

ORDINANCE NO. 2005-7-8

AN ORDINANCE OF THE CITY OF PLANO, TEXAS AMENDING CHAPTER THREE (ALCOHOLIC BEVERAGES) OF THE CITY OF PLANO CODE OF ORDINANCES, AS HAS BEEN PREVIOUSLY AMENDED, TO ADD A NEW SECTION 3-7 (LATE HOURS OPERATION) PROVIDING EXTENDED OPERATING HOURS FOR MIXED BEVERAGE LATE HOURS PERMIT HOLDERS AND SECTION 3-8 (LATE HOURS PERMIT & FEES) SETTING FORTH PERMIT AND FEE REQUIREMENTS; PROVIDING A PENALTY CLAUSE, REPEALER CLAUSE, SAVINGS CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, on May 7, 2005, a local option election was held in the City of Plano, Texas for the purpose of authorizing the legal sale of alcoholic beverages in restaurants by mixed beverage permit with food and beverage certificate; and

WHEREAS, a majority of those voting in the local option election voted in favor of authorizing the sale of alcoholic beverages at restaurants in Plano by mixed beverage permit and food and beverage certificate; and

WHEREAS, under existing Texas Alcoholic Beverage Commission ("TABC") regulations, the holder of a mixed beverage permit may sell mixed beverages between 7:00 a.m. and midnight on any day except Sunday; and

WHEREAS, on Sunday the holder of a mixed beverage permit may sell mixed beverages between 12:00 am and 1:00 am, and between 10 a.m. and 12:00 noon when accompanied by food; and

WHEREAS, the holder of a mixed beverage late hours permit issued by TABC may sell mixed beverages on Sunday between 1:00 am and 2:00 am, and on any other day between 12:00 am and 2:00 am; and

WHEREAS, Section 105.03(d) of the Texas Alcoholic Beverage Code requires that in a city or county with a population of less than 500,000, according to the last federal census, the governing body of the city or county must adopt the extended hours by ordinance before a mixed beverage permit holder may operate during extended hours.

WHEREAS, there is a demand from mixed beverage permit holders in the City of Plano to operate during extended hours; and

WHEREAS, the City Council of the City of Plano has determined that it is in the best interest of the City of Plano and its citizens to adopt extended hours for mixed beverage permit holders located in the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section II. Chapter 3 (Alcoholic Beverages) of the Code of Ordinances of the City of Plano, Texas is hereby amended to add a new Section 3-7 (Late Hours Operation) to read in its entirety as follows:

"Section 3-7. Late Hours Operation.

The holder of a mixed beverage late hours permit issued by the State may offer mixed beverages for sale in the corporate city limits of the City of Plano, Texas 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 the State alcoholic beverage code."

Section III. Chapter 3 (Alcoholic Beverages) of the Code of Ordinances of the City of Plano, Texas is hereby amended to add a new Section 3-8 (Late Hours Permit; Fees) to read in its entirety as follows:

"Section 3-8 Late Hours Permit; Fees

No person shall sell mixed beverages between 1:00 a.m. and 2:00 a.m. on Sunday and on any other day between 12:00 a.m. and 2:00 a.m. within the corporate city limits of the City of Plano, Texas without first paying the appropriate fee to the City Secretary and obtaining a City mixed beverage late hours permit. The fee shall be equal to one-half of the fee charged by the State for a mixed beverage late hours permit, except when said fee is waived according to the provisions of the Texas Alcoholic Beverage Code. Following payment of the fee and approval of the late hours permit application, the City Secretary shall issue a mixed beverage late hours permit for that location for a period of one year."

Section IV. Any person, firm or corporation found to be violating any term or provision of this Ordinance shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section V. All provisions of the Ordinances of the City of Plano, codified or uncodified, in conflict with the provisions of these Ordinances are hereby

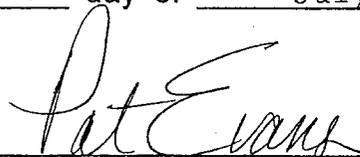
repealed, and all other provisions of the Ordinances of the City of Plano, codified or uncodified, not in conflict with the provisions of these Ordinances, shall remain in full force and effect.

Section VI. The repeal of any ordinance or part of ordinances affected by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinances at the time of passage of this ordinance.

Section VII. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other provision of this Ordinance.

Section VIII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

DULY PASSED AND APPROVED this 25th day of July,
2005.



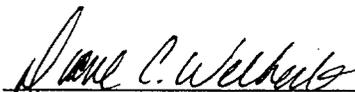
Pat Evans, MAYOR

ATTEST:



Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:



Diane C. Wetherbee, CITY ATTORNEY