



TOWN OF ADDISON

CHARTER REVIEW COMMISSION

FINAL REPORT

JANUARY 23, 2020

2020 Charter Review Commission

Final Report

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CHARTER REVIEW PROCESS

Background

In accordance with Section 11.29 of the Charter, the Addison City Council appointed a Charter Review Commission to work with town staff and advise the Mayor and City Council as to whether the Town's Charter should be amended.

The 14-member commission met six times over a three-month period to review all sections of the Charter. As a matter of procedure, each meeting of the commission included a public hearing where members of the public were invited to share their comments regarding the Town's Charter. The public hearing was advertised each week in the Town newsletter and agendas for all Charter Review Commission meetings were posted to the Town's website. Additionally, information regarding the Charter review process was shared via a webpage on the Town's website: <https://addisontexas.net/bc/charter-review-commission>. Over the course of the Commission's work, no one chose to speak at the public hearings.

During Commission Meetings One and Two, town staff presented issues that had been identified by the City Council and/or staff for consideration by the Commission. The Commission then deliberated these items as well as any other items identified by the Commission themselves, and determined which items necessitated further action. Included in this report are the recommended ballot propositions and associated Charter amendments as well as a discussion regarding issues that the City Council requested that the Commission review that did not result in changes being recommended.

Commission Membership

Bruce Arfsten, Chair
Kim Boyle
David Collins
Nancy Craig
Kent Domingue
Jim Duffy
Margie Gunther
Susan M. Halpern, Vice-Chair
JT McPherson
Jimmy Niemann
Liz Oliphant
Mary Anne Mayer Redmond
Nancy Williams
Ron Whitehead

Staff Support

Wesley Pierson, City Manager
Brenda McDonald, City Attorney
Irma Parker, City Secretary
Ashley Mitchell, Deputy City Manager
Charles Goff, Director of Development Services

Process Timeline

September 10, 2019..... Council appoints Charter Review Commission
November 20, 2019.....Commission Kick-off Meeting
December 12, 2019.....Commission Meeting One: Articles 1-6
December 16, 2019.....Commission Meeting Two: Articles 7-11
January 9, 2020.....Commission Meeting Three: Proposition Review
January 13, 2020.....Commission Meeting Four: Proposition Finalization
January 23, 2020.....Commission Meeting Five: Final Report Drafting
January 30, 2020.....Presentation of Report to City Council

RECOMMENDED REVISIONS TO THE CHARTER

The Commission recommends that an election be called to put forward a number of proposed changes to the Charter for the community's consideration. The changes are described below, organized into 26 recommended ballot propositions. Where applicable, a redline to the current Charter is provided that reflects the proposed changes. A brief summary of the Commission's discussion follows each recommended proposition.

Proposition Number 1

Shall the Charter of the Town of Addison, Texas, be amended to provide clarification by changing "qualified voter" to "registered voter" because "qualified voter" is defined as a "registered voter" in the Texas Election Code?

Discussion:

The term "qualified voter" is used to describe voters for various purposes within the Town's Charter. The Texas Election Code defines a "qualified voter" as a "registered voter". In order to eliminate confusion and use a more familiar term, the Commission recommends that all references to "qualified voter" in the Charter be changed to "registered voter." This would have no substantive impact on the meaning of the Charter but would make the document easier to understand.

Proposition Number 2

Shall the Charter of the Town of Addison, Texas, be amended in various sections to remove specific state law references and instead require that the City Council shall act in accordance with state law?

Discussion:

In several locations, the Charter references specific sections or chapters of state law. This can be problematic as the State may amend, reorganize, or recodify the statutes resulting in incorrect references. To address this potential issue, the Commission recommends removing specific state law references from the Charter and replacing them with a more generic reference to compliance with applicable state law.

Proposition Number 3

*Shall Section 2.04 "Compensation" of the Charter of the Town of Addison, Texas, be amended to remove the requirement that the City Council approve **at a public meeting**, any reimbursements to councilmembers for actual expenses incurred in the performance of official duties? Expenditures would still be approved by the City Council during the budgeting process and records would be available in accordance with open records requirements.*

Redline to Current Charter:

Section 2.04. – Compensation.

Compensation of members of the City Council shall be determined by the Council by ordinance, but no increase in such compensation shall take effect until commencement of the terms of Mayor and/or Council members elected at the next regular election. Members of the City Council shall also be entitled to reimbursement for actual expenses incurred in the performance of official duties; ~~with the approval of the City Council at a public meeting.~~

Discussion:

The Charter enables members of the City Council to receive reimbursements for expenses related to their official duties. This may include expenses such as travel or for lodging costs to attend conferences on behalf of the Town. The current Charter language requires that such reimbursements must be approved by a vote of the City Council at a public meeting. This is not a current practice of the Town, and is unnecessary because expenditures for the City Council are considered during the budget process and reimbursements must comply with applicable policies adopted by the Council. The Commission recommends removing the requirement that reimbursements must be approved by the City Council at a public meeting.

Proposition Number 4

Shall Section 2.08(f) “Powers of the City Council” of the Charter of the Town of Addison, Texas, be amended to require members of the Planning and Zoning Commission and Board of Zoning Adjustment to be residents and registered voters of the Town?

Redline to Current Charter:

Section 2.08. – Powers of the City Council.

All powers of the Town and the determination of all matters of policy shall be vested in the City Council. Without limitation of the foregoing and among the other powers that may be exercised by the City Council, the following are hereby enumerated for greater certainty:

...

f. Appoint ~~the~~ members of the Planning and Zoning Commission and Board of Zoning Adjustment who shall be residents and registered voters of the Town. No one may serve concurrently on both boards; [Also see Proposition 5]

Discussion:

Recently, members of both the Planning and Zoning Commission and Board of Adjustment have moved outside of Addison during their term. In every case, the member has resigned, but these events raised the issue of whether a non-resident could serve on either body. The Commission recommends adding language clarifying that members of the Planning and Zoning Commission

and Board of Zoning Adjustment must be registered voters of the Town. This would effectively prohibit non-residents from serving on these bodies.

Proposition Number 5

Shall Section 2.08(f) "Powers of the City Council" of the Charter of the Town of Addison, Texas, be amended to state that no one may serve concurrently on the Planning and Zoning Commission and the Board of Zoning Adjustment?

Redline to Current Charter:

Section 2.08. – Powers of the City Council.

All powers of the Town and the determination of all matters of policy shall be vested in the City Council. Without limitation of the foregoing and among the other powers that may be exercised by the City Council, the following are hereby enumerated for greater certainty:

...

f. Appoint ~~the~~ members of the Planning and Zoning Commission and Board of Zoning Adjustment who shall be residents and registered voters of the Town. No one may serve concurrently on both boards; [Also see Proposition 4]

Discussion:

Currently, the Charter is silent regarding an individual's ability to serve concurrently on both the Planning and Zoning Commission and the Board of Zoning Adjustment. At times in the past, the same individual has served on both bodies simultaneously. The Commission recommends that the Charter be amended to state that no one may serve on both boards simultaneously.

Proposition Number 6

Shall Section 2.10 "Meetings of the City Council" of the Charter of the Town of Addison, Texas, be amended to allow special meetings of the City Council to be called by three (3) councilmembers instead of four (4) as currently stated?

Discussion:

Currently, if some portion of the Council desires to call a special meeting, it takes either the Mayor or a majority of the Council to agree to call the meeting. Many of the Town's comparator cities allow fewer than a majority of Council Members to call special meetings. After reviewing this issue, the Commission recommends reducing the number from four members to three members.

Proposition Number 7

Shall Section 2.10 “Meetings of the City Council” of the Charter of the Town of Addison, Texas, be amended to allow special meetings of the City Council to be called by the City Manager?

Discussion:

In addition to the issue of how many Council Members must agree to call a special meeting, many of the Town’s comparator cities allow for the City Manager to call special meetings. The Commission recommends that the City Manager be given such authority should the need arise.

Proposition Number 8

Shall Section 2.17 “Induction of Council into office” of the Charter of the Town of Addison, Texas, be amended to clarify that the first meeting of the City Council following an election of members of the City Council shall be the meeting to canvass the election as provided by state law and the first order of business shall be to canvass the election, declare the results and seat the newly elected members?

Redline to Current Charter:

Section 2.17. – Induction of Council into office.

The first meeting of ~~each newly elected~~ the City Council, following an election for induction into office one or more council offices, shall be the ~~next regular~~ meeting following its election to canvass the results of the election in accordance with state law. At such meeting, the first order of business shall be the canvassing of returns, declaring the results and the ~~swearing in~~ seating of such newly elected members of the Council following their oath of office.

Discussion:

The Commission recommends that this section of the Charter be amended to more clearly describe the process and timing by which the results of elections for Council Members are canvassed and when the newly elected Council Members are sworn in and take office.

Proposition Number 9

Shall Section 5.11(1) “Bonds, warrants and other evidences of indebtedness” of the Charter of the Town of Addison, Texas, be renamed to “Bonds, warrants and other debt matters”?

Redline to Current Charter:

Section 5.11. - Bonds, warrants and other ~~evidences of indebtedness~~ debt matters.

1. *Power to issue*. In keeping with the Constitution of the State of Texas, and not contrary thereto, the Town of Addison, shall have the right to issue all tax bonds,

revenue bonds, funding and refunding bonds, time warrants and other evidences of indebtedness ~~as now authorized or as may hereafter be authorized to be issued by cities and towns by the General Laws of the State of Texas for any public purpose, so long as not prohibited by state law, including but not limited to, bonds or other evidences of indebtedness to promote or finance economic development within the City.~~

2. *Manner of issuance.* Bonds and warrants of the Town of Addison shall be issued in the manner provided by the General Laws of the State of Texas applicable to cities and towns. [Also see Proposition 10]

Discussion:

The Commission recommends renaming this section to more clearly describe its purpose.

Proposition Number 10

Shall the Charter of the Town of Addison, Texas, be amended to clarify that the Town is authorized to issue debt for economic development purposes?

Redline to Current Charter:

Section 5.11. - Bonds, warrants and other ~~evidences of indebtedness~~ debt matters.

1. *Power to issue.* In keeping with the Constitution of the State of Texas, and not contrary thereto, the Town of Addison, shall have the right to issue all tax bonds, revenue bonds, funding and refunding bonds, time warrants and other evidences of indebtedness ~~as now authorized or as may hereafter be authorized to be issued by cities and towns by the General Laws of the State of Texas for any public purpose, so long as not prohibited by state law, including but not limited to, bonds or other evidences of indebtedness to promote or finance economic development within the City.~~

2. *Manner of issuance.* Bonds and warrants of the Town of Addison shall be issued in the manner provided by the General Laws of the State of Texas applicable to cities and towns. [Also see Proposition 9]

Discussion:

As the Town was preparing for the 2019 Bond Election, there was discussion among the Community Bond Advisory Committee regarding the issuance of bonds to purchase land for economic development purposes. The thought was that the Town may want to have funds available to purchase key pieces of property that may need to be redeveloped and that the Town could facilitate such redevelopment through strategic purchases and property accumulation. The Attorney General reviewed the Town's Charter and contended that the Town did not have the authority to issue debt for economic development. The Commission discussed this issue at length and recommends that this issue be put to the voters for consideration.

Proposition Number 11

Shall Section 5.19 “Power to correct errors” of the Charter of the Town of Addison, Texas, be renamed to “Power to cancel taxes” to clarify what that section actually addresses?

Redline to Current Charter:

Section 5.19. - Power to ~~correct errors.~~ cancel taxes.

The Council shall have the power to cancel any uncollectible taxes upon the tax rolls- as allowed by law.

Discussion:

This section’s title does not match the subject of the section. The Commission recommends renaming the title of section to more accurately reflect the topic discussed by this section.

Proposition Number 12

Shall Section 5.31 “General powers” of the Charter of the Town of Addison, Texas, be renamed to “General powers of taxation” to avoid confusion regarding the Town’s ability to levy taxes as authorized by state law and make clear it is not intended as a general grant of powers to the City Council?

Redline to Current Charter:

Section 5.31. -- General powers of taxation.

Unless otherwise provided by this Charter and by Ordinances passed hereunder, all property in the Town liable for taxation shall be assessed in accordance with the ~~general~~ laws of the state insofar as applicable. In addition to the powers herein conferred with reference to the assessment and collection of taxes, the Town of Addison shall have and may exercise all powers and authority ~~now conferred or which may hereafter be conferred upon cities having a population of more than five thousand (5,000) inhabitants~~ not prohibited by the ~~general law~~ laws of the State of Texas.

Discussion:

This section’s title is not descriptive and could be misleading to the intent of the section. The Commission recommends renaming this section to clarify that the section is limited to the power to levy taxes.

Proposition Number 13

Shall Section 7.03 “Master plan” of the Charter of the Town of Addison, Texas, be amended to change the wording “official master plan” to the “Comprehensive Plan” since that is the name of the Town’s long-range planning document and to state that the City Council may amend the Comprehensive Plan by majority vote of the City Council members present at a Council meeting?

Red-Line to Current Charter:

Section 7.03. – ~~Master~~Comprehensive plan.

- a. The official ~~master~~Comprehensive Plan of the Town shall be used as a guide by the City Council and the city Planning and Zoning Commission for development of the Town with respect to land use, thoroughfares and streets, buffer zones, parks, and other matters affecting development.
- b. The ~~master~~Comprehensive Plan may be amended by majority vote of those members of the whole Council that are present at a council meeting, and such amendments ~~as are read into the master plan~~ shall be entered therein and shall become part thereof and of the official records of the Town.

Discussion:

The Town's master plan is known as the Comprehensive Plan. The Town's current Comprehensive Plan was adopted in 2013. The Commission recommends that references to the "master plan" be replaced with "Comprehensive Plan," and that the language be amended to clarify that the Comprehensive Plan can be amended by a majority of council members present at a Council meeting. Some felt that the current language could be construed to state the Comprehensive Plan could only be amended at meetings where the whole Council was present.

Proposition Number 14

Shall Section 7.04 "Planning and Zoning Commission" of the charter of the Town of Addison, Texas, be amended to change references to "City Zoning Commission" and "City Planning Commission" to the "Planning and Zoning Commission?"

Redline to Current Charter:

Section 7.04 – Planning and Zoning Commission.

The City Council shall have the power and authority to appoint a ~~City Planning and Zoning~~City Planning and Zoning Commission, in accordance with the General Laws of the State of Texas, as provided for in V.T.C.A., Local Government Code chs. 211 and 371, as now, or hereafter, amended; and the City Council and the Town of Addison shall have the rights, privileges, powers, and authority, given, permitted and granted under the laws of the State of Texas, relative to zoning and planning in, for, and of, municipalities, and their environs.

~~Such commission may also be designated and referred to as the "City Zoning Commission." The present City Zoning Commission of the Town of Addison may continue to serve, (or, may be specially designated by the City Council, as the City Planning Commission or City Planning and Zoning Commission, and shall, in such event, thereafter serve under such new title.~~

Discussion:

In Addison, Planning and Zoning is handled by one body, referred to as the Planning and Zoning Commission. Therefore, references to a separate Planning Commission and Zoning Commission are not necessary. The Charter Review Commission recommends removing references to the separate bodies and instead use the term “Planning and Zoning Commission.”

Proposition Number 15

Shall the Charter of the Town of Addison, Texas, be amended to remove outdated forms of petitions and simply require that all petitions conform with the requirements of state law?

Discussion:

Currently Section 8.03 – Nominations, Section 9.03. – Form of initiative and referendum petition, and Section 10.03. – Form of recall petition, all include specific language required for petitions related to either candidacy for office or ballot measures related to initiatives, referendums and recalls. These petitions are regulated by the Texas Election Code. Rather than prescribing specific language that does not follow the state approved petition, the Commission recommends removing the Charter’s petition requirements and instead require that petitions conform with state law.

Proposition Number 16

*Shall the Charter of the Town of Addison, Texas, be amended to require that persons who sign a petition for candidacy for office or a ballot measure must include **either** their date of birth or voter registration number as required by the Texas Election Code?*

Discussion:

The Texas Election Code requires signers of a petition to provide either their date of birth or voter registration number in order to assist government officials in verifying that the signatures on the petition are valid. The Commission recommends amending the various sections of the Charter that address the petitions to mirror the Texas Election Code’s requirement that signers must provide either their date of birth or voter registration number. This would apply to Section 8.03 – Nominations, Section 9.01. – Initiative, Section 9.05. – Referendum, and Section 10.02. – Petitions for recall.

Proposition Number 17

Shall Section 8.03 “Nominations” of the Charter of the Town of Addison, Texas, be amended to provide that an individual may become a candidate for Mayor or City Council by petition only and remove the option for self-nomination?

Redline to Current Charter:

Propositions 17, 18 and 19 are related. See Proposition 19 for the redline of the proposed amendments to Section 8.03

Discussion:

The Commission held lengthy discussions about the process by which a person can become a candidate for the City Council. The Commission discussed the current process by which a person can place their own name in nomination as a candidate, as well as the options for a petition requirement or a filing fee in lieu of a petition. The Commission expressed concern that a person can currently become a candidate for office with no commitment to running. As a result of these discussions, the Commission recommends that the Charter be amended to remove the option for a person to nominate themselves as a candidate and instead require a petition signed by registered voters. The Commission believes that this will eliminate non-serious candidates who have no commitment to the process but could potentially cause the Town to incur the expense of an election.. Further recommendations related to the petition requirement are made in propositions 18 and 19.

Proposition Number 18

Shall Section 8.03 “Nominations” of the Charter of the Town of Addison, Texas, be amended to increase to 25, the minimum number of signatures for a petition to place a candidate in nomination for a City Council office in accordance with state law?

Redline to Current Charter:

Propositions 17, 18 and 19 are related. See Proposition 19 for the redline of the proposed amendments to Section 8.03

Discussion:

Currently, the Charter states that, in addition to the option for self-nomination (recommended to be removed in Proposition 17), a candidate may be nominated through a petition signed by 10-15 qualified voters. The Texas Election Code regulates petition requirements for local elections, and states that the nominating petition must be signed by the greater of 25 registered voters or the number equal to .5% of the total number of votes cast in the most recent mayoral election. As a practical matter, the requirement will be 25 signatures for the foreseeable future. The Commission recommends amending the Charter to replace the current 10 signature minimum with 25 in order to comply with state law.

Proposition Number 19

Shall Section 8.03 “Nominations” of the Charter of the Town of Addison, Texas, be amended to increase to 50, the maximum number of signatures for a petition to place a candidate in nomination for a City Council office?

Redline to Current Charter:

Section 8.03. - Nominations.

Any person having the qualifications required by this Charter and State law may ~~place his own name in nomination as candidate for Mayor or Councilman by filing with the City Secretary, or may~~ be placed in nomination by a petition signed by at least ~~ten (10)~~twenty-five (25), or not more than ~~fifteen (15) qualified~~fifty (50) registered voters, who shall be designated as his sponsors. No voter shall sign more than one petition, and should a voter do so, his signature shall be void except as to the petition first ~~filed~~signed. With each signature shall be stated the place of residence of the signer, giving the street, number or other description sufficient to identify it: and the signer's date of birth or voter registration number.

Persons who desire to be candidates, or petitioners placing a name in nomination, must file with the City Secretary not earlier than ninety (90) days nor later than thirty (30) days before the election.

Acknowledgment of nomination by each nominee will be in writing and will be accepted by the City Secretary or other persons authorized to administer oaths under the laws of the State of Texas.

Any person whose se name ~~has placed his own name in nomination or~~ has been placed in nomination ~~by petition~~ shall take ~~the following oath:~~ an oath as prescribed by the Texas Election Code, as amended.

~~"I do hereby declare that I accept the nomination for the Council and agree to serve if elected. I am _____ years of age, a qualified voter of the Town of Addison, a resident of the State of Texas for at least one year and of the Town of Addison or an area now within the corporate limits of the Town of Addison for at least one year. I am not in arrears in the payment of any taxes or other liability due the Town. At the present time, I reside at _____ Street in the Town of Addison."~~

Signature of candidate _____

Date and hour of filing _____

Received by: _____

(Signature of City Secretary)

The petition placing a person in nomination shall be in ~~the following~~a form:

~~"We, the undersigned voters of the Town of Addison, hereby nominate and sponsor _____, whose residence is _____, for the office of _____, to be voted for at the election to be held on the _____ day of _____, 20____, and we individually certify that we are qualified to vote for a candidate for Mayor or Councilman and that during the current election we have not signed any other nominating petition for that office."~~

Name _____ Street and number _____

_____ Address from which last registered (if different) _____

_____ Date of signing _____

~~These above statements will contain the following notarization:~~

~~["]State of Texas~~

~~County of Dallas~~

~~Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and who acknowledged to me that the same was subscribed satisfying the requirements set forth in the Texas Election Code, as his free act and deed for the purposes and consideration therein expressed.~~

~~Given under my hand and seal of office this the _____ day of _____ 20____."amended. [Also see Propositions 17 and 18]~~

Discussion:

Currently, the Charter states that, in addition to the option for self-nomination (recommended to be removed in Proposition 17), a candidate may be nominated through a petition signed by 10-15 qualified voters. As discussed in Proposition 18, the minimum number of signatures is 25 per the Texas Election Code. State law also states that a person may only sign one petition for mayoral candidate and a petition for one Council candidate, even though they can vote for up to three Council candidates in each election. To ensure that eligible signatories are available to all candidates, the Commissions recommends establishing a cap of 50 signatures per candidates.

Proposition Number 20

Shall Section 8.06 "Conducting and canvassing elections" of the Charter of the Town of Addison, Texas, be amended to clarify that the first meeting of the City Council following a municipal election shall be the meeting to canvass the election and declare the results as provided by state law?

Red-Line to Current Charter

Section 8.06. – Conducting and canvassing elections.

Returns of all municipal elections, ~~both general and special~~, shall be made by the election officers to the Council at the ~~next regular~~ first City Council meeting after following the election, ~~at~~ which ~~time the Council~~ shall be the meeting to canvass the votes, election and declare the results of such election; in accordance with notification of election to candidate elected state law.

Discussion:

The Commission recommends that this section be amended to add clarity to the process and timeline for canvassing elections and so that the language follows state law and works in

conjunction with the changes proposed by Proposition 8 to Section 2.17. – Induction of Council into office.

