

CHAPTER 239
FORMERLY
HOUSE BILL NO. 275

AN ACT TO AMEND THE CHARTER OF THE TOWN OF FRANKFORD RELATING TO ANNEXATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Section 40 of the Charter of the Town of Frankford by making insertions as shown by underlining and deletions as shown by strike through as follows:

ANNEXATION

Section 40. The Town Council shall have the authority to annex any territory contiguous to the Town by complying with the procedure set forth herein, in addition to the requirements for annexation in Title 22 of the Delaware Code.

~~(A) Descriptive Ordinance. The Town Council shall adopt an ordinance describing the area proposed for annexation of the Town. The ordinance shall list the name and address of each property owner in the area proposed for annexation, as shown on the records of the Board of Assessment in and for Sussex County. Prior to the adoption of such descriptive ordinance, the Town Council shall appoint a three (3) member committee headed by one Council member, plus two (2) resident property owners of the Town to investigate the advisability of such annexation of any certain territory contiguous to the limits and territory of the Town of Frankford, which committee shall have made their report thereof to Town Council within a period of two (2) months from the date of their appointment. The descriptive ordinance shall fix the date of the annexation referendum which shall not be less than thirty (30) nor more than ninety (90) days after the adoption of such descriptive ordinance.~~

~~(B) Mailing and Publication Required. Within ten (10) days after the adoption of the descriptive ordinance, the Town Secretary shall send a copy of said ordinance by certified mail to each person owning property in the area proposed for annexation as shown on the assessment records in and for Sussex County. The Town Secretary shall also cause a copy of the said annexation ordinance published in two (2) newspapers of general circulation to the Town of Frankford on two (2) separate occasions, the last publication of which shall not be later than fifteen (15) days before the proposed date of the annexation referendum. A notice of such descriptive ordinance shall be posted in five (5) prominent public places within the corporate limits of the Town for a period of at least fifteen (15) days prior to the proposed date of the annexation referendum.~~

~~(C) Hours of Annexation Referendum. The polls of the annexation referendum shall be open at 11:00 a.m. and closed at 7:00 p.m.~~

~~(D) Qualifications to Vote. At the annexation referendum, every property owner, whether an individual, partnership, corporation, or association, whether in the Town or in the area proposed for annexation, shall have one vote. Every citizen either of the Town or the area proposed for annexation who is not a property owner shall have one vote. In the event that a person owns property in both the Town and the proposed area for annexation and resides in either area, he or she may vote only in the area where he or she resides. In the event that a person owns property both in the Town and in the area proposed for annexation, but resides in neither, he or she may vote only in the Town and not in the area proposed for annexation. The assessment books and records of Sussex County shall be conclusive evidence of the right of property owners to vote in the annexation referendum.~~

~~(E) Ballots. The Town Council shall cause to be prepared and have available a sufficient number of ballots not less than five (5) days prior to the date of the annexation referendum. The ballots shall be in the following form:~~

ANNEXATION BALLOT

For the proposed annexation _____

Against the proposed annexation _____

~~(F) Board of Special Elections. Immediately after the adoption of the descriptive ordinance as provided in subsection (a) of this Article, the Town Council shall, by majority vote, appoint three (3) persons to act as the Board of Special Elections. At least one member shall be a resident property owner of the Town and one person shall be a resident property owner of the area proposed for annexation. The Board created herein shall conduct the election,~~

and shall decide by majority vote, all questions relating to voter eligibility, validity of ballots, and other matter under their jurisdiction and competence to decide with respect to the conducting of the annexation referendum.

