

**TOWN OF ADDISON, TEXAS**

**ORDINANCE NO. 011-073**

**AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE CODE OF ORDINANCES OF THE TOWN BY AMENDING CHAPTER 22, BUSINESSES, THEREOF BY ADDING THERETO A NEW ARTICLE VII REQUIRING THE ANNUAL REGISTRATION OF BUSINESSES; PROVIDING DEFINITIONS; PROVIDING THAT A BUSINESS MUST BE REGISTERED EACH YEAR WITH THE TOWN BY SUBMITTING A COMPLETED REGISTRATION FORM AND PAYING A REGISTRATION FEE TO THE TOWN; PROVIDING FOR REVOCATION OF A BUSINESS REGISTRATION IN CERTAIN CIRCUMSTANCES; PROVIDING A CHARGE FOR LATE PAYMENT OF A REGISTRATION FEE; PROVIDING THAT THE TOWN MAY REVOKE A CERTIFICATE OF OCCUPANCY FOR FAILING TO REGISTER AND PAY A REGISTRATION FEE; PROVIDING THAT THE TOWN MAY ENFORCE THE PROVISIONS OF THE ARTICLE BY ANY LAWFUL MEANS; PROVIDING THAT A BUSINESS OR BUSINESS MANAGER COMMITS AN OFFENSE FOR FAILING TO REGISTER A BUSINESS, AND THAT SUCH FAILURE SHALL, UPON CONVICTION THEREOF, RESULT IN A FINE IN AN AMOUNT NOT TO EXCEED \$500, AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH SUCH FAILURE OCCURS OR CONTINUES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, a significant portion of the Town of Addison, Texas (the “City”) is comprised of commercial areas, including hotels, restaurants, retail establishments, and office buildings, and there are numerous businesses located within those commercial areas of the City; and

**WHEREAS**, while the City provides public safety services to those businesses, including law enforcement, fire and emergency medical services, its public safety personnel possess little information about the businesses to which they are providing such services; and

**WHEREAS**, information that would be useful and would facilitate the City’s public safety personnel to more expediently and effectively provide public safety services to businesses within the City include, among other things, a business’s name, address, emergency contact, number of employees, and the type of business that is being conducted, and the City desires through the registration process described herein to obtain such information from businesses located within the commercial areas of the City; and

**WHEREAS**, the City is a home rule municipality pursuant to Article 11, Section 5 of the Texas Constitution and its Home Rule Charter and possesses the full power of local self-government as set forth in Section 51.072, Tex. Loc. Gov. Code; and

**WHEREAS**, the City is authorized and empowered to:

- adopt an ordinance, rule or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City or to an office or department of the City (Section 51.001, Tex. Loc. Gov. Code);
- enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the city and its inhabitants (Section 54.004, Loc. Gov. Code);
- provide for a police department (Section 341.003, Loc. Gov. Code) and provide for a fire department (Section 342.011, Loc. Gov. Code);
- license any lawful business or occupation that is subject to the police power of the City, pursuant to Section 215.075, Loc. Gov. Code;
- enforce any law that is reasonably necessary to protect the public health (Section 121.003, Tex. Health & Saf. Code); and
- exercise all powers that now are or hereafter may be granted to municipalities by the Constitution or the laws of the State of Texas (Section 1.05, City Charter);

and the Mayor of the City is authorized to declare a local state of disaster, and to order the evacuation of all or part of the population from a stricken or threatened area under the jurisdiction and authority of the Mayor, if the Mayor considers the action necessary for the preservation of life or other disaster mitigation, response, or recovery (Section 418.108(a), (f), Tex. Gov. Code); and

**WHEREAS**, in addition to facilitating the City's provision of public safety services to businesses within the City, the business registration process will assist the City in other ways that serve a public purpose, including allowing the City to notify businesses regarding limitations on water use in times of drought, helping the City determine if local sales and use taxes are being paid to the appropriate municipality, and promoting its business community through cluster analysis, business demography, and creating and facilitating a sustainable business retention and expansion program; and

**WHEREAS**, the City Council finds that that the business registration process set forth in this Ordinance will contribute to the City's provision of public safety and emergency services to its businesses, that it will help the City achieve other important public purposes, that the registration fee set forth herein is established to solely help cover the costs of the City in administering, coordinating and implementing the process, and that it is in the best interests of the public health, safety and welfare of the City and its citizens.

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

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

Section 2. Amendment. Chapter 22 (“Businesses”) of the Code of Ordinances (the “Code”) of the Town of Addison, Texas is hereby amended by adding a new Article VII entitled “Business Registration” to read as follows:

## **ARTICLE VII. – BUSINESS REGISTRATION**

### **Section 22-220. Purpose.**

The purpose of this article is to provide for and establish an annual registration program to promote and protect the health, safety and welfare of the individual and business citizens of the town. As set forth herein, each business located in the town’s commercial (non-residential) areas must submit to the town certain information regarding the business and pay a registration fee solely to help pay for the town’s administration, coordination and implementation of the program. Among other things, the information collected by the town through the program will be used to facilitate and enhance the town’s provision of emergency services, including police, fire, and emergency medical services, to help ensure that important and critical town notices, such as notices regarding water restrictions, are distributed throughout the business community, to help confirm that local sales and use taxes have been allocated to the appropriate municipality, and to promote its business community through business demography.