Proposition Number 21

Shall Section 11.15 “Publicity of records” of the Charter of the Town of Addison, Texas, be deleted because the availability of records to the public is already governed by the Texas Public Information Act?

Discussion:

As part of the Commission’s review of the Charter, the Commission noted that several sections dealt with specific situations present at the time the Charter was originally adopted or now had State laws that supersede the local Charter provision. Section 11.15 addresses making certain records available to the public. The publicity of records is regulated by the Texas Public Information Act. Since this is addressed by state law, the Commission believes that this section is no longer necessary and recommends that it be removed from the Charter.

Proposition Number 22

Shall Section 11.23 “Rearrangement and numbering” of the Charter of the Town of Addison, Texas, be renamed to “Non-substantive changes” and amended to provide ongoing authority for the city council, by ordinance, to make non-substantive changes for clarity, change terms of gender to gender-neutral terms and remove Section 11.18 “Gender clause?”

Redline to Current Charter:

Section 11.23. —~~Rearrangement and renumbering~~ Non-substantive changes.

The City Council shall have the power, by ordinance to:

- (a) renumber and rearrange all articles, sections, and paragraphs of the Charter, or any amendments thereto, as it shall deem appropriate; but without changing the meaning or effect or any part hereof; ~~and, upon the passage of any such Ordinance, a copy thereof, certified by the City Secretary, shall be forwarded to the Secretary of State.~~
- (b) ~~The City Council shall also have the authority to~~ change references to state law included in this charter to reflect a recodification or renumbering of such laws by the Texas legislature, but without changing the meaning or effect of any part hereof;
- (c) make non-substantive changes as needed for clarity; and
- (d) change words of ~~any~~ gender ~~used herein~~ to gender-neutral terms.

Upon the passage of any ordinance authorized by this section, a copy thereof, certified by the City Secretary, shall be held and construed to include any other gender, and forwarded to the Secretary of State.

Words of a singular number shall be held to include the plural and vice-versa, unless the context requires otherwise.

Discussion:

The Commission recommends that this section of the Charter be amended to allow for two things. First, that the City Council be empowered to make non-substantive changes related to reorganizing and clarifying the Charter on an ongoing basis by ordinance rather than having to ask the voters permission in the future. Second, to replace gender specific terms such as “Councilmen,” “his,” or “him” with gender neutral terms such as “Council Member,” “them” or “their.” Should this proposition pass and these changes be made, Section 11.18, which addresses the interpretation of gender specific terms, can be removed as it would no longer be necessary.

Proposition Number 23

Shall Section 11.24 “Town depository” of the Charter of the Town of Addison, Texas, be deleted because the selection and designation of a depository for the Town is exclusively governed by state law?

Discussion:

Chapter 105 of the Texas Local Government Code establishes the rules and procedures for selecting a depository bank and has specific rules for the handling of municipal funds by the depository. Since this is already addressed by state law, the Commission recommends that this section be removed from the Charter.

Proposition Number 24

Shall Section 11.26 “Disaster clause” of the Charter of the Town of Addison, Texas, be amended to remove the references to the “local Chamber of Commerce” and “Board of Trustees of the local school district” and instead direct that the Dallas County Judge appoint a commission, which shall include all surviving members of the City Council, in the event of a disaster when a quorum of the City Council cannot be assembled because of death or injury?

Redline to Current Charter:

Section 11.26. – Disaster Clause.

In case of disaster when a legal quorum of ~~the elected Councilmen~~City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving ~~member or members~~persons of the ~~elected~~City Council, or highest surviving ~~Town~~City official, if no elected official remains, must within twenty-four (24) hours of such disaster, request the ~~highest surviving officers of the local Chamber of Commerce and the Board of Trustees of the local school district, and the~~ County Judge of Dallas County to appoint a five member commission ~~to act during, which shall include all surviving elected City officials, to govern the City, respond to the~~ emergency and ~~call a Town election~~ within fifteen (15) days of such disaster call a

City election to be held as soon as practicable, or as provided in the Texas Election Code, for election of a required quorum, if for good reasons it is known that a quorum of the present City Council will never again meet.

Discussion:

The current language in the Charter is typical of early charters. The Commission recommends that references to the Chamber of Commerce and School District be removed and the power to appoint an emergency commission rest with the County Judge. This would simplify the process of appointing a commission in the event of a disaster.

Proposition Number 25

Shall Section 11.27 “When provisions take effect” on the Charter of the Town of Addison, Texas, be deleted because it only applied to the initial Home Rule Charter election in 1979 and is now unnecessary?

Discussion:

This section was required when the Charter was originally adopted in 1979 to address when the provisions of the original Charter would take effect. This section is no longer necessary, and the Commission recommends that it be removed in order to clean up the document.

Proposition Number 26

Shall Section 11.30 “Ordinance, rules and regulations validated” of the Charter of the Town of Addison, Texas, be deleted because it only applied to the initial Home Rule Charter election in 1979 and is now unnecessary?

Discussion:

This section was required when the charter was originally adopted in 1979 to address how ordinances, resolutions and other regulations passed by the City Council prior to the adoption of the Charter should be considered. This section is no longer needed, and the Commission recommends that it be removed in order to clean up the document.

COUNCIL INITIATED DISCUSSION ITEMS NOT RECOMMENDED FOR CHANGES

Reporting Structure of the City Secretary

Section 4.06. "City Secretary" currently states that the City Council shall have the authority to appoint and remove the City Secretary. The City Council has passed a resolution indicating that the City Manager is responsible for the day-to-day management of the City Secretary position. Some on Council suggested that the position be moved completely under the purview of the City Manager and requested that the Commission investigate and make a recommendation on this issue.

Discussion:

Staff provided the results of a state-wide survey regarding how other cities select the City Secretary. The results were as follows:

- By City Manager – 25%
- By City Manager with City Council Approval – 20%
- By City Council – 33%
- By City Council on recommendation of the City Manager – 11%
- By Mayor with City Council approval – 6%
- Other – 2%

Based on this data, there is no consistent approach to how cities address the reporting structure for the City Secretary. The Commission recommends that the City Council retain some level of control over the position and make no changes to the current Charter language.

Length of Council Terms

Section 8.04 “Number, selection, and terms of Council” currently states that the Mayor and other members of the City Council shall be elected to two-year terms. Council Members requested that the Commission discuss whether the length of term should be extended to either three- or four-year terms.

Discussion:

There are several benefits to extended term lengths. The primary benefit is that it allows more time for individuals to learn and then govern in between political cycles. It can also increase stability on Council.

During the Commission’s deliberations it was informed by the City Attorney that instituting term lengths greater than two years would require the following based on the Texas Constitution:

- A majority vote to elect each Council Member, which means:
 - The uses of “places” rather than one election for all open seats
 - The potential of runoff elections
- Special Elections to fill vacancies

Addison’s current electoral system is considered a plurality election system. Under such a system, the candidates for Council Member run to get the most votes. The top vote earners equal to the number of vacancies win seats on the City Council without regard to the issue of a majority. Extending term lengths would require that the current system be replaced with places where candidates would apply to run for a specific place. A place system could promote a more contentious political dynamic in the community as candidates would be running specifically against each other. The Commission was also concerned with the added dynamic of runoff elections, which would delay seating the full Council until later in the year, interfering with important discussions regarding strategic planning and budgeting.

After reviewing the pros and cons of extending term lengths, the Commission recommends not changing the Charter and leaving the term lengths at two years.

APPENDIX A:
COMPLETE REDLINE OF CURRENT CHARTER WITH PROPOSED
CHANGES

PART I - CHARTER~~4411~~

Footnotes:

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Editor's note— Printed herein is the Charter of the Town of Addison, Texas, as adopted by the voters on August 12, 1978. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets. As Charter amendments altered the name of the municipality from city of Addison to Town of Addison, and at the instructions of the town, "City of Addison" has been changed to "Town of Addison" and "town hall" is substituted for "city hall."

State Law reference— Authority for adoption and amendment of the Charter, Texas Const., Art. XI, § 5.

ARTICLE I. - INCORPORATION—FORM OF GOVERNMENT—POWERS

Section 1.01. - Incorporation.

The inhabitants of the Town of Addison, Texas within the corporate limits as now established or as hereafter established in the manner provided by law and by this Charter, shall continue to be a municipal body politic and incorporate in perpetuity, under the name of the "Town of Addison."

(Ord. No. 775, § 1, Prop. 1, 2-23-1982, election 4-3-1982)

Section 1.02. - Boundaries.

The boundaries and limits of the Town of Addison shall, until changed in the manner herein provided, be the same as have heretofore been established and as exist on the date of the adoption of this Charter and such boundaries are on file with the City Secretary.

Section 1.03. - Form of government.

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, by the statutory laws of Texas, and by this Charter, all powers of the town shall be vested in an elective Council, hereafter referred to as the "Council," which shall enact local legislation, adopt budgets, determine policies, appoint the Judge of the Municipal Court, and appoint the City Manager, who shall execute the laws and administer the government of the Town. All powers of the Town shall be exercised in the manner prescribed, or if the manner be not prescribed, then in such manner as may be prescribed by Ordinance.

(Ord. No. 088-032, § 1, Prop. 1, 7-12-1988, election 8-13-1988)

Editor's note— The municipal court no longer exists, having been replaced by a municipal court of record. See V.T.C.A., Government Code § 30.00971 et seq.

Section 1.04. - Annexation and disannexation.

The Town may from time to time alter its boundaries by annexing any territory adjoining its present or future boundaries in any size or shape desired in any manner provided by state law. In addition thereto, the Town may annex additional territory lying adjacent to the Town with or without the consent of the territory and the inhabitants of the territory annexed where the same is not inconsistent with state law. Such annexations shall be accomplished by Ordinance providing for the alteration and extension of the boundary limits, which Ordinance shall describe the territory to be annexed and shall be published one time in the official newspaper. Amendments reducing the area may be incorporated into the proposed Ordinance without the necessity of publishing said amendments and without the necessity of republication of said Ordinance as amended. The proposed Ordinance shall not thereafter be finally acted upon until at least thirty (30) days have elapsed after the publication thereof, and upon the final passage of any such Ordinance, the boundaries of the Town shall thereafter be as fixed in such Ordinance. The additional

territory annexed shall be a part of the Town and the property situated therein shall bear its pro rata part of the taxes levied by the Town as provided by state law. The inhabitants thereof shall be entitled to all the rights and privileges of all the citizens and shall be bound by the Acts, Ordinances and Resolutions of the Town.

State Law reference— Annexation, V.T.C.A., Local Government Code ch. 43.

Section 1.05. - Powers.

The Town of Addison may exercise all powers that now are or hereafter may be granted to municipalities by the Constitution or the laws of the State of Texas. All such powers, whether expressed or implied[,] shall be exercised and enforced in the manner prescribed by this Charter, and when not prescribed herein, in such manner as may be provided by Ordinance or Resolution of the Council of the Town of Addison.

The enumeration of particular powers in this Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the Town may have and shall exercise all other powers which, under the Constitution of the State of Texas, it would be competent for the Charter specifically to enumerate. The Town of Addison shall have and exercise all the powers conferred upon cities by what is known as the Home Rule Amendment to the Constitution of the State of Texas and the enabling act relative thereto, passed by the Thirty-third Legislature of the State of Texas, found in the published laws of said legislature, regular session, pages 307 to 317, and effective July 7, 1913, and all other laws passed by the legislature of the State of Texas, relating thereto, or which may hereinafter [hereafter] be passed by said legislature in relation to such matters.

The Town of Addison may acquire property within or without its corporate limits for any municipal purpose; may cooperate with the government of Texas or any agency thereof, or with the federal government or any agency thereof, or with the government of any County, City, or political subdivision to accomplish any lawful purpose for the advancement of the health, morals, safety, convenience, or welfare of the Town of Addison or its inhabitants, may sell, lease, mortgage, hold, manage and control such property as its interest may require provided the Town shall not sell, convey, lease, mortgage, or otherwise alienate any public utility without prior approval of the **qualifiedregistered** voters of the Town; may exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or the Constitution or laws of the State of Texas; and may lay out, establish, open, alter, widen, lower, extend, grade, abandon, close, care for, dispose of, abolish, discontinue, 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 all fruit stands, show cases and encroachments of every nature or character upon any of said streets, sidewalks, or other public property.

State Law reference— City charters authorized, Texas Const., Art. XI, § 5.

ARTICLE II. - THE COUNCIL

Section 2.01. - Number.

The legislative and governing body of the Town shall be a City Council which shall be composed of a mayor and six (6) council members. When used in this Charter, the term "Council" shall mean the City Council, and the phrase "member of the Council" and the phrase "member of the City Council" shall mean and include the Mayor or any council member.

(Ord. No. 088-032, § 1, Prop. 2, 7-12-1988, election 8-13-1988; Ord. No. 092-073, 11-24-1992, election 1-16-1993; Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

Section 2.02. - Qualifications.

The members of the City Council shall be **qualifiedregistered** voters of the Town of Addison who have been residents of the Town for at least twelve months immediately preceding election day and who shall

never have been finally convicted of a felony offense or any offense involving moral turpitude from which the person has not been pardoned or otherwise released from the resulting disabilities.

(Ord. No. 088-032, § 1, Prop. 2, 7-12-1988, election 8-13-1988; Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

Section 2.03. - Removal from office; Council to be judge of qualifications of its members.

A member of the Council may be removed from office, in accordance with the procedures set forth in this Charter, if he:

- (1) Lacks at any time during his term of office any qualifications for the office prescribed by this Charter or by law;
- (2) Commits any act of official misconduct including but not limited to:
 - a. wilfully violating any express prohibition of this Charter,
 - b. failing to discharge the member's official duties as set out in this Charter, or
 - c. committing acts in the member's official capacity which the member had no authority to commit;
- (3) Is incompetent;
- (4) Is convicted of a felony offense or any offense involving moral turpitude;
- (5) Fails to attend four (4) consecutive regular meetings of the Council without first being excused by the Council.

The Council shall be the judge of the election and qualifications of its members. If a member of the Council is charged with a ground for removal, a hearing shall be set not less than ten (10) days nor more than thirty (30) days from the date on which the written charges are presented. At such hearing, the accused shall have the right to present evidence in his defense, but he shall be disqualified from voting as to his or her innocence or guilt. At the conclusion of the evidence, a vote shall be taken, and upon the affirmative vote of a majority of the members of the Council plus one additional affirmative vote, the accused member shall be removed from office and his seat declared vacant. The Council shall have the power to subpoena witnesses and require the production of records, but the decision of the Council in the exercise of such power shall be subject to review by the courts.

(Ord. No. 092-073, 11-24-1992, election 1-16-1993)

Section 2.04. - Compensation.

Compensation of members of the City Council shall be determined by the Council by ordinance, but no increase in such compensation shall take effect until commencement of the terms of Mayor and/or Council members elected at the next regular election. Members of the City Council shall also be entitled to reimbursement for actual expenses incurred in the performance of official duties, ~~with the approval of the City Council at a public meeting.~~

(Ord. No. 088-032, § 1, Prop. 2, 7-12-1988, election 8-13-1988)

Section 2.05. - Vacancies in Council.

A single vacancy in the Council shall be filled by a majority vote of the remaining members of the Council within thirty (30) days of the vacancy at a meeting subsequent to the date on which the vacancy occurs. The person selected shall not be one of the remaining members of the Council and once chosen, he shall serve until the next general town election shall be held to fill the unexpired term or regular term, as the case may be. Provided, however, that since any vacancy which occurs within forty-five (45) days prior to a general Town election does not allow time for candidates to file for such a vacated Council position, the appointment to fill such a vacancy shall be made within thirty (30) days after the election and not before

the election. When two (2) or more vacancies exist, a special election shall be held to elect successors to fill the vacated unexpired terms, provided that if such vacancies occur within ninety (90) days prior to a regular Town election, then such successors shall be elected at such regular Town election. When two (2) or more vacancies occur within forty-five (45) days prior to such regular Town election and there is insufficient time for candidates to file for the vacated Council positions, a special election shall be held as soon as possible after the regular general Town election.

(Ord. No. 088-032, § 1, Prop. 2, 7-12-1988, election 8-13-1988)

Section 2.06. - Mayor.

The Mayor shall preside at meetings of the Council, shall be recognized as head of the Town government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties. The Mayor may participate in the discussion of and shall be entitled to vote on all matters coming before the Council. A vacancy in the office of Mayor shall be filled by the Council members in the same manner as provided in Section 2.05 except that one of the Council members may be selected as Mayor.

(Ord. No. 088-032, § 1, Prop. 1, 7-12-1988, election 8-13-1988; Ord. No. 092-073, 11-24-1992, election 1-16-1993; Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

Section 2.07. - Mayor pro tempore.

The Council shall elect from among the Council members a (i) Mayor Pro Tempore who shall perform the duties of Mayor in case of the absence or disability of the Mayor, and (ii) a Deputy Mayor Pro Tempore who shall serve as Mayor Pro Tempore in the absence or disability of the Mayor Pro Tempore. In case of the absence or disability of the Mayor, the Mayor Pro Tempore and the Deputy Mayor Pro Tempore, the remaining members of the Council shall elect one of their members to act as Mayor temporarily during such absence or disability.

(Ord. No. 092-073, 11-24-1992, election 1-16-1993)

Section 2.08. - Powers of the City Council.

All powers of the Town and the determination of all matters of policy shall be vested in the City Council. Without limitation of the foregoing and among the other powers that may be exercised by the City Council, the following are hereby enumerated for greater certainty:

- a. Appoint and remove the City Manager as hereinafter provided;
- b. Reserved;
- c. Adopt the budget of the Town;
- d. —Authorize the issuance and sale of bonds, by a Bond Ordinance;
- e. —Collectively inquire into the conduct of any office, department or agency of the Town and make investigations as to Municipal affairs;
- f. Appoint ~~the~~ members of the Planning and Zoning Commission; and Board of Zoning Adjustment who shall be residents and registered voters of the Town. No one may serve concurrently on both boards;
- g. Provide for such additional boards and commissions, not otherwise provided for in this Charter, as may be deemed necessary, and appoint the members of all such boards and commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by Town Ordinance or by law;
- h. Adopt and modify the zoning plan and the building code of the Town;
- i. Adopt and modify the official map of the Town;

- j. Adopt, modify and carry out plans proposed by the Planning and Zoning Commission for the replanning, improvement and redevelopment of any area or district which may have been destroyed in whole or in part by disaster;
- k. Adopt, modify and carry out plans proposed by the Planning and Zoning Commission for the clearance of slum districts and rehabilitation of blighted areas;
- l. Regulate the speed of engines, locomotives or other power-driven equipment operating upon tracks, rail, or defined routes, either at ground level, overhead or underground within the limits of the Town, and to regulate the operation of the same so as to prohibit the blocking of intersections, streets, alleys, avenues or impeding the free flow of vehicular traffic or pedestrians;
- m. Regulate, license and fix the charges or fares by any person, firm or corporation owning, operating or controlling any vehicle or [of] any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the Town;
- n. Provide for the establishment of districts and limits, except as otherwise provided hereinafter; within the Town, where the sale of spirituous, vinous and malt liquors may be located and maintained; and to prohibit the sale of such liquors or the locations of such businesses without such defined districts or limits;
- o. Provide for the establishment and designation of fire limits and prescribe the kind and character of buildings or structures or improvements to be erected therein, and provide for the erection of fireproof buildings within said limits, and provide for the condemnation of dangerous structures or buildings or dilapidated buildings, or buildings calculated to increase the fire hazard and prescribe the manner of their removal or destruction within said limits;
- p. Provide for a sanitary sewer and water system, and require property owners to connect their premises with sewer system, and provide for penalties for failure to make sanitary sewer connections;
- q. Provide for sanitary garbage disposal, and set fees and charges therefor, and provide penalties [for failure] to pay such fees and charges. To define nuisances; and, to prohibit same; and provide penalties for violations;
- r. Provide for all necessary public utilities and set fees and charges therefore [therefor] and provide penalties for misuses of same;
- s. Exercise exclusive dominion, control and jurisdiction, (including the right to close and abandon streets and alleys), in and upon, over and under, the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the Town; and, provide for the improvement of same, as provided in V.T.C.A., Transportation Code ch. 313, as now, or hereafter amended;
- t. Compromise and settle any and all claims, demands, and lawsuits, of every kind and character, in favor of, or against, the Town of Addison;
- u. To require bonds, both special and general, or all contractors and others constructing or building for the Town, and set up standards, rules, and regulations therefor;
- v. To pass Ordinances defining and prohibiting misdemeanors and vagrancy; and, provide penalties for violations;
- w. To provide and/or arrange for any and all "Civil Defense Measures," and "Public Shelter Measures" for the Town of Addison, Texas, and for the citizens thereof, deemed necessary for the Public Welfare;
- x. To exercise, or delegate to the Mayor, extraordinary and total Executive powers, (on a temporary basis), during the existence and duration of any major public disaster, for the Public Welfare;
- y. Appoint ~~Judge~~Judges of Municipal Court;

Editor's note— The municipal court no longer exists, having been replaced by a municipal court of record. See V.T.C.A., Government Code § 30.00971 et seq.

z. Provide for an independent audit.

(Ord. No. 088-032, § 1, Prop. 2, 7-12-1988, election 8-13-1988)

Section 2.09. - Interference in administrative matters.

Except as herein provided in this Charter, the Council shall deal with the administrative departments and personnel solely through the City Manager, and no member of the Council shall give directives to any subordinate of the City Manager, either publicly or privately. Neither the Council nor any member of the Council, nor any committees of the Council, shall require or attempt to require the appointment of any person to, or his removal from, office or employment by the City Manager or any of his subordinates, or in any manner interfere in the appointment of officers and employees in the department of administrative service vested in the Manager by this Charter.

(Ord. No. 088-032, § 1, Prop. 1, 7-12-1988, election 8-13-1988; Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

Section 2.10. - Meetings of the City Council.

The City Council shall hold at least one or more regular meeting in each month at a time to be fixed by it for such regular meetings, and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the Town and its citizens. Except as allowed by state law, all meetings of the City Council shall be open to the public and shall be held and notice given in accordance with applicable provisions of State law. Meetings shall be held at the Town Hall, except that the City Council may designate another place for such meetings and shall take such action as is reasonable and necessary to accommodate the public. Special meetings of the Council may be called by the Mayor or ~~four (4)~~three (3) Council members or the City Manager, giving written notice of such meetings to the City Secretary, who shall notify each member of the Council and the City Manager of the time and place of each meeting and the purpose for which it was called.

