



CHARTER REVIEW

DS-21-141

November 8, 2021

Charter Review Timeline

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- ✓ September 20, 2021: Review Articles I – II and XII
- ✓ September 21, 2021: Direction re: Articles I – II and XII
- ✓ October 18, 2021: Review Articles III - IV
- November 8, 2021: Charter Review
- November 15, 2021: Charter Review
- November 22, 2021: Charter Review (?)
- November 29, 2021: Charter Review
- December 6, 2021: Charter Review
- December 13, 2021: Charter Townhall meeting

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 III. 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. The at large seats shall be numbered and designated seat number 5, 6, and 7. Such council shall be elected in the following manner:
- Beginning in 2024, ~~a~~At an election held on a uniform election date ~~in even-numbered~~ every three years, a mayor and three councilmembers shall be elected by a ~~plurality~~ majority vote of the city at large for a term of ~~two-three~~ (32) years. Beginning in 2023, ~~a~~At an election held on a uniform election date ~~in odd-numbered~~ every three years, there shall be elected one councilmember from each of the single member districts 1, 2, 3, and 4, by a ~~plurality~~ majority vote of the registered voters residing within each district, to serve a term of ~~two-three~~ (32) years. All elections are to be held in a manner provided in Article IX of this charter and in accordance with state law.

ARTICLE III. THE COUNCIL

- Section 22 (cont'd). The members of the City Council shall serve not more than ~~three~~two (32) 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; provided, however, that such officers are subject to Section 65(b), Article XVI of the Texas Constitution, providing for automatic resignation when officers announce their candidacy or in fact become a candidate in any general, special, or primary election for any office of profit or trust under the laws of Texas or the United States other than the office then held, at any time when the unexpired term of the office then held shall exceed one year and 30 days, such announcement or such candidacy shall constitute an automatic resignation of the office then held~~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 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.~~

ARTICLE III. THE COUNCIL

□ ***QUALIFICATIONS***

□ Section 23. Candidates for mayor and councilmember shall meet the qualifications for elective office as established in the Texas Elections Code. In addition to the foregoing, candidates for the four district councilmembers herein above provided shall be bona fide residents of the district from which they seek election. A member of the council ceasing to possess any of the qualifications specified in this section or any other section of this charter, failing to attend three (3) consecutive regular meetings of the council without being excused by the council, or convicted of a felony while in office shall immediately forfeit his office. (Amend. of 5-4-91; Amend. of 5-11-13)

ARTICLE III. THE COUNCIL

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- Section 24. The compensation for the councilmembers shall not exceed \$1000.00 per month and compensation for the mayor shall not exceed \$~~200~~1500.00 per month. Said compensation shall be fixed by the city council. (Amend. of 5-5-01; Amend. of 5-11-13)

ARTICLE III. THE COUNCIL

- Section 26. A vacancy in the council of the City of Killeen shall be filled by majority vote of the qualified voters at a special election called for such purpose within one hundred and twenty (120) days after such vacancy or vacancies occur, ~~except the office of Mayor, shall be filled by a majority vote of the remaining members of the council, by the selecting of a person possessing all the qualifications prescribed by Section 23 of this Article, and who shall be a bona fide resident of the district in which the vacancy occurs; unless the vacancy in office is that of a councilmember at large, in which case the person selected to fill the vacancy shall be a bona fide resident of the City of Killeen without regard to the district in which he resides. However, if the vacancy occurs within 90 days before a regular municipal election, the vacancy is not required to be filled. Where more than one vacancy shall develop at any one time, then a special election shall be called on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with the other requirements of law, and that occurs on or after the 30th day after the date the ordinance calling the election is adopted, and any vacancy shall be filled in the same manner as herein provided for general election. If the Mayor protem succeeds to the office of Mayor under the provisions of Section 25 of this Article, then his office of councilmember shall be considered vacant within the meaning of this Section.~~

ARTICLE III. THE COUNCIL

- 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.

