



CHARTER REVIEW

DS-21-113

September 7, 2021

Background

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- On August 17, 2021, City Council directed that review of the Charter begin on September 7, 2021.

Charter Review Timeline

- September 7, 2021: Review Articles I – II and XII
- September 21, 2021: Direction re: Articles I – II and XII
- October 5, 2021: Review Articles III - IV
- October 19, 2021: Direction re: Articles III – IV
- November 2, 2021: Review Articles V – VIII
- November 9, 2021: Direction re: Articles V – VIII
- November 30, 2021: Review Articles IX - XI
- December 7, 2021: Direction re: Articles IX- XI

Charter Review Timeline (cont'd)

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- ❑ January 11, 2022: Hold a Public Hearing on Proposed Charter Amendments and Ballot Language
- ❑ January 25, 2022: Hold a Public Hearing on proposed Charter Amendments and Ballot Language
- ❑ February 8, 2022: Consider an ordinance calling a Charter Amendment Election
- ❑ April 9, 2022: Publish first newspaper notice
- ❑ April 16, 2022: Publish second newspaper notice
- ❑ April 25, 2022: Early voting begins
- ❑ May 7, 2022: Election

Article I. –

Incorporation: Form of Government: Territory

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- ***INCORPORATION***
- Section 1. The inhabitants of the City of Killeen, within the corporate limits as now established or as hereafter established in the manner provided by this charter, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the "City of Killeen."

Article I. –

Incorporation: Form of Government: Territory

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□ **FORM OF GOVERNMENT**

- Section 2. The municipal government provided by this charter shall be known as the "council-manager government." Pursuant to its provisions and subject only to the limitations imposed by the state constitution and by this charter, all powers of the city shall be vested in an elective council, hereinafter referred to as "the council," which shall enact local legislation, adopt budgets, determine policies, and employ the city manager, who shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

Article I. –

Incorporation: Form of Government: Territory

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□ **BOUNDARIES**

- Section 3. The bounds and limits of the City of Killeen shall be established and described by ordinance passed and approved by the city council.

Article I. –

Incorporation: Form of Government: Territory

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□ **CREATION OF DISTRICT BOUNDARIES**

- Section 4. Until and unless changed as provided by this Charter, the City of Killeen shall be divided into four (4) districts for voting purposes. Districts 1, 2, 3, and 4 shall be single member districts, and their boundaries shall be established by ordinance passed and approved by the City Council. (Amend. of 5-3-97; Amend. of 5-7-05)

Article II. – Corporate and General Powers

□ **POWERS OF THE CITY**

- Section 5. The City shall have all the powers granted to municipal corporations and to cities by the constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers granted. The city may acquire property within or without its corporate limits for any city purposes in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require; and, except as prohibited by the constitution of this state or restricted by this charter, the city shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The city may use a corporate seal; may sue and be sued, may contract and be contracted with; may implead and be impleaded in all courts and places and in all matters whatever; may cooperate with the government of the State of Texas or any agency thereof, the Federal Government or any agency thereof, or any political subdivision of the State of Texas, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the city or its inhabitants; and may pass such ordinances as may be expedient for maintaining and promoting the peace, welfare and government of the city, and for the performance of the functions thereof. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the City of Killeen shall have, and may exercise, all powers of local self-government, and all powers enumerated in Chapter 13, Title 28, Revised Civil Statutes of the State of Texas of 1925, and the acts amendatory thereof and supplementary thereto, now or hereafter enacted, or any other powers which, under the constitution and laws of the State of Texas, it would be competent for this charter specifically to enumerate, and also such further powers as may hereafter be granted under the constitution and laws of Texas.