(Ord. No. 088-032, § 1, Prop. 2, 7-12-1988, election 8-13-1988; Ord. No. 092-073, 11-24-1992, election 1-16-1993)

State Law reference— Open meetings and notices thereof, V.T.C.A., Government Code ch. 551.

Section 2.11. - Rules of procedure.

The City Council shall determine its own rules of procedure and may compel the attendance of its members. Five (5) members of the City Council shall constitute a quorum to do business, and, except as otherwise provided for herein, any Ordinance, Resolution, or other action shall require at least four (4) affirmative votes to be adopted or passed. Minutes of the proceedings of all meetings of the City Council shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one of the archives of the Town. The vote upon the passage of all Ordinances and Resolutions shall be taken by the "ayes" and "nays" and entered upon the minutes, and every passage, shall be recorded in a book kept for that purpose under full caption, and shall be authenticated by the signature of the presiding officer and the person performing the duties of the City Secretary.

(Ord. No. 088-032, § 1, 7-12-1988, election 7-12-1988; Ord. No. 092-072, 11-24-1992, election 1-16-1993)

Section 2.12. - Procedure for passage of ordinances.

- a. The City Council shall legislate by ordinance, and the enacting clause of every ordinance shall be, "Be it Ordained by the City Council of the Town of Addison, Texas:". Every ordinance enacted by the Council shall be signed by the mayor, or in his absence or disability, the mayor pro tempore or by at least three (3) councilmen, and the authenticity of such signature shall be attested by the city secretary. The approval signature of the mayor shall not be necessary to make an ordinance or resolution valid.
- b. Except as otherwise provided by law or this Charter, the City Secretary shall give notice of the enactment of every Ordinance imposing any penalty, fine or forfeiture for any violation of any of its provisions, and of every other Ordinance required by law or this Charter to be published, by causing of the said Ordinance, or its caption and penalty, to be published at least one time within ten (10) days after final passage thereof in the official newspaper of the Town. The affidavit of such publication by the publisher of such newspaper taken before any officer authorized to administer oaths and filed with the City Secretary, shall be conclusive proof of the legal publication and promulgation of such Ordinance, in all Courts. Such Ordinance shall take effect ten (10) days after the date of such publication, provided that any penal Ordinance passed as an emergency measure under the preceding paragraph of this Article shall take effect immediately on its publication.

Every Ordinance shall be authenticated by the signature of the Mayor and the City Secretary, and shall be systematically recorded and indexed in an Ordinance Book in a manner approved by the Council.

- c. The City Council shall have power to cause the Ordinances of the Town 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.

(Ord. No. 775, § 1, Prop. 1, 2-23-1982, election 4-3-1982)

Section 2.13. - Official bonds for town employees.

The City Manager and the City Secretary and such other Town officers and employees as the City Council may require, shall, before entering upon the duties of their offices, enter into a good and sufficient fidelity bond in a sum to be determined by the City Council payable to the Town of Addison, and conditioned upon the faithful discharge of the duties of such persons, and upon the faithful accounting for all monies, credits, and things of value coming into the hands of such persons, and such bonds shall be signed as surety by some company authorized to do business under the laws of the State of Texas; and, the premium of such bonds must be acceptable to the City Council.

Section 2.14. - Investigation by the City Council.

The City Council shall have power to inquire into the conduct of any office, department, agency, officer or employee of the Town and 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 a fine not to exceed two hundred dollars (\$200.00).

Section 2.15. - Independent annual audit.

Prior to the end of each fiscal year the Council shall designate qualified certified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the Town Government and shall submit their report to the Council. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the Town Government or of any of its officers. They shall not maintain any accounts or records of the Town business, but, within specifications approved by the Council, shall post-audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department or agency of the Town Government. A copy of such audit shall be kept in the office of the City Secretary subject to inspection by any citizen and officer during regular office hours.

State Law reference— Audits, V.T.C.A., Local Government Code ch. 103.

Section 2.16. - Reserved.

Editor's note— The provisions of former § 2.16, municipal judge, were deleted pursuant to amendments of Ord. No. 092-073, adopted Nov. 24, 1992, which amendments were approved at an election on Jan. 16, 1993. The deleted provisions derived from the Charter as adopted Aug. 12, 1978, amended by Ord. No. 775, § 1, Prop. 3, adopted Feb. 23, 1982, approved at an election April 3, 1982.

Section 2.17. - Induction of Council into office.

The first meeting of ~~each newly elected~~the City Council, ~~following an election for induction into office~~one or more council offices, shall be the ~~next regular meeting following its election to canvass the results of the election in accordance with state law~~. At such meeting, the first order of business shall be the canvassing of returns, declaring the results and the ~~swearing in~~seating of such newly elected members of the Council ~~following their oath of office~~.

(Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

Section 2.18. - Reserved.

Editor's note— The provisions of former § 2.18 were deleted pursuant to the results of an election held Jan. 16, 1993, which adopted amendments enacted by Ord. No. 092-073, adopted Nov. 24, 1992. The deleted provisions pertained to the Council judging the qualifications of its members and derived from the Charter adopted Aug. 12, 1978.

ARTICLE III. - CITY MANAGER

Section 3.01. - Appointment and qualifications.

The City Manager shall be chosen by a vote of at least four (4) members of the Council. The selection of the City Manager shall be made on the basis of his character, executive and administrative training, experience and ability, and without regard to political consideration. No member of the City Council shall, during the time for which he is elected and for two (2) years thereafter, be appointed City Manager.

(Ord. No. 092-072, 11-24-1992, election 1-16-1993)

Section 3.02. - Term and salary.

The City Manager shall not be appointed for a definite term and may be removed at the will and pleasure of the City Council by a vote of at least four (4) members of the Council. The motion of the City 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 of such suspension or removal in the Council. The City Manager shall receive compensation as may be fixed by the Council.

(Ord. No. 088-032, § 1, Prop. 1, 7-12-1988, election 8-13-1988; Ord. No. 092-072, 11-24-1992, election 1-16-1993)

Section 3.03. - Powers and duties.

The City Manager shall have the power to:

- (a) Appoint, suspend, and remove all town employees and appointive administrative officials provided for in this Charter, except as otherwise provided by law or this Charter.
- (b) Direct and supervise the administration of all departments, offices and agencies of the town, except as otherwise provided by law or this Charter.
- (c) See that all state laws and Town Ordinances are effectively enforced.
- (d) Attend all City Council meetings, with the right to take part in discussion, but not to vote.
- (e) Prepare and accept items for inclusion in the official agenda of all City Council meetings and meetings of boards and commissions.
- (f) Prepare and recommend to the City Council the annual budget and capital program, and administer the budget as adopted by the City Council.
- (g) Keep the City Council fully advised as to the financial condition of the Town, and make such recommendations concerning the affairs of the Town as the City Council deems desirable or necessary.
- (h) Make reports as the City Council may require concerning the operations of town departments, offices, or agencies subject to the Manager's direction or supervision.
- (i) Perform such other duties as are specified in this Charter or may be required by the City Council, and are consistent with this Charter, or state or federal law.

(Ord. No. 088-032, § 1, Prop. 1, 7-12-1988, election 8-13-1988)

Section 3.04. - Absence of City Manager.

To perform his duties during his temporary absence or disability, the City Manager may designate by letter filed with the City Secretary a qualified administrative officer of the Town. In the event of failure of the City Manager to make such designation, the Council may by Resolution appoint an officer of the Town to perform the duties of the City Manager until he shall return or his disability shall cease.

ARTICLE IV. - ADMINISTRATIVE DEPARTMENTS

Section 4.01. - General provisions.

- (a) The Council may establish town departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other department, office or agency.
- (b) All departments, offices and agencies under the direction and supervision of the City Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Manager. With the consent of the Council, the Manager may serve as the head of two or more of them.
- (c) Consistent with applicable federal and state laws, the City Council shall provide by Ordinance for the establishment, regulation and maintenance of a merit system, governing personnel policies, grievances, and other procedures and practices necessary to effective administration of the employees of the Town of Addison.

(Ord. No. 088-032, § 1, Prop. 1, 7-12-1988, election 8-13-1988)

Section 4.02. - Reserved.

Editor's note— Section 4.02, relative to the fire department, has been deleted pursuant to Ord. No. 088-032, § 1, Prop. 3, adopted July 12, 1988, approved at an election Aug. 13, 1988.

Section 4.03. - Reserved.

Editor's note— Section 4.03, relative to the department of public works, has been deleted pursuant to Ord. No. 775, § 1, Prop. 4, adopted Feb. 23, 1982, approved at an election of April 3, 1982.

Sections 4.04, 4.05. - Reserved.

Editor's note— Sections 4.04 and 4.05, relative to the finance department and the tax assessor-collector, have been deleted pursuant to Ord. No. 088-032, § 1, Prop. 3, adopted July 12, 1988, approved at an election of Aug. 13, 1988.

Section 4.06. - City Secretary.

The City Council shall appoint an officer of the Town, who shall have the title of City Secretary. The City Secretary shall give notice of the Council meetings, shall keep minutes of its proceedings, shall authenticate by his signature and record in full in a book kept for the purposes of all Ordinances and Resolution and shall perform such other duties as shall be required by this Charter or by the City Manager. He may be removed from office by the City Council. To perform the City Secretary's duties during his temporary absence and disability, the City Manager may appoint an assistant City Secretary until he shall return or his disability shall cease.

(Ord. No. 084-043, § 1, Prop. 2, 6-26-1984, election 8-11-1984; Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

Section 4.07. - Municipal Court.

- a. The city council may, by ordinance, create and provide for municipal courts to be known as municipal courts of the Town of Addison, as it may deem necessary, and may appoint one or more judges to serve each court. The municipal court shall have jurisdiction: (1) over all criminal cases arising under the ordinances of the town within the town limits and outside the town limits to the extent authorized by state law; (2) concurrent with the appropriate state court of all criminal cases arising under the laws of the state, where the offense is committed within the town limits of Addison and the penalty does not exceed that which is established for municipal courts by state law; (3) over the forfeiture and collection of bonds given in proceedings therein, and to order the forfeiture of cash acceptance bonds upon failure of the defendant to appear, and to accept the same in lieu of a fine; (4) over cases involving a license or permit granted by the town for any calling, occupation, business or vocation, and in addition to the punishment to be imposed therefor, the court may suspend or revoke the license or permit so granted; (5) enforce all process of the courts in accordance with state law and town ordinance, punish witnesses for failing to obey subpoenas, and compel their attendance by process of attachment; (6) punish for contempt, admit to bail, forfeit bonds under such circumstances as provided by county courts, or county courts exercising criminal jurisdiction only; (7) over all other matters and cases provided for by state law or town ordinance.
- b. Each of the municipal courts of the Town of Addison shall be presided over by a judge or judges, each of whom shall be designated as "municipal judge." Each judge shall be licensed to practice law in the State of Texas and a member in good standing of the State Bar of Texas. The municipal judges shall be appointed by the Council and may be removed by the Council at any time for incompetency, misconduct, malfeasance, or disability, after a public hearing before the Council. Municipal judges shall receive such salary as may be fixed by the Council.
- c. The City Manager shall appoint a Court Clerk of said court.
- d. The clerk of said court and his deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally do and perform any and all acts usual and necessary by the Clerk of Courts in issuing process of said Courts and conducting the business thereof.

- e. In case of the disability or absence of the Judge of the Municipal Court, the Council shall appoint a person to act in his place as an alternate judge.
- f. The Council may appoint alternate judges to act in the place of the Municipal Court Judge.
(Ord. No. 775, § 1, Props. 2, 3, 2-23-1982, election 4-3-1982; Ord. No. 092-072, 11-24-1992, election 1-16-1993)

Editor's note— The municipal court no longer exists, having been replaced by a municipal court of record. See V.T.C.A., Government Code § 30.00971 et seq.

Section 4.08. - City Attorney.

The City Council shall appoint a competent and duly qualified and licensed Attorney, practicing law in the State of Texas, who shall be the Attorney for the Town (and may also be referred to as City Attorney.) He shall receive for his services such compensation as may be fixed by the City Council and shall hold his office at the pleasure of the City Council. The Attorney for the Town, or such other attorneys selected by him, with the approval of the City Council, shall represent the Town in all litigation. He shall be the legal advisor of, and Attorney and Counsel for, the Town and all officers and departments thereof; provided, that the City Council may retain special counsel at any time they deem same appropriate and necessary.

Section 4.09. - Reserved.

Editor's note— Section 4.09, relative to the establishment of other departments, has been deleted pursuant to Ord. No. 088-032, § 1, Prop. 3, adopted July 12, 1988, approved at an election Aug. 13, 1988. Former § 4.09 was previously amended by Ord. No. 775, § 1, Prop. 4, adopted Feb. 23, 1982, approved at an election of April 3, 1982.

Sections 4.10, 4.11. - Reserved.

Editor's note— Section 4.10, relative to other departments, and § 4.11, relative to department heads, have been deleted pursuant to Ord. No. 775, § 1, Prop. 4, adopted Feb. 23, 1982, approved at an election of April 3, 1982.

ARTICLE V. - MUNICIPAL FINANCE⁽²⁾⁽²⁾

Footnotes:

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State Law reference— Municipal finance, V.T.C.A., Local Government Code ch. 101 et seq.

Section 5.01. - Fiscal year.

The fiscal year of the Town of Addison shall begin on October 1 of each calendar year and will end on September 30 of the following calendar year. The fiscal year will also be established as the accounting and budget year.

Section 5.02. - Preparation and submission of budget.

The City Manager, prior to August first of each year, shall prepare and submit the budget, covering the next fiscal year, to the Council, which shall contain the following information. In preparing this budget, each employee, officer, board and department shall assist the City Manager by furnishing all necessary information.

- a. The City Manager's budget message shall outline the proposed financial policies for the next fiscal year with explanations of any changes from previous years in expenditures and any major changes of policy and a complete statement regarding the financial condition of the Town.
- b. An estimate of all revenue from taxes and other sources, including the present tax structure rates and property evaluations for the ensuing year.

- c. A carefully itemized list of proposed expenses by office, department, agency, and project for the budget year, as compared to actual expenses of the last ended fiscal year, and the present year to date.
- d. A description of all outstanding bond indebtedness, showing amount, purchaser, date of issue, rate of interest, and maturity date, as well as any other indebtedness which the Town has incurred and which has not been paid.
- e. A statement proposing any capital expenditures deemed necessary for undertaking during the next budget year and recommended provision for financing.
- f. A list of capital projects which should be undertaken within the five (5) next succeeding years.

State Law reference— Preparation of municipal budget, V.T.C.A., Local Government Code ch. 102.

Section 5.03. - Budget a public record.

The budget and all supporting schedules shall be filed with the City Secretary when submitted to the Council and shall be open to public inspection by anyone interested.

Section 5.04. - Public hearing on budget.

At the council meeting at which time the budget is submitted, the council shall name the date and place of a public hearing and shall cause to be published in the official newspaper of the town the time and place, which will be not less than fifteen (15) days nor more than thirty (30) days after date of notice. At this hearing, interested citizens may express their opinions concerning items of expenditure, giving their reasons for wishing to increase or decrease any items of expense.

(Ord. No. 775, § 1, Prop. 5, 2-23-1982, election 4-3-1982)

Section 5.05. - Proceedings on adoption of budget.

After public hearing, the Council shall analyze the budget, making any additions or deletions which they feel appropriate, and shall, at least three (3) days prior to the beginning of the next fiscal year, adopt the budget by a favorable majority vote. If the Council fails to adopt the budget, the Town shall continue to operate under the existing budget until such time as the Council adopts a budget for the ensuing fiscal year.

(Ord. No. 088-032, § 1, Prop. 4, 7-12-1988, election of 8-13-1988)

Section 5.06. - Budget, appropriation and amount to be raised by taxation.

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the Council shall constitute the official appropriations as proposed expenditures for the current year and shall constitute the basis of the official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Estimated expenditures will in no case exceed proposed revenue plus cash on hand. Unused appropriations may be transferred to any item required for the same general purpose.

Section 5.07. - Unallocated reserve fund.

The City Manager may recommend for action by the Council, an unallocated reserve fund to be used for expected items of expense which were not contained as original items of expenditure.

Section 5.08. - Amendment and supplemental budgets.

Under conditions which may arise and which could not reasonably have been foreseen in the normal process of planning the budget, the Council may amend or change the budget to provide for any additional expense in which the general welfare of the citizenry is involved. These amendments shall be by Ordinance, and shall become an attachment to the original budget.

(Ord. No. 088-032, § 1, Prop. 4, 7-12-1988, election 8-13-1988)

Section 5.09. - Certification; copies made available.

A copy of the budget, as finally adopted, shall be filed with the City Secretary, Dallas County Clerk, and the State Comptroller of Public Accounts at Austin. The final budget shall be printed or otherwise reproduced and sufficient copies shall be made available for the use of all offices, agencies and for the use of interested persons and civic organizations.

(Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

Section 5.10. - Defect shall not invalidate the tax levy.

Errors or defects in the form or preparation of the budget or the failure to perform any procedural requirements shall not nullify the tax levy or the tax rate.

Section 5.11. - Bonds, warrants and other ~~evidences of indebtedness~~ **debt matters**.

1. ~~4.—~~ *Power to issue*. In keeping with the Constitution of the State of Texas, and not contrary thereto, the Town of Addison, shall have the right to issue all tax bonds, revenue bonds, funding and refunding bonds, time warrants and other evidences of indebtedness ~~as now authorized or as may hereafter be authorized to be issued by cities and towns by the General Laws of the State of Texas for any public purpose, so long as not prohibited by state law, including but not limited to, bonds or other evidences of indebtedness to promote or finance economic development within the City.~~
2. ~~2.—~~ *Manner of issuance*. Bonds and warrants of the Town of Addison shall be issued in the manner provided by the General Laws of the State of Texas applicable to cities and towns.

Section 5.12. - Power to tax.

The Council shall have the power to levy, for general purposes, an ad valorem tax on real, personal, and mixed property within the territory of the Town of Addison, not exempt from taxation by the constitution and laws of the State of Texas, based upon its true value as provided by law, to the extent of the constitutional limit permitted by the State of Texas to cities of over five thousand (5,000) population.

The Council may levy taxes on all property, privileges, and franchises, of every kind and description, within the Town limits or having its situs therein on January 1 of each year, and from any other local source, and provide for the rendition thereof, the place, time and manner of payment thereof, with penalties, as the Council may deem best, not in violation of the laws of this State.

Sections 5.13—5.15. - Reserved.

Editor's note— Sections 5.13—5.15, relative to notice of property taxation and tax rolls, have been deleted pursuant to Ord. No. 088-032, § 1, Prop. 5, adopted July 12, 1988, approved at an election of Aug. 13, 1988.

Section 5.16. - Where payable; no demand necessary.

All taxes shall be payable at the office of the Collector and Assessor of taxes in the Town of Addison or at such other places as may be specifically designated by the Council.

No demand for such taxes shall be necessary, but it is the duty of the taxpayer to make such payment of such taxes in United States currency or such other method as authorized by State law or by the City Council, within the time specified.

(Ord. No. 088-032, § 1, Prop. 5, 7-12-1988, election 8-13-1988; Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

Section 5.17. - Removing property from Addison.

If anyone against whom a personal tax is assessed and unpaid, whether the same is delinquent or not, shall have removed or be about to remove his personal property out of the Town, it shall be the duty

of the Assessor and Collector of taxes to proceed at once to collect such taxes by seizure and sale of such personal property.

Section 5.18. - Inadequate description.

In any suit by the Town of Addison for the collection of any delinquent tax where it shall appear that the description of any property on the assessment rolls shall be insufficient to identify such property, the Town shall have the right to set up in its pleading a good description of the property intended to be assessed, and to prove the same, and to have judgment foreclosing its tax lien upon the same, and personal judgment against the owner, for such taxes, the same as if the property were fully described upon the assessment rolls.

When the owner of any property, or his agent, shall render any property to the County appraisal district for assessment, and such property is assessed in accordance with description furnished by such owner or his agent, the sufficiency of such description shall not be disputed by such owner in any action or suit for the collection of such taxes, but the same shall be binding upon such owner, and shall be sufficient for all purposes of such assessment.

(Ord. No. 088-032, § 1, Prop. 5, 7-12-1988, election 8-13-1988)

Section 5.19. - Power to ~~correct errors~~ cancel taxes.

The Council shall have the power to cancel any uncollectible taxes upon the tax rolls as allowed by law.

(Ord. No. 088-032, § 1, Prop. 5, 7-12-1988, election 8-13-1988)

Section 5.20. - Ratification.

All taxes heretofore assessed are ratified and all Ordinances relating to taxes now in force shall continue until amended or repealed by the Council in accordance with state law.

Sections 5.21—5.26. - Reserved.

Editor's note— Sections 5.21—5.26, relative to taxation and the board of equalization, have been deleted pursuant to Ord. No. 088-032, § 1, Prop. 5, adopted July 12, 1988, approved at an election of Aug. 13, 1988.

Section 5.27. - Payment, delinquency, penalties.

The taxes herein and hereby authorized to be levied shall become due and payable October 1 of the year assessed, and the same shall be payable in United States currency or such other method as authorized by State law or by the City Council, at the office of the Assessor and Collector of taxes or at such other places as may be specifically designated by the Council. Taxes shall be deemed and become delinquent if not paid prior to February 1, the year following assessment, and such delinquent taxes shall be subject to a penalty and shall bear interest at the rates prescribed by Ordinance of the City Council. In addition to such penalties and interest, a delinquent taxpayer shall be subject to the payment of all costs and expenses that may be incurred in the collection of such taxes through any method provided by this Charter and/or the laws of the State of Texas, and such penalties and interest shall be collected in the same manner as other taxes. The Council may by Ordinance provide that all taxes, either current or delinquent, due to the Town of Addison may be paid in installments except that such installments shall not exceed one year.

(Ord. No. 088-032, § 1, Prop. 5, 7-12-1988, election 8-13-1988; Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

State Law reference— Delinquency date, V.T.C.A., Tax Code § 31.02.

