

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2024-15

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 AND OTHER CONDUCT ON CITY-OWNED OR CITY-CONTROLLED PROPERTY BEING USED AS A POLLING PLACE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR PENALTIES NOT TO EXCEED \$500.00; 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, to include Section 61.003, which makes it unlawful for any person to loiter or to electioneer within 100 feet of an outside door through which a voter may enter the building in which a polling place is located; and

WHEREAS, Section 61.003 of the Code states that an entity that owns or controls a public building being used as a polling place may not, at any time during the voting period, prohibit electioneering on the building’s premises outside of a 100 foot buffer zone surrounding an outside door through which a voter may enter the building being used as a polling place, but the entity that owns or controls the public building being used as a polling place may enact reasonable regulations concerning the time, place, and manner of such activities; and

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

WHEREAS, Section 61.003 of the Code defines “voting period” to mean the period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later; and

WHEREAS, the City, in conjunction with the election services that it receives pursuant to a contract 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, the City uses or allows uses of the Auditorium for other purposes for which the City must maintain and ensure adequate and safe parking and access for all users; and

WHEREAS, except during the voting period as defined by the Code, the City limits the use of the Auditorium parking lot to parking for patrons attending events at the Auditorium, participants in events at the Auditorium, and individuals working at or within the Auditorium; and

WHEREAS, except during the voting period as defined by the Code, the City prohibits members of the public from loitering, picnicking, carrying signs, posting signs, or installing signs on or in the greenspace between the Auditorium and Jefferson Street; and

WHEREAS, the City prohibits members of the public from loitering, carrying signs, posting signs, or installing signs within the medians and islands within the Auditorium parking lot, many of which contain trees and/or other landscaping; and

WHEREAS, the City prohibits members of the public from obstructing access to the Auditorium parking lot; and

WHEREAS, the City's sign ordinance (Ch. 92, City Code) generally prohibits members of the public from installing signs on City property or above any City property, including public rights-of-way, and provides restrictions on sign heights and locations to preserve sight lines and to protect access to sidewalks, recreational trails, streets, drives, and parking areas; and

WHEREAS, City Council recognizes that the right to vote is at the heart of our democracy; and

WHEREAS, Section 43.034 of the Code requires polling places to be accessible to and usable by the elderly and persons with physical disabilities; and

WHEREAS, the City's residents include a significant number of retirees, and the median voter age was 70 years old for the elections held during the Spring of 2024; and

WHEREAS, Section 62.0115 of the Code recognizes that voters have the right to vote in secret and free from intimidation; and

WHEREAS, City Council seeks to secure its citizens' right to vote in an environment free from intimidation, harassment, confusion, and obstruction; and

WHEREAS, City Council recognizes that the right to engage in political discourse is also a fundamental constitutional right; and

WHEREAS, City Council seeks to accommodate both the right to engage in political discourse and the right to vote in an environment free from intimidation, harassment, confusion, and obstruction with regulations that balance these rights and provide clear guidance for compliance and where necessary, enforcement; and

WHEREAS, prior to the elections held during the Spring of 2024, City personnel received multiple complaints from citizens about experiencing intimidation, harassment, and difficulty getting from their vehicles to the polling place; and

WHEREAS, prior to the elections held during the Spring of 2024, City personnel received reports of citizens deciding not to vote due to concerns about intimidation, harassment, and obstruction at the polling place; and

WHEREAS, City personnel received several compliments from voters who participated in the elections held during the Spring of 2024 for having the ability to park in such a way that they could enter the polling place without being bothered or even accosted by campaign supporters in the parking lot; and

WHEREAS, 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 signs and literature brought by members of the public should not be present on the grounds of the Auditorium 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 signs brought by members of the public onto the grounds of the Auditorium when it is being used as a polling place should be set back from the public roadway in order not to impact traffic safety or voter safety; 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 interference with voter access, 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 to provide in its entirety as follows:

“ARTICLE III. - ELECTIONEERING AND OTHER CONDUCT AT POLLING LOCATIONS

Sec. 70-41. - Purpose.

The purpose of this article is to provide reasonable time, place, and manner regulations for electioneering on the grounds of City-owned or City-controlled public property when such property is used as an election polling place and to provide reasonable regulations for conduct on City property surrounding a public building being used as a polling place during an election. These regulations are intended to: preserve citizens’ ability to engage in political discourse; prevent interference with citizens’ right to vote; protect voters from intimidation, harassment, and obstruction; preserve peace and order around polling places located on public property; encourage citizens to vote; mitigate safety concerns; prevent damage to public property; and ensure that such property is sufficiently available for patrons who use the facilities other than for election purposes.

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.

