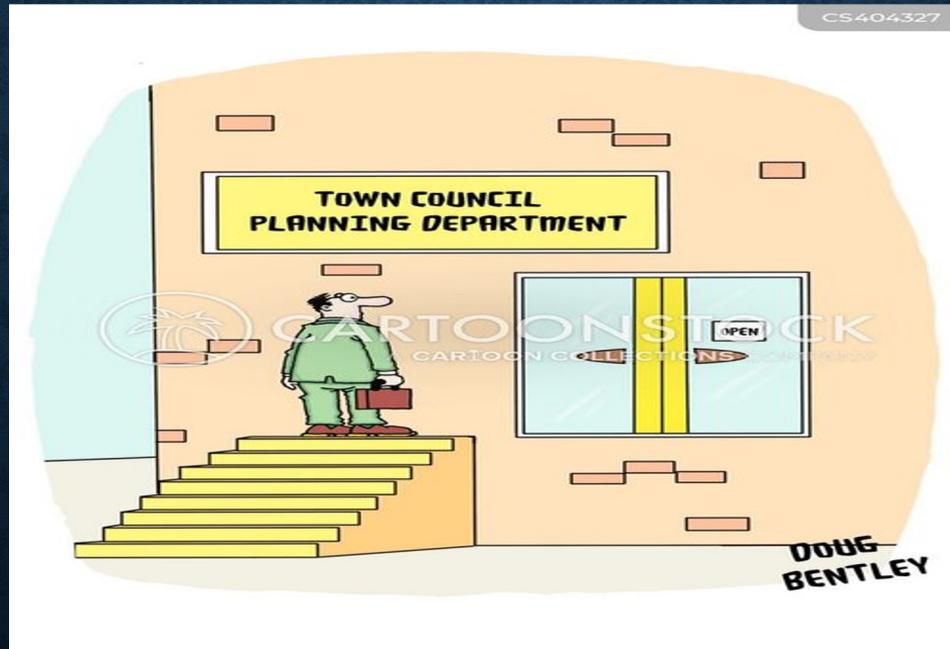


INSIDE AND OUTSIDE OF THE ETJ



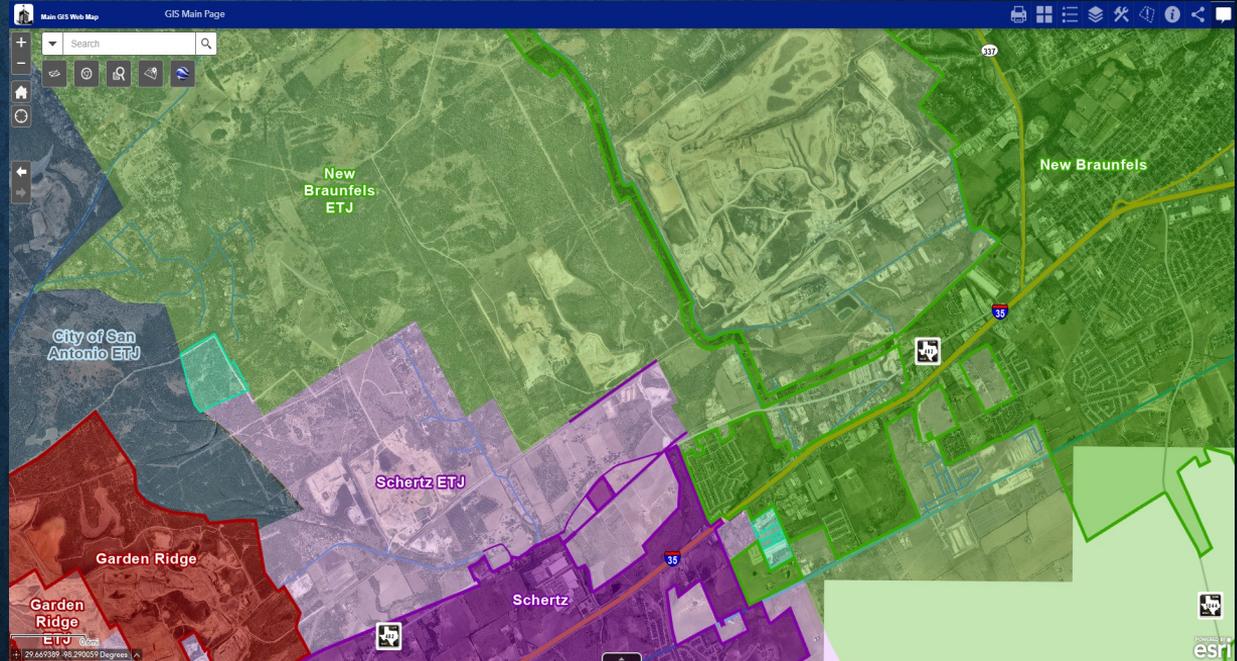


MATT BELLOS, VICE PRESIDENT OF COMPLIANCE

- Almost 21 years as a consultant in the environmental field
- Part of the Environmental & Sustainability Committee

WHAT IS THE ETJ?

- The Extraterritorial Jurisdiction or ETJ is the area immediately surrounding municipalities in Texas. This area was designated by the Texas Legislature in 1963 to promote and protect the general health, safety, and welfare of persons residing in and adjacent to municipalities.



SOME BACKGROUND INFORMATION

- Historically, cities were annexing large areas to increase their tax base but were slow playing their services in the newly annexed areas.
 - Example - Leon Springs vs. City of San Antonio
- Several sessions ago, the legislature passed a law that required cities to put up for a vote if these new areas wanted to be annexed.
 - This helped slow down the cities from expanding their powers.
- In 2023, the Texas legislature passed SB 2038 which allowed property owners within the ETJ to unilaterally release themselves from the ETJ.
- The basis for SB 2038 was that the properties within the ETJ are subject to regulation without representation.

SOME BACKGROUND INFORMATION

- ETJs can be thought of as a “buffer zone” where the city can extend its influence beyond the corporate limits to influence future growth and development. This helped slow down the cities from expanding their powers.
- Typically, cities will enter into an interlocal agreement with the surrounding counties to determine which governing body will be responsible for primary regulatory authority. The area within the ETJ remains unincorporated land and is potentially subject to both county and city regulations.
