

INFORMATION REGARDING ELECTIONEERING

The following information is taken directly from the Texas Election Code and rules adopted by the Texas Ethics Commission. In addition to the City of Benbrook Zoning Ordinance regarding campaign signs, all candidates and their representatives must adhere to these regulations.

TEXAS ELECTION CODE

TITLE 6. CONDUCT OF ELECTION CHAPTER 61. CONDUCT OF VOTING GENERALLY

Section 61.004. Bystanders Excluded; Unlawful Presence of Candidates

- (a) Except as permitted by this code, a person may not be in the polling place from the time the presiding judge arrives there on election day to make the preliminary arrangements until the precinct returns have been certified and the election records have been assembled for distribution following the election.
- (b) A candidate in the election commits an offense if the candidate is in a polling place during the period described by Subsection (a) for a purpose other than:
 - (1) Voting; or
 - (2) Official business in the building in which the polling place is located.
- (c) It is an exception to the application of Subsection (b) that the candidate:
 - (1) Is not within plain view or hearing of the persons in the voting area or the area in which voters are being accepted for voting; and
 - (2) Is not engaged in campaign activities.
- (d) An offense under this section is a Class C misdemeanor.

Section 61.003. Electioneering and Loitering Near Polling Place

- (a) A person commits an offense if, during the voting period and within 100 feet of an outside door through which a voter may enter the building in which a polling place is located, the person:
 - (1) Loiters; or
 - (2) Electioneers for or against any candidate, measure, or political party.
- (b) In this section:
 - (1) "Electioneering" includes the posting, use or distribution of political signs or literature. The term does not include the distribution of a notice of a party convention authorized under Section 172.1114.
 - (2) "Voting period" means the period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later.
- (c) An offense under this section is a Class C misdemeanor.

Section 61.004. Unlawful Use of Sound Amplification Device or Sound Truck

- (a) A person commits an offense if, during the voting period and within 1,000 feet of a building in which a polling place is located, the person operates a sound amplification device or a vehicle with a loudspeaker while the device or loudspeaker is being used for the purpose of:
 - (1) Making a political speech; or
 - (2) Electioneering for or against any candidate, measure, or political party.
- (b) For the purpose of Subsection (a), a person operates a vehicle with a loudspeaker if the person drives the vehicle, uses the loudspeaker, or operates sound equipment in connection with the loudspeaker.

- (c) In this section, “voting period” means the period prescribed by Section 61.003 (b).
- (d) An offense under this section is a Class C misdemeanor.

Section 61.006. Unlawfully Divulging Vote

- (a) A person commits an offense if the person was in a polling place for any purpose other than voting and knowingly communicates to another person information that the person obtained at the polling place about how a voter has voted.
- (b) An offense under this section is a felony of the third degree.
- (c) This section does not apply to information presented in an official investigation or other official proceeding in which the information is relevant.

Section 61.007. Unlawfully Revealing Information Before Polls Close

- (a) An election officer, watcher, or other person serving at polling place in an official capacity commits an offense if, before the polls close or the last voter has voted, whichever is later, the officer, watcher, or other person reveals:
 - (1) the number of votes that have been received for a certain candidate or for or against a measure;
 - (2) a candidate’s position relative to other candidates in the tabulation of the votes;
 - (3) whether a measure is passing or failing; or
 - (4) the names of persons who have or have not voted in the election.
- (b) An offense under this section is a Class A misdemeanor.
- (c) Beginning at 9:30 a.m. and at each subsequent two-hour interval through 5:30 p.m., the presiding judge shall post written notice of the total number of voters who have voted in the precinct. The notice shall be posted at an outside door through which a voter may enter the building in which the polling place is located.

Section 61.008. Unlawfully Influencing Voter

- (a) A person commits an offense if the person indicates to a voter in a polling place by word, sigh, or gesture how the person desires the voter to vote or not vote.
- (b) An offense under this section is a Class B misdemeanor.

Section 61.010. Wearing Name Tag or Badge in Polling Place

- (a) Except as provided by Subsection (b), a person may not wear a badge, insignia, emblem or other similar communicative device relating to a candidate, measure, or political party appearing on the ballot, or to the conduct of the election, in the polling place or within 100 feet of any outside door through which a voter may enter the building in which the polling place is located.
- (b) An election judge, an election clerk, a state or federal election inspector, a certified peace officer, or a special peace officer appointed for the polling place by the presiding judge shall wear while on duty in the area described by Subsection (a) a tag or official badge that indicates the person’s name and title or position.
- (c) A person commits an offense if the person violates Subsection (a). An offense under this subsection is a Class C misdemeanor.

Section 61.014. Use of Certain Devices

- (a) A person may not use a wireless communication device within 100 feet of the voting station.
- (b) A person may not use any mechanical or electronic means of recording images or sound within 100 feet of a voting station.
- (c) The presiding judge may require a person who violates this section to turn off the device or to leave the polling place.
- (d) This section does not apply to:
 - (1) an election officer in conducting the officer's official duties;
 - (2) the use of election equipment necessary for the conduct of the election; or
 - (3) a person who is employed at the location in which a polling place is located while the person is acting in the course of the person's employment.

