



**POLICY FOR ENCROACHMENTS
WITHIN DISTRICT EASEMENTS OF FLOODWATER
RETARDING STRUCTURES**

**LOWER BRUSHY CREEK
WCID**

ADOPTED: FEBRUARY 2025

EFFECTIVE: MARCH 1, 2025

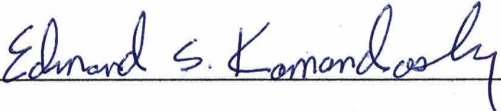
The Policy for Encroachment Within District Easements and Property of Lower Brushy Creek Dams is hereby approved and adopted on this the 17th day of February 2025.

This policy is effective on March 1, 2025 and supersedes all previous versions.

Approval and Implementation

The Policy for Encroachments within District easements of Floodwater Retarding Structures of Lower Brushy Creek Dams is hereby approved.

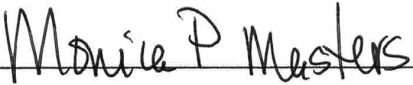
This plan is effective immediately and supersedes all previous editions.



Edmond S. Komandosky – LBC Board of Directors - President

Feb. 17, 2025

Date



Monica P. Masters – LBC Board of Directors - Secretary/Treasurer

2-17-25

Date



Mark Schroeder – LBC Board of Directors - Board Attorney

2-17-25

Date

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Section 1 Introduction

1.1 – General

The Lower Brushy Creek Water Control Improvement District (District) is a governmental subdivision of the State of Texas and a public body corporate and politic.

The United States Congress passed the Flood Control Act of 1936 and directed US Department of Agriculture - Soil Conservation Service to develop their national, small watershed concept. In 1944 Congress passed Public Law 76-534 that authorized eleven watershed projects in the nation, and the construction of the small watershed dams began. The US Department of Agriculture - Natural Resources Conservation Service (NRCS), formerly the Soil Conservation Service (SCS), oversaw the design and construction of earthen flood control dams in Williamson and Milam Counties, Texas, and is considered the “Engineer-of-Record” for the structures. The District is the local sponsor of these dams.

These floodwater retarding structures, or dams, were constructed on private lands through easements held by the District. Most easements were prepared in the 1950’s through the 1970’s and are considered blanket easements, although some easements have been modified, partially released, or more clearly defined by metes and bounds descriptions and filed under separate instruments or on plats. Easements are perpetual. All easements are filed with the Williamson or Milam County Clerk’s office.

As part of a national inventory of dams, all the District’s structures are regulated by the Texas Commission on Environmental Quality (TCEQ), the agency that oversees dam safety in the state. 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.

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

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

a. District Authority to Regulate Encroachments

The District has review and permitting authority associated with regulating Encroachments in the District’s easements to ensure its rights are fully protected or are otherwise remediated for the benefit of the District. The District easements authorize the District to utilize the land for the installation, operation, maintenance

and inspection of the dams and to prohibit Encroachments that limit the District's full enjoyment of the easement conveyed.

The District permit review also ensures compliance with the regulatory rules of the Texas Commission on Environmental Quality (TCEQ), including Title 30, Part 1, Chapter 299 of the Texas Administrative Code (TAC) as currently administered by the Dam Safety Section.

All activities that encroach in the District Easement Areas are prohibited without a permit or an executed agreement with the District. Such activities are reviewed on a case-by-case basis and approval is at District discretion. This includes, but is not limited to, activities of fill, excavation, trenching, aerial and sub-terranean Encroachments.

This policy is adopted by the Board of Directors in February 2025 and is effective as of March 1, 2025. All new permit applications submitted after the effective date shall be subject to the new policy. Any permits submitted before the effective date may request to move forward under the new policy.

- b. Reservoir Water Levels:** Reservoir water levels naturally fluctuate depending on weather (e.g. floods and droughts). The water level can also be lowered by the Dam Owner at its discretion for any reasons deemed necessary, including for maintenance purposes.

1.2 – Easement Areas

The original “blanket” easements (typically granted before dam construction) generally grant the District the right to access the inundation and structure areas, the right to impound water (temporarily or permanently), and the right to construct, operate, and maintain the dam. The Easement Areas are subdivided for clarity and purpose and are defined below. (Subsequent easements may be specific to only one or multiple easement areas and contain specific language unique to that dam.)

a. Access Area

- i. An Access Area is an area where the District has the right to access, inspect, operate, maintain, repair, and modernize all elements related to the dam and associated Flood Pool. The original easements typically included rights to access across all lands abutting the parent Tract.
- ii. A newer site-specific easement typically has field notes, sketch descriptions, and specific language defining the easement.

