

TOWN OF LAKEWOOD VILLAGE, TEXAS

ORDINANCE NO. 18-09

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 Election 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 Commission;

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

Section 1: Findings

The findings attached hereto as Exhibit A is hereby adopted as the Candidate Forum and Electioneering Ordinance for the Town.

Section 2: Repeal

Candidate Forum and Electioneering Ordinance 16-04 is hereby repealed in its entirety.

Section 3: Penalty Clause

Any person, firm, entity or corporation who violates any provision of this Ordinance, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding One Hundred Dollars (\$100.00). 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 4: Legal Rights

The penal provision imposed under this Ordinance shall not preclude the Town of Lakewood Village from filing suit to enjoin the violation. The Town of Lakewood Village retains all legal rights and remedies available to it pursuant to local, state, and federal law.

Section 5: 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.

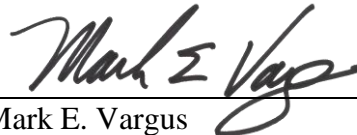
Section 6: Estoppel / Waiver

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 7: Effective Date

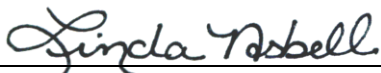
The amendments to this Ordinance shall become effective from and after its date of passage and publication as provided by law.

PASSED AND APPROVED by the Town Council of the Town of Lakewood Village, Texas this the 16th day of October, 2018.



Dr. Mark E. Vargus
Mayor

ATTEST:



Linda Asbell, TRMC, CMC
Town Secretary



Exhibit A



CANDIDATE FORUM & ELECTIONEERING

Adopted: October 16th, 2018

SECTION 1: PURPOSE AND INTENT

This ordinance is adopted to provide regulations governing electioneering on public property. Regulations herein are adopted to ensure fair and equal candidate access to candidate forums meet Texas Ethics Commission standards.

SECTION 2: DEFINITIONS

2.1. General

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 Election Code.

2.2 Words and Terms Defined

Voting Period: Unless the election has been cancelled, the voting period shall commence on 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 3: RESTRICTIONS ON ELECTIONEERING

3.1. At All Times

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

- a) 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;
- b) the placement or attaching of any political sign to any publicly owned buildings (Town Hall, etc.), town equipment, town fences, street signs, utility poles, benches, fire hydrants, or other public improvements.

3.2. 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, as a practical matter it is desirable to allow some electioneering therein, therefore the following regulations apply during campaign periods:

- a) 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).
- b) 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.
- c) the placement of signs on town property within 100 feet of the polling place is prohibited.

SECTION 4: CANDIDATE / VOTER FORUMS

Facilitating and encouraging candidates and voter interaction is beneficial to all parties and allows citizens to make informed governance choices. Texas Election Code § 255 generally prohibits the expenditure of government resources in advocacy of an issue or candidate. However, in various opinions the Texas Ethics Commission 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.

The following rules shall govern the Forum(s):

1. Requestor

- a) 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 opposing candidates for the seat shall be invited to participate. All candidates shall be treated with equal dignity and shall have equal opportunity to participate in the process.
- b) The forum may only be cancelled by the requestor. Non-participation by a candidate will not subject the forum to cancellation.

2. Schedule

Candidates for each seat will be given an opportunity to mutually agree on forum date and starting time.

Opposing candidates must adhere to the following schedule:

March 10th - Candidates for a particular seat must reach agreement on forum date and time by this date. If there is no agreement at this time then the following schedule shall apply:

- Seats 1 or 2 - the forum shall be held on the last Saturday in March at 6pm;
- Seats 3 or 4 - the forum shall be held on the first Saturday in April at 6pm;
- Seats 5 or 6 - the forum shall be held on the second Saturday in April at 6pm.

March 15th - The Town shall post the time and date of the forum on the Town website and include information in the March water bill mailer.

In addition:

- a) A forum may not be held on the day of a meeting of the Town Council;
- b) The starting time of the forum may not be earlier than 6pm on a weekday.
- c) The forum may not be held any time after early voting has started
- d) Only one forum will be held for each contested seat

3. Format

The following format shall apply:

- a) To insure confidentiality, citizens will be required to submit written questions and each candidate will have three minutes, with equal time to respond.
- b) The moderator will be chosen by council members who are not candidates in the current election. The moderator must be finalized at least 72 hours prior to the forum.
- c) 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.
- d) The forum shall be 90 minutes in length.

End of Exhibit A

Adoption and Summary of Amendments

Ordinance Number	Date	Summary
18-09	October 16, 2018	<ul style="list-style-type: none">• Section 1: Revised Purpose and Intent• Section 4: Revised Candidate / Voter Forums• Section 4.2: Updated rules and scheduling• Section 4.3: Clarified the format
16-04	January 14, 2016	<ul style="list-style-type: none">• New Ordinance Adopted