

**TOWN OF FLOWER MOUND, TEXAS**

**ORDINANCE NO. 10-10**

**AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 18, "BUSINESSES," OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY CREATING A NEW ARTICLE IX, "SALE OF ALCOHOLIC BEVERAGES;" ESTABLISHING BUSINESS HOURS FOR ALCOHOL SALES; PROVIDING A PENALTY NOT TO EXCEED \$500.00; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the voters of the Town of Flower Mound, Texas, approved a proposition allowing the Town to permit the legal sale of beer and wine for off-premise consumption only at an election held on May 12, 2007; and

**WHEREAS**, the voters of the Town of Flower Mound, Texas, approved a proposition allowing the Town to permit the legal sale of mixed beverages in restaurants by food and beverage certificate holders only at an election held on May 12, 2007; and

**WHEREAS**, the Town Council desires to establish the hours of the legal sale of alcoholic beverages for on-premise consumption in accordance with state law.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:**

**SECTION 1**

All of the above premises are found to be true and correct factual and legislative determinations of the Town of Flower Mound and are hereby approved and are incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2**

From and after the effective date of this Ordinance, a new Chapter 18, Article IX, entitled "Sale of Alcoholic Beverages" shall be created. A new Section 18-510 shall provide for the purpose of this article and shall read as follows:

"The purpose of this article shall be to acknowledge and codify that the voters of the Town of Flower Mound approved two propositions at an

election on May 12, 2007 – (1) the Town shall be allowed to permit the legal sale of beer and wine for off-premise consumption only, and (2) the Town shall be allowed to permit the legal sale of mixed beverages in restaurants by food and beverage certificate holders only.

Nothing in this article shall be construed or interpreted to conflict with the V.T.C.A., Alcoholic Beverage Code.”

### SECTION 3

From and after the effective date of this Ordinance, a new Chapter 18, Article IX, Section 18-511 entitled “Business Hours” shall be created. The section shall read as follows:

“It is unlawful for any person or dealer to sell or deliver any alcoholic beverage except within those hours as prescribed by state law. The holder of a mixed beverage late hours permit issued by the state (or any equivalent late hours permit/license issued by the state) may offer alcoholic beverages for sale on Sunday between the hours of 1:00 a.m. and 2:00 a.m. and on any other day between the hours of 12:00 a.m. and 2:00 a.m. in accordance with state law.”

### SECTION 4

From and after the effective date of this Ordinance, a new Chapter 18, Article IX, Section 18-512 entitled “Penalty” shall be created. The section shall read as follows:

“Any person who violates or fails to comply with this article or the provisions of the State Rules, and any person who is the alcoholic beverage permit holder or otherwise operates an alcoholic beverage establishment that does not comply with the requirements of this article, and any responsible officer of that alcoholic beverage permit holder, shall be guilty of a misdemeanor, and upon conviction shall be fined not more than \$500. Each day any violation or noncompliance continues constitutes a separate offense. The regulatory authority may seek to enjoin violation of these rules.”

### SECTION 5

This Ordinance shall be cumulative of all provisions of ordinances of the Town of Flower Mound, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

**SECTION 6**

It is hereby declared to be the intention of the Town Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section, and said remaining portions shall remain in full force and effect.

**SECTION 7**

This Ordinance shall take effect and be in full force from and after its passage and publication.

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF 5 TO 0, ON THIS THE 15<sup>th</sup> DAY OF FEBRUARY, 2010.**

**APPROVED:**

  
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Jody A. Smith, MAYOR

**ATTEST:**

  
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Paula J. Paschal, TOWN SECRETARY

**APPROVED AS TO FORM AND LEGALITY:**

  
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Terrence S. Welch, TOWN ATTORNEY