

Learning Objectives

After this chapter, you will be able to

- Identify the website to visit and the type of map to view to find out if a property is in a flood plain.
- Know when a MUD form must be completed and delivered to a buyer.
- Describe what happens during a hydrostatic test and identify the professional performs the test.



What is my level of flood risk?

There are ways to find out what level of risk a property has with respect to riparian or coastal flood sources. No property is completely without risk, as anywhere it can rain, it can flood. You can go online to the FEMA website ([MSC.FEMA.gov](https://www.fema.gov)) and enter the address of the property. Go to <https://msc.fema.gov/portal/search>, this allows you to interactively visualize the property and surrounding areas in terms of zones designating 1 and 0.2-percent-annual-chance zones (areas of high and moderate risk of coastal or riparian flooding). This can be accessed on mobile devices and may be a useful tool to discuss with clients. In addition, this site will allow you to find a FIRM map (Flood Insurance Rate Map). The FIRM maps are huge, but you can print out

a FIRMETTE, which is letter size. While not all properties require flood insurance, it might be helpful to your clients and customers to look at adding this to their policy. Properties outside of the Special Flood Hazard Area can still flood and are often eligible for Preferred Risk Policies. Encourage them to contact an insurance agent quickly to determine coverage for water or flood damage issues. Maps may change periodically for a variety of factors like new development, weather conditions and erosion. When they do change insurance requirements, that's where the FIRM map can help. You can also get this information from some of the tax sites.

See Appendix B for the brochure, "Help Clients Protect Their Investment: Questions & Answers About Flood Insurance for Real Estate Professionals" from FEMA and the National Flood Insurance Program.

Municipal Utility Districts

If a property is located within a Municipal Utility District (MUD), the seller is required by the Texas Water Code, as well as the TREC contracts, to provide to a buyer prior to the buyer entering into a sales contract a notice regarding the MUD in which the property is located. The notice provides information regarding the tax rate, bonded indebtedness, and standby fee, if any, of the MUD.

Municipal Utility District notices are found in Chapter 49 of the Texas Water Code.

Municipal Utility Districts (MUDs) and the Law

Chapter 49 of the Texas Water Code says IF a person is selling a property that is in a district created under the Texas Water Code or by an act of the legislature to provide certain utilities such as water, sanitary sewer, drainage and flood control and any of these services or facilities have been financed with bonds that are payable by the persons who live in the district, THEN the seller must give notice to the buyer of those potential fees for owning this property. Furthermore, the law says the notice must be given to the buyer prior to the buyer entering into a contract OR as an addendum to the contract at the time the contract is negotiated. If the notice is not timely provided, the buyer can terminate the contract at any time.

In other words, there is NO binding contract if such required notice is not acknowledged by the buyer at or prior to executing the contract! Giving the notice after the contract is executed does not eliminate the buyer's right to terminate the contract any time prior to closing. However, the law does provide that if the seller furnishes the required notice after the contract is executed but at or prior to closing and the purchaser elects to close even though such notice was not timely furnished prior to execution of the contract, "it shall be conclusively presumed that the purchaser has waived all rights to terminate the contract and recover damages or other remedies or rights under the provisions of this section."

Remember: when a license holder takes a listing, which is serviced by a MUD, this form should be filled out by the seller at the time of listing and provided to the buyer at or before a contract to purchase is signed. Determining the information that should be filled out on the form is a job for the seller. They should contact the MUD and obtain the required information, fill out the form and provide it to the listing agent as soon as possible. MUD districts should have the form available, if not, the agent could direct the seller to Chapter 49.452 of the Texas Water Code where this can be found in statute.

See Appendix C for Texas Water Code Chapter 49.452, Notice to Purchasers.

Example of a Notice to Purchaser Form

"The real property, described below, that you are about to purchase is located in the _____ District. The district has taxing authority separate from any other taxing authority and may, subject to voter approval, issue an unlimited amount of bonds and levy an unlimited rate of tax in payment of such bonds. As of this date, the rate of taxes levied by the district on real property located in the district is \$_____ on each \$100 of assessed valuation. If the district has not yet levied taxes, the most recent projected rate of tax, as of this date, is \$_____ on each \$100 of assessed valuation. The total amount of bonds, excluding refunding bonds and any bonds or any portion of bonds issued that are payable solely from revenues received or expected to be received under a contract with a governmental entity, approved by the voters and which have been or may, at this date, be issued is \$_____, and the aggregate initial principal amounts of all bonds issued for one or more of the specified facilities of the district and payable in whole or in part from property taxes is \$_____.

