

ORDINANCE NO. 3776-9-20

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALLEN, TEXAS, BY AMENDING IN ITS ENTIRETY CHAPTER 10 “OFFENSES-MISCELLANEOUS,” ARTICLE V, “ELECTIONEERING AT POLLING LOCATIONS” PROVIDING FOR REGULATIONS OF ELECTIONEERING CONDUCTED ON CITY PROPERTY USED AS ELECTION POLLING PLACES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in response to amendments to the State’s election laws, the City Council enacted Ordinance No. 3198-1-14 on January 14, 2014, adding Article V “Electioneering at Polling Locations” to Chapter 10 “Offenses-Miscellaneous” to the Code of Ordinances establishing regulations relating to electioneering on City-owned or City-controlled property used as a polling place for an election; and,

WHEREAS, based on the experience gained from, and observations made of, electioneering occurring on City-owned and City-controlled property used as polling places since the adoption of Ordinance No. 3198-1-14, the City Council finds that the adoption of certain amendments to the regulations on electioneering set forth in Chapter 10, Article V of the Allen Code of Ordinances are needed to further the public health, safety and welfare of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The Code of Ordinances of the City of Allen, Texas, be, and the same is hereby amended by amending Chapter 10 “Offenses – Miscellaneous,” Article V “Electioneering at Polling Locations” to read in its entirety as follows:

ARTICLE V. ELECTIONEERING AT POLLING LOCATIONS

Sec. 10-50. Purpose.

The purpose of this Article is 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 electioneering at City-owned polling places.

Sec. 10-51. Definitions.

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

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

Electioneering means the posting, use, or distribution of 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 of (i) the time the polls are closed and (ii) the time when the last voter has voted. For purpose of this definition, a runoff election shall be considered a separate election for purposes of determining the time for when the voting period begins and ends.

Sec. 10-52. Regulations and exceptions.

- (a) Notwithstanding the provisions of the Allen Land Development Code, the following regulations apply to electioneering on 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:
 - (i) earlier than twenty-four (24) hours before the beginning of a voting period; or
 - (ii) later than twenty-four (24) hours after the end of a voting period.
 - (2) It is an offense for any person to engage in electioneering on driveways, parking areas, medians within parking areas, or driveways on a City-owned polling place.
 - (3) It is an offense for any person to attach, place or otherwise affix or erect any electioneering sign or electioneering literature in any area designated as a planting or landscaped area or to any tree, shrub, building, pole, or other improvement on a City-owned polling place.
 - (4) It is an offense for any person to place any electioneering sign or electioneering literature within ten (10) feet of the public road way adjacent to a City-owned polling place.
 - (5) It is an offense for any person to place an electioneering sign on a City-owned polling place that exceeds sixteen (16) square feet in size.
 - (6) 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 for the advocated position on a measure.

- (7) It is an offense for any person to:
- (i) place a tent, canopy, or similar temporary structure on a City-owned polling place more than one (1) hour before the polls open on each day of the early voting period or election day; and/or
 - (ii) allow a tent, canopy, or similar temporary structure to remain on a City-owned polling place more than one (1) hour after the polls close or the last voter has voted, whichever is later, on each day of the early voting period or election day.

It shall be a defense to this Section 10-52(a)(7) that the tent, canopy, or similar temporary structure has been located on the City-owned polling place by the City or a person expressly authorized by the City and is not being used for electioneering purposes.

- (8) In addition to imposing any criminal penalty, an electioneering sign placed in violation of this section may be removed and disposed of by the City without compensation to the owner of the electioneering sign.
- (c) The regulations set forth in Section 10-52(a) shall not apply to any signs, materials, or other messages expressly owned or authorized by the City located on City property.
- (d) It shall be a defense to a violation of Sections 10-52(a)(1), (a)(2), and (a)(6) that an electioneering sign is attached to a vehicle that is lawfully parked at a City-owned polling place.
- (e) The following people or entities shall be jointly and severally liable to the City for costs incurred by the City to repair real property or repair and/or replace personal property owned by the City that is damaged or destroyed as the result of the placement of any electioneering sign, tent, canopy, or other temporary structure on City-owned or controlled property:
- (1) the person who placed the electioneering sign, tent, canopy, or other temporary structure on City-owned or controlled property;
 - (2) the candidate whose election is being advocated by the electioneering sign, tent, canopy, or other temporary structure placed on City-owned or controlled property; and
 - (3) in the case of an electioneering sign, tent, canopy, or other temporary structure placed in association with an election on a measure, the chair of the special purpose committee identified on or that authorized placement of the electioneering sign, tent, canopy, or other temporary structure placed on City-owned or controlled property.

Sec. 10-53. - Application of Article.

The authority to conduct electioneering on a City-owned polling place pursuant to 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 or the Allen Land Development Code, as amended, the violations of which shall constitute separate offenses.

Sec. 10-54. - Administration.

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

SECTION 2. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinance, as amended hereby, which shall remain in full force and effect.

SECTION 3. All ordinances of the City of Allen, Collin County, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby, repealed; provided, however, that all other provisions of said ordinances not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 4. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

SECTION 5. This Ordinance shall take effect immediately from and after its passage as the law and charter in such cases provide and it is, accordingly, so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 8TH DAY OF SEPTEMBER 2020.

APPROVED:

Debbie Stout, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY
(kbIL8/27/2020:117627)

Shelley B. George, TRMC, CITY SECRETARY