



**MANUAL FOR ENCROACHMENTS  
WITHIN  
DISTRICT EASEMENTS AND PROPERTY**

**UPPER BRUSHY CREEK  
WCID**

AMENDED  
OCTOBER 17, 2019

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## **Section 1 Introduction**

The US Department of Agriculture - Natural Resources Conservation Service (NRCS), formerly the Soil Conservation Service (SCS), oversaw the design and construction of twenty-three dams and is considered the “Engineer-of-Record” for the structures. The Upper Brushy Creek Water Control and Improvement District (District) is the local sponsor of these dams.

These dams were constructed on private lands through easements held by the District. Most easements were prepared in the 1950’s through 1960’s, although some easements have been modified, partially released, or more clearly defined by metes and bounds and filed under separate instruments or on plats. All easements are filed with the Williamson County Clerk’s office. In some locations, the District owns real property.

As easement holder and local sponsor of the structures, the District is responsible for the operation, maintenance, inspection, and modernization of these structures. These activities are funded by ad valorem taxes collected within the District and grants or other funds that may be available.

The District will use the following Manual to regulate encroachments within the District Easements and Property to preserve the functionality of the structures and maintain the flood storage as designed to protect residents upstream and downstream of the dams.

When activity is contemplated which will impact a District Easement or Property, the District shall be contacted to review the plans and their impact on the easement. All activities within District Easements and Property is prohibited without an executed agreement with the District, reviewed on a case by case basis and approval is at District discretion. The District’s approval of any request for modification of an easement will be contingent on the concurrence of the Regional Office of NRCS and/or Texas Commission on Environmental Quality (TCEQ) (as applicable).

All the District’s structures are regulated by the TCEQ. Texas Administrative Code (TAC) Title 30, Part 1, Chapter 299: DAMS AND RESERVOIRS contains regulations pertaining to structures that satisfy specific size or hazard criteria. All the District structures are designated by the TCEQ as High-Hazard dams.

## **Section 2 District Authority to Regulate Encroachments**

The District is a political subdivision of the State of Texas organized under the provisions of Section 59 of Article XVI of the Texas Constitution. It operates pursuant to Chapters 51 and 54 of the Texas Water Code with regulatory oversight from the Texas Commission on Environmental Quality, specifically Title 30, Part 1, Chapter 299 of the Texas Administrative Code.

Most of the District's dams were constructed in conjunction with the United States Department of Agriculture in the late 1950's and early 1960's. The easements granted to the District specifically state that the District shall have the right, privilege and authority to utilize the property for the installation, operation, maintenance and inspection of the dams. Additionally, each easement includes language that states that the District has all rights that may be necessary, useful or convenient for the full enjoyment of the easement conveyed. The District has consistently and vigorously protected these easement rights.

The District's review and permitting authority is solely focused on ensuring that the District easement rights are fully protected or are otherwise remediated for the benefit of the District. Consequently, the District's review of any development near or within the easement boundaries is limited to the protection of the easement.

## Section 3 Glossary of Terms and Definitions

The following definitions will be used throughout this District Activity Manual.

**(1) Activity**

Any manmade change to improved or unimproved real estate, including but not limited to, adding buildings or other structures, utilities, dredging, tilling, grading, paving, excavation, or drilling operations. Temporary activities including the storage of spoils is also regulated.

**(2) Blanket Easement**

The original easements acquired with the initial dam construction which is defined by the parent tract on which the dam was built or as otherwise defined. Areas within the Blanket Easement are defined below.

**(a) Access Easement Area**

Unless amended, the Access Easement Area covers the entire Blanket Easement to preserve any and all access required to inspect, operate, repair, modernize, and maintain all elements of the Dam.

**(b) Inundation Easement Area**

A portion of the Blanket Easement defined by an elevation contour that is two (2) feet above the Auxiliary Spillway elevation unless specifically designated in the Blanket Easement. *(Note: This is not the 1% AEP floodplain, which is determined by the Federal Emergency Management Agency (FEMA)).*

**(c) Structure Easement Area**

A portion of the Blanket Easement encompassing the Dam, Auxiliary Spillway (to the outlet channel), and outlet works. The limits of the Structure Easement Area are defined by a fifty (50) foot offset from the toe of the Dam embankment, twenty-five (25) foot offset from the outermost edge of the spillway embankments (top or toe of slope, whichever is furthest) and a fifteen (15) foot offset from all sides of the Principal Spillway and outlet works.

