

PUBLIC ELECTION SIGNAGE WITHIN THE CITY OF PEARLAND

Attached for your convenience are copies of Section 4.2.5.9 (b) (9) (Attachment "A") of the City of Pearland Unified Development Code and Section 216.903 (Attachment "B") of the Local Government Code, which govern public election signage within the City of Pearland. This information is being provided in order to assist your campaign efforts during the upcoming election season by ensuring all public election signage throughout the community complies with regulations that are adopted by the State of Texas and the City of Pearland.

Please note that Section 216.903 (Attachment "B") of the Local Government Code entails legislation that supersedes certain elements of Section 4.2.5.9 (Attachment "A") of the City of Pearland Unified Development Code. Specifically, the legislation allows for the larger sign face and increased sign height. Summarized below is the significant information from both sets of regulations and should be utilized as your reference. Also attached is a sketch (Public Election Sign Placement) depicting proper placement of said public election signage.

Please be aware that it is your responsibility to ensure public election signage complies with adopted regulations. The City of Pearland will be removing all signage determined to be in violation (including improper placement). Candidate will be notified of any removed and provided an opportunity to reclaim and appropriately repost any signage so removed.

The City of Pearland will not require permits for signs erected solely for and relating to a political election when:

- The sign is located on private property with permission of the real property owner (not allowed within public right-of-way). If a political sign is erected for a period of time that exceeds that allowed by City ordinance, the City will require written permission of the property owner allowing placement of the sign;
- The area of the sign does not exceed thirty-six (36) square feet;
- The height of the sign does not exceed eight feet (8');
- The sign is self-supporting;
- The sign is not illuminated; and
- The sign does not have any moving elements.

Division 5 — Signage

Section 4.2.5.1 General Standards & Requirements

(d) **Location Requirements.** All signs are subject to the following general location requirements:

- (1) No sign shall be maintained at any location where it may interfere with the view of or be confused with any traffic control sign or signal.
- (2) No sign shall be located on or project over public property, a street right-of-way, or a public utility easement, except governmental signs, bench signs, subdivision identification signs, temporary banner signs and permitted signs in the Old Townsite (zoning) District.
- (3) All signs shall maintain a clearance of at least eight feet (8') when located over a public sidewalk and at least twelve feet (12') when located over a driveway.
- (4) No sign, except a governmental sign or a single ground sign, shall be located within a sight triangle.
- (5) Only signs required in the interest of public safety and direction may occupy a required off-street parking or loading space or obstruct any driveway or sidewalk.
- (6) New signs and signs being structurally altered shall maintain clearance from the public utility facilities, shall not substantially interfere with drainage and shall not be located in a utility or drainage easement. Signs shall maintain ten feet (10') of vertical and horizontal clearance from all electrical lines
- (7) Only governmental signs or temporary holiday signs may be located on the roof of any building or accessory structure.
- (8) Signs are permitted on sidewalks only within the Old Townsite District provided that a minimum path of five feet (5') in width remains clear of any obstacles.
- (9) No on-premise free standing sign shall be located within seventy-five feet (75') of another on-premise free standing sign on the same side of the street or highway.
- (10) A non-commercial sign, as defined in Chapter 5 of this UDC, shall be permitted wherever a commercial sign is allowed under this division, except as otherwise expressly provided herein.

