

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2023-20**

AN ORDINANCE AMENDING CHAPTER 70 “OFFENSES AND MISCELLANEOUS PROVISIONS”, ARTICLE III “ELECTIONEERING AT POLLING LOCATIONS”, OF THE CITY’S CODE OF ORDINANCES TO REVISE THIS ARTICLE AS TO REGULATIONS APPLICABLE TO ELECTIONEERING ON CITY-OWNED OR CITY-CONTROLLED PROPERTY; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR PENALTIES NOT TO EXCEED \$2,000.00; ORDERING PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THE SUBJECT

WHEREAS, City Council seeks to provide for the orderly use of City property and other property where City elections may be held; and

WHEREAS, Chapter 61 of the Texas Election Code (the “Code”) provides regulations as to the conduct of elections; and

WHEREAS, Section 61.003 of the Code requires a public entity that owns or controls a public building used as a polling place to allow electioneering on the premises subject to any reasonable regulations concerning the time, place, and manner of such activities; and

WHEREAS, the City, in conjunction with the election services that it receives pursuant to a contract with Tax Assessor/Collector with Kerr County, uses the Kathleen C. Cailloux City Center for the Performing Arts (“Auditorium”) as its polling place for most City elections; and

WHEREAS, Section 61.003 of the Code defines “electioneering” to include the posting, use, or distribution of political signs or literature; and

WHEREAS, besides using the Auditorium as its polling place, the City uses or allows uses of the Auditorium for other purposes and for which the City must maintain and ensure adequate and safe parking and access for all users; and

WHEREAS, because electioneering includes the posting of signs, in order to operate the Auditorium in a safe and effective manner and to further the general health, safety, and welfare of the community, City Council finds that electioneering signs and literature should not be present outside of the time for voting except for a limited period to put up and remove the signs and that the signs should not be attached to improvements and landscaping; and

WHEREAS, City Council also believes that the size of electioneering signs should be limited and that such signs should be set back from the public roadway in order not to impact traffic safety or to increase visual clutter; and

WHEREAS, City Council finds it to be in the best interest of the health, safety, morals, and general welfare of the City of Kerrville, Texas, to amend the City's electioneering regulations to address concerns that may result from election activities conducted on public property, including traffic safety, visual clutter, and property damage;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. Chapter 70 "Offenses and Miscellaneous Provisions", Article III "Electioneering at Polling Locations" is amended with deletions indicated by red, strikeout (~~deleted~~) and additions indicated by blue, underline (addition) as follows:

"ARTICLE III. ELECTIONEERING AT POLLING LOCATIONS

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Sec. 70-42. Definitions.

The following words, terms, and phrases, when used in this Article, have the meanings ascribed to them in this section:

Kathleen C. Cailloux City Center for the Performing Arts ("Auditorium") means the building and its grounds, including parking areas, owned by the City and at times used as a polling place for the City's and other elections and located at 910 Main Street, Kerrville, Texas.

Electioneering means the posting, use, or distribution of political signs or literature, including the use of tents, chairs, booths, tables, or other furniture or devices to post, use, or distribute political signs or literature.

Polling place means a City-owned or controlled public property that is being used as an election polling place.

Voting period means the period each day beginning the hour the polls are open for voting and ending when the polls close or the last voter has voted, whichever is later.

Sec. 70-43. Regulations and Exceptions.

(a) The following regulations apply to electioneering at a polling place during the voting period:

