



# City of San Antonio

## Legislation Details (With Text)

**File #:** 19-6363

**Type:** Miscellaneous Item

**In control:** City Council A Session

**On agenda:** 9/19/2019

**Title:** ZONING CASE Z-2019-10700087 (ETJ): Ordinance amending the Zoning District Boundary to extend the Airport Hazard Overlay District (AHOD), Military Lighting Overlay District (MLOD), Military Sound Attenuation Overlay District (MSAO), and Edwards Recharge Zone District (ERZD) to certain property within 5-miles of Camp Bullis / Camp Stanley and Lackland Air Force Base / Lackland Medina Training Annex in the proposed ETJ Military Protection Areas in the Extraterritorial Jurisdiction of the City of San Antonio. Staff and Zoning Commission recommend Approval. (Associated Plan Amendment PA-2019-11600022)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 1-Ordinance FN - Land Use Plan Adoption PA2019-11600022, 2. ATTACHMENT I - Camp Bullis ETJMPA Comprehensive Land Use Plan, 3. ATTACHMENT II - Lackland ETJMPA Comprehensive Land Use Plan, 4. EXHIBIT A, 5. EXHIBIT B, 6. Attachment 1 - Addendum A 11to Bexar County COSA Master ILA, 7. Fiscal Impact Form - ETJMPA, 8. 09062019 Draft Ordinance ETJMPA Regulations, 9. Draft Ordinance Zoning Regulations Z2019-10700087(sg), 10. Draft Ordinance Approving Amended Interlocal Agreement, 11. Zoning Minutes, 12. Ordinance 2019-09-19-0765

Date	Ver.	Action By	Action	Result
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**DEPARTMENT:** Development Services

**DEPARTMENT HEAD:** Michael Shannon

**COUNCIL DISTRICTS IMPACTED:** Council Districts 4, 6, and 8

**SUBJECT:**

Briefing and action on the proposed Unified Development Code (UDC) Amendments related to Extraterritorial Jurisdiction Military Protection Area (ETJMPA) regulations for the Camp Bullis ETJMPA and Lackland ETJMPA, creation of the Comprehensive Land Use categories within the ETJMPAs, creation of the zoning overlays in the ETJMPAs, and the Addendum to the Bexar County/COSA Master Interlocal Agreement for the ETJMPs in unincorporated Bexar County.

**SUMMARY:**

On November 6, 2018, voters in areas of unincorporated Bexar County within a five mile radius of the Camp Bullis/Camp Stanley Military Bases and the Lackland Air Force Base/Medina Annex were presented with two options: to either approve annexation into the City Limits of San Antonio or to not approve annexation and allow Land Use Regulations consistent with the most recently adopted Joint Land Use Study. Voters in both areas rejected annexation and approved land use controls. Since the election, the Development Services

Department, Planning Department, City Attorney's Office, Office of Military Affairs, Bexar County, and the Military have been working to develop the regulations to implement the land use controls approved by the voters.

## **BACKGROUND INFORMATION:**

Senate Bill 6, effective December 1, 2017, requires cities located in counties with more than 500,000 residents (Tier 2 cities) to obtain landowner or voter approval of a proposed annexation. The new law permits cities to hold elections which allow voters within five miles of military bases to choose one of two means to regulate land use: 1) by annexation or 2) allowing the municipality to improve land use regulations as delineated in the most recent Joint Land Use Study (JLUS). Chapter 43 of the Texas Local Government Code was amended to include the following:

### **Section 43.0117 Authority of Municipality to Annex Area Near Military Base**

Part (b) A municipality may annex for full or limited purposes, under the annexation provisions applicable to that municipality under this chapter, any part of the area located within five miles of the boundary of a military base in which an active training program is conducted. The annexation proposition shall be stated to allow the voters of the area to be annexed to choose between either annexation or providing the municipality with the authority to adopt and enforce an ordinance regulating the land use in the area in the manner recommended by the most recent Joint Land Use Study (JLUS).