Section 4.2.5.5 Temporary Signs

- (a) **General.** Temporary signs are subject to the limitations indicated in this section, as well as the location restrictions in Section 4.2.5.1(f).
- (b) **Area Limitations.** Temporary signs shall not exceed the following area limitations:
- (1) State Highway 288: Ninety-six (96) square feet each for premises within the State Highway 288 corridor.
 - (2) Other Premises: Thirty-two (32) square feet each for all other premises.
 - (3) Banner Signs: Unless otherwise provided, fifty (50) square feet.
- (c) **Banner Defined.** A banner is hereby defined to be a temporary sign as that term is defined Chapter 5 of this UDC that is designed to be attached or installed with rope, wire, or other temporary means to any part of a building façade or light pole, so as to allow ease of installation and removal.
- (1) Use or Display of Banners: Except for temporary signs that do not require permits (refer to Section 4.1.2.6(c)), the use or display of banners is hereby prohibited unless a permit for such use is obtained from the Planning Director or his designee. A banner permit may be issued only in the following circumstances:
 - a. Any premise or nonresidential occupancy requesting a temporary sign larger than thirty-two (32) square feet may display one (1) banner sign per street frontage announcing a grand opening of a new business. Display of such sign is limited to a maximum of thirty (30) days per opening. The privilege to begin display of such sign expires three (3) months after the issuance of a certificate of occupancy. Use of grand opening signs only applies to new ownership or occupancy (i.e., use). At least one-half ($\frac{1}{2}$) of all readable copy on the banner must state "Grand Opening" or "Now Open."
 - b. Any non-profit organization or governmental entity may display banner signs containing a message directly related to a special event provided, however, that such banners may be displayed no more than fourteen (14) days prior to the event and must be removed within three (3) days after the conclusion of the event. Displays under this classification will be limited to three (3) per year.
 - c. Banners may be allowed for the temporary identification of a business if the business owner provides the Planning Director written evidence that a permanent sign order has been executed and the business owner is awaiting installation of said permanent sign. As a temporary identification device, the banner must meet size, dimension, lettering, and layout specifications for building-mounted signs and must be securely fastened on a minimum of six (6) locations to the fascia. If the banner meets these conditions, it will be permitted for identification purposes for a period not to exceed thirty (30) days.
 - d. Any premise or non-residential occupancy may use banners to advertise sales events fourteen (14) times per year for a total duration of twenty-four (24) days inclusive. The occupant has the option of dividing the total days among the fourteen (14) events, with the minimum duration of display being one (1) day.
 - e. Light Pole Banners may be attached to light poles in the parking lot of public educational facilities or campuses. Display of this type of banner may not be along a driveway or private roadway. The size of this type of banner is limited to 28"X72". A maximum of two double sided signs may be allowed per pole. Light Pole Banners have a minimum ground

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clearance of 8'. A maximum of 4 poles per acre of property may have Light Pole Banners attached.

- (2) Location: Any banner permitted in accordance with this Ordinance shall be displayed at the permittee's normal place of business or operation and shall be affixed to that side of the building facing the street on which the permittee is addressed or as stated above in Section 4.2.5.5 (c) (1) e.
 - (3) Cost & Display Period: The cost for a banner permit can be found in the Development Fee Schedule, and shall be paid at the time of application. Each application shall include the period of display for the banner to be permitted, including the day that the display will start and the day when it will cease. The display period shall be continuous and uninterrupted by periods of non-display. A separate permit shall be required for each period of display of the banner. Multiple periods of display will not be allowed on one permit.
 - (4) Violation: Banners used or displayed in violation of this section shall be subject to removal by the Building Official or his/her designee.
 - (5) TxDOT District 12 Guidelines: Banners displayed pursuant to the Texas Department of Transportation (TxDOT) District 12 guidelines for the temporary installation of banners over state rights-of-way shall be exempt from the terms of this division.
- (d) **Other Temporary Signs.** The following signs shall be allowed, subject to any conditions set forth below.
- (1) Temporary window signs: These signs must be temporary in design and construction, such as paper, poster, mylar or similar plastic film, or painted with removable paint; may not exceed in coverage twenty-five percent (25%) of all windows combined or fifty percent (50%) of any one window; must be placed inside the business establishment and be professional in appearance, except for temporary signs not promoting a business but rather associated with a non-profit, neighborhood, or civic event; and may not be displayed for more than forty-five (45) days.
 - (2) Holiday inflatable signs or decorations: Holiday-related inflatables that contain no business-related advertising, including without limitation balloons, decorations, and yard displays, shall not exceed twelve feet (12') in any dimension and may not be displayed so that the top of the inflatable is greater than: fifteen feet (15') from the ground on a residential lot; or the maximum structure height allowed in the zoning district on a nonresidential lot. The continuous display period of this type of sign shall not exceed thirty (30) days, with no more than five (5) display periods per calendar year.
 - (3) Off-premise special events signs: Temporary signs advertising a special event sponsored by a non-profit organization, charitable group, or civic club may be placed off-premises of where said event is to take place shall be allowed subject to the following conditions:
 - a. The signs may not be displayed more than fourteen (14) days before, or five (5) days after, the event.
 - b. No more than ten signs not exceeding six feet (6') in height or thirty-two square feet (32 ft²) in area per sign face are allowed within the City's