Polling place means a City-owned or City-controlled public building that is being used for voting during an election.

Voting period means the period each day beginning when the polls 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 and other conduct on the grounds of a City-owned or City-controlled public building being used as a polling place during an election:

- (1) It is prohibited for a member of the public to leave any sign or literature/written materials for distribution on the grounds of a City-owned or City-controlled public building being used as a polling place other than during the voting period each day and for 30 minutes before and after the voting period each day.
- (2) It is prohibited for a person to engage in electioneering or to loiter or congregate in driveways leading into the parking lot, medians within the parking lot, driving or walking lanes within the parking lot, or within parking spaces on the grounds of a City-owned or City-controlled public building being used as a polling place. This restriction does not apply to areas within the parking lot specifically designated for electioneering or to electioneering signs that are attached to vehicles that are lawfully parked on the grounds of a City-owned or City-controlled public building being used as a polling place. For elections held at the Auditorium, electioneering within the parking lot may only occur in the designated area(s) shown on the map below and may only occur during the voting period each day and for 30 minutes before and after the voting period each day. For elections held at the Auditorium, electioneering may take place on the sidewalks beyond the 100 foot buffer zone required by section 61.003 of the Code. Additionally, for elections held at the Auditorium, electioneering may take place on the greenspace between the Auditorium and Jefferson Street during the voting period each day and for 30 minutes before and after the voting period each day. For elections held at the Auditorium, members of the public may set up shade structures only within the greenspace between the Auditorium and Jefferson Street beginning 30 minutes before and continuing until 30 minutes after the voting period each day, provided that they do not install such structures using posts in ways that may damage any underground utility or irrigation lines. The City Manager is authorized to identify spaces within the areas specified for electioneering and assign these to persons based upon a rotating lottery system that changes daily. Shade structures are not permitted anywhere within the Auditorium parking lot. For elections held at the Auditorium, up to 50 parking spaces will be reserved for use by voters who will not remain on the grounds for more than 15 minutes after they have voted. The map below shows 49 parking spaces that will be reserved for such voters when the Auditorium is used as a polling place unless circumstances prevent these parking spaces from being used during any voting period. 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 and candidates. In addition, if a different public building belonging to the City is used as a polling place, and for which the City controls the election, the City Manager shall communicate to the candidates and the public the boundaries of the area(s) where electioneering is permitted on the grounds of the public building as well as the parking spaces reserved for use by voters who will not remain on the grounds for more than 15 minutes after they have voted. The City Manager will physically mark the boundaries of these areas and will clearly mark the parking spaces reserved for voters who will not remain on the grounds more than 15 minutes after they have voted.

- (3) It is prohibited for a person to disrupt, or attempt to disrupt, the voting process by accosting, harassing, obstructing, or intimidating any person traveling to or from the building being used as the polling place.
- (4) It is prohibited for a member of the public to attach, place, or otherwise affix any sign, literature, or written material to any building, tree, shrub, pole, or other improvement on the grounds of a City-owned or City-controlled public building being used as a polling place. In addition, it is prohibited for a member of the public to install or place a sign, table, chair, shade structure, or any other device using posts, in ways that may damage underground utility or irrigation lines on the grounds of a City-owned or City-controlled public building being used as a polling place. "Posts" include wooden, metal, rebar, or plastic stakes.
- (5) It is prohibited for a member of the public to hold or place a sign in a way that obstructs the free passage of vehicles or persons or interferes with traffic sight lines or visibility on the grounds of a City-owned or City-controlled public building being used as a polling place.
- (6) It is prohibited for a member of the public, 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.
- (7) The City Manager or designee may, without notice, remove and provide for temporary storage of sign(s) which violates a provision of this Article. 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 business days, the City shall dispose of the signs.

- (8) Except as provided in this Article, members of the public are prohibited from engaging in electioneering, loitering, congregating, setting up shade structures, and installing signs on the grounds of the Auditorium or the grounds of any other City-owned building which is used as a polling place.
- (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 repeal and replace all previous ordinances concerning the subject matter provided herein, to include Ordinance No. 2023-20 and Ordinance No. 2014-02.

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.

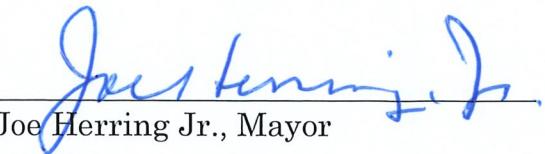
SECTION FIVE. The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Section 1-8, or its successor section, of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding FIVE HUNDRED DOLLARS (\$500.00).

SECTION SIX. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is 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 3.07 of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the 25 day of JUNE A.D., 2024.