**(3) Dam**

An embankment, together with its Auxiliary Spillway, Principal Spillway structure, outlet works and related appurtenances that can impound water for the purpose of storage or control of water.

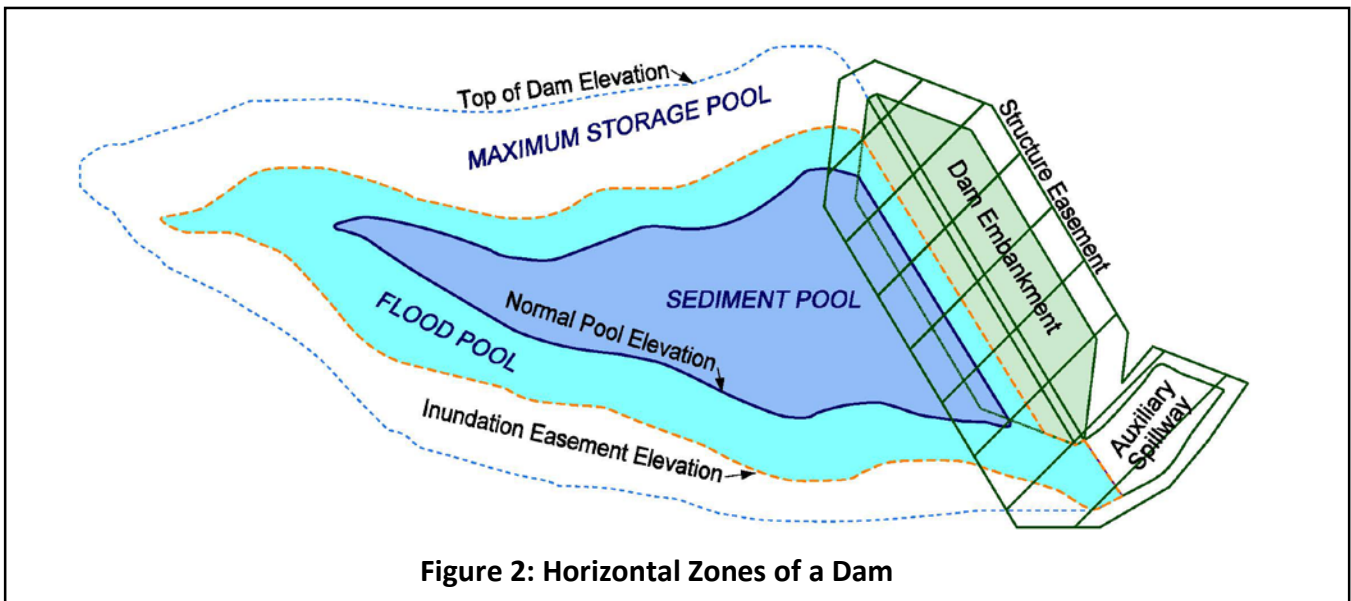
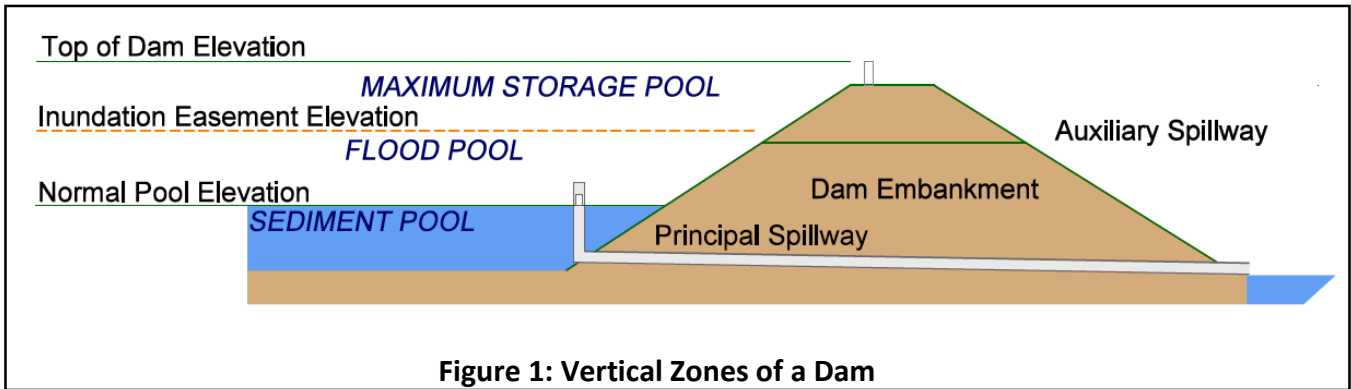
**(4) District Easement**

A site-specific easement generally having field notes and sketch description and specific language defining the rights granted to the District.

