

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 2, "ADMINISTRATION," OF THE MESQUITE CITY CODE, AS AMENDED, BY ADDING A NEW DIVISION 4, "ELECTIONEERING AT POLLING PLACES"; AMENDING CHAPTER 13 "SIGNS," OF THE MESQUITE CITY CODE, AS AMENDED, BY DELETING SECTIONS 13-73(q)(1) THROUGH 13-73(q)(4) AND ADDING NEW SECTIONS 13-73(q)(1) THROUGH 13-73(q)(4) TO AMEND REGULATIONS REGARDING LOCATION OF POLITICAL SIGNS ON PUBLIC PROPERTY; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF \$2,000.00 FOR A PERSON VIOLATING A PROVISION OF THIS ORDINANCE GOVERNING FIRE SAFETY, ZONING, OR PUBLIC HEALTH AND SANITATION AND A PENALTY NOT TO EXCEED \$500.00 FOR ALL OTHER PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, to ensure fair and safe access to polling places, deter unlawful influence and respond to recent difficulties, the City Council wishes to establish nonpartisan and reasonable time, place and manner regulations on electioneering at polling places located at public buildings owned or controlled by the City pursuant to the authority provided by Section 61.003 of the Texas Election Code; and

WHEREAS, the City Council finds it is in the best interest of the citizens of the City of Mesquite to adopt these regulations, and further finds that the following are reasonable time, place and manner regulations.

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

SECTION 1. That Chapter 2 of the Mesquite City Code, as amended, is amended by adding a new Division 4 under Article II, "Electioneering at Polling Places," attached as Exhibit "A," incorporated by reference and made a part of Chapter 2 of the Mesquite City Code, as amended, in all other aspects said Code and Chapter to remain in full force and effect.

SECTION 2. That Chapter 13 of the Mesquite City Code, as amended, is amended by deleting Sections 13-73(q)(1) through 13-73(q)(4) in their entirety and adding new Sections 13-73(q)(1) through 13-73(q)(4), attached as Exhibit "B," incorporated by reference and made a part of Chapter 13 of the Mesquite City Code, as amended, in all other aspects said Code, Chapter and Section to remain in full force and effect.

SECTION 3. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 4. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 5. That, unless specifically provided otherwise by this ordinance or by state law, any person (as defined in Chapter 1, Section 1-2 of the Mesquite City Code, as amended) violating any of the provisions or terms of this ordinance governing fire safety, zoning, or public health and sanitation, shall be deemed to be guilty of a Class C Misdemeanor and, upon conviction, shall be subject to a fine not to exceed \$2,000.00, and that any person (as defined in Chapter 1, Section 1-2 of the Mesquite City Code, as amended) violating any other provision of this ordinance shall be deemed to be guilty of a Class C Misdemeanor, and, upon conviction, shall be subject to a fine not to exceed \$500.00. If the maximum penalty provided for by this ordinance for an offense is greater than the maximum penalty provided for the same offense under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense shall be the maximum penalty provided by the laws of the State of Texas.

SECTION 6. That this ordinance shall take effect and be in force from and after five days after publication.

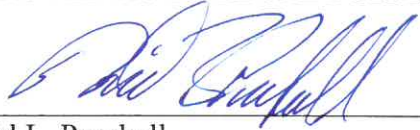
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 5th day of August 2019.

Stan Pickett
Mayor

ATTEST:

Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

1. *Chapter 2.* Amend Chapter 2, Article II by adding a new Division 4 to read as follows:

DIVISION 4. ELECTIONEERING AT POLLING PLACES

Sec. 2-50. Purpose.

The purpose of this division is to provide reasonable time, place and manner regulations for electioneering on City owned or controlled public property when used as an election polling place in order to provide fair access for electioneering while mitigating against safety hazards, preventing damage to public property, deterring voter intimidation and ensuring the public facility is accessible for citizens voting and using the facilities other than for election purposes.

