

ORDINANCE NO. O-2020-37

AN ORDINANCE THE CITY COMMISSION OF THE CITY OF PHARR, TEXAS REGULATING ELECTIONEERING IN CITY OWNED OR CITY CONTROLLED PROPERTY; PROVIDING FOR COMPLIANCE; SETTING A FINE FOR VIOLATION THEREOF; PROVIDING SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the 83rd Texas Legislature passed House Bill 259 in 2013, modifying Texas Election Code Sections 61.003 and 85.036 and requiring an entity that controls or owns a public building used as a polling location to allow electioneering on the premises subject to reasonable regulations on time, place, and matter; and

WHEREAS, recent legislative changes prohibit cities which own buildings used as polling place from restricting electioneering during early voting and election day including the posting, use of distribution of political signs or literature on municipal premises outside the 100' foot statutory election limit; and

WHEREAS, the City of Pharr recognizes the importance of a citizen's right to vote as guaranteed by the First Amendment of the United States Constitution and the Constitution of the State of Texas; and

WHEREAS, presently, the polling and voting locations in the City of Pharr include the Jose "Pepe" Salinas Recreation Center and Development and Research Center; however, these are subject to change and may include other City owned or City controlled properties, and any other public buildings used as polling locations in Pharr; and

WHEREAS, these facilities are simultaneously used for various other purposes and 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, electioneering includes the posting, use, or distribution of political signs or literature; and

WHEREAS, the City Commission of the City of Pharr, Texas hereby adopts the following electioneering regulations and finds that they are in the general public's best interests and promote public safety.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PHARR, TEXAS, THAT:

SECTION 1: DEFINITIONS

The following words, terms and phrases, when used in this Ordinance shall have the following meanings, except where the context clearly indicates a different meaning:

Canvassing shall mean where one person engages another person by a verbal exchange, provides literature or brochure to another person with a message that involves a political issue or material.

Electioneering shall mean the posting, use, or distribution of political signs or literature, including but not limited to the use of trailers, chairs, booths, tables, tents, and canopies or other furniture, structures, vehicles or devices to post, use or distribute political signs or literature.

Polling Place shall mean any property, building and grounds, wherein federal, state, or local election officials are conducting voting under the Texas Election Code and/or Home Rule Charter.

Public Property shall mean real property, streets, roadways, easements, alleys, parks, buildings and grounds owned or controlled by any public institution or taxing authority, including the City, School District, College Campus, Drainage or Irrigation District, or other governmental entity, or any property designated as a lawful polling place under the Texas Election Code.

Voting Period shall mean the advertised time certain when polls open until the polls close, or the last voter has voted, whichever is later, on Election Day, the Early Voting Period, and any Election Runoff period or day.

SECTION 2: PURPOSE

The purpose of this ordinance is to provide reasonable regulations for electioneering on city owned or controlled public property when such property is used as an election polling place. The regulations 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 for activities other than election purposes.

SECTION 3: REGULATIONS AND EXCEPTIONS

- (a) The following regulations applies to electioneering on the premises of City owned or City controlled used as a polling place during the voting period:

1. It is an offense for any person to engage in electioneering on the driveways, parking areas, on medians within parking areas, or driveways on the premises of a polling location. This restriction shall not apply to electioneering signs that are attached to vehicles that are lawfully parked at the premises of a polling location.

SECTION 4: The City Manager shall be authorized to identify the areas to which these regulations apply during elections.

SECTION 5: PENALTIES

Any person, firm, corporation or entity violating this Ordinance shall be subject to a fine not to exceed \$500.00 per occurrence.

SECTION 6: PUBLICATION

That this ordinance be published in a newspaper of general circulation that serves the City of Pharr, Texas and shall be enforceable thereafter.

SECTION 7: SAVINGS CLAUSE

Except as hereby amended, any provision of the Code of Ordinances or directives of the City of Pharr, Texas, not in conflict with this ordinance shall remain in full force and effect, unimpaired hereby.

SECTION 8: SEVERABILITY CLAUSE

The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part thereof. The effects of this Ordinance shall, at all times, be in compliance with state, federal, local and other guidelines as directed.

SECTION 9 EFFECTIVE DATE; PUBLICATION

The Ordinance shall take effect and be in force from and after its passage and approval on three (3) separate readings in accordance with Section 8, Article 3 of the Charter of the City of Pharr, Texas. Publication, if necessary, may also be in caption form as allowed under Section 9 of the Pharr City Charter.

SECTION 10 PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED ON FIRST READING BY THE BOARD OF COMMISSIONERS OF THE CITY OF PHARR, TEXAS, ON THIS THE 8th DAY OF September, 2020.

CITY OF PHARR



AMBROSIO HERNANDEZ, MAYOR

ATTEST:



HILDA PEDRAZA, CITY CLERK

PASSED AND APPROVED ON SECOND READING BY THE BOARD OF COMMISSIONERS OF THE CITY OF PHARR, TEXAS, ON THIS THE 21st DAY OF September, 2020.

CITY OF PHARR



AMBROSIO HERNANDEZ, MAYOR

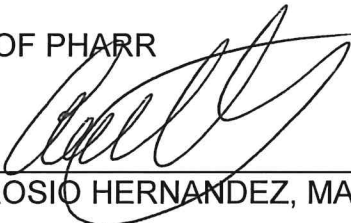
ATTEST:



HILDA PEDRAZA, CITY CLERK

PASSED AND APPROVED ON THIRD READING BY THE BOARD OF COMMISSIONERS OF THE CITY OF PHARR, TEXAS, ON THIS THE 5th DAY OF October, 2020.

CITY OF PHARR



AMBROSIO HERNANDEZ, MAYOR

ATTEST:



HILDA PEDRAZA, CITY CLERK

APPROVED AS TO FORM:



PATRICIA A. RIGNEY, CITY ATTORNEY