another location of the same floodplain to compensate for the storage capacity lost. Fill or other development within the special floodplain hazard area and the 0.2% floodplain shall not negatively affect upstream/downstream properties.”

Attachments:

1. Data Sheet
2. Proposed Ordinance
3. Federal Emergency Management Letter
4. New Effective Flood Zone Map
5. Chart on impact to City of new maps
6. Information on CRS Program, Activity 430 - Cumulative Improvement/Damage requirements
7. Amendments to Section 50-35, 50-61, 50-66, and 50-81 with mark-ups
8. Amendments to Section 50-35, 50-61, 50-66, and 50-81 Final versions

FUNDING

{ } Funds are available from Account # \_\_\_\_\_  
{ } Requires Budget Amendment to transfer from Account # \_\_\_\_\_ to Account # \_\_\_\_\_  
{X} NOT APPLICABLE

STRATEGIC PLANNING

{ } Addresses Strategic Planning Critical Success Factor # \_\_\_\_\_ and Initiative # \_\_\_\_\_  
{X} NOT APPLICABLE