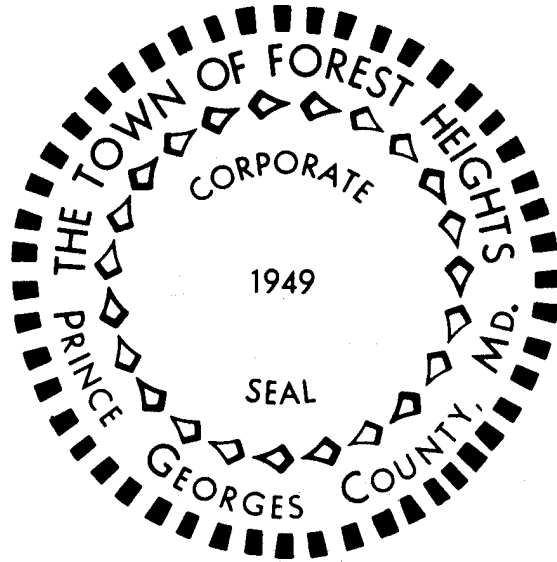


ORDINANCE

CODE



OF

THE TOWN OF

FOREST HEIGHTS, MARYLAND

(A MUNICIPAL CORPORATION)

As of April 2010

ORDINANCE

CODE

OF

THE TOWN OF

FOREST HEIGHTS, MARYLAND

(A MUNICIPAL CORPORATION)

TOWN CLERK'S CERTIFICATION

I HEREBY CERTIFY that this "Ordinance Code of The Town of Forest Heights" in its entirety (Section 1.1 through Section 22.16) was duly adopted by reference and as part of Ordinance No. 02-10, having been passed by the required ye and nay vote of the Mayor and Council of Forest Heights on the 5th day of April, 2010, and that said Ordinance Code shall thereafter take effect pursuant to the Town Charter thirty (30) calendar days following adoption by the Town Council which shall occur on the 5th day of May, 2010.

Date: _____, 2010

_____ (Seal)
Bonita C. Anderson, Town Clerk

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ARTICLE 1. GENERAL PROVISIONS

SECTION 1.1: ADOPTION OF CODE.

The ordinances of the Town of Forest Heights of a general and permanent nature, as may hereafter be adopted from time to time by the Town Council shall be codified and organized into articles and shall collectively be known as the “Ordinance Code of the Town of Forest Heights.”

SECTION 1.2: CODE SUPERSEDES PRIOR ORDINANCES.

Ordinances hereafter adopted by the Town Council and incorporated into the town code shall supersede all other general and permanent ordinances upon the same subjects enacted prior thereto, except to the extent such prior enactments are expressly saved from repeal or are declared to be continued in force.

SECTION 1.3: RULES OF CONSTRUCTION AND DEFINITIONS.

A. In the construction of this code and of all town ordinances, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the Town Council. The rules of construction and definitions set out herein shall not be applied to any section of this code which shall contain any express provisions excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

B. In the interpretation and application of any provisions of this code, such provisions shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this code imposes greater restrictions upon the subject matter than the general provision imposed by the code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

C. All general provisions, terms, phrases and expressions contained in this code shall be liberally construed in order that the true intent and meaning of the town council may be fully carried out.

D. Unless a specific provision of this code states otherwise, the time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Sunday or legal holiday, it shall be excluded. When the period of time allowed is more than seven (7) days, intermediate Sundays and holidays shall be considered as other days; but if the period of time allowed is seven (7) days or less, intermediate Sundays and holidays shall not be counted in computing the period of time.

E. Words importing one (1) gender include and apply to the other gender as well.

F. All words giving a joint authority to three (3) or more persons or officers shall be

construed as giving such authority to a majority of such persons or officers.

G. The word “may” is permissive. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning. Words used in the singular include the plural and the plural includes the singular number. Words used in the past or present tense include the future as well as the past and present.

H. The following words, phrases and terms shall have the meaning set forth herein:

CHARTER. The terms “Charter” or “Town Charter” shall mean the Charter of the Town of Forest Heights.

CODE. The word “Code” means the Forest Heights ordinance code as designated in section 1.1 of this code.

COUNTY. The words “the County” or “this County” shall mean Prince George’s County, Maryland.

MONTH. The word “Month” shall mean a calendar month.

OATH. The word “Oath” shall be construed to include an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed.”

OWNER. The word “Owner,” applied to any property, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such property.

PERSON. The word “Person” shall include a corporation, company, partnership, association or society as well as a natural person.

PERSONAL PROPERTY. Personal property includes money, goods, chattels, things in action and evidence of debt.

PRECEDING, FOLLOWING. The words “Preceding” and “following” shall mean next before and next after, respectively.

PROPERTY. The word “Property” shall include real and personal property.

REAL PROPERTY. Real property shall include lands, tenements and hereditaments.

SHALL. The word “Shall” is mandatory.

SIDEWALK. The word “Sidewalk” shall mean that portion of a street between the curblin and the adjacent property intended for the use of pedestrians.

SIGNATURE OR SUBSCRIPTION. Signature or subscription includes a mark when the person cannot write, his name being written near it and witnessed by a person who writes his own name as witness.

STATE. The words, “the State” or “this State” shall be construed to mean the State of Maryland.

STREET. The word “Street” shall include any public way, road, highway, avenue, alley and lane within the Town.

TENANT, OCCUPANT. The words “Tenant” and “Occupant,” applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

TOWN. The terms “the Town,” “this Town,” or “Town” shall mean the town of Forest Heights, Maryland, a municipal corporation of that name chartered by the State. When appropriate such terms shall also refer to the legal boundaries of such municipal corporation.

TOWN CODE. The term “Town Code” shall mean the “Ordinance Code of the Town of Forest Heights.”

WRITING. The word “Writing” shall include printing.

YEAR. The word “Year” shall mean a calendar year.

Section 1.4: Catchlines of sections; references to sections, table of contents and footnotes

A. The catchlines of the several sections of this code printed after the section numbers are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of such sections.

B. All references in this Code to articles or sections are to articles or sections of this code unless otherwise specified.

C. The table of contents using the aforementioned cathlines are intended for organizational purposes only and shall not be deemed or taken to be titles of such sections, nor as any part of such sections.

D. Any footnotes included throughout the Town Code are provided for legislative history purposes only.

SECTION 1.5: AMENDMENTS TO CODE.

Any and all additions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intent of the Council to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the “Ordinance Code of the Town of Forest Heights” shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf or post binder book containing the certified copy of said Code required by Section 1.6 as amendments and supplements thereto.

SECTION 1.6: CODE BOOK TO REMAIN ON FILE AND TO BE KEPT CURRENT.

A. A certified copy of the Forest Heights Ordinance Code, impressed with the seal of the Town, shall remain on file in the office of the Town Clerk, to be made available to persons desiring to examine the same during regular town business hours for so long as the Code is in effect.

B. It shall be the duty of the Town Clerk, or someone authorized and directed by the Town Clerk, to keep the certified copy of the book containing the Code required to be filed in the clerk's office for the use of the public current. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification, which shall be adopted specifically as part of the Code, shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said code books, at which time such supplements shall be inserted therein.

SECTION 1.7: EXEMPTION OR ADOPTION OF PRINCE GEORGE’S COUNTY ORDINANCES.

A. Pursuant to Md. Ann. Code, Art. 23A, § 2B and unless the provisions of this Code expressly state otherwise, the Town is generally exempt from all legislation heretofore or hereafter enacted by the County relating to any subject upon which the Town has been heretofore or is hereafter granted legislative authority to act, either by public general law or by the Town Charter, and upon which subject the town in fact acts. Legislation of Prince George’s County pertaining to a subject as to which the Town has not acted shall be in effect in the Town unless and until the Town specifically exempts itself therefrom.

B. Whenever, in this Code, the Town adopts or incorporates by reference, or otherwise subjects itself or persons within its boundaries to the ordinances or regulations of Prince George’s County, Maryland, it is the intention of the Town Council to adopt any amendments that might subsequently be enacted by the Prince George’s County Council, such that the most current version of such ordinance or regulation then in effect in the unincorporated areas of Prince George’s County shall be effective within the Town.

SECTION 1.8: SEVERABILITY OF CODE PROVISIONS.

Each section of the Code and every part of each section is an independent section or part of a

section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or parts thereof.

SECTION 1.9: REPEAL OF ORDINANCES.

All ordinances or parts of ordinances of a general and permanent nature adopted and in force on the date of the adoption of this ordinance or the date of adoption of any subsequent ordinance incorporating provisions into the Town Code that are inconsistent with the ordinances in the Town Code are hereby repealed to the extent of such inconsistency as of the effective date of the ordinance with which they are inconsistent.

SECTION 1.10: LEGISLATION SAVED FROM REPEAL OR WAIVER.

The adoption of this Code and repeal of ordinances provided for in § 1-9 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal or waiver:

- A. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provisions or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- E. Any ordinance or resolution appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the town's indebtedness.
- F. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- G. The levy or imposition of taxes, assessments, fees or charges.
- H. The dedication of property.
- I. Ordinances establishing the amount and manner of payment of salaries or compensation

of officers and employees, establishing workdays and working hours of certain employees and providing for holidays and vacations for employees and keeping of employment records.

J. All resolutions, including charter amendment resolutions and annexation resolutions.

SECTION 1.11: TOWN SEAL

A. The Town of Forest Heights seal as described in subsection (b) is the seal of the Town.

B. The seal depicts a thick, dashed black oval upon a white ground bearing the words “the Town of Forest Heights” in the upper half of the semi-circle and “Prince George’s County, MD” in the lower half of the semi-circle. Within the seal’s interior is a complete inner circle of arrow heads outlined in black with their tips pointing in a clockwise manner. In the middle of the seal’s face printed vertically from top to bottom are the words “Corporate 1949 Seal” with the two outer words bending in a semi-circular fashion.

C. The seal of the Town is for official use by the Town and its authorized representative only.

D. The duly elected Mayor and Town Council and the duly appointed Town Clerk shall be authorized to make attestations using the Town of Forest Heights seal.

E. No person shall use any seal, insignia, envelope or any other format that simulates the Town of Forest Heights seal.

F. The misuse or unauthorized use of the Town seal is a municipal infraction subject to the maximum penalty and enforcement provisions of the Town Charter.

SECTION 1.12: UNPAID FEES AND PENALTIES TO CONSTITUTE A LIEN.

Fees and penalties established in the Town Code which are not paid as required therein to the Town shall be included in the non-payor’s real property tax bill and shall be collected as Town taxes are collected and the charges shall be due and payable at the time of payment of the tax bill. In the case of a misdemeanor or municipal infraction, the fine shall not be deemed due and owing the Town until such time as judgment or order therefore is issued by a court of competent jurisdiction. Such charges shall constitute a lien on the non-payor’s real property.

ARTICLE 2 - ADMINISTRATION¹

Section 2.1: Definitions

¹Approved January 16, 1980 - Effective January 16, 1980; Section 1.4 (A) and Section 1.7 amended on May 21, 1980 effective July 1, 1980.

The following underlined words and phrases when used in this Code shall have the meanings respectively ascribed to them in this Section:

TOWN COUNCIL - The Mayor and Council for the Town of Forest Heights.

MAYOR - The Mayor of the Town of Forest Heights.

COUNCILPERSON - Any member of the Town Council of the Town of Forest Heights and synonymous with councilman.

FULL TIME EMPLOYEE -Any employee of the Town who customarily works 40 or more hours per week.

Section 2.2: Compensation of the Mayor and Councilpersons

The Mayor shall receive a salary of \$2,600.00 per year payable quarterly. Each councilperson shall receive a salary of \$1,000 per year payable quarterly.²

Section 2.3: Employee Benefits

The Town Council is authorized and empowered to provide the employees of the Town with benefits, including, but not limited to, death benefits, surgical, hospitalization and other sick benefits, under group insurance plans or otherwise.

Section 2.4: Full Time Employees

A. The appointment of all employees of the Town who are employed to work full time shall require the affirmative vote of a majority of the Town Council.

B. No full time employee of the Town, who has been employed twelve (12) months or longer, shall be reduced in pay, suspended or permanently separated except for cause as stated in writing, and with the affirmative vote of a majority of the Town Council following a hearing. This Section does not apply to law enforcement personnel.

C. Law Enforcement Officers of the Town shall have their employment rights governed by the provisions of the "Law Enforcement Officers' Bill of Rights" (Public Safety Art., Section 3-101 *et. seq* of the Annotated Code of Maryland).

Section 2.5: Power to Pass Regulations

The Town Council may, from time to time, by resolution issue such rules and regulations

²Amended December 20, 2000 effective January 19, 2001.

governing the use of Town property by officers, employees, and volunteers as it deems appropriate.

Section 2.6: Holidays

Holidays shall conform to Federal holidays as set forth in 5 U.S. Code, § 6103, (Monday Holiday Law), and will be observed as follows:

New Years Day	January 1
Washington's Birthday	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Christmas Day	December 25
Inauguration Day	January 20 (every 4 years)
M. L. King, JR. Day	Third Monday in January

Section 2.7: Annual and Sick Leave

All full time employees after completing six (6) months of consecutive satisfactory employment shall be entitled to earned annual or vacation leave. After one (1) month of satisfactory employment, full time employees shall be entitled to sick leave. The earning rate and accumulation quotas for annual and sick pay shall be established by administrative directive of the Mayor and Town Council. The Mayor and Town Council shall promulgate the appropriate regulations and directives implementing this ordinance.

ARTICLE 3 - BUILDING AND CONSTRUCTION REGULATIONS AND CODES FOR LAND USE³

Section 3.1: Building and Housing Codes effective

Except as stated herein, the Town Council does hereby recognize and declare to be effective within the Town, the Prince George's County Building and Housing Codes, including building, grading, construction, electrical, plumbing, zoning, subdivision and any other land use related codes, and amendments thereto subsequently adopted. Any or all permits which may be required by the pertinent County codes for construction or modification of buildings and structures within

³Approved January 16, 1980 - Effective January 16, 1980. Sections 6 and 7 (of original ord.) amended Effective June 18, 1986. Town easements or rights of way extend 12 feet from the curb. Permit requesters must submit 2 copies of the plan (not codified).

the Town shall be obtained from Prince George's County, pursuant to Md. Ann. Code, Art. 28, Section 8-112.1, and the Town Council may by ordinance impose stricter or additional conditions, restrictions, or limitations on fences, residential parking, and residential storage than are otherwise required by County zoning regulations.

Section 3.2: Town Permits and certificates of referral required

- A. In addition to the requirements of Section 3.1 it shall be unlawful within the Town, for any person or persons to construct, reconstruct or recondition any fence or building without first having obtained a permit or filed a referral to the Town Clerk or the official designated by the Town Council. Said permit or referral shall not be issued or accepted until the fee of fifty dollars (\$50.00) has been duly paid to the Town. All permits and certificates of referral shall be prominently displayed at the site of construction.

- B. Referrals for subdivision or resubdivision of any property which lies within the boundaries of Forest Heights shall be submitted to the Town Council on or before the date of submittal to the Maryland-National Capital Park and Planning Commission and/or the Washington Suburban Sanitary Commission. Such referrals shall include plans, including proposed construction, roads, drainage and plat with street frontage, which conform to specifications set by the Town Council.

C. Rental Property Permit

A rental property permit shall be issued to all property owners whose properties: (1) are rental properties, or (2) the owner or owners reside in their properties less than six (6) months out of the year, when otherwise rented to others. All such property owners shall be required to obtain the Rental Property Permit at an annual cost of \$75.00. A Rental Property Permit must be obtained from the Town Clerk of Forest Heights not later than September 1, 2007 or prior to renting the property, whichever is later. Failure to obtain a permit shall be deemed a municipal infraction and subject to a fine of \$500.00.

Section 3.3: Road and Drainage Facilities Required

Before the issuance of a Forest Heights Building Permit or certificate of referral for construction, all applicants shall be required to submit to the Town plans for acceptable roads and drainage facilities. Applicants shall also be required to submit plans for drainage facilities meeting the standards prescribed by the Washington Suburban Sanitary Commission.