- SB 2038 became law on September 1st, 2023.
- The law requires that a complete submitted petition be approved by the city within 45 days.
- In the law, the cities do not have an option to deny petitions.
- The law does have a couple of exceptions.

WHAT HAVE WE SEEN

- Some smaller cities are not even aware of this law.
- Some cities are not giving up their authority easily and have filed suit.
 - City of Grapevine and some others in the area (Approx. 15 cities)
- The cities of Brownsville and Anna have filed petitions to the Attorney Generals Office. The Attorney General has filed answers to all petitions, denying them.
- Recently the City of Hutto would not accept our petition.
- The law is clear that if the city does not approve the petition, then the property is released by order of law. It has been our position (with legal consultation) that the denial from the city still constitutes removal from the ETJ.

WHAT DOES THIS ALL MEAN?

Removing your property from the ETJ can save you time, money, and reduce the site's regulatory burden.

City (more regulations) vs. County (less regulations)

- Zoning – City
- Platting – City
- Tree Ordinance – City
- Landscaping Ordinance – City
- Lighting – City
- Sidewalks – City
- Signage – Both
- Fire Marshal – Both
- Drainage Requirements – Both
- Driveway Permit – Both
- Septic/Sewer – Both

Taxes are typically lower in the County

City = More time, more money and more public exposure.



TYPES OF RELEASE FROM THE ETJ

1. **File a petition for release** (landowner or landowners)
2. **Release by area through election** (typically a neighborhood subdivision)
3. **Voluntary released by the city** (Instead of holding an election the city can choose to approve the area for release).