Sec. 2-51. Definitions.

In this section:

Electioneering means the posting, use or distribution of political signs or literature.

Voting period means the period beginning when the polls are open for voting and ending when the polls are closed or when the last voter has voted, whichever is later. The voting period for early voting, election day voting and a runoff election shall be considered separate voting periods.

Sec. 2-52. Generally.

- (a) All electioneering shall comply with federal and state requirements, including but not limited to the Texas Election, Transportation and Penal Codes, and the City's ordinances and regulations.
- (b) All electioneering items, including signs, other materials and refuse for which persons are responsible, must be removed as required in this section.

Sec. 2-53. Sign regulations at polling places during early voting or on election day.

- (a) The authority to conduct electioneering on public property is limited to the property on the premise where the voting is conducted and only for the voting period.
- (b) Signs shall not be erected except for 24 hours before and 24 hours after a voting period ("the posting period"). Signs shall be removed from the property when the posting period expires.
- (c) No sign shall exceed 16-square feet or exceed four feet in height.

- (d) No sign shall be posted, connected or otherwise placed within one foot of another sign.
- (e) No sign shall interfere with vehicular or pedestrian traffic.
- (f) No sign shall be located within:
 - (1) Ten feet of the public roadway adjacent to the property;
 - (2) Two feet of sidewalks, emergency access areas or public right-of-way, measured from the curb, or if no curb exists, measured from the edge of the pavement; or
 - (3) Designated view obstruction areas.
- (g) No sign shall be posted on aboveground public fixtures or structures, irrigation equipment, impervious surfaces, trees or in landscaping areas other than grass.
- (h) No post or stake shall be driven more than six inches below the ground surface.
- (i) No signs shall be erected in a parking lot serving the facility.
- (j) Signs shall be setback a minimum of 15 feet from the intersection of two streets and the intersection of a driveway and a street.
- (k) Each sign must provide identification of the person responsible for posting the sign and a phone number where that person can be reached during the time the sign is posted.

Sec. 2-54. Facility/ground regulations.

- (a) All electioneering other than the posting of signs is prohibited except for the time beginning three hours before and ending three hours after the voting period. Materials littering the grounds shall be removed when this period expires. See Section 2-53 for the permitted posting period for signs.
- (b) Canopies and chairs are allowed, but must be removed daily within one hour of time the polls close. All other structures, including but not limited to booths, tables and encampments, are prohibited.
- (c) Electioneering shall not interfere with disability access or emergency response to the property.
- (d) Pursuant to Section 61.003 of the Texas Election Code, electioneering is prohibited within 100 feet of the election zone.

Sec. 2-55. Violations.

- (a) Any violation of this section shall be a misdemeanor, punishable by a fine in any sum not exceeding \$500.00.
- (b) In addition to criminal enforcement, electioneering signs or other items located in violation of this section may be removed and disposed of by the City.

1. *Chapter 13.* Amend Chapter 13 by deleting Sections 13-73(q)(1) through 13-73(q)(4) in their entirety and adding new Sections 13-73(q)(1) through 13-73(q)(4) to read as follows:

Sec. 13-73. Specifications by type of sign.

(q) *Political signs.* Political signs shall be permitted as follows:

- (1) To the extent regulation of political signs is preempted and controlled by Texas Local Government Code, Section 216.903, that section applies herein as if fully set forth. To the extent political signs are not subject to such statutory regulation, they shall be regulated as provided herein.
- (2) Signs shall be located on private property with the permission of the owner.
- (3) Signs shall not be located in the public right-of-way or on other public property, except at designated voting locations during a voting period as provided in Chapter 2, Article II, Division 4, “Electioneering at Polling Places.”
- (4) Signs on private property shall not exceed 36-square feet per side and eight feet in height, except where such sign is erected in place of another sign permitted at the location where it is placed, then it shall be permitted to be the same size and subject to the same conditions as such sign.