Section 3.4: Signs

All signs must comply with PART 12 - "SIGNS" of the Prince George's County Zoning Code (SUBTITLE 27) as amended and a County permit must be obtained where required; except that it shall be unlawful within the Town for any person or persons to erect any sign exceeding six (6) square feet without first having obtained a permit from the Town Council. Cost of said permit

shall be \$50.00.

Section 3.5: Fences, Barriers, Walls

A. Definition: A fence, barrier or wall is any structure or partition placed, erected or installed for the purpose of enclosing a piece of land, to divide a parcel or lot of land into distinct portions or to separate two (2) contiguous properties, and made of any material such as bricks, blocks, stones, wood, wire, plastic, other building materials or shrubbery.

B. Front and Side Yard: Fences and footings must be confined within the property line, must not block or impede passage through any easement or right of way and cannot be more than four (4) feet high.

C. Rear Yard: The rear yard of a property may be enclosed by a fence. Such a fence shall not be erected beyond the front building line established by the Zoning Ordinance of Prince George's County, Maryland. A rear yard fence or fence and wall combination shall not exceed six (6) feet in height. County and Town Permits shall be obtained for all fences. The Town permit shall cost \$50.00.

D. Walls: Walls built to retain or support the lateral pressure of earth or water or other superimposed loads shall be designed and constructed of approved masonry, reinforced concrete, steel sheet piling or other approved material within the allowable stresses of accepted engineering practices.

E. Design: Retaining walls shall be designed to resist the pressure of the retained material, including both dead and live load surcharges to which they may be subjected; and to ensure stability against overturning, sliding, excessive foundation pressure and water uplift.

F. Hydrostatic Pressure: Unless drainage is provided, the hydrostatic head of water pressure shall be assumed equal to the height of the wall.

G. Coping: All masonry retaining walls, other than reinforced concrete walls, shall be protected with an approved coping. Retaining walls constructed in the front yard shall not extend more than one (1) foot above the finished grade on any lot.

H. General Restrictions:

(1.) No fence, barrier, or wall made in whole or in part of barbed wire or chicken wire shall be erected or constructed along or adjacent to any street, avenue, road, alley, and public walk or immediately adjacent to an adjoining lot or property line.

(2.) No wall, barrier or fence, the design, construction or condition of which, in the judgment of the Mayor and Town Council, would be detrimental to the public welfare, health, safety, or comfort of the citizens will be permitted to be erected or maintained.

I. Waivers:

(1.) The Mayor and Town Council, in or at their discretion, may consider an application for a waiver to allow relief from the strict requirements for a fence, wall, or barrier that is not in strict compliance with this article. The Mayor and Town Council shall make the following findings and conclusions when granting a waiver:

(I) Special conditions or circumstances exist that are peculiar to the subject land or structure and that a literal enforcement of this article would result in unwarranted hardship,

(II) The waiver request is not based upon conditions or circumstances which are the result of actions by the applicant, and

(III) Granting the waiver will not be detrimental to the health, welfare and safety of the public.

(2.) One patio enclosure within the rear yard is permitted upon application and approval of a waiver by the Mayor and Town Council.

J. *Applicability:* The provisions of this article shall apply to all properties within the Town except the following:

(1.) Fences, walls or barriers constructed prior to December 16, 1967.

(2.) Fences, walls or barriers that were erected on a property prior to its annexation into the Town.

(3.) Fences, walls or barriers for which a waiver has previously been granted by the Mayor and Town Council. These waivers do not include the replacement, relocation or modification of any fence, wall or barrier.

Section 3.6: RESERVED

Section 3.7: Penalty

Any violation of any section of this Article 3 shall be deemed an infraction and any person upon conviction thereof shall be fined not more than One Hundred Dollar (\$100.00) for the first offense. Repeat offenders may be assessed a fine not to exceed Two Hundred Dollars (\$200.00) for each repeated offense.

ARTICLE 4 - UNAUTHORIZED BUSINESSES⁴

⁴Approved August 15, 1979 - Effective August 15, 1979. Amended on March 19, 1980, by emergency amendment effective March 19, 1980, in Section 4.2 (prior code) from fine not to exceed \$500.00 and imprisonment not to exceed 90 days or both to present amounts.

Section 4.1: Fortunetelling

It shall be unlawful, and it is hereby prohibited within the Town for any person to attempt to tell fortunes or predict the future, for pay, donation or compensation, by means of palmistry, crystal ball, spirits, medium-ship, cards, talismans, charms, potions, tea-leaves, magic of any kind or nature, or other similar means, except that nothing herein shall be construed in any way to include or interfere with the exercise of any of the religious or spiritual practices of any bona fide church or religion.

Section 4.2: Penalty

Any person violating any provision of this Article, upon conviction, shall be guilty of a misdemeanor and subject to a fine not to exceed One Hundred Dollars (\$100.00), or imprisonment not to exceed 30 days or both fine and imprisonment. A conviction for one offense shall not be a bar to a conviction for a continuation of such offense subsequent to the first or any succeeding conviction.

ARTICLE 5 - CANVASSING AND SOLICITING⁵

Section 5.1: Certain Sales Prohibited

Except as stated in Section 5.2, it shall be unlawful for any peddler, canvasser, solicitor, hawker, itinerant merchant or transient merchant, or transient vendor of merchandise, to go in or upon private or public property in the Town for the purpose of selling or soliciting orders for the sale of goods, wares, merchandise, or services, without having been requested or invited to do so by the owner or owners, occupant or occupants of said property.

Section 5.2: Exceptions

The prohibitions of Section 5.1 shall not apply to sales by local civic, charitable or religious organizations, or to the sale or soliciting of orders for the sale of food and other farm and garden products, laundry and dry cleaning services and newspapers.

Section 5.3: Penalty

Any person violating the provisions of this Article shall be guilty of an infraction and shall, upon conviction, be fined not more than one hundred dollars (\$100.00) for the first offense. Repeat offenders may be assessed a fine not to exceed \$200.00 for each repeat offense.

ARTICLE 6 - CABLE TELEVISION⁶

⁵Approved January 16, 1980 - Effective January 16, 1980.

⁶Approved January 21, 1981.

Section 6.1: Definitions

In this Article unless the context clearly indicates that another meaning is intended, the following terms, phrases, words and their derivations have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural number. The word "shall" is always mandatory.

"Agency" means the Mayor and Town Council or the person, department, or agency designated by the Mayor and Town Council, by resolution, to act for them in administrative matters relating to cable television.

"Auxiliary services" means any communications service in addition to "regular subscriber services", including, but not limited to pay TV, burglar alarm service, data transmission, facsimile service and home shopping service.

"Cable Television System" or "CATV System" means any facility that in whole or part, receives directly or indirectly, over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals by wire or cable to subscribing members of the public who pay for such service.

"Channel" means a band of frequencies 6 megahertz wide in the electromagnetic spectrum capable of carrying either one audio-visual television signal and a few non-video signals or a large number of non-video signals.

"Federal Communications Commission" or "FCC" means the agency of the United States Government of that name as constituted by the Communications Act of 1934, or any successor agency established by the United States Government.

"Franchise" means an authorization granted by the Town of Forest Heights which permits the construction, operation and maintenance of a cable television system within the franchise area under condition not inconsistent with this ordinance.

"Franchise area" means that part of the franchise entity for which a franchise is granted under the authority of this ordinance and may or may not be coterminous with the franchise entity.

"Franchise authority" means the Mayor and Town Council of the franchise entity.

"Franchise entity" means the Town of Forest Heights, Maryland, as presently constituted and includes any area that may be added to it during the terms of any franchise granted under this Article.

"Grantee" means any entity, its successors, heirs or assigns that is awarded a franchise under this ordinance.

"Gross revenue" means revenue derived directly or indirectly by a grantee from both regular subscriber service and auxiliary services.

"Gross subscriber revenue" means revenue derived directly or indirectly by a grantee from supplying regular subscriber service; that is, installation fees, disconnect and reconnect fees, and fees for regular cable benefits including the transmission of broadcast signals and access and organization channels if utilized. "Gross subscriber revenue" does not include revenue derived from auxiliary services or from any taxes whether or not passed on to users, per program or per channel charges, leased channel revenues, advertising revenues or any other income derived from the system.

"Major stockholder" means a beneficial owner, directly or indirectly, of 10 percent or more of the issued and outstanding voting stock of any corporation.

"Person" means people, firms, corporations, associations or other legally recognized entities.

"Public way" means the surface of and the space above and below any public street, avenue, highway, boulevard, concourse, driveway, bridge, tunnel, park, parkway, waterway, dock, bulkhead, wharf, pier, alley, right-of-way, public utility easement, and any other public ground or water subject to the jurisdiction and control of the franchise entity.

"Regular subscriber service" means that service regularly provided to all subscribers, including all broadcast signal carriage, FCC-required access channel carriage including origination programming, but it does not include specialized programming for which a per-channel charge is made.

"Subscriber" means any person receiving regular subscriber service.

Section 6.2: Franchise Required

With the exception of the Mayor and Town Council, a person may not own, operate or solicit subscribers for any cable television system in the Town of Forest Heights, except by franchise granted by resolution of the Mayor and Town Council.

Section 6.3: Limitations of Franchise

A. Any franchise granted under this Article shall be non-exclusive and this Article may not be construed to prevent the franchise authority from granting identical or similar franchises to more than one person, within all or any portion of the franchise entity.

B. A grantee, at all times during the life of this franchise, shall be subject to the lawful exercise of the franchise entity's police power and such reasonable regulations as the franchise authority may promulgate hereunder. Nothing contained in this ordinance shall be deemed to prohibit in

any way the right of the Mayor and Town Council to levy nondiscriminatory occupational license taxes on any activity conducted by a grantee.

C. All privileges granted by a franchise under this Article shall be subordinate to any prior lawful occupancy of the public streets, and the franchise authority reserves the right to reasonably designate where a grantee's facilities are to be placed within the public ways.

D. The franchise shall be a privilege which is personal to the original grantee. It may not be sold, transferred, leased, assigned, or disposed of, in whole or in part, either by sale, merger, consolidation or otherwise, without prior consent of the franchise authority expressed by resolution, and then only under such conditions as may therein be prescribed. Any such proposed transfer or assignment shall be made only by an instrument in writing, which shall include an acceptance of all conditions of the franchise by the transferee, a duly executed copy of which shall be filed with the agency within 30 days after any such transfer or assignment.

E. Nothing herein shall be deemed to in any way impair or affect the right of the Town of Forest Heights to acquire the property of the grantee, either by purchase or through the exercise of the right of eminent domain, at a price reflective of its fair market value as an ongoing concern, and nothing herein shall be construed to constitute a waiver or bar to the exercise of any governmental right or power of the Town of Forest Heights.

F. The granting of a franchise shall be based on the franchise authority's judgment as to whether it will serve the public's interest; the applicant's construction, technical and financial plans and arrangement and the benefits to the welfare and safety of the Town and its citizens. Such judgment shall be discretionary and no provision of this ordinance shall require the granting of a franchise. A franchise may be granted only after the Mayor and Town Council conduct a public hearing on the application.

Section 6.4: Liability and Indemnification

A. The grantee shall pay, and by its acceptance of a franchise specifically agrees to pay, any and all damages or penalties which the Town of Forest Heights may be legally required to pay as a result of grantee's installation, operation or maintenance, of a franchise cable television system under this Ordinance whether or not the acts or omissions complained of are authorized, allowed or prohibited by the Town of Forest Heights.

B. The grantee shall pay all expenses incurred by the Town of Forest Heights in defending itself with regard to any and all damages and penalties mentioned in subsection A. of this section. These expenses shall include all out-of-pocket expenses, including reasonable attorneys' fees and the reasonable value of services rendered by any employee of the Town.

C. The grantee shall maintain, throughout the term of the franchise, liability insurance insuring the Town of Forest Heights and the grantee with regard to all damages referred to in subsection

A. of this section, caused by grantee or its agents, in such amounts as may be set forth in the franchise.

Section 6.5: Technical Requirements and Channel Capacity

Any cable television system constructed by a grantee shall be installed, maintained, and operated at all times in full compliance with the technical and channel capacity standards of the Federal Communications Commission. The results of annual performance tests conducted in accordance with Sec. 76.601(c), FCC rules (or such other section of the rules as shall incorporate its substance) shall be retained for at least five years and made available for inspection by the Town of Forest Heights.

Section 6.6: Safety Requirements

Throughout the term of the franchise the grantee shall:

A. Install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of the Town and County building, electrical, fire, health and plumbing codes, and in such manner that they will not interfere with any installations of the Town of Forest Heights; and

B. Keep and maintain in a safe, suitable, substantial condition, and in good order and repair, all structures lines, equipment, and public ways or places of the Town, wherever situated or located.

Section 6.7: Service Standards, Business Office and Resolution of Complaints

Throughout the term of the franchise, a grantee shall:

A. Maintain all parts of its system in good condition and in accordance with standards generally observed by the cable television industry. Sufficient employees shall be retained to provide safe, adequate and prompt service for all of its facilities.

B. Maintain a conveniently located business office and service center to which subscribers may telephone without incurring added message units or toll charges. This office shall be open during all usual business hours, and be so operated that complaints and requests for repairs or adjustments may be received by telephone at any time when any television signals are being broadcast.

C. Dispatch personnel to investigate all service complaints and equipment malfunctions within 24 hours and strive to resolve such complaints as promptly as possible. Planned interruption of service shall be only for good cause. Insofar as possible, planned service interruptions shall be preceded by notice, be of brief duration, and occur during minimum viewing hours.

D. Maintain a complete list of all complaints received and the measures-taken to resolve them in form to be approved by agency. This list shall be available to the agency on request.

E. Permit the agency to inspect and test the system's technical equipment and facilities on reasonable (12-24 hours') notice.

Section 6.8: Limitation on Use of Personal Information

A grantee may not disseminate information to any person without the express written permission of a subscriber as to the name, address or other indication of the identity of that subscriber or any other information furnished by that subscriber in conjunction with a request for service. A grantee may not require of any person as a condition of receiving services from the grantee (1) consent to the dissemination of personal information, or (2) a waiver of any right granted under this section. The agency is entitled to audit the records of the grantee to determine compliance with this section.

Section 6.9: Conditions for Use of Public Ways

A. Any pavement, sidewalk, curbing or other paved area taken up or any excavations made by a grantee shall be done under the supervision and direction of the agency under permits issued for work by the proper officials of the Town or other appropriate governmental entity and shall be done in such manner as to cause the least inconvenience to the inhabitants of the Town of Forest Heights. The grantee, at its own expense and in a manner approved by the agency, shall replace and restore any such pavements, sidewalks, curbing or other paved area in as good a condition as before the work involving such disturbance was done, and shall also make and keep full and complete plats, maps and records showing the exact location of its facilities located within the public streets, ways, and easements of the franchise entity. These maps shall be available for inspection at any time during business hours by the agency.

B. The grantee, at its expense, shall protect, support, temporarily disconnect, relocate, or remove, any of its property when required by the Town of Forest Heights by reason of traffic conditions, public safety, road construction, change or street grade, installation of sewers, drains, water pipes, power lines, signal lines, tracks, or any other type of municipal improvements. However, the grantee, in all such cases, shall have the privilege of abandoning any property in place. If the Town of Forest Heights requests substantial relocation, it shall compensate grantee in the amount of its relocation costs.

C. The grantee, on the request of any person holding a building moving permit issued by the Town of Forest Heights or another government entity, shall temporarily raise or lower its wires to permit the moving of buildings. The expense of the temporary removal or rising or lowering of wires shall be paid by the person requesting it and the grantee shall have the authority to require that payment be made in advance. The grantee shall be given at least 48 hours' advance notice to arrange for such temporary wire changes.

D. The grantee shall have authority to trim the trees overhanging the public street so as to prevent the branches of such trees from coming in contact with the wires and cables of the grantee, except that, at the option of the Town of Forest Heights, the trimming may be done by another person under the direction and supervision of the Town of Forest Heights, at the expense of the grantee.

E. In all sections of the franchise area where the cable, wires, or other similar facilities of public utilities are placed underground, the grantee shall place its cables, wires or other like facilities underground to the maximum extent that existing technology reasonably permits.