**FILE A PETITION
FOR RELEASE**

WHO HAS THE AUTHORITY TO FILE A PETITION FOR RELEASE OF JURISDICTION FROM A MUNICIPALITY?

- A resident of the area
- Owner(s) of the majority of value of an area with one or more parcels of land

WHAT IS NEEDED TO FILE FOR A PETITION OF RELEASE?

- Must be signed by over 50% of registered voters in the area (a number of landowners filing together).
- The majority of value of the holders of the title of land in the area are described by the petition, as indicated by the tax rolls of the appraisal district.
- The person filing the petition must meet a signature requirement
- Signatures must be in writing
- The petition must include a map of the land to be released including:
 - Metes and bounds
 - Lot and block numbers

EXCLUSION - RELEASE BY PETITION OF LANDOWNER DOES NOT APPLY IF:

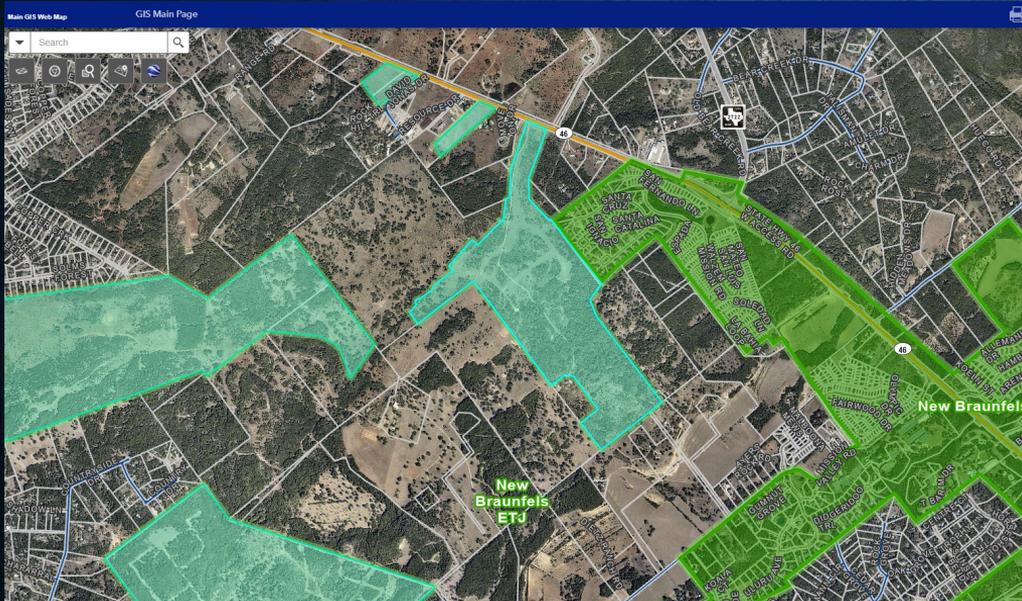
- Area is within 5 miles of a military base with active training
- Area was voluntarily annexed into new jurisdiction with ..
 - Population growth of 50%+ since 2020
 - Population of 240,000+
- Within Municipality of 1.4 million + that is ...
 - Within 15 miles of military base with active training
 - In a county with 2 mill+
- In a designated Industrial District
- In an area with a strategic partnership

WHAT HAPPENS AFTER PETITION IS FILED?

- City Secretary or others verify all signatures
- The city will notify the residents of the area with the results of the petition.
- If the petition is submitted correctly then the area will be released from the jurisdiction of the municipality.
- If the city does not take action within 45 days then the area is released by operation of law.
- No other area will be released by law unless requested/ mentioned in the petition.
- The area released is not subject to any elections or jurisdiction of that city unless it is requested by the owners. If the area is under a previous agreement with the city, after the release, then the agreement is terminated as well.
- At a later date, the landowner can petition the city to annex the property (if wanted). Both the city and the landowner would have to agree.

EXAMPLE OF APPROVAL

- Example of a 223 acre property that petitioned to be removed from the City of New Braunfels ETJ.