b. Inundation (Flood Pool) Area

- i. An Inundation Area is defined by elevation which is provided in **Section 2.7** Dam Elevations Summary Table or as defined in the site-specific inundation easement. *(Note: This is not the 1% AEP floodplain, which is determined by the Federal Emergency Management Agency (FEMA)).*
- ii. Inundation Areas preserve the District's detention volume, permanent pools, sediment storage and ability to temporarily impound flood water during rain events. The dam may detain flood water beyond the Inundation Area limits in extreme rain events.
- iii. The newer site-specific Inundation Area easements typically have field notes, sketch descriptions, and specific language confirming the area restriction of the Inundation Area (typically based on an as-built elevation defined by survey). The dam may still detain flood water beyond the site-specific Inundation Area easement boundaries in extreme rain events.

c. Structure Area

- i. A Structure Area is an area preserving the District's rights and ability to operate, maintain, repair, and modernize all elements of the dam including the embankment, Spillways, and inlet / outlet works.
- ii. For original blanket easements, the Structure Area is the portion of the Tract encompassing the dam, Auxiliary Spillway (to the outlet channel), and Principal Spillway, including inlet and outlet works. The limits of the Structure Area are

defined as follows (see **Figure in Section 4**):

- (1) Fifty (50) foot offset from the toe of the dam embankments;
 - (2) Fifty (50) foot offset from the outermost edge of the Spillway embankments (top or toe of slope, whichever is furthest); and
 - (3) Fifty (50) foot offset from all sides of the Principal Spillway, inlet and outlet works.
- iii. Newer site-specific easements (or fee title property) are defined by field notes, sketch descriptions (or platted lot), and specific language defining the limits of the structure area.

1.3 – District Authority to Regulate Construction Activity Beyond Easements

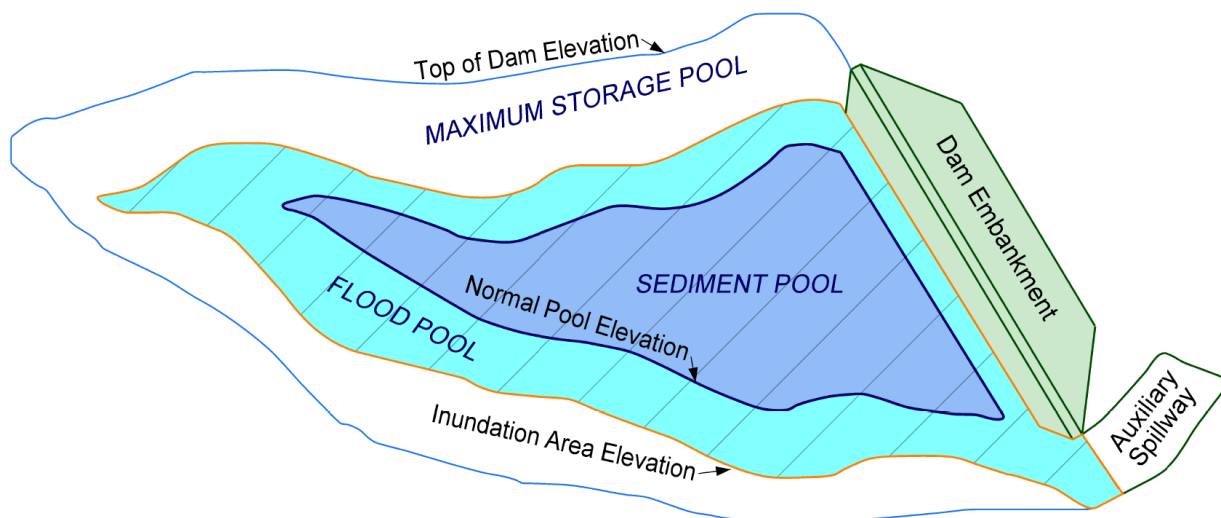
30 Tex. Admin. Code § 299.16(d), as amended, identifies activities near dams that may warrant evaluation by a professional engineer, registered in the State of Texas, at the request of the Dam Owner or the executive director of the TCEQ. The District reserves the right to request such an evaluation for all work that falls within the criteria listed below. Activities may be subject to any changes or amendments to Section 299.16(d), or any other law or regulation applicable to the District.

30 TAC § 299.16(d) (as of the Effective Date):

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 2 Inundation Area Policy and Procedures



2.1 – Policy

Inundation Areas preserve the District's detention volume, permanent pools, and ability to temporarily impound flood water during rain events. The dam may detain flood water beyond the Inundation Area limits in extreme rain events.

- a. Any Encroachment or fill within the Inundation Area including aerial and subterranean utilities requires the District's written approval before any activity starts (see **Section 2.2**).
- b. Construction of habitable structures within the Flood Pool Area, to top of dam elevations, is prohibited. All habitable structures must have first floor finished elevations above the top of dam elevation, at a minimum. In cases where dams need to be upgraded to meet TCEQ high hazard standards, first floor finished elevations may need to be higher.
- c. The District requires that fill and/or Encroachments of any kind be offset to preserve the flood storage capacity.
 - i. Compensatory Cut - required excavation of at least 25% greater volume than that of any fill and/or Encroachment placed in the Inundation Area.
 - ii. Compensatory Cut excavations must be made within the Flood Pool (between the Normal Pool and Inundation Area elevations). Reference **Section 2.7** for the Dam Elevations Summary Table.
 - iii. Cut and fill volume calculations shall consider any ponds in the Inundation Area as full (including water quality and/or detention) to either the Inundation Area elevation or the top of pond embankment, whichever is the highest.

