



# City of Killeen

## Agenda

### City Council

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Tuesday, November 22, 2022

5:00 PM

City Hall  
Council Chambers  
101 N. College Street  
Killeen, Texas 76541

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#### SPECIAL CITY COUNCIL MEETING

#### Call to Order and Roll Call

___ Debbie Nash-King, Mayor	___ Nina Cobb
___ Riakos Adams	___ Jessica Gonzalez
___ Ramon Alvarez	___ Jose Segarra
___ Michael Boyd	___ Ken Wilkerson

#### Approval of Agenda

#### Citizen Comments

*This section allows members of the public to address the Council regarding any item(s), other than a public hearing item, on the agenda for Council's consideration. Each person shall sign up in advance, may speak only one time, and such address shall be limited to four (4) minutes. A majority of the City Council is required for any time extensions. The Mayor and Councilmembers shall have one (1) minute to respond to citizen comments with a statement or explanation without engaging in dialogue.*

#### Ordinances/Resolutions

1. [OR-22-021](#) Consider an ordinance canvassing the returns of the November 8, 2022 Special Election.  
*Attachments:* [Ordinance](#)
2. [RS-22-165](#) Consider options regarding Proposition A and the initiative ordinance to eliminate low-level marijuana enforcement, and discuss any Councilmember concerns about Proposition A.  
*Attachments:* [Initiative Ordinance](#)

#### Adjournment

*I certify that the above notice of meeting was posted on the Internet and on the bulletin boards at Killeen City Hall and at the Killeen Police Department on or before 5:00 p.m. on November 18, 2022.*

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*Judy Paradise, Interim City Secretary*

*The public is hereby informed that notices for City of Killeen meetings will no longer distinguish between matters to be discussed in open or closed session of a meeting. This practice is in accordance with rulings by the Texas Attorney General that, under the Texas Open Meetings Act, the City Council may convene a closed session to discuss any matter listed on the agenda, without prior or further notice, if the matter is one that the Open Meetings Act allows to be discussed in a closed session.*

*This meeting is being conducted in accordance with the Texas Open Meetings Law [V.T.C.A., Government Code, § 551.001 et seq.]. This meeting is being conducted in accordance with the Americans with Disabilities Act [42 USC 12101 (1991)]. The facility is wheelchair accessible and handicap parking is available. Requests for sign interpretive services are available upon requests received at least 48 hours prior to the meeting. To make arrangements for those services, please call 254-501-7700, City Manager's Office, or TDD 1-800-734-2989.*

## **Notice of Meetings**

*The Mayor and/or City Council have been invited to attend and/or participate in the following meetings/conferences/events. Although a quorum of the members of the City Council may or may not be available to attend this meeting, this notice is being posted to meet the requirements of the Texas Open Meetings Act and subsequent opinions of the Texas Attorney General's Office. No official action will be taken by Council.*

- *Snowball Express, December 3, 2022, 7:00 a.m., Killeen Fort Hood Regional Airport*
- *Texas Sized Holiday Event, December 8, 2022, 6:00 p.m., Killeen Fort Hood Regional Airport*
- *2022 Holiday Bazaar, December 18, 2022, 10:00 a.m., Killeen Civic and Conference Center*
- *Masquerade Christmas Party, December 19, 2022, 5:30 p.m., Courtyard Marriott*

**Dedicated Service -- Every Day, for Everyone!**



# City of Killeen

## Staff Report

File Number: OR-22-021

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Consider an ordinance canvassing the returns of the November 8, 2022 Special Election.

