

AN ORDINANCE ORDERING THE HOLDING OF AN ELECTION IN THE CITY OF KILLEEN, TEXAS, FOR THE PURPOSE OF SUBMITTING TO THE VOTERS OF THE CITY PROPOSED AMENDMENTS TO THE HOME RULE CHARTER OF THE CITY; SPECIFYING THAT THE PROVISIONS OF THE GENERAL ELECTION LAWS SHALL CONTROL ALL QUESTIONS PERTAINING TO SUCH ELECTION; PRESCRIBING THE CONTENTS OF THE OFFICIAL BALLOT; PROVIDING FOR COMPENSATION; DESIGNATING THE POLLING PLACES, AND PROVIDING FOR POSTING AND PUBLICATION OF NOTICE OF ELECTION AND CONTAINING MISCELLANEOUS PROVISIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:

SECTION 1. That, pursuant to the laws of the State of Texas and the Charter of the City of Killeen, it is ordered by the City Council that an election be held in the City of Killeen, Texas, on May 7, 2022, for the purpose of submitting to the qualified voters of the City, certain propositions on whether the Charter of the City of Killeen should be amended. Any reference in this ordinance hereinafter to “Election Day” shall mean May 7, 2022.

SECTION 2. That the proposed amendments to the existing Charter of the City of Killeen are set forth in Exhibit A, attached hereto and incorporated by reference for all intents and purposes. Text of the existing Charter proposed to remain the same is shown in normal type. Text proposed to be deleted from the existing Charter is shown as a [~~strikeout~~]. New or additional text in the Charter is shown underlined.

SECTION 3. That the vote shall be upon an official ballot prepared in such manner as will permit the voters to vote “FOR” or “AGAINST” the propositions submitted, with the propositions to be set forth on the official ballots in substantially the following form:

Proposition 1

Extension of City Limits

Amend the Charter of the City of Killeen to replace annexation provisions inconsistent with state law with provisions that provide for annexation in accordance with state law; and to make certain other grammatical and technical changes related thereto.

Proposition 2
Change of District Boundaries

Amend the Charter of the City of Killeen to repeal the requirement to obtain preclearance approval under the Voting Rights Act that is no longer required under federal law prior to amendments of existing district boundaries becoming effective; and to make certain other grammatical and technical changes related thereto.

Proposition 3
Council Compensation

Amend the Charter of the City of Killeen to change monthly compensation from \$100 to \$250 for each Councilmember and \$200 to \$350 for the Mayor; and to make certain other grammatical and technical changes related thereto.

Proposition 4
Appointment and Removal of City Manager

Amend the Charter of the City of Killeen to remove the provision that allows the City Manager, if removed at any time after six months from appointment, to demand written charges and a public hearing prior to the date on which final removal shall take effect; and to make certain other grammatical and technical changes related thereto.

Proposition 5
Induction of Newly Elected Councilmembers

Amend the Charter of the City of Killeen to provide for a special meeting following an election for the purpose of qualifying newly elected Councilmembers; and to make certain other grammatical and technical changes related thereto.

Proposition 6
Procedure for Passage of Ordinances

Amend the Charter of the City of Killeen to require a public hearing for any ordinance imposing or increasing a fine or fee; and to make certain other grammatical and technical changes related thereto.

Proposition 7

Investigation by Council

Amend the Charter of the City of Killeen to allow individual councilmembers to inquire into the conduct of any office, department, agency or officer of the city; and to make certain other grammatical and technical changes related thereto.

Proposition 8

Copies of the Budget

Amend the Charter of the City of Killeen to delete the requirement to send a copy of the budget to the State Comptroller; and to make certain other grammatical and technical changes related thereto.

Proposition 9

Power to Borrow

Amend the Charter of the City of Killeen to remove the authority to secure revenue bonds by a mortgage or deed of trust on the physical properties of public utilities; and to make certain other grammatical and technical changes related thereto.

Proposition 10

Names on Council Ballots

Amend the Charter of the City of Killeen to remove the requirement for full names to be printed on official ballots; and to make certain other grammatical and technical changes related thereto.

Proposition 11

Power of Initiative

Amend the Charter of the City of Killeen to except from the power of initiative an ordinance subject to state or federal law requirements that cannot be met through the initiative ordinance process; and to make certain other grammatical and technical changes related thereto.

Proposition 12

Definitions

Amend the Charter of the City of Killeen to define the term "Officer"; and to make certain other grammatical and technical changes related thereto.

Proposition 13

Resignation from Office

Amend the Charter of the City of Killeen to require a member of the City Council to resign from their present office immediately upon filing for either the office of the Mayor or the office of Councilmember that they do not currently hold; and to make certain other grammatical and technical changes related thereto.

