

Sample Election Petition for NJ Common-Interest Communities

(pursuant to NJSA 45:22A-45.2a and NJAC 5:26-8.9(b))

Instructions: To use the petition, you will need to have at least one of these two situations:

- **Either** NO election has been held, as set forth in the time frame of your governing documents (which cannot exceed an interval of 4 years).
- **Or** If there is no specified interval in your governing documents, there has not been an election within the previous 2 years.

If either of these scenarios apply to your community, a minimum of 25% of the owners in good standing can petition the association board to hold an election. The petition can be submitted to any existing board member. The association executive board must hold an election within 90 days or receipt of the petition. (IF it fails to do so, owners can file a complaint with the BHP Association Regulation Unit which has authority to take appropriate enforcement action. Alternatively, the law allows owners to pursue a court action on their own to compel the board to hold the election.)

In the event there is no board, the members can act on their own either by petition or by majority to organize and hold an election (which must comply with the election requirements in the law). If that does not happen, any owner or group of owners can, after providing written notice to all owners, petition a court with jurisdiction to be granted authority to hold an election. This court action is at common expense.

Additional Considerations

- *It is preferable to have the introductory statement on each separate page (unless the purpose is clear if using electronic means). This prevents the association from arguing that people did not know what they were signing-which you can otherwise expect.*
- *You can also anticipate the association challenging the status of a number of owners as not being in good standing. Thus, the person soliciting signatures should encourage signers to honestly disclose their status and not to sign if they owe the association any monies of any nature and are thereby not eligible to vote or are unsure (if there is time they can verify their status with the association).*
- *Finally, it is strongly advisable to obtain as high a percentage of signatures as one can, rather than stopping at 25%. A margin for error will provide a measure of certainty that the petition will be valid.*

The petition template begins on the next page.

TO: The Board of [Name of association]

[Name of Association] has not held an election for Board members within two years (or within the years specified in the governing documents-include the interval) as required by the Election Laws applicable to residential associations.

Now therefore, the undersigned owners, who are in good standing and represent X% of the association owners are exercising their right to demand that the Board hold an election within 90 days of receipt of this petition as required by the Election Law (NJSA 45:22A-45.2a and NJAC 5:26-8.9(b).

Failure to do so will result in the owners invoking their rights under the Election Law to have the State or Court compel the board to hold the required election.

Signatures:

Full names and unit/address