

ORDINANCE NO. 092-074

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS; GOVERNING THE CREATION, ESTABLISHMENT, OPERATION, AND JURISDICTION OF THE MUNICIPAL COURT OF RECORD AND THE JUDGES OF SAID COURT; CREATING A MUNICIPAL COURT OF RECORD DESIGNATED "MUNICIPAL COURT NO. 1"; LIMITED RETENTION OF COURT OF NON-RECORD; JURISDICTIONAL LIMITS OF COURT; JUDGES OF COURT; WRIT POWER; APPLICATION OF CODE OF CRIMINAL PROCEDURE; CLERK OF COURT; COURT REPORTER OF COURT; COURT FACILITIES AND SALARIES; COMPLAINTS; PROSECUTION; PLEADINGS; JURY OF COURT; TRIAL; APPEAL; APPEAL BOND AND RECORD ON APPEAL; TRANSCRIPT; STATEMENTS OF FACTS; TRANSFER OF RECORD; CONFLICTING ORDINANCES; SEVERABILITY; AND EFFECTIVE DATE.

WHEREAS, the City Council of The Town of Addison, Texas, has determined that the formation of a municipal court of record is necessary to provide a more efficient disposition of cases arising within The Town of Addison, Texas; Now, Therefore,

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

SECTION 1: SCOPE

The provisions of this Ordinance shall govern the creation, establishment, operation, and jurisdiction of the municipal court of record within The Town of Addison, including the judges of said court.

SECTION 2: CREATION OF THE MUNICIPAL COURT OF RECORD

There shall be established one municipal court of record within The Town of Addison, with the numerical designation of "Municipal Court No. 1".

SECTION 3: LIMITED RETENTION OF COURT OF NON-RECORD

All offenses occurring prior to the effective date of this Ordinance shall be tried in the court of non-record, while all offenses occurring on or after the effective date of this Ordinance shall be tried in the court of record established herein.

SECTION 4: JURISDICTIONAL LIMITS OF COURT

The municipal court of record shall have jurisdiction within the territorial limits of The Town of Addison over all criminal cases arising under ordinances of The Town of Addison. Furthermore, the municipal court of record has concurrent jurisdiction with a justice of the peace in any precinct in which The Town of Addison is located in criminal cases within the justice court jurisdiction that (1) arise within the territorial limits of The Town of Addison; and (2) are punishable by a fine not to exceed \$500.00, or otherwise as provided by law. Finally, the municipal court of record has jurisdiction over cases arising outside the territorial limits of The Town of Addison under ordinances authorized by Tex. Loc. Gov't. Code §§215.072, 217.042, 241.903, and 401.002, or otherwise as provided by law.

SECTION 5: JUDGES OF COURT

The municipal court of record shall be presided over by a judge, who shall be known as the "municipal judge". The judge shall be an attorney licensed to practice law in this state, shall be appointed for a term of two (2) years by the City Council and shall be entitled to a salary set by the City Council. A municipal judge may be removed from office by the City Council at any time for incompetency, misconduct, malfeasance, or disability. There shall also be as many as three (3) alternate judges appointed by the City Council, subject to the same qualifications. The alternate judges shall each be equally available to act if the regular municipal judge is unavailable or fails to act for any reason or if there is a vacancy in the office of municipal judge.

SECTION 6: WRIT POWER

The judges of the municipal court of record may grant writs of mandamus, injunction, attachment, and other writs necessary to the enforcement of the jurisdiction of the municipal court of record and may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the municipal court of record.

SECTION 7: APPLICATION OF CODE OF CRIMINAL PROCEDURE

The Code of Criminal Procedure applies to a trial of the case before the municipal court of record.

SECTION 8: CLERK OF COURT

The City Manager of The Town of Addison shall appoint a clerk of the municipal court of record. The clerk or the clerk's deputies shall keep the records of the municipal court of record, issue process, and generally perform the duties for the court that a clerk of the county court exercising criminal jurisdiction is required by law to perform for that court. The clerk shall perform the duties in accordance with statutes, and the charter and ordinances of The Town of Addison.

SECTION 9: COURT REPORTER OF COURT

For the purpose of preserving a record in all cases tried before the municipal court of record, the City Council authorizes the municipal judge to provide an official court reporter for each proceeding, which must have the qualifications required by general law for official court reporters. The court reporter may use written notes, transcribing equipment, audio recording equipment, or a combination of these methods to prepare a transcript of the proceedings of the municipal court of record. The court reporter shall certify the official record. The court reporter is not required to record testimony in a trial unless the judge deems it necessary or one of the parties make a written request for a record.

