

ORDINANCE NO. 092-003

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING CERTAIN PROVISIONS OF THE EXISTING CHAPTER TWELVE (12) REGARDING THE "TOWN OF ADDISON OFFICER AND EMPLOYEE LIABILITY PLAN" IN ORDER TO CORRECT CONFLICTS BETWEEN SUCH CODE PROVISIONS AND CERTAIN PROVISIONS OF THE CIVIL PRACTICES AND REMEDIES CODE, CHAPTER 102 TITLED "TORT CLAIMS PAYMENTS BY LOCAL GOVERNMENTS"; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter Twelve (12) of the Town of Addison Code, the "Town of Addison Officer and Employee Liability Plan" provides for certain indemnification and defense of officers and employees in certain circumstances;

WHEREAS, Civil Practices and Remedies Code, Chapter 102, prohibits certain payments of damages and payments in settlements arising from certain causes of action and claims against employees and officers of local governments;

WHEREAS, there exists a partial conflict between the provisions of the "Town of Addison Officer and Employee Liability Plan" and the provisions of Civil Practices and Remedies Code, Chapter 102;

WHEREAS, the Town of Addison seeks to correct such partial conflicts;

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

SECTION 1. That the Code of Ordinances, Town of Addison, Texas, Section 12-2 be and is hereby amended to add a subsection d, thereto, which shall be as follows:

- (d) The coverage provided under the plan shall not include any coverage that is prohibited by any of the provisions of Civil Practices and Remedies Code Chapter 102 titled "Tort Claims Payments By Local Governments," as such Chapter 102 now exists or may hereafter exist.

SECTION 2. That the Code of Ordinances, Town of Addison, Texas, Section 12-3 be and is hereby amended to add a subsection c, thereto, which shall be as follows:

- (c) The defense and settlement specified in the immediately preceding subsections (a) and (b) shall not include any defense nor any settlement when such defense or such settlement is prohibited by any of the provisions of Civil Practices and Remedies Code Chapter 102 titled "Tort Claims Payments By Local Governments," as such Chapter 102 now exists or may hereafter exist.

SECTION 3. That the Code of Ordinances, Town of Addison, Texas, Section 12-4 be and is hereby amended to add a subsection c, thereto, which shall be as follows:

- (c) That the limits of coverage as specified in the immediately preceding subsections (a) and (b) shall not exceed the maximum allowable payments, if applicable, as specified in Civil Practices and Remedies Code 102.003, as 102.003 now exists or may hereafter exist.

SECTION 4. That the Code of Ordinances, Town of Addison, Texas, Section 12-7 be and is hereby amended to revise subsection (2) thereof, which, as revised, shall be as follows:

- (2) Arising out of the intentional or knowing violation of a penal statute or ordinance committed by or with the knowledge or consent of the plan member, or any claim arising out of acts of fraud committed by or at the direction of the plan member with intent to deceive or defraud, or arise from a cause of action for official misconduct, or arise from a cause of action involving a wilful or wrongful act or omissions or an act or omission constituting gross negligence.

SECTION 5. That the Code of Ordinances, Town of Addison, Texas, Section 12-9 be and is hereby amended to add a subsection c, thereto, which shall be as follows:

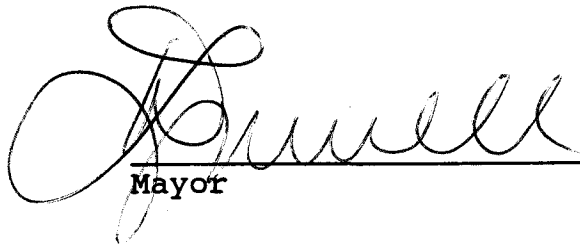
- (c) The legal representation specified in the immediately preceding subsections (a) and (b) shall not include any legal representation prohibited by any of the provisions of Civil Practices and Remedies Code Chapter 102 titled "Tort Claims Payments By Local Governments," as such Chapter 102 now exists or may hereafter exist.

SECTION 6. That all ordinances of the City in conflict with the provisions of this Ordinance be, to the extent of such conflict, and the same are hereby repealed and all other Ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 7. That should any paragraph, sentence, subdivision, clause, phrase or section of this Ordinance be adjudged or be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional.

SECTION 8. This Ordinance shall take effect and be in force from and after its adoption as provided by law.

DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS on this 14th day of January, 1992.



Mayor

ATTEST:



City Secretary

Published
8/20/92

