

## **SECTION 3 THE CDC PROCESS**

This section describes the complete CDC Process in two parts, with Section 3.1 CDC PROCESS APPLICATION OVERVIEW detailing the overall process and Section 3.2 CDC PROCESS - RESPONSIBILITY DESCRIPTIONS specifying the individual responsibilities of the CDC Applicant, CDC/Floodplain Administrator, USACE Fort Worth Water Resources Branch, NCTCOG, CDC Participants, USACE Regulatory Branch, and TCEQ.

### **3.1 CDC APPLICATION PROCESS OVERVIEW**

This section explains the steps for the complete CDC Application process, including identification of a proposed project within the CDC Regulatory Zone, issuance of the CDC, and post-project revision of the NFIP/CDC model upon completion of the project. It is intended to be comprehensive enough to assist CDC Applicants and CDC Participants in understanding the requirements of the CDC Process but is not an exhaustive list of all community floodplain permitting requirements. Figure 3-1 shows the flowchart that illustrates this process.

#### **3.1.1 CDC Project Identification**

The owner or representative of any proposed public or private development located in the vicinity of the CDC Regulatory Zone shall contact the CDC/Floodplain Administrator of the appropriate local jurisdiction (city or county) for a Pre-Application Conference to discuss the proposed project and identify the required permitting process. The Pre-Application Conference may occur concurrently with other Pre-Development meetings as required by the community. During review of other community permit applications which are not CDC, a development project may be identified to be within the CDC Regulatory Zone without having obtained a CDC. In those instances, the CDC/Floodplain Administrator shall notify the applicant of the CDC process and require the Pre-Application Conference to initiate the identification process.

The CDC/Floodplain Administrator will identify the location of the proposed project in relation to the boundary of the CDC Regulatory Zone (see Section 2.1) to determine if the proposed project requires a CDC.

- If the proposed project is located completely **outside of the CDC Regulatory Zone**, a Corridor Development Certificate is not required. At this point the CDC Process will end although other community floodplain permitting requirements may still apply.
- If the proposed project is located **entirely or partially within the CDC Regulatory Zone**, a Corridor Development Certificate, Exemption, or Variance is required and the CDC Application Process begins.

If a proposed project is located within two or more local jurisdictions inside the CDC Regulatory Zone then the local jurisdiction with the largest portion of project land area will be responsible for the CDC Application process (i.e. lead permitting entity) subject to agreement between the local jurisdictions. Two local jurisdictions can also agree to a multijurisdictional permit in which case they would both complete the Final CDC Action/Findings Form.

### **3.1.2 CDC Application Package Preparation**

The CDC Applicant shall follow the requirements outlined in Section 4 to prepare the CDC Application Package needed for their specific project.

#### ***Standard CDC Application***

The CDC Applicant shall obtain the current NFIP-CDC Model from the NCTCOG website at [trinityrivercdc.com](http://trinityrivercdc.com). Please note that while NCTCOG hosts this website, the USACE Fort Worth Water Resources Branch is responsible for maintaining the NFIP-CDC Model and shall address any technical questions concerning the model.

The CDC Applicant is responsible for incorporating the proposed project into the FEMA (NFIP) geometry and the CDC geometry within the NFIP-CDC model. The CDC Applicant must coordinate with the CDC/Floodplain Administrator to determine whether or not a Conditional Letter of Map Revision (CLOMR) is required. If a CLOMR is not required, then the CDC Applicant can move forward with the CDC permitting requirements, and FEMA CLOMR requirements are not applicable. If a CLOMR is required, then the CDC Applicant must prepare and submit a CLOMR application to the CDC/Floodplain Administrator in addition to the CDC Application Package.

### ***CDC Exemption Request***

The CDC Applicant may request an Exemption to the CDC Process if the development activity falls into one of the categories listed in Section 2.3. The request must be in writing to the local jurisdiction, using Part 1 of the CDC Application form and the CDC Application Checklist. The CDC/Floodplain Administrator may require additional documentation with the submittal to support the request.