TITLE 15 REGULATING POLITICAL FUNDS AND CAMPAIGNS CHAPTER 255. REGULATING POLITICAL ADVERTISING AND CAMPAIGN COMMUNICATIONS

Section 255.001 Required Disclosure on Political Advertising

- (a) A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising:
 - (1) that it is political advertising; and
 - (2) the full name of:
 - (A) The person who paid for the political advertising;
 - (B) the political committee authorizing the political advertising ; or
 - (C) the candidate or specific-purpose committee supporting the candidate if the political advertising is authorized by a candidate.
- (b) Political advertising that is authorized by a candidate, an agent of candidate, or a political committee filing reports under this title shall be deemed to contain express advocacy.
- (c) A person may not knowingly use, cause or permit to be used, or continue to use any published, distributed, or broadcast political advertising containing express advocacy that the person knows does not include the disclosure required by Subsection (a). A person is presumed to know that use of political advertising is prohibited by this subsection if the commission notifies the person in writing that the use is prohibited. A person who learns that political advertising signs, as defined by Section 259.001, that have been distributed do not include the disclosure required by Subsection (a) does not commit a continuing violation of this subsection if the person makes a good faith attempt to remove or correct those signs. A person who learns that printed political advertising other than a political advertising sign that has been distributed does not include the disclosure required by Subsection (a) is not required to attempt to recover the political advertising and does not commit a continuing violation of this subsection as to any previously distributed political advertising.
- (d) This section does not apply to:
 - (1) tickets or invitations to political fund-raising events;
 - (2) campaign buttons, pins, hats, or similar campaign materials; or
 - (3) circulars or flyers that cost in the aggregate less than \$500 to publish and distribute.
- (e) A person who violates this section is liable to the state for a civil penalty in an amount determined by the commission not to exceed \$4,000.

Section 255.004. True Source of Communications

- (a) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person enters into a contract or other agreement to print, publish, or broadcast political advertising that purports to emanate from the source other than its true source.
- (b) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person knowingly represents in a campaign communication that the communication emanates from a source other than its true source.
- (c) An offense under this section is a Class A misdemeanor.
- (d) A person commits an offense if the person, with intent to injure a candidate or influence the result of an election:
 - (1) creates a deep fake video; and
 - (2) causes the deep fake video to be published or distributed within 30 days of an election.
- (e) In this section, "deep fake video" means a video, created with the intent to deceive, that appears to depict a real person performing an action that did not occur in reality.

Section 225.005 Misrepresentation of Identity

- (a) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person misrepresents the person's identity or, if acting or purporting to act as an agent, misrepresents the identity of the agent's principal, in political advertising or a campaign communication.
- (b) An offense under this section is a Class A misdemeanor.

Section 255.006. Misleading Use of Office Title

- (a) A person commits an offense if the person knowingly enters into a contract or other agreement to print, publish, or broadcast political advertising with the intent to represent an ordinary and prudent person that a candidate holds a public office that the candidate does not hold at the time the agreement is made.
- (b) A person commits an offense if the person knowingly represents in a campaign communication that a candidate holds a public office that the candidate does not hold at the time the representation is made.
- (c) For purpose of this section, a person represents that a candidate holds a public office that the candidate does not hold if:
 - (1) the candidate does not hold the office that the candidate seeks; and
 - (2) the political advertising or campaign communication states the public office sought but does not include the word "for" in a type size that is at least one-half the type size used for the name of the office to clarify that the candidate does not hold that office.
- (d) A person other than an officeholder commits an offense if the person knowingly uses a representation of the state seal in political advertising.
- (e) An offense under this section is a Class A misdemeanor.

Section 259.001 Notice Requirement on Political Advertising Signs

(a) The following notice must be written on each political advertising sign:

“NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE), TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY.”

(b) A person commits an offense if the person:

- (1) knowingly enters into a contract to print or make a political advertising sign that does not contain the notice required by Subsection (a); or
- (2) instructs another person to place a political advertising sign that does not contain the notice required by Subsection (a).

(c) An offense under this section is a Class C misdemeanor.

(d) There is an exception to the application of Subsection (b) that the political advertising sign was printed or made before September 1, 1997 and complied with Subsection (a) as it existed immediately before that date.

(e) In this section “political advertising sign” means a written form of political advertising designed to be seen from a road but does not include a bumper sticker.

TEXAS ETHICS COMMISSION CHAPTER 26. POLITICAL ADVERTISING

Section 26.1 Disclosure Statement.

(a) A disclosure statement that is required by §255.001, Election Code, must contain the words “political advertising” or any recognizable abbreviation, and must:

- (1) appear on one line of text or on successive lines of text of the face of the political advertising;
or
- (2) be clearly spoken in the political advertising if the political advertising does not include written text.

(b) A disclosure statement is not required on political advertising printed on letterhead stationery if the letterhead contains the full name of one of the following:

- (1) the person who paid for the political advertising;
- (2) the political committee authorizing political advertising; or
- (3) the candidate authorizing the political advertising.

(c) A disclosure statement is not required on:

- (1) Campaign buttons, pins, or hats, or on objects whose size makes printing the disclosure impractical;
- (2) Political advertising posted or re-posted on an Internet website, as long as the person posting or re-posting the political advertising:
 - (i) is not an officeholder, candidate, or political committee; and
 - (ii) did not make an expenditure exceeding \$100 in a reporting period for political advertising beyond the basic cost of hardware messaging software and bandwidth;
- (3) the internet social media profile webpage of a candidate or officeholder, provided the webpage clearly and conspicuously displays the full name of the candidate or officeholder;
or
- (4) political advertising posted or re-posted by a person on an Internet website, provided the advertising is posted with a link to a publicly viewable Internet webpage that:
 - (i) contains the disclosure statement; or
 - (ii) is exempt from containing the disclosure statement under Subsection (c)(3).

(d) For the purposes of Subsection (c), an “Internet social media profile webpage” is an Internet webpage on a website where members of the public may, for no charge, connect electronically with other members of the public and share text, images, videos, and similar forms of communication,

Section 26.5 Code of Fair Campaign Practices.

A candidate or political committee that has filed a copy of the Code of Fair Campaign Practices as provided by the Election Code, Chapter 258, may indicate that fact on political advertising by including the following or substantially similar statement: (Name of the candidate or political committee, as appropriate) subscribes to the Code of Fair Campaign Practices.