

Certain Activities in the Vicinity of the Polling Place

Texas Secretary of State



Use of Firearms by Law Enforcement

Section 46.03(a) of the Texas Penal Code generally prohibits a person from bringing a firearm onto the premises of a polling place.

- Does not apply to a peace officer, regardless of whether the police officer is on or off duty. For this and other potentially applicable exceptions, see Tex. Pen. Code § 46.15.
- **The legislation allowing open carry of handguns does NOT change the law as it pertains to guns in the polling place; thus no one except licensed peace officers may carry handguns into the polling place.**



Use of Firearms by Law Enforcement

No requirement that you place any sort of signage in the polling place in order to inform voters of the restrictions:

- Form 7-40, Notice of Prohibition of Handguns in the Polling Place



Appointing a Special Peace Officer

- The early voting clerk and presiding judge may appoint one or more persons to act as special peace officers
- May not enforce the prohibition against electioneering or loitering near the polling place UNLESS:
 - The officer's appointment is approved by the presiding officer of the local canvassing authority



Electioneering

- Each early voting and election day polling place must be organized with 100-foot distance markers posted at surrounding outside entrances to the building.
- The early voting clerk and the presiding judge have the authority of a district judge while serving in that capacity.
- Presiding judge may not enforce electioneering provisions outside of the 100-foot distance markers.
 - Same prohibition applies to an early voting clerk.



Electioneering Provisions

- During the voting period, it is prohibited to electioneer for or against any candidate, measure, or political party inside the 100-foot area (Secs. 61.003, 85.036)
 - **Regardless of whether they are or are not on the ballot!**
- A person may not wear a badge, insignia, emblem, or other similar communicative device relating to a candidate, measure, or political party or to the conduct of the election, within the 100-foot zone (except for certain specified individuals). (Sec. 61.010)



Badge Requirements

- 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 a tag or official badge that indicates their name and title or position.
- A poll watcher must also wear a badge



Sound Amplification

- It is prohibited to use a sound amplification device to electioneer within 1,000 feet of the early voting or election day polling place. (Sec. 61.004)
 - A violation is a **Class C misdemeanor**.
- Election judge may contact law enforcement to enforce the sound amplification device rule.



Regulating Electioneering Outside 100-Foot Marker

- An entity that owns or controls a public building being used as a polling place may not prohibit electioneering outside of the 100-foot distance marker.
- May enact reasonable regulations in regards to the time, place, and manner of electioneering.
- Only a court of law can determine what is reasonable in terms of time, place, and manner.



Curbside Voting and Electioneering

- When individuals vote curbside, their car becomes their voting station.
- Afford the opportunity to vote their ballot privately
- The presiding judge has the authority to preserve order and prevent breaches of peace if there are individuals harassing voters while they vote curbside. (Sec. 32.075)
 - See Advisory No. 2023-14



County Chairs in Polling Places

- County chair may be in a polling place during the primary or primary runoff election. (Sec. 172.1113).
- The provision does not provide that a county chair may be in the polling place during other elections.
 - May enter the polling place for other authorized reasons (e.g., as a voter, assistant, poll watcher).



Cell Phones and Other Wireless Communication Devices

- Persons are not allowed to use wireless communications devices within 100 feet of the voting stations.
- Not allowed to use mechanical or electronic devices to record sound or images within 100 feet of the voting stations. (Secs. 61.014, 81.002)
 - This can include:
 - Cell phones;
 - Cameras;
 - Tablet computers;
 - Laptop computers;
 - Sound recorders;
 - Smart watches capable of messaging or recording sound or images;
 - Drones
 - Any other device that may communicate wirelessly, or be used to record sound or images



Who does this prohibition apply to at the polling place?

- It applies to **all voters** within 100 feet of the. voting stations



What about Voters with Disabilities?

- An election judge or early voting clerk may use their authority to allow a voter to utilize these programs/applications at their discretion.



Can Poll Watchers Use these Devices?

- A poll watcher may not be accepted for service if the poll watcher has possession of a device capable of recording images or sound unless the poll watcher agrees to disable or deactivate the device.
- The early voting clerk or presiding judge may inquire whether a poll watcher has possession of any prohibited recording devices before accepting the poll watcher for service.
 - See Poll Watcher's Guide



Should a Police Bodycam be Turned Off in a Polling Location?

- We recommend turning off police bodycams within 100 feet of a voting station regardless of whether the officer is on or off duty, pursuant to Section 61.014 of the Election Code.
- Turning off these devices within the 100-foot zone helps to maintain voter privacy while voters are voting at the polling place.