### ***CDC Variance Request***

The CDC Applicant may request a Variance if the proposed development does not meet the Common Regional Criteria as described in Section 2.3. The CDC Applicant shall complete Parts 1 and 2 of the CDC Application form, the CDC Checklist, and the local jurisdiction's Variance Request Form. The reason for seeking a Variance must be included along with specific Common Regional Criteria not met. The CDC/Floodplain Administrator may require additional documentation with the submittal to support the request.

#### **3.1.3 CDC Application Package Submittal Review**

The CDC Applicant shall submit to the local jurisdiction(s) all required parts of the CDC Application Package as described in Section 4 and shown on the Application Checklist (Section 4). CLOMR applications (if required) shall be submitted at the same as the CDC Application Package to allow the review of both to run concurrently.

Upon receipt of a completed CDC Application Package, the CDC/Floodplain Administrator will assign a CDC Tracking Code, which is a unique identification number for each CDC Application. The Tracking Code begins with the community abbreviation, the date (month/day/year), and the order the application was received that day. For example, if the City of Dallas receives two CDC applications on June 1 2021, the CDC Tracking Codes would be as follows: "DAL 0601-1" and "DAL 060121-2."

#### ***Review of CDC Standard Application***

The CDC/Floodplain Administrator will review the CDC application and coordinate any necessary revisions with the CDC Applicant. The CDC/Floodplain Administrator will upload the completed CDC Application Package, including forms, reports and models, as appropriate, to the

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NCTCOG CDC Tracking website (login link found at <http://trinityrivercdc.com/index.php>) after the CDC/Floodplain Administrator is satisfied with the CDC application. Please note that the CDC Applicant cannot directly upload applications to the CDC Tracking website. Such permission is only granted to the local jurisdictions. The CDC Tracking website notifies USACE, NCTCOG and the CDC Participants whenever a local jurisdiction has uploaded a CDC application.

At the time of submittal to NCTCOG, the CDC Applicant must remit the CDC Application Fee to the local jurisdiction. The CDC/Floodplain Administrator will forward the payment to NCTCOG for processing.

If a CLOMR is required, then the CDC/Floodplain Administrator will also review the CLOMR submittal and coordinate any necessary revisions with the CDC Applicant. Once the CDC/Floodplain Administrator is satisfied with the CLOMR application and the proposed project, the CLOMR shall be submitted to FEMA for review following the local jurisdiction's process.

***Review of CDC Exemption Request***

The CDC/Floodplain Administrator will review the Exemption request in accordance with the allowable exemptions noted in Section 2.3. The CDC Application Fee will not be required since no USACE Technical Review will occur. The CDC/Floodplain Administrator can require additional information during their review to determine if the Exemption is supported.

If an Exemption can be granted, then Part 2 of the CDC Application is not required. If the Exemption cannot be granted then the request will be denied and the applicant will be required to follow the full CDC application process. The CDC/Floodplain Administrator will submit the CDC Application for the Exemption to the NCTCOG CDC Tracking System website for a 30 day community comment period. After the comment period has ended then the CDC/Floodplain Administrator will complete the Final CDC Action/Findings Form. The local jurisdiction will maintain the CDC Application Package and Determination on file for future reference. This ends the CDC Process for the case of an Exemption. Please note that other local jurisdiction floodplain permitting requirements still apply. Also, the CDC Applicant should still contact the USACE and TCEQ to determine if the development activity is subject to other specific permitting requirements by those agencies.

### ***Review of CDC Variance Request***

The CDC/Floodplain Administrator will review the CDC Variance request to modify the CDC Criteria in accordance with the allowable circumstances found in Section 2.3. The request will include the standard CDC application and the Variance Request Form and require the CDC Application fee since the USACE will provide a technical review. The CDC/Floodplain Administrator can require additional information during their review to determine if the Variance can be issued.

#### **3.1.4 CDC Application Package Technical Review**

Upon receipt of a complete CDC Application, the CDC/Floodplain Administrator initiates the Regional Review and Comment process by logging in to the CDC Tracking System through <http://TrinityRiverCDC.com> online application portal and uploading an electronic copy of the CDC Application, which is automatically sent to all CDC Participants, USACE Water Resources Branch, TCEQ, and NCTCOG. In addition to the electronic copy, the USACE requires one hard copy which shall be mailed or hand delivered by the CDC/Floodplain Administrator. Refer to Appendix ## for lists and addresses of point of contacts. Note that a hard copy does not need to be sent to NCTCOG.

