

**TOWN OF ADDISON, TEXAS**

**ORDINANCE NO. 097-049**

**A ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF ADDISON, TEXAS DIRECTING THE CITY MANAGER TO CONDUCT A STUDY OF THE PLACEMENT OF HOTELS AND MOTELS WITHIN THE CITY; ESTABLISHING A MORATORIUM DURING SUCH PERIOD OF STUDY, NOT TO EXCEED SIXTY (60) DAYS FROM THE DATE HEREOF, ON THE FILING, CONSIDERATION, PROCESSING, OR APPROVAL OF ANY ZONING OR REZONING APPLICATION, PLANNED DEVELOPMENT PROPOSAL, DEVELOPMENT PLAN PROPOSAL OR APPLICATION, SITE PLAN PROPOSAL OR APPLICATION, OR SPECIAL USE PERMIT APPLICATION, FOR A NEW HOTEL OR EXPANSION OF AN EXISTING HOTEL IN THE CITY; PROVIDING EXCEPTIONS TO THE MORATORIUM; PROVIDING A PUBLIC HEARING PROCESS TO CONSIDER EXTRAORDINARY HARDSHIPS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City Council of the Town of Addison, Texas (the "City") finds as follows:

1. The City is a home rule city with full power of local self government pursuant to Article 11, Section 5 of the Texas Constitution and its Home Rule Charter, and consists of an area comprising approximately 4.8 square miles of land.

2. There are currently located within the City fourteen (14) hotels or motels (together, "hotels"), five (5) of which have been constructed since 1995. Four (4) other sites within the City have received the necessary zoning approval for the use of the sites for hotel purposes, but hotels on those sites have not yet been constructed. If the four (4) hotels which have received final zoning approval are constructed, hotel rooms within the City will total approximately 3,338. The City has also received and there is pending within the City one zoning application for hotel purposes. In addition, the City is surrounded by other communities which have seen an explosion in the number of hotels being constructed, many of which hotels are within a close proximity of the City.

3. Under the City's Comprehensive Zoning Ordinance, Ordinance No. 66, as amended, hotels may be allowed in certain zoning districts upon the granting of a special use permit by the City Council. In addition, hotels are permitted uses on some tracts of land within the City which are zoned PD Planned Development district; in such zoning districts, hotels are permitted upon the submission and approval of a development plan.

4. As a result of the significant number of hotels currently located or which may be located within the City, a planning and land use concern has been raised by the City Staff regarding the appropriateness of permitting land within the City (i) on which hotels have not been constructed, or (ii) on which final zoning approval for hotel use (including the approval of a development plan or site plan) has not been received, to be utilized for hotel purposes. The City Staff is directed hereby to study such planning and land use concerns within the time period set forth herein, taking into account, among other things, the conservation of the value of buildings and encouraging the most appropriate use of land within the City.

5. As noted above, the City has received and there is pending one application requesting hotel zoning, and the City Council anticipates that the City will receive additional zoning requests for hotel use (whether by special use permit, by development plan application in planned development districts, or otherwise) prior to the completion of the hotel planning and land use study. Such applications, if processed or approved, would further increase the number of hotels within the City and may frustrate the purposes of the study.

6. It is essential in order to: (i) allow the hotel planning and land use study to be conducted, (ii) preserve the ability of the City Council to implement any recommendations contained within the study, and (iii) protect the public health, safety and welfare of the citizens of the City, that the filing or processing of any (x) site plan or development plan for hotel use, (y) special use permit application for hotel use, and (z) any other zoning request for hotel use, be deferred for a period of 60 days pending the submission by the City Staff of the planning and land use study described herein.

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

**Section 1. Incorporation of premises.** The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**Section 2. Purpose.**

A. The purpose of this Ordinance is to enable the Town of Addison to maintain the status quo for a reasonable period of time with respect to the filing and/or processing of zoning applications relating to hotels within the City, pending the completion of a planning and land use study regarding hotel sites and any action deemed necessary by the City Council to implement the recommendations of the study.

B. It is the further purpose of this Ordinance to fulfill the City's constitutional, charter and statutory obligations to protect and preserve the health, safety, and welfare of the citizens of the City.