Section 6.10: Indemnity Bond

Concurrently with the acceptance of its franchise, a grantee shall file with the Town a bond with an acceptable surety in an amount designated by the Town of Forest Heights to indemnify the Town against any losses it may suffer in the event the grantee fails to comply with any provision of this Article, its franchise or any duly promulgated regulation, order or resolution of the Mayor and Town Council or agency made pursuant to a franchise or this Article. Said bond shall be obtained at the sole expense of the grantee and remain in effect for the full term of the franchise or any renewal thereof, plus an additional six months thereafter.

Section 6.11: Franchise Fee

The Town of Forest Heights is entitled to collect a franchise fee in such amount, as may be from time to time established by the Mayor and Town Council, for each franchise granted.

Section 6.12: Acts Beneficial to Subscribers

The Town of Forest Heights may include, as part of any franchise, any conditions it deems beneficial to the subscribers in the franchise area including the regulation of any rates charged to such subscribers.

Section 6.13: Public Service Requirements

A grantee shall:

A. Provide at least one service outlet to all municipal facilities, libraries and public schools within its franchise area at no cost to the Town of Forest Heights or to the library or schools involved; and

B. Make its facilities immediately available to the Town of Forest Heights on request during an emergency or disaster.

Section 6.14: Duration of Franchise

The Mayor and Town Council shall establish the duration of each franchise granted under this Ordinance and the conditions for any renewal thereof.

Section 6.15: Tampering and Unauthorized Connections

A. It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of televisions signals, radio signals, picture, program or sound within the Town of Forest Heights.

B. It shall be unlawful for any person to make or use any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a franchised cable television system within the Town of Forest Heights for the purpose of enabling that person or others to receive any televisions signal, radio signal, picture, program or sound, without authorization of the grantee and owner of that system.

Section 6.16: Continued Use of Individual Antennas Protected

This Article does not prohibit the erection or continued use of individual television antennas or require any person to receive cable television service or connect with a cable television system.

Section 6.17: Delegation of Powers

The Mayor and Town Council may delegate any right, benefit, duty, obligation or power under this ordinance to the agency or any employee, officer or department of the Town of Forest Heights.

Section 6.18: Enforcement

A. The Mayor and Town Council shall have the authority to promulgate by resolution such regulations as are necessary to implement, administer and enforce this Article and any franchise granted hereunder.

B. The grantee is not relieved of its obligation to comply promptly with the provisions of a franchise because of a failure of the franchise authority to enforce prompt compliance.

C. The cost of any litigation, including reasonable attorney's fees, incurred by the franchise authority to enforce this Article or a franchise granted under this Article shall be reimbursed to the franchise authority by the franchiser if the franchise authority is the prevailing party.

Section 6.19: Forfeiture of Franchise

A. In addition to the rights and powers of the Town of Forest Heights contained in any franchise, the Town shall have the right to terminate and cancel a franchise if the grantee:

(1.) Refuses to obey any duly promulgated regulation, order or resolution of the Mayor and Town Council or agency made pursuant to a franchise or this Article.

(2.) Becomes insolvent unable or unwilling to pay its debts or is adjudged as bankrupt.

(3.) Attempts to evade any of the provisions of a franchise or practices any fraud or deceit upon the Town.

B. Before any franchise may be terminated or canceled under this section, the grantee shall be entitled to a hearing before the Mayor and Town Council. The grantee shall be given not less than five days written notice that a hearing under this section will be held.

Section 6.20: Penalty

Any person, including an officer or employee of a grantee, violating the provisions of this Article or a franchise agreement granted under this Article shall be guilty of a misdemeanor and shall, on conviction, be fined not more than one hundred dollars (\$100.00), be imprisoned for not more than thirty days or both. A conviction for one offense shall not be a bar to a conviction for a continuation of such offense subsequent to the first or any succeeding conviction.

ARTICLE 7 - DOGS AND DANGEROUS ANIMALS⁷

Section 7.1: Menace or Nuisance

A. It shall be unlawful for any person to keep or harbor, within the Town, any dog or dangerous animal which by howling or fouling of the air or ground, or poses a nuisance to, or in any other manner, disturbs the comfort or quiet of any neighborhood in the Town. For the purpose of this Subsection, a neighborhood shall be considered to have its comfort or quiet disturbed if two or more written complaints are filed with a Town Law Enforcement Official.

B. It shall be unlawful for any owner, possessor, keeper, or harbinger of a dog or dangerous animal to permit said animal to be upon public streets, sidewalks, roadways, alleys, or any other person's property within the Town, after notice shall have been given a Town Law Enforcement or Code Enforcement Official that said animal is dangerous, vicious, or a public nuisance as evidenced by having attacked or menaced persons or having destroyed or damaged any public or private property.

C. It shall be unlawful for any owner, possessor, keeper, or harbinger of any dog or other animal to permit such animal to foul any public property or another person's private property.

⁷Approved January 16, 1980 - Effective January 16, 1980.

²⁹Approved May 20, 2009 - Effective May 20, 2009.

D. All animals must be harbored in sanitary conditions.

E. When walking a dog by owner, possessor, keeper or caretaker it is required that all excrement be immediately removed from public or private property.²⁹

Section 7.2: Running at Large Prohibited

A. It shall be unlawful for any owner, possessor, keeper or harbored of a dog to permit said dog to be upon public streets, sidewalks, roadways, alleys, or any other person's property within the Town except when under restraint by leash or similar device and conducted by a person competent and able to control said dog.

B. Any dog found at large in any manner other than restrained by leash or similar device or conducted by a person competent and able to control said dog upon public streets, sidewalks, roadways, alleys, or upon the property of any person other than the owner, possessor, keeper, or harbored of said dog, shall be caught, if reasonably possible, and delivered to the Prince George's County Animal Control Shelter.

Section 7.3: Penalty

Any person violating the provisions of this Article shall be guilty of an infraction and shall, upon conviction, be fined not more than one hundred dollars (\$100.00) for the first offense. Repeat offenders may be assessed a fine not to exceed \$200.00 for each repeat offense.

ARTICLE 8 – RESERVED

ARTICLE 9 - FIRE PREVENTION⁸

Section 9.1: Fire Code Adopted

There is hereby adopted by the Town Council, the Fire Safety Law of Prince George's County, Maryland, as amended, from time to time by the Prince George's County Council as a supplement to the State of Maryland Fire Prevention Code adopted pursuant to the Annotated Code of Maryland, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion; the same is hereby adopted by the Mayor and Council and the provisions thereof shall be controlling and effective within the corporate limits of the Town as further supplemented by the provisions of this article.

Section 9.2: Prevention of Fires

⁸Approved January 16, 1980 - Effective January 16, 1980.

No fuel, shavings, waste paper, trash or other combustible matter shall be burned in the open within the Town limits.

Section 9.3: False Alarms or Removing Fire Equipment

It shall be unlawful for any person to knowingly give a false alarm or to remove any fire apparatus or equipment belonging to the Town from its proper place except in the case of fire or other public necessity.

Section 9.4: Fire Extinguishers Required

Every person or corporation who owns a hotel, boarding house, rooming house or restaurant or other business and, the owner of every building within the Town where inflammable oil or other flammable or explosive material is stored is required to keep and maintain in operating condition on the premises, one or more suitable fire extinguishers.

Section 9.5: Penalty

Any person violating the provisions of the Article shall be guilty of an infraction and shall, upon conviction, be fined not more than one hundred dollars (\$100.00) for the first offense. Repeat offenders may be assessed a fine not to exceed \$200.00 for each repeat offense.

ARTICLE 10 - FIREARMS AND DANGEROUS WEAPONS⁹

Section 10.1: Discharge Prohibited

It shall be unlawful for any person or persons other than an officer of the law or those persons authorized by the Superintendent of Maryland State Police in the line of duty, to discharge, except in self-defense, any firearms, air rifle, BB gun, bow and arrow, or other shooting device, which could cause personal injury or property damage within the Town.

Section 10.2: Concealed Weapons

It shall be unlawful for any person, other than an officer of the law or those persons authorized by the Superintendent of Maryland State Police to carry concealed on his or her person, any revolver, pistol, brass knuckles, blackjacks, or any other dangerous weapon, upon the public streets and ways of the Town.

Section 10.3: Loaded Firearms

⁹Approved January 16, 1980 - Effective January 16, 1980.

It shall be unlawful for any person or persons, other than an officer of the law or those persons authorized by the Superintendent of Maryland State Police to carry any loaded firearms upon the public streets and ways of the Town. This shall include BB guns.

Section 10.4: Penalty

Any person violating any provision of this Article, upon conviction, shall be guilty of a misdemeanor and subject to a fine not to exceed five hundred dollars (\$500.00) or imprisonment not to exceed 90 days, or both fine and imprisonment.

ARTICLE 11 - HEALTH¹⁰

Section 11.1: Purpose

The purpose of this Ordinance is to set forth standards and establish specific requirements to be adhered to by property owners and tenants in maintaining their dwellings and properties at a standard that they be kept free from vermin and rodent infestation, that dwellings be kept in such repair as to be fit for human habitation, and to provide for the control of weeds on vacant lots and/or properties within the Town Limits; in addition, to granting the Town Council authority to issue orders compelling compliance with the provisions hereof, and to correct such conditions at the expense of the property occupants or owners of properties upon which violations occur. The intent of this Ordinance is to require that all dwellings and vacant areas be kept clean and free from accumulated litter.

Section 11.2: Dwellings, Yards and Vacant Areas and Lots

A. Every dwelling lot or vacant area within the Town Limits, and every part thereof, shall be kept clean, presentable and free from any accumulation of accumulated litter, discarded appliances, dismantled and inoperative vehicles--water craft, motor cycles, construction debris (scrap wood, plumbing accessories, dry wall, broken-up concrete, etc.), automobile parts and chemicals (engine blocks, fenders, bumpers, used and/or drained motor oil or transmission fluid, etc.), rubbish--discarded furniture, garbage and similar matter as not to be a danger to the health of any occupant thereof, or hazard to the adjoining property thereto, and shall be kept free from vermin and rodent infestation. It shall be the duty and responsibility of each occupant or owner of a dwelling unit, lot or vacant area to remove dead or dying tree or dying limbs (except those planted by the Town) by reason of rotting, deteriorating condition or storm damage which constitutes a hazard to person or property in the vicinity. These conditions will not be allowed to exist or accumulate on any private property or property adjoining any streets, alleys or lanes in the Town¹¹. All yard, lawns, lots and vacant areas immediately adjacent to improved property shall be kept covered with sufficient ground cover, such as grass, and in addition, it shall be kept

¹⁰Approved October 17, 1979- Effective November 17, 1979; April 20, 1983 - Effective May 20, 1983.

¹¹Requirement for removing dead tree limbs approved June 20, 2001, and effective September 1, 2001.

clean-and free from weeds and brush exceeding eight (8) inches in height. It shall be the duty of each occupant or owner of a dwelling unit, lot or vacant area, to keep, in a clean condition the portion of the property which he or she occupies or over which he has exclusive control. If the occupant or owner shall fail to keep his portion of the property clean as above provided, the Town Council may send a written notice to such occupant or owner requesting him to remedy such condition within the time specified in said notice, said time not to be less than three (3) days.

B. Upon failure of the owner of unimproved or vacant property to comply with such notice, the Town, through its officers and agents, shall have the power to enter upon the premises and cause such conditions to be abated. The cost incurred by the Town may be recovered in the manner prescribed in Subsection 33-20(b), Paragraph (49) of the Town Charter.

Section 11.3: Trash Receptacles (Trash and Garbage Disposal and Receptacles)

A. Littering

- (1.) Public Property - It shall be unlawful for any person to keep exposed or to deposit, throw or place, cause to be deposited, thrown or placed, or to allow to accumulate any garbage or trash in any avenue, street, alley or public place within the corporate limits of the Town, unless the same shall be enclosed in proper vessels or containers as herein provided. The word "garbage" in this Ordinance is defined and shall be held to mean the refuse of any animal and vegetable food-stuffs, bottles, cans, and packages containing particles thereof. The word "trash" to this Ordinance is defined and shall be held to mean all refuse not within the definition of "garbage" including other empty cans, bottles, and paper products.
- (2.) Private Property - It shall be unlawful for any person to keep exposed or to deposit, throw or place, cause to be deposited thrown or placed, or to allow to accumulate any garbage or trash upon any private property, commercial or otherwise, whether owned by such person or not, except within the proper vessels or containers as herein provided. The word "garbage" and the word "trash" are defined in Section 11.3.A.(1).
- (3.) Compost Piles - Nothing in this Sub-Section shall be interpreted to prohibit private compost piles maintained in a manner to control and prevent rodent infestation and obnoxious odors.

B. Trash and Garbage Receptacles

- (1.) Public Trash Receptacles - It shall be unlawful for any person or persons to take and carry away, or willfully break, damage or destroy any containers or other receptacles maintained by the Town upon any street or alley in the Town for the reception of paper, fifth, or waste matter. Such receptacles shall not be used for the reception of waste material from commercial establishments or residential homes.

- (2.) Commercial Trash and Garbage Receptacles - Proprietors of boardinghouses, restaurants, stores, and other places where trash and garbage is accumulated, and/or owners and agents of such places shall provide for the use of such premises a suitable mechanical disposal approved by the local health officer, or, a receptacle or receptacles to contain all garbage or trash which may be accumulated on said premises during the interval between the collection of garbage or trash there from. Such receptacles shall be kept in good repair at all times. Each such receptacle shall be made of durable material, watertight, provided with a tight cover and shall be so constructed that the contents can be removed easily by the waste collectors contracted by the commercial establishment.
- (3.) Noncommercial Trash and Garbage Receptacles - Receptacles for noncommercial dwelling (private homes) containing "garbage" shall be leak proof and shall be kept securely covered at all times. Garbage shall not be placed in plastic bags or other containers which can be opened by animals. Receptacles containing "trash" must be securely closed to prevent the contents from littering the area. These receptacles must be of such size and girth that they can be easily handled by the Town's contracted refuse collectors.

C. Trash and Garbage Collection

- (1.) Regular Collection - "Garbage" and "Trash" receptacles shall be placed within two feet of the curb line on the two regularly scheduled collection days per week; however, these scheduled collection days could change annually depending on the Town's and the refuse contractor's negotiations prior to signing a contract.
- (2.) Bulky Trash Collection - Bulky trash will be collected one day a week simultaneously with the regular scheduled collection. Bulky trash is considered to be discarded furniture ONLY, and must be placed in the same location as the trash receptacle on the eve of the scheduled bulky trash collection day. Water heaters and inoperative appliances will no longer be picked up by the refuse contractor. Occupants will be responsible for disposing of said items. Occupants are responsible for disposing of automobile motors and parts, fallen trees, cinder blocks, concrete, building materials, and motor cycles, etc.
- (3.) Placing Receptacles and Bulky Trash - No garbage and/or trash receptacles or bulky refuse shall be permitted to be placed at curbside prior to sun set on the evening prior to the designated collection day and the empty receptacles shall be removed prior to sunrise the day following the scheduled collection day.
- (4.) Yard Refuse: Bundled brush (length not to exceed 4 feet), bagged leaves and grass clippings shall be picked up only on special designated days.

- (5.) Service Charge: When it becomes necessary for the Town employees to pick up any appliance item there will be a charge of \$35.00 per item. These items must be located at curb side for pick up. Appliances are considered to be all of the following, water heaters, washers, dryers, stoves, refrigerators, freezers and electronic equipment. Occupants are also responsible for disposing of these items: automobile parts, bicycles, sheds, exercise equipment, motorcycles, fallen trees, metal items, and all types of building supplies. Pick up of tires shall be charged \$4, or with rim the charge shall be \$6.

Section 11.4: Recycling

Items to include in recycling are metal, glass and plastic food, beverage and soap containers, (no broken glass or oil containers). Newspapers shall be placed in paper bags or tied securely and placed next-to-the receptacle. A yellow receptacle has been provided and shall be placed within two feet of the curb line on the regular scheduled collection day by 6:30 AM and the empty receptacle shall be removed prior to sunrise the day following the scheduled collection day. Recyclables are not collected on, New Year's Day, Memorial Day, Independence Day, Thanksgiving Day, Labor Day, and Christmas Day.

Section 11.5: Penalty

Any person violating the provisions of the Article shall be guilty of an, infraction and shall, upon conviction, be fined not more than one hundred dollars (\$100.00) for the first offense. Repeat offenders may be assessed a fine not to exceed two hundred dollars (\$200.00) for each repeat offense.

