

**AN ORDINANCE BY COUNCILMEMBER LILIANA BAKHTIARI CODIFYING PROCEDURES GOVERNING THE ACCEPTANCE, REVIEW, AND VALIDATION OF PETITIONS PURSUANT TO POPULIST-LED REFERENDUM**

**WHEREAS**, direct public participation through a ballot referendum provides certitude and the opportunity to build the necessary consensus to stem community divides and identify a viable path forward over matters of great importance and sensitivity; and,

**WHEREAS**, in 2023, hundreds of volunteers organized thousands of registered Atlanta voters in a historic petitioning campaign compelling the Atlanta City Council to submit to qualified voters of the City of Atlanta at the next regularly scheduled election the repeal of the ordinance authorizing the ground lease of land in the South River Forest of DeKalb County to the Atlanta Police Foundation for approval or rejection in accordance with City of Atlanta §2-501, City of Atlanta Code of Ordinances §66-37, and O.C.G.A. §36-35-3(b); and,

**WHEREAS**, the process by which qualified petitioners can compel their government through the power of initiative and referendum as ruled in Camden County v. Sweatt, et al., is nascent in the State of Georgia, marred with procedural and authoritative uncertainty; and,

**WHEREAS**, absent clear guidance dictating the parameters and procedures under which a petition is to be received and certified by a municipality, is incumbent upon the Atlanta City Council to adopt national best practices, providing necessary, clear guidance; and,

**WHEREAS**, City of Atlanta §2-501, City of Atlanta Code of Ordinances §66-37, and O.C.G.A. §36-35-3(b) procedures governing the initiation, adoption, and repeal of ordinances by the electorate via referendum is enervated and antiquated; and,

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HERBY ORDAINS:**

The Code of Ordinances, City of Atlanta, Georgia, is amended by adding a section to be numbered Ch. 66, Article II, Section 66-39 which section reads as follows:

**Sec. 66-39. – Petition Review.**

(a) **Procedures.** To determine the validity of a petition filed pursuant to Ch. 66, Article II, the Council (and their designees including but not limited to the Municipal Clerk) shall conduct the following procedures:

1. **Receipt and Security.** Upon the receipt of such petition:
  1. The Municipal Clerk shall immediately provide a receipt to any petition sponsor that files a petition. The receipt must state the number of petition pages submitted.
  2. The Municipal Clerk shall seal the petition in secure boxes and shall seal the boxes within a secure vault in the Clerk's Office, where the petition shall be kept

secure in compliance with the Georgia Open Records Act until the petition is reviewed.

- **Petition Tally Process.** Within five (5) days after the filing of such petition, the Municipal Clerk shall tally the total number of signatures included in the petition. Crossed out signatures are excluded when determining the number of signatures.
  - i. If the Municipal Clerk finds that the total number of signatures submitted is less than the required number of signatures for such petition, the Municipal Clerk shall notify the person who submitted the petition, and the City Council shall publish the denial of the petition in the manner provided by [66-37(a)].
  - i. If the Municipal Clerk finds that the total number of signatures submitted satisfies or exceeds the number of signatures required to declare the petition valid, the Municipal Clerk shall immediately begin determining the validity of the petition pursuant to subsection (a)(3) and (b). Such determination shall be completed within twenty (20) days after the Municipal Clerk has determined that the tallied number of signatures meets or exceeds the number of signatures required for such petition.
- **Statistical Random Sampling Process.** To determine the validity of a petition under subsection (a)(2)(ii), the Municipal Clerk shall examine the signatures, pursuant to subsection (b) by first sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the Clerk is given an equal opportunity to be included in the sample. The Clerk may use any reasonable statistical sampling method in determining whether the petition contains the required number of valid signatures, except that the sample method must include an examination of at least fifteen (15) percent of the signatures.
  - i. If the petition review by sampling establishes that the number of valid signatures is less than eighty-five (85) percent of the required number of signatures, the petition shall be deemed to have failed to qualify, and the City Council shall publish the denial of the petition in the manner provided by [66-37(a)], subject to subsections (c) and (d).
  - i. If the petition review by sampling establishes that the number of valid signatures is equal to or more than the sum number of signatures needed to make the petition valid, the petition shall be deemed to be validated.
  - i. If the petition review by sampling establishes that the number of valid signatures is eighty-five (85) percent or more, but less than required number of signatures to be declared valid, the Municipal Clerk shall review all petition signatures submitted until the Municipal Clerk determines that 100 percent of the number of signatures needed to declare the petition valid are present, or the Municipal Clerk determines that the petition does not contain the required number of signatures needed to declare the petition valid. If the petition is declared invalid, the City Council shall publish the denial of the petition in the manner provided by [66-37(a)], subject to subsections (c) and (d).

- Once a validity determination is made by the clerk pursuant to subsection (a)(3), the Municipal Clerk shall immediately notify the council and the petition sponsor.