**(5) District Property**

A tract which the District has outright fee-title ownership typically described by field notes and sketch or a platted lot.

- (6) **Flood Pool**  
Volume above the Normal Pool Elevation up to the Inundation Easement Elevation.
- (7) **Habitable Structure**  
A structure intended to be used as a temporary or permanent facility for living, sleeping, eating or cooking.
- (8) **Inundation Easement Elevation**  
As defined by the District Easement or two (2) feet above Auxiliary Spillway.
- (9) **Maximum Flood Storage Zone**  
Volume above the Inundation Easement Elevation to the current effective Top of the Dam Elevation.
- (10) **Normal Pool Elevation**  
Principal Spillway elevation or low flow port elevation, whichever is lower.
- (11) **Owner**  
The individual or company that has owner's rights to the property the Dam or District Easements are located on.
- (12) **Sediment Pool**  
Volume below Normal Pool Elevation.
- (13) **Spillway**  
A structure over or through which flow is discharged from a reservoir. If the rate of flow is controlled by mechanical means, such as gates, it is considered a controlled spillway. If the geometry of the spillway is the only control, it is considered an uncontrolled spillway
- (a) **Auxiliary Spillway**  
A secondary spillway that is designed to be operated infrequently, possibly in anticipation of some degree of structural damage or erosion to the Principal Spillway that would occur during operation.
- (b) **Principal Spillway**  
The primary spillway over or through which most impounded water releases past a dam.
- (14) **Top of Dam Elevation**  
Top of Dam including concrete parapet wall when applicable.



## Section 4 Construction Activity Near Dams

Texas Administrative Code (TAC) 299.16(d), as amended, identifies activities near dams that may warrant evaluation by a professional engineer, registered in the State of Texas, at the request of the dam owner or the executive director of the Texas Commission on Environmental Quality (TCEQ). The District reserves the right to request such an evaluation for all work that falls within the criteria listed below.

***TAC 299.16(d):***

*When a person proposes one of the following activities near the owner's dam, the owner or the executive director may request that the person have a professional engineer perform an evaluation to determine if the integrity of the dam would be compromised. If the person has a report prepared by a professional engineer, the person shall submit the evaluation report to the executive director and the owner for review and approval before any work is performed for a proposal to:*

- (1) dredge the reservoir within 200 feet of the dam;*
- (2) install a utility line or pipeline in the dam or in the spillways that requires significant excavation in the dam or spillways;*
- (3) construct a road across the dam or spillways or within 200 feet of the dam;*
- (4) drill oil or gas wells, perform horizontal drilling or fracturing, or perform oil or gas exploration within 500 feet of the dam and spillways; or*
- (5) blast within 1/2 mile of the dam.*



## Section 5 Encroachment Permit Procedure

The Encroachment Permit submittal and review should take place as soon as practicable, usually in conjunction with other jurisdictional review processes.

**Pre-Submittal Meeting:** A meeting with District representative(s) is recommended prior to submission of the Encroachment Permit to identify specific information and coordination needed prior to submittal.

**Submittal:** Each submittal will require completion of the Encroachment Permit Application Form and Submittal Checklist and all necessary documentation. Fees will not be required (or accepted) until after completeness check.

**Completeness Check:** The District representative(s) will check the Encroachment Permit for completeness and notify the applicant of outstanding submittal items within ten (10) calendar days. The applicant has ten (10) calendar days to provide the outstanding items and fee or the permit will be voided.

**Review and Approval:** The review of the Encroachment Permit submittal will not begin until Encroachment Permit fees are received. The District will review the Encroachment Permit submittal and provide comments within fourteen (14) calendar days. Upon resolution of all comments, the applicant will be notified of approval.

The Encroachment Permit application will expire six (6) months after initial submittal date OR after three (3) rounds of comments, whichever comes first.