ARTICLE III. THE COUNCIL

□ ***COUNCIL NOT TO INTERFERE IN APPOINTMENTS OR REMOVALS***

□ Section 29. Neither the council nor any of its members shall direct the appointment or removal of any person ~~to, or his removal from office,~~ by the city manager or by any of his subordinates, other than the assistant city managers, department heads and city secretary; ~~provided, however, that~~ The City Council may direct the appointment or removal of assistant city managers, department heads and the city secretary ~~shall be subject to the approval of the council.~~ Except for the purpose of inquiry the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately.

ARTICLE III. THE COUNCIL

□ **INDUCTION INTO OFFICE: MEETINGS**

- Section 34. Hold a special ~~On the next regular~~ 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.

ARTICLE III. THE COUNCIL

□ 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 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.

ARTICLE III. THE COUNCIL

□ Section 39. Councilmembers~~The council~~ 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.

ARTICLE IX. – NOMINATIONS AND ELECTIONS

□ ***MUNICIPAL ELECTIONS***

- Section 93. The regular election for the choice of members of the council as provided in Section 22 of Article III of this Charter, shall be held ~~each year~~ on an authorized uniform Election Date provided for in the Texas Election Code. The council may, by resolution, order a special election on the first authorized uniform election date or as otherwise prescribed by the Election Code that allows sufficient time to comply with other requirements of law as may be authorized by law. The Council shall set the date of all other elections in accordance with applicable provisions of the Election Code, Local Government Code, Constitution and other general laws of the State of Texas. (Amend. of 5-4-91; Amend. of 5-11-13)

ARTICLE IX. – NOMINATIONS AND ELECTIONS

□ **REGULATIONS OF ELECTIONS**

- Section 94. The council shall make all regulations which it considers needful or desirable, not inconsistent with this charter or the laws of the State of Texas, for the conduct of municipal elections, for the prevention of fraud in such elections and for the recount of ballots in case of doubt or fraud. Municipal elections shall be conducted by the appointed election authorities, who shall also have power to make such regulations not inconsistent with this charter, with any regulations made by the council or the laws of the State of Texas.

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HOW TO GET NAME ON BALLOT

- Section 95. Any qualified person may have his or her name placed on the official ballot as a candidate for Mayor or Councilmember at any election held for the purpose of electing a Mayor or Councilmember by filing with the City Secretary, in accordance with the Texas Election Code, a sworn application on a form prepared by the City Secretary in conformance with Section 141.031 of the Texas Election Code or any successor statute thereto. (Amend. of 5-4-91)

ARTICLE IX. – NOMINATIONS AND ELECTIONS

□ ***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.

ARTICLE IX. – NOMINATIONS AND ELECTIONS

□ ***ELECTION OF MAYOR & COUNCILMEMBERS BY MAJORITY PLURALITY***

- Section 97. At the regular municipal election (or any special election held to fill vacancies on the City Council) the candidates for the office of mayor or councilmember, to the number to be elected, who shall have received the majority highest number of votes cast in such election for each office to be filled shall be declared elected.
- In case of a tie vote a new election shall be ordered and held conformably to the following section of this charter; at which the only persons eligible to have their names printed on the ballot shall be those whose votes were tied in the election at which they were candidates. (Amend. of 5-3-97)

ARTICLE IX. – NOMINATIONS AND ELECTIONS

□ ***LAWS GOVERNING CITY ELECTIONS***

- Section 98. All city elections shall be governed by the laws of the State of Texas governing general and municipal elections, so far as same may be applicable thereto; and in event there should be any failure of the general laws or this charter to provide for some feature of the city elections, then the city council shall have the power to provide for such deficiency, and no informalities in conducting a city election shall invalidate the same, if it be conducted fairly and in substantial compliance with the general laws, where applicable, and the charter and ordinances of the city. (Amend. of 5-11-13)

