



WINDCREST TEXAS

ORDINANCE NO. 2016-744(O)

AN ORDINANCE REGULATING THE USE OF CITY PROPERTY DURING EARLY VOTING PERIODS AND ON ELECTION DAY DURING OFFICIAL ELECTIONS AT TAKAS PARK

WHEREAS, the City Council of the City of Windcrest desires to encourage residents to exercise their Constitutional right to vote and be actively involved in municipal elections; and

WHEREAS, the City Council of the City of Windcrest recognizes that some individuals who would otherwise participate in municipal elections may be deterred by certain electioneering activities near the polling place located at Takas Park; and

WHEREAS the Texas Election Code authorizes the City of Windcrest to enact reasonable regulations concerning the manner of electioneering at polling sites during elections (*see* Texas Election Code Section 61.003(a-1)).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that the following regulations are hereby adopted relating to the use of certain public spaces during early voting periods and on election day during official elections at Takas Park:

1. Definitions

“Designated Area” refers to the shaded and labeled areas on the map appended to this Ordinance as Exhibit A.

“Impediment” refers to any object, including but not limited to a chair or stool, that when placed in a parking spot prevents the use of that parking spot for the parking of a vehicle. Impediment specifically does not refer to a motor vehicle or bicycle unless it shall be determined that the rider, owner or driver of the motor vehicle or bicycle has placed or permitted the vehicle to remain in a parking spot overnight or upon proof that the owner or driver of the vehicle has parked the vehicle for the sole purpose of obstructing others’ ability to view anything within the Designated Area. Impediment also specifically does not refer to any sign placed in the medians nearest to the Windcrest Civic Center provided that such placement comports with all existing legal requirements regarding the placement of signs.

"Official Election" refers any election in which votes are being cast for candidates or measures in federal, state, county or municipal elections.

"Structure" refers to any building, tent, canopy, portable building, enclosed area, vessel, vehicle, or enclosed area.

"Voting Hours" refers to those times when polls are open for voting in an Official Election, whether during early voting or on Election Day.

2. No Placement or Construction of Structures Outside the "Designated Area"

It shall be unlawful for any person to erect or maintain any Structure at the parking lot of the Windcrest Civic Center / Takas Park area shown on Exhibit A to this Ordinance during Voting Hours of an Official Election other than within the Designated Area.

It shall further be unlawful for any person to place or maintain any Impediment at the parking lot of the Windcrest Civic Center / Takas Park area shown on Exhibit A to this Ordinance during Voting Hours of an Official Election other than within the Designated Area.

The creation of a Designated Area shall not confer upon any individual, candidate, campaign, or organization any property or other right to use the Designated Area.

3. Removal of Impediments and Structures and Access to Designated Area

It shall be unlawful for any person to erect or maintain any Structure or to place or maintain any Impediment within the Designated Area overnight or for a continuous period of more than thirteen hours.

It shall further be unlawful for any person to access the Designated Area to place or erect any Structure or to place or maintain any Impediment except during those hours when Takas Park is open to the public.

4. Affirmative Defenses

It shall be an affirmative defense to prosecution of an offense under this Ordinance if:

(1) An individual in violation of Section 2 or Section 3 removes the prohibited Structure or Impediment upon request by a law enforcement official; and

(2) The Structure or Impediment in violation of Section 2 is not erected or placed again during the same Official Election either

- (a) at the parking lot of the Windcrest Civic Center / Takas Park area but outside the Designated Area; or
- (b) within the Designated Area but at a time other than permitted; and

(3) The individual asserting this affirmative defense has not been previously cited for violation of this Ordinance, whether or not a prior citation has resulted in a determination of guilt.

5. Penalty

A person convicted of an offense under this division shall be punished by a fine of up to \$300.00 and/or fifteen hours of community service.

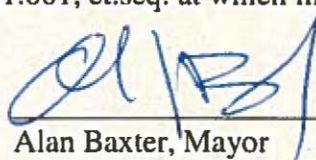
Each day (or portion thereof) that an individual violates this Ordinance constitutes a separate offense.

6. Miscellaneous

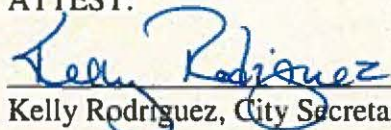
Other than regulating the erection, placement or maintenance of Structures or Impediments, this Ordinance does not intend and must not be interpreted to restrict, prohibit, or discourage any electioneering activity. Nor may this Ordinance be interpreted as encouraging, requiring, protecting or sponsoring electioneering activity, whether within or outside of the Designated Area.

The City Secretary shall cause a copy of this ordinance and its Exhibit A to be distributed to each individual filing a Notice of Appointment of Campaign Secretary with the City Secretary.

PASSED AND APPROVED, on the 16th day of May, 2016 at a regular meeting of the City Council of the City of Windcrest, Texas which meeting was held in compliance with the Open Meetings Act, Tex. Gov't Code, §551.001, et.seq. at which meeting a quorum was present and voting.


Alan Baxter, Mayor

ATTEST:


Kelly Rodriguez, City Secretary

APPROVED:

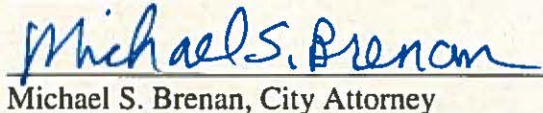

Michael S. Brenan, City Attorney





Exhibit A

Legend
Designated
Area