

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.
12-12-19 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.
12-12-19 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.
Proposition(s)	Proposition 1 and Proposition 4

Item #2	Article II. The Council
Current Language:	Section 2.02. Qualification 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.
Issue:	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.
12-12-19 Commission Discussion:	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)
Outstanding Questions:	1) Age: 18 or 21?
Proposition(s)	Proposition 2 and Proposition 5 (if necessary)

<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.
12-12-19 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.
Proposition(s)	Proposition 6

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>
12-12-19 Commission Discussion:	City Attorney has explained this language is a carry-over from when Town was a General Law City.

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.
12-12-19 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; and 5. 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 it's 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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<p>12-12-19 Commission Discussion:</p>	<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>
<p>Proposition(s)</p>	<p>Proposition 1 and Proposition 9</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>
12-12-19 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>
Proposition(s)	Proposition 7 and Proposition 8

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:	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.
12-12-19 Commission Discussion:	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.
Proposition(s)	Proposition 10

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.
12-12-19 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>Mayor Pro Tempore</u> or by at least three (3) councilmen <u>Council Members</u>, and the authenticity of such signature shall be attested by the <u>City Secretary</u>. The approval signature of the mayor shall not be necessary to make an ordinance or resolution valid.</p>
12-12-19 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.
Proposition(s)	Proposition 28

Item #9	Article II. The Council
Current Language:	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.
Issue:	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) 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.
Example:	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
12-12-19 Commission Discussion:	The Commission agreed with the intent of these changes, but requested that Staff review the proposed language of this section for clarity. See the red lined draft charter.
Proposition(s)	Proposition 11

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%
12-12-19 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 1008 489">The municipal court shall have jurisdiction:</p> <ol data-bbox="737 510 1403 1738" style="list-style-type: none"> <li data-bbox="737 510 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="737 678 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="737 909 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="737 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="737 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="737 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="737 1675 1403 1738">7. over all other matters and cases provided for by state law or town ordinance.

	<p>(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.</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>
12-12-19 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>
Proposition(s)	<p>Proposition 1</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>
12-12-19 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>
12-12-19 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>
Proposition(s)	<p>Proposition 12 and Proposition 13</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."
12-12-19 Commission Discussion:	The Commission agreed that this section should be renamed.
Proposition(s)	Proposition 14

Item #14	Article V. Municipal Finance
Current Language:	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 Council.
Issue:	State law dictates what process required for adoption of budget and tax rates. This section is not necessary. Staff recommends its removal.
12-12-19 Commission Discussion:	The Commission recommended that this section be revised to state that the Town will follow state law, but not removed completely.
Proposition(s)	Proposition 3

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:	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.”
12-12-19 Commission Discussion:	The Commission request that staff relook at the proposed title for this section. Staff will respond at a future meeting.
Proposition(s)	Proposition 15

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.
12-12-19 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:	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.
12-16-19 Commission Discussion:	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.
Proposition(s)	Proposition 16

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>
12-16-19 Commission Discussion:	The Commission agreed.
Proposition(s)	Proposition 17

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>
12-16-19 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="431 1350 1375 1619"> <tr> <td data-bbox="431 1350 472 1423"></td> <td data-bbox="472 1350 1375 1423">Signature of candidate _____</td> </tr> <tr> <td data-bbox="431 1423 472 1499"></td> <td data-bbox="472 1423 1375 1499">Date and hour of filing _____</td> </tr> <tr> <td data-bbox="431 1499 472 1619"></td> <td data-bbox="472 1499 1375 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>		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>"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."</p> <table border="1" data-bbox="435 466 1375 697"> <tr> <td data-bbox="435 466 454 541"></td> <td data-bbox="454 466 1375 541">Name _____ Street and number _____</td> </tr> <tr> <td data-bbox="435 541 454 617"></td> <td data-bbox="454 541 1375 617">Address from which last registered (if different) _____</td> </tr> <tr> <td data-bbox="435 617 454 697"></td> <td data-bbox="454 617 1375 697">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>						

12-16-19 Commission Discussion:	<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. Additional direction is needed from the Commission in order to draft a potential Charter amendment and ballot provision(s).</p>
Proposition(s)	Proposition 2, Proposition 18, Proposition 19 and Proposition 21 (if necessary)

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.
12-16-19 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. To do so, Staff has proposed a ballot provision acknowledging the 1993 vote and confirming the community’s desire to change this language. Staff believes that this is the most conservative way to adopt these changes.
Proposition(s)	Proposition 22

Item #12-16-19G	Article VIII. – Nominations and Elections <u>COMMISSION INITIATED</u>
Current Language:	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.
Issue:	<i>Does the Charter need to address if an office holder campaigns before formally filing to be a candidate for another office?</i>
12-16-19 Commission Discussion:	The Commission discussed and determined that no change was necessary.

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:	This section should be reworded for clarification and so as to not be in conflict with Section 2.17
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>
12-16-19 Commission Discussion:	The Commission agreed.
Proposition(s)	Proposition 3 and Proposition 23

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>
12-16-19 Commission Discussion:	<p>The Commission agreed.</p>
Proposition(s)	<p>Proposition 2, Proposition 19 and Proposition 20</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>
12-16-19 Commission Discussion:	The Commission agreed with the further clarification that the language include “zoning of individual properties.”
Proposition(s)	Proposition 24

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)
<p>12-16-19 Commission Discussion:</p>	<p>The Commission determined that there was no issue and suggested that the language remain as-is.</p>

Item #12-16-19G	Article VIII. – Nominations and Elections <u>COMMISSION INITIATED</u>
Current Language:	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.
Issue:	<i>Does the Charter need to address if an office holder campaigns before formally filing to be a candidate for another office?</i>
12-16-19 Commission Discussion:	The Commission discussed and determined that no change was necessary.

<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>

12-16-19 Commission Discussion:	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. The Commission determined that no change was necessary.
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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>
12-16-19 Commission Discussion:	<p>The Commission agreed.</p>
Proposition(s)	<p>Proposition 25</p>

Item #26	ARTICLE XI. - MISCELLANEOUS PROVISIONS
Current Language:	<p>Section 11.15. - Publicity of records.</p> <p>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.</p>
Issue:	Records management and disclosure is governed by the Texas Public Information Act. This section is not necessary and can be deleted.
12-16-19 Commission Discussion:	The Commission agreed.
Proposition(s)	Proposition 26

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>
12-16-19 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.
12-16-19 Commission Discussion:	The Commission agreed.
Proposition(s)	Proposition 27

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>
12-16-19 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>
12-16-19 Commission Discussion:	The Commission agreed.
Proposition(s)	Proposition 28

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	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.
12-16-19 Commission Discussion:	The Commission agreed.
Proposition(s)	Proposition 29

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:	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.
12-16-19 Commission Discussion:	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.
Proposition(s)	Proposition 30

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.
12-16-19 Commission Discussion:	The Commission agreed.
Proposition(s)	Proposition 31

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.
12-16-19 Commission Discussion:	The Commission agreed.
Proposition(s)	Proposition 32

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>
12-16-19 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>

“Chapter 171 of the Local Government Code governs conflicts of interest on the part of “local public officials.” “Local public official” is defined as 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 that 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.”