SECTION 4. The manner of holding the election and all questions pertaining to such election shall be governed by the V.T.C.A. Election Code, and the returns shall be made and canvassed and the results declared as in other legal elections of the City of Killeen.

SECTION 5. Each qualified voter who desires to cast an early vote or who expects to be absent on the date of the election shall be entitled to an official ballot and to cast such ballot in accordance with the applicable provisions of Title 7, V.T.C.A., Election Code, beginning April 25, 2022, and continuing through May 3, 2022. The Bell County Elections Administrator will be the early voting clerk, who may appoint by written order one or more temporary deputies to serve as deputy early voting clerks in accordance with the applicable law. Early voting will be conducted in person, April 25, 2022 thru April 29, 2022 (Monday – Friday) from 8:00 a.m. – 5:00 p.m.; and May 2, 2022 thru May 3, 2022 (Monday – Tuesday) from 7:00 a.m. – 7:00 p.m. The main early voting polling place is identified as the Bell County Courthouse Annex located at 550 East 2nd Avenue, Belton 76513. In addition to the main early voting polling place, branch early voting locations are as follows:

Killeen – Bell County Annex, 304 Priest Drive

Killeen – Jackson Professional Learning Center, Main Conference Room, 902 Rev R A Abercrombie Drive

Killeen – Senior Center at Lions Club Park, Meeting Room, 1700 E. Stan Schlueter Loop

Harker Heights – Recreation Center, 307 Millers Crossing, Harker Heights, 76548

Temple – Bell County Annex, 205 East Central Avenue, Temple, 76501

Salado – Salado Church of Christ, 217 North Stagecoach, Salado 76571

SECTION 6. All resident qualified electors of the City shall be permitted to vote at the election.

SECTION 7. The election materials enumerated in Sec. 272.001, et seq., V.T.C.A. Election Code, shall be printed and furnished in both English and Spanish for use at each polling place on Election Day and for early voting.

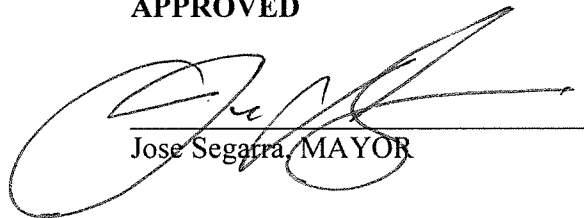
SECTION 8. Notice of election shall be given by posting substantial copies of the Notice of Election as prescribed by the Secretary of State's office in both English and Spanish at the Killeen City Hall, the official city website and at three (3) other public places in the City at least thirty (30) days prior to the date set for the election; and substantial copies of the Notice of Election in both English and Spanish shall be one time in a newspaper of general circulation in the City, the date of publication to be not less than fourteen (14) days prior to the date set for the election.

SECTION 9. Returns of election shall be made by the election officers to the City Council at a meeting following the election; the returns will be canvassed and the results of the election declared as prescribed by the Election Code, V.T.C.A., of the State of Texas and the City Charter.

SECTION 10. It is officially found, determined, and declared that the meeting at which this Ordinance has been adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered and acted upon at the meeting, including this Ordinance, was given, all as required by the applicable provisions of the Texas Government Code, Sec. 551.001, *et seq.*

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 8th day of February, 2022, at which meeting a quorum was present, held in accordance with the provisions of the Texas Government Code, Sec. 551.001, *et seq.*

APPROVED



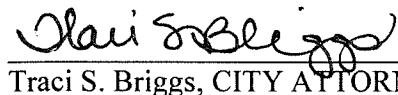
Jose Segarra, MAYOR

ATTEST:



Lucy Aldrich, CITY SECRETARY

APPROVED AS TO FORM



Traci S. Briggs, CITY ATTORNEY

EXHIBIT A
Proposed Charter Amendments

EXTENSION OF CITY LIMITS UPON REQUEST, PETITION OR ELECTION

Section 6. The City Council may, by ordinance, annex an area if each owner of land in the area requests the annexation in accordance with Texas Local Government Code 43.0671, et seq, and as it may be hereinafter amended.

