

**ORDINANCE NO. 2020-47**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS, AMENDING CHAPTER 74 (OFFENSES AND MISCELLANEOUS PROVISIONS), ARTICLE X (ELECTIONEERING AT POLLING LOCATIONS) OF THE CITY OF WYLIE CODE OF ORDINANCES, ORDINANCE NO. 2005-07, AS AMENDED; MODIFYING CERTAIN REGULATIONS RELATING TO ELECTIONEERING ON PUBLIC PREMISES USED AS A POLLING PLACE; PROVIDING FOR REPEALING, PENALTY, SAVINGS AND SEVERABILITY CLAUSES AND AN EFFECTIVE DATE.**

WHEREAS, Sections 61.003 and 85.036 of the Texas Election Code authorizes the City Council of the City of Wylie, Texas (“City Council”) to enact reasonable regulations concerning the time, place and manner of electioneering on public premises used as a polling place in the City of Wylie, Texas (“Wylie”); and

WHEREAS, polling places include public facilities that are simultaneously used for various other purposes and for which adequate and safe parking and access must be maintained for those facilities to operate in a safe and effective manner; and

WHEREAS, the City Council amended the Wylie Code of Ordinances, Ordinance No. 2005-07, as amended (“Code of Ordinances”) to enact such reasonable regulations in 2014; and

WHEREAS, the City Council has investigated and determined that in order to further the general health, safety and welfare of the community, certain amendments to the previously adopted regulations are necessary; and

WHEREAS, the City Council finds that it is in the best interests of the citizens of Wylie to amend the Code of Ordinances, as set forth below.

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

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendment of Chapter 74, Article X (Electioneering at Polling Locations) of the Wylie Code of Ordinances. Chapter 74 (Offenses and Miscellaneous Provisions), Article X (Electioneering at Polling Locations) of the Wylie Code of Ordinances is amended to read as follows<sup>1</sup>:

**“ARTICLE X. ELECTIONEERING AT POLLING PLACES**

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#### **Sec. 74-172. Definitions.**

The following words and phrases as used in this Article shall have the meanings as set forth in this section:

*Electioneering* shall mean the posting, use, or distribution of political signs or literature, including the use of tents, chairs, booths, tables or other furniture or devices to post, use or distribute political signs or literature.

*Tent* shall mean a tent, canopy, covering or similar item that does not exceed ten (10) feet by ten (10) feet in size and is temporarily erected to provide shelter from the sun and other weather conditions when engaging in electioneering.

*Voting period* shall mean the period beginning the hour the polls open for early voting and ending when the polls close or the last voter has voted on election day, whichever is later.

#### **Sec. 74-173. Regulations and Exceptions.**

- (a) The following regulations apply to electioneering on the premises of public property used as a polling place during the voting period.
  - (1) It is an offense for any person to leave any electioneering sign, literature, material or tent on public property that is used as a polling place other than during the period beginning twenty-four (24) hours before the voting period begins and ending twenty-four (24) hours after the voting period ends.
  - (2) It is an offense for any person to engage in electioneering on driveways, parking areas or medians within parking areas on the premises of a polling place or in such areas that the Fire Chief or his/her designee determines to be unsafe for electioneering or determines will interfere with patrons or public employees and staff who use the areas other than for election purposes. This restriction shall not apply to electioneering signs that are attached to vehicles that are lawfully parked at the premises of a polling place.
  - (3) It is an offense for any person to attach, place or otherwise affix any electioneering sign, literature, material or tent to any building,

tree, shrub, pole or other improvement on public property used as a polling place.

- (4) It is an offense for any person to place any electioneering sign, literature, material or tent within ten (10) feet of the public road way adjacent to the public property where a polling place is located.
  - (5) It is an offense for any person to place any electioneering sign, literature or material on the premises that exceeds thirty-six (36) square feet and is more than eight (8) feet in height, including any supporting poles.
  - (6) During the voting period and for thirty (30) minutes before and after the voting period each day, tents may be erected or placed on public property used as a polling place outside of the one hundred (100)-foot prohibited area and where otherwise permitted under this section on a first-come, first-served basis when space is available. It is an offense for any person to erect or place a tent that exceeds ten (10) feet by ten (10) feet in size or in a location or manner that violates this section.
  - (7) In addition to imposing any criminal penalty, electioneering sign(s), literature, material(s) and tent(s) located in violation of this section may be removed and disposed of by the entity in control of the public property.
  - (8) The authority to conduct electioneering on public property under this Article X is limited to the property on the premises where the voting is conducted and only for the voting period.
- (b) The regulations set forth in (a) above shall not apply to any City of Wylie-authorized signs, materials or other messages on its property.”

**SECTION 3:** Penalty. Any person, firm, corporation or business entity violating this Ordinance or the Code of Ordinances shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding Two Thousand Dollars (\$2,000.00) if the violation relates to the public health, sanitation or dumping of refuse, otherwise the fine shall be in an amount not exceeding Five Hundred Dollars (\$500.00). A violation of any provision of this Ordinance shall constitute a separate violation for each calendar day in which it occurs. The penal provisions imposed under this Ordinance shall not preclude Wylie from filing suit to enjoin the violation. Wylie retains all legal rights and remedies available to it pursuant to local, state and federal law.

**SECTION 4: Repealing/Saving.** The Code of Ordinances shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 5: Severability.** Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

**SECTION 6: Effective Date.** This Ordinance shall be effective immediately upon its passage and publication as required by the City Charter and by law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS,** on this 8<sup>th</sup> day of September, 2020.

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Eric Hogue, Mayor

**ATTESTED TO AND  
CORRECTLY RECORDED BY:**

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Stephanie Storm, City Secretary

*Date of Publication: September 16, 2020*