#### ***Review by CDC Participants***

Once the CDC application is uploaded to the online application portal, other CDC Participants will have 30 days from the date of upload to review and comment. If the CDC Participant decides to comment, they should login to the online application portal and enter their comments for the appropriate CDC application.

#### ***Review by USACE***

The USACE provides Technical Review of the CDC applications. The Technical Review consists of evaluation of the proposed project as it pertains to the Common Regional Criteria. To initiate the Technical Review, the required CDC Application Fee must be submitted, along with the completed CDC Application, to NCTCOG. USACE Technical Review will not occur without payment. See Section 4.3 for a complete discussion of the CDC Application Fee.

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The Technical Review period will begin when the portion of the CDC Application Fee is received from NCTCOG and processed by the USACE. The payment processing through the NCTCOG and USACE administrative systems may take 3-5 weeks from the initial NCTCOG receipt of payment.

The Applicant can check the status of the review on the CDC Permits List located on the Trinity River CDC website at <http://trinityrivercdc.com/project-list.php>. USACE shall have 30 days to complete the Technical Review. The applicant can check the status of their submittal on the CDC Application website.

USACE may work directly with the CDC Applicant to address questions or adjustments regarding the model. USACE will coordinate with the FEMA CLOMR reviewer, if applicable. The results of the USACE Technical Review will be provided via letter to the CDC/Floodplain Administrator, the CDC Applicant, and NCTCOG.

***Review by FEMA***

In accordance with their LOMR (MT-2 Application) review process, FEMA will perform a technical review of the submitted CLOMR application and coordinate with the CDC Applicant regarding any required edits. During the review, FEMA will inform the USACE CDC Reviewer of any changes to the model resulting from the FEMA CLOMR review. FEMA will notify the local jurisdiction of its decision to approve or deny the CLOMR application. If approved, FEMA will provide the final CLOMR model to the CDC/Floodplain Administrator.

**3.1.5 CDC Application Determination**

The CDC/Floodplain Administrator considers the results of the USACE Technical Review and Regional Review and Comment, along with his/her knowledge of the proposed project, as part of the determination process. This decision can be:

- granting the CDC with favorable/unfavorable comments from other signatories,
- granting the CDC with conditions (including an Exemption or Variance) with favorable/unfavorable comments from other signatories, or
- denying the CDC.

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The CDC/Floodplain Administrator will review and confirm that the proposed geometry approved in the CLOMR (if required) and in the CDC match. In the event that the geometries do not match, the floodplain administrator will notify applicant of discrepancies and require the applicant to rectify. If the geometries do match or if the CLOMR is not required, and all other questions/comments have been addressed, then the CDC/Floodplain Administrator may issue the CDC permit using the NCTCOG website and approve the local floodplain permit.

The CDC/Floodplain Administrator shall notify the CDC Applicant of the final CDC decision (see sample letters D.2 and D.3 in Appendix D). The CDC/Floodplain Administrator shall complete the Final CDC Action/Findings Form and upload a copy to the online application portal.

A CDC will not substitute for a Section 404 permit and vice versa. The CDC Applicant must also satisfy permitting requirements of local, state and federal agencies (such as FEMA, TCEQ, and USACE), if such permits are applicable.

For projects located in multiple local jurisdictions, the lead permitting entity shall consult with the other jurisdictions in which the project is located and obtain their approval before granting a CDC.

### **3.1.6 NFIP/CDC Model Update with Proposed Project**

USACE will receive notice from the NCTCOG website when the CDC is issued and will update the CDC geometry with the approved proposed project. USACE will then upload the updated NFIP-CDC model to Trinity River CDC website.

### **3.1.7 CDC Term, Annual Status Reports, and CDC Extensions**

The CDC is valid for two (2) years. During the development phase, project status reports must be submitted at a minimum annually to the CDC/Floodplain Administrator and forwarded to NCTCOG (see sample status memo D.4 in Appendix D).