- iv. Improvements and any minor structure or facility may be allowed within the Inundation Area (e.g. benches) at the discretion of the District. Any authorized minor structure or facility shall be anchored in place (with details provided in plan set) to prevent these from being carried away during storm events.
- d. The Normal Pool (non-flood water level) is controlled by the dam structure. Landowner(s) desiring an adjustment to the Normal Pool level must obtain written approval from all other Landowners who own land within the Normal Pool and submit written concurrence showing unanimous agreement before the District will consider the request.
- e. Landowner shall provide a recordable indemnification document in a form approved by the District's legal counsel, to be recorded with any platting or subdivision activity for property that is included within any of the District's easement rights.
 - i. The Applicant agrees that no construction of Habitable Structures will be allowed within the easement area. Construction outside the easement area will be under the authority of the appropriate City or County floodplain regulations.

2.2 – Encroachments in Inundation Areas

Approval of Encroachments in the Inundation Areas is authorized through an Encroachment Permit or Minor Encroachment Permit. Encroachment Permits are for projects that propose an Encroachment into the Inundation Area with more than 100 CY (cubic yards) of total fill (not net fill), see Encroachment Permit Application Procedures in **Section 2.3**. If the Encroachment into the District's Inundation Area is equal to or less than 100 CY of total fill (not net fill), please refer to the Minor Encroachment Permit Application Procedures in **Section 2.4**.

Submittal should take place as soon as practicable, usually in conjunction with other jurisdictional review processes. Note that District reserves the right to reject additional easements and/or any encroachments proposed within the Inundation Area if they limit the District's full enjoyment of the District easement or property.

For cut and fill projects within the inundation area, approval from both the WCID and the County will be required. For cut and fill projects outside (above) the inundation easement elevation, approval will only be required from the County.

2.3 – Inundation Encroachment Permit Procedures

Encroachment Permits are for projects that propose more than 100 CY of total fill (not net fill) within the District’s Inundation Area.

- a. **Contact District:** The Applicant should send an initial email to District providing project location, description, and any questions to verify permit type. Most topics can be handled via email; however, a District representative can meet to discuss the unique needs and special accommodations for an application that does not appear to conform with the standard Inundation Encroachment Permit process. Contact the District at info@lowerbrushycreekwcid.org.
- b. **Permit Application Submittal:** Each complete submittal package requires an Encroachment Permit Application Form and all documents listed in the Submittal Checklist (see the **District Forms** on the District’s website: www.lowerbrushycreekwcid.org). For reference, a sample project submittal package is provided in the **District Forms**. Applications shall be submitted via email at info@lowerbrushycreekwcid.org. Files larger than 20 MB cannot be emailed. The Applicant shall provide a link for downloads of larger files.
- c. **Fee Submittal:** The Applicant must pay the application fee within seven (7) business days from original submittal date. See **Section 5** for a breakdown of all fees. Payment remittance information can be found in the **District Forms**. Fees are non-refundable and non-transferrable.
- d. **Completeness Check:** The District representative(s) will review the application for completeness and notify the Applicant within seven (7) business days of either (1) outstanding submittal items or (2) complete submittal acknowledgement. Comments or acknowledgment will be released to the Applicant after the fee has been received.
- e. **Review and Approval:** The formal review of the permit application submittal will begin when the Encroachment Permit Application fees are received, and the submittal has been deemed complete.
 - i. The District representative(s) will review the permit application submittal and provide any comments within fifteen (15) business days.
 - ii. The Applicant should address the District’s comments and provide any additional information within thirty (30) calendar days.
 - iii. Upon resolution of all comments (or determination that there are no comments), the Applicant will be notified of Encroachment Permit approval.
- f. **Application Expiration:** If the District’s comments are not addressed in a timely manner, the permit application will expire six (6) months after initial submittal date or after three (3) rounds of comments, whichever comes first. After expiration, a new permit application and application fee will be required.
- g. **Construction Phase and Close Out:** After a permit is issued, improvements within the District’s Inundation Area may start construction. See **Sections 2.5 and 2.6** for construction and close out requirements, respectively.

2.4 – Minor Inundation Encroachment Permit Procedures

Minor Encroachment Permits are reserved for projects that propose 100 CY or less total fill within the District’s Inundation Area. Minor permit applications target smaller projects such as park trails, floating elements, flat work, and underground utilities. In these cases, compensatory cut is considered negligible and will be waived. Although the Minor Encroachment Permit Application is an expedited permit process with fewer requirements than a full Encroachment Permit, the application process should still take place as soon as practicable, usually in conjunction with other jurisdictional review processes.