Section 5.28. - Tax levy and lien.

A lien is hereby created on all property, personal and real, in favor of the Town of Addison, for all taxes, ad valorem, occupation or otherwise. Said lien shall exist from the first day of January in each year until the taxes are paid. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien, but the Assessor and Collector of taxes can pursue such property, and whenever found out, may seize and sell enough thereof to satisfy such taxes.

All persons or corporations owning or holding personal property or real estate in the Town of Addison on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year. The personal property of all persons owing any taxes to the Town of Addison is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both.

(Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

State Law reference— Tax liens, V.T.C.A., Tax Code ch. 32.

Section 5.29. - Seizure and sale of personal property.

The Assessor and Collector of taxes shall, by virtue and of the tax rolls of the Town, have power and authority to seize and levy upon all such personal property and sell the same to satisfy all delinquent taxes together with all penalty, interest and costs due on said personal property to the Town. When he seizes personal property for such purposes he shall keep the same at the expense of the owner until the sale is made, and shall give notice of the time and place of sale on same by posting a written notice at the Town Hall door and one at another public place within the Town at least ten (10) days before the date of sale. He shall sell the same to the highest bidder for cash for all taxes, interest, cost and expense of caring for said property, and shall make an entry in the book of sales of the amount realized. All such sales [shall] be made at the front door of [the] Town Hall. A sale of personal property for delinquent taxes shall convey with it an absolute title, and the owner shall have no right to redeem the same.

Section 5.30. - Reserved.

Editor's note— Section 5.30, relative to joint interest in property, has been deleted pursuant to Ord. No. 088-032, § 1, Prop. 5, adopted July 12, 1988, approved at an election of Aug. 13, 1988.

Section 5.31. - ~~General powers of taxation.~~

Unless otherwise provided by this Charter and by Ordinances passed hereunder, all property in the Town liable for taxation shall be assessed in accordance with the ~~general~~ laws of the state insofar as applicable. In addition to the powers herein conferred with reference to the assessment and collection of taxes, the Town of Addison shall have and may exercise all powers and authority ~~now conferred or which may hereafter be conferred upon cities having a population of more than five thousand (5,000) inhabitants~~ not prohibited by the ~~general law~~ laws of the State of Texas.

Section 5.32. - Reserved.

Editor's note— Section 5.32, relative to the city manager acting as assessor and collector of taxes, has been deleted pursuant to Ord. No. 088-032, § 1, Prop. 5, adopted July 12, 1988, approved at an election of Aug. 13, 1988.

Section 5.33. - Purchasing.

(a) —The City Council may by Ordinance, give to the City Manager general authority to contract for expenditure without further approval of the Council for all budgeted items not exceeding limits set by all the Council.

All contracts for expenditures involving more than the set limits must be expressly approved in advance by the Council. The City Council, or City Manager in such cases as he is authorized to contract for the Town, shall have the right to reject any and all bids.

- (b) —Emergency contracts as authorized by law and this Charter may be negotiated by the City Council or the City Manager if given authority by the Council, without competitive bidding. Such emergency shall be declared by the City Manager and approved by the City Council, or may be declared by the City Council.

(Ord. No. 088-032, § 1, Prop. 6, 7-12-1988, election 8-13-1988)

ARTICLE VI. - FRANCHISES AND PUBLIC UTILITIES

Section 6.01. - Powers of the town.

In addition to the Town's power, right and authority to buy, construct, lease, maintain, operate and regulate public utilities, and to manufacture, distribute and sell the output of such utilities' operations, the Town shall have all further rights, authorities, and powers as may now, or hereafter, be granted under the Constitution and laws of the State of Texas.

Section 6.02. - Franchises; power of the City Council.

The City Council shall have power by Ordinance to grant, amend, renew and extend, all franchises of all public utilities of every character operating within the Town of Addison. All Ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two (2) separate regular meetings of the City Council, and shall not be finally passed until thirty (30) days after the first reading; and no such Ordinance shall take effect until thirty (30) days after its final passage; and pending such time, the full text of such Ordinance shall be published once a week for four (4) consecutive weeks in the official newspaper of the Town of Addison, and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be granted for a term of more than twenty (20) years; nor shall same be transferable, except with the approval of the City Council, expressed by Ordinance.

Section 6.03. - Franchise value not to be allowed.

No value shall be assigned to any franchise granted by the Town of Addison under this Charter, in fixing reasonable rates and charges for utility service within the Town, and in determining the just compensation to be paid by the Town for Public utility property which the Town may acquire by condemnation, or otherwise.

Section 6.04. - Right of regulation.

All grants, removals, extensions, or amendment of public utility franchises, whether it be so provided in the Ordinance or not, shall be subject to the right and power of the City Council of the Town of Addison:

- a. To repeal the Ordinance, at any time, upon the failure of the grantee to comply with any provision of the Ordinance, the franchise, the Charter of the Town of Addison, any applicable Statute of the State of Texas, or the rule of any applicable governmental body.
- b. To require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures of the highest reasonable standard of efficiency.
- c. To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- d. At any time to examine and audit the accounts and other records of any such utility, and to require annual, and other reports, including reports on operations within the Town of Addison.
- e. To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public.
- f. To require such compensation and rental as may be permitted by the laws of the State of Texas.

Section 6.05. - Grant not to be exclusive.

No grant, contract, or franchise, to construct, maintain, or operate a public utility, for or in Addison, Texas, and no renewal or extension of such grant, contract, or franchise, shall be exclusive.

(Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

Section 6.06. - Consent of property owners.

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility; but, nothing in this Charter, or in any franchise granted thereunder, shall ever be construed to deprive any such property owner of any right of action for damage or injury to his property as now or hereafter provided by law.

Section 6.07. - Extensions.

All extensions of public utilities within the Town limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereafter made. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

Section 6.08. - Temporary permits.

Permits unconditionally revocable at the will of the City Council for minor or temporary privileges in the streets, public ways and public places of the Town may be granted and revoked by Ordinance from time to time, and such permits shall not be deemed franchises as the term is used in this Charter.

Section 6.09. - Other conditions.

All franchises heretofore granted are recognized as contracts between the Town of Addison and the grantee, and the contractual rights as contained in any such franchises shall not be impaired by the provisions of this Charter, except that the power of the Town of Addison to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved, and except the general power of the Town heretofore existing and herein provided for to regulate the rates and services of a utility, which shall include the right to require adequate and reasonable extension of plant and service and the maintenance of the plant fixtures of the standard necessary to render the highest reasonable quality of utility service to the public. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this article whether or not such terms are specifically mentioned in the franchises. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Council of the electors of the Town in imposing terms and conditions as may be reasonable in connection with any franchise grant, including the right to require such compensation or rental as may be permitted by the laws of the State of Texas.

Section 6.10. - Franchise records.

Within six (6) months after this Charter takes effect, every public utility and every owner of public utility franchises shall file with the Town, as may be prescribed by Ordinance, certified copies of all franchises owned or claimed, or under which such utility is operated in the Town of Addison. The Town shall compile and maintain a public record of public utility franchises.

Section 6.11. - Accounts of municipally owned utilities.

Accounts shall be kept for each public utility owned or operated by the Town, in such manner as to show the true and complete financial results of such Town ownership and operation, including all assets, appropriately subdivided into different classes, all liability subdivided by classes, depreciation reserve, other reserves, and surplus; also revenues; operating expenses including depreciation, interest payments, rental, and other disposition of annual income. The accounts shall show the actual capital cost to the Town of each public utility owned, also the cost of all extensions, additions, and improvements and the source of the funds, expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any other City or governmental department. The Council shall annually cause to be made by a certified public accountant, and shall publish, a report showing the financial condition of said public utility and the financial results of such Town ownership and operation, giving the information specified in this section and such additional data as the Council shall deem expedient.

Section 6.12. - Regulations of rates and services.

The City Council shall have full power, after due notice and hearing, to regulate by Ordinance the rates and service of every public utility operating in the Town of Addison.

Section 6.13. - Rate changes.

No person or corporation enjoying any franchise to operate a public utility within the Town of Addison shall ever make any charge or fix any rate for public service to its patrons or the inhabitants of the Town of Addison without first being authorized by the City Council of the Town by an Ordinance or order approving the same, and no public utility shall contest any rate or charge or order fixed by the City Council of the Town under the authority otherwise conferred in the Charter of the Town in any suit or cause of action in any court until after such utility has filed a motion for a rehearing with the City Council of the Town specifically setting out the grounds of complaint against any such order or Ordinance fixing any rate or charge and until the City Council of the Town shall have passed upon the said motion for rehearing.

ARTICLE VII. - MUNICIPAL PLANNING AND ZONING⁽³⁾⁽³⁾

Footnotes:

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State Law reference— Planning and zoning, V.T.C.A., Local Government Code chs. 211—213.

Section 7.01. - Platting of property.

Hereafter, every owner of any tract of land situated within the corporate limits of the Town of Addison, Texas, who may divide the same in two (2) or more parts for the purpose of laying out any subdivision or any addition to the Town, or seeks to have issued a building permit to construct any improvement on such land, shall comply with the provisions of V.T.C.A., Local Government Code ch. 212, as now or hereafter amended, [which] is hereby adopted and incorporated herein for all purposes.

Section 7.02. - Development of property.

The City Council may encourage the development of property, promote economic development, and stimulate business and commercial activity, within, or beyond, the Town limits, in accordance with State law.

(Ord. No. 010-042, § 2, Prop. 2, 11-10-2010, election 11-2-2010)

Section 7.03. - ~~Master~~Comprehensive plan.

- a. The ~~official master~~Comprehensive Plan of the Town shall be used as a guide by the City Council and the City Planning and Zoning Commission for development of the Town with respect to land use, thoroughfares and streets, buffer zones, parks, and other matters affecting development.
- b. The ~~master~~Comprehensive Plan may be amended by majority vote of those members of the whole Council that are present at a council meeting, and such amendments ~~as are read into the master plan~~ shall be entered therein and shall become part thereof and of the official records of the Town.

Section 7.04. - Planning and Zoning Commission.

The City Council shall have the power and authority to appoint a ~~City~~Planning and Zoning Commission, in accordance with the General Laws of the State of Texas, as provided for in V.T.C.A., Local Government Code chs. 211 and 371, as now, or hereafter, amended; and the City Council and Town of Addison shall have all of the rights, privileges, powers, and authority, given, permitted and granted under the laws of the State of Texas, relative to zoning and planning in, for, and of, municipalities, and their environs.

~~Such commission may also be designated and referred to as the "City Zoning Commission." The present City Zoning Commission of the Town of Addison may continue to serve, (or, may be specially designated by the City Council, as the City Planning Commission or City Planning and Zoning Commission, and shall, in such event, thereafter serve under such new title).~~

ARTICLE VIII. - NOMINATIONS AND ELECTIONS

Section 8.01. - Election.

The regular Town election shall be held on the first Saturday in May of each year or on such day established by state law, at which time, officers will be elected to fill those offices which become vacant that year. The Council shall fix the hour and place for holding such elections. The Council, may, by Resolution, order a special election, fix the time and place for holding same and provide all means for holding such special election.

(Ord. No. 088-032, § 1, Prop. 7, 7-12-1988, election 8-13-1988)

State Law reference— Election duties, V.T.C.A., Election Code § 41.001.

Section 8.02. - Regulation of elections.

The Council shall make all regulations considered to be necessary or desirable which are not inconsistent with this Charter or the laws of the State of Texas, for the conduct of municipal elections, for the prevention of fraud, and shall make provisions for recount of the ballots in case of doubt or fraud. The Council will appoint election officials who will conduct the municipal elections consistent with this Charter, regulations, made by the Council, or the laws of the State of Texas.

State Law reference— Election judges and clerks, V.T.C.A., Election Code ch. 32.

Section 8.03. - Nominations.

Any person having the qualifications required by this Charter and State law may ~~place his own name in nomination as candidate for Mayor or Councilman by filing with the City Secretary, or may~~ be placed in nomination by a petition signed by at least ~~ten (10)~~twenty-five (25), or not more than ~~fifteen (15) qualified~~fifty (50) registered voters, who shall be designated as his sponsors. No voter shall sign more than one petition, and should a voter do so, his signature shall be void except as to the petition first ~~filed~~signed. With each signature shall be stated the place of residence of the signer, giving the street, number or other description sufficient to identify it, and the signer's date of birth or voter registration number.

Persons who desire to be candidates, or petitioners placing a name in nomination, must file with the City Secretary not earlier than ninety (90) days nor later than thirty (30) days before the election.

Acknowledgment of nomination by each nominee will be in writing and will be accepted by the City Secretary or other persons authorized to administer oaths under the laws of the State of Texas.

Any person ~~who has placed his own~~whose name ~~in nomination or~~ has been placed in nomination ~~by petition~~ shall take ~~the following an~~ oath:

~~"I do hereby declare that I accept the nomination for the Council and agree to serve if elected. I am _____ years of age, a qualified voter of the Town of Addison, a resident of the State of _____ as prescribed by the _____ Texas for at least one year and of the Town of Addison or an area now within the corporate limits of the Town of Addison for at least one year. I am not in arrears in the payment of any taxes or other liability due the Town. At the present time, I reside at _____ Street in the Town of Addison." Election Code, as amended.~~

	Signature of candidate _____
	Date and hour of filing _____
	Received by: _____ (Signature of City Secretary)

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The petition placing a person in nomination shall be in ~~the following a~~ form:

~~"We, the undersigned voters of the Town of Addison, hereby nominate and sponsor _____, whose residence is _____, for the office of _____, to be voted for at the election to be held on the _____ day of _____, 20____, and we individually certify that we are qualified to vote for a~~

~~candidate for Mayor or Councilman and that during the current election we have not signed any other nominating petition for that office."~~

	Name _____ Street and number _____
	Address from which last registered (if different) _____
	Date of signing _____

-

~~These above statements will contain the following notarization:~~

~~[] State of satisfying the requirements set forth in the Texas~~

~~County of Dallas~~

~~Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and who acknowledged to me that the same was subscribed as his free act and deed for the purposes and consideration therein expressed.~~

~~Given under my hand and seal of office this the _____ day of _____ 20____."Election Code, as amended.~~

(Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

State Law reference— Candidacy for town office, V.T.C.A., Election Code ch. 143.

Section 8.04. - Number, selection, and term of Council.

The Council shall be composed of a Mayor and six (6) council members who shall be elected and serve in the following manner subject to the adopting of this Charter:

- a. The Mayor and Councilmen in office at the time of the adoption of this Charter shall continue to serve as Mayor and Councilmen under this Charter until the expiration of their present terms of office, or until their successors have been elected or selected and duly qualified under this Charter.
- b. In each odd-numbered year three (3) council members and a Mayor shall be elected and in each even-numbered year three (3) council members shall be elected.
- c. The Mayor and other members of the Council shall be elected from the Town at large, for a term of two (2) years.
- d. The candidate for Mayor who receives the highest number of valid votes by qualified electors voting at the election shall be declared elected.
- e. The candidates for election to the places of Councilmen, equal in number to the number of vacancies to be filled, who receive the highest number of valid votes cast by qualified electors voting at the election, shall be declared elected.
- f. In case of a tie vote as to any two (2) or more candidates, the Council shall order a special election within not less than thirty (30) days nor more than forty (40) days after the regular election to resolve the tie vote as between such candidates.

- g. All elections shall be held in accordance with the election laws of the State of Texas and the provisions of this Charter.
- h. No person shall serve as Mayor for more than three (3) successive terms of office, and no person shall serve as a council member for more than three (3) successive terms of office. For purposes of this section, the phrase "terms of office" shall not include any unexpired portion of any two-year term.

(Ord. No. 092-072, 11-24-1992, election 1-16-1993)

Section 8.05. - Prohibiting holding or running for other office.

- (a) No person elected to the office of Council member, or to the office of Mayor, shall during the term for which he was elected, be appointed to any office or position of emolument in the service of the Town. If a member of any board appointed by the Council or any officer appointed by the City Council shall become a candidate for election to any public office, he shall immediately forfeit his place or position with the Town.
- (b) A Council member or the Mayor shall forfeit his office if he becomes a candidate for nomination or election to any elected public office other than nomination or re-election to his present office.

(Ord. No. 088-032, § 1, Prop. 7, 7-12-1988, election 8-13-1988; Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

Section 8.06. - Conducting and canvassing elections.

Returns of all municipal elections, ~~both general and special~~, shall be made by the election officers to the Council at the ~~next regular first City Council~~ meeting ~~after following~~ the election, ~~at which time the Council shall be the meeting to canvass the votes, election and~~ declare the results ~~of such election; in accordance with notification of election to candidate elected state law.~~

State Law reference— Canvassing elections, V.T.C.A., Election Code ch. 67.

ARTICLE IX. - INITIATIVE AND REFERENDUM

Section 9.01. - General power of initiative and referendum.

The ~~qualified registered~~ voters of the Town of Addison, in addition to the method of legislation hereinbefore provided, shall have the power of direct legislation by the initiative and referendum.

Section 9.02. - Initiative.

~~Qualified Registered~~ voters of the Town may initiate legislation by submitting a petition addressed to the Council which requests the submission of a proposed Ordinance or Resolution to a vote of the ~~qualified registered~~ voters of the Town. Said petition must be signed by ~~qualified registered~~ voters equal in number to at least twenty-five (25) percent of those who were ~~qualified registered~~ voters on the date of the last regular municipal election as determined from ~~the~~ list of ~~qualified registered~~ voters maintained by the ~~person having the duties of the voter registrar of Dallas County, and each copy of the petition shall have attached to it a copy of the proposed legislation. Elections Department.~~ Each signer of such petition shall personally sign his name and address in ink or indelible pencil, and shall write after his name his place of residence, giving the name of the street and number, or place of residence, ~~and shall also write thereon the date, the month and the year his signature was affixed. shall write their date of birth or voter registration number and shall also write thereon the date, the month and the year his signature was affixed. Said petition shall conform to the requirements of this Article and State law and be submitted to the person performing the duties of City Secretary who shall complete the examination of the petition to determine if it complies with the requirements of this Article and State law. After completing the examination, the person performing the duties of the City Secretary shall present said petition to the Council at its next regularly scheduled meeting.~~

(Ord. No. 088-032, § 1, Prop. 8, 7-12-1988, election 8-13-1988; Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

Section 9.03. - Form of initiative and referendum petition.

The petition mentioned above must be addressed to the City Council of the Town of Addison, (and must have attached to it a copy of the proposed legislation. ~~The signature shall be verified by oath in the following form:-, shall contain and conform to all requirements of state law.~~

~~[] STATE OF TEXAS~~

~~COUNTY OF DALLAS~~

~~I, _____, being first duly sworn, on oath depose and say that I am one of the signers of the above petition; and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person whose name it purports to be.~~

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~~Sworn to and subscribed before me this the _____ day of 20__~~

	Notary Public, Dallas County, Texas[]

-

(Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

Section 9.04. - Various papers constituting petition.

The petition may consist of one or more copies, or subscription lists, circulated separately, and the signature thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this article may be made by one or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising an initiative or referendum petition shall be filed with the person performing the duties of City Secretary on the same day. Within fifteen (15) days from the filing of such petition, the person performing the duties of City Secretary shall complete the examination of the petition to determine if it complies with the requirements of this Article and State law. After completing the examination, the person performing the duties of the City Secretary shall present said petition and proposed Ordinance or Resolution to the City Council at its next regularly scheduled meeting. Upon presentation to it of the draft of the proposed Ordinance or Resolution, it shall become the duty of the Council, within twenty (20) days after the receipt thereof, to pass and adopt such Ordinance or Resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election as approved by State Law or if not controlled by State Law, the date of which election shall be within thirty (30) days thereafter, at which the qualified registered voters of the Town of Addison shall vote on the question of

adopting or rejecting the proposed legislation. However, if any other municipal election is to be held within sixty (60) days after the filing of the petition, the question may be voted on at such election.

(Ord. No. 092-072, 11-24-1992, election 1-16-1993)

Section 9.05. - Referendum.

QualifiedRegistered voters of the Town of Addison may require that any Ordinance or Resolution, with the exception of Ordinances or Resolutions appropriating money, fixing salaries or levying taxes, passed by the Council be submitted to the voters of the Town of Addison for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after the final passage of said Ordinance or Resolution, or within thirty (30) days after its publication. Said petition must be signed by qualifiedregistered voters equal in number to at least twenty-five (25) percent of those who were qualifiedregistered voters on the date of the last regular municipal election as determined from a list of qualifiedregistered voters maintained by the tax collector of Dallas County. Each signer of such petition shall personally sign his name and address in ink or indelible pencil, and shall write after his name his place of residence, giving the name of the street and number, or place of residence, shall write their date of birth or voter registration number, and shall write thereon the date, the month and the year his signature was affixed. Said petition shall be submitted to the person performing the duties of City Secretary. Within fifteen (15) days from the filing of such petition, the person performing the duties of City Secretary shall complete the examination of the petition to determine if it complies with the requirements of this Article and State law. After completing the examination, the person performing the duties of the City Secretary shall present said petition to the Council at its next regularly scheduled meeting.

(Ord. No. 088-032, § 1, Prop. 8, 7-12-1988, election 8-13-1988; Ord. No. 092-072, 11-24-1992, election 1-16-1993)

Section 9.06. - Voluntary submission of legislation by the Council.

The Council, upon its motion and by a majority vote of the members of the Council, may submit to popular vote at any election for adoption or rejection any proposed Ordinance, Resolution or measure or may submit for repeal any existing Ordinance, Resolution or measure, in the same manner and with the same force and effect as provided in this article for submission on petition, and may in its discretion call a special election for this purpose.

(Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

Section 9.07. - Form of ballots.

The ballots used when voting upon such proposed and referred Ordinance, Resolution or measure, shall set forth their nature sufficiently to identify them and shall also set forth upon separate lines the words:

"For the Ordinance" and

"Against the Ordinance" or

"For the Resolution" and

"Against the Resolution."

Section 9.08. - Publication of proposed and referred Ordinances.

The person performing the duties of City Secretary shall publish at least once in the official newspaper of the Town the proposed or referred Ordinance or Resolution within fifteen (15) days before the date of the election, and shall give such other notices and do such other things relative to such election as are required in general municipal elections or by the Ordinance or Resolution calling said election.