- (1) It is unlawful for a person to leave an electioneering sign or literature at a polling place other than during the voting period and for thirty minutes before and after the voting period.
- (2) It is unlawful for a person to engage in electioneering on driveways at a polling place. This restriction does not apply to areas specifically designated for such activities or to electioneering signs that are attached to vehicles that are lawfully parked at the polling place. In addition and where an election is occurring at the Auditorium, each candidate or a supporter of a measure may set up and use one (1) tent or a temporary shade structure within an area designated by the City Manager for electioneering. Such activities may only occur in an area that is beyond 240 feet from an outside door through which a voter may enter a building in which a polling place is located. The City Manager shall communicate the boundaries of this area to the candidates and others inclined to make use of this area for electioneering and thereafter, physically and clearly mark the area's boundaries. This area will generally be located in the northeast end of the parking area for the Auditorium, such area to begin where the parking area intersects Jefferson St. and continues along the Auditorium's property line in a southwest direction until this portion of the parking area ends. No vehicles or trailers may park within this area. Should conditions at the Auditorium prevent the use of this area, such as construction activities, the City Manager is authorized to designate a comparable area. Upon making this decision, the City Manager shall notify the City Council.
- (3) It is unlawful for a person to disrupt, or attempt to disrupt, the voting process by accosting, harassing, or intimidating any person traveling to or from the building used as the polling place.
- (4) It is unlawful for a person to attach, place, or otherwise affix an electioneering sign, literature, or material to any building, tree, shrub, pole, or other improvement at the polling place. In addition, it is unlawful for a person to install such a sign using posts in ways that may damage underground utility or irrigation lines. "Posts" include wooden, metal, rebar, or plastic stakes.
- (5) It is unlawful for a person to place an electioneering sign that is larger than eighteen (18) inches by twenty four (24) inches within ten (10) feet of the a public walkway or roadway right-of-way adjacent to the polling place, which includes any sidewalk.
- (6) It is unlawful for a person to place a sign in a way that obstructs the free passage of vehicles or persons or obstructs or interferes with the visibility of traffic.

(7) It is unlawful for any person to place a sign within one hundred (100) feet of an outside door through which a voter may enter a building in which a polling place is located.

(58) It is unlawful for a person to place an electioneering sign at a polling place that exceeds thirty-six (36) square feet, exceeds eight (8) feet in height, including any supporting poles, and which uses lights ~~or any moving elements~~.

(9) No more than ten (10) signs regarding a candidate, measure, or political party may be used, placed, ~~held~~, or erected at the polling place, to include signs affixed to vehicles, which the owner or operator shall remain on the premises. "Signs" include banners, ground signs, hand-held signs, magnetic signs greater than 36 square inches, billboard-type signs, and posters.

(10) It is unlawful for a person, within 1,000 feet of a building in which a polling place is located, to operate a sound amplification device or a vehicle with a loudspeaker while the device or loudspeaker is being used for the purpose of a making a political speech; or b) electioneering for or against any candidate, measure, or political party.

(11) Out of the ten (10) signs referenced above, no more than 4 (four) signs may be held by any person(s). A person(s) holding a sign(s) may not impede the progress of vehicles or persons, nor use a public walkway or the public right-of-way adjacent to the polling place, including sidewalks.

(612) In addition to ~~imposing seeking~~ a criminal penalty, the City Manager or designee may, without notice, remove ~~and dispose of and provide for temporary storage of~~ electioneering sign(s) located in violation of this section. Thereafter, the City Manager or designee shall attempt to contact the sign owner and arrange a time during normal work hours for the owner or representative to pick-up the sign. If the owner fails to pick up the sign(s) within five (5) business days, the City shall dispose of the signs.

(713) The authority to conduct electioneering on public property under this Article is limited to the polling place and only for the voting period, such that at the end of the voting period, all signs and vehicles must be removed.

(b)The regulations set forth in (a) above do not apply to any City authorized signs, materials, or other messages on property the City owns or controls."

SECTION TWO. The City Secretary is authorized and directed to send this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the amendments adopted herein, to correct any typographical errors, and to index, format, number, and letter the paragraphs to the existing Code, as appropriate.

SECTION THREE. The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The Council of the City of Kerrville, Texas, declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

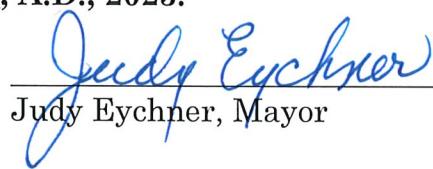
SECTION FIVE. The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Section 1-8, or its successor section, of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00).

SECTION SIX. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by law as an alternative method of publication.

SECTION SEVEN. This Ordinance shall become effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07b. of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the 21 day of June A.D., 2023.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the 11 day of July, A.D., 2023.