**DATE:** November 22, 2022

**TO:** Kent Cagle, City Manager

**FROM:** Holli C. Clements, City Attorney

**SUBJECT:** Canvassing Returns from November 8, 2022 Special Election

### **BACKGROUND AND FINDINGS:**

On November 8, 2022, the City of Killeen participated in a joint election with Bell County to consider a proposition to eliminate enforcement of low-level marijuana offenses in the City of Killeen to include the following:

Prohibit Killeen police officers from issuing citations or making arrests for Class A or B misdemeanor possession of marijuana offenses except in limited circumstances, prohibit Class C citations for drug paraphernalia in lieu of a possession of marijuana charge, prohibit the use of city funds or personnel to perform testing to confirm whether a substance meets the legal definition of marijuana except in limited circumstances, prohibit Killeen police officers from considering the odor of marijuana or hemp to constitute probable cause for any search or seizure except in limited circumstances, require that Killeen police officers receive training on the ordinance, require that policies and procedures be updated in accordance with the ordinance, require regular open meetings with stakeholders to discuss practices related to the ordinance, provide that a violation of the ordinance may subject a Killeen police officer to discipline, and require a report within three months of adoption of the ordinance and annually thereafter to be submitted to City Council concerning implementation of the ordinance.

### **THE ALTERNATIVES CONSIDERED:**

There are no alternatives. State and local law requires the city council to canvass the election returns and declare the results.

### **Which alternative is recommended? Why?**

N/A

### **CONFORMITY TO CITY POLICY:**

Adopting the ordinance conforms to state law and city charter requirements.

**FINANCIAL IMPACT:**

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

There is no financial impact.

**Is this a one-time or recurring expenditure?**

N/A

**Is this expenditure budgeted?**

N/A

**If not, where will the money come from?**

N/A

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

N/A

**RECOMMENDATION:**

Staff recommends adoption of the ordinance declaring the results of the November 8, 2022 Special Election.

**DEPARTMENTAL CLEARANCES:**

Legal

**ATTACHED SUPPORTING DOCUMENTS:**

Ordinance

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, CANVASSING RETURNS AND DECLARING THE RESULTS OF A SPECIAL ELECTION HELD NOVEMBER 8, 2022 FOR A PROPOSITION TO ELIMINATE ENFORCEMENT OF LOW-LEVEL MARIJUANA OFFENSES IN THE CITY OF KILLEEN.**

**WHEREAS**, on this the 22nd day of November 2022, Councilmember \_\_\_\_\_ and Councilmember \_\_\_\_\_ verified the November 8, 2022 election results provided by Bell County Election Administrator prior to the City Council of the City of Killeen, Texas, convening in a special session open to the public at the regular meeting place with a quorum present, and among other proceedings were the following:

Councilmember \_\_\_\_\_ introduced an ordinance canvassing returns and declaring the results of a special election held on November 8, 2022. Councilmember \_\_\_\_\_ moved its adoption. The motion was seconded by Councilmember \_\_\_\_\_, and the motion prevailed by the following vote: Aye: \_\_\_\_\_; Nay: \_\_\_\_\_; Abstain: \_\_\_\_\_.

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

**Section I.** There came on to be considered the returns of an election held on the 8th day of November 2022, for the purpose of consideration of a proposition to eliminate enforcement of low-level marijuana offenses in the City of Killeen, and it appearing from the returns, duly and legally made, that \_\_\_\_\_ voters cast ballots at the election; that the proposition received the following votes:

**PROPOSITION A:**

Shall an initiative ordinance be approved to eliminate enforcement of low-level marijuana offenses in the City of Killeen, to include the following:

prohibit Killeen police officers from issuing citations or making arrests for Class A or B misdemeanor possession of marijuana offenses except in limited circumstances, prohibit Class C citations for drug paraphernalia in lieu of a possession of marijuana charge, prohibit the use of city funds or personnel to perform testing to confirm whether a substance meets the legal definition of marijuana except in limited circumstances, prohibit Killeen police officers from considering the odor of marijuana or hemp to constitute probable cause for any search or seizure except in limited circumstances, require that Killeen police officers receive training on the ordinance, require that policies and procedures be updated in accordance with the ordinance, require regular open meetings with stakeholders to discuss practices related to the ordinance, provide that a violation of the ordinance may subject a Killeen police officer to discipline, and

require a report within three months of adoption of the ordinance and annually thereafter to be submitted to City Council concerning implementation of the ordinance?

\_\_\_\_\_ Total Received FOR

\_\_\_\_\_ Total Received AGAINST

**Section II.** That the election was duly called; that notice of election was given in accordance with law; and that the election was held in accordance with law.