**(b) Petition Review Process.** For purposes of determining the validity of a petition under subsection (a)(2)(ii):

1. Each petition page and petition signature entry is presumed to be valid if it substantially complies with the requirements of subsection (b).
- A petition page is invalid if the circulator collected signatures prior to the Municipal Clerk approving the petition as to form.
  - The following variations shall not invalidate a petition page:
    - The petition page's identifying number is a duplicate of another petition page so long as the pages and the signatures thereon are not duplicates.
    - The circulator's signature is illegible or does not appear to match the signature available via public records.
    - The circulator omits any information as requested on the petition (excluding the circulator's signature or signature date), but such information can be inferred from other petition pages.
  - A petition signature entry is invalid if it contains one or more of the following defects:
    - The name and other information present do not identify and correspond the signer to a registered voter of the City.
    - The signer completed the entry after the date of the circulator's sworn statement.
    - The signature entry is a duplicate of a previously accepted entry on the same petition.
    - The signer fails to sign the signature entry.
  - The following variations and discrepancies shall not invalidate a signature entry:
    - The name and other information present are not an exact match but the identity of the voter can be confirmed:
      - A middle initial or middle name is present on the entry but not in the voter registration database, or present in the voter registration database but not on the entry.
      - A name suffix is present on the entry but not in the voter registration database, or present in the voter registration database but not on the entry.
      - The address on the entry is missing an apartment letter or number or a street direction, or the address entry contains an apartment letter or number or a street direction that is missing in the voter registration database record.
      - The address on the entry does not match the individual's address listed on their voter registration database record, but the individual can be identified by their name and date of birth or phone number, and the individual is otherwise a resident elector in the City.

- The printed name appears to be a married or changed name based on public records.
- The signature is illegible, but the printed name can be read.
- The printed name is illegible, but the signature can be read.
- The signer is unable to sign their name and uses a signature stamp (instead of a pen-and-ink signature).
- The county or state name is missing, abbreviated, or wrong.
- The zip code is omitted or incorrect.
- The date or year of the date is missing but can be inferred based on the other dates on the petition page.
- The signature is the only information that appears on the petition in the signer's own handwriting.
- The use of ditto marks or abbreviations as long as the required information is reasonably ascertainable.
- The signature does not appear to match the signature on record.
- For the purposes of determining whether a signature entry identifies a registered voter of the City, the Municipal Clerk shall use all available government records.

(c) **Petition Sponsor Cure Process.** Prior to any publication declaring a petition under subsection (a)(2)(ii) invalid and notwithstanding any contrary provision in Article II, in the event the Municipal Clerk determines that the petition does not contain a sufficient number of valid signatures, the petition sponsor may cure the invalidity by filing an addendum to the original petition for the purpose of offering such number of additional signatures as will cure the invalidity. The petition sponsor shall have fifteen (15) days to file an addendum to the petition from the date the Municipal Clerk provided notice of the invalidity of the petition. Upon submission of a timely filed addendum, the Municipal Clerk shall order the examination of each signature entry of the addendum petition in accordance with subsection (b). The Municipal Clerk shall have ten (10) days after the receipt of the addendum to determine the validity; upon the determination of the validity, the Municipal Clerk shall immediately notify the council and the petition sponsor of such results.

(d) **Petition Signer Cure Process.** Prior to any publication declaring a petition under subsection (a)(2)(ii) invalid and notwithstanding any contrary provision in Article II, within one (1) business day of the determination that a signature entry is invalid, the Municipal Clerk shall mail a notice to an address associated with the signature entry determined to be invalid and attempt to notify the individual by telephone and email if a telephone number or email is on the individual's registration record (or included on the petition). An individual may cure their signature entry by personal appearance in the Clerk's Office or by completing an affidavit (provided to the individual by the Municipal Clerk), which may be returned in-person, fax, mail, or electronically by the signer or a third party, to affirm they are the individual identified in the signature entry. Such individuals shall have ten (10) days from the date the Municipal Clerk mails such notice to cure their signature entry. Prior to the mailing of any notice in this subsection, the Municipal Clerk shall provide the petition sponsor with identifying information of each individual receiving such notice. No notice is required for an individual's duplicate signature entry determined invalid when there is a previously accepted entry.

**(e) Observers.** Members of the public are permitted to observe any of the petition review processes provided in this section. No observer shall interfere with the orderly review of petitions and may be removed from the process for violating this provision. The Municipal Clerk is responsible for ensuring observers have access to the petition review while also ensuring the petition review is conducted without fear of harassment or intimidation. The Municipal Clerk has reasonable discretion to prevent observers from viewing confidential information in compliance with relevant law. Observers may observe and take notes.

**(f) Appeals Process.** The petition sponsor may contest the determination of the validity of such petition by filing an action with a Superior Court seeking declaratory relief from the Council's action.

**(g) Severability.** If any provision of this section shall be held or made invalid by a Court decision, statute or otherwise, the remainder of this section shall be considered severable and enforced as if the section did not contain the invalid provision.

**(h) Effective Date.** The ordinance shall take effect