If no development activities occur within two (2) years from the date of issuance, the Applicant may submit a written request, no later than 60 days prior to the second anniversary of the CDC issuance, for up to a one (1) year CDC extension (see Form in Appendix), otherwise, the CDC shall cease to be valid on that anniversary date. The permitting entity may grant an additional

one-year extension (see sample letter D.5 in Appendix D). If an extension is granted, summary project status reports are required and must be submitted to the CDC/Floodplain Administrator annually. If an extension is not granted, the Applicant must reapply for a CDC.

### **3.1.8 Changes in Development Activities, Project Plans, or Regulatory Programs**

Significant changes to a development activity, project plan, or regulatory program require a re-evaluation of the CDC and may require re-application for a new CDC. A significant change may consist of a change to the conveyance and/or valley storage, land use, or environmental impacts. Changes in regulatory programs include city ordinance/county order changes of the permitting jurisdiction, as well as changes in state and federal regulatory programs prior to the completion of the development activity. The CDC/Floodplain Administrator will review the changes and determine whether re-application for a new CDC is required.

The permitting entity's CDC decision is subject to that jurisdiction's floodplain ordinance appeals process. Any change in a CDC action due to an appeal should be forwarded to NCTCOG.

### **3.1.9 Post-Project Completion Process**

Following construction of the CDC project, the CDC Applicant must obtain as-built survey or record drawings, whichever is required by the local jurisdiction. The CDC Applicant shall download the current NFIP-CDC model from the NCTCOG website and insert the post-project revisions into the FEMA geometry and the CDC geometry. The CDC Applicant shall prepare a Letter of Map Revision (LOMR) application and a CDC verification form. These shall be submitted to the CDC/Floodplain Administrator along with the appropriate fees, including the USACE Model Maintenance Fee.

The CDC/Floodplain Administrator will review and confirm the LOMR application and CDC verification forms are correct and will coordinate any necessary revisions with the Applicant. Once confirmed, the CDC Applicant will follow the local jurisdiction's process for submitting a LOMR to FEMA for review.

Following their MT-2 Review process, FEMA will complete their review of the LOMR application and coordinate with the CDC Applicant as needed to finalize the LOMR. Upon approval of the LOMR application, FEMA will send the final LOMR data to the

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CDC/Floodplain Administrator who will forward the approved data to USACE for incorporation into the NFIP-CDC model. FEMA will incorporate the revised Special Flood Hazard Area from the LOMR into the National Flood Hazard Layer.

**3.1.10 NFIP/CDC Model Update with Completed Project**

USACE will insert the post-project revision into both the FEMA geometry and CDC geometry in the consolidated NFIP-CDC model. USACE will then upload the updated NFIP-CDC model to Trinity River CDC website.

### **3.2 CDC PROCESS - RESPONSIBILITY SUMMARIES**

To help easily identify the individual responsibilities for all involved in the CDC process, the tasks have been summarized for each participant below.

#### **3.2.1 CDC Applicant**

- Identify if your proposed project is potentially within the CDC Regulatory Zone.
- Request and attend a Pre-Application Conference with the CDC/Floodplain Administrator to discuss your proposed project and identify the permitting process required.
- Obtain the current NFIP-CDC Model from [trinityrivercdc.com](http://trinityrivercdc.com) and insert your proposed project into the FEMA geometry and CDC geometry of the model.
- Prepare the CDC Application Package, and include a CLOMR submittal if required.
- Submit the CDC Application Package and the CDC Application Fee to the CDC/Floodplain Administrator.
- Coordinate with the CDC/Floodplain Administrator, USACE reviewer, and FEMA reviewer (if applicable) to answer questions and respond to review comments.
- Submit annual project status reports to the local CDC/Floodplain Administrator, with a copy also sent to NCTCOG.
- If an extension of the CDC is desired, a request shall be submitted to the CDC/Floodplain Administrator no later than 60 days prior to the expiration of the CDC.
- Obtain as-built survey or record drawings upon completion of construction of the project.
- Obtain the current NFIP-CDC Model from [trinityrivercdc.com](http://trinityrivercdc.com) and insert the completed project into the FEMA geometry and CDC geometry of the model.
- Prepare the LOMR application and CDC verification.
- Submit the LOMR application, CDC verification, and the Model Maintenance Fee to the CDC/Floodplain Administrator. Follow the local jurisdiction's process for submitting LOMR's to FEMA.
- Provided technical assistance during the LOMR review as needed.

