

Ordinance No. 1192-2022

By Council Member Griffin, Polensek and Mayor Bibb

FOR PASSAGE
November 7, 2022

AN EMERGENCY ORDINANCE

To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Sections 605.18 and 605.19 relating to Harassment of Election Officials and Loitering or Congregating near Polling Places Prohibited.

WHEREAS, in recent years, poll workers have faced increasing threats and harassment in the execution of their duties as precinct election officials or voting location managers; and

WHEREAS, in a March, 2022 survey, the Brennan Center for Justice found that about one in six election officials reported that they have been threatened personally, and more than half of those instances were not reported to law enforcement; and

WHEREAS, nearly one-third of survey respondents felt their local government could do more to support them; and

WHEREAS, intimidation and harassment of a person registering to vote or of an elector at a polling place is a violation of general criminal laws under the Revised Code and the Codified Ordinances; and

WHEREAS, this ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health and safety, in that to maintain civility, protect the integrity of elections and defend democracy, it is crucial to criminalize harassment of election officials; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Section 605.18 and 605.19 to read, respectively, as follows:

Section 605.18 Harassment of Election Officials

(a) As used in this section:

(1) "Election official" means any of the following: (i) secretary of state; (ii) employees of the secretary of state serving the division of elections in the capacity of attorney, administrative officer, administrative assistant, elections administrator, office manager, or clerical supervisor; (iii) director of a board of elections; (iv) deputy director of a board of elections; (v) member of a board of elections; (vi) employees of a board of elections; (vii) precinct election officials; (viii) employees appointed by the boards of elections on a temporary or part-time basis. (RC 3501.01 (U))

(2) "Family member" includes a spouse, children, parents, grandparents, grandchildren, and any person living in the household.

(3) "Telecommunication" has the same meaning as in Section 2913.01 of the Revised Code and includes, but is not limited to, any email, voicemail, fax, text, instant message, communication over or through any social media platform, and any other form of digital, electronic or telephonic communication.

(4) "Telecommunications device" has the same meaning as in Section 2913.01 of the Revised Code.

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(5) "Communication" means any other communication not defined under division (3) including, but not limited to, any communication by U.S. mail, private mail service, private delivery service, in-person conduct, or through any other method intended to communicate with a precinct election official or voting location manager.

(b) No person shall, directly or indirectly, knowingly make or cause to be made a telecommunication, or knowingly permit a telecommunication to be made from a telecommunication device under the person's control, to an election official, or a family member of an election official, with the intent to threaten, intimidate, menace, coerce, abuse, or harass the election official, or a family member of the election official, regarding or in connection with the election official's duties or responsibilities regarding any past, current, or future general, primary, or special election.

(c) No person shall, directly or indirectly, knowingly engage in conduct or any form of communication or knowingly encourage another to engage in such conduct or communication with an election official, or a family member of an election official, with the intent to threaten, intimidate, menace, coerce, abuse, or harass the election official, or a family member of the election official, regarding or in connection with that election official's duties or responsibilities regarding any past, current, or future general, primary, or special election.

(d) No person shall recklessly attempt to hinder or interfere with an election official in the execution of the election official's duties.

(e) Whoever violates this section is guilty of harassment of an election official, a misdemeanor of the first degree. The court shall impose a mandatory term of imprisonment of at least three (3) days, which term shall not be suspended.

Section 605.19 Loitering or Congregating near Polling Places Prohibited

(a) During an election and the counting of the ballots, no person shall do any of the following:

(1) Loiter, congregate, or engage in any kind of election campaigning within the area between the polling place and the small flags of the United States placed on the thoroughfares and walkways leading to the polling place, and if the line of electors waiting to vote extends beyond those small flags, within ten feet of any elector in that line;

(2) In any manner hinder or delay an elector in reaching or leaving the place fixed for casting the elector's ballot;

(3) Give, tender, or exhibit any ballot or ticket to any person other than the elector's own ballot to the precinct election officials within the area between the polling place and the small flags of the United States placed on the thoroughfares and walkways leading to the polling place, and if the line of electors waiting to vote extends beyond those small flags, within ten feet of any elector in that line;

(4) Exhibit any ticket or ballot which the elector intends to cast;

(5) Solicit or in any manner attempt to influence any elector in casting the elector's vote.

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(b)

(1) Except as otherwise provided in divisions (b)(2) and (b)(3) of this section, no person who is not an election official, employee, observer, or police officer shall be allowed to enter the polling place during the election, except for the purpose of voting or assisting another person to vote as provided in Section 3505.24 of the Revised Code.

(2) Notwithstanding any provision of this section to the contrary, a journalist shall be allowed reasonable access to a polling place during an election. As used in this division, "journalist" has the same meaning as in division (B)(2) of Section 2923.129 of the Revised Code.

(3) Notwithstanding any provision of this section to the contrary, any person may enter the polling place for the sole purpose of reviewing the official registration list posted in accordance with Section 3503.23 of the Revised Code, provided that the person does not engage in conduct that would constitute harassment in violation of the election law, as defined in Section 3501.90 of the Revised Code.

(c) No more electors shall be allowed to approach the voting shelves at any time than there are voting shelves provided.

(d) The precinct election officials and the police officer shall strictly enforce the observance of this section. (RC 3501.35)

(e) Whoever violates this section is guilty of loitering or congregating near polling places, a misdemeanor of the first degree. Whoever violates division (a)(1), (2), (3), or (5) or division (b) of this section shall be given a mandatory term of imprisonment of at least three (3) days, which term shall not be suspended.

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

BAG:rns
11-7-2022

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**REPORT
after second Reading**

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READ FIRST TIME
and referred to

REPORTS

READ FIRST, SECOND AND THIRD TIME

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME on NOVEMBER 7, 2022

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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