

The Future of the ETJ

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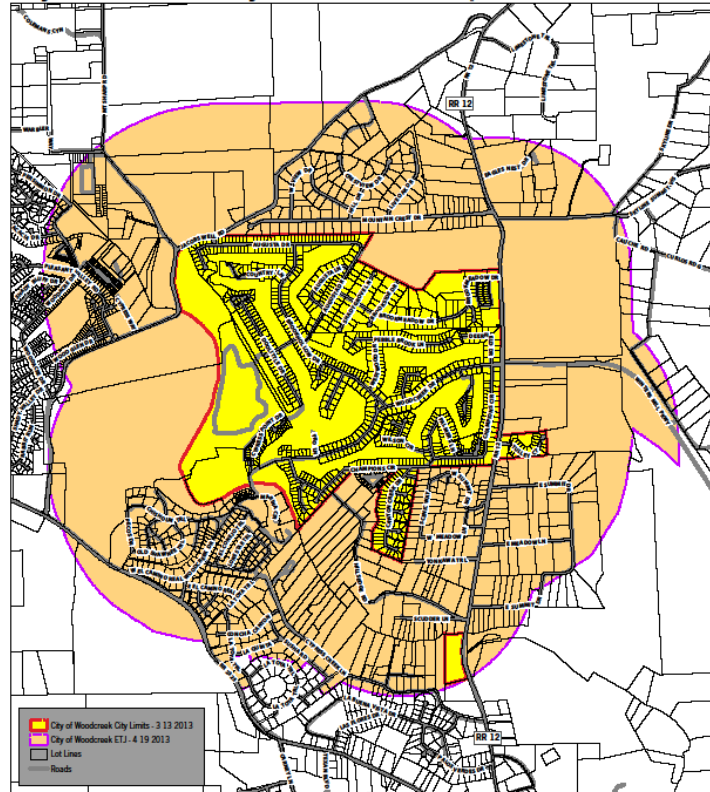


What is the ETJ?

- An “unincorporated area that is contiguous to the corporate boundaries” of a city extending ½ mile – 5 miles out.
- Created by the Leg in 1963 “to promote and protect the general health, safety, and welfare of persons residing in and adjacent to” cities, a sort of buffer zone outside of a city’s corporate limits.
- Tex. Loc. Gov’t Code Chapter 42
- Cities have limited authority to address health and safety issues in the ETJ.

ETJ Maps

City of Woodcreek City Limits and ETJ Map

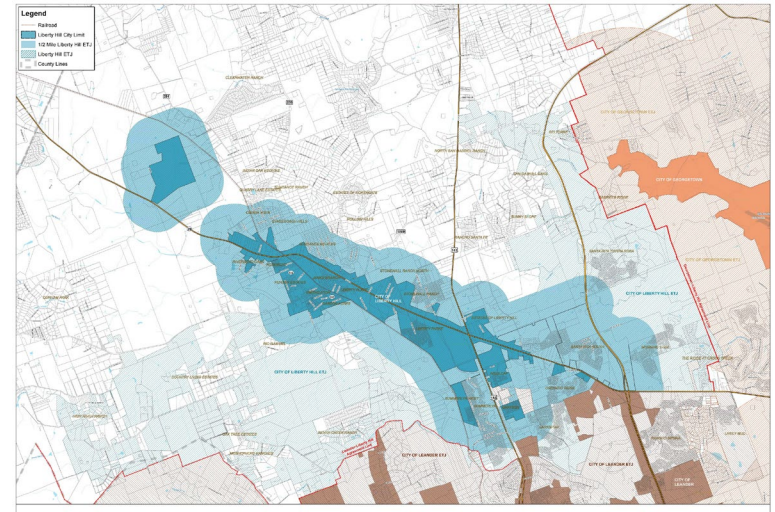
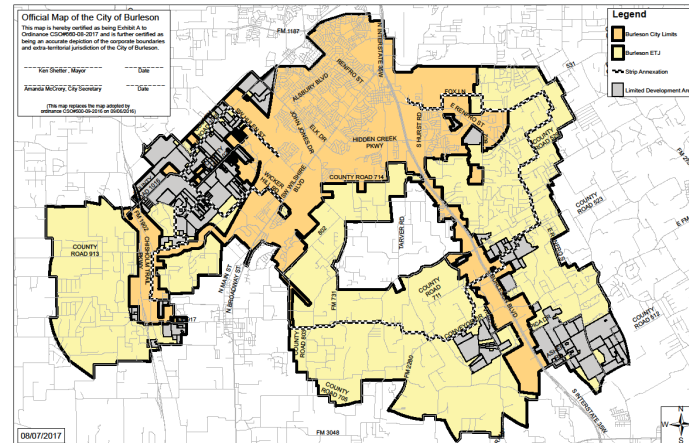


