

ORDINANCE _____

AN ORDINANCE AMENDING CHAPTER 22 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN REGARDING ENFORCEMENT OF CERTAIN MARIJUANA OFFENSES; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Killeen, Texas is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

WHEREAS, pursuant to Article X of the City Charter, electors shall have the power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at its polls, such power being known as the initiative; and,

WHEREAS, any initiative ordinance may be submitted to the City Council by a petition signed by qualified electors of the city equal in number to at least twenty-five percent of the number of voters in the last regular municipal election of the mayor and at-large councilmembers; and,

WHEREAS, on May 25, 2022, the City Secretary's office received an initiative petition signed by more than 1,018 City of Killeen registered voters exceeding the twenty-five percent of voters in the May 7, 2022 regular municipal election (4,072) to eliminate low-level marijuana enforcement in the City of Killeen; and,

WHEREAS, the City Council desires to amend the police regulations as presented in the initiative petition;

NOW, THEREFORE IT BE ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:

Section I. That Article V of Chapter 22 of the City of Killeen Code of Ordinances is hereby amended as follows to add:

ARTICLE V. – MARIJUANA ENFORCEMENT

Sec. 22-80 – Ending citations and arrests for misdemeanor possession of marijuana.

- (a) Killeen police officers shall not issue citations or make arrests for Class A or Class B misdemeanor possession of marijuana offenses, except in the limited circumstances described in (b).

- (b) The only circumstances in which Killeen police officers are permitted to issue citations or make arrests for Class A or Class B misdemeanor possession of marijuana are when such citations or arrests are part of (1) the investigation of a felony level narcotics case that has been designated as a high priority investigation by a Killeen police commander, assistant chief of police, or chief of police; and/or (2) the investigation of a violent felony.
- (c) In every instance other than those described in (b), if a Killeen police officer has probable cause to believe that a substance is marijuana, an officer may seize the marijuana. If the officer seizes the marijuana, they must write a detailed report and release the individual if possession of marijuana is the sole charge.
- (d) Killeen police officers shall not issue any charge for possession of marijuana unless it meets at least one of the factors described in (b).

Sec. 22-81. – Citations for possession of drug residue or drug paraphernalia shall not be issued in lieu of a possession of marijuana charge.

- (a) A Class C misdemeanor citation for possession of drug residue or drug paraphernalia shall not be issued in lieu of a possession of marijuana charge.

Sec. 22-82. – Prohibition against using City funds or personnel to conduct THC concentration testing.

- (a) No City funds or personnel shall be used to request, conduct, or obtain tetrahydrocannabinol (THC) testing of any cannabis-related substance to determine whether the substance meets the legal definition of marijuana under state law, except in the limited circumstances of a police investigation pursuant to § 22-80(b).
- (b) This prohibition shall not limit the ability of Killeen police to conduct toxicology testing to ensure public safety, nor shall it limit THC testing for the purpose of any violent felony charge.

Sec 22-83. – Prohibition against City police using the odor of marijuana or hemp as probable cause for search or seizure.

- (a) Killeen police shall not consider the odor of marijuana or hemp to constitute probable cause for any search or seizure, except in the limited circumstances of a police investigation pursuant to § 22-80(b).

Sec. 22-84. – Training and policy updates; community involvement.

- (a) The City Manager and Chief of Police shall ensure that Killeen police officers receive adequate training concerning each of the provisions of this ordinance.
- (b) The City Manager shall work with the Killeen Police Chief and other relevant stakeholders identified in (c) to update City policies and internal operating procedures in accordance with this ordinance. Actions that may be necessary include but are not limited to: updating the Killen Police Department General Manual; updating the training bulletin; training officers; and updating internal databases and systems.
- (c) The City Manager shall arrange regular meetings to discuss the development of policies, procedures, and practices related to this ordinance, which shall include community stakeholders including: The Police Chief's Advisory Panel; other interested stakeholders and community organizations; individuals directly impacted by arrests within the City; immigrant communities; and communities of color. These meetings shall be open to public participation, have minutes and agendas publicly accessible, and have audio and video recordings uploaded to the City's website.

Sec. 22-85. – Discipline.

- (a) Any violation of this chapter may subject a Killeen police officer to discipline as provided by the Texas Local Government Code or as provided in City policy.

Sec. 22-86. – Reporting.

- (a) Within three months of the adoption of this ordinance, and once per year thereafter, the City Manager or their designee shall present to the City Council, at a public meeting subject to the Texas Open Meetings Act, a report concerning the City's implementation of this ordinance.

Section II. That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section III. That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

Section IV. That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

Section V. That this ordinance shall be effective after its passage and publication according to law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this _____ day of _____ 2022, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code §551.001 et seq.

APPROVED:

Debbie Nash-King, MAYOR

ATTEST:

Laura Calcote, INTERIM CITY SECRETARY

APPROVED AS TO FORM:

Holli C. Clements, INTERIM CITY ATTORNEY