

**MAYOR AND TOWN COUNCIL  
TOWN OF FOREST HEIGHTS**

**RESOLUTION 03-06**

**A RESOLUTION TO ENACT EMEGENCY ELECTION ORDINANCE**

**INTRODUCED BY: Councilman Worthington Ross**

**ENACTED: JANUARY 24, 2006**

WHEREAS, the Town Council realizes the need for a concrete petition review process; and

WHEREAS, the Legislative Body of the Town of Forest Heights is committed to properly and fairly considering the wishes of the citizenry of Forest Heights as it relates to any petition circulated by the citizens of Forest Heights; and

WHEREAS, Article 23A, § 2, empowers the legislative body to have general power to pass such ordinances not contrary to the Constitution of Maryland, public general law, or, except as provided in Article 23A § 2B, public local law as they may deem necessary in order to assure the good government of the municipality, to protect and preserve the municipality's rights, property, and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality; and

WHEREAS, the Section 33-12 of the Charter of the Town of Forest Heights empowers the Town Council to pass emergency ordinances with said ordinances being immediately effective if so designated at the time of their passage by resolution;

NOW THEREFORE BE IT RESOLVED the Code and Ordinances of the Town of Forest Heights shall be modified by adding Article 22 which shall read:

Article 22 – ELECTION LAW

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, including disclosure of campaign receipts and expenditures;
- (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 and General Provisions

### Section 22.2.1 - Definitions.

(a) *In general.* — In this title 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;

(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 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 title.

### 22.2.2 - Application of Title.

(a) *In general.* — Except as provided in subsection (b) of this section, this title applies to any petition authorized by law to place the name of an individual or a question on the ballot.

(b) *Title construed consistent with Maryland Constitution or Article 23A of the Annotated Code of Maryland.* — This title may 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.

### 22.2.3 - Adoption of Resolutions and guidelines.

(a) *Resolutions.* — (1) The Town Council may adopt Resolutions, consistent with this title, to carry out the provisions of this title.

(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 subtitle for each purpose for which a petition is authorized by law.

(1) The guidelines, instructions, and forms shall be provided to the public, on request, without charge.

22.2.4 - 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 180 days in advance of filing the petition, for a determination of its sufficiency.

(b) *Charter Amendments Initiated by Legislative Body* - In the case of petitions for referendum on charter amendments initiated 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.

(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.

22.2.5 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.

(a) *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.

22.2.6 - 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; and

(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; and

(3) the individual has not previously signed the same petition; and

(4) the signature is attested by an affidavit appearing on the page on which the signature appears; and

(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 title.

(2) A signature removed pursuant to paragraph (1)(ii) of this subsection may not be included in the number of signatures stated on the information page included in the petition.

22.2.7 - 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, 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.

22.2.8 - Procedure for filing petitions.

(a) *In general.* — (1) Unless otherwise required by the Town Charter of Forest Heights and 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 appropriate local board or boards 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 subtitle, 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 subtitle.

22.2.9 - 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.

(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 subtitle 22.2.4.

(e) *Notice.* — Notice of a determination under this section shall be provided in writing and in accordance with this subtitle.

#### 22.2.10 - 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 22.2.9, 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, shall 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 51% of the qualified voters of the Town of Forest Heights as defined in the Forest Heights Town Charter. Petitions bearing less than the requisite 51% shall be deemed invalid, insufficient, or otherwise deficient.

(d) *Random sample verification.* — (1) The process established under subsection (b) of this section shall provide for optional verification of a random sample of signatures contained in a petition.

(2) Verification by random sample may only be used, with the approval of the Local Board of Elections:

(3) Verification under this subsection shall require the random selection and verification of 500 signatures or 5% of the total signatures on the petition, whichever number is greater, to determine what percentage of the random sample

is composed of signatures that are authorized by law to be counted. That percentage shall be applied to the total number of signatures in the petition to establish the number of valid signatures for the petition.

(4) If the random sample verification establishes that the total number of valid signatures does not equal 95% or more of the total number required, the petition shall be deemed to have an insufficient number of signatures.

(ii) If the random sample verification establishes that the total number of valid signatures exceeds 105% of the total number required, the petition shall be deemed to have a sufficient number of signatures.

(iii) If the random sample verification establishes that the total number of valid signatures is at least 95% but not more than 105% of the total number required, a verification of all the signatures in the petition shall be conducted.

#### 22.2.11 - 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 Wardal 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:

(1) 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; and

(c) *Notice.* — Notice of a determination under this section shall be provided in writing in accordance with this subtitle.

#### 22.2.12 - Judicial review of determinations regarding petition.

(a) *In general.* — (1) A person aggrieved by a determination made under this subtitle may seek judicial review:

(i) in the Circuit Court for Prince George's Town of Forest Heights; or

(2) The court may grant relief as it considers appropriate to assure the integrity of the electoral process.

(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.

#### 22.2.13 - Schedule of procedures regarding petition.

(a) *Request for advance determination.* — (1) A request for an advance determination under this subtitle shall be submitted at least 180 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 charter amendments initiated by the legislative body or 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 subtitle, or a determination of deficiency under this subtitle, 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 90 days after the filing of the petition.

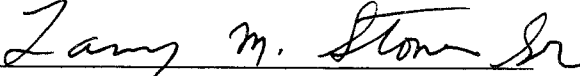
(d) *Certification.* — Within 3 business days of the completion of the verification and counting processes, or, if judicial review is pending, within 3 business days after a final judicial decision, the appropriate election official shall make the certifications required by this subtitle.

(e) *Judicial review.* — (1) Except as provided in paragraph (2) of this subsection, any judicial review of a determination, as provided in this subtitle, 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 63rd day preceding that election, whichever day is earlier.

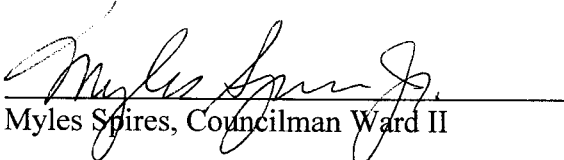
BE IT FURTHER RESOLVED that this resolution and emergency ordinance shall be entered as Article 22 – Election Law.

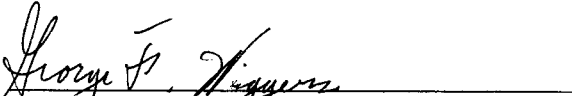
AND BE IT FURTHER RESOLVED that this resolution shall take effect immediately upon its passage and shall remain in effect indefinitely.

PASSED THIS DAY OF January 24, 2006.

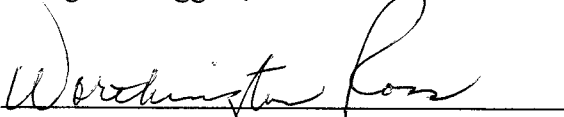
  
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Larry Stoner, Council President  
& Councilman Ward III

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Alice Hoskins, Councilwoman Ward I

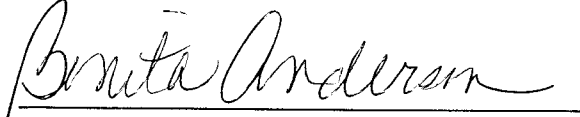
  
\_\_\_\_\_  
Myles Spires, Councilman Ward II

  
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George F. Wiggers, Councilman Ward I

  
\_\_\_\_\_  
Clifton Atkinson, Councilman Ward II

  
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Worthington Ross, Councilman Ward III

Attest:

  
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Bonita Anderson, Town Clerk