- a. **Contact District:** The Applicant should send an initial email to the District providing project location, description, and any questions. A meeting may not be necessary as most topics can be handled via email; however, a District representative can be available as needed. Contact the District at info@lowerbrushycreekwcid.org.
- b. **Minor Permit Application Submittal:** The Applicant should submit the documentation listed in the Minor Encroachment Permit Submittal Checklist (see the **District Forms** on the District’s website: www.lowerbrushycreekwcid.org). Each submittal will be treated on a case-by-case basis, and additional information may be required. Application shall be submitted via email at info@lowerbrushycreekwcid.org.
- h. **Fee Submittal:** The Applicant must pay the application fee within ten (10) business days from original submittal date. See **Section 5** for a breakdown of all fees. Payment remittance information can be found in the **District Forms**. Fees are non-refundable.
- c. **Review and Approval:** The review of the Minor Encroachment Permit Application submittal will begin after fee payment has been received and the submittal is deemed complete.
 - i. The District will review the permit application submittal and provide comments within ten (10) business days. Comments will not be released to the Applicant until the fee has been received.
 - ii. The Applicant should address the District’s comments and provide any additional information within thirty (30) calendar days.
 - iii. Upon resolution of all comments (or determination that there are no comments), the Applicant will be notified of Minor Encroachment Permit approval.
- d. **Application Expiration:** If the District’s comments are not addressed in a timely manner, the permit application will expire four (4) months after initial submittal date or after two (2) rounds of comments, whichever comes first. After expiration, a new permit application and fee will be required.
- e. **Construction Phase and Close Out:** Upon resolution of all comments, the application will be approved, the District will issue a Minor Encroachment Permit approval letter, and improvements within District’s Inundation Area can start construction. See **Sections 2.5 and 2.6** for construction and close out requirements, respectively.

2.5 – Construction Requirements and Procedures:

When the Encroachment Permit is approved, the Applicant shall:

- a. Notify the District at least three (3) business days prior to initiating any construction work, including installation of erosion and sedimentation controls, within the District Inundation Area or Property. Applicant must provide an anticipated construction completion date within this communication and provide contractor contact information. Notification shall be made via email at info@lowerbrushycreekwcid.org.
- b. Provide a written Construction Progress Report (format template available in the **District Forms** on the District’s website: www.lowerbrushycreekwcid.org) including at least three (3) construction progress photos shall be emailed to the District. The report should also provide any construction schedule updates.
 - i. Based on the duration of the encroaching construction, Construction Progress Reports must be provided in the following frequency:
 - (1) Quarterly: If project duration is longer than 1 year.
 - (2) Every 2 months: if project duration is 6 months to 1 year.
 - (3) Monthly: if project duration is shorter than 6 months.
 - ii. If Construction Progress Reports are not provided, the District reserves the right to perform a construction site visit at the expense of the Applicant. See Fee table in **Section 5**.
 - iii. The District reserves the right to request the Applicant to provide additional status updates during construction. The Applicant must provide a response within five (5) business days or the District will perform a construction site visit at the expense of the Applicant. See Fee table in **Section 5**.
- c. Provide all-weather access to the dam Structure Area at all times during construction.
 - i. If access points are temporarily altered or blocked during construction, an access plan shall be provided and approved by the District in writing prior to initiating construction. The District shall be provided:
 - (1) One (1) week notice for any access road closure lasting more than one day (24 hours)
 - (2) One (1) month notice for any road closure lasting more than one week
 - ii. Access point(s) may not be altered without prior District written approval. If an access path is going to be permanently altered by construction, refer to Access Area Policy (**Section 3**).
- d. **Permit expiration:** Construction must start within twelve (12) months of the effective date of the Encroachment Permit. The Applicant may request one twelve (12) month extension. The extension must be requested thirty (30) calendar days prior to the expiration date, but no further extensions will be granted. After expiration, a new permit application and application fee will be required.

2.6 – Construction Close-out Procedures:

After construction within the Inundation Area is completed, the Applicant must close out the permit with the District. To do so, the Applicant will provide all documents listed in the Permit Close-Out checklist available in the **District Forms** on the District's website: www.lowerbrushycreekwcid.org. In addition:

- a. Applicant must completely restore and revegetate the land affected by the construction. Vegetation coverage must be at least 80% for District's final acceptance.
- b. A final site inspection of the Encroachment area can be requested by the District. This will be handled on a case-by-case basis.
- c. The District will review the close-out documentation submittal and provide comments within ten (10) business days.
- d. The Applicant should address the District's comments and provide any additional information within 30 calendar days.
- e. After all information and final documentation is reviewed by the District and confirmed it meets policy requirements, the District will issue an official permit close-out letter.