May 23, 2024

Mai Lynn Womack
Legal Assistant
Allen Boone Humphries Robinson LLP
919 Congress Ave
Austin, TX 78701

Re: ETJ Release – ETJ24-182 | Brandt Ranch LLC | 223.8 Acres

To whom it may concern:

The Planning and Development Services Department has received and processed the petition for ETJ release – ETJ24-182, including supporting information submitted by the applicant, and the release is complete.

The subject property contains approximately 223.8 acres and is generally located on the south side of SH 46 and on approximately 1520 feet southeast of the intersection of SH 46 and Resource Drive and further described in the metes & bounds and ownership documents submitted with the petition.

Please include a copy of this letter with any subsequent submittals related to this property as necessary.

Contact me if you have any further questions.

Sincerely,

Colton Barker
Assistant Planner | Development Planning Division
cbarker@newbraunfels.gov | 830.221.4274

Cc: Comal County Engineers Office

**REQUEST ELECTION
FOR RELEASE**

WHO CAN REQUEST AN ELECTION FOR RELEASE?

- Example – a neighborhood subdivision.
- A resident who has gotten at least 5% of the registered voters in the area signatures on a petition for release may request an election.
- If the vote did not pass then you may not make a second request for the same area until after the second anniversary of the date the first petition was sent in.

ELECTION DETAILS

- This election is to decide whether or not the area is released from a municipality.
- It is held in the area in question.
- Only the registered voters in the area can participate and the municipality covers the costs of holding the election.
- The election will be held in the same manner as the general elections of the municipality.

AFTER THE ELECTION

- The governing body of the city will review and confirm the returns for the election.
- The residents of the area will be notified of the results of the election.
- If a majority of voters in the area approve the release, then the area is immediately released.
- If the municipality does not take action by the 15th day after the election, then the area is immediately released by law.
- The area will not be included in the jurisdiction or corporate boundaries of the municipality.

**VOLUNTARY
RELEASE BY
THE CITY**

VOLUNTARY RELEASE

- Instead of holding an election, the city may voluntarily release the area.

SUMMARY



- Over the years, the cities and counties have become a trap for bureaucratic red tape:
 - I have seen permitting within the city and ETJ take over 2 years to permit an asphalt plant, concrete batch plant, and solar field.
 - You can get caught up in a political fight which can delay your project.
 - The permitting process could be a public relations nightmare (newspapers, TV stations, social media)
- Having the option to remove yourself from the ETJ could help with your permitting time frames which in turn could lead to a financial savings.
- We can help you through this process.

TCEQ UPDATE

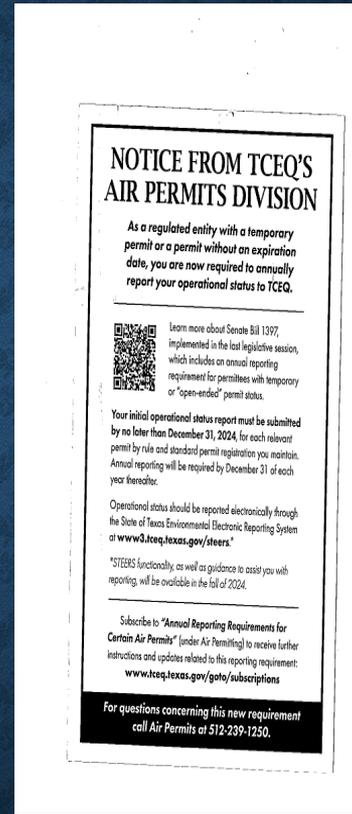
Be aware that during the last legislative session SB 1397 was passed based on the TCEQ Sunset Review. This bill requires TCEQ-regulated entities with temporary or open-ended permits to annually confirm their operation status.

Reporting will be done in STEERS and will be due prior to Dec. 31st every year.

Applies to PBRs and Temporary Standard Permits (Permit #####L001).

Does not apply to a Permanent Standard Permits.

TCEQ should have more info. in the Fall of 2024.





QUESTIONS