Section 9.09. - Adoption of Ordinances.

If a majority of the ~~qualified registered~~ voters voting on any proposed Ordinance or Resolution or measure shall vote in favor thereof, it shall thereupon, or at any time fixed therein, become effective as law or as a mandatory order to the Council.

Section 9.10. - Inconsistent Ordinances.

If the provision of two (2) or more proposed Ordinances or Resolutions approved at the same election are inconsistent, the Ordinance or Resolution receiving the highest number of votes shall prevail.

Section 9.11. - Ordinances passed by popular vote, repeal or amendment.

No Ordinance or Resolution which may have been passed by the Council upon a petition or adopted by popular vote under the provisions of this Article shall be repealed or amended except by the Council in response to the referendum petition or submission as provided in Section 9.05 of this Charter.

Section 9.12. - Further regulations by the Council.

The Council may pass Ordinances or Resolutions providing other and further regulations for carrying out the provisions of this article consistent herewith.

Section 9.13. - Franchise Ordinances.

Nothing contained in this Article shall be construed to be in conflict with any of the provisions of this Charter, pertaining to Ordinances granting franchises when valuable rights shall have accrued thereunder.

ARTICLE X. - RECALL

Section 10.01. - Scope of recall.

Any elected Town official, whether elected to office by the ~~qualified registered~~ voters of the Town or appointed by the Council to fill a vacancy, shall be subject to recall and removal from office by the ~~qualified registered~~ voters of the Town on grounds of incompetency, misconduct or malfeasance in office.

Section 10.02. - Petitions for recall.

Before the question of recall of such officer shall be submitted to the ~~qualified registered~~ voters of the Town, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of City Secretary; which said petition shall be signed by ~~qualified registered~~ voters equal in number to at least twenty-five (25) percent of those who were ~~qualified registered~~ voters on the date of the last regular municipal election as determined from the list of ~~qualified registered~~ voters maintained by the person having the duties of the voter registrar of Dallas County. Each signer of such recall petition shall personally sign his name thereto in ink or indelible pencil, and shall write after his name his place of residence, giving name of street and number, or place of residence, ~~their date of birth or their voter registration number~~, and shall also write thereon the day, the month, and the year his signature was affixed.

(Ord. No. 088-032, § 1, Prop. 8, 7-12-1988, election 8-13-1988; Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

Section 10.03. - Form of recall petition.

The recall petition mentioned above must be addressed to the Council of the Town of Addison, must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and, if there be more than one ground, such as for incompetency, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed notice of the matters and things with which he is charged. The ~~signature petition contents~~ shall ~~be verified by oath in conform to~~ the following form:

~~[] STATE OF TEXAS~~

~~COUNTY OF DALLAS~~

~~I, _____, being first duly sworn on oath depose and say that I am one requirements of the signers of the above petition; and, that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been~~

~~made, and I solemnly swear that the same is the genuine signature of the person whose name it purports to be.~~

	=
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~~Subscribed and sworn to before me this the _____ day of _____, 19____.~~

	=
	Notary Public, Dallas County, Texas["]

~~state law.~~

Section 10.04. - Various papers constituting petition.

The petition may consist of one or more copies, or subscription lists, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this article may be made by one or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons, but no signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of City Secretary on the same day and said City Secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to his Addison address.

Section 10.05. - Presentation of petition to the Council.

Within fifteen (15) days from the date of the filing of the papers constituting the recall petition, the person performing the duties of City Secretary shall complete the examination of the petition to determine if it complies with the requirements of this Article and State law. After completing the examination, the person performing the duties of the City Secretary shall present said petition to the City Council at its next regularly scheduled meeting.

(Ord. No. 092-072, 11-24-1992, election 1-16-1993)

Section 10.06. - Public hearing to be held.

The officer whose removal is sought, may within five (5) days after such recall petition has been presented to Council, request that a public hearing be held to permit him to present facts pertinent to the charges specified in the recall petition. In this event, the Council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

Section 10.07. - Duty to receive petition; Election to be called.

The Council, upon being presented with a recall petition, shall receive the petition, shall order an election in accordance with the requirements of this Charter and applicable law, and shall take all other steps necessary to effect a recall election.

If each officer whose removal is sought does not resign, then it shall become the duty of the Council to order an election and fix a date for holding such recall election. The date of the recall election shall be on the earlier of (i) the next available uniform election date as provided by law or (ii) if not contrary to State Law, the next available date that allows sufficient time to comply with other requirements of law not less than twenty-five (25) days after the date such petition was presented to the Council, or after the date of the public hearing if one was held.

(Ord. No. 092-072, 11-24-1992, election 1-16-1993)

Section 10.08. - Ballots in recall election.

Ballots used at recall elections shall conform to the following requirements:

- a. With respect to each person whose removal is sought, the question shall be submitted:
"Shall _____ be removed from the office of _____ by recall?"
- b. Immediately below each such question there shall be printed the following words, one above the other, in the order indicated:
"No" "Yes"

Section 10.09. - Result of recall election.

If a majority of the votes cast at a recall election shall be "No," that is, against the recall of the person 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 "Yes," that is, for the recall of the person 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 as vacancies in the Council are filled, as provided in this Charter.

Section 10.10. - Recall, restrictions thereon.

No recall petition shall be filed against any officer of the Town within three (3) months after his election, nor within three (3) months after an election for such officer's recall.

Section 10.11. - Reserved.

Editor's note— The provisions of former § 10.11 were deleted pursuant to the results of an election held Jan. 16, 1993, which adopted amendments enacted by Ord. No. 092-073, adopted Nov. 24, 1992. The deleted provisions pertained to the failure of the council to call an election and derived from the Charter adopted Aug. 12, 1978.

ARTICLE XI. - MISCELLANEOUS PROVISIONS

Section 11.01. - No officer or employee to accept gift, etc.

No officer or employee of the Town of Addison shall ever accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation, or other company, contractor or individual which currently has a grant, franchise, or contract with said Town during the term of office of such officer, or during such employment of such employee, except as authorized by law or ordinance. Any officer or employee of the Town 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 forthwith be removed from office.

(Ord. No. 088-032, § 1, Prop. 9, 7-12-1988, election 8-13-1988)

Section 11.02. - Officers or employees of the Town not to have financial interest in any contracts of the Town.

No officer or employee of the Town shall have a financial interest, direct or indirect, in any contract with the Town, or be financially interested, directly or indirectly, in the sale to the Town of any land, materials, supplies or services, except on behalf of the Town as an officer or employee. Any knowing or willful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge, expressed or implied, of the person or corporation contracting with the City Council of the Town shall render the contract involved voidable by the City Council. The restrictions contained in this section shall be cumulative of those required and provided by state law.

(Ord. No. 088-032, § 1, Prop. 9, 7-12-1988, election 8-13-1988)

Section 11.03. - Retirement system and social security; group insurance.

The Council shall have the power to provide for coverage of its appointed officers and employees under the Workmen's [Workers'] Compensation, Retirement and Social Security systems provided by laws of the State of Texas for such officers and employees, of the Town; and for group insurance coverage of such officers and employees, with the Council having power to provide for the payment of all or any part of the cost.

State Law reference— Workers' compensation, V.T.C.A., Labor Code ch. 401 et seq.; Texas Municipal Retirement System, V.T.C.A., Government Code § 851.001 et seq.; Social Security for municipal employees, V.T.C.A., Government Code ch. 606.

Section 11.04. - Restriction of sale of alcoholic beverages.

Sale of alcoholic beverages for off-premises consumption is hereby restricted and limited to the existing west side of Inwood Road between the southern corporate limits and the southern right-of-way of Belt Line Road and such area being more specifically described as follows:

Commencing at a point on the south right-of-way of Belt Line Road (a 100-foot R.O.W.) and the west right-of-way of St. Louis Southwestern Railway Company (a 100-foot R.O.W.);

Thence, in a westerly direction along the south right-of-way of Belt Line Road, a distance of 93.02 feet, more or less, to the point of beginning, said point being the most northerly point of a corner clip;

Thence, continue westerly along said south R.O.W. a distance of 159.5 feet, more or less, to a point;

Thence, in a southerly direction along the common property line (plat bearing south 0 degrees 26 minutes east), a distance of 2,601.27 feet, more or less, to a point on the Addison/Farmers Branch town limits;

Thence, in an easterly direction along said town limits line (plat bearing north 88 degrees 58 minutes 14 seconds west), a distance of 971.37 feet, more or less, to a point on the west right-of-way of Inwood Road;

Thence, northwesterly along said west right-of-way of Inwood Road, a distance of 2,676.56 feet, more or less, to a point, being the most southerly of a corner clip;

Thence, in a northwesterly direction along said corner clip, a distance of 48.31 feet, more or less, to said point of beginning;

except that the sale of beer and wine for off-premises consumption is not restricted or limited by and is not subject to the foregoing provision. Notwithstanding Section 11.31 of this Charter or other law, the provisions of this Section 11.04 are not severable, and if any portion of this Section 11.04 is determined by a final, non-appealable order of a court of competent jurisdiction to be invalid, unlawful, or unconstitutional, this Section 11.04 shall be deemed repealed and deleted in its entirety.

(Ord. No. 775, § 1, Prop. 6, 2-23-1982, election 4-3-1982; Ord. No. 010-042, § 2, Prop. 1, 11-10-2010, election 11-2-2010)

State Law reference— Charter may prohibit liquor sales in residential areas, V.T.C.A., Alcoholic Beverage Code § 109.31.

Section 11.05. - Notice of damage or injury required.

(a) The Town of Addison shall never be liable for any claim for any personal injury, whether such personal injury results in death or not, or for any claim for damage or injury to personal property, unless the person damaged or injured, or someone in his behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death or injury, shall, within ninety (90) days or within six (6) months for good cause shown from the date the damage

or injury was received, give notice in writing to the City Manager or City Secretary of the facts outlined in subsection (d) hereinbelow.

- (b) The Town of Addison, Texas, shall never be liable for any claim for damage or injury to real property caused by the negligent act or omission of its officers, servants, agents or employees, unless the person whose real property has been injured or damaged, or someone in his behalf, shall, within ninety (90) days or within six (6) months for good cause shown from the date the damage or injury was received, give notice in writing to the City Manager or City Secretary of the facts outlined in subsection (d) hereinbelow.
- (c) In addition to the notice required in subsection (a) or (b), the Town of Addison, Texas, shall never be liable on account of any damage or injury to person or to personal property arising from or occasioned by any defect in any public street, highway, alley, grounds or public work for the Town of Addison unless the specific defect causing the damage or injury shall have been actually known to the City Manager at least twenty-four (24) hours prior to the occurrence of the injury or damage, or unless the attention of the City Manager shall have been called thereto by a notice thereof in writing at least twenty-four (24) hours prior to the occurrence of the injury or damage and proper diligence has not been exercised to rectify the defect. The notice herein required to be given to the City Manager or City Secretary of the specific defect causing the damage or injury shall apply where the defect arose from any omission of the Town itself, through its agents, servants or employees, or acts of third parties.
- (d) The notice required herein shall contain the following facts:
 - (1) The date and time when the injury occurred and the place where the injured person or property was at the time when the injury was received;
 - (2) The nature of the damage or injury sustained;
 - (3) The apparent extent of the damage or injury sustained;
 - (4) A specific and detailed statement of how and under what circumstances the damage or injury occurred;
 - (5) The amount for which each claimant will settle;
 - (6) The telephone numbers and the actual place of residence of each claimant by street;
 - (7) In the case of personal injury or death, the names and addresses of all persons who, according to the knowledge or information of the claimant, witnessed the happening of the injury or any part thereof and the names of the doctors, if any, to whose care the injured person is committed; and
 - (8) In the case of property damage, the location of the damaged property at the time the claim was submitted along with the names and addresses of all persons who witnessed the happening of the damage or any part thereof.
- (e) No suit of any nature whatsoever shall be instituted or maintained against the Town of Addison unless the plaintiff therein shall aver and prove that prior to the filing of the original petition, the plaintiff applied to the City Council for redress, satisfaction, compensation or relief, as the case may be, and that the same was by vote of the City Council refused.
- (f) All notices required hereby shall be effectuated by serving them upon the City Secretary or City Manager, and all such notices shall be effective only when actually received in the office of the person named above.
- (g) Neither the Mayor, a City Councilmember nor any other officer or employee of the Town shall have the authority to waive any of the provisions of this section.
- (h) The written notices required under the subsections (a) and (d) shall be sworn to by the person claiming the damage or injuries or by someone authorized by him to do so on his behalf. Failure to swear to the notice as required herein shall not render the notice fatally defective, but failure to so verify the notice may be considered by the City Council as a factor relating to the truth of the allegations and to the weight to be given to the allegations contained therein.

- (i) No provision of this section shall ever be so construed as to expand the ordinary liability of the Town under the applicable law.

(Ord. No. 088-032, § 1, Prop. 10, 7-12-1988, election 8-13-1988)

State Law reference— Texas Tort Claims Act, V.T.C.A., Civil Practice and Remedies Code ch. 101.

Section 11.06. - Town exempt from appeal bonds.

It shall not be necessary in any action, suit or proceeding in which the Town of Addison is a part[y], for any bond, undertaking or security to be executed in behalf of said Town, but all such actions, suits, appeals or proceedings shall be conducted in the same manner as if such bond, undertaking or security had been given, and said Town shall be liable as if such obligation had been duly given and executed.

Section 11.07. - Execution, garnishment and assignment.

The property, real and personal, belonging to said Town shall not be liable to be sold or appropriated under any writ of execution or cost bill, nor shall the funds belonging to said Town, in the hands of any person, be liable to garnishment on account of any debt it may owe or funds it may have on hand due any person, nor shall the Town or any of its officers or agents be required to answer to any writ of garnishment on any account whatsoever, nor shall said Town be liable to the assignee of any wages of any officer, agent or employee of said Town, whether earned or unearned, upon any claim or account whatsoever, and as to the Town such assignment shall be absolutely void.

Section 11.08. - No lien on public property; contractors, etc., to notify Town of claims.

No lien of any kind can ever exist against the public buildings, public halls, parks or public works of the Town of Addison. All subcontractors, materialmen, mechanics and laborers upon any public works of the Town of Addison are hereby required to notify the Town of all claims they may have on account of such work against the Town, and when such notice has been given, the Town shall retain an amount from any funds due the contractors, sufficient to satisfy all claims; provided that such notice may be given at any time after such indebtedness becomes due and before final settlement; and provided, further, that no contractor or subcontractor shall issue any time checks on or on account of any public works of said Town.

Section 11.09. - Bonds of contractors.

In accordance with state law, the City Council shall require good and sufficient bonds of all contractors. The City Council may require that at least one of the sureties be a resident of the State of Texas. When bondsmen are not residents of the State of Texas, and that as such bondsmen be authorized to do business in the State of Texas such proof of their solvency may be required as the City Council may deem necessary.

(Ord. No. 088-032, § 1, Prop. 11, 7-12-1988, election 8-13-1988)

Section 11.10. - Condemnation of dangerous structures.

Whenever in the opinion of the City Council of the Town, any building, fence, shed, awning, cave, excavation, structure, object or thing of any kind or part thereof may fall or collapse and injure persons or property, the City Council may order the owner or agent of the same or occupant of the premises, to take such corrective measures as the City Council may direct, and may punish by fine all persons failing to do so. Upon his failure to comply, the City Council shall have the additional power to remove the same at the expense of the Town on account of the owner of the property and assess the expenses thereof, including condemnation proceedings, as a special tax against the land or improvements, and same may be collected as other special taxes provided for in this Charter, or by suit in any court of competent jurisdiction.

The City Council of the Town shall have full power to condemn all dangerous buildings or obstructions of any kind that it may determine to be hazardous in any way especially to health and fire, and may provide regulations therefor by Ordinance.

State Law reference— Abatement of dangerous buildings, V.T.C.A., Local Government Code ch. 214.

Section 11.11. - Fire limits.

The City Council may establish fire limits and prescribe the kind and character of materials to be used in building[s] constructed within such limits.

Section 11.12. - Building permits.

The Town of Addison shall have power to prohibit the erection or construction of any building or structure of any kind within the Town of Addison without a permit first having been issued by the Town for the construction or erection of such building or structure, and may authorize a fee to be charged for such permit, and in pursuance of said authority may authorize the inspection by the Town of all buildings or structures during the progress of their construction and may require that all buildings shall be constructed in conformity with the building regulations which exist in said Town or which shall hereafter be passed.

Section 11.13. - Pools, ponds and lakes.

The Town of Addison shall have power to control or prohibit the construction of pools, ponds or lakes, receiving water from a recognizable stream, creek, branch or natural drainage, without a permit having first been issued by the Town. The Town may control location, construction, height of structure, depth and size of body of water to be impounded.

Section 11.14. - Nepotism.

No officer of the Town shall appoint, vote for or confirm, the appointment to any office, position, clerkship, employment or duty of any person related within the second degree by affinity or within the third degree by consanguinity to the officer or to any other member of a Town board of which the said officer may be a member, if any, when the salary, fees, or compensation of such appointee is to be paid for, directly or indirectly, out of or from public funds or fees of office of any kind or character whatsoever. However, this provision shall not prevent the appointment, voting for, or confirmation of any person who shall have been continuously employed in any such office, position, clerkship, employment or duty for at least thirty (30) days, if the officer is appointed, or at least six (6) months, if the officer is elected.

When a person is allowed to continue in any such position, the officer related shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, reemployment, change in status, compensation, or dismissal of such person, unless such action is taken with respect to a bona fide class or category of employees.

No officer of the Town may use his position to influence or to promote the appointment to any office, position, clerkship, employment or duty or the approval of a contract which purports to hire as an independent contractor any person relating within the second degree by affinity or within the third degree by consanguinity to such officer of the Town.

(Ord. No. 088-032, § 1, Prop. 9, 7-12-1988, election 8-13-1988; Ord. No. 092-072, 11-24-1992, election 1-16-1993)

Section 11.15. ~~Publicity of records.~~ Reserved.

~~Town records and accounts which are required by Texas Public Information law to be open to the public shall be made available during normal business hours in accordance with the terms and provisions of that statute. The records may be examined and copied in the Town offices during normal business hours, at a nominal charge established by ordinance.~~

~~(Ord. No. 088-032, § 1, Prop. 11, 7-12-1988, election 8-13-1988; Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)~~

State Law reference— Open records, V.T.C.A., Government Code ch. 552.

Section 11.16. - Applicability of general laws.

The Constitution of the State of Texas, the statutes of said State applicable to Home Ruled [Rule] Municipal Corporations, as now or hereafter enacted, this Charter and Ordinances enacted pursuant hereto shall, in the order mentioned, be applicable to the Town of Addison, but the Town shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town or village, not contrary to the provisions of said Home Rule Statutes, Charter and Ordinances, but the exercise of any such powers by the Town of Addison shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns or villages unless and until by Ordinance it adopts same.

Section 11.17. - Official newspaper.

The Council shall have the power to designate by Resolution a newspaper of general circulation in the Town as the official newspaper, and shall cause to be published therein all Ordinances, notices and other matters which are required to be officially published by this Charter, the Ordinances of the Town, or the Constitution or laws of the State of Texas, with the exception that a public hearing notice shall be published either in the official paper or a paper of general circulation in the Town as provided in the Zoning Ordinance of the Town.

Section 11.18. - ~~Gender clause.~~

~~A word importing the masculine gender only shall extend and be applied to include females, firms, partnerships and corporations as well as males. Reserved.~~

Section 11.19. - Construction of Charter.

This Charter shall be liberally construed as a general grant of powers subject only to the limitation of the constitution and statutes of the State of Texas.

The repeal of any provision, section or article of the Charter by the amendments to this Charter shall not affect or impair any act done or obligation, right, license, permit or penalty accrued or existing under the authority of the provision, section or article repealed or amended. Such provision, section or article shall be treated as still remaining in force for the purpose of sustaining any proper action concerning any such obligation, right, license, permit or penalty. Furthermore, the change by the Charter amendment of the name of the City of Addison to the Town of Addison shall not affect any ordinance, resolution, franchise, contract, permit or license in force and effect when said amendment shall become effective, and said ordinance, resolution, franchise, contract, permit or license shall continue in full force and effect unimpaired by the provisions hereof. For the purpose of construing this Charter, ordinances, resolutions, or any legal rights, liabilities, obligations or duties heretofore or hereinafter created hereunder, unless some other meaning is manifest, the words "City" or "City of Addison" shall be construed to mean the "Town of Addison."

(Ord. No. 775, § 1, Prop. 7, 2-23-1982, election 4-3-1982)

Section 11.20. - Judicial notice.

This Charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places.

Section 11.21. - Power to remit penalties.

The City Council shall have the right to remit, in whole or in part, any fine or penalty belonging to the Town, which may be imposed under any Ordinance or Resolution passed pursuant to this Charter.

Section 11.22. - Acquisition of land for park purposes.

The Town of Addison may acquire and appropriate land inside or outside of the Town of Addison for the purpose of establishing, laying out or enlarging any parks, parkways or pleasure grounds. Land owned, held or claimed as a public park or recreation land may not be sold, leased or otherwise conveyed unless the issue of such sale, lease or conveyance is submitted to the qualified registered voters of the municipality at an election and is approved by a majority of the votes received at the election.

(Ord. No. 088-032, § 1, Prop. 12, 7-12-1988, election 8-13-1988)

Section 11.23. ~~Rearrangement and renumbering.~~ Non-substantive changes.

The City Council shall have the power, by ordinance, to:

- (a) renumber and rearrange all articles, sections, and paragraphs of this Charter, or any amendments thereto, as it shall deem (appropriate); (but, without changing the meaning or effect or any part hereof); ~~and, upon the passage of any such Ordinance, a copy thereof, certified by the City Secretary, shall be forwarded to the Secretary of State.~~
- (b) ~~The City Council shall also have the authority to~~ change references to state law included in this charter to reflect a recodification or rememberingrenumbering of such laws by the Texas legislature, (but without changing the meaning or effect of any part hereof);~~);~~
- (c) make non-substantive changes as needed for clarity; and
- (d) change words of ~~any~~ gender ~~used hereinto~~ gender-neutral terms.

