

An Oil and Gas Development Permit shall be required for all oil and gas development located within the unincorporated areas of Burleson County, including those locations both within and outside the Special Flood Hazard Areas, to ensure conformance with the provision of these regulations. When anyone desires to develop oil and/or gas interests in the floodplain as defined herein an Oil and Gas Floodplain Development permit is also required.

An application fee of \$ \$100.00, shall be submitted with each Oil and Gas Development permit application and an application fee of \$ \$500.00, shall be submitted with each Oil and Gas Floodplain Development permit application.

In the interpretation and application of this regulation, 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 State statutes.

For the purposes of determining that an oil and gas development is not located in a Special Flood Hazard Area, the applicant for an Oil and Gas Development permit must submit data showing the location of the development, including, but not limited to:

1. GPS coordinates for the location in Decimal Degrees,
2. A copy of the current FIRM or a FIRMette of the location,
3. Copies of other required permits including those from the Texas Railroad Commission (permit to drill) and 404 permit from US Army Corps of Engineers (if needed), and
4. A detailed set of plans and specifications designed by a licensed engineer

If it is determined that an oil and gas development is not located in a Special Flood Hazard Area the Oil and Gas Development permit will be issued to the applicant.

Regardless of the final permit type the developer shall provide a list of equipment installed at the site after completion. This office must also be notified if equipment is added after completion. If site is sold or assigned this office must be notified. A recomplete will only need a permit if new production equipment is added to an existing site.

If it is determined that an oil and gas development is located in a Special Flood Hazard Area the applicant must then submit an Oil and Gas Floodplain Development permit application. The applicant for an Oil and Gas Floodplain Development permit must submit data showing the location of the development, including, but not limited to:

1. GPS coordinates for the location in Decimal Degrees,
2. A copy of the current FIRM or a FIRMette of the location,

3. A detailed set of plans and specifications, including flood-proofing measures designed by a licensed engineer,
4. Copies of other required permits including those from the Texas Railroad Commission (permit to drill) and 404 permit from US Army Corps of Engineers (if needed),
5. Copy of Spill Prevention and Counter Measure Plan,
6. An Emergency Evacuation Plan in case of imminent flood event, and
7. An established Base Flood Elevation.

All structures and pieces of equipment in the 1% chance/100-year floodplain associated with oil and gas floodplain development must be flood proofed or elevated to the base flood elevation. Any material stored on the site that is highly volatile, flammable, explosive, and toxic or water reactive shall be protected to at least the level of the 500-year flood. The drill site pad and the road to the well site do not need to be elevated but should not obstruct the natural flow of water. The applicant shall install culverts and flood control devices as needed so as not to obstruct the natural flow of water. A culvert must be installed in the barrow ditch where the lease road meets the county road.

After drilling is completed and site is built, flood proofing certificates for all flood proofed equipment and structures, signed by a licensed engineer, must be submitted. An Elevation Certificate shall be submitted if anything, including but not limited to, structures or equipment was elevated above the BFE. The developer shall provide a list of equipment installed at site after completion. This office must be notified if equipment is added after completion. If site is sold or assigned this office must be notified. A recomplete will only need a permit if new production equipment is added to an existing site.

Ordinary and minor repairs may be made to structures and pipelines without a permit:

1. Provided that such repairs shall not violate any of the provisions of this regulation.
2. Where construction is commenced before a permit is obtained, the permit fee shall be doubled.

Any substantial improvement to a structure or pipeline in the floodplain, whether damaged or not, is considered new construction under the floodplain regulation. For purposes of determining if an improvement is a substantial improvement, the applicant for a permit must submit data reflecting the value of the structure or pipeline prior to being damaged, improved or modified and the cost of the restoration, improvement or modification. Costs shall include the value of all labor and materials.

Pipelines must be buried to the 72" under creeks and rivers, 48" in other parts of the floodplain. A Statement of Burial Depth Compliance after construction must be

completed. All above ground valves and meter runs shall be protected by professionally engineered flood proofing measures.

A closed pit system is required for all development in the Special Flood Hazard Areas.

Located within the Special Flood Hazard Areas are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential. Encroachments from any oil and/or gas development in the floodway are prohibited, including fill, new construction, substantial improvements and any other development.

The degree of flood protection required by this order is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This order does not imply that land outside the Special Flood Hazard Areas or any uses permitted within such areas will be free from flooding or flood damages. This order shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this order or any administrative decision lawfully made there under.

Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this order and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services, including those services provided before, during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Commissioners Court Order and all

other applicable regulations. Violation of the provisions of this Court Order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a Class C misdemeanor. Any person who violates this Court Order, or fails to comply with any of its requirements, shall upon conviction thereof be fined in accordance with the appropriate Texas Statute(s) for each violation and in addition shall pay all costs and expenses involved in the case. Each day a violation occurs is a separate offense. Nothing herein contained shall prevent Burleson County from taking such other lawful action as is necessary to prevent or remedy any violation.

Definitions

Development – Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. Fences and fence-type walls located within the floodplain are included within this definition. (44CFR 59.1)

Existing Construction – Structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. Existing construction may also be referred to as Existing structures.

Flood Proofing - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. Flood proofing measures must include the following:

1. Tank batteries and other equipment installed at the site in the floodplain shall be tied down to prevent flotation and lateral movement.
2. Protection around any vulnerable equipment such as the well head must be installed to keep flood debris from damaging equipment which could release product into floodwaters or send equipment floating downstream.

New Construction – Structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures or pipelines. For floodplain management purposes, “new construction” means structures or pipelines for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Start of Construction – (for other than new construction or substantial improvements under the Coastal Barrier Resources Act, (Pub. L. 97-348), includes substantial improvement and means the date of the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement. The actual start means either the first placement of permanent construction of a structure on a site, such as 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. It does not include the installation of streets and/or walkways. It does not include excavation for basement, footing, 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.

Substantial Improvement – Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction. This 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 of 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 conditions or (2) Any alteration of a, historic structure, provided that the alteration will not preclude the structure's continued designation as a, historic structure. (44CFR 59.1)

Substantial Damage – Damage of any origin sustained by a structure whereby the cost of restoring the structure would equal or exceed 50 percent of the market value of the structure before the damage occurred. (44CFR 59.1)

Structure – A walled or roofed building, including a liquid or gas storage tank, which is principally above ground, as well as a manufactured home. (44CFR 59.1)

Special Flood Hazard Areas – Those areas identified by FEMA in the Flood Insurance Rate Maps (FIRM) and Flood Boundary Floodway Maps (FBFM) for Burleson County, revised January 11, 2011 and any revisions thereto are hereby adopted by reference and declared to be a part of this order

Unincorporated Area – means the area in Burleson County, Texas, that is not within an incorporated city, town, village or other municipality defined by statute.