

TOWN OF LAKEWOOD VILLAGE, TEXAS

ORDINANCE NO. 16-04

AN ORDINANCE OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, ADOPTING REGULATIONS GOVERNING ELECTIONEERING ON PUBLIC PROPERTY; ESTABLISHING RULES FOR CANDIDATE FORUMS; PROVIDING FOR A PENALTY FINE NOT TO EXCEED ONE-HUNDRED DOLLARS; PROVIDING A SAVINGS CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, The 83rd Texas Legislature passed House Bill 259 which modified Texas Elections Code Section 61.003 and Section 85.036 which requires that the Town of Lakewood Village allow electioneering on Town Hall property when polling is underway; and

WHEREAS, Texas Elections Code §61.003(a-1) and §85.036(b) authorizes a municipality to enact reasonable regulations concerning the time, place, and manner of electioneering on property used as a polling place; and

WHEREAS, the Town Council of Lakewood Village has determined that electioneering as public speech is beneficial to the free-flowing exchange of ideas, and provides opportunities for candidates and citizens to become better informed; and

WHEREAS, in order to facilitate and encourage candidate / voter forums the Town Council of Lakewood Village finds that the adoption of rules are necessary to insure fair and equal access and meet the conditions expressed by the Texas Ethics Advisory Board;

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS:

Section 1: Findings

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. Purpose and Intent

This ordinance is adopted to provide regulations governing electioneering on public property outside the one-hundred foot exclusion zone during the voting period. Regulations herein are adopted governing electioneering on public property outside of the voting period and outside of the exclusion zone. Regulations herein are adopted to ensure fair and equal candidate access to candidate forums meet Texas Ethics Board standards.

Section 3. Definitions

The following definitions shall apply unless the context clearly indicates or requires a different meaning. Unless defined otherwise, all terms shall be defined as in the Texas Elections Code.

Voting Period: Unless the election has been cancelled, the voting period shall commence on the poll opening on the first day of early voting and end when polls close on election day.

Campaign Period: The campaign period shall commence on the first day when candidates may file to run for office in Lakewood Village and ends when polls open on the first day of early voting or upon cancellation of the election.

Section 4. Restrictions on Electioneering

(a) At All Times

The following prohibitions are in addition to those contained in the Texas Elections Code:

- (1) the placement or distribution of campaign literature inside Town Hall or placement in or attached to any of the Town's bulletin boards or the marquee;
- (2) the placement or attaching of any political sign to any publically owned buildings (Town Hall, etc.), town equipment, town fences, street signs, utility poles, benches, fire hydrants, or other public improvements.

(b) During the Campaign Period

The purpose of this ordinance is not to curtail political speech or discourage candidates seeking to interact with citizens. Due to the lack of public meeting places and location of likely meeting places (park, mailbox locations) on public property within the 100 foot exclusion zone, as a practical matter it is desirable to allow some electioneering therein, therefore the following regulations apply during campaign periods:

- (1) handouts, distribution of political advertising and solicitations to voters is permitted on Town property as long as it is done in a manner which does not harass voters, impede traffic, or cause potential safety hazards (e.g. standing in an intersection handing out flyers, blocking the sidewalk).
- (2) with the exception of a town authorized candidate/voter forum, Town Hall cannot be rented and can only be used for official town business during the Campaign and Election periods.
- (3) the placement of signs on town property within 100 feet of the polling place is prohibited.

Section 5. Candidate / Voter Forums

Facilitating and encouraging candidates and voter interaction is beneficial to all parties and allows citizens to make informed governance choices. Under Texas Elections Code § 255 the expenditure of government resources in advocacy of an issue or candidate. However, in various opinions the Texas Ethics Advisory Board has found that at times when all candidates have equal notice and equal access to an event, then the event will not be considered advocacy for or against any candidate regardless of whether or not all candidates choose to attend.

In determining the rules and procedures of the forum, deference to mutual agreements between the candidates shall govern, so long as they are not contrary to Code or Ethics Advisory Opinions. In lieu of any agreements, the following rules shall govern the Forum/s:

(a) Requestor

1. A voter citizen forum shall be held at the request of any candidate who has filed to run for office in a contested election. All candidates must be invited. All candidates must be treated with equal dignity and must have equal opportunity to participate in the process.
2. The forum can only be cancelled by the requestor. Non-participation by a candidate will not subject the forum to cancellation.

(b) Schedule

Candidates will be given an opportunity to mutually agree on forum dates. If agreement cannot be met, then each candidate shall select one date and time during the campaign period, subject to:

1. A forum may not be held on the day of a meeting of the Town Council;
2. The starting time of the forum may not be earlier than 6pm on a weekday.

(c) Format

In the absence of a mutual agreement, the following format shall apply:

1. To insure confidentiality, citizens will be allowed to submit written questions and each candidate will have equal time to respond. Under the direction of the moderator, citizens may also publically ask questions.
2. The moderator will not be a council member who is a candidate in the current election.
3. The opportunity for opening and/or closing statements not to exceed 5 minutes will be made to all candidates. The speaking order of the closing statements shall be the reverse of the opening statements.

Section 6. Severability

(a) *Unconstitutional or Invalid Section.* Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional 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.

(b) *Independent Sections.* The Town hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and/or phrases be declared unconstitutional or invalid.

Section 7. Estoppel / Waiver

The failure of the Town to enforce any term or condition of this Ordinance shall not constitute a waiver or estoppel or any subsequent violation of this Ordinance.

Section 8. Penalties

Any person violating any provisions or terms of this ordinance shall be subject to a penalty of up to one-hundred dollars upon conviction. Each day the violation continues shall be considered a separate offence. **First-time violators shall be given notice and 48 hours to cure the violation without penalty.**

Section 9. Effective Date

This Ordinance shall become effective from and after its date of passage and publication as provided by law.

PASSED AND APPROVED by the Town Council of the Town of Lakewood Village, Texas, this the 14th day of January, 2016

Dr. Mark E Vargus
Mayor

ATTEST:

Linda Asbell, TRMC
Town Secretary