~~When a majority of the inhabitants, qualified to vote for members of the Texas State Legislature, of any territory adjoining Killeen registered voters of an area with a population of less than 200, as said territory may be designated by the City Council desires the annexation of such territory are to Killeen, they may present a written petition to that effect to the City Council and shall attach to said petition the affidavit of one or more of their number to the effect that said petition is signed by a majority of such qualified registered voters, and thereupon, the City Council at the next regularly scheduled session held not sooner than twenty (20) days after the presentation of said petition may, by ordinance, annex such territory to Killeen in accordance with Texas Local Government Code 43.0681, et seq, and as it may be hereinafter amended. If the registered voters of the area do not own more than 50 percent of the land in the area, the petition must be signed by more than 50 percent of the owners of the land in the area.~~

The City Council may, by ordinance, annex an area with a population of 200 or more after the City holds an election in the area to be annexed at which a majority of the votes received approved the annexation and if the registered voters of the area do not own more than 50 percent of the land in the area, the City obtains consent to annex the area through a petition signed by more than 50 percent of the owners of land in the area.

On the effective date of the ordinance, the area becomes a part of the City of Killeen and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens of the City of Killeen and shall be bound by the acts, ordinances, resolutions and regulations of the city.

~~Should there be no such qualified voters in said territory, the owners may petition the City Council in accordance with Texas Local Government Code, § 43.028 or any successor statute thereto, and the City Council by ordinance consistent with State law, may annex the area. (Amend. of 5-4-91)~~

EXTENSION OF CITY LIMITS BY THE CITY COUNCIL

Section 7. The City Council shall have power, by ordinance, to fix and extend the boundaries of Killeen and to exchange area with other municipalities, ~~with or without the consent of the territory and inhabitants annexed or relinquished.~~ Upon the introduction of such ordinance by the city council, the procedures for annexation set forth by state law shall be followed, as found in Chapter 43, Local Government Code, and as may hereafter be amended. Once annexed, the territory and inhabitants shall be a part of Killeen, entitled to all rights and privileges and shall be bounds by the acts, ordinances, resolutions and regulations of Killeen. (Amend. of 5-3-97; Amend. of 5-5-01)

CHANGE OF DISTRICT BOUNDARIES

Section 8. The City Council may, by ordinance, alter or change the district boundaries of the City of Killeen, and resubdivide the City into districts, designating and describing same by metes and bounds or other adequate means, provided there shall at all times be four districts within the city. Each district now existing or that may hereafter be established shall be designated so that each district shall contain as nearly as possible the same number of qualified electors. The City Council shall review such districts for possible boundary changes within two (2) years after the federal decennial census has been conducted and reported; and the City Council, at its discretion, may review and change such districts at any time deemed necessary. ~~All amendments of existing district boundaries shall be effective only after preclearance approval under Section 5, Federal Voting Rights Act, 42 U.S.C. Section 1973c and the acts amendatory thereof and supplementary thereto, now or hereafter enacted. If district~~

boundaries are altered or changed and a councilmember no longer lives in the district for which he was elected, he shall remain in office until the end of his term. (Amend. of 5-4-91; Amend. of 5-7-05; Amend. of 5-11-13)

NUMBER, SELECTION, TERM MAYOR AND THE COUNCIL

Section 22. The members of the City Council of the City of Killeen shall be composed of a mayor and seven councilmembers. Four (4) of the councilmembers shall represent "single member districts," such districts being numbered and designated 1, 2, 3, and 4, and defined in this charter or by ordinance hereafter passed. The mayor and three (3) of the councilmembers shall represent the city at large. Such council shall be elected in the following manner:

At an election held on a uniform election date in even-numbered years, a mayor and three councilmembers shall be elected by a plurality vote of the city at large for a term of two (2) years. At an election held on a uniform election date in odd-numbered years, there shall be elected one councilmember from each of the single member districts 1, 2, 3, and 4, by a plurality vote of the registered voters residing within each district, to serve a term of two (2) years. All elections are to be held in a manner provided in Article IX of this charter and in accordance with state law.

The members of the City Council shall serve not more than three (3) terms in succession, in whole or in part, whether appointed (to fill an unexpired portion of a term) or elected, and until their successors shall have been elected and qualified and they shall be ineligible to succeed themselves or another councilmember for an additional successive term; except if any member of the City Council holding office desires to run for a different office than that which the member holds, at the next election, the member must resign and vacate their present office ~~at least forty (40) days prior to such election~~ immediately upon filing for a different office and his resignation shall be effective on the date of such resignation. For the purposes of this provision there shall be only two offices: the office of the mayor and the office of the councilmember. (Amend. of 5-3-97; Amend. of 5-7-05; Amend. of 5-11-13)

COMPENSATION OF MEMBERS

Section 24. The compensation for the councilmembers shall not exceed ~~\$100~~250.00 per month and compensation for the mayor shall not exceed ~~\$200~~350.00 per month. Said compensation shall be fixed by the city council. (Amend. of 5-5-01; Amend. of 5-11-13)

APPOINTMENT AND REMOVAL OF CITY MANAGER

Section 28. The Council shall appoint a City Manager who shall have the powers and perform the duties in this charter provided. No councilmember shall receive such appointment during the term for which he shall have been elected, nor within one year after he leaves office.

