

TOWN OF ADDISON, TEXAS

ORDINANCE NO. 010-042

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS CANVASSING AND DECLARING THE RESULTS OF THE SPECIAL ELECTION HELD ON NOVEMBER 2, 2010 FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE TOWN THREE (3) PROPOSED AMENDMENTS TO THE EXISTING CHARTER OF THE TOWN, CONCERNING THE LOCATION WITHIN THE TOWN OF THE SALE OF BEER AND WINE FOR OFF-PREMISES CONSUMPTION, THE DEVELOPMENT OF PROPERTY AND THE PROMOTION OF ECONOMIC DEVELOPMENT WITHIN THE TOWN, AND MAKING CERTAIN NON-SUBSTANTIVE MODIFICATIONS TO THE CHARTER; ENTERING AN ORDER IN THE RECORDS OF THE TOWN DECLARING THAT THE AMENDMENTS TO THE CHARTER AS APPROVED BY THE QUALIFIED VOTERS AT THE ELECTION ARE ADOPTED; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the Town of Addison, Texas (the "City"), by the adoption of Ordinance No. 010-026 and corresponding Resolution No. R10-022, heretofore ordered and called a special election to be held on November 2, 2010 within the City for the purpose of submitting to the qualified voters of the City certain proposed amendments to the existing City Charter of the City as set forth in the said Ordinance No. 010-026 and Resolution No. R10-022 (the "Election"); and

WHEREAS, the Election having been ordered and called in accordance with law, notice of the Election was thereafter given and provided pursuant to and in accordance with applicable law, and the Election was duly and lawfully conducted and held on November 2, 2010, and the returns of the Election have been delivered in accordance with law to the City Council as the canvassing authority for the Election; and

WHEREAS, the City Council met in accordance with law on November 10, 2010 for the purpose of canvassing the Election returns, declaring the results of the Election, and entering an order regarding adoption of the Charter amendments, as set forth herein.

NOW, THEREFORE, BE IT ORDAINED AND ORDERED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. Incorporation of Recitals. The above and foregoing recitals to this Ordinance are true and correct and are incorporated herein and made a part of this Ordinance for all purposes.

Section 2. Canvass of the Special Election.

A. A tabulation of the returns of the special Election of the City held on November 2, 2010, called and ordered for the purpose of submitting to the qualified voters of the City certain

amendments to the existing City Charter of the Town of Addison as set forth in Ordinance No. 010-026 and corresponding Resolution No. R10-022 of the City, is attached hereto as Exhibit A and incorporated herein and made a part hereof for all purposes. A summary of the said tabulation of returns for the special Election set forth in the attached Exhibit A, showing the total votes received for and against each measure or proposition, is as follows:

<u>Proposition</u>	<u>Number of "Yes" (For) Votes</u>	<u>Number of "No" (Against) Votes</u>	<u>Total Votes</u>
Proposition No. 1: Shall Section 11.04 of the Charter of the Town of Addison be amended to no longer restrict or limit the location of the sale of beer and wine for off-premises consumption, and to provide that Section 11.04 be repealed and deleted in its entirety if any portion of Section 11.04 is determined by a court to be invalid?	1657	991	2648
Proposition No. 2: Shall Section 7.02 of the Charter of the Town of Addison, regarding the development of property, be amended in its entirety to provide that the City Council may encourage the development of property and promote economic development within the Town of Addison in accordance with State law?	2030	536	2566
Proposition No. 3: Shall the Charter of the Town of Addison be amended throughout to correct non-substantive errors such as misspellings, punctuation, grammar and sentence structure, to make non-substantive changes to clarify meanings of terms 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 references to repealed or obsolete provisions of State law?	2339	255	2594

B. In accordance with the foregoing and pursuant to applicable law, including the Texas Election Code and the City's Home Rule Charter, the City Council finds, determines and declares the results of said special Election to be that the proposed amendments to the City Charter as described and set forth in each of Proposition No. 1, Proposition No. 2, and Proposition No. 3 (and as more fully set forth in each of Ordinance No. 010-026 and corresponding Resolution No. R10-022 of the City) have been approved by a majority of the qualified voters of the City who voted at the Election, and therefore the said amendments have been and are adopted. The provisions of the City Charter as amended pursuant to the Election

are set forth in Exhibit B attached hereto and incorporated herein and made a part hereof for all purposes.

Section 3. Order Adopting Charter Amendments. It is hereby declared by the City Council that the said amendments to the City Charter approved by a majority of the qualified voters of the City at the Election are adopted, and this is and shall constitute an Order of the City Council in the records of the City making such declaration. In accordance with Section 9.005(b) of the Texas Local Government Code, the said amendments to the City Charter take effect immediately upon adoption of this Ordinance by the City Council.


The City Manager and the City Secretary are hereby authorized to take all steps necessary or required by law to carry out the terms of this Ordinance and to cause the City Charter to be revised in accordance herewith.

Section 4. Certification, Registration of Charter Amendments. In accordance with Section 9.007 of the Tex. Loc. Gov. Code, the Mayor or the City Manager of the City shall certify to the secretary of state an authenticated copy of the Charter amendments under the City's seal showing the approval by the voters of the City. In accordance with Section 9.008 of the Tex. Loc. Gov. Code, the City Secretary shall record in the Secretary's or other officer's office the Charter amendments adopted by the voters of the City; if the Charter amendments are not recorded on microfilm, as may be permitted under law, they shall be recorded in a book kept for that purpose.

Section 5. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance is held invalid or unconstitutional by the final, valid judgment or decree of a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 6. Effective Date. This Ordinance shall take effect immediately upon its passage and approval.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas, on this the 10th day of November, 2010.



