

## What Is Extraterritorial Jurisdiction?

If you live or work in an area near the city limits, you might have heard of a concept called "extraterritorial jurisdiction." Texas cities have authority to regulate certain activities in their extraterritorial jurisdiction ("ETJ"), which is the unincorporated area that is contiguous to the city's corporate boundaries. People who live in the ETJ have to comply with those municipal ordinances, but generally can't vote in city elections.

### What is "extraterritorial jurisdiction"?

All Texas cities, by statute, have an extraterritorial jurisdiction. ETJ is "the unincorporated area that is contiguous to the corporate boundaries of the municipality" and is located within a specified distance of those boundaries depending upon the municipality's population. Tex. Loc. Gov't Code § 42.021. The size of a city's ETJ depends on the city's population:

Less than 5,000 inhabitants – ETJ extends .5 miles past city limits

5,000-24,999 inhabitants – ETJ extends 1 mile past city limits

25,000-49,999 inhabitants – ETJ extends 2 miles past city limits

50,000-99,999 inhabitants – ETJ extends 3.5 miles past city limits

100,000 or more inhabitants – ETJ extends 5 miles past city limits

The concept of ETJ did not exist in Texas until 1963, when the Texas Legislature enacted the Municipal Annexation Act. In designating areas as ETJ, the Legislature intended "to promote and protect the general health, safety, and welfare of persons residing in and adjacent to the municipalities." Tex. Loc. Gov't Code § 42.001.

## Can cities regulate activity in their extraterritorial jurisdiction?

Yes, cities have certain regulatory authority in their extraterritorial jurisdiction, including authority to regulate things like waste disposal, signage, and water conservation. The following state statutes give cities authority to regulate in their ETJ:

### Statute Area of Regulation

Tex. Health & Safety Code § 341.0359	Fire Hydrant Flow Standards
Tex. Health & Safety Code § 364.0341	Solid Waste Disposal Services
Tex. Health & Safety Code § 713.009	Cemeteries
Tex. Loc. Gov't Code § 212.002	Subdivision & Platting Regulations
Tex. Loc. Gov't Code § 212.003	Access to Public Roads; Extracting and Use of Groundwater
Tex. Loc. Gov't Code § 212.044	Plans, Rules, and Ordinances Governing Development Plats of Land in the ETJ
Tex. Loc. Gov't Code § 215.003	Rendering Plants
Tex. Loc. Gov't Code § 215.072	Dairies; Slaughterhouses
Tex. Loc. Gov't Code § 216.902	Outdoor Signs
Tex. Loc. Gov't Code § 217.042	Nuisance
Tex. Loc. Gov't Code §§ 242.001-242.003	Subdivisions
Tex. Loc. Gov't Code § 251.001	Eminent Domain
Tex. Loc. Gov't Code § 273.001	Acquisition of Property for Public Purposes
Tex. Loc. Gov't Code § 331.001	Parks, Museums, & Historic Sites
Tex. Loc. Gov't Code § 341.903	Policing City-Owned Property
Tex. Loc. Gov't Code § 386.002	Commercial and Industrial Development Zones
Tex. Loc. Gov't Code § 372.003	Public Improvement Districts
Tex. Loc. Gov't Code § 377.002	Municipal Development Districts
Tex. Loc. Gov't Code § 380.001	Economic Development Programs
Tex. Loc. Gov't Code § 382.109	Road Projects
Tex. Loc. Gov't Code § 395.011	Service Area Impact Fees
Tex. Loc. Gov't Code § 551.002	Protection of Streams and Watersheds
Tex. Loc. Gov't Code § 551.004	Protection of Playa Lakes
Tex. Loc. Gov't Code § 551.005	Restriction on Pumping, Extraction, or Use of Groundwater
Tex. Loc. Gov't Code § 551.006	Irrigation Systems
Tex. Loc. Gov't Code § 551.007	Water Conservation
Tex. Loc. Gov't Code § 552.001	Utility Systems
Tex. Loc. Gov't Code § 552.011	Acquisition of Interests for Drainage, Sewage, or Water Supply Purposes
Tex. Nat. Res. Code Ann. § 61.015	Beach Access and Use Plans
Tex. Tax Code § 351.0025	Hotel Occupancy Tax
Tex. Water Code § 26.177	Water Pollution Control & Abatement Programs
Tex. Rev. Civ. Stat. Ann. art. 1524e	Regulation of Loan and Brokerage Companies

On the other hand, state law prohibits a city from regulating the following matters in the city's ETJ:

