

Effective 5/14/2019

Chapter 61
Expressive Activity Regulation by Local Government Act

11-61-101 Title.

This chapter is known as the "Expressive Activity Regulation by Local Government Act."

Enacted by Chapter 188, 2018 General Session

11-61-102 Definitions.

As used in this chapter:

- (1) "Expressive activity" means:
 - (a) peacefully assembling, protesting, or speaking;
 - (b) distributing literature;
 - (c) carrying a sign; or
 - (d) signature gathering or circulating a petition.
- (2) "Generally applicable time, place, and manner restriction" means a content-neutral ordinance, policy, practice, or other action that:
 - (a) by its clear language and intent, restricts or infringes on expressive activity;
 - (b) applies generally to any person; and
 - (c) is not an individually applicable time, place, and manner restriction.
- (3)
 - (a) "Individually applicable time, place, and manner restriction" means a content-neutral policy, practice, or other action:
 - (i) that restricts or infringes on expressive activity; and
 - (ii) that a political subdivision applies:
 - (A) on a case-by-case basis;
 - (B) to a specifically identified person or group of persons; and
 - (C) regarding a specifically identified place and time.
 - (b) "Individually applicable time, place, and manner restriction" includes a restriction placed on expressive activity as a condition to obtain a permit.
- (4)
 - (a) "Political subdivision" means a county, city, town, or metro township.
 - (b) "Political subdivision" does not mean:
 - (i) a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts;
 - (ii) a special service district under Title 17D, Chapter 1, Special Service District Act; or
 - (iii) a school district under Title 53G, Chapter 3, School District Creation and Change.
- (5)
 - (a) "Public building" means a building or permanent structure that is:
 - (i) owned, leased, or occupied by a political subdivision or a subunit of a political subdivision;
 - (ii) open to public access in whole or in part; and
 - (iii) used for public education or political subdivision activities.
 - (b) "Public building" does not mean:
 - (i) a building owned or leased by a political subdivision or a subunit of a political subdivision:
 - (A) that is closed to public access;
 - (B) where state or federal law restricts expressive activity; or

- (C) when the building is used by a person, in whole or in part, for a private function; or
 - (ii) a public school.
- (6)
- (a) "Public grounds" means the area outside a public building that is a traditional public forum where members of the public may safely gather to engage in expressive activity.
 - (b) "Public grounds" includes sidewalks, streets, and parks.
 - (c) "Public grounds" does not include the interior of a public building.

Amended by Chapter 16, 2023 General Session

11-61-103 Exceptions.

This chapter does not apply to:

- (1) a restriction on expressive activity on public grounds that a political subdivision imposes in order to comply with Title 20A, Election Code;
- (2) property that a political subdivision owns or leases:
 - (a) that is closed to public access; or
 - (b) where state or federal law restricts expressive activity; or
- (3) a limited or nonpublic forum.

Enacted by Chapter 188, 2018 General Session

11-61-104 Time, place, and manner restrictions -- Generally applicable restrictions by ordinance.

- (1) If a political subdivision imposes a generally applicable or individually applicable time, place, and manner restriction on expressive activity on public grounds, the political subdivision shall ensure that the restriction:
 - (a) is narrowly tailored to serve an important governmental interest, including public access to the public building, public safety, and protection of public property;
 - (b) is unrelated to the suppression of a particular message or the content of the expressive activity that the restriction addresses; and
 - (c) leaves open reasonable alternative means for the expressive activity.
- (2) A political subdivision may not impose a generally applicable time, place, and manner restriction on expressive activity on public grounds unless the political subdivision:
 - (a) imposes the restriction by ordinance; or
 - (b)
 - (i) adopts an ordinance to guide the adoption, by policy or practice, of restrictions on expressive activity on public grounds; and
 - (ii) adopts, by policy or practice, the restriction in accordance with the ordinance described in Subsection (2)(b)(i) and with the constitutional safeguards described in Subsection (1).

Enacted by Chapter 188, 2018 General Session

11-61-105 Political activity outside a public building.

- (1) Except as provided in Section 11-61-103 and Subsection (2), a political subdivision may not prohibit a political activity, including signature gathering or petition circulation, on public grounds.
- (2) A political subdivision may impose a time, place, and manner restriction on political activities outside a public building in accordance with Section 11-61-104.

Enacted by Chapter 188, 2018 General Session