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CANVASSING ELECTIONS

- Section 99. Returns of elections following general or special elections shall be made in accordance with state law. (Amend. of 5-3-97)

ARTICLE X. – INITIATIVE, REFERENDUM, AND RECALL

□ **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 would be subject to legal 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)

ARTICLE X. – INITIATIVE, REFERENDUM, AND RECALL

□ ***POWER OF REFERENDUM***

□ Section 101. The electors shall have power to approve or reject at the polls any ordinance passed by the council, or submitted by the council to a vote of the electors, such power being known as the referendum, except in cases of bond ordinances and ordinances making the annual tax levy. Ordinances submitted to the council by initiative petition and passed by the council without change shall be subject to the referendum in the same manner as other ordinances. Within twenty days after the enactment by the council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the city equal in number to at least twenty-five per centum of the number of voters at the last preceding regular municipal election of the mayor and at-large councilmembers may be filed with the city clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors. (Amend. of 5-11-13)

ARTICLE X. – INITIATIVE, REFERENDUM, AND RECALL

- **FORM OF PETITIONS: COMMITTEE OF PETITIONERS**
- Section 102. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any petition paper shall sign his name in ink and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be. (Amend. of 5-11-13)

ARTICLE X. – INITIATIVE, REFERENDUM, AND RECALL

□ **FILING, EXAMINATION AND CERTIFICATION OF PETITIONS**

- Section 103. All petition papers comprising an initiative or referendum petition shall be assembled and filed with the city clerk as one instrument. Within ten days after the petition is filed, the city clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The city clerk shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his examination of the petition, the city clerk shall certify the result thereof to the council at its regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certification the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings.

ARTICLE X. – INITIATIVE, REFERENDUM, AND RECALL

□ ***AMENDMENT OF PETITIONS***

□ Section 104. An initiative or referendum petition may be amended at any time within ten days after the notification of insufficiency has been sent by the city clerk, by filing a supplementary petition upon additional papers and filed as provided in case of an original petition. The city clerk shall, within five days after such an amendment is filed, make examination of the amended petition and, if the petition is still insufficient, he shall file his certificate to that effect in his office and notify the committee of petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

ARTICLE X. – INITIATIVE, REFERENDUM, AND RECALL

□ ***EFFECT OF CERTIFICATION OF REFERENDUM PETITION***

- Section 105. When a referendum petition, or amended petition as defined in Section 104 of this article, has been certified as sufficient by the city clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors, as hereinafter provided.

□

CONSIDERATION BY COUNCIL

- Section 106. Whenever the council receives a certified initiative or referendum petition from the city clerk, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The council shall take final action on the ordinance not later than sixty days after the date on which such ordinance was submitted to the council by the city clerk. A referred ordinance shall be reconsidered by the council and its final vote upon such reconsideration shall be upon the question, "Shall the ordinance specified in the referendum petition be repealed?"

ARTICLE X. – INITIATIVE, REFERENDUM, AND RECALL

□ ***SUBMISSION TO ELECTORS***

- Section 107. If the council shall fail to pass an ordinance proposed by the initiative petition, or shall pass it in a form different from that set forth in the petition thereof, or if the council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with the other requirements of law. ~~The council may, in its discretion, and if no regular election is to be held within such period shall, provide for a special election.~~ (Amend. of 5-11-13)

ARTICLE X. – INITIATIVE, REFERENDUM, AND RECALL

- **FORM OF BALLOT FOR INITIATED AND REFERRED ORDINANCES**
- Section 108. Ordinances submitted to vote of the electors in accordance with the initiative and referendum provisions of this charter shall be submitted by ballot title, which shall be prepared in all cases by the city attorney. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance, if a paper ballot, shall have below the ballot title the following propositions, one above the other in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but any paper ballot used for voting thereon, shall be for that purpose only. If voting machines are used, the ballot title of any ordinance shall have below it the same two propositions, one above the other or one preceding the other in the order indicated, and the elector shall be given an opportunity to vote for either of the two propositions and thereby to vote for or against the ordinance.