Article II. – Corporate and General Powers

- ***EXTENSION OF CITY LIMITS UPON PETITION***
- Section 6. When a majority of the inhabitants, qualified to vote for members of the Texas State Legislature, of any territory adjoining Killeen, as said territory may be designated by the City Council desire the annexation of such territory 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 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. 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)

Article II. – Corporate and General Powers

- ***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 bound by the acts, ordinances, resolutions and regulations of Killeen. (Amend. of 5-3-97; Amend. of 5-5-01)

Article II. – Corporate and General Powers

□ **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)

Article II. – Corporate and General Powers

□ ***EMINENT DOMAIN***

- Section 9. The City shall have the full right, power and authority to exercise the power of eminent domain when necessary and desirable to carry out any of the powers conferred upon it by this charter, or by the constitution or laws of the state of Texas. (The City shall have and possess this power of condemnation of property within or without the corporate limits for any municipal or public purpose, even though not specifically enumerated herein or in this charter.) (Amend. of 5-3-97)

Article II. – Corporate and General Powers

- ***ESTABLISHMENT AND CONTROL OF STREETS***
- Section 10. The City of Killeen, shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon, discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, parks, squares, public places and bridges; and regulate the use thereof and require the removal from streets, sidewalks, alleys and other public property or places of all obstructions and encroachments of every nature or character.

Article II. – Corporate and General Powers

□ ***STREET IMPROVEMENTS***

- Section 11. The City of Killeen shall have exclusive dominion, control and jurisdiction in, upon, and over and under the public streets, avenues, alleys and highways of the city, and may provide for the improvement thereof by paving, re-paving, raising, draining, or otherwise. Such exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, alleys and highways of the city shall also include, but not be limited to, the right to regulate, locate, relocate, remove or prohibit the location of, all utility pipes, lines, wires, or other property.

Article II. – Corporate and General Powers

□ ***GARBAGE DISPOSAL***

- Section 12. The city council shall have the right by ordinance to adopt and prescribe rules and regulations for the handling and disposition of all garbage, trash, refuse and rubbish within the City of Killeen, and shall further have the right to fix charges and compensation to be charged by the city for the removal of garbage, trash, refuse and rubbish, providing rules and regulations for the collection thereof.

Article II. – Corporate and General Powers

□ ***MUNICIPAL COURT***

- Section 13. There shall be a court for the trial of misdemeanor offenses known as the Municipal Court of Record of the City of Killeen, with such powers and duties as are given and prescribed by the laws of the State of Texas, with a Municipal Court judge and a Municipal Court clerk whose duties shall be in accordance with the laws of the State of Texas.

Article II. – Corporate and General Powers

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□ ***HOSPITAL: OPERATION***

- Section 14. Deleted from the Charter. (Amend. of 5-11-13)

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HOSPITAL: FINANCES

- Section 15. Deleted from the Charter. (Amend. of 5-11-13)

Article II. – Corporate and General Powers

□ **SANITARY SEWER SYSTEM**

- Section 16. The City of Killeen shall have the power to provide for a sanitary sewer system and to require property owners to connect their premises with such sewer system; to provide for fixing penalties for failure to make sanitary sewer connections; and shall further have the right to fix charges and compensation to be charged by the City for sewerage services, providing rules and regulations for the collection thereof. In the event any property owner fails or refuses to connect his property with the sanitary sewer system in accord with the requirements of the City then the city may itself connect such premises to the sewer system and the cost thereof shall be assessed and levied against the property so connected and the City of Killeen shall have a lien against such property for such cost plus interest and such lien shall be paramount and prior to any and all other liens against such property except State, County, City and School taxes and any prior assessment made against such property by the City of Killeen.

Article II. – Corporate and General Powers

□ ***POLICE FORCE***

- Section 17. There shall be a police department for the City of Killeen, the head of which shall be the Chief of Police. The officers of the police department are vested with the powers and authorities given to them as peace officers under the laws of the State of Texas, the laws of the United States, and the ordinances of the City of Killeen. (Amend. of 5-11-13)

Article II. – Corporate and General Powers

□ ***NUISANCES***

- Section 18. The City of Killeen shall have the power to define and regulate any nuisance which may be created or occur in the city limits of Killeen or within five thousand feet of the city limits of the City of Killeen, except on the Military Reservation of Fort Hood, Texas.