2.7 – Dam Elevations Summary Table

Structure ID	Normal Pool / Principal Spillway Elevation (ft-msl)	Auxiliary Spillway Elevation (ft-msl)	Inundation Area Elevation (ft-msl)	Top of Dam Elevation (ft-msl)
Dam 2	511.6	521.7	523.7	526.7
Dam 3	490.8	505.6	507.6	511.8
Dam 4A	473.4	485.2	487.2	491.2
Dam 6	464.2	478.0	480.0	484.0
Dam 7	481.5	492.2	494.2	497.0
Dam 8	465.6	477.8	479.8	483.2
Dam 9	433.8	446.8	448.8	453.4
Dam 10	454.6	465.5	467.5	471.7
Dam 12	559.7	566.4	568.4	569.4
Dam 13	545.3	554.2	556.2	559.5
Dam 17	458.4	467.7	469.7	473.6
Dam 18*	496.4	510.0	512.0	514.8
Dam 20*	480.5	490.8	492.8	496.5
Dam 21	452.1	460.2	462.2	464.5
Dam 22	450.3	462.3	464.3	468.2
Dam 23	443.1	452.8	454.8	458.6
Dam 24	482.6	492.8	494.8	498.3
Dam 25	596.8	609.8	611.8	614.0
Dam 29	560.2	572.1	574.1	577.4
Dam 30	519.0	529.2	531.2	534.5
Dam 31	493.6	507.1	509.1	513.6
Dam 32*	520.8	529.4	531.4	535.2
Dam 33	476.2	485.6	487.6	490.9

* Indicates that the elevation is based on the original AS elevation and was not changed as a result of the rehabilitation.

2.8 – Inundation Area: Easement Release or Modification Procedure

Notification that the Landowner wants to pursue an Easement Release and/or Modification request should occur as soon as practicable, usually in conjunction with other jurisdictional review processes. All cut and fill activities must be completed within the Inundation Area prior to District approval and filing new easements / release of easements; therefore, typically the Application for an Inundation Easement Release or Modification takes place during (or after) the close out process of the Encroachment Permit. The new Inundation easement/area must be defined by metes and bounds and sketch developed by a licensed surveyor.

- a. **Contact District:** The Applicant should send an initial email to the District providing notification of the easement release and/or modification request and any questions. A preapplication meeting with District representatives is mandatory. Contact the District at info@lowerbrushycreekwcid.org.
- b. **Inundation Easement Release or Modification Request:** The Applicant should submit the documentation listed in the Application Form and Submittal Checklist, using either the “Blanket Easement Release or Modification Request” or the “Site-Specific Easement Release or Modification Request” from the **District Forms** (on the District’s website: www.lowerbrushycreekwcid.org). Each submittal will be evaluated on a case-by-case basis, and additional information may be required. Application shall be submitted via email at info@lowerbrushycreekwcid.org.
- c. **Fee Submittal:** The Applicant must pay the application fee within ten (10) business days from application date. See **Section 5** for a breakdown of all fees. Payment remittance information can be found the **District Forms**. Fees are non-refundable.
- d. **Review and Approval:** The review of the easement modification and/or release application will begin after fee payment has been received, and the submittal is deemed complete.
 - i. The District will review the application and provide comments within ten (10) business days. Comments will not be released to the Applicant until the fee has been received.
 - ii. The Applicant should address the District’s comments and provide any additional information within 30 calendar days. If the District’s comments are not addressed in a timely manner, the application will expire six (6) months after initial submittal date or after two (2) rounds of comments, whichever comes first.
- e. After application approval, District will draft all easement and release documents. After execution, new easements must be filed with land records in the office of the County Clerk of Williamson or Milam County. An electronic copy of the filed documents will be provided to the Applicant.

Section 3 Access Area Policy and Procedure

3.1 Policy

Access area portion of easements preserve the District's rights and ability to inspect, operate, maintain, repair and modernize all elements related to the dam and associated Flood Pool. Any modification, temporary or permanent, of District's access is regulated as follows:

- a. Any activity within District Easements or Property that will restrict access, in any way, to the District dams, Spillways, and/or pipe outlet works, either temporarily or permanently, requires District approval. Both ends of all dams must always be accessible.
- b. Access area and/or easement modification and/or release requests are reviewed on a case-by-case basis and approval is at the District 's discretion.
- c. If Landowner proposes to permanently modify an access point or path, a new access pass (and in some cases a new easement) must be provided at a location acceptable to the District:
 - i. Any new access easement must be defined by metes and bounds and sketch sealed by a licensed Texas surveyor.
 - ii. The new access path must be passable, provide all-weather access, be cleared of any vegetation, and be at least twenty (20) feet wide.
 - iii. New access easements will use the District standard access easement language.