ARTICLE 12 – ANTI-CORRUPTION ACT OF 2006

Section 12.1: Anti-Corruption Act

A. No elected or appointed official shall knowingly or willfully violate or cause to be violated any provision of the Charter of the Town of Forest Heights or any of the ordinances of the Town of Forest Heights.

B. The Mayor shall see that this article is enforced; and, a majority vote of the full Town Council, less any vacancies then existing on the council, shall be required to determine that a municipal infraction citation shall be issued and prosecuted against the Mayor.

C. Violation of this article shall be a municipal infraction unless the violation is otherwise declared to be a felony or a misdemeanor by State or municipal law.

D. No Town official shall interfere or tamper with or allow to be interfered or tampered with the proper processing of ballots or any election data.

E. No contract shall be entered into with any entity or person having an established personal

relationship with any sitting town official. Furthermore, no contract shall be entered into with any entity whose principal has an established personal relationship with any sitting Town official. The limitations of this subsection may be waived by a supermajority vote of the full council held during a public meeting. The term “established personal relationship” means related by blood, marriage, cohabitation, employment, or business partnership. For the purposes of this section a supermajority vote shall mean five (5) or more votes.

ARTICLE 13 - NUISANCES, MORALS AND CONDUCT¹³

Section 13.1: Public Playgrounds and Parks

It shall be unlawful for any person or persons to loiter, assemble or use any public park and/or recreation area in the Town between the hours of 9:00 p.m. and 8:00 a.m. local time, or as otherwise posted. Exceptions to this Section are permissible only by written permit properly dated and approved by the Town Council.

Section 13.2: Defacing or Damaging Plantings

It shall be unlawful for any person or persons to purposely damage or deface by cutting, breaking, or otherwise damaging any tree, shrub or planting along the sidewalks, the public rights-of-way or other public areas within the Town.

Section 13.3: Penalty

Unless otherwise stated herein, any person violating the provisions of this Article shall be guilty of an infraction and shall, upon conviction, be fined not more than one hundred dollars (\$100.00) for the first offense. Repeat offenders may be assessed a fine not to exceed \$200.00 for each repeat offense.

Section 13.4: Obscene Performances In Licensed Establishments

It shall be unlawful for any of the following to occur or to take place on the premises of any restaurant, bar, tavern, club, cabaret, or any other establishment wherein alcoholic beverages and/or intoxicating liquors are offered for sale:

A. With respect to attire and conduct:

(1.) Employment or use of any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

¹³ Approved January 16, 1980 • Effective January 16, 1980.

(2.) Employment or use of the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in paragraph (a) above.

(3.) Encouragement of or permitting any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.

(4.) Permitting any employee or person to wear or use any device or covering exposed to view, which stimulates the breast, genitals, anus, pubic hair or any portion thereof.

B. With respect to entertainment provided:

(1) Permitting any person to perform acts of or acts which stimulate:

(I.) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(II.) The touching, caressing or fondling of the breast, buttocks, anus or genitals.

(III.) The displaying of the pubic hair, anus, vulva or genitals.

(2) Permitting any person to use artificial devices or inanimate objects to depict, perform or stimulate any activity prohibited by subparagraph (a) above.

(3.) Exhibiting or showing any motion picture film, still picture, electronic reproduction or other visual reproduction depicting:

(I.) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(II.) Any person being touched, caressed, or fondled on the breast, buttocks, anus or genitals.

(III.) Scenes wherein a person displays the vulva and anus or the genitals.

(IV.) Scenes wherein artificial devices or inanimate objects are employed to depict or drawings are employed to portray, any of the prohibited activities described above.

(4.) Permitting any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus.

(5.) No provision of this section shall be deemed to permit any conduct or form of attire prohibited by any other provision of statute, ordinance, rule or regulation in the Town of Forest Heights.

C. Any person violating the provisions of this Section shall be guilty of an infraction and shall, upon conviction, be fined not more than one hundred dollars (\$100.00) for the first offense. Repeat offenders may be assessed a fine not to exceed \$200.00 for each repeat offense.

Section 13.5: Obscene Performances in the Town of Forest Heights, Maryland

A. Any person who as actor, dancer, owner, manager, producer, director or agent or in any other capacity, prepares, gives, directs, presents, performs or participates in any obscene performance, exhibition, drama, play, show, dancing exhibition, tableau, or entertainment in which live persons perform or participate in an obscene manner in the presence of any other person or persons who have paid a consideration of any types whatsoever to observe the exhibition or performance; and

B. Every owner, lessee, or manager of any theatre, garden, building, room, place or structure, who knowingly permits the same to be used for the purpose of any such exhibition as enumerated in subsection A hereof, or who assents to its use for any such purpose shall be guilty of an infraction and shall be fined in the amount not to exceed one hundred dollars (\$100.00) for the first offense. Repeat offenders may be assessed a fine not to exceed \$200.00 for each repeat offense.

C. For the purpose of this Section, an obscene performance, exhibition, drama, play, show, dancing exhibition, tableau or entertainment shall be defined as one in which the dominant theme of the same, when taken as a whole, appeals to prurient interest in sex of the audience, affronts contemporary community standards relating to representation of sexual matters and is utterly without redeeming social value.

Section 13.6: Hazardous Conduct

It shall be unlawful and deemed hazardous conduct for any person without proper state licensing and/or a medical prescription to possess, consume, or distribute any drug or drug paraphernalia within the Town of Forest Heights. Any person arrested within the Town of Forest Heights for any drug related offense under this section deemed a misdemeanor or felony by the State of Maryland shall be guilty of a hazardous conduct municipal infraction and shall be fined \$1,000.00. In the case of a minor, said minor child's parent(s) or guardian(s) shall be directly liable for satisfying the applicable fine.

ARTICLE 14 – TOWN PUBLIC ETHICS ORDINANCE¹⁴

SECTION 14.1: Applicability.

The provisions of this Article apply to all Town officials and employees.

¹⁴Approved December 15, 2004 - Effective January 14, 2005; Entire Article Amended December 15, 2004

SECTION 14.2: Purpose and Policy.

(a) The Mayor and Council recognize that our system of representative government heavily relies upon the continued maintenance of personal and professional integrity by each of its officers and employees and the right of the people of this municipality to be assured that the impartiality and independent judgment of its public officials and employees will be secured.

(b) For the purpose of guarding against improper influence, the Mayor and Council enacts this Article to require Town officials and employees to disclose their financial affairs and to set minimum standards for their conduct of Town business.

SECTION 14.3: Administration.

(a) *Interpretation.* The Town Attorney shall be responsible for interpreting this Article and advising persons subject to its application.

(b) *Ethics Records Custodian.* The Town Clerk shall be the custodian of all forms, disclosure statements, lobbying registration statements, advisory opinions and complaints submitted by any person in accordance with this Article. The Town Clerk shall retain documents filed with it as public records for at least four years from the date of receipt. Requests to inspect or copy these records should be made to the Town Clerk in accordance with the Maryland Public Information Act, and shall be available for public inspection during normal business hours.

(c) *Advisory Opinions.* Any official or employee subject to the provisions of this Article may request the Town Attorney for an advisory opinion concerning the application of this Article. The Town Attorney shall respond promptly to these requests, providing interpretations of this Article based on the facts provided or reasonably available to him. Copies of advisory opinions, with the identity deleted, shall be made available to the public in accordance with the Maryland Public Information Act.

(d) *Complaints.* Any person may file with the Town Attorney a complaint alleging a violation of any of the provisions of this Article. All complaints shall be in writing and given under oath. If, upon review and investigation, the Town Attorney determines that there are insufficient facts upon which to base a determination of a violation, he or she may dismiss the complaint and so notify the complainant in writing. If there is a reasonable basis for believing a violation has occurred, the Town Attorney shall notify the alleged violator of the nature and circumstances of the alleged violation in writing and shall advise the person of the steps necessary to be taken to comply with the provisions of this Article. In the case of a complaint regarding the Mayor, the Town Attorney shall notify members of the Town Council regarding the nature of the complaint and ultimate disposition of the case. After a complaint is filed and until a final determination by the Town Attorney, all actions regarding a complaint shall be treated confidentially.

(e) *Limitation on actions.* No complaint shall be processed if filed more than ninety (90) days

after the date a violation is alleged to have occurred. A complaint may only be filed thereafter if it is filed within ninety (90) days after the alleged violation is discovered, or would have been discovered in the exercise of reasonable diligence on the part of the complainant, whichever such period is shorter.

(f) *Alternative Procedure.* In addition to the above described complaint procedure, any person may, if they so desire, notify the State's Attorney, Attorney General of Maryland or Special State Prosecutor concerning an alleged violation of any of the provisions of this Article.

SECTION 14.4: Conflicts of Interest.

Town officials and employees who are subject to this Article shall not:

(a) Participate on behalf of the Town in any matter which would, to their knowledge, have a direct financial impact, as distinguished from the public generally, on them, their spouse, parents, siblings, children, or a business entity with which they are affiliated either by ownership in whole or in part, as an agent or as a representative.

(b) Hold or acquire an interest of either \$1,000.00 or 5% or greater in a business entity that has or is negotiating a contract of \$1,500.00 or more with Town; or, is regulated by the Town or an agency of the Town, except as exempted by the Town Council pursuant to Section 14.8 of this Article.

(c) Hold any outside employment relationship that would impair their impartiality or independence of judgment. However, elected officials may continue outside employment with any employer that is doing business with the Town, is seeking or may potentially seek to do business with the Town, would be regulated by the Town or regulate the Town in the case of another government agency, provided that:

(1) the official discloses the employment relationship in a statement to the Town Clerk upon filing for nomination for elective office (or upon election if a write-in candidate) or upon commencement of employment, whichever is later, or upon the official's employer beginning a new business relationship with the Town, and

(2) recuse himself or herself from any discussion or voting on any matter related to or affected by that employment.

(d) Represent any party, for a fee or any other form of compensation before any Town body.

(e) Within one year following termination or completion of Town service, act as a compensated representative of another in connection with any specific matter in which he or she participated substantially as a Town official or employee.

(f) Solicit any gift or accept gifts of greater than \$25.00 in value, from any person that has or is

negotiating a contract with the Town; or, is regulated by the Town or an agency of the Town, except when these gifts would not present a conflict of interest as determined by the Town Council. Except as enumerated herein, for purposes of this Section, a gift includes the transfer of anything of value regardless of form without adequate and lawful consideration. For the purposes of this Section, a gift does not include ceremonial awards of nominal value; reasonable expenses for food, travel or lodging when an official or employee is scheduled to participate in training activities as a speaker or panelist; gifts of persons related by blood or marriage; or free admission to charitable, cultural or political events, if the purpose of such a gift or admission is a courtesy extended to the office by the event organizer.

(g) Use the prestige of their office for their own benefit or that of another. The performance of usual and customary constituent services, without additional compensation, does not constitute the use of the prestige of office for private gain or that of another.

(h) Use confidential information acquired in their official Town position for their own benefit or that of another. Where the Town Charter and Annotated Code of Maryland, State Government Article, Section 10-501 et seq., (Open Meetings Act) permits closed sessions, any item of business discussed by the Town Council in executive session is considered confidential information, except:

(1) Any information that the Council agrees to release to the public that is not otherwise prohibited from public release under Maryland law, and

(2) Any information that is already available to the public under the Annotated Code of Maryland, State Government Article, Section 10-611 et seq. (Public Information Act).

Any confidential information revealed by an employee or Town official that was an item of business which served as the basis cited for conducting a closed session will be rebuttably presumed to have been used for their benefit or that of another.

(i) Any conflict of interest falling under Section 33–71, (conflicts of interest) of the Town Charter, shall also be a violation of this ordinance, and be subject to the penalties herein.

SECTION 14.5: Financial Disclosure.

(a) The Town officials and employees listed in Section 14.1 of this Article shall file annually not later than the third Wednesday in April of each calendar year during which they hold office, a statement with the Town Clerk disclosing any gifts received during the preceding calendar year from any person having a contract with the Town or any person regulated by their agency. The statement shall identify the donor of the gift and its approximate retail value at the time of receipt. Notwithstanding the enumerated exceptions in paragraph 14.4 (f), a town official or employee accepting such gifts, shall list such excepted gifts or admissions in the financial disclosure statement required under this section.

(b) Candidates for elective offices listed in Section 14.1 of this Article shall file statements consistent with the requirements of Subsection (a) of this Section. These statements must be filed prior to the elected candidate being sworn into office. This section shall apply to candidates elected in the general election as well as candidates elected by the Town Council to fill a vacancy in the office of Mayor or on the Council.

(c) All Town officials and employees or candidates for elective office to positions subject to this Section shall file a statement with the Town Clerk disclosing any interest or employment the holding of which would require disqualification from participation pursuant to Section 14.4(b) of this chapter, sufficiently in advance of any anticipated action to allow adequate disclosure to the public.

SECTION 14.6: Lobbying Disclosure.

(a) Any person who personally appears before any Town official or employee with the intent to influence that person in performance of his official duties, and who, in connection with such intent expends or reasonably expects to expend in a given calendar year in excess of \$100.00 on food entertainment or other gifts for such officials, shall file a registration statement with the Town Clerk within 5 days after first making these appearances.

(b) The registration statement shall include complete identification of the registrant and of any other person on whose behalf the registrant acts. It shall also identify the subject matter on which the registrant proposed to make these appearances, and shall cover a defined registration period not to exceed one year.

(c) Registrants under this Section shall file a report not later the third Wednesday in April, disclosing the value, date, and nature of any food, entertainment or other gift provided to a Town official or employee. When a gift or series of gifts to a single official or employee exceed \$100.00 in value, the official or employee shall also be identified.

SECTION 14.7: Discrimination against Complainant and False Statements.

(a) The Town of Forest Heights, acting through its authorized personnel, shall not discharge or discriminate against or threaten to discharge or discriminate against a Town official or employee regarding compensation, terms, conditions, location or the privilege of employment with the Town because:

(1) The Town official or employee, whether acting as a complainant or on behalf of a complainant, reports or is about to report orally or in writing any alleged violation of this Article.

(2) The Town official or employee, whether acting as a complainant or on behalf of a complainant, participates in an investigation, or inquiry held by the Town Attorney in conjunction with a complaint filed under this Article, or any related court action.

(b) This section shall not apply to a Town official or employee who knowingly files a false complaint or makes a false statement to the Town Attorney with respect to an alleged violation of this Article.

(c) The Town of Forest Heights shall not discriminate or retaliate against any person filing a complaint with respect to Town services, regulatory matters, or other benefits generally provided to Town residents and property owners.

SECTION 14.8: Exemptions and Modifications.

The Town Council may grant exemptions and modifications to the provisions of Sections 14.4 and 14.5 of this Article if it determines that application of those provisions would:

- (a) Constitute an unreasonable invasion of privacy;
- (b) Significantly reduce the availability of qualified persons for public service; and
- (c) Not to be required to preserve the purposes of this Article.

Council members shall recuse themselves in any Town Council deliberation on an exemption that would benefit themselves.

SECTION 14.9: Enforcement.

(a) Upon direction from the Town Council, the Town Attorney may file a petition for injunctive or other relief in the Circuit Court for the County, or any other court having proper venue for the purpose of requiring compliance with the provisions of this Article. The Town Attorney may seek:

- (1) To have the court issue an order to cease and desist from the violation;
- (2) To have the court void an official action taken by an official or employee with a conflict of interest prohibited by this Article when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within 120 days of the occurrence of the official action, if the court deems voiding the action to be in the best interests of the public; provided, however, that the court may not void any official action appropriating public funds, levying taxes, or providing of the issuance of bonds, notes or other evidence of public obligation.

(b) Violation of this Article shall be a misdemeanor subject to the maximum fine or maximum period of imprisonment or both a fine and imprisonment up to and including the maximum penalty permitted by Charter and awarded by the court in its discretion.

(c) Town employees found to be in violation of this Article may be subject to personnel actions, including suspension or dismissal.

SECTION 14.10: RESERVED

SECTION 14.11: Short Title

This ordinance shall be known as the Town Public Ethics Ordinance or Article 14 and may be cited as such.

ARTICLE 15 - PARKING AND TRAFFIC¹⁵

Section 15.1: Purpose.

