

Summary of Proposed Revisions to the 2008 Flood Damage Prevention Order

MANDATORY Updates/Revisions:

1. Prohibit encroachments, adopt minimum NFIP criteria for the protection of regulated floodways **[44 CFR §60.3(d)(3) & (d)(4)]** and establish procedures for the Court to select and adopt floodways not shown on FIRM **[44 CFR §60.3(d)(1) & (d)(2)]**.
2. Consider and establish regulations for the protection of critical facilities **[44 CFR §60.22(c)(8)]**.

Recommended Updates/Revisions [44 CFR §60.1(d)]:

1. Establish more stringent regulations for the Court to designate floodways or flood protection measures for flood hazard areas not shown on FIRM **[44 CFR §60.3(b)(4) and 44 CFR §60.3(d)(1) & (d)(2)]**
2. Establish more stringent standards for certain critical facilities (emergency responders, law enforcement, jails, detention centers, hospitals, clinics, nursing homes, daycares, residential facilities relying upon life-saving equipment, etc.) **[44 CFR §60.22(c)(8)]**
 - a. **Class 1** – to be located outside both the 100-yr and 500-yr flood hazard areas and meets the higher elevation criteria (see 2.c. below).
 - b. **Class 2** – may be located within the 100-yr flood hazard areas however, must meet the higher elevation criteria or be flood-proofed to that elevation (see 2.c. below).
 - c. **Classes 1 & 2** - to be elevated (or Class 2 flood-proofed) to 12 inches above the 500-yr flood event.
3. Modify existing freeboard requirements from 12 inches to 18 inches above the BFE in an effort to be uniform with the City of Laredo's regulations **[44 CFR §60.22(c)(16)]** and adopt more stringent standards for flood-protection structures (dams and berms) to be elevated 24 inches above the BFE.
4. Segregate and establish stream-lined procedures for Variances **(44 CFR §60.6)** and Appeals to include:
 - a. Define and limit variance eligibility to ensure on-going conformance with **44 CFR §60.6** and authorize the Floodplain Administrator to grant variances that meet the established criteria.
 - b. Establish time limits to file an appeal of the Floodplain Administrator's decision (30-days from written notice plus, additional 15 working days to complete an incomplete appeal application).
 - c. Change the existing appeal body from the Planning Advisory Board to the Commissioners Court.
 - d. Require affirmative action by at least 3 members of the Commissioners Court to grant an appeal since FEMA considers such action as a variance to the regulations.
5. Establish local regulations for development in Zone A (approximate studies) to more clearly set out the NFIP's increased responsibilities in such areas **[44 CFR §60.3(b)(4)]**. As a precautionary flood protection measure, include more stringent standards **[44 CFR §60.1(d)]**, as follows:
 - a. Include buffer zones (100 feet of a Zone A boundary or 100 feet of a stream center-line shown on the U.S. Geological Survey Topo maps).
 - b. Prohibit fill until studied and a Letter of Map Change is issued by FEMA (structures must be elevated by pier & beam or wait until map change occurs).
6. Establish procedures for Map Changes through FEMA **[44 CFR Part 65]** and require that existing conditions affecting Zone A areas be official approved by FEMA before authorizing any application to modify the flood hazard area or a watercourse through a Conditional Letter of Map Revision.
7. Clarify the applicability of "development" **[44 CFR §59.1]** in all sections, incorporate applicability of fees, provide additional definitions of terms and make similar amendments to remove any ambiguity in the order.

Recommendations for Commissioners Court Action
relating to
Proposed Revisions to the 2008 Flood Damage Prevention Order
(Meeting of June 24, 2019)

Staff recommends the Commissioners Court consider action to the following issues relating to the proposed revisions to the 2008 Flood Damage Prevention Order:

1. **Preliminarily** adopt the proposed revisions to the 2008 Flood Damage Prevention Order (*as submitted or modified by the Commissioners Court*);
2. Accept the Takings Impact Assessment prepared by Planning finding that the proposed action is exempt from the Texas Private Property Preservation Act as set out in Chapter 2007 of the Texas Government Code;
3. Direct publication of a public notice to initiate a 30-day Review and Public Comment period as set out in Chapter 2007, Texas Government Code regarding the Commissioners Court consideration of final action to adopt the proposed revisions to the 2008 Flood Damage Prevention Order;
4. After the Review and Public Comment period, direct staff to bring back a proposed final order together with all received comments for the Commissioners Court to consider **Final Adoption** of a "2019 Flood Damage Prevention Order".