3.2 Access Easement Release or Modification Procedure

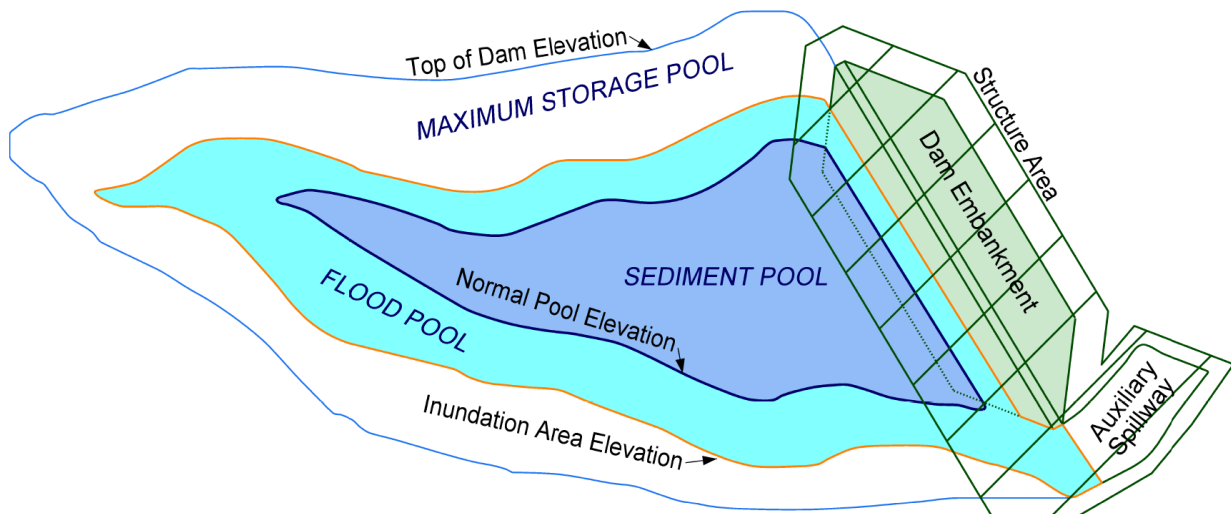
The Easement Release and/or Modification request should occur as soon as practicable, usually in conjunction with other jurisdictional review processes or changes to the Inundation Area. This section also covers partial releases of the District's blanket easement on non-adjacent or non-involved Tracts that have been previously subdivided from the original easement properties.

- a. **Contact District:** The Applicant should send an initial email to the District providing notification of the easement release and/or modification request and any questions. A preapplication meeting with District representatives is mandatory. Contact the District at info@lowerbrushycreekwcid.org.
- b. **Access Area Easement Release or Modification Request:** After the meeting, the Applicant should submit the documentation listed in the Application Form and Submittal Checklist using either the "Blanket Easement Release or Modification Request" or the "Site-Specific Easement Release or Modification Request" from the **District Forms** (on the District's website: www.lowerbrushycreekwcid.org). Each submittal will be evaluated on a case-by-case basis, and additional information may be required. Application shall be submitted via email at

info@lowerbrushycreekwcid.org.

- c. **Fee Submittal:** The Applicant must pay the application fee within ten (10) business days from application date. See **Section 5** for a breakdown of all fees. Payment remittance information can be found in the **District Forms**. Fees are non-refundable.
- d. **Review and Approval:** District will review the application package and provide any comments within ten (10) business days. Comments will not be released to the Applicant until the fee has been received. Applicant must address comments within thirty (30) calendar days. After all comments are addressed, the approval will require Board action.
- e. After application approval, District will draft all new easement and release documents. After execution, new easements must be filed with land records in the office of the County Clerk of Williamson or Milam County. An electronic copy of the filed documents will be provided to the Applicant.

Section 4 Structure Area Policy and Procedure



4.1 – Policy

Structure Areas and District-owned property preserve the District's rights and ability to operate, maintain, repair and modernize all elements of the dam including the embankment, Spillways, and outlet works.

- a. Activity within the Structure Area and/or District Property is **prohibited** without an executed agreement with the District.
- b. Requests for activity and/or Encroachments within the Structure Area or Property will be reviewed on a case-by-case basis as approved by the District Board of Directors.
- c. No dam (or its elements) shall be modified in any form for any reason without prior Board action and concurrence from TCEQ Dam Safety, as applicable.
- d. No new utilities or trenching operations of any kind are allowed within Structure Easements or District Property.
- e. Contact the District at info@lowerbrushycreekwcid.org for more information.

4.2 – Structure Easement Area Conversion to Fee Title

The District prefers to convert all Structure Easement Areas to fee title ownership conveyed to the District. To encourage this activity, no application fee is required for conversion from easement to fee title ownership.

- a. **Contact District:** The Applicant should send an initial email to the District indicating a desire to convert the easement along with any related questions. A meeting with District representatives is mandatory before proceeding. Contact the District at info@lowerbrushycreekwcid.org.