limits, limited to one per street frontage. These signs shall be exempt from sign permit fees.

- c. There is no quantity limit on signs not exceeding three and a half feet (3.5') in height or five square feet (5 ft²) in area per sign face, except only one is allowed per lot.
- (e) **Flags Allowed.** Flags of recognized governmental entities shall be allowed. A Flag that contains any emblem, logo, slogan, or any form of advertising of or for any business entity may be allowed, subject to the following restrictions:
 - (1) The flag is displayed with, but at a lower height than, either a United States flag or a Texas flag;
 - (2) The business entity represented on or advertised by the flag is located on the same property upon which the flag is displayed;
 - (3) The flag is not larger in area than either of the governmental flags with which it is required to be displayed; and
 - (4) Only one such flag is displayed per property.
- (f) **Number of Temporary Signs Permitted on One Lot.** The number of temporary signs other than political signs displayed on one lot at any given time is limited to one (1) sign per street frontage and a maximum of two (2) signs per lot.
- (g) **Permits Not Required.** Refer to Section 4.1.2.6.(c).

Ord. No. 2000T-3, Section 4.2.5.5, July 9, 2007.

Ord. No. 2000T-9, Section 4.2.5.5, October 27, 2008

Ord. No. 2000T-12, Section 4.2.5.5, June 28, 2010

Ord. No. 2000T-16, Section 4.2.5.5, December 16, 2013

Ord. No. 2000T-32, Section 4.2.5.5, August 24, 2020

Section 4.2.5.6 Replacement & Repair of Signs

- (a) When any sign, or a substantial part of it, is blown down, destroyed, or taken down or removed for any purpose other than changing the letters, symbols or other matter on the sign, it may not be replaced, re-erected, reconstructed, or rebuilt except in full conformance with the provisions and requirements of this UDC.
- (b) For purposes of Subsection (1) of this section, a sign or substantial part of it is considered to have been destroyed only if the costs of repairing the sign is more than sixty percent (60%) of the cost of erecting a replacement sign of the same type at the same location.

Section 4.2.5.7 Unsafe Signs

- (a) **Authority to Remove.** If the Building Official shall find that any sign is unsafe and is a menace to the public, he shall give notice to the permittee thereof in the same manner as is provided in the Building Code for notice of unsafe buildings. If the

permittee fails to remove or repair the sign within the time provided in such notice, such sign may be removed at the expense of the permittee. The Building Official may cause any sign that is an immediate peril to persons or property to be removed summarily and without notice.

Section 4.2.5.8 Signs on Utility Poles

- (a) **Placement of Signs on Utility Poles Prohibited.** It is unlawful for any person to attach or cause to be attached any advertisement, handbill, circular, poster or piece of paper to any public utility pole located within the City.
- (b) **Authority to Remove.** The Planning Director or his/her designee shall have the authority to remove any advertisement, handbill, circular, poster or piece of paper attached to any public utility pole within the City.

Ord. No. 2000T-3, Section 4.2.5.8, July 9, 2007.