The provisions of this Article are intended to be in addition to and supplementary to the current provisions of the Transportation Article of the Annotated Code of Maryland, as amended, and in accordance with authority specifically granted by said Article of the State Code.

Section 15.2: Definitions.

The following words and phrases when used in this Article, and for the purpose of this Article, have the meanings respectively ascribed to them in this section:

A. Abandoned vehicle: unless otherwise stated elsewhere in this article means:

(1.) Any motor vehicle, trailer or semi-trailer that:

(I) is inoperable and left unattended on public property for more than 72 hours,

(II) has remained illegally on public property for more than 72 hours; or,

(III) has remained on public property for more than 72 hours and:

(A.) is not displaying currently valid registration plates; or,

(B.) is displaying registration plates of another vehicle.

(IV.) has remained on private property without the occupant's or the owner's consent for more than 72 hours and:

(A.) is inoperable in that one or more of its major mechanical components,

¹⁵Approved October 21, 2009 -Effective October 21, 2009.

including but not limited to the engine, transmission, drive train and wheels, is missing or not functional, unless such vehicle is kept in an enclosed building as permitted by the county's zoning regulations;

(B.) is not displaying currently valid registration plates; or,

(C.) is displaying registration plates of another vehicle.

(2.) Any motor vehicle, trailer or semi-trailer that has otherwise been expressly presumed or declared to be an abandoned vehicle by any other provision of this Article.

(3.) Any motor vehicle, trailer or semi-trailer that is partially dismantled, wrecked or any other junked motor vehicle shall be presumed to have been or be abandoned.

B. Commercial vehicle: means any motor vehicle, trailer, or semi-trailer, including but not limited to stake platform trucks, cranes and tow trucks, used for carrying freight, merchandise, passengers or tools of a trade for compensation or in furtherance of any commercial enterprise, that:

(1.) has a manufacturer's gross vehicle weight specification exceeding three thousand (3,000) pounds;

(2.) contains advertising, except that a firm name or similar designation in lettering not exceeding four (4) inches in height shall not be deemed to be advertising;

(3.) exceeds three-hundred (300) cubic feet of load space; or

(4.) has dual rear wheels.

C. Motor Vehicle: means a vehicle as defined in Section 11-135 of the Transportation Article of the Annotated Code of Maryland, as amended.

D. Recreational vehicle: means a vehicle originally sold to a consumer by a manufacturer or dealer for recreational purposes which are self-propelled or capable of being towed by a motor vehicle or any vehicle which provides facilities for temporary camping or sleeping or both, including a unit designed to be carried by an open pickup truck. The term "recreational vehicle" includes camping trailer, travel trailer, camper, motor home, truck camper, boat, boat trailer, and water craft. Excluded from this definition are pickup trucks with caps over the bed.

C. Unregistered trailer: means any trailer of any type or size designed for use upon a street, road or highway which, is not registered with the appropriate motor vehicle agency of the State of Maryland or another state, and displaying evidence of such current registration.

- D. Vehicle: means any device as defined in Section 11-176 of the Transportation Article of the Annotated Code of Maryland, as amended.
- E. Except when stated otherwise, whenever any words and phrases used herein are not defined in this Article but are defined in the state laws regulating the operation of vehicles, any such definition therein shall be deemed to apply to such words and phrases used in this Article.

Section 15.3: Authority to Erect Signs Regulating Parking and Traffic.

- A. Whenever in the judgment of the Mayor of the Town of Forest Heights, it is necessary for the safety and control of vehicle or pedestrian traffic or for the regulation of the use of parking areas, the Mayor is authorized to erect or cause to be erected "Stop," "No Parking," "Speed Limit," "One Way," or any other traffic control devices designed to control, regulate, warn or guide traffic or limit parking on public streets, highways, or other areas in the Town, provided that no such signs or devices shall be erected or posted for other than temporary and emergency purposes for a period not to exceed sixty (60) days duration without the final approval of the Town Council.
- B. Such final approval as stated in Subsection A shall be made by resolution of the Council, and a statement of said final decision to erect or post a specific traffic control device shall be placed in the list described in Subsection D.
- C. It shall be the duty of all persons to observe such signs or devices, and, any person failing to observe any such sign or device shall be in violation of this Article.
- D. A list and description of such posted signs or devices shall be available for public inspection at the office of the Forest Heights Police Department.
- E. All traffic control signs, signals, and devices shall conform to the specifications approved by the State Highway Administration and published in the latest edition of the Manual on Uniform Traffic Control Devices.
- F. Unless otherwise permitted by state or county law, no such signs or traffic control devices shall be erected or posted on a County or State highway without the consent of the appropriate State or County authority having possession, title or responsibility for the maintenance of said highway.

Section 15.3.2: Parking and Truck Restrictions.

Except as necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or a traffic control device, no person shall stop, stand or park any vehicle as stated below in any of the following places within the Town:

- A. Within 60 feet of any designated school crosswalk between the hours of 8:00 a.m. and 5:00 p.m.;
- B. Within 30 feet upon the approach to any flashing signal, stop sign, yield sign, or traffic control signal located at the side of the roadway;
- C. In such a position that either wheel on the side of the vehicle closest to the curb or edge of the street is more than twelve (12) inches from said curb or edge;
- D. In front of, on, or in such a position as to obstruct all free vehicular access to any public or private driveway without permission of the owner or in such a position as to obstruct a sidewalk;
- E. On the roadway side of any vehicle stopped or parked on the edge or at the curb of a street;
- F. On any street in such a position or under such conditions as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic;
- G. Within any intersection;
- H. Within fifteen (15) feet of a fire hydrant;
- I. Within fifteen (15) feet of a pedestrian crosswalk;
- J. On any street or part thereof where an official sign or device has been placed showing that parking is prohibited because of an emergency;
- K. Upon any street, avenue, road, highway or alley or public space, no person shall park or allow to stand any vehicle for a continuous period longer than 72 hours except when specifically authorized by the Forest Heights Police Department. Any such vehicle allowed to stand or park in excess of the prescribed period on said public property shall be presumed to be abandoned and may be impounded pursuant to Section 15.7;
- L. On the side of any street opposite the street light poles during a snow created state of emergency as declared by Prince George's County pursuant to effective snow emergency plans. Vehicles so parked may be impounded pursuant to Section 15.7;
- M. On any street or any public way in the Town no truck or commercial vehicle exceeding 3,000 pounds in net capacity, except while unloading or loading, rendering a service to residents, or where permission to park has been specifically authorized by the Forest Heights Police Department;
- N. On town maintained streets or highways, Trucks and commercial vehicles over 2½ tons gross weight are prohibited where so posted from using said streets or highways as throughways;

- O. At any place where an official sign or traffic control device prohibits parking or standing;
- P. On any private property once the operator has been requested by the property owner, his tenant, or agent to remove the vehicle or where such property is posted with no parking or no trespassing signs.
- Q. Upon the highways, roads, streets or other public property, no person shall park any unregistered motor vehicle or unregistered trailer or boat, with or without a trailer, at any time. Any such vehicle shall be presumed to be abandoned and may be impounded pursuant to Section 15.7.
- R. Upon any parking space on public or private property designated as parking reserved for the physically handicapped with the proper signs posted in conformance with the most recent edition of the State of Maryland Manual on Uniform Traffic Control Devices for Streets and Highways, unless said vehicle displays a special handicapped registration plate or permit issued by the State.
- S. On any public property which lies between the curb line and the private property line or on any public easement abutting the paved travelway, no person shall park a vehicle including a motorcycle, except with permission of the Forest Heights Police Chief or his designee.
- T. Within the front yard of any residential lot extending from the building to the curb line no motor vehicle of any type or boat, motor home, dune buggy, dirt bike, motor cycle, or van shall be parked on an unpaved area thereon.
- U. On any private property, should any of the following conditions exist, no motor vehicle or trailer of any type shall remain for more than ten (10) days, with the exception of one such vehicle:
 - (1) Failing to display valid and current registration plates and sticker on a vehicle or trailer,
 - (2) Displaying on a vehicle, registration plates registered to another vehicle or trailer,
 - (3) Keeping an inoperable, dismantled or wrecked vehicle such that, one or more major mechanical components including but not limited to the engine, transmission, drive train, or wheels, does not allow for proper operation of the vehicle upon the streets and highways, unless the vehicle is kept in an enclosed building or the vehicle is completely covered with a tarpaulin, except that registration plates are kept exposed, or
 - (4) Notwithstanding the aforesaid exception regarding one vehicle per parcel or lot, no motor vehicle whatsoever shall be parked on an unpaved area of a residential

lot that is one (1) acre or less in size.

V. On any private property at any time, no motor vehicle shall remain thereon should any of the following conditions exist:

- (1) An environmental hazard caused from leaking oil, gas, antifreeze, or transmission fluid;
- (2) A potential health hazard or public nuisance due to a vehicle being infested or inhabited by wild animals, rodents, vermin or reptiles; or
- (3) A potential fire hazard as determined by the fire department, a Police Officer or a Code Enforcement Official.

Section 15.3.2(A): Off street parking limited to driveways.

Parking on driveways and other surfaced parking areas is limited to the area and dimensions depicted on the county permit and any approved site plan for the subject property, and any Town of Forest Heights required permit. Unless the Prince George's County Code states otherwise, an additional paved or surfaced area not to exceed five hundred (500) square feet is allowed by the Town to be placed on a lot without a permit issued by the Town; however, that additional paved or surfaced area as permitted herein shall not be used for parking vehicles.

Section 15.3.3: Parking of commercial or recreational vehicles, trailers, and boats, with or without trailers, on streets prohibited without permit.

(A.) No person shall park any commercial vehicle, recreational vehicle or registered trailer including but not limited to a camper trailer, boat trailer, or boat, with or without a trailer, upon any highway, road, street, public right-of-way or other public property anywhere in the Town within any one (1) year period (365 days) of time without first obtaining a temporary parking permit from the Forest Heights Police Department.

(B.) A temporary parking permit may be issued for a fifteen (15) day maximum period with one (1) fifteen (15) day renewal. The temporary parking permit fee shall be one-hundred dollars (\$100) with a renewal fee of fifty dollars (\$50) and may be established from time to time by resolution of the Council.

Section 15.4: Closed Streets.

It shall be unlawful for any person operating or in control of any vehicle to drive said vehicle into or across any public street at which there is an official barrier, sign, or authorized person designating that the street is closed. It shall be unlawful to remove any such official barrier or sign without proper authority.

Section 15.5: Speed Prohibited.

A. No motor vehicle shall be operated upon any street, road or alley within the corporate limits of the Town, except Indian Head Highway, the Capital Beltway and Livingston Road, at a speed greater than twenty (20) miles per hour under any circumstances or conditions, except for emergency vehicles as permitted under the provisions of the Maryland Transportation Article, and the Motor Vehicle laws of Maryland.

B. No motor vehicle shall be operated at a speed greater than fifteen (15) miles per hour in school or playground areas or zones designated and posted by the Town Council pursuant to Section 15.3 and State law.

Section 15.6: Speed Monitoring Systems.¹⁶

(A) In this Section, the following words have the meanings indicated.

- (1) “Owner” means the registered owner of a motor vehicle or a lessee of a motor vehicle under a lease of 6 months or more, except that “owner” does not include:
 - (a) A motor vehicle rental or leasing company; or
 - (b) A holder of a special registration plate issued under Md. Code Ann., Transp. Art., Title 13, Subtitle 9, Part III.
- (2) “Department” means the Forest Heights Police Department.
- (3) “Recorded image” means an image recorded by a speed monitoring system on a photograph, a microphotograph, an electronic image, a videotape, or any other medium, and showing:
 - (a) The rear of a motor vehicle;
 - (b) At least two time-stamped images of the motor vehicle that include the same stationary object near the motor vehicle; and
 - (c) On at least one image or portion of tape, a clear and legible identification of the entire registration plate number of the motor vehicle.
- (4) “Speed monitoring system” means a device with one or more motor vehicle sensors producing recorded images of motor vehicles traveling at speeds at least 12 miles per hour above the posted speed limit.

¹⁶ Approved October 21, 2009 - Effective October 21, 2009

- (5) “Speed monitoring system operator” means a representative of the Department or a designated person that operates a speed monitoring system.
- (B) (1) The Mayor and Council, by resolution, following reasonable notice to the public and a public hearing, may establish a school zone on any road under the Town’s jurisdiction or with permission of the State Highway Administration on any state road within one-half mile of a school and, for any school zone so established, shall set a maximum speed limit, provided that the designation of such school zone and the maximum speed limit set for such zone shall not become effective until the Town installs signs designating the school zone and indicating the maximum speed limit applicable in the school zone located in the Town of Forest Heights.
- (2) The Town may install or erect traffic control devices in the designated school zone in addition to the signs required by subsection (B)(1), including timed flashing warning lights and including a speed monitoring system as defined in subsection (A) of this section.
- (C) Before activating an unmanned stationary speed monitoring system, the Mayor or her designee shall:
- (1) Publish notice of the location of the speed monitoring system on the Town’s website and in a newspaper of general circulation in the Town; and
- (2) Ensure that each sign that designates a school zone indicates that a speed monitoring system is in use in the school zone.
- (D) A speed monitoring system in a school zone may operate only Monday through Friday between 6:00 a.m. and 8:00 p.m.
- (E) A speed monitoring system operator shall:
- (1) Complete training by a manufacturer of speed monitoring systems in the procedures for setting up and operating the speed monitoring system.
- (2) Fill out and sign a daily set-up log for a speed monitoring system that states that the speed monitoring system operator successfully performed the manufacturer-specified self-test of the speed monitoring system prior to producing a recorded image.
- (3) The daily set-up log required by paragraph (2) of this subsection shall be kept on file and shall be admitted as evidence in any court proceeding for a violation of this Section.
- (F) A speed monitoring system manufacturer shall issue a signed certificate to the speed

monitoring system operator on completion of the training, which certificate shall be admitted as evidence in any court proceeding for a violation of this Section.

- (G) (1) A speed monitoring system shall undergo an annual calibration check performed by an independent calibration laboratory.
- (2) The independent calibration laboratory shall issue a signed certificate of calibration after the annual calibration check, which shall be kept on file and shall be admitted as evidence in any court proceeding for a violation of this Section.
- (H) (1) Unless a driver of a motor vehicle received a citation from a police officer at the time of a violation, the owner or, in accordance with subsection (K)(4) of this Section, the driver of a motor vehicle is subject to a civil penalty if the motor vehicle is recorded by a speed monitoring system while being operated at least twelve miles per hour above the posted speed limit.
- (2) The penalty for a violation established by a speed monitoring system under this subsection shall be forty dollars (\$40).
- (I) (1) Subject to the provisions of paragraphs (2) through (4) of this subsection, the department shall mail or cause to be mailed to an owner liable under subsection (H) of this section a citation, upon a form to be prescribed by the District Court of Maryland, that shall include the information required by of Md. Code. Ann., Transp. Art., § 21-809.
- (2) The Department may mail a warning notice instead of a citation to the owner liable under subsection (H) of this section and, for a period of thirty (30) days after the Town installs the first speed monitoring system, the Department shall mail only a warning notice and may not issue a citation.
- (3) Except as provided in subsection (K)(4) of this Section, the Town may not mail a citation to a person who is not an owner.
- (4) Except as provided in subsection (K)(4) of this section, a citation issued under this section shall be mailed no later than 2 weeks after the alleged violation if the vehicle is registered in this state, and 30 days after the alleged violation if the vehicle is registered in another state.
- (5) A person who receives a citation under paragraph (1) of this subsection may:
 - (A) Pay the civil penalty, in accordance with instructions on the citation, directly to the Town; or
 - (B) Elect to stand trial in the District Court for the alleged violation.