On August 2, 2018, the City Council approved Resolutions 2018-08-02-0032RA and 2018-08-02-0032RB ordering an election in certain areas of unincorporated Bexar County within a five mile radius of the Camp Bullis/Camp Stanley Military Bases and the Lackland Air Force Base/Medina Annex in order for the voters to choose either annexation and land use controls based on the most recent Joint Land Use Study. On November 6, 2018, voters rejected annexation and approved land use controls for both areas. Because the voters approved land use controls, new regulations must be adopted in the UDC to implement the land use controls through an anticipated Interlocal Agreement with Bexar County.

After the November 6, 2018, election, City Staff briefed City Council at B-Session on January 30, 2019, to discuss the results of the election, and the next steps in the process. At that briefing, City Staff outlined the existing regulatory framework in the ETJ including the Tree Ordinance, platting regulations, sign regulation, Master Development Plan reviews, and Military notifications. City Staff also presented an outline of the regulatory framework for the ETJMPAs including comprehensive land use categories derived from the existing SA Tomorrow Future Land Use Plan, Military Lighting Overlay Districts (MLOD), Military Sound Attenuation Districts (MSAO), Airport Hazard Overlay Districts (AHOD), and Edwards Aquifer Protection (ERZD). City staff also discussed the proposed Interlocal Agreement with Bexar County which defines the roles and responsibilities for permitting, inspections, and property maintenance in the ETJMPAs. Under the proposed regulatory framework, the City will administer the MPA regulations and conducted limited reviews and inspections of the ETJMPA regulations, and issue certificates of compliance. Adjudication of any violations which occur in the ETJMPAs would take place in Municipal Court.

City Staff also held a series of public meetings to give the citizens living in the ETJMPAs an overview of the regulatory framework, and to take their feedback on the proposed regulations. Two meetings each were held in each proposed ETJMPA:

- March 19, 2019 - Calvary Hills Baptist Church (Lackland Area)
- March 21, 2019 - Cross Mountain Church (Camp Bullis Area)

- March 26, 2019 - Calvary Hills Baptist Church (Lackland Area)
- March 28, 2019 - Cross Mountain Church (Camp Bullis Area)

In addition to the public meetings, the City Staff developed a survey on the SA Speak Up platform in order to solicit as much valuable public feedback as possible.

## ISSUE:

Changes in state law (effective December 1, 2017) provide a municipality with the ability to extend land use controls as a means to provide protection of the military's missions if annexation is not voted on in the affirmative. Voters in both areas rejected annexation and approved land use controls. Since the election, the Development Services Department, Planning Department, City Attorney's Office, Office of Military Affairs, Bexar County, and the Military have been working to develop the regulations to implement the land use controls approved by the voters in the areas described below. These areas meet the requirements in the Texas Local Government Code as they are within the 5-mile buffer of these military installations, as required by the JLUS.

**1) West of Camp Bullis and Camp Stanley along the IH10 Corridor Option 1 (Largest Area)** - bound on the North by the Bexar County Line, on the East by Ralph Fair Road, on the South by Babcock Road and the San Antonio City Limit line, on the West by Boerne Stage Road and Toutant Beauregard Road and on the Northwest by Boerne Stage Road

**2) West of the Lackland AFB Medina Training Annex along the West Loop 1604 S Corridor Option 1 (Largest Area)** bound on the North by Military Drive West, on the East by the San Antonio City Limit Line and the western boundary of the Lackland AFB Medina Annex, on the south by an area north of Pearsall Road, and on the west by an area east of Montgomery Road and the western ROW of Grosenbacher Road

## Land Use Controls and Amendments to the UDC

Per direction in the state law, the land use controls that are being developed for the areas adjacent to the Camp Bullis and Camp Stanley Military Bases and the Lackland Air Force Base and Medina Annex align with adopted JLUS recommendations and citations. The regulatory framework for the land use controls entail adding a new article to the UDC, Article IX, and extending the following regulation into the ETJMPA:

- Land Use Regulations derived from existing Comprehensive Land Use Categories
  - Modifications to the designated Comprehensive Land Use Category would follow the existing process for Comprehensive Plan Amendments (Planning Commission and City Council).
  - Residential Density in areas with the Agricultural Comprehensive Land Use Designation would be allowed 0.25 units per acre so as to be consistent with the JLUS.
- Military Lighting Overlay District (MLOD), Military Sound Attenuation District (MSAO), Airport Hazard Overlay District (AHOD), and Edwards Aquifer Recharge Protection (ERZD)
  - Process would follow the existing procedures for the creation of the Districts (Zoning Commission, City Council, Board of Adjustment as applicable)
- Tree Preservation Standards
  - Follow existing appeal procedures
- Enforcement consistent with the UDC
  - Adjudication in Municipal Court
- Vested Rights, Non-conforming Use Rights, and Continuation of Land Use Rights