ARTICLE X. – INITIATIVE, REFERENDUM, AND RECALL

□ **RESULTS OF ELECTION**

- Section 109. If a majority of the electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the city. A referred ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

□

REPEALING ORDINANCES: PUBLICATION

- Section 110. Initiative and referendum ordinances adopted or approved by the electors shall be published, and may be amended or repealed by the council, as in the case of other ordinances.

ARTICLE X. – INITIATIVE, REFERENDUM, AND RECALL

□ **RECALL: GENERAL**

- Section 111. Any member of the City Council, including the mayor, may be removed from office by recall.

RECALL PROCEDURE

- Section 112. Any elector of the City of Killeen may make and file with the city clerk an affidavit containing the name or names of the officer or officers whose removal is sought and a statement of the grounds for removal. By the close of business on the first business day following receipt of the affidavit, the clerk shall deliver to the elector making such affidavit copies of petition blanks demanding such removal. Such blanks when issued by the city clerk shall bear the signature of that officer and be addressed to the city council, and shall be numbered, dated, and indicate the name of the person to whom issued. The petition blanks when issued shall also indicate the number of such blanks issued and the name of the officer whose removal is sought. The city clerk shall enter in a record to be kept in his office the name of the elector to whom the petition blanks were issued and the number issued to said person.

ARTICLE X. – INITIATIVE, REFERENDUM, AND RECALL

□ ***RECALL PETITIONS***

□ Section 113. The recall petition to be effective must be returned and filed with the city clerk within thirty days after the date on which the petition blanks are provided by the city clerk. A recall petition for the mayor or an at-large councilmember must be signed by qualified electors of this city equal in number to more than fifty percent (50%) of the total number of voters in the last municipal election at which three at-large councilmembers and the mayor were elected. A recall petition for a district councilmember must be signed by qualified electors of the district represented by the councilmember in number equal to more than fifty percent (50%) of the total number of voters for that district in the last municipal election where the district seat was filled. Each signer of any petition blank shall sign his name in ink and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place.

ARTICLE X. – INITIATIVE, REFERENDUM, AND RECALL

□ ***RECALL PETITIONS (cont'd)***

□ The elector may allow others to circulate a petition. Upon submitting the petition, the elector must submit a list to the city clerk of the names and addresses of all circulators that were authorized by him to collect signatures for the petition, and a list of the pages of the petition upon which each circulator obtained signatures. Attached to each petition, there shall be an affidavit of the circulator(s) thereof that he/they and he/they only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all signatures appended thereto were made in his/their presence, and that he/they believes them to be the genuine signatures of those persons whose names they purport to be. No petition papers shall be accepted as part of a petition unless it bears the signature of the city clerk as required in Section 112 of this Article.

ARTICLE X. – INITIATIVE, REFERENDUM, AND RECALL

□ **RECALL ELECTION**

- Section 114. The city clerk shall at once examine the recall petition and if he finds it sufficient and in compliance with the provisions of this article of the charter, he shall within ten (10) days submit it to the city council with his certificate to that effect and notify the officer sought to be recalled of such action. If the officer whose removal is sought does not resign within five (5) days after such notice the city council shall order and fix a date for holding a recall election. Any such election shall be held on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with the other requirements of law.
- Only a resident qualified to vote in an election for a candidate may vote in a recall election for that candidate.

ARTICLE X. – INITIATIVE, REFERENDUM, AND RECALL

□ ***BALLOTS IN RECALL ELECTION***

- Section 115. Ballots used at recall elections shall conform to the following requirements:
 - (1) With respect to each person whose removal is sought the question shall be submitted "Shall (name of person) be removed from the office of councilman by recall?"
 - (2) Immediately below each question there shall be printed the two following propositions, one above the other, in the order indicated:
 - "For the recall of (name of person)"
 - "Against the recall of (name of person)"

ARTICLE X. – INITIATIVE, REFERENDUM, AND RECALL

□ **RESULTS OF RECALL ELECTION**

- Section 116. If a majority of the votes cast at a recall election shall be against the recall of the officer named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before, if a majority of the votes cast at such an election be for the recall of the officer named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled ~~by the City Council~~ as in other vacancies.