**Section III.** That Proposition A was approved by the voters of the City of Killeen and is hereby adopted.

**Section V.** That this ordinance shall be effective upon its passage and approval according to law.

**PASSED AND APPROVED** at a special called meeting of the City Council of the City of Killeen, Texas, this 22nd day of November 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:**

\_\_\_\_\_  
Judy Paradice, INTERIM CITY SECRETARY

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Holli C. Clements, CITY ATTORNEY



# City of Killeen

## Staff Report

File Number: RS-22-165

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Consider options regarding Proposition A and the initiative ordinance to eliminate low-level marijuana enforcement, and discuss any Councilmember concerns about Proposition A.

**DATE:** November 22, 2022

**TO:** Kent Cagle, City Manager

**FROM:** Holli Clements, City Attorney

**SUBJECT:** Options regarding Proposition A and the initiative ordinance to eliminate low-level marijuana enforcement

### **BACKGROUND AND FINDINGS:**

On May 25, 2022 an initiative petition to eliminate low-level marijuana enforcement was filed with the City Secretary's office. The City Secretary certified that the petition was filed and completed as required by the City Charter. The City Council did not pass the initiative ordinance. The Charter states that if the Council fails to pass an initiative ordinance or passes it in a different form, the proposed ordinance shall be submitted to the electors. Therefore, as required by Section 107 of the Charter, the proposed ordinance was submitted to the electors. A majority of electors voted in favor of the ordinance and a separate item to canvass the election is on the agenda.

While the Charter does not allow the initiative ordinance to be amended before an election without the original proposed language being submitted to the electors, Section 110 of the City's Charter states that an initiative ordinance adopted by the electors may be amended or repealed by the Council after an election as is the case with any other ordinance.

The initiative ordinance includes the following provisions:

- prohibits Killeen police officers from issuing citations or making arrests for Class A or B misdemeanor possession of marijuana offenses except in limited circumstances;
- prohibits Class C citations for drug paraphernalia in lieu of a possession of marijuana charge;
- prohibits the use of city funds or personnel to perform testing to confirm whether a substance meets the legal definition of marijuana except in limited circumstances;
- prohibits Killeen police officers from considering the odor of marijuana or hemp to constitute probable cause for any search or seizure except in limited circumstances;
- requires that Killeen police officers receive training on the ordinance and requires that policies, requires regular open meetings with stakeholders; and
- provides that a violation of the ordinance may subject a Killeen police officer to discipline.

The initiative ordinance implicates state and federal law. Specifically, Texas Local Government Code Section 370.003 prohibits the governing body of a municipality or a municipal police department from adopting a policy under which the entity will not fully enforce laws relating to drugs, including marijuana.

**THE ALTERNATIVES CONSIDERED:**

The alternatives are:

1. Amend the ordinance;
2. Repeal the ordinance; or
3. Do not amend or repeal the ordinance.

**Which alternative is recommended? Why?**

N/A

**CONFORMITY TO CITY POLICY:**

N/A

**FINANCIAL IMPACT:**

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

There is no expenditure associated with this action.

**Is this a one-time or recurring expenditure?**

N/A

**Is this expenditure budgeted?**

N/A

**If not, where will the money come from?**

N/A

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

N/A

**RECOMMENDATION:**

N/A

**DEPARTMENTAL CLEARANCES:**



Legal

**ATTACHED SUPPORTING DOCUMENTS:**

Initiative Ordinance

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:

Shirley Fleming, 1805 Kenyon St., Killeen, TX 76543

Melvin Brown, Jr., 650 Turkey Trot, Killeen, TX 76542

Louie Minor, 503 West Avenue I, Killeen TX 76541

Jonathan Hildner, 4200 Elms Run Circle A, Killeen, TX 76542

Runda Wells, 2111 Southport Dr., Killeen TX 76542

## **AN ORDINANCE TO ELIMINATE LOW-LEVEL MARIJUANA ENFORCEMENT**

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

Chapter 22, Article V of the City Code is hereby created, to be titled "Marijuana Enforcement" and to read as follows:

### **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).

#### **Section 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.

#### **Section 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.

#### **Section 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).

#### **Section 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 Killeen 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.

#### **Section 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.

#### **Section 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.