- Properties developed prior to the effective date of the regulations will have land use continuation rights
- Language for the Continuation of Land Use Rights section was modified to be in line with State Law
- Exemption from Certificate of Compatibility requirements for the for existing single-family residential structure unless the use of the structure is changed to a non-single family use
  - Existing single-family structure must still comply with ETJMPA requirements
- Compliance with existing adopted International Building Codes and Inspections

## **Bexar County ILA**

City Staff has worked with Bexar County to develop an amendment to the Bexar County/COSA Master Interlocal Agreement to outline the roles and responsibilities of City and County agencies as they relate to the ETJMPAs.

### **City's Responsibilities:**

- Review all proposed construction activity for compliance with ETJMPA regulations prior to a permit being issued.
- Receive all payments for ETJMPA Certificate of Compatibility reviews, inspections, and other associated applications for ETJMPA regulations (i.e. Land Use Plan Amendments or Variances).
- Issue a Certificate of Compatibility to customers for compliant projects prior to the either the issuance of a building permit from the Bexar County Fire Marshal's Office or commencement of construction activity. For those instances where construction activity begins prior to obtaining a building permit or Certificate of Compatibility, the City will review the construction activity and may issue a Certificate of Compatibility if the project is compliant with all ETJMPA regulations.
- Inspect ETJMPA-related construction activities for compliance with an issued Certificate of Compatibility.

\*City will NOT inspect, comment on, or answer questions related to building or development code issues in the ETJMPA's which are not specifically referenced in the Certificate of Compatibility.

- Provide platting reviews for applicable ETJMPA regulations relating to density.
- Provide Code Enforcement services in the ETJMPA's for violations of ETJMPA regulations.
- Provide case management for ETJMPA regulations.

### **County's Responsibilities:**

- For projects in the ETJMPA's, the County Fire Marshal's Office will only issue building permits to those projects with a valid Certificate of Compatibility.
- County Fire Marshal's Office will forward all requests for inspection of building elements related to the ETJMPA Certificate of Compatibility to City's Development Services Department.
- County Fire Marshal's Office will only issue Certificates of Occupancy to projects in the

ETJMPA which have passed inspection by City's Development Services Department for compliance with the ETJMPA Certificate of Compatibility.

- County Fire Marshal's Office and/or County Public Works Department will notify City's Development Services Department Code Enforcement office of observed or reported violations of the ETJMPA regulations for investigation

### **Planning Commission and Zoning Commission Actions**

At their June 26, 2019, meeting, the Planning Commission considered and recommended approval of the Comprehensive Land Use Category Maps for by ETJMPA areas as well as the proposed UDC amendments detailing the land use controls. The Planning Commission recommended the following changes which have been incorporated into staff's recommendation:

- Approval of the 20 modifications to the Comprehensive Land Use Category Maps;
- Adding an exemption for existing single family structures from the requirement of obtaining a Certificate of Compatibility in the ETJMPA;
- Making revisions to proposed Section 35-913 related to Continuation of Land Use to align the language with state statute; and
- Making revisions to 35-904 to modify the residential density in the Agricultural Comprehensive Land use Category to 0.25 units per acre as designated in the joint land use study.

