

ORDINANCE NO. 2024-14

**AN ORDINANCE OF THE CITY OF HEWITT, TEXAS,
AMENDING THE CODE OF ORDINANCES BY AMENDING
CHAPTER 58 - SIGN REGULATIONS OF THE CITY OF
HEWITT CODE OF ORDINANCES TO ADDRESS
REGULATION OF ELECTIONEERING ON CITY-OWNED
POLLING PLACES, PROVIDING A SEVERABILITY
CLAUSE; PROVIDING FOR INCLUSION IN THE CODE;
PROVIDING A PENALTY NOT TO EXCEED \$500,
PROVIDING THAT EACH DAY OF VIOLATION IS A
SEPARATE OFFENSE AND DECLARING AN
EMERGENCY.**

WHEREAS, the City of Hewitt deems it is in the best interest of the health, safety, and welfare of the citizens of the City to regulate signs, including the signs that may be placed on public property; and

WHEREAS, the Texas Legislature enacted House Bill 259, which provides that a public entity that owns or controls a public building being used as a polling place may not, at any time during the voting period, prohibit electioneering on the building's premises, outside of the 100-foot prohibited for electioneering, area prescribed by sections 61.003 and 85.036 of the Texas Election Code; and

WHEREAS, the law does permit the City to enact reasonable regulations concerning the time, place, and manner of electioneering on the public building's premises outside of the 100-foot prohibited electioneering area prescribed by sections 61.003 and 85.036 of the Texas Election Code and

WHEREAS, the City has reviewed the law and its existing signs regulations and has determined that it is in the best interest of the health, safety, and welfare of the citizens of the City to adopt reasonable rules to continue to regulate electioneering or political signs that may be placed on specific areas of particular public property; and

WHEREAS, the City finds that the amendment to the Code of Ordinances herein is necessary to regulate signs and electioneering on public property, including the regulation of signs that may be placed on public property, and the following rules are reasonable as to time, manner, and place; and

WHEREAS, the City Council desires to amend Chapter 58, titled "Sign Regulations," by amending Chapter 58 "Sign Regulations" to add Section 58.12 to read as follows:

58.12 Electioneering at Polling Places.

(a) Purpose.

This article aims to provide reasonable regulations for electioneering on city-owned or controlled property when such property is used as an election polling place. The regulations contained herein are to mitigate against any safety concerns, prevent damage to public property, ensure that the property is sufficiently available for its patrons who use the facilities other than for election purposes, and provide a fair and equitable opportunity for all candidates and advocates for and against measures to conduct the election at city-owned polling places.

(b) Definitions.

The following words and phrases as used in this article shall have the meanings as outlined in this section:

City-owned polling place means a building owned or controlled by the city, including the tract of land on which said building is located, in which a polling place is designated according to Chapter 43 of the Texas Election Code.

Electioneering means the posting, using, or distributing political signs or literature.

Electioneering Literature means any written material other than a sign (i) promoting the election of a candidate or political party or (ii) promoting approval or rejection of a measure.

Electioneering Sign means a sign (i) promoting the election of a candidate or political party or (ii) promoting approval or rejection of a measure.

Voting period means the period beginning the hour the polls are open for voting on the first day of the early voting period and ending on election day on the later (i) the time the polls are closed and (ii) when the last voter has voted. For this definition, a runoff election shall be considered a separate election to determine when the voting period begins and ends.

(c) Regulations and exceptions.

The following regulations apply to electioneering at a city-owned polling place during the voting period.

- (1) It is an offense for any person to leave any electioneering sign or electioneering literature on a city-owned polling place:
 - a. Earlier than two calendar days before the beginning of a voting period
or
 - b. Later than five calendar days after the end of a voting period.

- (2) It is an offense for any person to place an electioneering sign on a city-owned polling place that is more than 36 square feet in area or over eight feet in height. A political sign may not be illuminated or have any moving elements.
- (3) It is an offense to place a political sign in any location that obstructs vision for traffic. City staff may remove any sign in violation of the provision of this section if the sign creates a hazardous condition.
- (4) All political signs shall comply with all state and federal requirements, including the Texas Election Code, Chapter 255 and Section 61.003, and the Texas Transportation Code, Chapters 392 and 393.
- (5) It is an offense for any person to place more than four (4) electioneering signs on a city-owned polling place for the same candidate or the advocated position on a measure.
- (6) Besides imposing any criminal penalty, the city may remove and dispose of an electioneering sign placed in violation of this section without compensation to the owner of the electioneering sign.

(d) Application of Article.

The authority to conduct electioneering on a city-owned polling place under this article is limited to city-owned polling places and only for the voting period. Nothing in this article shall be construed as allowing electioneering to occur where otherwise prohibited by State law or applicable provisions of this Code, as amended, the violations of which shall constitute separate offenses.

(e) Administration.

The provisions of this article shall be administered and enforced by a designated election officer, a code enforcement official, or any law enforcement official.

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

Section 1. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 2. That the terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part thereof.

Section 4. The City Council intends and is hereby ordained that the provisions of this ordinance shall become and be a part of the Code of Ordinances of the City of Hewitt, Texas and that sections of this ordinance may be renumbered or re-lettered to accomplish such intention.

Section 5. A violation of this ordinance shall be a Class C misdemeanor, and the penalty for violating this ordinance shall be provided for in Section 1-12 of the Code of Ordinances of the City of Hewitt, Texas, which shall be a fine not exceeding \$500. Each day a violation exists, it shall be a separate offense.

Section 6. It was found that an urgent public necessity requires this ordinance's immediate passage.

Section 7. This ordinance shall be in full force and effect from and after its date of passage.

PASSED AND APPROVED this ____ day of _____ 2024.

CITY OF HEWITT, TEXAS

Steve Fortenberry, Mayor

ATTEST:

Lydia Lopez, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Michael W. Dixon, City Attorney