Upon the passage of any ordinance authorized in this section, a copy thereof, certified by the City Secretary, shall be held and construed to include any other gender, and forwarded to the Secretary of State.

Words of a singular number shall be held to include the plural and vice-versa, unless the context requires otherwise.

(Ord. No. 088-032, § 1, Prop. 11, 7-12-1988, election 8-13-1988)

Section 11.24. - ~~Town depository.~~

~~The provisions of the General Laws of the State of Texas governing the selection and designation of a City Depository are hereby adopted as the law governing the selection and designation of a depository of and for the Town of AddisonReserved.~~

State Law reference— City depositories, V.T.C.A., Local Government Code ch. 105.

Section 11.25. - Tax debt arrearages.

No money shall be paid by the Town of Addison upon any claim, debt, demand or account whatsoever, to any person, firm, or corporation, who is in arrears to the Town of Addison for taxes or otherwise; and the Town shall be entitled to a counter-claim and offset against any such debt, claim, demand or account, in the amount of taxes or other debt in arrears, and no assignment or transfer of such debts, claims, demand[s], or accounts, after the said taxes or other debts are due, shall affect the right, authority and power of the Town to offset the said taxes or other debts, against the same.

Section 11.26. - Disaster clause.

In case of disaster when a legal quorum of ~~the~~ elected ~~Councilmen~~City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving ~~member or members~~persons of the ~~elected~~City Council, or highest surviving ~~Town~~City official, if no elected official remains, must within twenty-four (24) hours of such disaster, request the ~~highest surviving officers of the local Chamber of Commerce and the Board of Trustees of the local school district, and the~~ County Judge of Dallas County to appoint a five member commission ~~to act during, which shall include all surviving elected City officials, to govern the City, respond to~~ the emergency and ~~call a Town election~~ within fifteen (15) days of such disaster call a City election to be held as soon as practicable, or as provided in the Texas Election Code, for election of a required quorum, if for good reasons it is known that a quorum of the present City Council will never again meet.

Section 11.27. ~~When provisions take effect.~~ Reserved.

~~For the purpose of nominating and electing members of the Council, the provisions of this Charter shall be in effect for the regular municipal election to be held in April, 1979. For all purposes this Charter shall be in effect from and after its approval by the electors of the Town and the entering of an official order upon the records of the Town by the City Council declaring the same adopted.~~

Section 11.28. - Amend the Charter.

Amendment to this Charter may be formulated and submitted to the voters of the Town in the manner provided by ~~V.T.C.A., the~~ Texas Local Government Code ch. 9, as now or hereafter amended.

(Ord. No. 010-042, § 2, Prop. 3, 11-10-2010, election 11-2-2010)

Section 11.29. - Charter Review Commission.

Whenever allowed by law, the Town may appoint a Charter Review Commission composed of citizens of the Town of Addison. Each member of the Council shall have the right to appoint two (2) members to the said Commission. However, the Council shall appoint a Charter Review Commission at least every ten (10) years to review the Charter and make recommendations as to any suggested changes.

(Ord. No. 088-032, § 1, Prop. 13, 7-12-1988, election 8-13-1988; Ord. No. 092-072, 11-24-1992, election 1-16-1993)

Section 11.30. ~~Ordinances, rules and regulations validated.~~ Reserved.

~~All Ordinances, Resolutions, rules and regulations of the Town of Addison heretofore ordained, passed or enacted, that are in force at the time this Charter becomes effective, and which are not in conflict with such Charter, shall remain in full force until altered, amended or repealed by the City Council of the Town after such Charter takes effect.~~

Section 11.31. - Severability clause.

If any section or part of [any] section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not effect [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 to which such holding shall directly apply.

Section 11.32. - Airport.

The City Council of the Town of Addison shall not make application to the Federal Aviation Administration for an airport operating certificate or limited airport operating certificate for the Addison Airport under Federal Aviation Regulations Part 139, without having first submitted the proposition whether to make such application to the qualified registered voters of the Town at an election, and with such proposition being approved by a majority of votes cast at the election.

(Ord. No. 088-032, § 1, Prop. 9, 7-12-1988, election 8-13-1988)

Section 11.33. - Savings clause.

The repeal of any provision, section or chapter of any Charter by the amendments to this Charter shall not affect or impair any act done or obligation, right, license, permit or penalty accrued or existing under the authority of the provision, section or chapter repealed. Such provision, section or chapter shall be treated as still remaining in force for the purpose of sustaining any proper action concerning any such obligation, right, license, permit or penalty. In addition, any franchise, contract, permit or license obtained under any provision, section or chapter repealed by any amendments to this Charter shall remain effective for the term and under the conditions prescribed by the repealed portion under which the franchise, contract, permit or license was granted for [or] issued; provided that, if the franchise, contract, permit or license provides that the same shall be governed by the Charter of the Town of Addison, as amended, then the amended section shall control.

All civil and criminal ordinances and all resolutions of a general and permanent nature in force and effect when this Charter or any amendment thereto shall become effective, which are inconsistent or in conflict with this Charter or any amendment thereto, are hereby repealed except as herein provided. Where any such civil or criminal ordinance or resolution of a general and permanent nature are in force and effect when this Charter or any amendment thereto, shall become effective is consistent with and not in conflict with the provisions hereto, same shall continue in full force and effect unimpaired by the provisions hereof.

(Ord. No. 088-032, § 1, Prop. 14, 7-12-1988, election 8-13-1988)

APPENDIX B:
TRACKING DOCUMENT WITH ISSUES FOR COMMISSION
CONSIDERATION

Item #1	Article I. Incorporation – Form of Government - Powers
Current Language:	Section 1.01. Incorporation The inhabitants of the Town of Addison, Texas within the corporate limits as now established or as hereafter established in the manner provided by law and by this Charter, shall continue to be a municipal body politic and incorporate in perpetuity, under the name of the "Town of Addison."
Issue:	In 2013, the Town underwent a rebranding project. As part of that process there was discussion regarding the use of town versus city. The branding study suggested “city” more accurately reflects Addison’s character and would help with economic development efforts. After Council approved the rebranding, Staff began using “city” and some residents were unhappy with the change and the issue was dropped.
Commission Discussion:	The Commission discussed and the consensus was to not recommend changing from Town to City.

Item #12-12-19A	Article I. Incorporation – Form of Government – Powers <u>COMMISSION INITIATED</u>
Current Language:	Section 1.03. - Form of government. 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, by the statutory laws of Texas, and by this Charter, all powers of the town shall be vested in an elective Council, hereafter referred to as the "Council," which shall enact local legislation, adopt budgets, determine policies, appoint the Judge of the Municipal Court, and appoint the City Manager, who shall execute the laws and administer the government of the Town. All powers of the Town shall be exercised in the manner prescribed, or if the manner be not prescribed, then in such manner as may be prescribed by Ordinance.
Issue:	Provide consistency.
Commission Discussion:	Section 1.03. - Form of government. 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, by the statutory laws of Texas, and by this Charter, all powers of the town shall be vested in an elective Council, hereafter referred to as the "Council," which shall enact local legislation, adopt budgets, determine policies, appoint the Judge(s) of the Municipal Court of Record , City Secretary and appoint the City Manager, who shall execute the laws and administer the government of the Town. All powers of the Town shall be exercised in the manner prescribed, or if the manner be not prescribed, then in such manner as may be prescribed by Ordinance.
Decision:	The Commission determined that, given the number of other issues to be addressed this did not need to be included as a ballot proposition.

Item #2	Article II. The Council
Current Language:	<p>Section 2.02. Qualification</p> <p>The members of the City Council shall be qualified voters of the Town of Addison who have been residents of the Town for at least twelve months immediately preceding election day and who shall never have been finally convicted of a felony offense or any offense involving moral turpitude from which the person has not been pardoned or otherwise released from the resulting disabilities.</p>
Issue:	<p>The qualifications in the Charter do not mirror the language included in the Texas Election Code Section 141.001. The Town does not have to mirror the Election Code, but it can cause some confusion.</p>
Commission Discussion:	<p>The Commission held a lengthy discussion regarding this. Overall, the consensus was to mirror the Texas Election Code 141.001, however there were outstanding questions related to the length of residency of 6 months (Election Code) or 12 months (Charter), Age of 18 vs. 21, and whether or not any offense involving moral turpitude should be included. With regards to the age, several Commissioners felt that 18 could be appropriate depending on the potential filing requirements to be discussed in Section 8.03. – Nominations (Item #19) Ultimately, the Commission decided to leave the age at 18 and keep the current Charter language. Therefore, no change to the Charter is necessary.</p>

<p>Item #12-12-19B</p>	<p>Article II. The Council</p> <p><u>COMMISSION INITIATED</u></p>
<p>Current Language:</p>	<p>Section 2.03. - Removal from office; Council to be judge of qualifications of its members.</p> <p>A member of the Council may be removed from office, in accordance with the procedures set forth in this Charter, if he:</p> <ol style="list-style-type: none"> (1) Lacks at any time during his term of office any qualifications for the office prescribed by this Charter or by law; (2) Commits any act of official misconduct including but not limited to: <ol style="list-style-type: none"> a. wilfully violating any express prohibition of this Charter, b. failing to discharge the member's official duties as set out in this Charter, or c. committing acts in the member's official capacity which the member had no authority to commit; (3) Is incompetent; (4) Is convicted of a felony offense or any offense involving moral turpitude; (5) Fails to attend four (4) consecutive regular meetings of the Council without first being excused by the Council. <p>The Council shall be the judge of the election and qualifications of its members. If a member of the Council is charged with a ground for removal, a hearing shall be set not less than ten (10) days nor more than thirty (30) days from the date on which the written charges are presented. At such hearing, the accused shall have the right to present evidence in his defense, but he shall be disqualified from voting as to his or her innocence or guilt. At the conclusion of the evidence, a vote shall be taken, and upon the affirmative vote of a majority of the members of the Council plus one additional affirmative vote, the accused member shall be removed from office and his seat declared vacant. The Council shall have the power to subpoena witnesses and require the production of records, but the decision of the Council in the exercise of such power shall be subject to review by the courts.</p>
<p>Issue:</p>	<p>Provide clarification of (2)b. <i>Where are official duties set out in the Charter?</i></p>

Item #3	Article II. The Council
Current Language:	Section 2.04. - Compensation. Compensation of members of the City Council shall be determined by the Council by ordinance, but no increase in such compensation shall take effect until commencement of the terms of Mayor and/or Council members elected at the next regular election. Members of the City Council shall also be entitled to reimbursement for actual expenses incurred in the performance of official duties, with the approval of the City Council at a public meeting.
Issue:	This language is currently not being followed. Staff suggests removing the last sentence requiring that such expenses be approved by the City Council at a public meeting.
Commission Discussion:	The Commission felt that approval at a public meeting was not necessary but felt that it was important for expenditures by or on behalf of Council Members be made public. The Commission recommended that the requirement that the reimbursement be approved at a public meeting could be removed and requested that the Council adopt a policy to create an annual report regarding expenditures by or on behalf of Council Members.

Item #12-12-19C	Article II. The Council <u>COMMISSION INITIATED</u>
Current Language:	Section 2.05. - Vacancies in Council. <p>A single vacancy in the Council shall be filled by a majority vote of the remaining members of the Council within thirty (30) days of the vacancy at a meeting subsequent to the date on which the vacancy occurs. The person selected shall not be one of the remaining members of the Council and once chosen, he shall serve until the next general town election shall be held to fill the unexpired term or regular term, as the case may be. Provided, however, that since any vacancy which occurs within forty-five (45) days prior to a general Town election does not allow time for candidates to file for such a vacated Council position, the appointment to fill such a vacancy shall be made within thirty (30) days after the election and not before the election. When two (2) or more vacancies exist, a special election shall be held to elect successors to fill the vacated unexpired terms, provided that if such vacancies occur within ninety (90) days prior to a regular Town election, then such successors shall be elected at such regular Town election. When two (2) or more vacancies occur within forty-five (45) days prior to such regular Town election and there is insufficient time for candidates to file for the vacated Council positions, a special election shall be held as soon as possible after the regular general Town election.</p>
Issue:	<i>Why is there a special election for 2 vacancies and not 1? What was the reasoning behind this? Why does not 1 vacancy also require a special election?</i>
Commission Discussion:	City Attorney explained this language is a carry-over from when Town was a General Law City. No action is necessary.

Item #12-12-19D	Article II. The Council <u>COMMISSION INITIATED</u>
Current Language:	Section 2.06. - Mayor. The Mayor shall preside at meetings of the Council, shall be recognized as head of the Town government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties. The Mayor may participate in the discussion of and shall be entitled to vote on all matters coming before the Council. A vacancy in the office of Mayor shall be filled by the Council members in the same manner as provided in Section 2.05 except that one of the Council members may be selected as Mayor.
Issue:	<i>Should we further clarify 2.06 regarding the powers of the mayor by stating that the mayor is the "head of the Town government ONLY for ceremonial purposes," rather than the current language of "for all ceremonial purposes."?</i> The mayor was never intended to be a "super" council member, but rather one more member of a deliberative body who simply presides at meetings and ceremonially represents the town. Food for thought.
Commission Discussion:	The Commission decided to take no action.

Item #4	Article II. The Council
Current Language:	<p>Section 2.08. - Powers of the City Council.</p> <p>All powers of the Town and the determination of all matters of policy shall be vested in the City Council. Without limitation of the foregoing and among the other powers that may be exercised by the City Council, the following are hereby enumerated for greater certainty:</p> <ol style="list-style-type: none"> a. Appoint and remove the City Manager as hereinafter provided; b. Reserved; c. Adopt the budget of the Town; d. Authorize the issuance and sale of bonds, by a Bond Ordinance; e. Collectively inquire into the conduct of any office, department or agency of the Town and make investigations as to Municipal affairs; f. Appoint the members of the Planning and Zoning Commission; g. Provide for such additional boards and commissions, not otherwise provided for in this Charter, as may be deemed necessary, and appoint the members of all such boards and commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by Town Ordinance or by law; h. Adopt and modify the zoning plan and the building code of the Town; i. Adopt and modify the official map of the Town; j. Adopt, modify and carry out plans proposed by the Planning and Zoning Commission for the replanning, improvement and redevelopment of any area or district which may have been destroyed in whole or in part by disaster; k. Adopt, modify and carry out plans proposed by the Planning and Zoning Commission for the clearance of slum districts and rehabilitation of blighted areas; l. Regulate the speed of engines, locomotives or other power-driven equipment operating upon tracks, rail, or defined routes, either at ground level, overhead or underground within the limits of the Town, and to regulate the operation of the same so as to prohibit the blocking of intersections, streets, alleys, avenues or impeding the free flow of vehicular traffic or pedestrians; m. Regulate, license and fix the charges or fares by any person, firm or corporation owning, operating or controlling any vehicle or [of] any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the Town; n. Provide for the establishment of districts and limits, except as otherwise provided hereinafter; within the Town, where the sale of spirituous, vinous and malt liquors may be located and maintained; and to prohibit the sale of such liquors or the locations of such businesses without such defined districts or limits;

	<ul style="list-style-type: none"> o. Provide for the establishment and designation of fire limits and prescribe the kind and character of buildings or structures or improvements to be erected therein, and provide for the erection of fireproof buildings within said limits, and provide for the condemnation of dangerous structures or buildings or dilapidated buildings, or buildings calculated to increase the fire hazard and prescribe the manner of their removal or destruction within said limits; p. Provide for a sanitary sewer and water system, and require property owners to connect their premises with sewer system, and provide for penalties for failure to make sanitary sewer connections; q. Provide for sanitary garbage disposal, and set fees and charges therefor, and provide penalties [for failure] to pay such fees and charges. To define nuisances; and, to prohibit same; and provide penalties for violations; r. Provide for all necessary public utilities and set fees and charges therefore [therefor] and provide penalties for misuses of same; s. Exercise exclusive dominion, control and jurisdiction, (including the right to close and abandon streets and alleys), in and upon, over and under, the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the Town; and, provide for the improvement of same, as provided in V.T.C.A., Transportation Code ch. 313, as now, or hereafter amended; t. Compromise and settle any and all claims, demands, and lawsuits, of every kind and character, in favor of, or against, the Town of Addison; u. To require bonds, both special and general, or all contractors and others constructing or building for the Town, and set up standards, rules, and regulations therefor; v. To pass Ordinances defining and prohibiting misdemeanors and vagrancy; and, provide penalties for violations; w. To provide and/or arrange for any and all "Civil Defense Measures," and "Public Shelter Measures" for the Town of Addison, Texas, and for the citizens thereof, deemed necessary for the Public Welfare;
Issue:	<p>Staff suggests that this section be updated, and the powers of the City Council summarized. Additionally, some changes to the powers are necessary to comply with current state laws and constitutional provisions. There are also updated references to state statutes that need to be made.</p>
Example:	<p>Section 2.08. - Powers of the City Council.</p> <ul style="list-style-type: none"> a. <i>In General:</i> The Town shall be an incorporated Home Rule City, with full power and rights of self-government, as provided by the Constitution and laws of this State. These powers and rights shall include, but not restricted to the following:

	<ol style="list-style-type: none">1. To enact, establish, and enforce codes, licenses and ordinances for the maintenance of good government and the interest and well-being of its inhabitants;2. To cooperate with the government of the State of Texas, or any agency or any political subdivision thereof, the government of the United States or its agencies, for any lawful purpose for the advancement of the interests, safety, convenience and welfare of its inhabitants;3. To exercise the right of eminent domain, the right of extraterritorial jurisdiction and to have exclusive dominion over all public property in any manner permitted by the Constitution and laws of the State of Texas;4. To contract and be contracted with; to sue and be sued; to buy, sell, lease, mortgage, hold, manage and control such property as its interests require; and5. To establish, maintain, improve, alter, abandon, or vacate public streets, rights-of-way, sidewalks, alleys, squares, parks and other public ways, and to police the use thereof. <p>b. <i>Public Improvements.</i> The Town shall have the power to construct and maintain, within or outside its corporate limits (which include but are not limited to) streets, utilities, canals, waterways and other flood control facilities and sanitary, water and storm drainage facilities in, over, under or upon all public property or easements granted for that purpose and to levy assessments for the costs of such improvements, and shall have the power to cause liens to be established for the purpose of securing the payment of such levies and shall have the power to compel the use of such improvements by the inhabitants of the Town.</p> <p>c. <i>Miscellaneous Powers.</i> The Town shall have the power to establish and maintain ordinances and regulations governing the use of lands within the Town and to enforce by all lawful means said ordinances and regulations, within and outside its corporate limits. The City shall have the power to authorize, regulate and inspect all construction and existing structures within or outside its limits, consistent with State statutes, and to establish and enforce ordinances and regulations concerning their use, construction and reconstruction. The Town shall have the power to license and regulate persons, corporations and associations engaged in any business, occupation, profession or trade.</p>
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Commission Discussion:	<p>The Commission requested that staff provide additional analysis on this section to help track how existing powers were incorporated into the proposed language and what new powers were being proposed. Upon further review, the changes to this section would be non-substantive and unnecessary. Staff is no longer recommending that this section be changed.</p> <p>Additionally, the Commission requested specifically that the Council's power to appoint and remove the City Attorney, Municipal Court of Record Judge, and City Secretary be included.</p>
Decision:	<p>Staff's intent was for a non-substantive clean-up of this section. Given the number of other issues being addressed through propositions, Staff withdrew consideration of this item.</p>

Item #5	Article II. The Council
Current Language:	<p>Section 2.08. – Powers of the City Council.</p> <p>All powers of the Town and the determination of all matters of policy shall be vested in the City Council. Without limitation of the foregoing and among the other powers that may be exercised by the City Council, the following are hereby enumerated for greater certainty:</p> <p>(f) Appoint the members of the Planning & Zoning Commission;</p> <p>(g) Provide for such additional boards and commissions, not otherwise provided for in this Charter, as may be deemed necessary, and appoint the members of all such boards and commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by Town Ordinance or by law;</p> <p>(y) Appoint Judge(s) of Municipal Court;</p>
Issue:	<p>COUNCIL INITIATED</p> <p>There is currently no requirement that board members be a citizen or registered voter of the Town. A Council Member has indicated that this may be important, especially for the Planning & Zoning Commission and Board of Zoning Adjustment.</p>
Commission Discussion:	<p>The Commission recommended that the Charter be amended to require members of the Planning and Zoning Commission and Board of Zoning Adjustment be residents and registered voters of Addison. Additionally, the Commission recommended the addition of a prohibition on any individual of serving on both the Planning and Zoning Commission and Board of Zoning Adjustment simultaneously.</p>

Item #6	Article II. The Council
Current Language:	<p>Section 2.10. - Meetings of the City Council.</p> <p>The City Council shall hold at least one or more regular meeting in each month at a time to be fixed by it for such regular meetings and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the Town and its citizens. Except as allowed by state law, all meetings of the City Council shall be open to the public and shall be held and notice given in accordance with applicable provisions of State law. Meetings shall be held at the Town Hall, except that the City Council may designate another place for such meetings and shall take such action as is reasonable and necessary to accommodate the public. Special meetings of the Council may be called by the Mayor or four (4) Council members giving written notice of such meetings to the City Secretary, who shall notify each member of the Council and the City Manager of the time and place of each meeting and the purpose for which it was called.</p>
Issue:	<p>Currently, if some portion of the Council desires to call a special meeting, it takes either the Mayor or a majority of the Council to agree to call the meeting. Many of the Town’s comparator cities allow fewer than a majority of Council Members to call a special meeting. The current language also does not state that the City Manager has the power to call a special meeting.</p>
Commission Discussion:	<p>The Commission recommended that this provision be changed so that the Mayor, City Manager or three Council Members have the ability to call a special meeting.</p>

Item #7	Article II. The Council
Current Language:	<p>Section 2.11. - Rules of procedure.</p> <p>The City Council shall determine its own rules of procedure and may compel the attendance of its members. Five (5) members of the City Council shall constitute a quorum to do business, and, except as otherwise provided for herein, any Ordinance, Resolution, or other action shall require at least four (4) affirmative votes to be adopted or passed. Minutes of the proceedings of all meetings of the City Council shall be kept, to which any citizen may have access at all reasonable times, and which shall constitute one of the archives of the Town. The vote upon the passage of all Ordinances and Resolutions shall be taken by the "ayes" and "nays" and entered upon the minutes, and every passage, shall be recorded in a book kept for that purpose under full caption, and shall be authenticated by the signature of the presiding officer and the person performing the duties of the City Secretary.</p>
Issue:	A typical quorum of a 7-member council is four (4) members. Addison's current Charter states that five (5) members constitutes a quorum.
Commission Discussion:	The Commission discussed this item and recommended that the current quorum requirement of five (5) members remain.

