

ORDINANCE NO. 2014-02

AN ORDINANCE OF THE CITY OF WYLIE, TEXAS, AMENDING SECTION 22-446 (GENERAL SIGN REGULATIONS) OF ARTICLE XX (SIGN REGULATIONS) OF CHAPTER 22 (BUILDINGS AND BUILDING REGULATIONS) AND ARTICLE IX (PROHIBITIONS OF ILLEGAL SMOKING MATERIAL) OF CHAPTER 74 (OFFENSES AND MISCELLANEOUS PROVISIONS) AND ADOPTING A NEW ARTICLE X (ELECTIONEERING AT POLLING LOCATIONS) OF CHAPTER 74 (OFFENSES AND MISCELLANEOUS PROVISIONS), ALL OF PART II OF THE WYLIE CODE OF ORDINANCES; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, on June 14, 2013, the 83rd Texas Legislature passed House Bill 259, modifying the Texas Election Code and requiring a public entity that controls or owns a building used as a polling place, to allow electioneering on the premises subject to reasonable regulations (“HB 259”); and

WHEREAS, the City Council of the City of Wylie, Texas (“City Council”) has investigated and determined that in order to most effectively make the additions, deletions and amendments necessary, it is in the best interest of the citizens of the City of Wylie, Texas (“Wylie”) to amend Section 22-446 (General Sign Regulations) of Article XX (Sign Regulations) of Chapter 22 (Buildings and Building Regulations), and adopt a new Article X (Electioneering at Polling Locations) of Chapter 74 (Offenses and Miscellaneous Provisions), all of Part II of the Wylie Code of Ordinances; and

WHEREAS, according to HB 259, “electioneering” includes the posting, use, or distribution of political signs or literature; and

WHEREAS, the polling places in the City include facilities that 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 of signs and literature, and in order to further the general health, safety and welfare of the community, electioneering signs and

literature should not be present outside of the time for voting except for a limited period to erect and remove the signs, and not be attached to improvements and landscaping; and

WHEREAS, the City Council further finds that the size of electioneering signs shall be limited and they should be set back from the public roadway in order to further traffic safety and remove visual clutter; and

WHEREAS, current Wylie regulations prohibit signs, including political signs, on or over public property, therefore, those regulations must be amended to comply with the new law; and

WHEREAS, the City Council deems it is in the best interest of the citizens of Wylie that the current sign regulations be amended and additional regulations be adopted to address concerns that may result from electioneering on public property, including damage to property, traffic safety concerns, and blight; and

WHEREAS, as a result of the proposed adoption of Article X (Electioneering at Polling Locations) of Chapter 74 (Offenses and Miscellaneous Provisions), the City Council has investigated and determined that additional sections should be reserved in Article IX (Prohibition of Illegal Smoking Material) of Chapter 74 (Offenses and Miscellaneous Provisions) of Part II of the Wylie Code of Ordinances to allow for future amendments to Article IX (Prohibition of Illegal Smoking Material); and

WHEREAS, the City Council finds that the adoption of regulations is needed and that they further the public health, safety and welfare of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS:

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendment to Section 22-446 (General Sign Regulations) of Article XX (Sign Regulations) of Chapter 22 (Buildings and Building Regulations) of Part II of the Wylie Code of Ordinances. Section 22-446 (General Sign Regulations) of Chapter 22 (Buildings and Building Regulations) of Part II of the Wylie Code of Ordinances is hereby amended as follows:

“Sec. 22-446. General Sign Regulations.

...

- (h) *Signs prohibited on or over public property.* Except as otherwise provided for in this article, no portion of any sign shall be erected on or over public property, or in the right-of-way of any thoroughfare within the city, except for projecting signs in the downtown historic district meeting regulations in subsections 22-445(16) and 22-448 in this article, and except as allowed in Chapter 74, Article X. Signs violating this provision shall be considered illegal signs and may be removed and disposed of by the city in accordance with this article.

...”