**Construction:** When the Encroachment Permit is granted, the applicant will do the following:

- (a) Schedule a Pre-Construction Meeting with the District no more than one (1) month prior to initiating any construction work within District Inundation Easement;
- (b) Notify the District at least 72 hours prior to initiating any construction work, including installation of erosion and sedimentation controls, within the District Easements or Property;
- (c) After notification of construction, a written monthly verification, in the format provided, should be provided to the District by the **first of each month**. If such verification is not provided, the District reserves the right to perform a monthly Construction Site Visit at the expense of the applicant; and
- (d) Provide all-weather access to the structure **at all times** during construction. Access plan shall be approved by the District prior to initiating construction. Access point may not be altered without prior District approval.
- (e) The applicant must initiate construction within twelve (12) months of the effective date of the Encroachment Permit. The applicant may request one twelve (12) month extension prior to the expiration date.

**Construction Close-out:** To close out a permit, the applicant will be required to do the following:

- (a) Completely restore and re-vegetate the land affected by the construction per TCEQ requirements;
- (b) Schedule a final inspection of the project with the District;
- (c) Provide digital “Record Drawings” of the work performed; and
- (d) Provide a digital “As-Built” survey and revised calculations of all of the cut/fill areas covered by the Encroachment Permit.

## **Section 6 Easement Release or Modification Procedure**

The Easement Release and/or Modification request should occur as soon as practicable, usually in conjunction with other jurisdictional review processes.

**Pre-Submittal Meeting:** A meeting with District representative(s) is recommended prior to submission of the Easement Release or Modification request to identify specific information and coordination needed prior to submittal.

**Submittal:** Each submittal will require completion of the Easement Release or Modification Request Form and Submittal Checklist and all necessary documentation. Fees are not required (or accepted) until after completeness check.

**Completeness Check:** The District representative(s) will review the Easement Release and/or Modification request for completeness and notify the applicant of outstanding submittal items within ten (10) calendar days. The applicant has ten (10) calendar days to provide the outstanding items and fee or the permit will be voided.

**Review and Approval:** The review of the Encroachment Permit submittal will not begin until Encroachment Permit fees are received. The District will review the Encroachment Permit submittal and provide comments within fourteen (14) calendar days. Upon resolution of all comments, the applicant will be notified of approval.

The Easement Release and/or Modification request will expire six (6) months after initial submittal date OR after three (3) rounds of comments, whichever comes first.

## Section 7 Dam Reference Table

Structure ID	Normal Pool Elevation (ft-msl)	Principal Spillway Elevation (ft-msl)	Auxiliary Spillway Elevation (ft-msl)	Inundation Easement Elevation* (ft-msl)
Dam 1	1,011.37	1,012.99	1,025.81	1,027.81
Dam 2	947.85	947.85	961.77	963.77
Dam 3	876.91	876.91	900.66	902.66
Dam 4	838.30	838.30	858.80	860.80
Dam 5	886.42	886.42	902.80	904.80
Dam 6	888.60	888.60	906.28	908.28
Dam 7	804.94	804.94	830.20	832.20
Dam 8	825.22	826.69	846.94	848.94
Dam 9	769.88	769.88	785.56	787.56
Dam 10a	810.32	810.32	830.21	832.21
Dam 10b	795.77	795.77	812.03	814.03
Dam 11	718.40	725.33	737.38	739.38
Dam 12	768.31	768.31	782.29	784.29
Dam 13a	830.10	830.10	842.20	844.20
Dam 14	713.98	716.99	723.80	725.80
Dam 15	699.45	699.45	709.40	711.40
Dam 16	714.73	719.65	729.95	731.95
Dam 17	671.43	671.43	680.96	682.96
Dam 18	659.83	659.83	671.24	673.24
Dam 19	660.47	660.47	675.89	677.89
Dam 20	649.37	649.37	661.13	663.13
Dam 21	619.19	619.19	630.68	632.68
Dam 22	599.83	599.83	609.48	611.48

\*as identified in original easement documents

**Appendix A**  
**Easements Encroachment Policy**

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**Appendix B**  
**Encroachment Permit**

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**Encroachment Permit**  
**District Inundation Easement and Property**  
*Application Form*