- b. **Conversion to Fee Title Request:** The Applicant should submit the documentation as requested by the District (see the **District Forms** on the District's website: www.lowerbrushycreekwcid.org). Each submittal will be evaluated on a case-by-case basis, and additional information may be required. All requested documentation shall be submitted via email at info@lowerbrushycreekwcid.org.
- c. **No fee is required.**
- f. **Review and Approval:** The District will review the application and provide comments within fifteen (15) business days. The District will also verify landownership information (note that verification may take longer than the review period). The Applicant should address the District's comments and provide any additional information within 30 calendar days. After all comments are addressed, the approval will require Board action.
- g. For Board approval, District will draft all new fee title and release documents. After approval and execution by the District, new fee title documents will be filed with the Official Real Property Records of the County by the District as necessary prior to any releases being filed. An electronic copy of the filed documents will be provided to the Applicant.

Section 5 Fees

The fees help the District recover expenses associated with the review and management of the activity impacting District Easements and Property. See **District Forms** on the District’s website: www.lowerbrushycreekwcid.org for payment remittance instructions and details.

Application Type / Fee Category	Description	Payment Due	Fee (\$)
Encroachment Permit (Inundation Area)	Encroaching into District’s easements with more than 100 CY of total fill	Within seven (7) business days from original submittal date	\$7,500
Minor Encroachment Permit (Inundation Area)	Encroaching into District’s easements with equal to or less than 100 CY of total fill	Within ten (10) business days from original submittal date	\$2,000
Inundation Easement Release or Modification	Survey field notes and sketch provided by Applicant	Within ten (10) business days from application date	\$6,000
Access Easement Release or Modification	Survey field notes and sketch provided by Applicant	Within ten (10) business days from application date	\$2,000
Partial Easement Release	Release of blanket easement on non-adjacent or non-involved Tracts	Prior to easement release	\$1,000
Structure Easement Area Conversion to Fee Title	Case-by-case	No payment due	\$0
Construction Inspection site visit (each time)	Site visit performed by the District when the Applicant fails to provide Construction Progress Reports	Within ten (10) business days from District’s site visit date	\$800

Administrative fees collected by the District in no way determines the amount of time NRCS has to review the proposed plan impacting the District Easements., nor do they have any bearing on the operations of NRCS or any other partner agency that may need to review the application. Administrative fees do not guarantee approval of the application.

Section 6 Glossary of Terms

The following terms will be used throughout this District Encroachment Policy:

1. Activity

Any manmade change, manipulation and/or modification to improved or unimproved real estate, including but not limited to, adding buildings or other structures, utilities, dredging, filling, grading, paving, excavation, solar farms or drilling operations. Temporary activities, including the storage of spoils, are also controlled. Also see **Encroachment**.

2. Applicant

The individual or company that has applied for the Encroachment on District Property or easements, or authorized representative thereof.

3. Compensatory Cut

The compensatory cut is defined as the required excavation of at least 25% greater volume than that of any fill and/or Encroachment placed in the Inundation Area. All excavations must be made within the Flood Pool (between the Normal Pool and Inundation Area elevations).

4. Conservation Pool Level

Principal Spillway elevation or low flow port elevation, whichever is lower. The Conservation Pool area is considered the permanent or normal pool elevation (before evaporation) or the maximum sedimentation area. In these structures, the conservation pool level is equal to the sediment pool elevation and typically the same as the principal spillway crest elevation. This area refers to water that lies below the maximum normal operating level. For reservoirs with a flood storage function, the maximum normal operating level also corresponds to the bottom of the flood pool.

5. Construction Progress Report

A written document that is provided to the District to inform on construction status and schedule. The document should a) certify that erosion control logs are in place per approved plans; b) list effort being performed inside the inundation area in the reported period; c) list effort anticipated to be performed inside the inundation area in the next reporting period; d) include pictures of the construction site as reference.

6. Dam Owner

Per Texas Administrative Code Chapter 299, the District is the owner of the dam embankment and related facilities.

7. District Forms

Available on the District’s website and includes, but is not limited to, application forms, submittal checklists, templates and payment remittance instructions.

8. District Property

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

9. Encroachment

Any changes to improved or unimproved Tracts, including but not limited to, adding buildings or other structures, utilities, roadways, trails, dredging, tilling, grading, paving, excavation, trenching or drilling operations. Temporary activities, including the storage of spoils, are also regulated. Also see **Activity**.

10. Flood Pool

Volume above the Normal Pool Elevation up to the Inundation Area Elevation. See figure (b) at the end of glossary.

11. Habitable Structure

Per TAC Title 16 Part 2, Chapter 25, Subchapter E, Rule 25.101(a)(3). *Structures normally inhabited by humans or intended to be inhabited by humans on a daily or regular basis. Habitable structures include, but are not limited to: single-family and multi-family dwellings and related structures, mobile homes, apartment buildings, commercial structures, industrial structures, business structures, churches, hospitals, nursing homes, and schools. Restroom facilities are not considered habitable structures.*

12. Normal Pool Elevation

Principal Spillway or low flow port elevation, whichever is lower. See figures (a) and (b) at the end of glossary.