ARTICLE X. – INITIATIVE, REFERENDUM, AND RECALL

□ **LIMITATIONS OF RECALLS**

- Section 117. No recall petition shall be filed against a councilmember within six months after he begins a term nor in respect to an officer subjected to a recall election and not removed thereby, until at least six months after such election. If a councilmember is subject to recall pursuant to the provisions of this Article but is re-elected before the recall election takes place, the recall petition is negated and the councilmember retains his seat.

□

DISTRICT JUDGE MAY ORDER ELECTION

- Section 118. Should the city council fail or refuse to order any of the elections as provided for in this charter, an elector may seek recourse in a court of competent jurisdiction.

ARTICLE XI. – FRANCHISES AND PUBLIC UTILITIES

- **CONTROL OVER AND POWERS WITH REFERENCE TO CITY PROPERTY**
- Section 119. The ownership, right of control and use of streets, highways, alleys, parks, public places and all other real property of the City of Killeen is hereby declared to be inalienable to said City, except by ordinances passed by vote of the majority of the governing body of the city, as hereinafter provided; and no franchise or easement involving the right to use same, either along, across, over or under the same, shall ever be valid unless expressly granted and exercised in compliance with the terms hereof, and of the ordinances granting the same. No act or omission of the city, its governing body, officers or agents shall be construed to confer or extend by estoppel or indirection, any right, franchise or easement not expressly granted by ordinance.
- The City of Killeen shall have the power, subject to the terms and provisions hereof, by ordinance to confer upon any person or corporation the franchise or right to use the property of the City, as defined in the preceding paragraph, for the purpose of furnishing to the public any general public service.

ARTICLE XI. – FRANCHISES AND PUBLIC UTILITIES

□ **LIMITATIONS**

- Section 120. No exclusive franchise or privilege shall ever be granted and no franchise shall be directly or indirectly extended beyond the term originally fixed by the ordinance granting the same, except as provided by the terms of the City Charter.



PROCEDURE

- Section 121. The City of Killeen shall have the power by ordinance to grant any franchise, ~~or right mentioned in the preceding sections hereof,~~ which ordinances shall not be passed finally until its third and final reading shall be at three separate regular meetings of the City Council of the City of Killeen, the last of which shall take place not less than thirty days from the first. No ordinance granting a franchise shall pass any reading except by a vote of the City Council, and such ordinance shall not take effect until sixty days after its adoption on its third and final reading.

ARTICLE XI. – FRANCHISES AND PUBLIC UTILITIES

□ ***TERMS AND CONDITIONS***

- Section 122. No determinate or fixed term franchise shall ever be granted for a longer term than twenty-five years; nor shall any right, privilege or franchise now in existence be extended beyond the period now fixed for its termination, directly or indirectly, or through any means whatsoever, and any ordinance in violation or evasion of this prohibition shall be absolutely void; provided, however, that any corporation, person or association of persons now holding any franchise under any charter or charters or ordinances of the City of Killeen may, with the consent of the City Council of the City surrender such franchise or franchises, subject to the provisions of the City Charter then in force, and take a new franchise under such charter or a new franchise may be granted to a new company or another person with the privilege of acquiring the properties of such franchise holder upon the surrender of the franchise rights then held.