What if the Polling Location is also a Business Location?

- A person may need to use a wireless communication device for employment-related matters.
 - Permissible if the person is acting in the course of the person's employment.



What if a Person Appears to be Recording Sound or Imaging?

- If a person enters the 100-foot area while using a wireless communications device or appears to be recording sound/image:
 - Early voting clerk and presiding judge have the authority to require persons to deactivate any such devices
 - Also have authority to require persons who do not comply to leave the early voting or election day polling place
 - Questions or clarification should be directed to the early voting clerk or the presiding judge in your polling place



How Should Voters be Notified of this Law?

- A notice may be posted at the polling place by the early voting clerk or presiding judge.
- Notice should be posted where it can be read by persons waiting to vote.
 - Form 7-39



Security Cameras in Polling Places

If a building is being used as a polling place and has security cameras installed:

- Have the cameras turned off during the hours that voting is being conducted
- If it is not possible, make sure cameras do not cover or film the voting areas



Security Cameras in Polling Places

Recording of sound is a equally serious problem:

- Turn off that feature during the hours of voting
- If not possible, then find another polling location, if possible.



Security Cameras in Polling Places

- The general custodian of election records in a county with a population over 100,000 is required to establish a video recording system that captures all areas containing voted ballots.
 - See Advisory No. 2022-10
- If voted ballots are located in a building that will also be used as a polling place, cameras must be positioned in such a way that they do not capture any activity in the portion of that building that is used as a polling place.



Exit Polling

- Non-disruptive exit polling within the 100-foot boundaries surrounding each early voting and election day polling place is permitted.
- Must determine that such exit polling does not constitute either “loitering” or a disruption of order or a contribution to a breach of the peace

(Secs. 61.003(a), 32.075, 81.002)



Written Materials

- Voters are allowed to bring written materials into voting stations to assist them in casting their ballot.
- Election officials may use their discretion in determining if a voter is electioneering for or against any candidate, measure or political party through use of written materials.



Petition Signature Gathering

- Persons who wish to gather petition signatures must do so beyond the 100-foot distance markers.
- May not be collected inside the early voting or election day polling place or within the 100-foot distance marker.
- Petition gathering is considered electioneering for or against a measure, which is prohibited within the 100-foot distance marker.

(Secs. 61.003, 85.036)



Restrooms in Polling Locations

- Polling location that is located in a public building cannot restrict use of its restroom facilities in that building to voters only.
- If building has restrooms open to the public, the public should be allowed to use them.
- Presiding judge can have someone removed from the premises if individual is loitering.
- Polling locations that are public buildings but do not have a restroom open to the public may restrict access to the restrooms to the general public.



Polling Location Check-Ins/Security Procedures

- Certain polling locations, such as schools or courthouses, may have additional check-in procedures, including requiring individuals to sign-in or show a form of identification before they are allowed on the premises.
- Polling locations cannot require voters to go through any additional check-in procedures that interfere with or impede their ability to vote.
- Polling location cannot enforce their check-in policy while voting is taking place on the premises.
- If a building has metal detectors, voters may be instructed to pass through the metal detectors in order to enter the building.



Individuals Permitted in a Polling Place

Texas Election Code Section 61.001(a-1) provides a list of individuals who are permitted to be present in a polling place:

- (1) an election judge or clerk;
- (2) a watcher;
- (3) the secretary of state;
- (4) a staff member of the Elections Division of the Office of the Secretary of State performing an official duty in accordance with this code;
- (5) an election official, a sheriff, or a staff member of an election official or sheriff delivering election supplies;
- (6) a state inspector;
- (7) a person admitted to vote;



Individuals Permitted in a Polling Place

- (8) a child under 18 years of age who is accompanying a parent who has been admitted to vote;
- (9) a person providing assistance to a voter under Section 61.032 or 64.032;
- (10) a person accompanying a voter who has a disability;
- (11) a special peace officer appointed by the presiding judge under Section 32.075;
- (12) the county chair of a political party conducting a primary election, as authorized by Section 172.1113;
- (13) a voting system technician, as authorized by Section 125.010;
- (14) the county election officer, as defined by Section 31.091, as necessary to perform tasks related to the administration of the election; or
- (15) a person whose presence has been authorized by the presiding judge in accordance with the Election Code.



Questions?

elections@sos.Texas.gov

1-800-252-VOTE (8683)

