



AGENDA ITEM SUMMARY

Agenda Date	December 12, 2023
Requested Action	CONSIDER ON SECOND READING ORDINANCE NO. 2023-37; AN ORDINANCE OF THE CITY COUNCIL OF CITY OF BOERNE, TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE, CHAPTER 2. PROCEDURES, ADDING SECTION 2.13 EXTRATERRITORIAL JURISDICTION, TO PROVIDE A PROCESS FOR PETITIONS FOR RELEASE FROM THE CITY'S EXTRATERRITORIAL JURISDICTION; AND CHAPTER 8. ENVIRONMENTAL DESIGN, SECTION 8.1 FLOODPLAIN MANAGEMENT, AND APPENDICES, APPENDIX A. DEFINITIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE OF ALL ORDINANCES; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A PENALTY FOR VIOLATION; AND PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE. <i>(Consider second reading of ordinance creating a process to release properties from the ETJ and amending the floodplain management section.)</i>
Contact Person	Jeffrey Carroll – Engineering & Mobility Director (830) 248-1638, jcarroll@boerne-tx.gov Nathan Crane – Planning Director (830) 248-1501, ncrane@boerne-tx.gov
Background Information	PRIOR REVIEW: On November 28, 2023, the City Council held a public hearing and voted 5-0 to receive the recommendation from the Planning Commission and approve the first reading of the Ordinance. No one spoke in favor or against the amendments. BACKGROUND FOR UDC AMENDMENTS: <u><i>Floodplain Management Amendment</i></u> There are many residential structures and vacant lots that were developed prior to the adoption of the current floodplain ordinances. With recent updated flood models additional parcels that had not previously been within the 100-year floodplain will now be in the floodplain. City staff, as well as council members, have recently received questions on the floodplain ordinances impact to these residential parcels.