AN ACT

relating to the regulation of political signs by a municipality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter Z, Chapter 216, Local Government Code, is amended by adding Section 216.903 to read as follows:

Sec. 216.903. REGULATION OF POLITICAL SIGNS BY MUNICIPALITY. (a) In this section, "private real property" does not include real property subject to an easement or other encumbrance that allows a municipality to use the property for a public purpose.

(b) A municipal charter provision or ordinance that regulates signs may not, for a sign that contains primarily a political message and that is located on private real property with the consent of the property owner:

- (1) prohibit the sign from being placed;
- (2) require a permit or approval of the municipality or impose a fee for the sign to be placed;
- (3) restrict the size of the sign; or
- (4) provide for a charge for the removal of a political sign that is greater than the charge for

removal of other signs regulated by ordinance.

(c) Subsection (b) does not apply to a sign, including a billboard, that contains primarily a political message on a temporary basis and that is generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political.

(d) Subsection (b) does not apply to a sign that:

- (1) has an effective area greater than 36 feet;
- (2) is more than eight feet high;
- (3) is illuminated; or
- (4) has any moving elements.

SECTION 2. This Act takes effect September 1, 2003.

POLITICAL ADVERTISING

What You Need to Know



The Texas Election Code requires certain disclosures and notices on political advertising. The law also prohibits certain types of misrepresentation in political advertising and campaign communications. This brochure explains what you need to know to insure that your political advertising and campaign communications comply with the law.

If you are not sure what the law requires, do the cautious thing. Use the political advertising disclosure statement whenever you think it might be necessary, and do not use any possibly misleading information in political advertising or a campaign communication. If you are using political advertising or campaign communications from a prior campaign, you should check to see if the law has changed since that campaign.

Candidates for federal office should check with the Federal Election Commission at (800) 424-9530 for information on federal political advertising laws.

NOTICE: This guide is intended only as a general overview of the disclosure statements that must appear on political advertising as required under [Chapter 255 of the Election Code](#), which is distinct from political reporting requirements under [Chapter 254 of the Election Code](#).

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Visit us at www.ethics.state.tx.us.

Revised July 16, 2019

REQUIRED DISCLOSURE ON POLITICAL ADVERTISING

I. What Is Political Advertising?

The disclosure statement and notice requirements discussed in this section apply to “political advertising.” In the law, “political advertising” is a specifically defined term. Do not confuse this special term with your own common-sense understanding of advertising.

To figure out if a communication is political advertising, you must look at what it says and where it appears. If a communication fits in one of the categories listed in Part A (below) and if it fits in one of the categories listed in Part B (below), it is political advertising.

Part A. What Does It Say?

1. Political advertising includes communications supporting or opposing a candidate for nomination or election to either a public office or an office of a political party (including county and precinct chairs).
2. Political advertising includes communications supporting or opposing an officeholder, a political party, or a measure (a ballot proposition).

Part B. Where Does It Appear?

1. Political advertising includes communications that appear in pamphlets, circulars, fliers, billboards or other signs, bumper stickers, or similar forms of written communication.
2. Political advertising includes communications that are published in newspapers, magazines, or other periodicals in return for consideration.
3. Political advertising includes communications that are broadcast by radio or television in return for consideration.
4. Political advertising includes communications that appear on an Internet website.

II. When Is a Disclosure Statement Required?

The law provides that political advertising that contains express advocacy is required to include a disclosure statement. The person who causes the political advertising to be published, distributed, or broadcast is responsible for including the disclosure statement.

The law does not define the term “express advocacy.” However, the law does provide that political advertising is deemed to contain express advocacy if it is authorized by a candidate, an agent of a candidate, or a political committee filing campaign finance reports. Therefore, a disclosure statement is required any time a candidate, a candidate’s agent, or a political committee authorizes political advertising.