SECTION 10: COURT FACILITIES AND SALARIES

The municipal court of record shall be held in the Police Building, at 4799 Airport Parkway, Addison, Texas, or in such other place as suitable and necessary to conduct business of the court. The City Council shall pay all costs incident to the provision of the courtroom and office space for the municipal court of record. Furthermore, the City Council shall pay the salaries of the judges, clerks, court reporters, and other employees of the municipal court of record.

SECTION 11: COMPLAINTS

The proceeding in the municipal court of record shall commence with a complaint, which must begin "In the name and by authority of the State of Texas" and must conclude "Against the peace and dignity of the State of Texas". If the offense is covered by an ordinance of The Town of Addison, it may also conclude "Contrary to said ordinance". A complaint before a municipal court of record may be sworn to before an officer authorized to administer oaths or before the municipal judge, clerk, city secretary, or city attorney, or the assistant or deputy of the judge, clerk, city secretary, or city attorney, each of whom may administer oaths for that purpose. A complaint must be in writing and must state:

- (1) The name of the accused;
- (2) an accurate description of the accused, if the name is unknown;
- (3) in plain, intelligible words, the offense with which the accused is charged;
- (4) facts showing the place where the offense was committed, which must appear to be within the jurisdiction of the court; and
- (5) facts showing the date on which the offense was committed, which must show that the offense is not barred by limitations.

SECTION 12: PROSECUTION

The prosecution in the municipal court of record shall be conducted by the city attorney or an assistant city attorney.

SECTION 13: PLEADINGS

All pleadings in the municipal court of record must be in writing and must be filed with the clerk.

SECTION 14: JURY OF COURT

A person who is brought before the municipal court of record and who is charged with an offense is entitled to be tried by a jury of six (6) persons. The jury shall decide all questions of fact and the credibility of witnesses. The court shall determine all matters of law and shall charge the jury on the law. A juror in a municipal court of record must have the same qualifications as jurors in other courts of Dallas County as provided by Tex. Gov't. Code §62.101 *et seq.*, and must be a registered voter in The Town of Addison. Jurors in the municipal court of record are subject to the law governing exemptions and excuse from jury service as are jurors in other courts in Dallas County.

SECTION 15: TRIAL

A bond taken in a proceeding in the municipal court of record must be payable to the State of Texas for the use and benefit of The Town of Addison. The court may not assess court costs other than warrant fees, capias fees, and any other fees authorized for municipal courts. Testimony, exhibits, or evidence given by a witness in a proceeding in the municipal court of record is solely for that proceeding or its appeal. This material is privileged and inadmissible in any civil proceeding. A policeman of The Town of Addison or any peace officer may serve a process issued by a municipal court of record under the provisions applicable to service of county court process by a sheriff or constable. If the defendant is convicted of the offense, the judgment and sentence shall be in the name of the State of Texas and shall recover from the defendant the fine and cost for the defendant or, if allowed under general law, remain in the custody of the chief of police until the fines and costs are paid and shall order that execution issue to collect the fines and penalties. All fines, fees, costs, and case bonds shall be paid to the clerk, who shall deposit them directly into The Town of Addison general fund.

SECTION 16: APPEAL FROM A JUDGMENT OF CONVICTION IN A MUNICIPAL COURT OF RECORD

The State of Texas has no right to appeal or to a new trial. The county criminal courts of appeal of Dallas County have jurisdiction of appeals from the municipal court of record. To perfect an appeal, the defendant must file a motion for new trial not later than the fifth (5th) day after the date on which the judgment and sentence are rendered. The motion must be in writing and must be filed with the clerk of the municipal court of record.

The motion constitutes the assignments of error on appeal. A ground where not set forth in the motion is waived. After an order overruling a motion for new trial, the defendant may give notice of appeal by paying the transcript preparation fee in the amount of \$25.00, not later than the tenth (10th) day after the date on which the motion is overruled. The court shall note the payment and fee on the docket of the court. If the case is reversed on appeal, the fee shall be refunded the defendant.