**1. Project Name:** \_\_\_\_\_

Project Acreage: \_\_\_\_\_ District Dam #: \_\_\_\_\_

Jurisdiction: \_\_\_\_\_ Previous Permit #: \_\_\_\_\_

**2. Owner (Name/Title):** \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

**3. Applicant/Engineer (Name/Title):** \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

**4. Description of proposed activity to occur within the Inundation Easement:**

\_\_\_\_\_  
\_\_\_\_\_

<b>5. Compensatory Cut:</b>	<b>Total fill (cy)</b>	<b>Total cut (cy)</b>
a. Sediment Pool	_____	_____
b. Flood Pool	_____	_____

<b>6. Floodwater Cut (24-hr 1%AEP):</b>	<b>Total added (cy)</b>	<b>Total cut (cy)</b>
a. Detention	_____	_____

**Owner's Acknowledgement**

- The District does not receive or review submittals made to any other jurisdictions and additional permits may be necessary from other entities.
- Any revisions that change the civil site plans based on other entity review or for any other reason must be resubmitted to the District for acceptance.
- I acknowledge that all fees required are my responsibility.
- I hereby authorize the applicant indicated above to represent me in matters pertaining to this permit.

\_\_\_\_\_  
**Signature of Owner** \_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Signature of Applicant** \_\_\_\_\_  
**Date**

District Use Only:		
Permit #: _____	Date Fee Received: _____	Cash/Check No.: _____



# Encroachment Permit District Inundation Easement and Property

## *Submittal Checklist*

The following are required to be included with the Encroachment Permit Application within District Inundation Easements and Property for a submittal to be considered complete. All submittal items shall be electronic.

### **Submittal Requirements:**

- Encroachment Permit Application Form and Submittal Checklist
- Complete Construction Plans for entire subject tract
- CAD Files of existing and proposed grading (3D files)
- Plat(s) of the property (existing and/or proposed)
- Encroachment Permit Submittal Packet
  - UBCWCID Site Plan
  - Drainage Area Map
  - Inundation Easement Map
  - Proposed Construction Schedule
  - Drainage Report

### **Encroachment Permit Submittal Packet:**

- UBCWCID Site Plan**
  - Single sheet (if possible) at legible scale showing all proposed improvements
  - All District Easements or Blanket Easements located on property are shown and identified
  - All proposed impervious cover is clearly indicated
- Drainage Area Map**
  - Existing and proposed drainage areas encompassing entire subject tract
  - Delineated drainage basins with contours
  - Existing and proposed impervious cover
  - Existing and proposed runoff coefficients
  - Existing and proposed time of concentration path delineations
- Inundation Easement Map**
  - Limits of Inundation Easement (Area)
  - Limits of proposed fill with dimensions
  - Limits of proposed compensatory cut and floodwater cut volume with dimensions
  - Cross sections of all cut and fill locations
  - Table summarizing total fill, compensatory cut, and floodwater cut volume calculations (in cubic yards)
- Proposed Construction Schedule**
  - Date proposed activity within District Inundation Easement (Area) will begin
  - Date proposed activity within District Inundation Easement (Area) will end
  - Expected date of completion for entire project
- Drainage Report**
  - Report is signed and sealed by a Professional Engineer
  - Summary of project including a description of any project phasing
  - Summary of method of analysis and modeling software and origin
  - Hydrologic support including but not limited to: rainfall data; Curve Number calculations including soils map and land use map; impervious cover; and time of concentrations paths and calculations
  - Summary table of existing and proposed volume of runoff for the 24-hr 1% AEP
  - Project phasing table (Phase Number, fill volume, impervious cover area, runoff volume, compensatory cut volume required and provided, floodwater cut volume required and provided)
  - Digital copy of the hydrologic model



## **Appendix C**

### **Easement Release or Modification Request**



# Easement Release or Modification Request

## Application Form and Submittal Checklist

1. **Project Name:** \_\_\_\_\_

Project Acreage: \_\_\_\_\_ District Dam #: \_\_\_\_\_

Jurisdiction: \_\_\_\_\_ Previous Permit #: \_\_\_\_\_

2. **Owner (Name/Title):** \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

3. **Applicant/Engineer (Name/Title):** \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

\_\_\_\_\_  
**Signature of Owner**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Signature of Applicant**

\_\_\_\_\_  
**Date**

The following are required to be included with the Easement Release or Modification Request Application for a submittal to be considered complete. All submittal items shall be electronic.

### Submittal Requirements:

- Easement Release or Modification Request Application Form and Submittal Checklist
- Plat(s) of the property (existing and/or proposed)
- Field notes and sketch of easement