The precise language of political advertising authorized by someone other than a candidate, the candidate's agent, or a political committee will determine if the advertising contains express advocacy and is therefore required to include a disclosure statement. Generally, the question is whether the communication expressly advocates the election or defeat of an identified candidate, or expressly advocates the passage or defeat of a measure, such as a bond election. The inclusion of words such as "vote for," "elect," "support," "defeat," "reject," or "Smith for Senate" would clearly constitute express advocacy, but express advocacy is not limited to communications that use those words. Similar phrases, such as "Cast your ballot for X," would also constitute express advocacy. Additionally, in 2007, the United States Supreme Court held that an advertisement included express advocacy or its functional equivalent "if the ad is susceptible to no reasonable interpretation other than as an appeal to vote for or against a specific candidate." *FEC v. Wis. Right to Life, Inc.*, 551 U.S. 449 (2007). It is a question of fact whether a particular communication constitutes express advocacy. If you are not sure whether political advertising contains express advocacy, do the cautious thing and include the disclosure statement. That way, there is no need to worry about whether you have violated the law.

Remember: The concept of "express advocacy" is relevant in determining whether political advertising is required to include a disclosure statement. However, the political advertising laws governing the right-of-way notice, misrepresentation, and use of public funds by political subdivisions will apply to political advertising regardless of whether the advertising contains express advocacy.

III. What Should the Disclosure Statement Say?

A disclosure statement must include the following:

1. the words "political advertising" or a recognizable abbreviation such as "pol. adv."; and
2. the full name of one of the following: (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 the candidate.

The disclosure statement must appear on the face of the political advertising or be clearly spoken if the political advertising is audio only and does not include written text.

The advertising should not be attributed to entities such as "Committee to Elect John Doe" unless a specific-purpose committee named "Committee to Elect John Doe" has filed a campaign treasurer appointment with the Ethics Commission or a local filing authority.

IV. Are There Any Exceptions to the Disclosure Statement Requirement?

The following types of political advertising do not need the disclosure statement:

1. t-shirts, balloons, buttons, emery boards, hats, lapel stickers, small magnets, pencils, pens, pins, wooden nickels, candy wrappers, and similar materials;
2. invitations or tickets to political fundraising events or to events held to establish support for a candidate or officeholder;

3. an envelope that is used to transmit political advertising, provided that the political advertising in the envelope includes the disclosure statement;
4. circulars or fliers that cost in the aggregate less than \$500 to publish and distribute;
5. political advertising printed on letterhead stationery, if the letterhead includes the name of one of the following: (a) the person who paid for the advertising, (b) the political committee authorizing the advertising, or, (c) the candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate. (Note: There is also an exception for holiday greeting cards sent by an officeholder, provided that the officeholder's name and address appear on the card or the envelope.)
6. postings or re-postings on an Internet website if the person posting or re-posting is not an officeholder, candidate, or political committee and did not make an expenditure exceeding \$100 in a reporting period for political advertising beyond the basic cost of hardware messaging software and bandwidth;
7. an Internet social media profile webpage of a candidate or officeholder, if the webpage clearly and conspicuously displays the full name of the candidate or officeholder; and
8. postings or re-postings on an Internet website if the advertising is posted with a link to a publicly viewable Internet webpage that either contains the disclosure statement or is an Internet social media profile webpage of a candidate or officeholder that clearly and conspicuously displays the candidate's or officeholder's full name.

V. What Should I Do If I Discover That My Political Advertising Does Not Contain a Disclosure Statement?

The law prohibits a person from using, causing or permitting to be used, or continuing to use political advertising containing express advocacy if the person knows it does not include the disclosure statement. A person is presumed to know that the use is prohibited if the Texas Ethics Commission notifies the person in writing that the use is prohibited. If you receive notice from the Texas Ethics Commission that your political advertising does not comply with the law, you should stop using it immediately.

If you learn that a political advertising sign designed to be seen from the road does not contain a disclosure statement or contains an inaccurate disclosure statement, you should make a good faith attempt to remove or correct those signs that have been distributed. You are not required to attempt to recover other types of political advertising that have been distributed with a missing or inaccurate disclosure statement.