### **3.2.2 CDC/Floodplain Administrator**

- Hold initial pre-application conference with potential CDC Applicants to discuss the proposed project and identify the permitting process required.
- Determine if the project is located inside or outside the CDC Regulatory Zone.
- Determine if the project qualifies for an Exemption. If the project does qualify, have the CDC applicant provide Part 1 of the Application form and any necessary supporting documentation. Upload the submittal to the NCTCOG website as an Exemption.
- Ensure that the CDC Application Package is complete and that the current version of the NFIP/CDC Model has been used. Assign the CDC tracking number.
- Request a USACE Technical Review via written letter and provide the CDC Application (1 hard copy).
- Upload the CDC Application to the NCTCOG website to initiate Regional Review and comment by CDC Participants, TCEQ, and NCTCOG.
- Respond to reviewers' requests for more information as needed.
- Coordinate the CDC Application Fee payment process.
- If CLOMR was required, confirm Proposed Project geometry from approved CLOMR still matches the CDC geometry.
- Based on regional comments, Technical Review, CLOMR approval (if applicable), and the CDC/Floodplain Administrator's own judgment, determine final CDC action. Issue a determination letter and forward copies of Final CDC Action/Findings Form to NCTCOG, USACE, and CDC Participants.
- Request annual status reports from Applicant. Forward copies of status reports to NCTCOG.
- Re-evaluate the CDC in the event of significant changes in project.
- Submit responses to CDC extension requests to the Applicant with a copy to NCTCOG, USACE, and CDC Participants.
- Review the LOMR submittal and CDC verification and ensure the correct version of the NFIP/CDC model was used. Have the CDC application follow your process for submitting LOMRs to FEMA.

- Coordinate with NCTCOG to ensure the Model Maintenance Fee payment is processed.
- Upon approval of the LOMR, obtain the final LOMR data and provide to USACE for incorporation into the NFIP/CDC model.

### **3.2.3 USACE Fort Worth Water Resources Branch**

- Administer portion of CDC Application Fee and Model Maintenance Fee received from NCTCOG.
- Perform the Technical Review within 30 days from the time that the CDC Application fee has been processed and a complete CDC Application has been received.
- Coordinate with the CDC Applicant and FEMA CLOMR reviewer (if applicable) during the review as needed.
- Provide the Technical Review findings to the CDC/Floodplain Administrator, Applicant's Representative, and NCTCOG.
- Notify the permitting entity, Applicant's Representative, and NCTCOG, if the Technical Review will take longer than 30 days.
- Update the CDC Geometry in the NFIP-CDC Model with proposed project information upon approval of the CDC and Floodplain Development Permit.
- Update the FEMA Geometry and CDC Geometry in the NFIP-CDC Model with the post project information upon approval of the LOMR.
- Upload the updated NFIP-CDC model to the Trinity River CDC website after any revisions.

### **3.2.4 NCTCOG**

- Track CDC applications using the NCTCOG website.
- Maintain current and historic NFIP-CDC models on the website for downloads.
- Administer CDC Application Fee and Model Maintenance Fee and forward payment to the USACE.
- Submit quarterly CDC Status Reports to Trinity River Committees and participating cities and counties, and USACE.
- Provide support for revisions of the CDC Manual and CDC maps when necessary.

- Maintain the Trinity River CDC website

### **3.2.5 Reviewing Local Governments (CDC Participants)**

- Review CDC Application Packages forwarded for Regional Review and Comment.
- Provide comments to the NCTCOG website within 30 days of receipt of notice to review.

### **3.2.6 USACE Regulatory Branch**

- Notify USACE permit applicants that they may need to apply for a CDC.
- Forward Section 404 determination to permitting entity, Applicant's representative, and NCTCOG.

### **3.2.7 TCEQ**

- Notify parties applying for a TCEQ Section 401 Certification that they may need to apply for a CDC.
- Forward Section 401 Certification reviews to Applicant, permitting entity, and NCTCOG.