SECTION 17: APPEAL BOND AND RECORD ON APPEAL

If the defendant is not in custody, the defendant may not take an appeal until the defendant files an appeal bond with the municipal court of record. The bond must be approved by the court and must be filed not later than the tenth (10th) day after the date on which the motion for new trial is overruled. If the defendant is in custody, the defendant shall be committed to jail unless the defendant posts the appeal bond. The appeal bond must be in the amount of \$100.00 or double the amount of fines and costs adjudged against the defendant, whichever is greater. The bond must be payable to the State of Texas for the use and benefit of The Town of Addison and must be conditioned on the defendant's immediate and daily personal appearance in the court to which the appeal is taken.

The record on appeal consists of a transcript and, if necessary to appeal, a statement of facts. The court reporter shall prepare the record from the reporter's record or mechanical or video tape recordings of the proceedings. The defendant shall pay for the cost of the transcription. If the court finds that the defendant is unable to pay or give security for the record on appeal after hearing in response to an affidavit by the defendant, the court shall order the reporter to prepare the record without charge to the defendant. If the case is reversed on appeal, the court shall promptly refund the cost to the defendant.

SECTION 18: TRANSCRIPT

The clerk of the municipal court of record shall prepare under his hand and the seal of the court a transcript of the proceedings in the municipal court of record after payment of the preparation fee. The clerk shall prepare the transcript under written instructions from the defendant or the defendant's attorney. Unless otherwise agreed by the parties, the transcript must include a copy of (1) the complaint, (2) court orders and any motions or exceptions, (3) the judgment, (4) the verdict of the jury, (5) any findings of fact or conclusions of law made by the court, (6) the motion for new trial and the order of the court on the motion, (7) notice of appeal, (8) any statement of the parties regarding material to be included in the record, (9) the appeal bond, (10) a certified bill of cost, (11) any statement of facts, and (12) any signed paper designated as material by either party. The defendant or defendant's attorney may file a copy of the written instructions with the clerk and may deliver a copy to the city attorney. The city attorney may file a written direction to the clerk to include additional portions of the trial proceedings in the transcript.

SECTION 19: STATEMENT OF FACTS

The statement of facts consist of transcription of the testimony of witnesses and bills of exception. The court reporter shall prepare a statement of facts at the request of the court or the written request of any party and shall immediately notify all parties in writing if a request is made. The reporter shall provide each party with a copy of the statement and shall file one copy with the clerk of the municipal court of record for immediate transmission to the appellate court clerk. The transcription shall be in narrative form unless a party gives written objection to the use of narrative form not later than the fifth (5th) day after receiving notice of the request for a statement of facts. The court report shall omit from the statement of facts matters that are not essential to the decision or the questions presented in the motion for new trial. The reporter may abridge any document by omitting or abbreviating a form or portion of the document and shall exclude formal parts of exhibits and more than one copy of any document. The judge does not need to approve the statement of facts if it is agreed to by the defendant or the defendant's attorney and the city attorney or assistant city attorney. The party requesting a statement of facts, other than the state or city, shall pay the cost of preparation of the statement of facts. The defendant recovers the costs he paid for the statement of facts if the case is overturned or dismissed on appeal. The defendant or the defendant's attorney and the city attorney or assistant city attorney may grant a brief statement of the case and facts proven at trial for use by the appellate court. That statement must be included in the transcript instead of the proceedings at trial.

SECTION 20: TRANSFER OF RECORD

The parties must file the transcript and the statement of facts with the clerk of the municipal court of record not later than the 60th day after the date on which the transcript preparation fee was paid. The clerk shall promptly forward them to the appellate court clerk.

SECTION 21: CONFLICTING ORDINANCES

All ordinances of The Town of Addison in conflict with the provisions of this ordinance be, and the same are hereby repealed and all other ordinances of The Town of Addison not in conflict with the provisions of this ordinance shall remain in full force and effect.

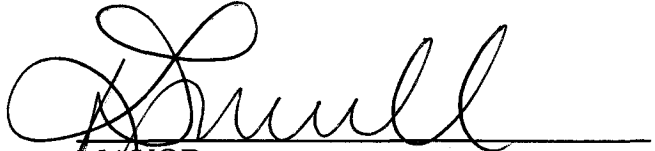
SECTION 22: SEVERABILITY

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 provisions thereof other than the part so decided to be invalid, illegal, or unconstitutional.


SECTION 23: EFFECTIVE DATE

This ordinance shall take effect on January 1, 1993, and it is accordingly so ordained.

DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON,
TEXAS, this 24th day of November, 1992.


MAYOR

ATTEST:


CITY SECRETARY

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