VI. The Fair Campaign Practices Act.

The [Fair Campaign Practices Act](#) sets out basic rules of decency, honesty, and fair play to be followed by candidates and political committees during a campaign. A candidate or political committee may choose to subscribe to the voluntary code by signing a copy of the code and filing it with the authority with whom the candidate or committee is required to file its campaign

treasurer appointment. A person subscribing to the code may indicate that fact on political advertising by including the following or a substantially similar statement:

(Name of the candidate or political committee, as appropriate) subscribes to the Code of Fair Campaign Practices.

VII. Special Notice to Political Subdivisions and School Districts.

You may not use public funds or resources for political advertising. Please see our “Publications and Guides” section of our website for more information.

ROAD SIGNS

I. When Is the “Right-Of-Way” Notice Required?

All written political advertising that is meant to be seen from a road must carry a “right-of-way” notice. It is a criminal offense to omit the “right-of-way” notice in the following circumstances:

1. if you enter into a contract or agreement to print or make written political advertising meant to be seen from a road; or
2. if you instruct another person to place the written political advertising meant to be seen from a road.

II. What Should the “Right-Of-Way” Notice Say?

Section 259.001 of the Texas Election Code prescribes the exact language of the notice:

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.

III. Do Yard Signs Have to Have the “Right-Of-Way” Notice?

Yes. The “right-of-way” notice requirement applies to signs meant to be seen from any road. The notice requirement assures that a person responsible for placing signs is aware of the restriction on placing the sign in the right-of-way of a highway.

IV. What About Bumper Stickers?

Bumper stickers do not need the “right-of-way” notice. They do, however, need a political advertising disclosure statement.

V. Where May I Place My Signs and How Long May Signs Be Posted?

For information about exactly where you may or may not place signs, or for information regarding the length of time your signs may be posted, check with your city or county government or your homeowner’s association. The Texas Ethics Commission does not have

jurisdiction over matters involving the location of signs, and the length of time that they may be posted.

MISREPRESENTATION

I. Are There Restrictions on the Contents of Political Advertising?

Political advertising and campaign communications may not misrepresent a person’s identity or official title, nor may they misrepresent the true source of the advertising or communication. The election law does not address other types of misrepresentation in political advertising or campaign communications.

Note that the misrepresentation rules apply to both political advertising and campaign communications. “Campaign communication” is a broader term than “political advertising.”

A “campaign communication” means “a written or oral communication relating to a campaign for nomination or election to public office or office of a political party or to a campaign on a measure.”

II. Misrepresentation of Office Title.

A candidate may not represent that he or she holds an office that he or she does not hold at the time of the representation. **If you are not the incumbent in the office you are seeking, you must make it clear that you are seeking election rather than reelection by using the word “for” to clarify that you don’t hold that office.** The word “for” must be at least one-half the type size as the name of the office and should appear immediately before the name of the office. For example, a non-incumbent may use the following formats:

**Vote John Doe
for Attorney General**

**John Doe
For
Attorney General**

A non-incumbent may not be allowed to use the following verbiage:

**Elect John Doe
Attorney General**

**John Doe
Attorney General**

III. Misrepresentation of Identity or Source.

A person violates the law if, with intent to injure a candidate or influence the result of an election, the person misrepresents the source of political advertising or a campaign communication or if the person misrepresents his or her own identity or the identity of his or her agent in political advertising or in a campaign communication. (If someone else is doing something for you, that person is your agent.) For example, you may not take out an ad in favor of your opponent that purports to be sponsored by a notoriously unpopular group.

IV. Use of State Seal.

Only current officeholders may use the state seal in political advertising.

V. Criminal Offenses.

Be aware that many violations of the Election Code are criminal offenses. For example, unlawfully using public funds for political advertising can be a Class A misdemeanor. So can misrepresenting one's identity or office title in political advertising. For more details on these offenses and political advertising in general, see [Chapter 255 of the Election Code](#).