Article II. – Corporate and General Powers

- **OCCUPATION AND LICENSE TAXES**

- Section 19. Deleted from the Charter. (Amend. of 5-11-13)

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- **REMOVAL OF DANGEROUS STRUCTURES**

- Section 20. The City of Killeen shall have power to condemn and cause to be torn down and removed any dangerous or dilapidated building or structure as authorized in the constitution and state law. (Amend. of 5-11-13)

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- **ADOPTING STATE LAWS**

- Section 21. The City of Killeen adopts and shall have all the benefits conferred by and powers extended by state law. (Amend. of 5-3-97)

Article XII. – General Provisions

- ***PUBLICITY OF RECORDS***

- Section 131. All records and accounts of every office, department or agency of the city shall be open for inspection, pursuant to state law, to any citizen. (Amend. of 5-3-97)



- ***PERSONAL INTEREST***

- Section 132. The City of Killeen hereby adopts chapter 171 of the Texas Local Government Code, as currently written and as may be amended in the future. Any violation of such state law shall constitute malfeasance in office and any officer or employee guilty thereof shall thereby forfeit the office or position. Any violation of such state law with the knowledge express or implied of the person or corporation contracting with the governing body of the city shall render the contract voidable by the City Manager or Council. (Amend. of 5-7-05)

Article XII. – General Provisions

- **NO OFFICER OR EMPLOYEE TO ACCEPT GIFTS**
- Section 133. No officer or employee of the City of Killeen shall ever accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation enjoying the grant of any franchise, privilege or easement from the city during the term of office of such officer, or during such employment of such employee except as may be authorized by law or ordinance; provided, however, that policemen and firemen in uniform or wearing their official badges may accept such free service where the same is permitted by ordinance. Any officer or employee of the city who shall violate the provisions of this section shall be guilty of a misdemeanor and may be punished by any fine that may be prescribed by ordinance for this offense, and shall forthwith be removed from office.

Article XII. – General Provisions

- **RELATIVES OF OFFICERS SHALL NOT BE APPOINTED OR EMPLOYED**
- Section 134. No person related within the second degree of affinity, or within the third degree of consanguinity, to members of the city council or city manager shall be appointed to any office, position or service in the city, but this provision shall not affect officers or employees who are already employed by the city at the time when any officer who may be related within the named degree takes office.
- **PERSONS INDEBTED TO THE CITY SHALL NOT HOLD OFFICE OR EMPLOYMENT**
- Section 135. Deleted from the Charter. (Amend. of 5-5-01)

Article XII. – General Provisions

□ ***OATH OF OFFICE***

- Section 136. Every elected and appointed officer of the city shall take and subscribe to the oaths or affirmations prescribed by Article XVI, Section 1, of the Texas Constitution, as it may be amended. Such oaths or affirmations shall be filed as required by the Constitution and with the City Secretary. (Amend. of 5-4-91)



DAMAGE SUITS

- Section 137. Deleted from the Charter. (Amend. of 5-11-13)

Article XII. – General Provisions

□ ***POWER TO SETTLE CLAIMS***

- Section 138. The city council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the city, including suits by the city to recover delinquent taxes.



SERVICE OF PROCESS AGAINST THE CITY

- Section 139. All legal process against the city shall be served upon the Mayor, or Mayor pro-tem.

Article XII. – General Provisions

- ***CITY NOT REQUIRED TO GIVE SECURITY OR EXECUTE BOND***

- Section 140. Deleted from the Charter. (Amend. of 5-11-13)

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- ***LIENS AGAINST CITY PROPERTY***

- Section 141. Deleted from the Charter. (Amend. of 5-4-91; Amend. Of 5-11-13)

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- ***PROVISIONS RELATING TO ASSIGNMENT, EXECUTION AND GARNISHMENT***

- Section 142. Deleted from the Charter. (Amend. of 5-11-13)

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- ***POWER TO REMIT PENALTIES***

- Section 143. Deleted from the Charter. (Amend. of 5-11-13)

Article XII. – General Provisions

- ***CHURCH AND SCHOOL PROPERTY NOT EXEMPT FROM SPECIAL ASSESSMENTS***
- Section 144. No property of any kind, church, school, or otherwise, in the city of Killeen, shall be exempt from any of the special taxes and assessments authorized by this charter for local improvements unless the exemption is required by State law.