Item #8	Article II. The Council
Current Language:	<p>Section 2.12. – Procedure for passage or ordinances.</p> <p>(a) The City Council shall legislate by ordinance, and the enacting clause of every ordinance shall be, "Be it Ordained by the City Council of the Town of Addison, Texas:". Every ordinance enacted by the Council shall be signed by the mayor, or in his absence or disability, the mayor pro tempore or by at least three (3) councilmen, and the authenticity of such signature shall be attested by the city secretary. The approval signature of the mayor shall not be necessary to make an ordinance or resolution valid.</p>
Issue:	Minor grammar/spelling corrections are needed to this section.
Example:	<p>Section 2.12. - Procedure for passage of ordinances.</p> <p>(b) The City Council shall legislate by ordinance, and the enacting clause of every ordinance shall be, "Be it Ordained by the City Council of the Town of Addison, Texas:". Every ordinance enacted by the Council shall be signed by the mayor, or in his absence or disability, the <u>M</u>ayor <u>P</u>ro <u>T</u>empore or by at least three (3) councilmen <u>C</u>ouncil <u>M</u>embers, and the authenticity of such signature shall be attested by the <u>C</u>ity <u>S</u>ecretary. The approval signature of the mayor shall not be necessary to make an ordinance or resolution valid.</p>
Commission Discussion:	The Commission agreed that minor grammar and spelling corrections need to be made, but request that Staff develop a consistent approach to capitalization and spelling of titles throughout the Charter. Staff will review the document for this purpose. These will be incorporated at a later date.

Item #9	Article II. The Council
Current Language:	<p>Section 2.17. - Induction of Council into office. The first meeting of each newly elected Council, for induction into office, shall be the next regular meeting following its election. At such meeting, the first order of business shall be the canvassing of returns, declaring the results and the swearing in of such newly elected members of the Council.</p>
Issue:	<p>A home rule city may fix the date on which the terms of its officers begins. In the absence of a charter provision or ordinance fixing the beginning date, a newly elected officer is entitled to qualify and take office immediately upon completion of the official canvass and issuance of a certificate of election. <i>Tom v. Klepper</i>, 172 S.W. 721 (Tex.Civ.App. 1915)</p> <p>The canvass may not be conducted until the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election AND counted all timely received mailed domestic ballots cast from addresses within the United States, and all timely received mailed ballots cast from addresses outside the United States.</p>
Example:	<p>The first meeting of each newly elected <u>the City Council</u>, for induction into office, shall be the next regular meeting following <u>an</u> its election <u>of Council Members shall be the meeting called to canvass the election in accordance with the requirements of state statutes</u>. At such meeting, the first order of business shall be the meeting called to canvass canvassing of returns, declaring the results and the swearing in of such newly elected members of the Council</p>
Commission Discussion:	<p>The Commission agreed with the intent of these changes, but requested that Staff review the proposed language of this section for clarity. Staff submitted revised language and the Commission recommended that the changes be included in a ballot proposition.</p>

Item #10	Article IV. Administrative Departments
Current Language:	<p>Section 4.06. - City Secretary.</p> <p>The City Council shall appoint an officer of the Town, who shall have the title of City Secretary. The City Secretary shall give notice of the Council meetings, shall keep minutes of its proceedings, shall authenticate by his signature and record in full in a book kept for the purposes of all Ordinances and Resolution and shall perform such other duties as shall be required by this Charter or by the City Manager. He may be removed from office by the City Council. To perform the City Secretary's duties during his temporary absence and disability, the City Manager may appoint an assistant City Secretary until he shall return or his disability shall cease.</p>
Issue:	<p>COUNCIL INITIATED</p> <p>Currently, the City Secretary is hired by the City Council. The Council has passed a resolution indicating that the City Manager is responsible for the day-to-day management of the City Secretary position, and some on Council have suggested that the position be moved completely under the purview of the City Manager.</p> <p>A State-wide survey regarding how other cities select the City Secretary shows the following:</p> <ul style="list-style-type: none"> • By City Manager – 25% • By City Manager with City Council Approval – 20% • By City Council – 33% • By City Council on recommendation of City Manager – 11% • By Mayor with City Council Approval – 6% • Other – 2%
Commission Discussion:	<p>The Commission discussed that there was no consistent approach to how cities address the reporting structure for the City Secretary and believed that the City Council should retain some level of control over the position. The Commission recommended that the current language not be changed.</p>

Item #11	Article IV. Administrative Departments
Current Language:	<p data-bbox="451 279 889 310">Section 4.07. - Municipal Court.</p> <p data-bbox="451 331 1403 447">The city council may, by ordinance, create and provide for municipal courts to be known as municipal courts of the Town of Addison, as it may deem necessary, and may appoint one or more judges to serve each court.</p> <p data-bbox="451 457 1011 489">The municipal court shall have jurisdiction:</p> <ol data-bbox="735 510 1403 1738" style="list-style-type: none"> <li data-bbox="735 510 1403 657">1. over all criminal cases arising under the ordinances of the town within the town limits and outside the town limits to the extent authorized by state law; <li data-bbox="735 678 1403 888">2. concurrent with the appropriate state court of all criminal cases arising under the laws of the state, where the offense is committed within the town limits of Addison and the penalty does not exceed that which is established for municipal courts by state law; <li data-bbox="735 909 1403 1087">3. over the forfeiture and collection of bonds given in proceedings therein, and to order the forfeiture of cash acceptance bonds upon failure of the defendant to appear, and to accept the same in lieu of a fine; <li data-bbox="735 1108 1403 1287">4. over cases involving a license or permit granted by the town for any calling, occupation, business or vocation, and in addition to the punishment to be imposed therefor, the court may suspend or revoke the license or permit so granted; <li data-bbox="735 1308 1403 1486">5. enforce all process of the courts in accordance with state law and town ordinance, punish witnesses for failing to obey subpoenas, and compel their attendance by process of attachment; <li data-bbox="735 1507 1403 1654">6. punish for contempt, admit to bail, forfeit bonds under such circumstances as provided by county courts, or county courts exercising criminal jurisdiction only; and <li data-bbox="735 1675 1403 1738">7. over all other matters and cases provided for by state law or town ordinance. <p data-bbox="451 1759 1403 1864">(b) Each of the municipal courts of the Town of Addison shall be presided over by a judge or judges, each of whom shall be designated as "municipal judge." Each judge shall be licensed to practice law in the</p>

	<p>State of Texas and a member in good standing of the State Bar of Texas. The municipal judges shall be appointed by the Council and may be removed by the Council at any time for incompetency, misconduct, malfeasance, or disability, after a public hearing before the Council. Municipal judges shall receive such salary as may be fixed by the Council.</p> <p>(c) The City Manager shall appoint a Court Clerk of said court.</p> <p>(d) The clerk of said court and his deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally do and perform any and all acts usual and necessary by the Clerk of Courts in issuing process of said Courts and conducting the business thereof.</p> <p>(e) In case of the disability or absence of the Judge of the Municipal Court, the Council shall appoint a person to act in his place as an alternate judge.</p> <p>(f) The Council may appoint alternate judges to act in the place of the Municipal Court Judge.</p>
Issue:	<p>Staff is suggesting that minor updates should be made to this section of the Charter. Municipal Court no longer exists as it is now known as the Municipal Court of Record. Additionally, items 3 and 6 are duplicative and item 6 can be removed.</p>
Commission Discussion:	<p>The Commission was in agreement that the name should be updated to Municipal Court of Record and that “deputies” in (d) should be changed to “deputy clerks.”</p> <p>With regards to items 3 and 6, the Commission requested further clarification. Upon further consultation with the Court staff, they recommend that both 3 and 6 remain.</p>
Decision:	<p>The Commission determined that, given the number of other issues to be addressed this did not need to be included as a ballot proposition.</p>

Item #12-12-19E	Article V. Municipal Finances <u>COMMISSION INITIATED</u>
Current Language:	Section 5.06. - Budget, appropriation and amount to be raised by taxation. On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the Council shall constitute the official appropriations as proposed expenditures for the current year and shall constitute the basis of the official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Estimated expenditures will in no case exceed proposed revenue plus cash on hand. Unused appropriations may be transferred to any item required for the same general purpose.
Issue:	<i>Do we have sufficient checks and balances?</i>
Commission Discussion:	The Commission decided to take no action.

Item #12	Article V. Municipal Finance
Current Language:	<p>Section 5.11. - Bonds, warrants and other evidences of indebtedness.</p> <p><i>1. Power to issue.</i> In keeping with the constitution of the State of Texas, and not contrary thereto, the Town of Addison shall have the right to issue all tax bonds, revenue bonds, funding and refunding bonds, time warrants and other evidences of indebtedness as now authorized or as may hereafter be authorized to be issued by cities and towns by the General Laws of the State of Texas.</p> <p><i>2. Manner of issuance.</i> Bonds and warrants of the Town of Addison shall be issued in the manner provided by the General Laws of the State of Texas applicable to cities and towns.</p>
Issue:	<p>During the evaluation of potential bond projects, the Town discussed potentially issuing bonds to purchase certain properties in order to redevelop them and advance the Town’s Economic Development goals. As part of the Town’s investigation into this, the Attorney General stated that the Town was not authorized to issue bonds for such a purpose, as it was not identified in Charter.</p>
Commission Discussion:	<p>The Commission deliberated this item at length. The Commission asked staff to develop narrow language related to property acquisition for the Commission to review at a subsequent meeting. See the draft red lined Charter.</p>

Item #13	Article V. Municipal Finance
Current Language:	Section 5.19. - Power to correct errors. The Council shall have the power to cancel any uncollectible taxes upon the tax rolls.
Issue:	This section's title does not match the subject of the sentence. Staff suggests that this section be renamed to "Power to cancel taxes."
Commission Discussion:	The Commission agreed that this section should be renamed.

Item #14	Article V. Municipal Finance
Current Language:	<p>Section 5.20. - Ratification.</p> <p>All taxes heretofore assessed are ratified and all Ordinances relating to taxes now in force shall continue until amended or repealed by Council.</p>
Issue:	State law dictates what process required for adoption of budget and tax rates. This section is not necessary. Staff recommends its removal.
Commission Discussion:	The Commission recommended that this section be revised to state that the Town will follow state law, but not removed completely.

Item #15	Article V. Municipal Finance
Current Language:	<p>Section 5.31. - General powers.</p> <p>Unless otherwise provided by this Charter and by Ordinances passed hereunder, all property in the Town liable for taxation shall be assess in accordance with the general laws of the state insofar as applicable. In addition to the powers herein conferred with reference to the assessment and collection of taxes, the Town shall have an may exercise all powers and authority now conferred or which may hereafter be conferred upon cities having a population of more than five thousand (5,000) inhabitants by the general laws of the State of Texas.</p>
Issue:	<p>This Section’s title is not descriptive and could be misleading to the intent of the section. Staff suggests changing the title to “Assessment of taxes.”</p>
Commission Discussion:	<p>The Commission request that staff relook at the proposed title for this section. Staff responded with the title “general powers of taxation” and the Commission agreed.</p>

Item #16	Article VI. Franchises and Public Utilities
Current Language:	Entire Article
Issue:	State law regarding the regulation of franchise utilities have changed extensively in recent years. Legal is reviewing this language to ensure compliance with state laws.
Commission Discussion:	<p>The City Attorney is reviewing language with an attorney specializing in franchises and public utilities. Staff will provide further information regarding this section at a future meeting.</p> <p>Based on a legal review of this section, no changes are recommended.</p>

Item #17	Article VII. Municipal Planning & Zoning
Current Language:	<p>Section 7.03. - Master plan.</p> <p>(a) The official master plan of the Town shall be used as a guide by the City Council and the City Planning and Zoning Commission for development of the Town with respect to land use, thoroughfares and streets, buffer zones, parks, and other matters affecting development.</p> <p>(b) The master plan may be amended by majority vote of the whole Council, and such amendments as are read into the master plan shall be entered therein and shall become part thereof and of the official records of the Town.</p>
Issue:	<p>The more accurate name of the Town’s Master Plan is the Comprehensive Plan. The Town’s current Comprehensive Plan was adopted in 2013. Staff proposes to replace references to Master Plan with Comprehensive Plan.</p>
Commission Discussion:	<p>The Commission agreed and added that 7.03 (b) should be amended by removing the word “whole” to eliminate any potential for confusion about if the whole Council must be present for any Comprehensive Plan amendment.</p>

Item #18	Article VII. Municipal Planning & Zoning
Current Language:	<p>Section 7.04. - Planning and Zoning Commission</p> <p>The City Council shall have the power and authority to appoint a City Planning Commission, in accordance with the General Laws of the State of Texas, as provided for in V.T.C.A., Local Government Code chs. 211 and 371, as now, or hereafter, amended; and the City Council and Town of Addison shall have all of the rights, privileges, powers, and authority, given, permitted and granted under the laws of the State of Texas, relative to zoning and planning in, for, and of, municipalities, and their environs. Such commission may also be designated and referred to as the "City Zoning Commission." The present City Zoning Commission of the Town of Addison may continue to serve, (or, may be specially designated by the City Council, as the City Planning Commission or City Planning and Zoning Commission, and shall, in such event, thereafter serve under such new title).</p>
Issue:	<p>In Addison Planning and Zoning is handled by one body, referred to as the Planning and Zoning Commission. Staff proposes to update this section to remove references to specific chapters of the Texas Local Government Code and, instead, say “in accordance with state law.” Furthermore, Staff proposes to eliminate second half of the language above starting with “Such commission may also...” to the end of the section and refer to the body simply as the Planning and Zoning Commission.</p>
Commission Discussion:	The Commission agreed.

Item #12-16-19F	Article VII. Municipal Planning and Zoning <u>COMMISSION INITIATED</u>
Current Language:	Section 7.04. – Planning and Zoning Commission. <p>The City Council shall have the power and authority to appoint a City Planning Commission, in accordance with the General Laws of the State of Texas, as provided for in V.T.C.A., Local Government Code chs. 211 and 371, as now, or hereafter, amended; and the City Council and Town of Addison shall have all of the rights, privileges, powers, and authority, given, permitted and granted under the laws of the State of Texas, relative to zoning and planning in, for, and of, municipalities, and their environs.</p> <p>Such commission may also be designated and referred to as the "City Zoning Commission." The present City Zoning Commission of the Town of Addison may continue to serve, (or, may be specially designated by the City Council, as the City Planning Commission or City Planning and Zoning Commission, and shall, in such event, thereafter serve under such new title).</p>
Issue:	<i>Does the Charter need to address the process for the removal of a member of the Planning and Zoning Commission or Board of Zoning Adjustment?</i>
Commission Discussion:	<p>Staff informed the Commission that this process is established in the Code of Ordinances and does not need to be addressed in the Charter.</p> <p>The Commission agreed that no change was necessary.</p>

Item #19	ARTICLE VIII. - NOMINATIONS AND ELECTIONS						
Current Language:	<p>Section 8.03. - Nominations</p> <p>Any person having the qualifications required by this Charter and State law may place his own name in nomination as candidate for Mayor or Councilman by filing with the City Secretary, or may be placed in nomination by a petition signed by at least ten (10), or not more than fifteen (15) qualified voters, who shall be designated as his sponsors. No voter shall sign more than one petition and should a voter do so, his signature shall be void except as to the petition first filed. With each signature shall be stated the place of residence of the signer, giving the street, number or other description sufficient to identify it.</p> <p>Persons who desire to be candidates, or petitioners placing a name in nomination, must file with the City Secretary not earlier than ninety (90) days nor later than thirty (30) days before the election.</p> <p>Acknowledgment of nomination by each nominee will be in writing and will be accepted by the City Secretary or other persons authorized to administer oaths under the laws of the State of Texas.</p> <p>Any person who has placed his own name in nomination or has been placed in nomination by petition shall take the following oath:</p> <p>"I do hereby declare that I accept the nomination for the Council and agree to serve if elected. I am _____ years of age, a qualified voter of the Town of Addison, a resident of the State of Texas for at least one year and of the Town of Addison or an area now within the corporate limits of the Town of Addison for at least one year. I am not in arrears in the payment of any taxes or other liability due the Town. At the present time, I reside at _____ Street in the Town of Addison."</p> <table border="1" data-bbox="435 1350 1377 1619"> <tr> <td data-bbox="435 1350 472 1423"></td> <td data-bbox="472 1350 1377 1423">Signature of candidate _____</td> </tr> <tr> <td data-bbox="435 1423 472 1497"></td> <td data-bbox="472 1423 1377 1497">Date and hour of filing _____</td> </tr> <tr> <td data-bbox="435 1497 472 1619"></td> <td data-bbox="472 1497 1377 1619">Received by: _____ (Signature of City Secretary)</td> </tr> </table> <p>The petition placing a person in nomination shall be in the following form:</p> <p>"We, the undersigned voters of the Town of Addison, hereby nominate and sponsor _____, whose residence is _____, for the</p>		Signature of candidate _____		Date and hour of filing _____		Received by: _____ (Signature of City Secretary)
	Signature of candidate _____						
	Date and hour of filing _____						
	Received by: _____ (Signature of City Secretary)						

	<p>office of _____, to be voted for at the election to be held on the _____ day of _____, 20____, and we individually certify that we are qualified to vote for a candidate for Mayor or Councilman and that during the current election we have not signed any other nominating petition for that office."</p> <table border="1" data-bbox="435 394 1373 625"> <tr> <td data-bbox="435 394 456 470"></td> <td data-bbox="456 394 1373 470">Name _____ Street and number _____</td> </tr> <tr> <td data-bbox="435 470 456 546"></td> <td data-bbox="456 470 1373 546">Address from which last registered (if different) _____</td> </tr> <tr> <td data-bbox="435 546 456 625"></td> <td data-bbox="456 546 1373 625">Date of signing _____</td> </tr> </table> <p>These above statements will contain the following notarization:</p> <p>["]State of Texas</p> <p>County of Dallas</p> <p>Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and who acknowledged to me that the same was subscribed as his free act and deed for the purposes and consideration therein expressed.</p> <p>Given under my hand and seal of office this the _____ day of _____ 20____."</p>		Name _____ Street and number _____		Address from which last registered (if different) _____		Date of signing _____
	Name _____ Street and number _____						
	Address from which last registered (if different) _____						
	Date of signing _____						
<p>Issue:</p>	<p>COUNCIL INITIATED</p> <p>The petition language here does not follow the State approved petition form. Staff recommends using the state provided form.</p> <p>Some have suggested that the Charter require a petition, a filing fee, or a petition in lieu of a filing fee. The Commission can recommend the appropriate number of signatures on the petition.</p> <p>Furthermore, the Town cannot disqualify candidate for failure to pay property taxes.</p>						
<p>Commission Discussion:</p>	<p>The Commission agreed that the language should be simplified by removing the specific petition language and replace it with a form in compliance with State law.</p>						

	<p>The Commission asked several questions related petition requirements and filing fees that required research by staff. This information has been provided on the next page.</p> <p>Ultimately, the Commission recommended that the option for self-nomination be removed and a petition be required with a cap of 50 signatures.</p>
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How Other Cities Address this Issue:

City	Petition or Filing Fee	Petition Only	Filing Fee Only	No Requirement	Filing Fee Amount
Allen	X				Fee Set by Council
Carrollton	X				\$250
Coppell				X	
Farmers Branch		X			
Flower Mound				X	
Frisco	X				\$200
Grapevine				X	
Irving		X			
Lewisville				X	
McKinney				X	
Plano		X			
Richardson		X			
University Park				X	

Question: Given that a person can only sign one petition, how would the Town address the issue of potential signature hoarding by an individual candidate?

Response: The number of signatures required on a petition is governed by the Texas Election code Section 143.005 (d). This section requires the greater of 25 signatures or the number equal to .5% of the total vote in the most recent mayoral vote. .5% of the total mayoral vote is currently 8 votes. Therefore, if Addison were to have a petition, 25 signatures would be required. To address the issue of signature hoarding, the Town could place a cap on the number of signatures at some number greater than 25.

Question: Is there a conflict between Section 141.062(c) and Section 141.067 of the Texas Election code related to petitions?

Response: Section 141.062(c) – prevents a CANDIDATE from amending a petition after the filing deadline. This means that if petition is flawed, it cannot be amended and if signatures are disallowed by the city secretary, the petitioner cannot go get more signatures.

Section 141.067 – allows someone who signed a petition to withdraw their signature and (g) allows the petition to be SUPPLEMENTED if the withdrawal of the signature takes the candidate below the required number of signatures.

These two provisions can each be given meaning without conflicting with the other.

Item #20	ARTICLE VIII. - NOMINATIONS AND ELECTIONS
Current Language:	<p>Section 8.04. - Number, selection, and term of Council</p> <p>The Council shall be composed of a Mayor and six (6) council members who shall be elected and serve in the following manner subject to the adopting of this Charter:</p> <ul style="list-style-type: none"> (a) The Mayor and Councilmen in office at the time of the adoption of this Charter shall continue to serve as Mayor and Councilmen under this Charter until the expiration of their present terms of office, or until their successors have been elected or selected and duly qualified under this Charter. (b) In each odd-numbered year three (3) council members and a Mayor shall be elected and in each even-numbered year three (3) council members shall be elected. (c) The Mayor and other members of the Council shall be elected from the Town at large, for a term of two (2) years. (d) The candidate for Mayor who receives the highest number of valid votes by qualified electors voting at the election shall be declared elected. (e) The candidates for election to the places of Councilmen, equal in number to the number of vacancies to be filled, who receive the highest number of valid votes cast by qualified electors voting at the election, shall be declared elected. (f) In case of a tie vote as to any two (2) or more candidates, the Council shall order a special election within not less than thirty (30) days nor more than forty (40) days after the regular election to resolve the tie vote as between such candidates. (g) All elections shall be held in accordance with the election laws of the State of Texas and the provisions of this Charter. (h) No person shall serve as Mayor for more than three (3) successive terms of office, and no person shall serve as a council member for more than three (3) successive terms of office. For purposes of this section, the phrase "terms of office" shall not include any unexpired portion of any two-year term.
Issue:	<p>COUNCIL INITIATED</p> <p>Some have suggested that the Town consider changing the term of office from 2 years to either 3 or 4 year terms. This may require additional</p>

	changes to provisions of the Charter related to places, at-large vs districts, Council appointments, etc. See attached memo for additional explanation.
Commission Discussion:	The Commission discussed and recommended retaining the current two-year term length. The Commission did request that the issue from the 1993 Charter election related to replacing the word “successive” with the word “consecutive” be addressed at this time.
Decision	The City Attorney determined that “consecutive” could be corrected as a scrivener’s error and that no additional action was necessary by the voters.