Judy Eychner
Judy Eychner, Mayor

APPROVED AS TO FORM:



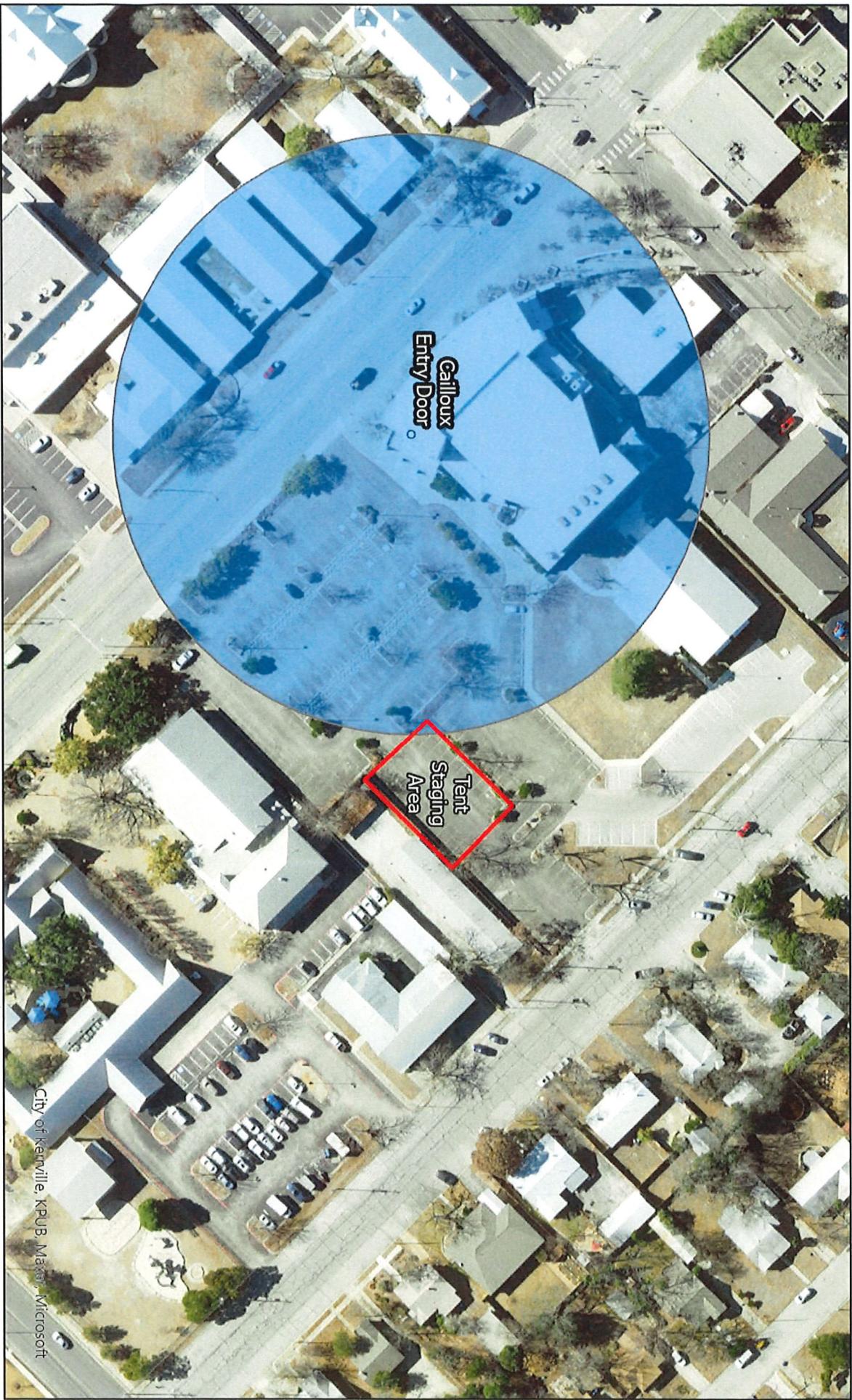
Michael C. Hayes, City Attorney

ATTEST:



Shelley McElhannon, City Secretary

240 Foot Buffer from Cailloux Front Door



240 Foot Buffer from Cailloux Theater Door



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