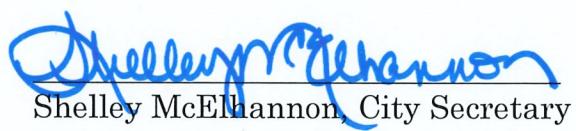
PASSED AND APPROVED ON SECOND AND FINAL READING, this
the 09 day of JULY, A.D., 2024.


Joe Herring Jr., Mayor

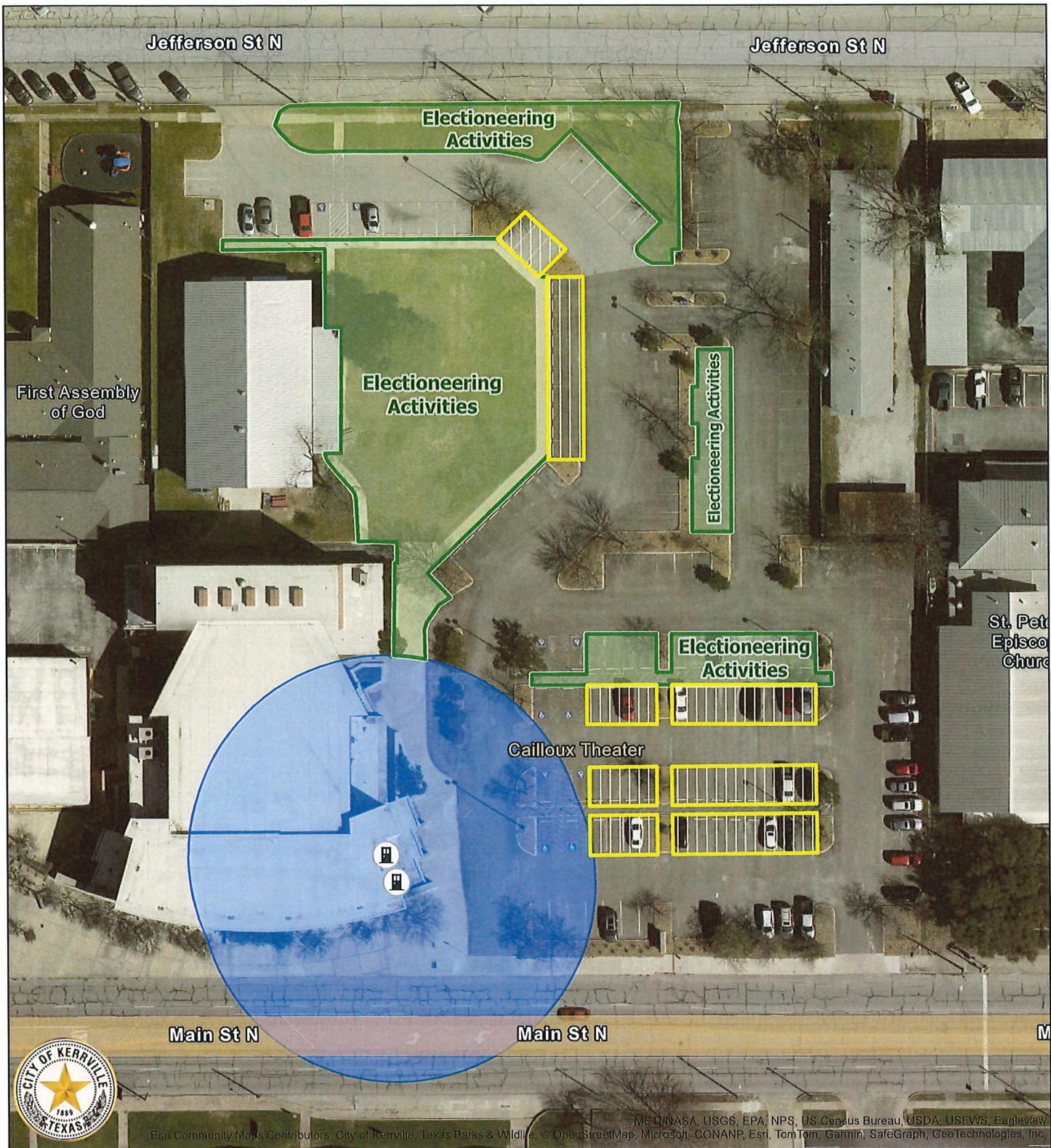
APPROVED AS TO FORM:


Michael C. Hayes, City Attorney

ATTEST:


Shelley McElhanon, City Secretary

EXHIBIT



 Theater Front Door

Electioneering Activities

100-ft Buffer

 Voter Parking

0 50 100

US Feet

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This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only approximate relative locations.