

TOWN OF ADDISON, TEXAS

ORDINANCE NO. 011-066

AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS AMENDING THE CITY'S CODE OF ORDINANCES BY AMENDING CHAPTER 74 (TAXATION), ARTICLE II (PROPERTY TAXATION), DIVISION 1 (GENERALLY), SECTION 74-33 (TAXATION OF GOODS-IN-TRANSIT) THEREOF BY PROVIDING FOR THE TAXATION OF CERTAIN TANGIBLE PERSONAL PROPERTY DESCRIBED AS GOODS-IN-TRANSIT WHICH WOULD OTHERWISE BE EXEMPT PURSUANT TO LAW; PROVIDING THAT THE TAXATION OF SUCH TANGIBLE PERSONAL PROPERTY APPLIES TO AND IS EFFECTIVE FOR 2012 AND ALL TAX YEARS THEREAFTER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2001 the voters of the State of Texas approved an amendment to the Texas Constitution which added Article 8, Section 1-n which, among other things, authorized the Texas Legislature to exempt from ad valorem taxation goods which meet certain qualifications, including that the goods must be acquired in or imported into the State to be forwarded to another location inside or outside the State not later than 270 days after the date the goods were acquired in or imported into the State; and

WHEREAS, in order to implement the provisions of Article 8, Section 1-n, the 80th Texas Legislature enacted H.B 621, effective on January 1, 2008, which added Section 11.253 to the Texas Tax Code exempting from taxation certain tangible personal property held temporarily at a location in this State for assembling, storing, manufacturing, processing, or fabricating purposes (goods-in-transit), which property has been subject to taxation in the past; and

WHEREAS, notwithstanding the exemption from taxation, H.B. 621 also allowed the governing body of a taxing unit, including the City Council of the Town of Addison, Texas (“City”), to provide for the continued taxation of goods-in-transit after conducting a public hearing, and in November 2007 the City Council, following a public hearing, provided for such continued taxation (effective with the tax year 2008 and for all tax years thereafter) by the adoption of Section 74-33 of the City’s Code of Ordinances, which Section provides for “the taxation of tangible personal property defined and described as ‘goods-in-transit’ in V.T.C.A., Tax Code § 11.253, (as adopted by H.B. 621) exempt pursuant to V.T.C.A. § 11.253, and article 8, section 1-n, Texas Constitution and not exempt from ad valorem taxation by any other law”; and

WHEREAS, during the first called session of the 82nd Legislature, the Legislature adopted S.B. 1 that, in part, amended Section 11.253 of the Tax Code by (i) modifying the definition of “goods-in-transit” and (ii) adding a new subsection (j-1) that provides that, no matter the prior law or any action the City may have taken prior to October 1, 2011 to tax goods-in-transit exempt under § 11.253(b), Tax Code, and not exempt under other law, the City could not tax goods-in-transit in a tax year that begins on or after January 1, 2012 unless the City Council takes official action to do so on or after October 1, 2011; and

WHEREAS, the City Council, having given notice of and having conducted a public hearing at which members of the public were permitted to speak for or against the taxation of property (goods-in-transit) as required by Section 1-n(d), Article 8, Texas Constitution and as set forth in Section 11.253(j-1), Tax Code, is of the opinion that it is in the best interests of the City to provide for the taxation of such goods-in-transit which are otherwise exempt by Section 11.253 of the Texas Tax Code and not exempt from ad valorem taxation by any other law.

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.

Section 2. Amendment. The Code of Ordinances of the Town of Addison, Texas (the "City") is hereby amended by amending Chapter 74 (Taxation), Article II (Property Taxation), Division 1 (Generally), by amending new Section 74-33 to read as follows:

Section 74-33. Taxation of Goods-in-Transit

(a) Pursuant to Section 1-n(d) of the Texas Constitution and as authorized by Section 11.253(j), Tex. Tax Code (as adopted by House Bill No. 621, 80th Texas Legislature, 2007 Regular Session ("H.B. 621")), the Town elects to tax, and hereby provides for the taxation of, certain tangible personal property defined and described as "goods-in-transit" in Section 11.253, Tex. Tax Code (as adopted by H.B. 621) exempt pursuant to Section 11.253, Tex. Tax Code and Article 8, Section 1-n, Texas Constitution and not exempt from ad valorem taxation by any other law. The taxation of such tangible personal property applies to and is effective for 2008 and all tax years thereafter.

(b) Notwithstanding subsection (a) of this Section 74-33, pursuant to Section 1-n(d) of the Texas Constitution and as authorized by Section 11.253(j-1), Tex. Tax Code (as adopted by S.B. 1, 82nd Legislature, 2011 First Called Session ("S.B. 1")), the Town elects to tax, and hereby provides for the taxation of, certain tangible personal property defined and described as "goods-in-transit" in Section 11.253, Tax Code (as amended by S.B. 1), which goods-in-transit, but for this subsection, are exempt by Section 11.253(b), Tax Code and are not exempt under other law. The taxation of such tangible personal property applies to and is effective for 2012 and all tax years thereafter.

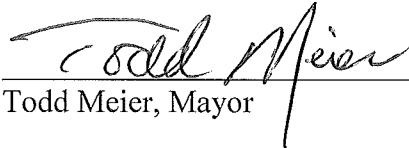
Section 3. Savings. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those Ordinances are in direct conflict with the provisions of this Ordinance.

Section 4 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.

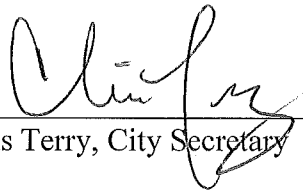
Section 5. Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this 11th day of October, 2011.



Todd Meier, Mayor

ATTEST:

By: 

Chris Terry, City Secretary

APPROVED AS TO FORM:

By: 

John Hill, City Attorney