**Section 3. Definitions.**

A. *Hotel or motel* shall have the meaning assigned to those terms in Article XXI (Definitions) of the Comprehensive Zoning Ordinance, Ordinance No. 66, as amended. Hotel and motel are herein referred to together as "hotel".

**Section 4. Imposition of Moratorium.** For a period of 60 days from and after the effective date of this Ordinance, no zoning or rezoning application, planned development proposal or application, development plan proposal or application, site plan proposal or application, or special use permit proposal or application, for a new hotel or expansion of an existing hotel shall be (i) filed or accepted, or (ii) processed, or (iii) considered, or (iii) approved by the Planning and Zoning Commission or the City Council.

**Section 5. Exceptions.** Notwithstanding the provisions of Section 4 of this Ordinance, the moratorium imposed by Section 4 shall not apply when, pursuant to Section 6 of this Ordinance, the City Council has determined that deferral of action on a zoning or rezoning application, planned development proposal, development plan proposal or application, site plan proposal or application, or special use permit application, for a new hotel or expansion of an existing hotel would impose an extraordinary hardship on a landowner or developer.

**Section 6. Alleviation of Hardship.**

A. *Exceptions.* The City Council may authorize exceptions to the adjustment period imposed by this Ordinance when it finds, based upon evidence presented to it, that deferral of action on a zoning or rezoning application, planned development proposal, development plan proposal or application, site plan proposal or application, or special use permit application, for a new hotel or expansion of an existing hotel, for the duration of the adjustment period imposed by this Ordinance would impose an extraordinary hardship on a landowner or developer.

B. *Request for exception.* A request for an exception based upon extraordinary hardship shall be filed by the landowner, or the developer with the consent of the landowner, shall provide a recitation of the specific facts that are alleged to support the claim of extraordinary hardship, and shall contain such other information as the City Manager shall prescribe as necessary for the City Council to be fully informed with respect to the application.

C. *Application for exception.* In reviewing an application for an exception based upon a claim of extraordinary hardship, the City Council shall consider, among other things, the following matters:

1. Whether deferral of action on a zoning or rezoning application, planned development proposal, development plan proposal or application, site plan proposal or application, or special use permit application, for a new hotel or expansion of an existing hotel, will expose the applicant to substantial monetary liability to third persons; or would leave the applicant completely unable, after

a thorough review of alternative solutions, to earn a reasonable return on the property in question.

2. The extent to which the proposed use of land for hotel purposes would impact the public health, safety and welfare.

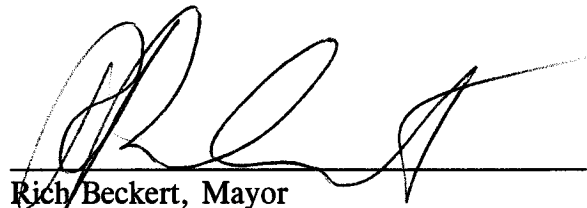
D. *Public hearing on exception.*

1. A public hearing on any request for an exception for extraordinary hardship shall be held by the City Council at the first regular meeting of the City Council that occurs after the expiration of the period for publication of notice of the request for an exception.
2. Notice of the filing of a request for an exception, and the date, time, and place of the hearing thereon shall be published once not less than ten (10) days prior to said hearing in a newspaper of general circulation that is circulated within the City limits. The applicant shall pay to the City a fee of \$50.00 to cover the cost of publication of notice of the public hearing.
3. The public hearing on a request for an extraordinary hardship exception shall be conducted in accordance with the rules of the City Council with respect to requests for rezoning.
4. The City Council shall act upon the request for an extraordinary hardship exemption at the same meeting at which the public hearing is held unless the applicant consents in writing or on the oral record to the delay.

**Section 7. 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 or application thereof to any person or circumstance is held invalid or unconstitutional by 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 8. Effective date.** This Ordinance shall take effect from and after its date of adoption.

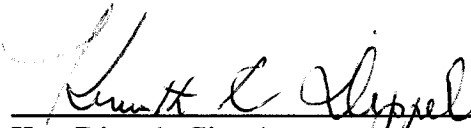
**PASSED AND APPROVED** by the City Council of the Town of Addison, Texas this the 28th day of October, 1997.

  
Rich Beckert, Mayor

ATTEST:

  
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Carmen Moran, City Secretary

APPROVED AS TO FORM:

  
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Ken Dippel, City Attorney

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