SECTION 3: Amendment to Article IX (Prohibition of Illegal Smoking Material) of Chapter 74 (Offenses and Miscellaneous Provisions) of Part II of the Wylie Code of Ordinances. Article IX (Prohibition of Illegal Smoking Material) of Chapter 74 (Offenses and Miscellaneous Provisions) of Part II of the Wylie Code of Ordinances is hereby amended as follows:

“ARTICLE IX. PROHIBITION OF ILLEGAL SMOKING MATERIAL

...

Sec. 74-167 – 74-170. Reserved.”

SECTION 4: Adoption of new Article X (Electioneering at Polling Locations) to Chapter 74 (Offenses and Miscellaneous Provisions) of Part II of the Wylie Code of Ordinances. Article X (Electioneering at Polling Locations) of Chapter 74 (Offenses and Miscellaneous Provisions) is hereby adopted as follows:

“ARTICLE X. ELECTIONEERING AT POLLING LOCATIONS

Sec. 74-171. Purpose.

The purpose of this article 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 contained 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 other than for election purposes.

Sec. 74-172. Definitions.

The following words and phrases as used in this Article shall have the meanings as set forth in this section:

Electioneering shall mean 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.

Voting period shall mean 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 on Election Day and early voting days.

Sec. 74-173. Regulations and Exceptions.

(a) The following regulations apply to electioneering on the premises of public property during the voting period.

- (1) It is an offense for any person to leave any electioneering sign or literature on public property that is used as a polling place other than during the voting period and for thirty (30) minutes before and after the voting period.
- (2) It is an offense for any person to engage in electioneering on 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.
- (3) It is an offense for any person to attach, place or otherwise affix any electioneering sign, literature or material to any building, tree, shrub, pole or other improvement on public property used as a polling location.
- (4) It is an offense for any person to place any electioneering sign or literature within twenty-five (25) feet of the public road way adjacent to the public property where a polling location is located.

- (5) It is an offense for any person to place any electioneering sign on the premises that exceeds thirty-six (36) square feet and is more than eight (8) feet in height, including any supporting poles.
- (6) In addition to imposing any criminal penalty, electioneering sign(s) located in violation of this section may be removed and disposed of by the entity in control of the public property.
- (7) The authority to conduct electioneering on public property under this Article X is limited to the property on the premises where the voting is conducted and only for the voting period.
- (b) The regulations set forth in (a) above shall not apply to any City of Wylie authorized signs, materials or other messages on its property.”

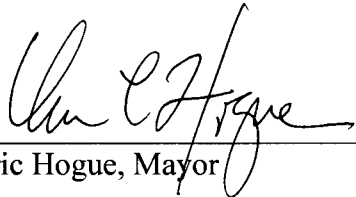
SECTION 5: Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinance shall remain in full force and effect.

SECTION 6: Severability. 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. Wylie 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 phrases be declared unconstitutional or invalid.

SECTION 7: Penalty Provision. Any person, firm, corporation or entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding Five Hundred and 00/100 Dollars (\$500.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Wylie from filing suit to enjoin the violation. Wylie retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 8: Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by the City Charter and by law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
WYLIE, TEXAS, on this 14th day of January, 2014.**

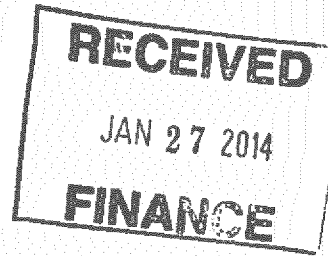

Eric Hogue, Mayor

**ATTESTED TO AND
CORRECTLY RECORDED BY:**


Carole Ehrlich, City Secretary



Date(s) of Publication: January 22, 2014, Wylie Enterprise



STATE OF TEXAS
COUNTY OF COLLIN

Before me, the undersigned authority, on this day personally appeared Chad Engbrock, publisher of *The Wylie News*, a newspaper regularly published in Collin County, Texas and having general circulation in Collin County, Texas, who being by me duly sworn, deposed and says that the foregoing attached:

**City of Wylie
Ordinance 2014-02
was published in said newspaper on the following dates, to-wit:
January 22, 2014**

Chad Engbrock, Publisher

Subscribed and sworn before me on this, the 23 day of JAN, 2013
to certify which witness my hand and seal of office.



Notary Public in and for
The State of Texas

My commission expires 9/2/16

January 22-23, 2014

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37-14-55-339