	<p>After holding a discussion item at the City council meeting on September 26, 2023, staff has prepared code updates that would allow additions to existing residential structures in the floodplain as well as allow new residential construction on lots created prior to the 2020 code updates.</p> <p><u><i>ETJ Amendment</i></u></p> <p>During the 88th Legislative Session this past year, Senate Bill 2038 was passed and subsequently signed into law. This Bill created a process in which property within the Extraterritorial Jurisdiction (ETJ) can be removed from the ETJ. The Bill became effective on September 1, 2023. The purpose of this amendment is to establish the application process for these requests.</p> <p>Since September 1, there have been fourteen requests for removal from the ETJ. Ten of the requests have been approved.</p> <p>AMENDMENT REQUEST:</p> <p><u><i>Floodplain Management Amendment</i></u></p> <p>The proposed amendment amends Section 8.1 Floodplain Management. It allows for additions to existing residential structures in the floodplain as well as new residential construction on lots created prior to 2020. To mitigate the risk of flooding, the proposed amendment also includes:</p> <ul style="list-style-type: none">• increase in finished floor height above the BFE.• increase requirements for substantial improvements.• increase requirements for substantial damages.• new requirements for critical structures.• new requirements for material storage. <p><u><i>ETJ Amendment</i></u></p> <p>The proposed amendment creates Section 2.13 Extraterritorial Jurisdiction. A summary of the amendment is as follows:</p> <ul style="list-style-type: none">• Requires a landowner to file request for release from the ETJ.• The City may voluntarily release the area or hold an election.• City Secretary's office will review the petition.• Requires a decision to be made within 45 days.• Designates the following areas as not eligible for removal from the ETJ.<ul style="list-style-type: none">○ In an area designated as an Industrial District; or○ In an area subject to a strategic partnership agreement with the City; or○ An area within five miles of the boundary of a military base,
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	<p>as defined by Section 43.0117 of the Texas Local Government Code, at which an active training program is conducted; or</p> <ul style="list-style-type: none">○ Any other exceptions to release of an area by petition of a landowner or resident as described by Chapter 42 of the Local Government Code. <p>ANALYSIS:</p> <p><u><i>Floodplain Management Amendment</i></u></p> <p>Cities may pass floodplain ordinances to protect the public health, safety, and general welfare and to minimize public and private losses due to flood conditions.</p> <p>The 2018 Comprehensive Masterplan recommended that the City review and update drainage codes. A stormwater committee was formed and spent 12+ months discussing changes to floodplain ordinances as well as codes to protect the city’s riparian zones and improve water quality from new development. The committee’s recommendations were incorporated into the February 2020 updates to the Flood Damage Prevention and Subdivision Ordinances. Later with the adoption of the UDC in 2022, these previously approved drainage codes were included within the UDC.</p> <p>As the initial FEMA floodplain maps were not created until the late 70’s, much of the older parts of Boerne were developed without the benefit of floodplain maps or floodplain ordinances. With the adoption of floodplain maps, FEMA provided minimum floodplain rules that are required to be adopted such that the City is eligible to participate in the national flood insurance program. However, FEMA does encourage cities to adopt higher standards to further protect the City’s public from flooding events. With the 2020 code updates Boerne adopted higher standards regarding the finished floor height above the 1% annual chance (100-year) Base Flood Elevation (BFE). In addition, Boerne code requirements have additional higher standards for new construction in the floodplain as well as limiting improvements to any existing residential structures.</p> <p>Starting in Fiscal Year 2024, the City of Boerne participates in FEMA’s Community Rating System (CRS) program. Boerne is rated CRS category seven (7) which allows our residents who purchase flood insurance to receive a 15% discount. The proposed floodplain ordinance changes that will allow new residential structures on previously platted lots or additions to existing residential structures within the 100-year floodplain has potential to reduce our City’s CRS score.</p>
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	<p>To mitigate the reduction in CRS credits staff has prepared additional code requirements.</p> <p>Staff believes the proposed floodplain ordinance updates are a fair balance of protecting the public health/safety and allowing landowners of residential lots/structures created prior to the 2020 code updates a path to improve their lots or existing structures.</p> <p><u>ETJ Amendment</u></p> <p>The proposed amendment is needed to comply with Texas Local Government Code.</p> <p>The proposed text amendment will establish a formal review process for these applications.</p> <p>The proposed text amendment is consistent with the purpose of the Unified Development Code and will not adversely affect the community.</p>
Item Justification	<div> <div> <input checked="" type="checkbox"/> Legal/Regulatory Obligation <input type="checkbox"/> Reduce Costs <input type="checkbox"/> Increase Revenue <input checked="" type="checkbox"/> Mitigate Risk <input checked="" type="checkbox"/> Master Plan Recommendation </div> <div> <input type="checkbox"/> Infrastructure Investment <input checked="" type="checkbox"/> Customer Pull <input type="checkbox"/> Service Enhancement <input type="checkbox"/> Process Efficiency <input type="checkbox"/> Other: </div> </div>
Strategic Alignment	<p>Safety & Security</p> <p>Environmental Responsibility</p>
Financial Considerations	<p><u>Floodplain Management Amendment</u></p> <p>Additional residential structures within the 100-year floodplain increase the city's potential for rescue and relief efforts associated with flooding at the expense of the general public.</p> <p><u>ETJ Amendment</u></p> <p>N/A</p>
Citizen Input/Board Review	<p>Notice for the Planning and Zoning Commission was published in the Boerne Star on 10/26/2023.</p> <p>The Planning and Zoning Commission held a public hearing on November 6, 2023. The Commission voted 7-0 to recommend approval of the Floodplain Management amendments with the recommendation for staff to research the possibility of tying the changes to the Floodplain Management to property ownership. The Commission voted 6-0 to recommend approval of the ETJ amendment (Commissioner Susan Friar recused herself from this portion of the amendment).</p>

Legal Review	This amendment meets the statutory requirements of the Texas Local Government Code.
Alternative Options	<p>Leave current code as-is which does not allow any residential improvements in the 100-year floodplain, except for rebuilding due to fire or flood.</p> <p>To meet state law, there is not an alternative option for the ETJ Amendment.</p>
Supporting Documents	<p>Attachment 1 – Floodplain Management Redline Ordinance</p> <p>Attachment 2 – Floodplain Management Clean Ordinance</p> <p>Attachment 3 – ETJ Amendment</p>