The salary of the City Manager shall be fixed by the City Council, and he shall hold office at its will; ~~but if removed at any time after six months from his appointment, he may demand written charges and a public hearing thereon before the City Council prior to the date on which his final removal shall take effect, but during such hearing the Council may suspend him from office.~~ The action of the Council in suspending or removing the City Manager shall be final, it being the intention of this charter to vest all authority and fix all responsibility for such suspension or removal in the City Council. During the absence or disability of the City Manager, the Council shall designate some properly qualified person to perform the duties of the office; except in case of his temporary absence or disability. (Amend. of 5-11-13)

INDUCTION INTO OFFICE: MEETINGS

Section 34. ~~On the next regular~~The Council shall hold a special meeting following each regular municipal election held under this Charter, or any special election for the purpose of filling vacancies in the council, ~~or as soon thereafter as practicable, the council shall meet at the usual time and place for holding meetings, for the purpose of qualifying~~ and the newly elected members shall qualify and assume the duties of office. Thereafter, the council shall meet regularly at such times as may be prescribed by its rules but not less frequently than twice each month. All meetings shall be open to the public, in accordance with the Texas Government Code; special meetings shall be called by the city clerk upon request of the mayor, or a majority of the members of the council. (Amend. of 1-15-94)

PROCEDURE FOR PASSAGE OF ORDINANCES

Section 38. Every ordinance shall be introduced in written or printed form and, upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten days from the date of its passage; subject to the provisions of Article X of this charter. Any ordinance imposing or increasing a fine or fee shall require a public hearing. The city clerk shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty, of any such ordinance to be published in accordance with state law. He shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided that the provisions of this correction, amendment, revision and codification of the ordinances of the city for publication in book or pamphlet form. Except as otherwise provided by Article XI of this charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the City Council. Every ordinance shall be authenticated by the signature of the mayor and city clerk and shall be systematically recorded and indexed in an ordinance book in a manner approved by the council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of council meetings. The city council shall have power to cause the ordinances of the city to be corrected, amended, revised, codified and printed in code form as often as the council deems advisable, and such printed code, when adopted by the council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof. (Amend. of 5-11-13)

INVESTIGATION BY COUNCIL

Section 39. ~~The council~~Council members shall have power to inquire into the conduct of any office, department, agency, or officer of the city, ~~and to~~Council shall have power to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed the maximum amount allowed by law. (Amend. of 5-11-13)

EFFECTIVE DATE OF BUDGET: CERTIFICATION: COPIES MADE AVAILABLE

Section 60. Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the City Clerk, the County Clerk of Bell County, ~~and the State Comptroller of~~

~~Public Accounts at Austin.~~ The final budget shall be made available for the use of all offices, departments and agencies, and for the use of interested persons and civic organizations. (Amend. of 5-11-13)

POWER TO BORROW

Section 66. The City of Killeen shall have the right and power to issue its general obligation bonds on the full faith and credit of the City, payable from ad valorem taxes not to exceed the maximum rate permitted by the Texas Constitution, for the purpose of providing permanent public improvements or for any other public purpose. The City also shall have the right and power to issue its revenue bonds payable from the revenues of any municipally owned utility or utilities, ~~and may secure such revenue bonds by a mortgage or deed of trust on the physical properties of such utility or utilities.~~ The City also shall have the right and power to issue interest bearing time warrants pursuant to state law. (Amend. of 5-11-13)

COUNCIL BALLOTS

Section 96. The ~~full~~ names of all candidates for the council as hereinbefore provided, except such as may have withdrawn, died, or become ineligible, shall be printed on the official ballots without party designations. If two candidates with the same surnames or with names so similar as to be likely to cause confusion are nominated, the addresses of their places of residence shall be placed with their names on the ballot. The order of the names on the ballot shall be determined by lot. The official ballots shall be printed not less than twenty (20) days before the date of the election.

POWER OF INITIATIVE

Section 100. The electors shall have power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes or subject to state or federal law requirements that cannot be met through the initiative ordinance process, and to adopt or reject the same at its polls, such power being known as the initiative. Any initiative ordinance may be submitted to the council by a petition signed by qualified electors of the city equal in number to at least twenty-five per cent of the number of voters in the last regular municipal election of the mayor and at-large councilmembers. (Amend. of 5-11-13)

DEFINITIONS

Section 151.