"The district has the authority to adopt and impose a standby fee on property in the district that has water, sanitary sewer, or drainage facilities and services available but not connected and which does not have a house, building, or other improvement located thereon and does not substantially utilize the utility capacity available to the property. The district may exercise the authority without holding an election on the matter. As of this date, the most recent amount of the standby fee is \$_____. An unpaid standby fee is a personal obligation of the person that owned the property at the time of imposition and is secured by a lien on the property. Any person may request a certificate from the district stating the amount, if any, of unpaid standby fees on a tract of property in the district.

"The district is located in whole or in part in the extraterritorial jurisdiction of the City of _____.

(‘Example of a Notice to Purchaser Form’ continued)

By law, a district located in the extraterritorial jurisdiction of a municipality may be annexed without the consent of the district or the voters of the district. When a district is annexed, the district is dissolved.

“The purpose of this district is to provide water, sewer, drainage, or flood control facilities and services within the district through the issuance of bonds payable in whole or in part from property taxes. The cost of these utility facilities is not included in the purchase price of your property, and these utility facilities are owned or to be owned by the district. The legal description of the property you are acquiring is as follows:

(Date)

Signature of Seller

PURCHASER IS ADVISED THAT THE INFORMATION SHOWN ON THIS FORM IS SUBJECT TO CHANGE BY THE DISTRICT AT ANY TIME. THE DISTRICT ROUTINELY ESTABLISHES TAX RATES DURING THE MONTHS OF SEPTEMBER THROUGH DECEMBER OF EACH YEAR, EFFECTIVE FOR THE YEAR IN WHICH THE TAX RATES ARE APPROVED BY THE DISTRICT. PURCHASER IS ADVISED TO CONTACT THE DISTRICT TO DETERMINE THE STATUS OF ANY CURRENT OR PROPOSED CHANGES TO THE INFORMATION SHOWN ON THIS FORM.

“The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or prior to execution of a binding contract for the purchase of the real property described in such notice or at closing of purchase of the real property.

(Date)

Signature of Purchaser

Hydrostatic Testing

What is hydrostatic testing? Do I need to do it? I’ve heard it can damage the pipes and cost thousands of dollars!

A hydrostatic test is a way in which pressure vessels such as pipelines, plumbing, gas cylinders, boilers and fuel tanks can be tested for strength and leaks. The test name HYDRO refers to potable domestic, clean fresh water and STATIC is for sanitary or sewer.

There are three tests home inspectors are NOT allowed to do: a sewer test, water test or a gas test. Plumbers can do these tests for the buyer. The testing most agents and buyers are really looking for is a water or sewer leak test. This test does not pump pressure into the pipe systems, instead it is a fill-and-hold test. The plumber will run an inflatable ball into the clean out pipe or toilet pipe simulating a stoppage. Next, the system is filled with water until it reaches the slab or grade level. This may take 10 to 30 minutes. The water is then shut off at the main. Your home is created to have a

sealed system. The system is watched for 20 minutes to see if the water drops. If the water drops, there may be a leak. Depending on how far down the water drops it may be a clue as to which fixture has the issue: a tub, a toilet or the main. If you utilize a camera, it will give a view of holes, tree roots, disconnects or “bellies” which are dips from settling and could hold solids creating clogs. It most likely will not show you a leak. To do a water pressure test, they may unhook the washer and connect a gauge to see if the pressure drops. It is not unusual to have water pressures ranging from 60 to 80 PSI (potable fresh water) depending on the time of day or the area of Texas where you live. Pressures will spike in the morning as people are preparing for the workday. It may drop for the rest of the day until everyone arrives home for the evening. This test is 10 to 20 minutes and can detect a leak in the hot water as well. Pier and beam homes are done a bit differently. Since there is a crawl space, you may visually see leakage after filling the system. The fresh water pipes are attached just below the subfloor with pipe fingers.

Currently, there are no promulgated forms for plumbers to use with consumers for these tests. The Texas State Board of Plumbing Examiners is responsible for licensing, testing, and plumbing codes and have authority over plumbers. The damages that could occur are usually not caused by pressure, but rather weight. A gallon of water is a bit over 8 lbs. – when you fill the home system to full that could create weight on the pipes. If they are suspended, attached or weighted in the soil, that “filling” could create an issue. You could have a separation or “bellies” with the additional weight. Interesting facts about materials used dependent on year:

1954-1971 Clay in yard, cast iron in house. Issues could be the “union” or joining of pipes, collapse, or tree roots.

1971-1984 Cast iron in both yard and house. Since you have water running through metal, issues can include rust and deterioration of whole sections. The “union” process was a bell flare pressing into the other.

1984-Current PVC in yard and house. This is a glue and primer “union” system. PVC had different grades 20, 40, 80 describing their guess of service life in years.

As per the requirements in the TREC contracts in Paragraph 7, Property Condition, you must get permission to perform the test. TREC does provide a promulgated form TREC 48-0 Addendum for Authorizing Hydrostatic Testing.

See Appendix D for the Addendum for Authorizing Hydrostatic Testing.