

To: Honorable Mayor and Members of the City Council
From: Vivianna Nicole Andres, Assistant to the City Manager
Date: November 4, 2024
Subject: Modifications to the process for ETJ Petitions submitted to the City

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Honorable Mayor and Members of the City Council,

On Friday, September 13, 2024, Staff attended a Government Seminar hosted by Denton Navarro Rodriguez Bernal Santee & Zech, P.C. in Schertz, Texas. One of the presentation topics was on SB 2038 – regarding ETJ releases, processes, and procedures. During this lecture, information was presented on an alternative method, which many cities follow, for handling Petitions for release from the ETJ submitted to the City.

The process presented (*listed in the revised ETJ Petition for Release process below*) allows for Cities to meet the requirements of SB 2038 for verifying the petition, but instead of taking any action at the dais, recommends that the City “remain silent” and allow for the parcel to be released by operation of law (TLGC Section 42.105(d)).

It was explained at the seminar that the reason for this approach is to keep the Council off the record from taking any action (*approval or denial of a resolution or ordinance*) until AFTER the Supreme Court case, which the Supreme Court of Texas is hearing, has concluded. The rationale is that if the legislation is found to be unconstitutional, there will be no record of action where the Council agreed to release a parcel from the ETJ. Conversely, if the legislation is found to be constitutional, there will be no record of action where the Council agreed to deny the release of a parcel from the ETJ. Additionally, implementing this revised approach should also help preclude the City from the possibility of any unnecessary litigation in the future.

After learning about this alternative process, it was presented to CM Carrillo for implementation. CM Carrillo requested that Staff first confer with the City Attorney’s office to obtain their feedback before implementing any changes to the process.

Following her direction, I coordinated with the City Attorney’s office to seek their feedback regarding the revised approach. I was informed that this revised approach is a legally valid option and is a process also being utilized by several other cities, such as Buda and Palestine. After receiving this information from legal, I presented it to CM Carrillo and was permitted to pursue the implementation of a revised ETJ Petition Release process.

The revised ETJ Petition for Release process is as follows:

1. The City Secretary’s Office will receive the petition for release from the ETJ from the petitioner.
2. City Staff will verify that the petition contains all of the documentation required per TLGC Section 42.104:

A. PETITION REQUIREMENTS –

- i. A petition requesting release under this subchapter must be signed by:*
 - 1. more than 50 percent of the registered voters of the area described by the petition as of the date of the preceding uniform election date; or*
 - 2. a majority in value of the holders of title of land in the area described by the petition, as indicated by the tax rolls of the applicable central appraisal district.*
- ii. A person filing a petition under this subchapter must satisfy the signature requirement described by Subsection (a) not later than the 180th day after the date*

the first signature for the petition is obtained.

iii. A signature collected under this section must be in writing.

iv. The petition must include a map of the land to be released and describe the boundaries of the land to be released by:

1. metes and bounds; or

2. lot and block number, if there is a recorded map or plat.

3. After verifying the petition documentation submitted, the City Secretary's Office will send a letter to the petitioner stating either the petition was found to be valid, or that it was found to be invalid.

A. If the petition is invalid, the letter sent to the petitioner will list the areas of deficiency so that the petitioner may remedy them.

4. After the petition verification process is completed, the City/Council will remain silent and make no record of action, which will allow the parcel to be released by operation on law per TLGC Section 42.105:

A. *(d) If a municipality fails to take action to release the area under Subsection (c) by the later of the 45th day after the date the municipality receives the petition or the next meeting of the municipality's governing body that occurs after the 30th day after the date the municipality receives the petition, the area is released by operation of law.*

Therefore, on November 12, 2024, Agenda, I intend to re-present the Cassel ETJ petition, which was postponed for action on September 10, 2024, with a recommendation that the Council take no action on the previously presented resolution. The parcel's owner has already been sent a letter stating that their petition was valid, thereby meeting the requirements of SB 2038.

If Council has any questions regarding this change in the process for petitions submitted to the City under SB 2038, please do not hesitate to contact me at 512-718-9835 or email me at vandres@cityofbastrop.org to discuss this matter further.

Thank you,

Vivianna Nicole Andres

Vivianna Nicole Andres, Assistant to the City Manager