13. Landowner

The individual or company that has land ownership rights to the underlying property the Dam and/or District Easements are located on.

14. Sediment Pool

Volume below Conservation Pool Elevation that is allocated for storage of sediment expected to be deposited over a certain period of time. Sediment reserve pool and conservation pool are not mutually exclusive. See Vertical Zones of a Dam figure (b).

15. Spillway

a. Principal Spillway

The main outlet (typically a riser structure combined with an outlet conduit) over or through which most impounded water releases past a dam. Some dams have more than one principal Spillway. See figures (a) and (b) at the end of glossary.

b. Auxiliary Spillway

A secondary outlet that typically consists of an earthen channel through the embankment and only engages during extreme rain events when the capacity of the Principal Spillway is exceeded. See figures (a) and (b) at the end of glossary.

16. Tract

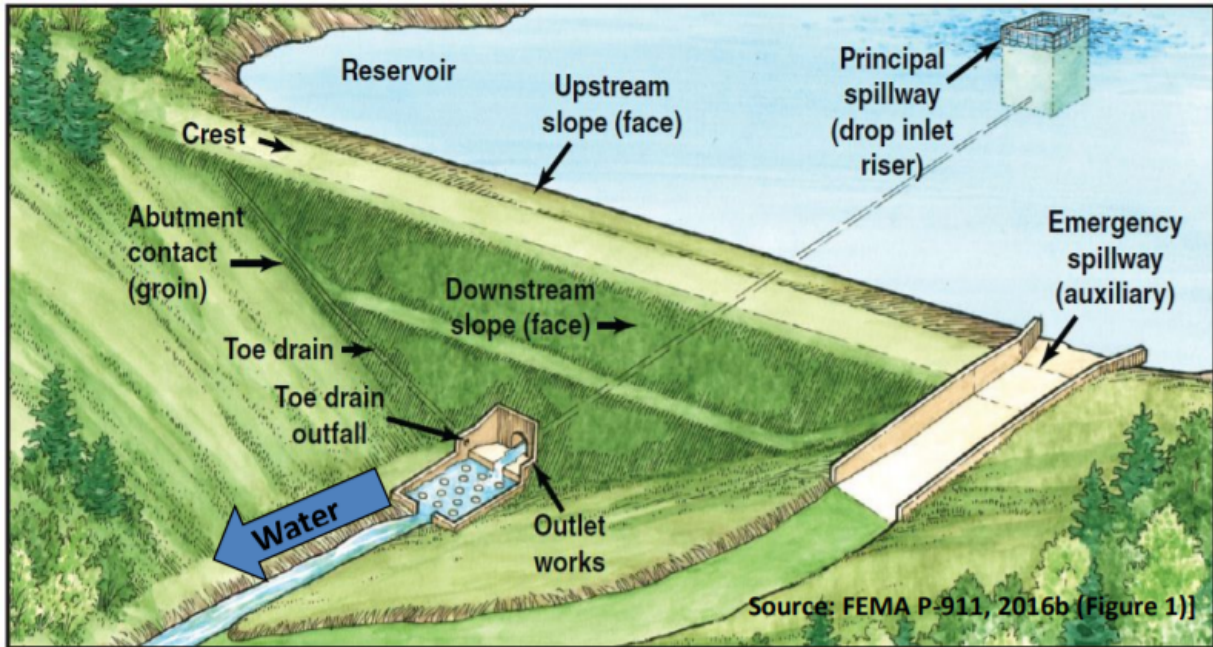
A piece of land that is designated or identified as a distinct unit for legal, administrative, or surveying purposes.

17. Top of Dam Elevation

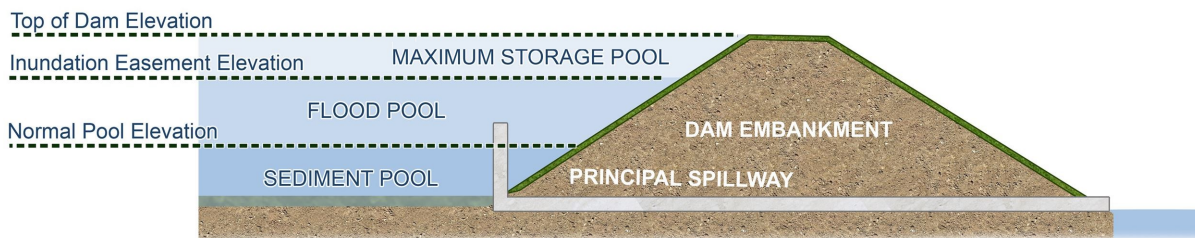
Elevation at the top of the dam embankment. See Vertical Zones of a Dam figure (b).

Figures

a. Typical Dam Cross-Section



b. Vertical Zones of a Dam Figure



VERTICAL ZONES OF A DAM