- (J) (1) A certificate alleging that the violation of this section occurred and satisfying the requirements of Md. Code. Ann., Transp. Art., § 21-809(E)(1) shall be evidence of the facts contained in the certificate and shall be admissible in a proceeding alleging a violation under this Section without the presence or testimony of the speed monitoring system operator.
- (2) If a person who received a citation under subsection (H) of this Section desires the speed monitoring system operator to be present and testify at trial, the person shall notify the court and the Town in writing no later than 20 days before trial.
- (3) Adjudication of liability shall be based on a preponderance of evidence.
- (K) (1) Pursuant to Md. Code Ann., Transp. Art., Section 21-809, the District Court may consider in defense of a violation:
 - (A) Subject to subparagraph (K)(2) of this subsection, that the motor vehicle or the registration plates of the motor vehicle were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation;
 - (B) Subject to subparagraph (K)(3) of this subsection, evidence that the person named in the citation was not operating the vehicle at the time of the violation; and
 - (C) Any other issues and evidence that the District Court deems pertinent.
- (2) To demonstrate that the motor vehicle or the registration plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the owner shall submit proof that a police report regarding the stolen motor vehicle or registration plates was filed in a timely manner.
- (3) To satisfy the evidentiary burden under subparagraph (K)(1)(b) of this subsection, the person named in the citation shall provide to the District Court a letter, sworn to or affirmed by the person and mailed by certified mail, return receipt requested, that:
 - (A) States that the person named in the citation was not operating the vehicle at the time of the violation; and
 - (B) Includes any other corroborating evidence.
- (4) (A) If the District Court finds that the person named in the citation was not

operating the vehicle at the time of the violation or receives evidence under subparagraph (K)(3) of this subsection identifying the person driving the vehicle at the time of the violation, the clerk of the court shall provide to the department a copy of any evidence substantiating who was operating the vehicle at the time of the violation.

- (B) On receipt of substantiating evidence from the district court under subparagraph (4) of this paragraph, the Department may issue a citation as provided in subsection (I) of this section to the person who the evidence indicates was operating the vehicle at the time of the violation.
- (C) A citation issued under subparagraph (K)(4) of this paragraph shall be mailed no later than 2 weeks after receipt of the evidence from the District Court.
- (L) Pursuant to Md. Code Ann., Transp. Art., Section 21-108, if a person liable under this section does not pay the civil penalty or contest the violation, the Maryland Motor Vehicle Administration:
 - (1) May refuse to register or reregister the motor vehicle cited for the violation; or
 - (2) May suspend the registration of the motor vehicle cited for the violation.
- (M) Pursuant to Md. Code Ann., Transp. Art., Section 21-108, a violation for which a civil penalty is imposed under this Section:
 - (1) Is not a moving violation for the purpose of assessing points under Md. Code Ann., Transp. Art., § 16-402;
 - (2) May not be recorded by the Motor Vehicle Administration on the driving record of the owner or driver of the vehicle;
 - (3) May be treated as a parking violation for purposes of Md. Code. Ann., Transp. Art., § 26-305; and
 - (4) May not be considered in the provision of motor vehicle insurance coverage.
- (N) Pursuant to state law and this Section, the Department or its designee shall administer and process civil citations issued under this Section in coordination with the District Court.
- (O) An owner for whom the Maryland Motor Vehicle administration refuses to register, or reregister a vehicle, or who receives a suspended registration pursuant to subsection (I) of this Section but who subsequently pays the required fines, fees and penalties shall further remit to the Town a release fee of \$35 in addition to any release fees that may be collected by the Maryland Motor Vehicle Administration prior to release of said

restriction. The release fee established by this subsection may be modified from time to time by resolution of the Mayor and Council.

- (P) Any person who pays the civil penalty assessed under this section shall further pay a returned check fee to the Town should the check be returned for lack of sufficient funds. The returned check fee established by this subsection may be modified from time to time by resolution of the mayor and council.

Section 15.7: Towing and impounding, right to hearing.

- (A.) The sworn officers of the Forest Heights Police Department are authorized to remove and impound any vehicle from the public streets, public property or public right-of-ways within the Town that is the subject of a violation of this Article and has been issued an official traffic citation. In addition to being cited, a vehicle may be towed and impounded under any of the following circumstances:
- (1.) When a vehicle is so disabled or wrecked as to be incapable of being safely driven,
 - (2.) When the same vehicle has been subjected to two (2) or more unpaid parking citations issued by the Town,
 - (3.) When the person in charge of the vehicle is incapacitated, incarcerated, unlicensed or absent, thereby being unable to provide for its custody or removal,
 - (4.) When a vehicle is parked illegally so as to constitute a hazard or obstruction to traffic,
 - (5.) When a vehicle is left unattended on a public street or public right-of-way within an area duly posted with signage so as to prohibit parking during an emergency or special activity declared by the Council or the Mayor as permitted by law,
 - (6.) When a vehicle remains on a public street or public right-of-way in violation of this Article for a continuous period exceeding seventy-two (72) hours (3 days), as described in Section 15.3.2,
 - (7.) When a vehicle is found parked in a reserved parking space such as a handicapped space or a space reserved for Town officials or law enforcement personnel,
 - (8.) When a vehicle is illegally parked in any zone or area established by law that has been limited to designated classes of vehicles or where parking is prohibited during certain hours, on designated days or at all times, and where such vehicle is interfering with the proper and intended use of such zones or areas,

- (9.) When a police officer has probable cause to believe that the vehicle is stolen or contains evidence of a felony, or
- (10.) As expressly required by any other provision of this Article or as defined in Subsection 15.2.A, defining an abandoned vehicle.
- (B.) Whenever a vehicle has been towed and impounded, the Forest Heights Police Department shall notify the registered owner of any action taken and substantially follow the procedures regarding the storage and disposal of abandoned vehicles found in subtitle 2 of Title 25 of the Transportation Article of the State Code.
- (C.) An owner of a vehicle aggrieved by any action authorized or described by this section shall be entitled to an informal hearing before the Mayor or a hearing officer appointed by the Mayor with the consent of Council. Should the Mayor find that the Forest Heights Police Department mistakenly or otherwise wrongfully authorized the towing, impoundment, or storage of a vehicle, the Town shall reimburse the owner of the vehicle for all reasonable towing and storage costs incurred by the owner as a result of the mistaken or wrongful action. The Mayor shall make the final decision of the Town based on recommendations from the hearing officer, if so appointed to hear such case. An appeal of the Mayor's decision shall be provided to the Maryland Tax Court as permitted by statute and the rules of procedure governing said tax court. This subsection and the administrative remedies described herein shall only apply to disputes and requests for refunds regarding towing and impounding fees collected by the Town or its agent when enforcing this Article.

Section 15.8: Obstructions to Vision.

- (A.) No property owner within the Town shall be permitted to create a traffic hazard by allowing to exist any trees, bushes, vines, weeds, undergrowth, loose earth or other obstruction that hinders the vision of operators of vehicles traveling upon any public street, road or highway of the Town.
- (B.) Upon finding such a condition, the Town Council or Police Department shall serve upon the owner, agent or tenant or any other person having supervision over such property, a written notice, describing the premises whereon such obstruction exists, and the particulars in which the vision of operators of vehicles is obstructed and the steps necessary to correct such conditions.
- (C.) At such time the Town Council or the Chief of Police shall issue the responsible party an order directing that corrective steps be taken within a stated period of time or such condition shall be considered in violation of this Article.

Section 15.9: Penalties

- (A.) Any violation of any section of this Article other than Section 15.3.2 (Parking and Truck Restrictions), Section 15.6 (Speed Monitoring Systems), and Section 15.7 (Towing and Impounding, Right to Hearing) shall be deemed a municipal infraction and any person shall be fined not more than five hundred dollars (\$500.00) for the first offense and not more than one thousand dollars (\$1,000) for any subsequent offense.
- (B.) Unless otherwise stated in this Article, anyone in violation of Sections 15.3.2 (Parking and Truck Restrictions), or 15.7 (Towing and Impounding) of this Article shall be deemed a misdemeanor and fined not less than five dollars (\$5.00) or not more than fifty dollars (\$50.00). The procedures for such violations shall be governed by the provisions of the Maryland Transportation Code of the Annotated Code of Maryland. In the absence of the operator of such vehicle, the registered owner of the vehicle shall be presumed to be the person receiving the citation. Unless otherwise stated in this Article, failure to pay such fine within twenty (20) days of the date of the citation shall result in the doubling of the fine. Unless otherwise stated in this Article, a person shall be assessed an additional five dollars (\$5.00) fee for any check returned unpaid to the Town or as otherwise prescribed by resolution of the Council.

ARTICLE 16 - ENVIRONMENTAL NOISE CONTROL¹⁹

Section 16.1: Definitions

For purposes of this article the following words or terms shall have the meanings ascribed to them:

- (A.) "ANSI" means American National Standards Institute or its successor bodies.
- (B.) "Construction" means any site preparation, assembly, erection, repair, alteration, or similar activity.
- (C.) "dBA" means abbreviation for the sound level to decibels determined by the A-Weighting Network of a sound level meter or by calculation from octave band or one-third octave band data.
- (D.) "Daytime Hours" means 8:00 A.M. to 10:00 P.M., local time.
- (E.) "Decibel (dB)" means a unit of measure equal to ten times the logarithm to the base ten of the ratio of a particular sound pressure squared to a standard reference pressure squared. For the purpose of this Article, 20 micropascals shall be the standard reference pressure.
- (F.) "Demolition" means any dismantling, destruction, or removal activities.

¹⁹Approved June 15, 1983

(G.) "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

(H.) "Nighttime Hours" means 10:00 P.M. to 8:00 A.M., local time.

(I.) "Noise" means the intensity, frequency, duration, and character of sound, including sound and vibration of sub-audible frequencies.

(J.) "Noise Pollution" means the presence of noise of sufficient loudness, character, and duration, which whether from a single source or multiple sources, is or may be predicted with reasonable certainty to be injurious to health or which unreasonably interferes with the proper enjoyment of property or with any lawful business or activity.

(K.) "Person" means any individual, group of individuals, firm, partnership, voluntary association or private, public, or political subdivision of the state.

(L.) "Sound Level" means, in decibels, the weighted sound pressure level measured by the use of a sound-level meter satisfying the requirements of ANSI S1.4 1971 "specifications for sound level meters". Sound level and noise level are synonymous. The weighting employed shall always be specified.

(M.) "Sound Level Meter" means an instrument, meeting ANSI S1.4 1971 "specifications for sound level meters", comprising a microphone, an amplifier, an output meter, and frequency-weighting networks) that is used for the measurement of sound pressure levels in a specified manner.

(N.) "Zoning District" means the general land use category as designated and defined in Subtitle 27, Zoning of the Prince George's County Code of Ordinances.

Section 16.2: Noise Standards

A. No person shall cause or permit the following noise/sound levels measured at the property line or reasonably adjacent thereto of the source of said noise above the maximum permissible levels in a designated zoning district. Levels exceeding the following permissible levels are prohibited.

<u>Land Use</u>	<u>Day/Night</u>	<u>Level</u>
Industrial	Daytime Hours	75 dBA
	Nighttime Hours	75 dBA
Commercial	Daytime Hours	67 dBA
	Nighttime Hours	62 dBA

Residential Daytime Hours 60 dBA
 Nighttime Hours 50 dBA

B. Exceptions to the maximum permissible noise/sound levels stated in subsection A:

- (1.) Construction or demolition activities shall be permitted during daytime hours; provided such activity shall not exceed a level of 90 dBA and after issuance of a Town Permit.
- (2.) Household tools and portable appliances in normal usage during daytime hours.
- (3.) Lawn care and snow removal equipment (daytime only) when used and maintained in accordance with the manufacturer's specifications.
- (4.) Agricultural field machinery when used and maintained in accordance with manufacturer's specifications.
- (5.) Motor vehicles on public roads.
- (6.) Boat motors during daytime hours.
- (7.) Emergency utility operations.
- (8.) Pile driving equipment during the daytime hours of 8:00 A.M. to 5:00 P.M.
- (9.) Sound not electronically amplified created by sporting, amusement, and entertainment events and other public gatherings operating according to terms and conditions of the appropriate local jurisdictional body. This includes but is not limited to athletic contests, amusement parks, carnivals, fairgrounds, sanctioned auto racing facilities, parades, and public celebrations.
- (10.) Any activity causing noise if a variance for such activity and the noise resulting there from has been obtained from the Environmental Health Administration of the Maryland Department of Health and Mental Hygiene or is being processed pursuant to the rules and regulations of that department. This exception shall apply only to the extent of any such variance so granted or being processed.
- (11.) Use of any machinery or vehicles by personnel of the State of Maryland or any political subdivision thereof.

Section 16.3: Loud and Unnecessary Noises Prohibited

It shall be unlawful for any person to make, continue or cause to be made or continued any of the following noises, which are hereby declared to be loud and unnecessary:

A. Use of vehicle horns or signals. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street, way, avenue, or alley or other public place of the town, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary or unreasonable length of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

B. Use of radios, phonographs and musical instruments.

(1.) The using of, operating of or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto.

(2.) The using of, operating of or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound between the hours of 10:00 P.M. and 8:00 A.M. In such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located.

C. Yelling, shouting, hooting, whistling and singing.

(1.) Yelling, shouting, hooting, whistling or singing on the public streets or from private property at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel or other type of residence or any persons in the vicinity.

(2.) Yelling, shouting, hooting, whistling or singing on the public streets or private property at any time or place in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle from which the noise emanates.

D. The operation of any vehicle equipped with any broadcasting, record-playing or amplification system when any music, the human voice or any other noise shall be broadcast from said vehicle.

Section 16.4: Violation a Misdemeanor

Any person violating any provision of this Article upon conviction, shall be guilty of a misdemeanor and subject to a fine not to exceed Five Hundred Dollars (\$500.00) or imprisonment not to exceed 90 days, or both fine and imprisonment. A conviction for one offense shall not be a bar to a conviction for a continuation of such offense subsequent to the first or any succeeding convictions.

Section 16.5: Manner of Enforcement; Notice of Intent to Prosecute

Violations of this Ordinance shall be prosecuted in the same manner as other misdemeanor violations of the Town's Code; provided, however, that in the event of a violation of this Article, a written notice of intent to prosecute will be provided the alleged violator not less than five (5) calendar days prior to the issuance of a misdemeanor complaint or citation. No complaint or citation shall be issued in the event the cause of the violation is removed, the condition abated or fully corrected immediately within the five (5) day warning period. In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required herein shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his last known address or at the place where the violation occurred, in which event the five (5) day period shall commence at the date of the day following the mailing of such notice. A notice of intent to prosecute shall not be required in cases where a violation or alleged violation of this Article reoccurs or is repeated by the same person within the same twelve (12) month period.

ARTICLE 17 - PUBLIC PROPERTY²⁰

Section 17.1: Purpose

This Article is intended to protect all property of the Town from damage and destruction.

Section 17.2: Damage to Town Property Prohibited

It shall be unlawful for any person or persons to purposely remove or in any manner deface any sign or to damage in any manner, any public property belonging wholly or in part to the Town.

Section 17.3: Penalty

Any violation of any section of this Article shall be deemed an infraction and any person, upon conviction, shall be fined not more than one hundred dollars (\$100.00) for the first offense. Repeat offenders may be assessed a fine not to exceed \$200.00 for each repeat offense.

ARTICLE: 18 - VEHICLE AND MOTOR CYCLE REPAIRS²¹

Section 18.1: Repairs

²⁰Approved January 16, 1980 - Effective January 16, 1980.

²¹Approved May 1, 2000 - Effective June 1, 2000.

A. An owner, occupant or tenant may perform minor repairs or maintenance to their own vehicles and motor cycles that are properly registered at the owner's, occupant's or tenant's residential address. Work shall be performed only in the owner's, occupant's or tenant's drive way, carport, or garage subject to the following conditions:

(1.) Minor repairs including changing oil (oil shall be drained into a container), oil filters, tires, spark plugs, batteries, belts and other similar incidental repairs are allowed.

(2.) Removal or replacement of transmission, engines, differential, structural body components and painting or preparation for painting must be done out of public view.

(3.) Any repairs shall occur only between 8:00 a.m. and sunset unless it can be done in the owner's or tenant's garage.

(4.) All equipment, tools, parts and supplies shall be removed from public view no later than sunset each day.

(5.) All excess new or used oil and other hazardous substances including all containers for these materials shall not be placed in household trash. Hazardous materials shall be disposed off at a lawful disposal site according to environmental laws.

(6.) Occupants are responsible for disposal of tires, auto and motor cycle parts and are not permitted to place these items in household trash.

B. A sworn officer of the Forest Heights Police Department may grant a temporary waiver of this section to allow necessary and immediate repairs for the removal of an inoperative vehicle from the premises.

