

**ORDINANCE NO. 2014-1157**

**AN ORDINANCE OF THE CITY OF HIGHLAND VILLAGE, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 14 "PUBLIC WAYS AND PUBLIC PLACES" BY ADDING ARTICLE 14.06 "REGULATING ELECTIONEERING AT POLLING LOCATIONS ON CITY PROPERTY"; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE, PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00); AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on June 14, 2013, Texas Election Code §61.003 and §85.036 were amended to require a public entity that controls or owns a building used as a polling place, to allow electioneering on the premises subject to reasonable regulations while polls are open; and

**WHEREAS**, according to this new law, "electioneering" includes the posting, use, or distribution of political signs or literature; and

**WHEREAS**, City owned or controlled buildings used as election polling places are simultaneously used for various other purposes for which adequate and safe parking and access thereto must be maintained in order for those facilities to operate in a safe and effective manner; and

**WHEREAS**, in order to further the general health, safety and welfare of the community, electioneering signs and literature should not be present outside of the time for voting except for a limited period to erect and remove the signs, and not be attached to City improvements and landscaping; and

**WHEREAS**, the City Council further finds that the size of electioneering signs shall be limited and they should be set back from the public roadway in order to further traffic safety and remove visual clutter; and

**WHEREAS**, current City of Highland Village regulations prohibit signs, including political signs, on public property, therefore, those regulations must be amended to comply with the new law; and

**WHEREAS**, the City Council deems it is in the best interest of the citizens of the City of Highland Village that the current sign regulations be amended and additional regulations be adopted to address concerns that may result from electioneering on public property used for election polling places, including damage to property, traffic safety concerns, and blight; and

**WHEREAS**, the City Council finds that the adoption of regulations is needed and that they further the public health, safety and welfare of the community;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS, THAT:**

**SECTION 1.** The Code of Ordinances of the City of Highland Village, Texas, be, and the same is hereby amended by adding new Article 14.06 "Electioneering at Polling Locations on City Property" to Chapter 14 "Public Places and Public Ways", to read as follows:

**"ARTICLE 14.06. ELECTIONEERING AT POLLING LOCATIONS ON CITY PROPERTY**

**Sec. 14.06.001. Purpose.**

The purpose of this Article is to provide reasonable time, place, and manner regulations for electioneering on City owned or controlled public 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, and ensure that the property is sufficiently available for its patrons who use the facilities other than for election purposes.

**Sec. 14.06.002. 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* shall mean the posting, use, or distribution of political signs or literature.

*Electioneering locations(s)* means one or more locations on the premises of a City-owned polling place designated by resolution of the City Council as authorized locations where electioneering, other than the placement of electioneering signs may occur, a copy of which resolution shall be available in the office of the City Secretary and incorporated herein by reference.

*Political sign* means a sign promoting the election of a candidate or political party, or approval or rejection of a measure.

*Electioneering sign location(s)* means one or more locations on the premises of a City-owned polling place designated by resolution of the City Council as authorized locations for the placement of political signs, a copy of which resolution shall be available in the office of the City Secretary and incorporated herein by reference.

*Voting period* shall mean:

(a) with respect to early voting by personal appearance, the hour the polls are open for voting on the first day of the early voting period and ending when the polls close or the last voter has voted, whichever is later, on the last day of the early voting period; and

(b) with respect to election day, the hour the polls are open for voting and ending when the polls close or the last voter has voted, whichever is later .

**Sec. 14.06.003. Regulations and exceptions.**

(a) It is an offense for any person to engage in electioneering on the premises of a City-owned polling place. It is defense to an offense described in this subsection (a) that:

(1) during the early voting period, the electioneering occurred within an electioneering location during a period not earlier than one hour prior to the

commencement of the voting period and not later than one hour after the end of the voting period; or

(2) on election day, the electioneering occurred within an electioneering location during a period beginning at 12:01 a.m. prior to the commencement of the voting period and not later than Noon on the day after the end of the voting period; and

(3) the act constituting electioneering was the attachment of a political sign to a vehicle that was lawfully parked on the premises of the City-owned polling place or (ii) placed in an electioneering sign location during the voting period.

(b) It is an offense for any person to attach, place or otherwise affix or erect any political sign, literature or material in any area designated as a planting or landscaped area or to any tree, shrub, building, pole, or other improvement of a City-owned polling place.

(c) It is an offense for any person to place any political sign or literature within ten (10) feet of the public road way adjacent to a City-owned polling place.

(d) It is an offense for any person to place or affix a political sign on the premises of a City-owned polling place except as follows:

(1) Political signs may be placed or affixed only in an electioneering sign location:

(i) during the early voting period, the political sign was placed within an electioneering sign location during a period not earlier than one hour prior to the commencement of the voting period and not later than one hour after the end of the voting period; or

(ii) on election day, the political sign was placed within an electioneering sign location during a period beginning at 12:01 a.m. prior to the commencement of the voting period and not later than Noon on the day after the end of the voting period.

(2) Political signs for each candidate, political party, or measure shall have a sign face no larger than thirty-six square feet on each side of the sign and be no taller than eight feet in height from ground level.

(3) Political signs placed in an electioneering sign location shall have no more than two (2) sign faces per sign.

(4) The political sign must be placed or affixed in a manner that does not violate subsection (b) of this section.

It is defense to an offense described in this subsection (d) that the person was holding the political sign in an electioneering location that is not an electioneering sign location in such a manner that the sign does not physically touch any part of the premises.

(e) In addition to imposing any criminal penalty, political sign(s) located in violation of this article may be removed and disposed of by the City.

**Sec. 14.06.004. Compliance with Election Code.**

Nothing in this article shall be construed as authorizing electioneering within any area of the premises of a City-owned polling place in violation of any provision of the Texas Election Code.”

**SECTION 2.** All provisions of the ordinances of the City of Highland Village in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Highland Village not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 3.** Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

**SECTION 4.** That an offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Code of Ordinance, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

**SECTION 5.** 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 Highland Village as heretofore amended and upon conviction shall be punished by a fine not to exceed the sum of Five Hundred Dollars (\$500.00) for each offense, and each and every day such violation shall continue shall be deemed and constitute a separate offense.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS, ON FIRST READING ON THIS THE 28th DAY OF JANUARY, 2014.**

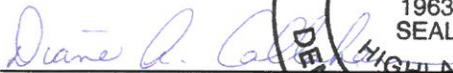
**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS, ON SECOND READING ON THIS THE 11th DAY OF FEBRUARY, 2014.**

**APPROVED:**



Patrick L. Davis, Mayor

**ATTEST:**

  
Diane A. Callahan, City Secretary

**APPROVED AS TO FORM AND LEGALITY:**

  
Kevin B. Laughlin, City Attorney

(kbl:1/29/14:64365)