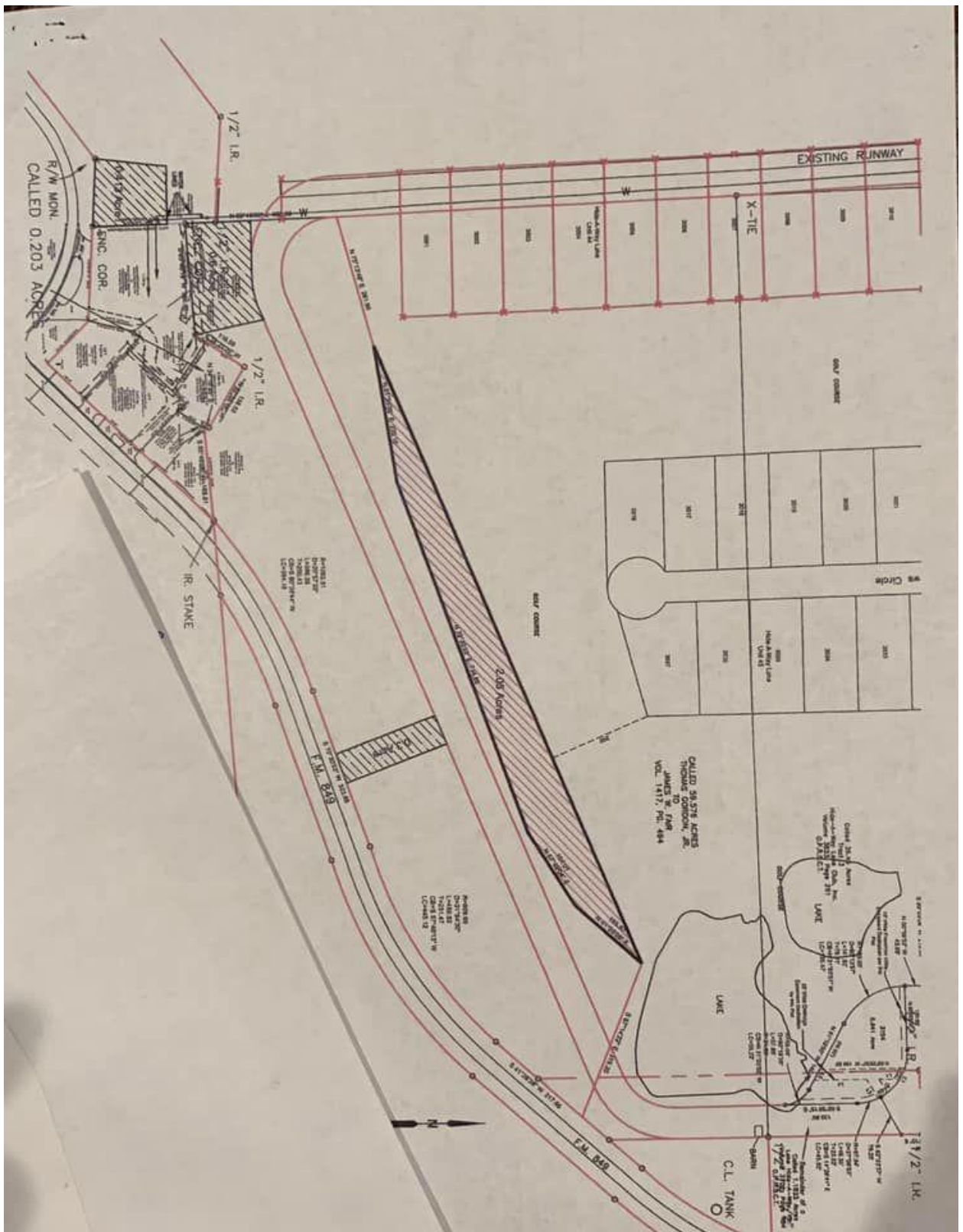
- (1) the use of a building or property for business, industrial, residential, or other purposes;
- (2) the bulk, height, or number of buildings constructed on a tract of land;
- (3) the size of a building that can be constructed on a tract of land;
- (4) the number of residential units that can be built per acre of land; or

(5) the size, type, or method of construction of a water or wastewater facility that can be constructed to serve a developed tract in certain circumstances.

Tex. Loc. Gov't Code § 212.003(a). The Texas Supreme Court has concluded that cities do not have statutory authority to enforce its building codes within their ETJ. *Town of Lakewood Vill. v. Bizios*, 493 S.W.3d 527, 530 (Tex. 2016). And the Dallas Court of Appeals held that a home rule city "lacks authority to require a landowner developing property in its [ETJ] to obtain City building permits, inspections and approvals, and pay related fees." *Collin Cty. v. City of McKinney*, 553 S.W.3d 79 (Tex. App.— Dallas 2018).

There is a screenshot of the ETJ that the  
"collection of Hwy 10 and 101" is used to be  
Loop 48. The state's definition of the  
ETJ as a part of the project.





R/W MON.  
CALLED 0.203 ACRE

SNC. COR.

1/2" I.R.

1/2" I.R.

IR. STAKE

PROPOSED  
DRAINAGE  
SYSTEM  
CONSTRUCTION  
CONTRACT

F.M. 849

PROPOSED  
DRAINAGE  
SYSTEM  
CONSTRUCTION  
CONTRACT

2.05 Acres

CALLLED 58.576 ACRES  
THOMAS G. COBBIN, JR.  
VOL. 1417, PL. 484

CL TANK

BURN

1/2" I.R.

EXISTING RUNWAY

X-TIE

W Circle