- (A) The term "City of Killeen," "City," or "said City" as used in this charter shall in all cases mean and refer to the City of Killeen, Bell County, Texas.
- (B) The term "Mayor" or "said Mayor" as used in this charter shall in all cases mean and refer to the duly elected and qualified mayor of the City of Killeen, Bell County, Texas.
- (C) The terms "Councilman," "Councilmember," "Council," and "City Council" as used in this charter shall in all cases mean and refer to the city council of the City of Killeen, Bell County, Texas, and the duly elected and qualified members thereof.
- (D) The term "City Manager" or "Manager" as used in this charter shall in all cases mean and refer to the duly appointed City Manager of the City of Killeen, Bell County, Texas.

- (E) Wherever the term "man," "men," "him," or "he" is used shall be construed as gender neutral. (Amend. of 5-3-97)
- (F) The term "Officer" as used in this Charter shall mean and refer to the Mayor, City Councilmembers, City Manager, Assistant City Managers and department heads, except that "officers of the police department" and "peace officers" shall refer to law enforcement officers.

CITY COUNCIL MEMORANDUM FOR ORDINANCE

DATE: February 1, 2022
TO: Kent Cagle, City Manager
FROM: Holli Clements, Deputy City Attorney
SUBJECT: Calling a Charter Amendment Election on May 7, 2022

BACKGROUND AND FINDINGS:

The charter is the fundamental governing document of a home-rule city in Texas. The City of Killeen originally adopted its home-rule charter in 1949 and it has been amended various times since then, most recently in 2018. The Charter may only be amended by popular vote at an election.

On August 17, 2021, City Council directed that a Council-led charter review be scheduled with an anticipated May 2022 municipal election date. Over the past several months, Council has reviewed all twelve articles of the charter, proposed changes to various sections, and held a townhall meeting and two public hearings to solicit citizen input on proposed changes. The proposed revisions are as follows:

- Sec. 6 & 7: replace annexation provisions inconsistent with state law with provisions that provide for annexation in accordance with state law;
- Sec. 8: repeal the requirement to obtain preclearance approval under the Voting Rights Act that is no longer required under federal law prior to amendments of existing district boundaries becoming effective;
- Sec. 24: change monthly compensation from \$100 to \$250 for each Councilmember and \$200 to \$350 for the Mayor;
- Sec. 28: remove the provision that allows the City Manager, if removed at any time after six months from appointment, to demand written charges and a public hearing prior to the date on which final removal shall take effect;
- Sec. 34: provide for a special meeting following an election for the purpose of qualifying newly elected Councilmembers;
- Sec. 38: require a public hearing for any ordinance imposing or increasing a fine or fee;
- Sec. 39: allow individual councilmembers to inquire into the conduct of any office, department, agency or officer of the city;
- Sec. 60: delete the requirement to send a copy of the budget to the State Comptroller;
- Sec. 66: remove the authority to secure revenue bonds by a mortgage or deed of trust on the physical properties of public utilities;
- Sec. 96: remove the requirement for full names to be printed on official ballots;

Sec. 100: except from the power of initiative an ordinance subject to state or federal law requirements that cannot be met through the initiative ordinance process; and Sec. 151: define the term "Officer".

The last day to call a May 2022 election is February 18, 2022 per state law. If approved, the charter election will be May 7, 2022, to coincide with the general election for Mayor and Councilmembers at Large.

THE ALTERNATIVES CONSIDERED:

The alternatives are to hold a charter election on proposed amendments, not hold a charter election, or hold a charter election on different or additional charter amendments.

Which alternative is recommended? Why?

Based on Council's direction to propose certain changes to the City's Charter, Staff recommends that Council call a charter amendment election on proposed amendments.

CONFORMITY TO CITY POLICY:

This item conforms to charter provisions as well as relevant provisions of the Texas Election Code.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

As the Charter Election will coincide with the general election, costs for ballots and running the election have previously been approved. Additional funds will be expended to post the Notice of Election including amendments in the newspaper twice one week apart. The approximate cost for posting required notice is \$5,000.

Is this a one-time or recurring expenditure?

This is a one-time expenditure.

Is this expenditure budgeted?

Yes, funds are available in the General Fund City Secretary account 010-1010-416.50-45.

If not, where will the money come from?

N/A

Is there a sufficient amount in the budgeted line-item for this expenditure?

Yes.

RECOMMENDATION:

Staff recommends that Council call a charter amendment election on proposed amendments.

DEPARTMENTAL CLEARANCES:

Legal

ATTACHED SUPPORTING DOCUMENTS:

Proposed Charter Revisions
Ordinance