City of Woodcreek
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Woodcreek, TX 78676



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Life in the ETJ



City Regulatory Authority in ETJ

- The Big Ones:
 - Annexation
 - ETJ Development Agreements
 - Subdivision and Platting Regulations
- The Rest:
 - Municipal Gas, Electric, Water and Sewer Utility Systems
 - Signs
 - Nuisances within 5,000 feet (home rule city only)
 - Policing City-Owned Property (home rule city only)
 - Water Pollution Control and Abatement
 - Cemeteries

City / County Cooperation

- “1445” Subdivision Regulation Agreements
 - Loc. Gov’t Code Chapter 242
- City and County agree on which entity will regulate subdivision plats and approve permits in the ETJ
 - One-stop shopping
 - Agree on applicable regs or create new set of regs
 - Apportion authority in parts of the ETJ

ETJ Criticism

- Landowner Perspective:
 - Regulations without services and without a vote
 - Remoteness of city government
 - Residents' inability to choose form of governance
 - Counties' expanded obligations
 - Prevents new municipalities
- City Perspective:
 - City residents are affected by ETJ, but city has little authority
 - And ETJ residents in subdivisions often think they are in a city
 - Post annexation reform—what do we do with the ETJ??

Recent Changes:

Annexation & Development Agreements

- Annexation
 - H.B. 347 (2019) - Annexation by landowner or voter approval.
- Development Agreements
 - Historically a tool to provide for land use regulation of property to be annexed in the future
 - Annexation likely not enforceable by agreement – No threat of unilateral.
 - H.B. 1929 (2021)
 - Waiver of governmental immunity
 - Broad liability
 - Voter approval for “bonds or obligations” funding the “program”

2021 ETJ Bills that Did Not Pass (R.I.P.)

- H.B. 100: Expand authority over Dangerous Dogs in the ETJ (Passed House. Senate Committee)
- H.B. 2776/S.B. 1500 & H.B. 3519/S.B. 1992: Expanded authority for landowner petition for removal from city's ETJ (Postponed / Committee)
- H.B. 3519 / S.B. 1992: Expanded authority for landowners to petition for release from ETJ (House Committee)
- H.B. 298: Regulation of outdoor lighting in Dark Skies communities and their ETJ (House Calendars – no floor vote)
- H.B. 1155: A MUD located in more than one city's ETJ cannot change local authority without consent of all city's (House Calendars – no floor vote)
- H.B. 2573: Limitation on city water quality regs in the ETJ that are stricter than state or federal reqs. (House Committee)

Future of the ETJ?

- Status Quo
 - 2nd Law of Thermodynamics: Objects at rest tend to stay at rest.
 - Annexation isn't *dead* dead... And a municipality may annex area only in its extraterritorial jurisdiction unless the municipality owns the area.
 - Little statutory authority to release ETJ without other city to take it.
- 1445 Agreement Amendments – Give subdivision power to County
- Development Agreements – Still a tool, but riskier.
- Municipal Utility Districts and Other Special Districts
 - If cities cannot expand, other entities can provide the services.
 - Consent Agreements give cities influence
 - MUD Strategic Partnership Agreements
- Legislative Intervention

More Information

- Call or email TML Legal
 - (512) 231-7400
 - legalinfo@tml.org