Article XII. – General Provisions

- **SALE OR LEASE OF PROPERTY OTHER THAN PUBLIC UTILITIES OR ACQUIRED BY TAX SALE**
- Section 145. Any real property owned by the City of Killeen may be sold or leased by the City Council when in its judgment such sale or lease will be for the best interests of the city; provided, however, a sale or a lease for more than five (5) years shall never become effective until thirty (30) days after passage of the ordinance of [or] resolution affecting same. If, during such thirty day period, a referendum petition is presented to the City Clerk which in all respects conforms to the referendum provisions of Article X of this charter, and same is found sufficient, then the clerk shall certify the sufficiency of same to the City Council, and an election shall be called submitting the question of whether or not the sale or lease shall be consummated. Provided, further, however, the provisions of this section shall not apply to public utilities, nor to property purchased by the city at tax sales.

Article XII. – General Provisions

- ***EFFECT OF THIS CHARTER ON EXISTING LAW***

- Section 146. All ordinances, resolutions, rules, regulations, rights, claims actions, orders contracts and legal administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the city department, office or agency appropriate under this charter.

- ***CONTINUANCE OF CONTRACTS AND SUCCESSION OF RIGHTS***

- Section 147. Deleted from the Charter. (Amend. of 5-11-13)

Article XII. – General Provisions

- **CONSTRUCTION AND SEPARABILITY CLAUSE**
- Section 148. The charter shall be liberally construed to carry out its intents and purposes. If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction such holding shall not affect the remainder of this charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Article XII. – General Provisions

□ **AMENDING THE CHARTER**

- Section 149. Amendments to this Charter may be framed and submitted to the qualified electors of the city by a Charter commission in the manner provided by law for framing and submitting a new Charter. Amendments may also be proposed and submitted by ordinance, passed by a majority vote of the full membership of the council, or by a petition signed by not less than a number equal to at least five percent (5%) of the number of qualified voters of the municipality or 20,000, whichever is the smaller. When a Charter amendment petition shall have been filed with the council in conformity with the provisions of this Charter as to petitions for initiated ordinances, the council shall forthwith provide by ordinance for submitting such proposed amendment to a vote of the qualified electors. Any ordinance for submitting a Charter amendment to the qualified electors shall provide that such amendment be submitted at the next authorized uniform election date prescribed by the Election Code, or on the earlier of the date of the next municipal general election or presidential general election. The election date must allow sufficient time to comply with other requirements of law and must occur on or after the 30th day after the date the ordinance is adopted. Notice of the election for the submission of said amendment or amendments shall be given by publication thereof, in some newspaper of general circulation published in said city, on the same day in each of two (2) successive weeks; the date of the first publication to be not less than fourteen (14) days prior to the date set for said election. If a proposed amendment be approved by a majority of the qualified electors voting thereon it shall become a part of the Charter at the time fixed therein. Each amendment shall be confined to one subject; and when more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the qualified electors to vote on each amendment separately. (Amend. of 5-5-01)

Article XII. – General Provisions

□ **EFFECTIVE DATE AND INTERIM GOVERNMENT**

- Section 150. Deleted from the Charter. (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)

Article XII. – General Provisions

- ***CORRECTIONS: NUMBERING SECTION***
- Section 152. The City Council shall have the power to have corrected typographical errors and have the sections of this Charter numbered consecutively; provided such corrections shall have no effect on the meaning and intent of this Charter.

Next Step

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- Council input on Articles I – II and XII
 - ▣ Email changes by September 14, 2021
 - ▣ Discuss changes and provide direction to include revisions in draft amendment at Council workshop on September 21, 2021