<p>Item #12-16-19G</p>	<p>Article VIII. – Nominations and Elections</p> <p><u>COMMISSION INITIATED</u></p>
<p>Current Language:</p>	<p>Section 8.05. - Prohibiting holding or running for other office.</p> <p>(a) No person elected to the office of Council member, or to the office of Mayor, shall during the term for which he was elected, be appointed to any office or position of emolument in the service of the Town. If a member of any board appointed by the Council or any officer appointed by the City Council shall become a candidate for election to any public office, he shall immediately forfeit his place or position with the Town.</p> <p>(b) A Council member or the Mayor shall forfeit his office if he becomes a candidate for nomination or election to any elected public office other than nomination or re-election to his present office.</p>
<p>Issue:</p>	<p><i>Does the Charter need to address if an office holder campaigns before formally filing to be a candidate for another office?</i></p>
<p>Commission Discussion:</p>	<p>The Commission discussed and determined that no change was necessary.</p>

Item #21	ARTICLE VIII. - NOMINATIONS AND ELECTIONS
Current Language:	<p>Section 8.06. - Conducting and canvassing elections.</p> <p>Returns of all municipal elections, both general and special, shall be made by the election officers to the Council at the next regular meeting after the election, at which time the Council shall canvass the votes, declare the results of such election; with notification of election to candidate elected.</p>
Issue:	<p>This section should be reworded for clarification and so as to not be in conflict with Section 2.17</p>
Example:	<p>Section 8.06. - Conducting and canvassing elections.</p> <p>Returns of all municipal elections, both general and special, shall be made <u>canvassed at the first meeting of the City Council following an election in accordance with the requirements of state law regarding the canvass of elections.</u> by the election officers to the Council <u>At such meeting, the first order of business</u> at the next regular meeting after the election, at which time the Council shall <u>be the canvassing of returns,</u> canvass the votes, declare <u>declaring</u> the results of such election; with notification of election to candidate elected <u>and administering the oath of office to such newly elected members of the Council.</u></p>
Commission Discussion:	<p>The Commission agreed.</p>

Item #22	ARTICLE IX. – INITIATIVE AND REFERENDUM
Current Language:	<p>Section 9.02. - Initiative.</p> <p>Qualified voters of the Town may initiate legislation by submitting a petition addressed to the Council which requests the submission of a proposed Ordinance or Resolution to a vote of the qualified voters of the Town. Said petition must be signed by qualified voters equal in number to at least twenty-five (25) percent of those who were qualified voters on the date of the last regular municipal election as determined from the list of qualified voters maintained by the person having the duties of the voter registrar of Dallas County, and each copy of the petition shall have attached to it a copy of the proposed legislation. Each signer of such petition shall personally sign his name and address in ink or indelible pencil and shall write after his name his place of residence, giving the name of the street and number, or place of residence, and shall also write thereon the date, the month and the year his signature was affixed.</p>
Issue:	<p>All references to qualified voters should be changed to registered voters to comply with state law. Additionally, either the signer’s date of birth or voter registration number should be required to assist the City Secretary in verifying signatures. Lastly, the Commission may consider removing indelible pencil.</p>
Commission Discussion:	<p>The Commission agreed.</p>

Item #23	ARTICLE IX. – INITIATIVE AND REFERENDUM
Current Language:	<p>Section 9.05. - Referendum</p> <p>Qualified voters of the Town of Addison may require that any Ordinance or Resolution, with the exception of Ordinances or Resolutions appropriating money, fixing salaries or levying taxes, passed by the Council be submitted to the voters of the Town of Addison for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after the final passage of said Ordinance or Resolution, or within thirty (30) days after its publication. Said petition must be signed by qualified voters equal in number to at least twenty-five (25) percent of those who were qualified voters on the date of the last regular municipal election as determined from a list of qualified voters maintained by the tax collector of Dallas County. Each signer of such petition shall personally sign his name and address in ink or indelible pencil, and shall write after his name his place of residence, giving the name of the street and number, or place of residence, and shall write thereon the date, the month and the year his signature was affixed. Said petition shall be submitted to the person performing the duties of City Secretary. Within fifteen (15) days from the filing of such petition, the person performing the duties of City Secretary shall complete the examination of the petition to determine if it complies with the requirements of this Article and State law. After completing the examination, the person performing the duties of the City Secretary shall present said petition to the Council at its next regularly scheduled meeting.</p>
Issue:	<p>Staff suggests that ‘zoning’ be added as an exception and/or that ‘in compliance with state law’ be added. Texas courts have held that initiative and referendum processes do not apply to zoning amendments.</p> <p>Additionally, the reference to tax collector of Dallas County should be deleted as it is no longer applicable and a reference to Dallas County Elections Department should be added.</p>
Commission Discussion:	The Commission agreed with the further clarification that the language include “zoning of individual properties.”
Decision:	The Commission determined that, given the number of other issues to be addressed this did not need to be included as a ballot proposition.

Item #24	ARTICLE XI. - MISCELLANEOUS PROVISIONS
Current Language:	<p>Section 11.01. - No officer or employee to accept gift, etc.</p> <p>No officer or employee of the Town of Addison shall ever accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation, or other company, contractor or individual which currently has a grant, franchise, or contract with said Town during the term of office of such officer, or during such employment of such employee, except as authorized by law or ordinance. Any officer or employee of the Town 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 forthwith be removed from office.</p>
Issue:	<p>The language above is somewhat vague as to what constitutes a gift and could be construed to include even very minor gestures such as a pen. Staff would suggest that the language be changed to reference the Texas Penal Code provisions governing the acceptance or solicitation of gifts.</p> <p>Summary of Penal Code Provisions:</p> <ul style="list-style-type: none"> • <u>Improper Gifts</u> – Sec. 36.08 <ul style="list-style-type: none"> ○ Public Official Commits an Offense if he Solicits, Accepts, or Agrees to Accept any Benefit From a Person the Public Official Knows is Interested in or Likely to Become Interested in any Matter Before the Public Official or Governmental Body ○ Exceptions <ul style="list-style-type: none"> ▪ Gift conferred on account of kinship of personal, professional, or business relationship independent of the official status of recipient ▪ Political contribution ▪ Item with a value less than \$50 excluding cash ▪ Food, lodging, transportation, or entertainment if the donor or recipient is required by law to report the items ○ Penalty

	<ul style="list-style-type: none"> <ul style="list-style-type: none"> ▪ For the one who accepts the gift <u>and</u> the one who offers the gift <ul style="list-style-type: none"> • Class A Misdemeanor (1 year, \$4,000 fine) • <u>Bribery</u> – Sec. 36.02 <ul style="list-style-type: none"> ○ To solicit or accept any benefit in exchange for vote or act of discretion ○ Penalty – 2nd degree felony (20 years, \$10,000 fine) • <u>Abuse of Official Capacity</u> – Sec. 39.02 <ul style="list-style-type: none"> ○ Misuse governmental property to harm or gain a benefit <ul style="list-style-type: none"> ▪ Up to 1st Degree Felony (99 years, \$10,000 fine) • <u>Official Oppression</u> – Sec. 39.03 <ul style="list-style-type: none"> ○ Intentionally mistreat or sexually harass <ul style="list-style-type: none"> ▪ Class A Misdemeanor (1 year, \$4,000 fine) • <u>Misuse of Official Information</u> – Sec. 39.06 <ul style="list-style-type: none"> ○ Uses information that has not been made public for gain or benefit ○ 3rd Degree Felony (10 years, \$10,000 fine)
Commission Discussion:	The Commission determined that there was no issue and suggested that the language remain as-is.

<p>Item #12-16-19G</p>	<p>Article VIII. – Nominations and Elections</p> <p><u>COMMISSION INITIATED</u></p>
<p>Current Language:</p>	<p>Section 8.05. - Prohibiting holding or running for other office.</p> <p>(a) No person elected to the office of Council member, or to the office of Mayor, shall during the term for which he was elected, be appointed to any office or position of emolument in the service of the Town. If a member of any board appointed by the Council or any officer appointed by the City Council shall become a candidate for election to any public office, he shall immediately forfeit his place or position with the Town.</p> <p>(b) A Council member or the Mayor shall forfeit his office if he becomes a candidate for nomination or election to any elected public office other than nomination or re-election to his present office.</p>
<p>Issue:</p>	<p><i>Does the Charter need to address if an office holder campaigns before formally filing to be a candidate for another office?</i></p>
<p>Commission Discussion:</p>	<p>The Commission discussed and determined that no change was necessary.</p>

<p>Item #12-16-19H</p>	<p>Article XI. – Miscellaneous Provisions</p> <p><u>COMMISSION INITIATED</u></p>
<p>Current Language:</p>	<p>Section 11.04. - Restriction of sale of alcoholic beverages.</p> <p>Sale of alcoholic beverages for off-premises consumption is hereby restricted and limited to the existing west side of Inwood Road between the southern corporate limits and the southern right-of-way of Belt Line Road and such area being more specifically described as follows:</p> <p>Commencing at a point on the south right-of-way of Belt Line Road (a 100-foot R.O.W.) and the west right-of-way of St. Louis Southwestern Railway Company (a 100-foot R.O.W.);</p> <p>Thence, in a westerly direction along the south right-of-way of Belt Line Road, a distance of 93.02 feet, more or less, to the point of beginning, said point being the most northerly point of a corner clip;</p> <p>Thence, continue westerly along said south R.O.W. a distance of 159.5 feet, more or less, to a point;</p> <p>Thence, in a southerly direction along the common property line (plat bearing south 0 degrees 26 minutes east), a distance of 2,601.27 feet, more or less, to a point on the Addison/Farmers Branch town limits;</p> <p>Thence, in an easterly direction along said town limits line (plat bearing north 88 degrees 58 minutes 14 seconds west), a distance of 971.37 feet, more or less, to a point on the west right-of-way of Inwood Road;</p> <p>Thence, northwesterly along said west right-of-way of Inwood Road, a distance of 2,676.56 feet, more or less, to a point, being the most southerly of a corner clip;</p> <p>Thence, in a northwesterly direction along said corner clip, a distance of 48.31 feet, more or less, to said point of beginning;</p> <p>except that the sale of beer and wine for off-premises consumption is not restricted or limited by and is not subject to the foregoing provision. Notwithstanding Section 11.31 of this Charter or other law, the provisions of this Section 11.04 are not severable, and if any portion of this Section 11.04 is determined by a final, non-appealable order of a court of competent jurisdiction to be invalid, unlawful, or unconstitutional, this Section 11.04 shall be deemed repealed and deleted in its entirety.</p>
<p>Issue:</p>	<p><i>Does the language of this section need to change, since alcohol sales are allowed outside of the Inwood corridor?</i></p>

Commission Discussion:	<p>Staff clarified that, while beer and wine sales are allowed outside of the Inwood corridor, liquor sales are still restricted by this language to Inwood.</p> <p>The Commission determined that no change was necessary.</p>
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Item #25	ARTICLE XI. - MISCELLANEOUS PROVISIONS
Current Language:	<p>Section 11.11. - Fire limits.</p> <p>The City Council may establish fire limits and prescribe the kind and character of materials to be used in building[s] constructed within such limits.</p>
Issue:	<p>Fire Limits are an antiquated regulatory tool used when cities established an area where more stringent building regulations were implemented due to the higher likelihood of fire in dense areas. This tool was a result of the Chicago Fire. The concept is now unnecessary as cities have adopted building and fire codes that apply to all properties. Given that Section 11.12 of the Charter enables the Town to require permits for and regulate the construction of structures, Section 11.11 – Fire Limits is unnecessary and can be eliminated.</p>
Commission Discussion:	<p>The Commission agreed.</p>
Decision:	<p>The Commission determined that, given the number of other issues to be addressed this did not need to be included as a ballot proposition.</p>

Item #26	ARTICLE XI. - MISCELLANEOUS PROVISIONS
Current Language:	Section 11.15. - Publicity of records. Town records and accounts which are required by Texas Public Information law to be open to the public shall be made available during normal business hours in accordance with the terms and provisions of that statute. The records may be examined and copied in the Town offices during normal business hours, at a nominal charge established by ordinance.
Issue:	Records management and disclosure is governed by the Texas Public Information Act. This section is not necessary and can be deleted.
Commission Discussion:	The Commission agreed.

Item #12-16-19I	Article XI. – Miscellaneous Provisions <u>COMMISSION INITIATED</u>
Current Language:	Section 11.15. - Publicity of records. Town records and accounts which are required by Texas Public Information law to be open to the public shall be made available during normal business hours in accordance with the terms and provisions of that statute. The records may be examined and copied in the Town offices during normal business hours, at a nominal charge established by ordinance.
Issue:	<i>Should the Charter include language stating that the Town will operate in a transparent manner?</i>
Commission Discussion:	The Commission determined that no change was necessary.

Item #27	ARTICLE XI. - MISCELLANEOUS PROVISIONS
Current Language:	Section 11.18. - Gender clause. A word importing the masculine gender only shall extend and be applied to include females, firms, partnerships and corporations as well as males.
Issue:	Staff would propose a ballot item to make all references in the Charter gender neutral changing Councilman/men to Council Member/s “he” and “she” to “they” and “his” and “her” to “their.” If approved, this section can be eliminated.
Commission Discussion:	The Commission agreed.

Item #28	ARTICLE XI. - MISCELLANEOUS PROVISIONS
Current Language:	<p>Section 11.22. - Acquisition of land for park purposes</p> <p>The Town of Addison may acquire and appropriate land inside or outside of the Town of Addison for the purpose of establishing, laying out or enlarging any parks, parkways or pleasure grounds. Land owned, held or claimed as a public park or recreation land may not be sold, leased or otherwise conveyed unless the issue of such sale, lease or conveyance is submitted to the qualified voters of the municipality at an election and is approved by a majority of the votes received at the election.</p>
Issue:	<p>Currently, the only area designated as a park by Town ordinance is Town Park off Sidney and Woodway Drive. The status of the other “parks” is not clearly defined, and Staff has been hesitant to formally designate them as a park due to the language in this section. If this language is still important, Staff would suggest that this section be clarified to specifically say what action creates a public park.</p>
Commission Discussion:	<p>The Commission recommended keeping the language as-is.</p>

Item #29	ARTICLE XI. - MISCELLANEOUS PROVISIONS
Current Language:	<p>Section 11.23. - Rearrangement and renumbering.</p> <p>The City Council shall also have the authority to change references to state law included in this charter to reflect a recodification or renumbering of such laws by the Texas legislature, (but without changing the meaning or effect of any part hereof).</p> <p>Words of any gender used herein shall be held and construed to include any other gender, and words of a singular number shall be held to include the plural and vice-versa, unless the context requires otherwise.</p>
Issue:	<p>Currently, if a minor grammatical error or misspelling is made, a Charter election is required to correct the error. Staff suggests that language be added to this section to allow the City Council to correct non-substantive errors such as non-substantive misspellings, punctuation, grammar and sentence structure errors, to and use consistent terminology, outline paragraph numbering, conform to requirements and/or provisions of State and/or federal law and/or Town ordinances, and revise reference to repealed, or obsolete provisions of State law.</p> <p>Also, the second paragraph is duplicative of Section 11.18. See comment in that section regarding a proposed amendment to make all gender references neutral.</p>
Commission Discussion:	The Commission agreed.

Item #30	ARTICLE XI. - MISCELLANEOUS PROVISIONS
Current Language:	<p>Section 11.24. - Town depository.</p> <p>The provisions of the General Laws of the State of Texas governing the selection and designation of a City Depository are hereby adopted as the law governing the selection and designation of a depository of and for the Town of Addison.</p>
Issue	<p>This section is unnecessary and can be deleted. Texas Local Government Code, Ch. 105, establishes the rules and process for selecting a depository bank and has specific rules for the handling of municipal funds by the depository. It is not necessary to refer to this in the Charter.</p>
Commission Discussion:	<p>The Commission agreed.</p>

Item #31	ARTICLE XI. - MISCELLANEOUS PROVISIONS
Current Language:	<p>Section 11.26. - Disaster clause</p> <p>In case of disaster when a legal quorum of elected Councilmen cannot otherwise be assembled due to multiple deaths or injuries, the surviving member or members of the elected Council, or highest surviving Town official, if no elected official remains, must within twenty-four (24) hours of such disaster, request the highest surviving officers of the local Chamber of Commerce and the Board of Trustees of the local school district, and the County Judge of Dallas County to appoint a commission to act during the emergency and call a Town election within fifteen (15) days of such disaster for election of a required quorum, if for good reasons it is known a quorum of the present Council will never again meet.</p>
Issue:	This language shown deleted below was typical of early Charters but may not appropriate now.
Example:	<p>In case of disaster when a legal quorum of the elected City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving persons of the City Council or highest surviving City official if no elected official remains, must within twenty-four (24) hours of such disaster, request the County Judge of Dallas County to appoint a five member commission, which shall include any surviving elected City officials, to govern the City, respond to the emergency and within fifteen (15) days of such disaster call a City election to be held as soon as practicable, or as provided in the Texas Election Code, for election of a required quorum, if for good reasons it is known that a quorum of the present City Council will never again meet.</p>
Commission Discussion:	<p>The Commission requested to see specific language on this item. The Commission also noted that this was a recommendation of the 2010 Charter Review Commission and inquired as to why it was not selected by the City Council to put to the voters in 2010. Staff has researched this issue and confirmed that it was a recommendation in 2010. However, given that there are no discussion minutes from Council’s deliberation on this matter, Staff does not know why the Council decided not to move forward with a ballot proposition on this issue.</p>

Item #32	ARTICLE XI. - MISCELLANEOUS PROVISIONS
Current Language:	<p>Section 11.27. - When provisions take effect.</p> <p>For the purpose of nominating and electing members of the Council, the provisions of this Charter shall be in effect for the regular municipal election to be held in April, 1979. For all purposes this Charter shall be in effect from and after its approval by the electors of the Town and the entering of an official order upon the records of the Town by the City Council declaring the same adopted.</p>
Issue:	This Section can be eliminated because it was a transition provision when the Charter was adopted.
Commission Discussion:	The Commission agreed.

Item #33	ARTICLE XI. - MISCELLANEOUS PROVISIONS
Current Language:	Section 11.30. - Ordinances, rules and regulations validated. All Ordinances, Resolutions, rules and regulations of the Town of Addison heretofore ordained, passed or enacted, that are in force at the time this Charter becomes effective, and which are not in conflict with such Charter, shall remain in full force until altered, amended or repealed by the City Council of the Town after such Charter takes effect.
Issue:	This Section can be eliminated because it was a transition provision when the Charter was adopted.
Commission Discussion:	The Commission agreed.

Item #12-16-19J	<u>COMMISSION INITIATED</u>
Current Language:	N/A
Issue:	<i>The Commission requested clarification on who is an officer and who is an employee.</i>
Commission Discussion:	<p>In short, Staff did not find a general statutory definition for the term “officer” in the municipal context. Such determination would be made on a case-by-case basis according to the specific facts in each scenario. For additional background, generally “officer” means a person in a position of authority. One city charter defined an officer as one who was elected to office or appointed by ordinance.</p> <p><i>Rogers v. Orr</i>, 408 S.W.3d 640 (Tex. App. – Fort Worth 2013), review denied.</p> <p>“Several courts have identified a number of characteristics that may be relevant to identifying a person as an officer. According to one, “the determining factor which distinguishes a public officer from an employee is whether any sovereign function of the government is conferred upon the individual to be exercised by him for the benefit of the public largely independent of the control of others.” <i>Dunbar v. Brazoria Cnty.</i>, <u>224 S.W.2d 738, 740–41 (Tex.Civ.App.-Galveston 1949, writ ref’d)</u>. Along those lines, “[a] public officer is one who is authorized by law to independently exercise functions of either an executive, legislative, or judicial character.” <i>Prieto Bail Bonds v. State</i>, <u>994 S.W.2d 316, 320 (Tex.App.-El Paso 1999, pet. ref’d)</u>. “Other factors to consider include a fixed term of office, removal provisions, and qualifications for holding the position, all of which are prescribed by statute.” <i>Guerrero v. Refugio Cnty.</i>, <u>946 S.W.2d 558, 570 (Tex.App.-Corpus Christi 1997)</u>, <i>disapproved of on other grounds by NME Hosps. v. Rennels</i>, <u>994 S.W.2d 142, 146–47 (Tex.1999)</u>.”</p> <p>Atty. Gen. Op. DM-309</p> <p>“Chapter 171 of the Local Government Code governs conflicts of interest on the part of “local public officials.” “Local public official” is defined as</p>

follows: “Local public official” means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), county, municipality, precinct, central appraisal district, transit authority or district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature.”

Section 2-91 of the Town’s code of ordinances – the “Ethics Ordinance” defines “officer” as the mayor and members of the city council and it defines “official” as officers, employees and members of any board which is established by town ordinance, town charter, interlocal contract or state law and any part of whose membership is appointed by the City Council.

HOWEVER

Atty. Gen. Op. DM-218

“The fact than an advisory board member is defined as a city officer in a city code or charter, however, does not necessarily make him or her an officer for purposes of state law in general. . . . Under state law, a public officer generally has a fixed term and may be removed only in accordance with the applicable provisions of law. (citation omitted) In addition, a public officer is someone upon whom some sovereign function of the government is conferred for the benefit of the public, largely independent of the control of others. (citation omitted) An individual who serves in a merely advisory capacity does not exercise sovereign powers independent of the control of others and is therefore not an officer.”