Joe Chow, Mayor

ATTEST:

By: 

Lea Dunn, City Secretary

APPROVED AS TO FORM:

By:  _____
John Hill, City Attorney

EXHIBIT A
TO ORDINANCE NO. 010-042

Town of Addison, Texas
Special Election - November 2, 2010
Tabulation of Returns

Proposition No. 1: Shall Section 11.04 of the Charter of the Town of Addison be amended to no longer restrict or limit the location of the sale of beer and wine for off-premises consumption, and to provide that Section 11.04 be repealed and deleted in its entirety if any portion of Section 11.04 is determined by a court to be invalid?

	Precinct 1406 Early Voting	Precinct 1406 Election Day Voting	Precinct 1600 Early Voting	Precinct 1600 Election Day Voting	Precinct 1601 Early Voting	Precinct 1601 Election Day Voting	Precinct 1602 Early Voting	Precinct 1602 Election Day Voting	Total Votes
YES (FOR)	0	0	377	399	29	51	400	401	1657
NO (AGAINST)	0	0	277	253	27	19	205	210	991

Proposition No. 2: Shall Section 7.02 of the Charter of the Town of Addison, regarding the development of property, be amended in its entirety to provide that the City Council may encourage the development of property and promote economic development within the Town of Addison in accordance with State law?

	Precinct 1406 Early Voting	Precinct 1406 Election Day Voting	Precinct 1600 Early Voting	Precinct 1600 Election Day Voting	Precinct 1601 Early Voting	Precinct 1601 Election Day Voting	Precinct 1602 Early Voting	Precinct 1602 Election Day Voting	Total Votes
YES (FOR)	0	0	502	497	34	54	468	475	2030
NO (AGAINST)	0	0	140	130	22	14	115	115	536

Proposition No. 3: Shall the Charter of the Town of Addison be amended throughout to correct non-substantive errors such as misspellings, punctuation, grammar and sentence structure, to make non-substantive changes to clarify meanings of terms 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 references to repealed or obsolete provisions of State law?

	Precinct 1406 Early Voting	Precinct 1406 Election Day Voting	Precinct 1600 Early Voting	Precinct 1600 Election Day Voting	Precinct 1601 Early Voting	Precinct 1601 Election Day Voting	Precinct 1602 Early Voting	Precinct 1602 Election Day Voting	Total Votes
YES (FOR)	0	0	582	581	44	62	550	520	2339
NO (AGAINST)	0	0	64	46	14	7	49	75	255

EXHIBIT B
TO ORDINANCE NO. 010-042

Amendments to the City Charter
of the Town of Addison
Approved at the November 2, 2010 Special Election

Charter Amendments Adopted by Approval of Proposition No. 1 - Section 11.04 of the City Charter of the Town of Addison is amended to read as follows (additions are underlined; deletions are ~~struck-through~~):

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.

Charter Amendments Adopted by Approval of Proposition No. 2 - Section 11.04 of the City Charter of the Town of Addison is amended to read as follows (additions are underlined; deletions are ~~struck through~~):

Section 7.02. Development of property.

The City Council ~~may encourage~~shall cooperate in every manner possible with persons interested in the development of property, promote economic development, and stimulate business and commercial activity, within, or beyond, the Town limits, in accordance with State law. ~~No expenditure of public funds, however, shall be authorized for the development of privately owned subdivisions, situated within or beyond the corporate limits of the Town; except, (where feasible for the Town) for the extension of utilities or services to such areas.~~

Charter Amendments Adopted by Approval of Proposition No. 3 – The following sections of the City Charter are amended to read as follows (additions are underlined; deletions are ~~struck through~~):

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.

Section 2.02. Qualifications.

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~~one year~~ 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.

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 ~~remaining~~ Council members may be selected as Mayor.

Section 2.09. Interference in administrative matters.

Except as herein provided in this Charter, the Council ~~and its members~~ shall deal with the administrative departments and personnel solely through the City Manager, and ~~no member of neither the Mayor the Council, nor any member thereof~~ 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 of its committees of the Council, or members~~ 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.

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.

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 ~~or her~~ 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 ~~or she~~ may be removed from office by the City Council. To perform the City Secretary's duties during his ~~or her~~ temporary absence and disability, the City Manager may appoint an assistant City Secretary until he ~~or she~~ shall return or his disability shall cease.

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, ~~mimeographed~~ 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.

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 ~~at the Finance Building or at such other places in the Town of Addison~~ 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 ~~each~~United States currency or such other method as authorized by State law or by the City Council, within the time specified.

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 ~~each~~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.

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 ~~first~~ 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.

Section 6.05. Grant not to be ~~exclusive~~inclusive.

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.

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), 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.

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 name in nomination or has been placed in nomination by petition shall take the following 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 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 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 _____, 2019, 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 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 _____
2019_____.

Section 8.05. Prohibiting holding or running for other office.

(a) No person elected to the office of City 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.

Section 9.02. Initiative.

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 ~~tax collector of Dallas County~~ 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.

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:

["] 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.

Sworn to and subscribed before me this the _____ day of 2019_____

Notary Public,
Dallas County, Texas["]

Section 9.06. Voluntary submission of legislation by the Council.

The Council, upon its motion and by a majority vote of ~~theits~~ 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.

Section 10.02. Petitions for recall.

Before the question of recall of such officer shall be submitted to the qualified 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 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~~tax collector~~ 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, and shall also write thereon the day, the month, and the year his signature was affixed.

Section 11.15. Publicity of records.

Town records and accounts which are required by ~~the~~ Texas Public Information~~Open Records~~ 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.

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., Local Government Code ch. 9, as now or hereafter amended.