Section 18.2: Penalty

Any person violating the provisions of this Article will be guilty of an infraction and will, upon conviction be fined not more than one hundred dollars (\$100.00) for the first offense. Repeat offenders will be assessed a fine not to exceed two hundred dollars (\$200.00) for each repeat offense.

ARTICLE 19 - STREETS AND SIDEWALKS²²

Section 19.1: Littering Prohibited

A. It shall be unlawful for any person or persons to throw, deposit, or allow to be deposited upon any street, gutter, walkways, Town property or play area, any leaves, grass clippings, yard waste,

²²Approved December 20, 1978 - Effective January 20, 1979.

tree trimmings, branches, glass bottles, glass, plastic bottles, nails, wire, cans, dirt, building materials, pollutants, tires, furniture, appliances, motor vehicle parts or any other type of debris.

B. The owner or person or persons responsible for any real property shall remove and properly dispose of litter and debris. Improper disposal of litter and debris that results in litter or debris flowing or otherwise being carried into storm drainage system shall be punishable as stated herein.²⁸

Section 19.2: Placing Unlawful Obstructions in the Public Way

It shall be unlawful for any person or persons to encumber, obstruct or in any manner interfere with the free and uninterrupted use of the public streets or alleys of the Town by leaving goods, wares, or building materials thereon.

Section 19.3: Person Obstructing a Public Way

No person or persons shall be found loitering, playing, standing, hawking, working, or in any other manner obstructing the full and free use of a public way in the Town, except as expressly authorized by the Mayor and Town Council or the Chief of Police of the Town of Forest Heights.

Section 19.4: Skateboards Banned

No person shall use or ride a skateboard on any street, road; or alley of the Town unless such use is specifically authorized by the Town either by ordinance or a permit issued by the Mayor and Town Council or the Chief of Police of the Town of Forest Heights. A skateboard is defined as a toy or recreational device conventionally consisting of two (2) or more wheels fixed to the underside of a board or similarly shaped molded slat upon which a person may balance himself or herself and ride either by pushing or coasting downhill.

Section 19.5: Permit Required

It shall be unlawful for any person, partnership, corporation or contractor to construct or modify any street, curb, gutter, sidewalk, public way, easement, or dedication under the jurisdiction of the Town without first having obtained a permit from the Town Clerk or official designated by the Town Council. Said permit shall not be issued until the fee as set by the Town Council has been duly paid to the Town.

Section 19.6: Private Maintenance

Each property owner shall be required to maintain in good repair all portions of driveways on his property and which in turn may be on a public right-of-way. If the Town Council finds that such repairs are not made, it shall notify the owner of the abutting property in writing as to the nature of the corrective action required. If, at the end of thirty (30) days, the property owners involved have not taken corrective action, the Town Council may authorize improvements with the

charges therefore being added to the current tax bill.

Section 19.7: Removal of Snow from Sidewalks

It shall hereby be the duty and obligation of the owners, tenants or adult occupants of property abutting a sidewalk in a public right-of-way or within an easement held for use by the public to remove the snow from the sidewalk within forty-eight (48) hours after the snow has fallen. In the case of multiunit buildings, with more than one tenant or occupant, it shall be the duty of the lessor to remove the snow unless he has obligated a tenant who is actually occupying the property to do so. Any adult occupant abutting a sidewalk in a public right-of-way or within an easement held for use by the public, lessor of a multi-unit building or tenant obligated by the lessor who fails to remove the snow from the abutting sidewalk within forty-eight (48) hours after the snow has fallen shall be guilty of an infraction.

Section 19.8: Penalty

A. Except as stated in subsection B, a violation of any section of this Article shall be deemed a municipal infraction and any person, upon conviction, shall be fined not more than one hundred dollars (\$100.00) for the first offense. Repeat offenders may be assessed a fine not to exceed \$200.00 for each repeat offense.

B. Any person convicted of violation of Sections 19.2, 19.3, or 19.4 shall be fined \$10.00 for each offense. A parent or guardian who knowingly permits a violation by a child or ward shall be fined \$10.00 in addition to the amount of the violation fine.

Section 19.9: Unlawful activity on the streets of the Town.

A. DEFINITIONS:

"Street" shall mean any road, street or thoroughfare in the Town of Forest Heights used for public vehicular traffic and pedestrian traffic in accordance with the Transportation Article of the Annotated Code of Maryland. It shall not include Private alleys or alleyways.

"Game" or "sports activity" means all games played with a ball including all versions of baseball, basketball, softball, volley ball, football, kick ball, soccer, throw and catch, the throwing of disks or "Frisbees" and all childhood games including but not limited to hopscotch, hide-and-seek and tag.

"Toy wheeled vehicles" shall mean small bicycles with wheels less than 12 inches in diameter,

²⁸Approved May 20, 2009 - Effective May 20, 2009.

scooters, tricycles, or other small three-wheeled vehicles, wagons, or play vehicles of any kind (excluding wagons used in the delivery of newspapers or other business deliveries in the Town).

"Child" shall mean a person under 18 years of age.

B. It shall be unlawful for any person to participate in any game or sports activity on any street of the town at any time.

C. It shall be unlawful for any person to use any toy wheeled vehicles on any street except while crossing a street in accordance the provisions relating to citizens crossing streets contained in the Pedestrian's Rights and Rules in the Transportation Article of the Annotated Code of Maryland.

D. Any parent, guardian, or other person responsible for taking care of a child who knowingly permits a child under his or her care to violate this article shall be guilty of an infraction and upon conviction shall be fined not more than One Hundred Dollars (\$100.00) for the first such offense. Repeat offenders may be assessed a fine of not to exceed Two Hundred Dollars (\$200.00).

ARTICLE 20 – FINANCIAL MANAGEMENT AND INTERNAL CONTROLS²⁵

Section 20.1: Purpose. The intention of this Article is to ensure that reasonable assurance can be given the public that the Town's assets are properly safeguarded and conserved, and that the Town's elected and appointed officials are dedicated to preventing and detecting errors and fraud.

Section 20.2: Definitions

- (a) In general. In this Article, the following words have the meanings indicated.
- (b) Internal Control. An integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved:
- Effectiveness and efficiency of operations,
 - Reliability of financial reporting,
 - Compliance with applicable laws and regulations, and
 - Actions and activities that occur throughout an entity's operations on an ongoing basis.
- (c) Department Heads. Managers responsible for the Town of Forest Heights' Police Department, Public Works Department, and Office of Administration (Town Clerk, Treasurer, Receptionist, and other administrative personnel).
- (d) Council. The Town Council of Forest Heights.

(e) Council Chair. The Mayor.

(f) Financial Officer. The Town Treasurer.

Section 20.3: Application of Article

(a) In general – All employees, appointed officials, and volunteers in the Town of Forest Heights.

(b) This Article shall be construed so as to be consistent with Maryland Constitution or the Annotated Code of Maryland.

Section 20.4: Procedures¹⁷

(a) Procurement – In addition to meeting all of the relevant Charter provision requirements, the procedures for the procurement of services and goods (including related parts and equipment) shall be as follows:

(1) Except for emergency certifications, all procurement requests shall be pre-certified prior to purchase by the Mayor or Town Treasurer using the financial form approved by the Council for this purpose (Check and Credit Card Requisition Form).

(2) The person who requests an expenditure of funds shall not be the person approving said expenditure.

(3) All Vendors, clearances and certifications shall be identified using the financial form approved by the Council for this purpose.

(4) Procurement of an item valued at \$10,000 or more, which, in accordance with the Charter, requires competitive bidding and a written contract, shall be advertised in the Town newsletter and, to the extent the procurement is expected to exceed \$25,000 in value, on the eMaryland Marketplace, the Internet-based procurement system managed by the Maryland Department of General Services. As determined by the Mayor and Council at its discretion, such procurement valued at \$5,000 or more may require the use of :

(I.) A Request for Proposal, in which the Town invites vendors to submit proposals to supply services or goods;

¹⁷ Approved November 2, 2009 - Effective November 2, 2009

- (II.) An Invitation to Bid, in which vendors are invited to submit proposals to supply goods or services with the understanding that further contract negotiations may be forthcoming; and/or
 - (III.) Requests for qualifications, in which the Town requests vendors to submit their qualifications to fulfill procurement needs.
- (5) Procurement of an item valued in excess of \$1,000 but less than \$10,000 shall require quotes, bids or proposals from three (3) different vendors. Items valued at \$1,000 or less may be purchased without obtaining multiple bids, quotes or proposals.
- (6) Upon written findings entered into the journal, the Mayor and Council may exempt the purchase of a good or service from competitive selection processes when the purchase qualifies as a sole source procurement as a result of the following circumstances:
- (I) One vendor is the only one qualified or eligible or is quite obviously the most qualified or eligible to provide the good or service;
 - (II) The procurement is of such a specialized nature or related to a specific geographic location that only a single source, by virtue of experience, expertise, proximity, or ownership of intellectual property rights, could most satisfactorily provide the good or service;
 - (III) Applicable law requires, provides for, or permits use of a sole source procurement; or
 - (IV) The federal government or other provider of funds for the goods and services being purchased has imposed clear and specific restrictions.
- (7) Emergency procurement certifications for goods or services less than \$10,000 may be granted after the fact but shall be documented as soon as possible, within twelve (12) hours of the event listed on the financial form approved by the Council for this purpose, but shall require the prior approval of either the Mayor, the President of the Council, or in their absence, the chair of the responsible Council Committee (e.g. Public Safety, Administration, Public Works/Health and Sanitation or Finance) should such committees be established by Ordinance and such chairmanships be duly appointed by resolution of the mayor and council.
- (a) Accurate Posting. All financial transactions are to be timely posted and accurate. The Financial Officer is responsible for assuring that posting errors or adjustments are documented and supported by a description indicating the need for such adjustments.
- (b) Cash Management.

- (1) All bank account statements must be reconciled to the general ledger monthly by the Financial Officer.
 - (2) All inactive bank accounts are to be closed.
 - (3) The Town receptionist will open the mail, make a control list of all receipts using the financial form approved by the Council for this purpose (Cash Receipts Form), and restrictively endorse all items received as “for deposit only”.
 - (4) The cash receipts will then be given to the Financial Officer for further processing and deposit to the bank daily.
 - (5) Following all bank deposits, the Police Department clerk will compare the deposit slips to the control list using the financial form approved by the Council for this purpose to ensure that all funds reflected on the control list have been deposited.
- (c) Personal Property Taxes. The Financial Officer is responsible for the timely billing of business personal property taxes. The Financial Officer shall provide a monthly report to the Chair of the Council of the filings sent out.
- (d) Cash Disbursements. No checks shall be issued without adequate supporting documentation, including the pre-certified requisition form and/or invoice using the financial form approved by the Council for this purpose.
- (e) Check and Credit Card Control.
- (1) Blank checks and credit cards shall be secured in the Police Department’s property safe at all times.
 - (2) The Check and Credit Card Pickup Form using the financial form approved by the Council for this purpose shall be used to request checks or credit cards from the Police Department.
 - (3) Check and credit card requests from the Police Department shall be pre-certified by the Financial Officer and by the Chair of the Finance Committee or the Chair of the Council.
 - (4) All credit cards and any unused checks shall be returned to the Police Department’s property safe daily.
- (f) Payroll. The Financial Officer shall review all payroll postings biweekly as follows:
- (1) Compensatory time is not budgeted nor is it authorized for payment.

- (2) Court pay is not budgeted nor is it authorized for payment. Police officers' regular work schedules will be adjusted to accommodate court dates.
 - (3) Overtime requests must be approved in advance by the Financial Officer and the Chair of the Finance Committee in consultation with the Mayor.
 - (4) Reports from outside payroll services are reviewed to ensure that they are accurate and reflect correct hourly pay rates, taxes withheld, and are consistent with budget appropriations.
 - (5) Payroll adjustments must be made at the next pay period.
- (g) Once 75% of any appropriation is expended at any time before the end of the fiscal year's third quarter, no further charges can be made, and the Council must be notified immediately.
- (h) All records are to be saved for audit.

Section 20.5: Preparation of the Quarterly Financial Report.

- (a) The Town Treasurer is hereby directed to prepare under the supervision of the Mayor and to submit through the Mayor quarterly financial reports to the Town Council in writing, due within fifteen days of the first day of January, April, July, and October. The reports shall provide estimates of the revenues and expenses in the categories provided in the budget resolution effective for the three months preceding the issuance of the quarterly report and for the year-to-date, showing the variances of those items to the budgeted amounts. Furthermore, the quarterly report will include a statement of the estimated assets and liabilities of the Town as of the last day of the quarter being reported.
- (b) Failure of the Mayor to submit a quarterly financial report to the Council shall result in a fine, not to exceed One Hundred Dollars (\$100.00) charged to the Mayor as provided in Article 12 (Anti-Corruption Act).

Section 20.6: Standards to be used for Quarterly Financial Report Preparation, publication of same, other reports.

- (a) Standards to be used for Quarterly Financial Report Preparation. The intent of this report is to provide information on the status of the Town's revenues, expenses and assets for current decision-making purposes and estimates are acceptable where final data are not available. Revenues and expenses categories should be reported consistent with the current fiscal year's budget categories, and assets should include total balances in both the general and special

revenue (highway) funds for the following items: checking, savings, certificate of deposit and similar accounts, accounts receivable and accounts payable.

(b) Publication of the Quarterly Financial Report. The Quarterly Financial Report, upon submission to the Council, shall be a publicly available document open for inspection and copying at the Municipal Building and a notice of its availability shall be inserted in the Town Newsletter, or other newspaper of general circulation within ten (10) days of submission to the Council. The report shall contain any disclaimers by the Treasurer related to the estimates contained therein and other qualifying factors related to the preparation of the report.

(c) Other Reports. This Article shall not prohibit the Treasurer from preparing other financial reports as requested by the Mayor or the Town Council.

ARTICLE 21 – LEGISLATIVE PRACTICES AND PROCEDURES ACT OF 2006¹⁸

Section 21.1: Practices and Procedures.

All members of the Town Council of the Town of Forest Heights shall abide by the following rules and practices to ensure the proper conduct of Town business, proper administrative interaction with agencies outside of the municipality, and proper administration of employees of the Town of Forest Heights.

A. Within thirty days of taking office, the Mayor shall establish, at a minimum, four standing oversight committees to include, Ways and Means, Finance, Public Works and Sanitation, and Public Safety, and shall appoint chairs from among the sitting councilpersons to each of these committees. These committees shall provide oversight of an advisory nature in their respective areas. The Ways and Means Committee shall serve as a liaison entity to ensure proper financial and operational balance is achieved between departments and shall identify sources of potential revenue.

B. Except as stated herein, Council Committee Chairs shall be authorized to solicit funding from Federal, State, or local officials and other such agencies having a purpose that falls within the scope of their respective committees. Council Committee Chairs shall keep the Mayor informed about any communications they may have with such officials or agencies to procure funding. Any negotiations to procure funding or expedite funding must involve the approval of the Mayor and two (2) Council Members, provided that no binding agreement shall be entered into without the approval of the Town Council. This Act may be expanded by resolution of the legislative

¹⁸ Approved March 15, 2006 - Effective March 15, 2006.

body of the Town of Forest Heights as warranted. Violation of this Article shall be deemed a municipal infraction subject to a fine not to exceed \$1,000.00.

ARTICLE 22 – ELECTIONS AND PETITIONS

Section 22.1: Purpose of article.

The intention of this article is that the conduct of elections should inspire public confidence and trust by assuring that:

- (1) all persons served by the election system are treated fairly and equitably;
- (2) all qualified persons may register and vote and that those who are not qualified do not vote;
- (3) those who administer elections are well-trained, that they serve both those who vote and those who seek votes, and that they put the public interest ahead of partisan interests;
- (4) full information on elections is provided to the public;
- (5) citizen convenience is emphasized in all aspects of the election process;
- (6) security and integrity are maintained in the casting of ballots, canvass of votes, and reporting of election results;
- (7) the prevention of fraud and corruption is diligently pursued; and
- (8) any offenses that occur are prosecuted.

Section 22.2: Definitions.

