

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF CITY OF BOERNE, TEXAS, AMENDING THE CODE OF ORDINANCES TO PROVIDE A PROCESS FOR PETITIONS FOR RELEASE FROM THE CITY'S EXTRATERRITORIAL JURISDICTION; PROVIDING A SAVINGS CLAUSE; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Boerne, Texas is a Home Rule municipal corporation located in Kendall County, created in accordance with the provisions of Chapter 9 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

**WHEREAS**, the Texas Legislature passed Senate Bill 2038, which allows residents of a city's extraterritorial jurisdiction to petition for release from the municipality's extraterritorial jurisdiction; and

**WHEREAS**, Senate Bill 2038 provides a timeline for approving the release of property from the extraterritorial jurisdiction after a petition is filed with the municipality; and

**WHEREAS**, the City Council deems it appropriate to provide procedures for establishing when a petition is considered filed; and

**WHEREAS**, a petition requesting release must comply with the petition requirements of Chapter 277 of the Texas Election Code; and

**WHEREAS**, Senate Bill 2038 requires the City Secretary, or designee, to verify the petition signatures; and

**WHEREAS**, City Council finds it necessary to establish a procedure for the City Secretary to verify the signature of corporate owners; and

**WHEREAS**, the City Council finds that the amendments as outlined herein are in the best interest of the health, safety, and general welfare of the citizens of the City and the general public.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS THAT:**

**Section 1.** All the above premises are true and correct legislative and factual findings of the City Council, and they are hereby approved, ratified, and incorporated into the body of this ordinance as if copied in their entirety.

**Section 2.** The Code of Ordinances is hereby amended by adding the following:

Petitions for Release from Extraterritorial Jurisdiction.

(a) A petition for release or a petition to hold an election for release from the City's extraterritorial jurisdiction may be filed by a resident or land owner

within the extraterritorial jurisdiction, as provided by Chapter 42 of the Texas Local Government Code, as amended.

- (b) A petition either for release or requesting an election is considered filed when it meets the following requirements:
  - (1) The petition must comply with the signature requirements of Chapter 42 of the Texas Local Government Code, as amended, and Chapter 277 of the Texas Election Code, as amended;
  - (2) The petition must include a map of the land to be released and describe the boundaries of the land by either:
    - i. Metes and bounds, or
    - ii. Lot and block number, if there is a recorded map or plat; and
  - (3) To permit the City Secretary to verify the petition, the petition of a corporate owner must be accompanied by the following:
    - i. Date of birth of the signor;
    - ii. Personal residence address of the signor;
    - iii. Business entity's Certificate of Good Standing from the Texas Secretary of State;
    - iv. Business entity's Articles of incorporation, certificate of formation, partnership agreement, or other corporate formation document;
    - v. Business entity's Bylaws; and
    - iv. Resolution of the business entity authorizing the petition for release be executed and filed by the entity representative.
- (c) Upon receipt of a petition, the City must verify the petition.
  - (1) The City shall notify the resident and landowners of the area described by the petition of its results. This may be satisfied by notifying the party who filed the petition.
- (d) If the petition for release contains the requisite number of signatures, the City shall release the area from its extraterritorial jurisdiction by the later of the 45th day after the date the petition was filed or the next meeting of the City Council that occurs after the 30th date after the petition was filed.
- (e) If the resident or landowner submits a verified petition to hold an election for release, the city may either:
  - (1) Voluntarily release the area for which the election is to be held from the City's extraterritorial jurisdiction before the date on which the election would have been held; or
  - (2) Order an election for release, which must comply with Texas Election Code and Chapter 42 of the Local Government Code, as amended.
- (f) This section does not apply to the following properties in the extraterritorial jurisdiction:
  - (1) In an area designated as an Industrial District under Section 42.044 of the Texas Local Government Code, as amended;
  - (2) In an area subject to a strategic partnership agreement with the city; or
  - (3) An area within five miles of the boundary of a military base, as defined by Section 43.0117 of the Texas Local Government Code,

- at which an active training program is conducted; or
- (4) 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.”

**Section 3.** This Ordinance shall be cumulative of all provisions of Ordinances of the City of Boerne, Texas except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

**Section 4.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**Section 5.** This Ordinance shall be in full force and effect from and after its passage and publication.

PASSED AND APPROVED on this the \_\_\_\_ day of November 2023, at a Regular Meeting of the City Council of the City of Boerne, Texas.

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Frank Ritchie, Mayor

ATTEST:

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Lori A. Carroll, TRMC  
City Secretary

APPROVED AS TO FORM:

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William M. McKamie  
City Attorney