At their July 16, 2019, meeting, the Zoning Commission considered and recommended approval of the following:

- A Zoning Case to apply "MLOD-1" Camp Bullis Military Lighting Overlay District on multiple lots in the Extraterritorial Jurisdiction within the Extraterritorial Military Protection Areas within five miles of the boundary of Camp Bullis and Camp Stanley with applicable "MLR-1" Military Lighting Region 1 for properties within 3 miles from the boundary of Camp Bullis and Camp Stanley and "MLR-2" Military Lighting Region 2 for properties located from 3 miles to 5 miles from the boundary of Camp Bullis and Camp Stanley.
- A Zoning Case to apply "MLOD-2" Lackland Military Lighting Overlay District on multiple lots in the Extraterritorial Jurisdiction within the Extraterritorial Military Protection Areas within five miles of the boundary of Lackland Air Force Base and Lackland Medina Training Annex with applicable "MLR-1" Military Lighting Region 1 for properties within 3 miles from the boundary of Lackland/Medina Annex and "MLR-2" Military Lighting Region 2 for properties located from 3 miles to 5 miles from the boundary of Lackland/Medina Annex.
- A Zoning Case to apply "MSAO-3" Lackland Military Sound Attenuation Overlay on multiple lots generally south of Highway 90 and east of Loop 1604 within five miles of the boundary and adjacent to the Medina Training Annex in the Extraterritorial Jurisdiction within the Extraterritorial Military Protection Areas.
- A Zoning Case to apply "AHOD" Airport Hazard Overlay District on multiple lots in the Extraterritorial Jurisdiction within the Extraterritorial Military Protection Areas within five miles of the boundary of Lackland Air Force Base and Lackland Medina Training Annex.
- A Zoning Case to apply "ERZD" Edwards Recharge Zone District on multiple lots generally adjacent to Balcones Creek in the Extraterritorial Jurisdiction within the Extraterritorial Military Protection Areas within five miles of the boundary Camp Bullis/Camp Stanley.

The Zoning Commission also recommended approval of the proposed UDC amendments detailing the land use controls with the same changes as recommended by the Planning Commission.

### **Summary of Actions Taken**

- **June 11, 2018** B-Session Briefing on Election Options by Planning Department
- **August 2, 2018** City Council Approves Resolution Calling for the Election
- **November 6, 2018** Election Occurs, Voters Reject Annexation and Approve Land Use Controls
- **November 2018 - April 2019:**
  - Finalized land use categories (Review existing MDPs to minimize conflicts)
  - Finalized proposed regulations
  - Met with the Military to discuss land use categories and proposed regulations
  - Met with the development community representatives to discuss proposed regulations
  - Met with Bexar County to discuss draft ILA - implementation of regulations
- **January 30, 2019:** B Session Briefing - Military Protection Area proposed Regulations and Process.
- **March 2019:** Community Meetings.
  - March 19 & 26, 2019 - Calvary Hills Baptist Church (Lackland)
  - March 21 & 28, 2019 - Cross Mountain Church (Camp Bullis)
- **May 7, 2019:** Zoning Commission briefing
- **May 8, 2019:** Planning Commission briefing
- **May 13, 2019:** PCTAC Consideration
- **May 15, 2019:** Council Comprehensive Plan Committee Consideration
- **June 26, 2019:** Planning Commission Consideration
  - Recommended approval as described above
- **July 16, 2019:** Zoning Commission Consideration
  - Recommended approval as described above
- **August 12, 2019:** Planning and Community Development Committee Consideration
  - Recommended consideration by the full City Council

### **ALTERNATIVES:**

The alternative would be to not implement any land use controls and continue the current regulatory framework for development in the ETJ with minimal military protection.

### **FISCAL IMPACT:**

Based on past development activity in the proposed Camp Bullis and Lackland ETJMPA areas, the Development Services Department anticipates approximately 511 requests for review for ETJMPA Compatibility.

The Department is proposing a new fee of \$200.00 to cover the costs of the ETJMPA Certificate of Compatibility limited reviews - this fee is consistent with the fee charged for a Certificate of Occupancy. Using the conservative estimate of 511 requests for a Certificate of Compatibility, the fee is expected to generate revenues of approximately \$102,200.

It is anticipated that additional staffing will be necessary. Two positions directly supporting the ETJMPA are currently included in the proposed FY 2020 budget (\$118,641 with recurring amounts of \$142,920). DSD will closely monitor the work load associated with the ETJMPA to determine if additional staff will be necessary.

**RECOMMENDATION:**

Staff recommends approval of the creation of the ETJMPA UDC regulations as recommended by the Planning Commission and the Zoning Commission, comprehensive land use categories as recommended by the Planning Commission, zoning district changes as recommended by the Zoning Commission, and the amendment to the Bexar County ILA.