### **Section 22-221. Definitions.** In this article, the following

*Business* means any for-profit or non-profit commercial, industrial, or professional operation, occupation, work or trade, or any other business of any kind, including, without limitation, any sole proprietorship, partnership, limited partnership, joint venture, association, corporation, limited liability company, franchisee, cooperative, or any other entity recognized by law, that owns, leases, or occupies any Premises).

*Business manager* means a person with administrative authority over a business.

*Premises* means any property, site, or place within the town that is located within a commercial (non-residential) area of the town, including any area that is zoned local retail, commercial, or industrial, and any area that is zoned planned development and which identifies or includes a retail, commercial, or industrial use as a use that is authorized (whether as a matter of right, upon the issuance of a special use permit, or otherwise.

*Register* or *registration* means the submission to the town of a fully completed registration form.

*Registration fee* means the fee for registration set forth in Section 22-222, below.

*Registration form* means a form provided by the town to be completed by a business and pertaining solely to the business and its location(s) in the town, including the business's legal name, assumed name(s), telephone number, facsimile number, and street address, the name and telephone number of a person at the business to contact in the event of an emergency, the number of persons employed or otherwise working (whether full time or part time) at the business, the type of business being conducted, and such other related information as the town manager may require.

*Town manager* means the manager of Town of Addison or the town manager's designee.

**Section 22-222. Registration Required; Fee.**

(a) All businesses within the town on January 1 of each year, beginning January 1, 2012, shall register with the town and pay a registration fee in accordance with this article. Registration and payment of the registration fee must be completed no later than January 31 of each year.

(b) Registration is valid only for the year in which it is issued, and will expire at the end of that year. A new registration is required each year. The fee for registration is \$50.00.

(c) A business that commences its initial operations within the town after January 1 shall register but shall not be required to pay a registration fee. Such registration shall be completed not later than (i) 30 days after the business commences its initial operations at its Premises or (ii) the date the city issues a certificate of occupancy for its Premises, whichever is earlier.

(d) A certificate of occupancy for the Premises of a business may be withheld if a business has not registered, or has not provided the town with information changes following registration, in accordance with this article.

(e) If during any year any information included within a registration form changes following registration, the business that filed the registration shall, within 30 days following the date of such change, notify the town of the change.

**Section 22-223. Registration Revocation.**

If the town manager makes a determination that any information in a business's registration form is false or incomplete, the town manager will give notice to the business of that determination and allow the business not less than 10 days to correct the information. If the business fails to correct the false or incomplete information and provide accurate and complete information, the town manager may revoke the registration. The town manager shall notify the business of such revocation.

**Section 22-224. Late Charge; Enforcement; Penalty.**

(a) A business that fails to timely pay a registration fee shall pay a late charge, as an administrative charge, equal to ten percent (10%) of the registration fee for each month, up to six (6) months, that the fee was not paid. In no event shall such late charges, to the extent they may be considered to be interest under applicable law, exceed the maximum lawful rate of interest.

(b) The town may revoke a certificate of occupancy for any business that fails to register and/or pay the registration fee.

(c) The town may enforce any of the provisions of this article by any lawful means, including, without limitation, the filing of suit to collect any registration fee and late charge owed hereunder.


(d) It shall be unlawful for a business, or any business manager of a business, to fail to register a business as required by this article. A business, or any business manager of a business, that violates or fails to comply with any provision of this article shall be fined, upon conviction, in an amount not to exceed \$500.00, and a separate offense shall be deemed committed each day during or on which a violation or failure occurs or continues.

Section 3. Savings; Repealer. 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. Provided, however, that the repeal of such ordinances or parts of such ordinances, and the amendments and changes made by this Ordinance, shall not affect any right, property or claim which was or is vested in the City, or any act done, or right accruing or accrued, or established, or any suit, action or proceeding had or commenced before the time when this Ordinance shall take effect; nor shall said repeals, amendments or changes affect any offense committed, or any penalty or forfeiture incurred, or any suit or prosecution pending at the time when this Ordinance shall take effect under any of the ordinances or sections thereof so repealed, amended or changed; and to that extent and for that purpose the provisions of such ordinances or parts of such ordinances shall be deemed to remain and continue in full force and effect.

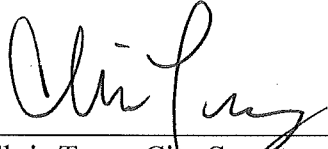
Section 4. Severability. The provisions of this Ordinance, including the provisions added to the Code by Section 2 of this Ordinance, are severable, and if any section or provision of this Ordinance or the application of any section or provision to any person, firm, corporation, entity, situation or circumstance is for any reason adjudged invalid or held unconstitutional by a court of competent jurisdiction, the same shall not affect the validity of any other section or provision of this Ordinance or the application of any other section or provision to any other person, firm, corporation, entity, situation or circumstance, and the City Council declares that it would have adopted the valid portions of this Ordinance adopted herein without the invalid or unconstitutional parts and to this end the provisions of this Ordinance adopted herein shall remain in full force and effect.

Section 5. Effective Date. This Ordinance shall become effective from and after its passage and approval and its publication as may be required by law.

**PASSED AND APPROVED** by the City Council of the Town of Addison, Texas this the 22<sup>nd</sup> day of November, 2011.

  
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Todd Meier, Mayor

**ATTEST:**

By:   
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Chris Terry, City Secretary

**APPROVED AS TO FORM:**

By:   
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John Hill, City Attorney