- (a) In general. In this ordinance the following words have the meanings indicated.
- (b) Affidavit. "Affidavit" means a statement executed under penalty of perjury.
- (c) Chief election official. "Chief election official" means:
 - (1) the President of the Town Council or his designee in the case of a charter amendment referendum;
 - (2) the Chairman of the Board of Elections in the case of all other election matters.

- (d) Circulator. "Circulator" means an individual who attests to one or more signatures affixed to a petition.
- (e) Election authority. "Election authority" means:
 - (1) the Legislative Body of Forest Heights for Charter Resolution petition considerations; or
 - (2) The Forest Heights Board of Elections for normal and special elections implementation.
- (f) Legal authority. "Legal authority" means: (1) the Town Attorney; or (2) if the Town Attorney has a conflict of interest or is otherwise unable to render an opinion , then some other attorney admitted to the bar in the state of Maryland.
- (h) Page. "Page" means a piece of paper comprising a part of a petition.
- (i) Petition. "Petition" means all of the associated pages necessary to fulfill the requirements of a process established by the law by which individuals affix their signatures as evidence of support for:
 - (1) placing the name of an individual or the names of individuals on the ballot at any election, or
 - (2) placing a question on the ballot at any election
- (j) Sponsor. "Sponsor" means the person or organization who coordinates the collection of signatures for a petition and who, if the petition is filed, is named on the information page as required by this ordinance.

Section 22.3: Application of Ordinance.

- (a) In general. Except as provided in subsection (b) of this section, this ordinance applies to any petition authorized by law to place the name of an individual or a question on the ballot.
- (b) Ordinance construed consistent with Maryland Constitution or Article 23A of the Annotated Code of Maryland. This ordinance shall not be interpreted to conflict with any provision relating to petitions specified in the Maryland Constitution or Article 23A of the Annotated Code of Maryland.

Section 22.4: Adoption of Resolutions and Guidelines.

- (a) Resolutions.

- (1) The Town Council may adopt Resolutions, consistent with this ordinance, to carry out the provisions of this ordinance.
 - (2) The Resolutions may:
 - (i) prescribe the form and content of petitions;
 - (ii) specify procedures for the circulation of petitions for signatures;
 - (iii) specify procedures for the verification and counting of signatures; and
 - (iv) provide any other procedural or technical requirements that the Town Council considers appropriate.
- (b) Guidelines, instructions, and forms.
- (1) The Town Council shall:
 - (i) prepare guidelines and instructions relating to the petition process; and
 - (ii) design and arrange to have printed sample forms conforming to this ordinance for each purpose for which a petition is authorized by law.
 - (2) The guidelines, instructions, and forms shall be provided to the public, on request, without charge.
 - (3) In the absence of guidelines, instructions and forms provided by the Town, the Chief Election Official shall accept any reasonable form submitted by petitioners.

Section 22.5: Determination of sufficiency of petition by chief election official.

- (a) In general. The format of the petition prepared by a sponsor shall be submitted to the chief election official not less than 20 days in advance of filing the petition, for a determination of its sufficiency.
- (b) The Council President shall determine the sufficiency of a petition related to Charter amendments, and the Chair of the Election Board shall determined sufficiency for all other petitions.
- (c) Public Improvements. Petitions against public improvements shall be governed by Section 33-76 of the Forest Heights Town Charter.
- (d) Advice of legal authority. In making the determination, the chief election official may seek the advice of the legal authority.
- (e) Review by Legislative Body. Prior to submitting the determination to the sponsor of the petition, the chief election official shall submit the determination to the Town Council for

final evaluation of the petition format. The Town Council may at that time, by a majority vote, override the election official's determination.

- (f) For Charter amendments, the election official's review for sufficiency shall be limited to ensuring that the proposed changes meet the requirements of form for charter amendments imposed by Article 23A of the Md. Ann. Code, and that the amendments will not conflict with other sections of the Charter not affected by amendments, the proposed amendments are consistent with one another, and that a charter conflict will not arise if the voters accept some but not all of the proposed amendments.
- (g) For all other election matters, the Chairman of the Board of Elections shall review the petition, and after consultation with the Town Attorney, assure that the change to a Town ordinance required by the petition is not in conflict with the Town Charter or the laws of Maryland. If the petition is to place a name on the ballot for election, the election official shall determine the person's qualifications for the elected office.

Section 22.6: Computing time for performance of act.

- (a) In general.
 - (1) Except as provided in subsection (b) of this section, in computing the time under this article for performing an act, Saturdays, Sundays, and legal holidays shall be included.
 - (2) In a computation of time under this article, the day of performing an act and the day of registration or election shall be excluded.
- (c) Exception. If a computation of time would require an act to be performed on a Saturday, Sunday, or legal holiday, the act shall be performed on the next regular business day following that Saturday, Sunday, or legal holiday.

Section 22.7: Requirements for signing petition; information required.

- (a) In general. To sign a petition, an individual shall:
 - (1) sign the individual's name as it appears on the statewide voter registration list or the individual's surname of registration and at least one full given name and the initials of any other names; and
 - (2) include the following information, printed or typed, in the spaces provided:
 - (i) the signer's name as it was signed;
 - (ii) the signer's address;

- (iii) the date of signing; and
 - (iv) other information required by Resolutions adopted by the Town Council.
- (b) Validation and counting. The signature of an individual shall be validated and counted if:
 - (1) the requirements of subsection (a) of this section have been satisfied;
 - (2) the individual is a registered voter assigned to the Town of Forest Heights specified on the signature page and, if applicable, in a particular Ward area of the Town of Forest Heights;
 - (3) the individual has not previously signed the same petition;
 - (4) the signature is attested by an affidavit appearing on the page on which the signature appears;
 - (5) the date accompanying the signature is not later than the date of the affidavit on the page; and
 - (6) if applicable, the signature was affixed within the requisite period of time, as specified by law.
- (c) Removal of signature.
 - (1) A signature may be removed:
 - (i) by the signer upon written application to the election authority with which the petition will be filed if the application is received by the election authority prior to the filing of that signature; or
 - (ii) prior to the filing of that signature, by the circulator who attested to that signature or by the sponsor of the petition, if it is concluded that the signature does not satisfy the requirements of this ordinance.

(2) A signature removed pursuant to paragraph (1)(ii) of this subsection may be included in the number of signatures stated on the information page included in the petition.

Section 22.8: Affidavit of circulator of petition; age of circulator.

- (a) In general. Each signature page shall contain an affidavit made and executed by the individual in whose presence all of the signatures on that page were affixed and who observed each of those signatures being affixed.

- (b) Requirements. The affidavit shall contain the statements, required by Resolution, or in the absence thereof, as prescribed in State law, designed to assure the validity of the signatures and the fairness of the petition process.
- (c) Age of circulator. A circulator must be at least 18 years old and a registered voter in the Town of Forest Heights at the time any of the signatures covered by the affidavit are affixed.

Section 22.9: Procedure for filing petitions.

- (a) In general.
 - (1) Unless otherwise required by the Town Charter of Forest Heights or Article 23A of the Annotated Code of Maryland, a petition shall be filed, in person by or on behalf of the sponsor, at a regularly scheduled Town Meeting.
 - (2) Resolutions. The Resolutions adopted by the Town Council may provide that the signature pages of a petition required to be filed be delivered by the sponsor, or an individual authorized by the sponsor, to the Board of Elections for verification and counting of signatures.
- (b) Acceptance of petition. A petition may not be accepted for filing unless the information page indicates that the petition satisfies any requirements established by law for the time of filing and for the number and Ward distribution of signatures.
- (c) Additional signatures. Subsequent to the filing of a petition under this ordinance, but prior to the deadline for filing the petition, additional signatures may be added to the petition by filing an amended information page and additional signature pages conforming to the requirements of this ordinance.

Section 22.10: Determinations of chief election official after filing of petition; declaration of deficiency of petition.

- (a) Review by chief election official. Promptly upon the filing of a petition, the chief election official of the election authority shall review the petition.
- (b) Determinations. Unless a determination of deficiency is made under subsection (c) of this section, the chief election official shall:
 - (1) make a determination that the petition, as to matters other than the validity of signatures, is sufficient; or
 - (2) defer a determination of sufficiency pending further review, but not more than 30 days after receipt of the petitions.

- (c) Declaration of deficiency. The chief election official shall declare that the petition is deficient if the chief election official determines that:
- (1) the petition was not timely filed;
 - (2) after providing the sponsor an opportunity to correct any clerical errors, the information provided by the sponsor indicates that the petition does not satisfy any requirements of law for the number or Ward distribution of signatures;
 - (3) an examination of unverified signatures indicates that the petition does not satisfy any requirements of law for the number or Ward distribution of signatures;
 - (4) the requirements relating to the form of the petition have not been satisfied;
 - (5) based on the advice of the legal authority:
 - (i) the use of a petition for the subject matter of the petition is not authorized by law; or
 - (ii) the petition seeks:
 1. the enactment of a law that would be unconstitutional or the election or nomination of an individual to an office for which that individual is not legally qualified to be a candidate; or
 2. a result that is otherwise prohibited by law or
 - (6) the petition has failed to satisfy some other requirement established by law;
 - (7) The petition seeks an enactment or result that would be detrimental to the stability, peace, harmony, and good order of town affairs;
- (d) Consistency with advance determination. A determination under this section may not be inconsistent with an advance determination made under Section 22.5.
- (e) Notice. Notice of a determination under this section shall be provided in writing and in accordance with this ordinance.

Section 22.11: Procedures for verifying and counting signatures on petition.

- (a) In general. Upon the filing of a petition, and unless it has been declared deficient under Subsection 22.10, the Town Council shall proceed to verify the signatures and count the validated signatures contained in the petition.

- (b) Town Council to establish process. The Town Council, by Resolution, may establish the process to be followed by all election authorities for verifying and counting signatures on petitions.
- (c) Any and all petitions shall require the signatures of 20% of the qualified voters of the Town of Forest Heights as defined in the Forest Heights Town Charter. Petitions bearing less than the requisite 20% shall be deemed invalid, insufficient, or otherwise deficient.

Section 22.12: Certification of Petition.

- (a) In general. At the conclusion of the verification and counting processes, the chief election official shall:
 - (1) determine whether the validated signatures contained in the petition are sufficient to satisfy all requirements established by law relating to the number and Ward of distribution of signatures; and
 - (2) if it has not done so previously, determine whether the petition has satisfied all other requirements established by law for that petition and immediately notify the sponsor of that determination, including any specific deficiencies found.
- (b) Certification. If the chief election official determines that a petition has satisfied all requirements established by law relating to that petition, the chief election official shall certify that the petition process has been completed and shall with respect to a petition seeking to place the name of an individual or a question on the ballot, certify that the name or question has qualified to be placed on the ballot.
- (c) Notice. Notice of a determination under this section shall be provided in writing in accordance with this ordinance.

Section 22.13: Judicial review of determinations regarding petition.

- (a) In general.
 - (1) A person aggrieved by a determination made under this ordinance may seek judicial review in the Circuit Court for Prince George's County;
 - (2) The court may grant relief as it considers appropriate to assure the integrity of the electoral process, and
 - (3) Judicial review shall be expedited by each court that hears the cause to the extent necessary in consideration of the deadlines established by law.

Section 22.14: Schedule of procedures regarding petition.

- (a) Request for advance determination.
 - (1) A request for an advance determination under this ordinance shall be submitted at least 20 days, but not more than 2 years and 1 month, prior to filing or prior to the deadline for the filing of the petition. In the case of petitions for referendum on ordinances passed by the legislative body, the format of the petition shall be submitted to the chief election official not less than twenty days in advance of filing the petition.
 - (2) Within 10 business days of receiving the request for an advance determination, the election authority shall make the determination.
- (b) Notice. Within 2 business days after an advance determination under of this Ordinance, or a determination of deficiency under this ordinance, the chief election official of the election authority shall notify the sponsor of the determination.
- (c) Verification and counting. The verification and counting of validated signatures on a petition shall be completed within 35 days after the filing of the petition.
- (d) Certification. Within 3 business days of the completion of the verification and counting processes, or, if judicial review is pending, within 3 business days after a final judicial decision, the appropriate election official shall make the certifications required by this ordinance.
- (e) Judicial review.
 - (1) Except as provided in paragraph (2) of this subsection, any judicial review of a determination, as provided in this ordinance, shall be sought by the 10th day following the determination to which it relates.
 - (2) If the petition seeks to place the name of an individual or a question on the ballot at any election, judicial review shall be sought by the day specified in paragraph (1) of this subsection or the 45th day preceding that election, whichever day is earlier.

Section 22.15: Implementation.

The Chief election official shall report to the Council at its next legislative session, but within the time requirements of State law if the petition involves an amendment to the Town Charter, as to his findings regarding the sufficiency of a petition. If the petition is found sufficient, the Council shall pass the necessary enabling legislation at that session to place the question(s) on the ballot or enact the question by resolution or ordinance.

Section 22.16: Board of Election Procedures.

- (a) Within 10 days of the appointment of a Board of Elections, the Board shall meet and choose a chair person from amongst themselves. The Town Clerk is to be notified of such selection within 48 hours of the selection.
- (b) If at any time during his or term, a member of the Board of Elections believes he or she can no longer perform the duties of that office, he or she is obligated to inform the Town Clerk of that fact. The Town Clerk shall then inform the Mayor so that a replacement can be selected and submitted to the Council for approval.
- (c) At least ten days prior to any election or referendum, the Election Board is to file a plan for the conduct of the election or referendum with the Town Clerk and the President of the Council.
- (d) Verification of voter registration:
 - (1) The Town Clerk shall assist the Board of Elections in obtaining lists of registered voters from the Prince George's County Board of Elections.
 - (2) For regularly scheduled elections the Board of Elections shall obtain a list of registered voters From the Prince George's County Board of Elections as of the day that nominations must be filed for that election. Any voter not appearing on that list must obtain a temporary certificate of registration from the Prince George's County Board of Elections indicating residence and Ward in the Town of Forest Heights in order to be eligible to vote in the election.
 - (3) For verification of petitions, the Board of Elections shall obtain a list of registered voters from the Prince George's County Board of Elections as of the day the petitions were submitted to the Town Council. This list shall be used by the chief election official in determining the validity of the signatures on the petition.
- (e) The Board of Elections shall appear at the election site at least 30 minutes prior to when any election or referendum is scheduled to begin.
- (f) The qualification of any voter appearing to take part in an election must be verified by at least two members of the Election Board. The board shall require an identification document containing the voters photograph for identification purposes, or the written sworn testimony of two Forest Heights residents who are determined to be registered voters according to these procedures, and are present with the voter, attesting to the identity of the voter.
- (g) When the polls are closed, the Election Board shall begin the process of counting the votes. All three election board members are to individually count ballots or inspect the

product of voting machines and prepare a total count of votes for each person or question on the ballot. Each member of the Board of Elections shall place his or her initials on each piece of paper inspected.

- (h) The public are to be allowed to observe the counting of the ballots, but may not handle the election documents, or in any way interfere with the counting of the ballots. The Board of Elections may set reasonable rules as to room arrangement and the number of people present during this phase of the election so it does not interfere with the counting of ballots.
- (i) After counting all the ballots the members of the Board of Elections shall compare their totals. If the totals are different, but the difference does not change the outcome of the election, the Board of Elections shall prepare a memorandum so stating for the record. If the difference in the count would affect the outcome of the election, the members of the Board of Elections shall recount the ballots for each candidate and question, and again compare their totals. If the totals again are not the same, the members of the Board of Elections shall vote on which are the correct totals, with at least two members having to agree on the outcome. If at least two members cannot agree on the outcome of the election, that part of the election shall be declared invalid, and the Town Council shall schedule another election.
- (j) When the members of the Board of Elections have agreed on the outcome of the election they shall declare the winner and report the results to the Town Clerk, including the total number of voters participating by Ward, and votes cast each candidate, including write-in votes and number absentee ballots.
- (k) All ballots and other material used in an election are public documents in the custody of the Board of Elections. Release of these materials is governed by the Town Charter, the Maryland Public Information Act and other applicable laws of the State of Maryland.
- (l) A list of voters participating in the election is to be transmitted to the Prince George's County Elections Board for entry into their data base on voter activity.
- (m) Election material shall be disposed of in accordance with Section 33-37 of the Town Charter and the Forest Heights Document Retention Schedule on file with the Maryland State Archivist as required by State law.