ARTICLE XI. – FRANCHISES AND PUBLIC UTILITIES

□ **TERMS AND CONDITIONS (cont'd)**

- No holder of a franchise heretofore or hereafter granted shall have a right (unless such right is granted in the franchise) to transfer or assign its properties and franchise to any other person, firm or corporation without the consent of the city, and such consent when given shall not operate as the granting of a franchise or as a new franchise.
- The City Council shall have the power to compel all persons, firms or corporations operating any public utilities in this City, whether operating under existing franchises, or franchises that may be hereafter granted, to extend their service, lines, pipes, etc., if the person to be benefitted by such extension will pay the costs thereof, or if it can be shown that the revenue resulting from such extension will, within a reasonable time after same is made, pay a reasonable return on the investment, after making the customary allowance for depreciation.

ARTICLE XI. – FRANCHISES AND PUBLIC UTILITIES

□ **TERMS AND CONDITIONS (cont'd)**

□ All public utility franchises in the City of Killeen shall be held whether expressed in the ordinance or not, subject to the right of the City (each of the following being a condition):

- (1) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.
- (2) To require an adequate extension of plant and service, and the maintenance of the plant and fixture at the highest reasonable standard of efficiency.
- (3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.

ARTICLE XI. – FRANCHISES AND PUBLIC UTILITIES

- **TERMS AND CONDITIONS (cont'd)**
- (4) To collect from every public utility operating in the city such proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping and sprinkling the streets, alleys, bridges, culverts, viaducts and other public places of the city as represents the increased cost of such operating resulting from the occupancy of such public places by such public utilities, and such proportion of the costs of such operations as results from the damage to or disturbance of such public places caused by such public utility; or to compel such public utility to perform at its own expense, such operations as above listed which are made necessary by the occupancy of such public places by such utility or by damage to or disturbance of such public places caused by such public utility.

ARTICLE XI. – FRANCHISES AND PUBLIC UTILITIES

- ❑ ***TERMS AND CONDITIONS (cont'd)***
- ❑ (5) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including on local operations by each such public utility.
- ❑ (6) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public.
- ❑ Every public utility franchise hereafter granted shall be subject to the terms and conditions of this Charter, whether such terms and conditions are specifically mentioned in the franchise or not.

ARTICLE XI. – FRANCHISES AND PUBLIC UTILITIES

- ***UTILITY RATES AND CHANGES***

- Section 123. The City Council shall have the power by ordinance to fix and regulate the rates, charges and fares of every franchise holder operating in the city to the fullest extent allowed by law.

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- APPLICABLE TO STREETS AND HIGHWAYS***

- Section 124. Deleted from the Charter. (Amend. of 5-11-13)

ARTICLE XI. – FRANCHISES AND PUBLIC UTILITIES

□ **PUBLIC SERVICE CORPORATIONS TO FILE ANNUAL REPORTS**

- ~~Section 125. It shall be the duty of the City Council to pass an ordinance requiring all public service corporations operating within the corporate limits of the city to file a sworn annual report of the receipts from the operation of the said business for the current year, how expended, how much therefor for betterments or improvements, the rate of tolls and charges for services rendered to the public, and any other facts or information that the council may deem pertinent for its use in intelligently passing upon any question that may arise between the City and the said public service corporations; and reports to be filed with the City Clerk, and preserved for the use of the City Council~~Deleted from the Charter.

□

OPTION TO PURCHASE

- Section 126. Deleted from the Charter. (Amend. of 5-11-13)

ARTICLE XI. – FRANCHISES AND PUBLIC UTILITIES

- ❑ **CONSENT OF PROPERTY OWNERS**

- ❑ Section 127. Deleted from the Charter. (Amend. of 5-11-13)

- ❑

- ❑ **EXTENSIONS**

- ❑ Section 128. Deleted from the Charter. (Amend. of 5-11-13)

- ❑

- ❑ **OTHER CONDITIONS**

- ❑ Section 129. Deleted from the Charter. (Amend. of 5-11-13)

- ❑

- ❑ **FRANCHISE RECORDS**

- ❑ Section 130. Deleted from the Charter. (Amend. of 5-11-13)

Review Articles V - VIII