~~(G) Election Report: Dissolving of Board. The Board shall prepare a report of its activities and transmit such report together with any records and documents to the Town Secretary within ten (10) days following the annexation referendum. The Board of Special Elections shall be dissolved within ninety (90) days after it has concluded its business.~~

~~(H) Referendum Expenses. The Town shall pay reasonable and necessary expenses to conduct any special annexation referendum. Such expenses shall include the ballots, ballot boxes, report forms, rental of polling space, and any other documented and reasonable expenses incurred by the Board of Special Elections in connection with said annexation referendum.~~

~~(I) Polling Places. There shall be only one (1) polling place located in the Town with separate polling areas for entitled voters from the Town and the proposed area for annexation.~~

~~(J) Election Results. Immediately upon the closing of the Polling areas, the Board of Special Elections shall separately count the ballots for and against the proposed annexation cast by the entitled voters of the Town and the entitled voters of the proposed area for annexation and announce the results thereof. The annexation must be approved in each area individually by the majority of ballots cast in each individual area before the area proposed for annexation can become annexed to the Town. The Special Board of Elections shall prepare a tally of the referendum results together with a certificate certifying the results of the vote and transmit them as soon as possible to the Town Secretary.~~

~~(K) Action by Town Council Required. Within five (5) days after receiving the certificate certifying the results or the annexation referendum the Town Secretary shall present such certificate to the Town Council at a Special Meeting, the minutes of which meeting shall appear recorded in the Minute Book of the Town Council. If the question was passed upon favorably pursuant to subsection (1) herein, the Town Council shall adopt an annexation ordinance, transmitting a true copy of same to the General Assembly, and Article I, Section 1.104, "Corporate Limits", of this Charter shall thereby be deemed amended so as to include the annexed territory within the Town corporate limits.~~

(A.) If all property owners holding record fee title to real property contiguous to the then existing corporate limits of the Town petition the Town Council to annex that territory into the Town, such petition shall be in writing, duly executed and acknowledged by each petitioner, shall describe with reasonable certainty the territory proposed for annexation; indicate the property owned by each petitioner therein, and state the reasons for the requested annexation. The Town Council may, within one hundred eighty (180) days following the filing of such petition in the Town Office, vote to accept such petition and proceed as hereinafter provided, or to reject such petition. A petition not so accepted within said one hundred eighty (180) days shall be null and void. The description for the territory proposed for annexation shall include any street, road or way previously conveyed, transferred or delivered to the Public or to the State, County, or other local governmental authority having jurisdiction over the subject matter thereof for the public use as a road or as a public right-of-way corridor that is contiguous with or adjacent to the territory proposed for annexation and all streams, rivers, canals, or other waterways to the centerline thereof that are contiguous with or adjacent to the territory proposed for annexation; provided, however, that any such territory that is included in the limits or boundary of an adjacent municipality shall not be annexed into the limits and the bounds of the Town of Frankford.

If the petition is accepted, the annexation process shall be as follows:

(1) The Town Council shall introduce an ordinance proposing the annexation of such territory contiguous to the Town. Such ordinance shall describe, with reasonable certainty, the territory proposed to be annexed, state the reasons for the proposed annexation, shall rezone the area being annexed to a zoning classification consistent with the adopted comprehensive plan, and shall contain such other provisions as shall be required by law.

(2) The Town Council prior to adopting an annexation ordinance shall require the Planning and Zoning Commission (the Commission) to prepare a report to the Town Council as soon as practicable but no later than two (2) months from the initial request. The report so submitted shall include the advantages and disadvantages of the

proposed annexation both to the Town of Frankford and to the territory proposed to be annexed, and shall contain the recommendation of the Commission whether or not to proceed with the proposed annexation and the reasons therefore.

(3) In the event that the Commission concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Council of Frankford may then pass the ordinance annexing such territory to the Town of Frankford. Such ordinance shall be adopted by the affirmative vote of all members elected to the Town Council.

(4) The annexation ordinance shall not become effective until thirty-one (31) days after its adoption. After thirty-one (31) days, if the annexation is not contested, a copy of the annexation ordinance signed by the Mayor and certified by the Town Clerk, with the Town Seal affixed, together with a plot of the area annexed, shall forthwith be filed for recording in the Office of the Recorder of Deeds in and for Sussex County, Delaware. The failure to record the description or the plot within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the adoption of the annexation ordinance.

(5) If the ordinance shall fail to receive the affirmative vote of a majority of all members elected to the Town Council, the territory proposed to be annexed shall not again be considered for annexation for a period of at least one (1) year from the date that the ordinance failed to receive the required affirmative vote.

(6) If not less than thirty-three percent (33%) of the qualified voters of the Town of Frankford disagree with the decision of the Town Council, they may sign a petition calling for an Annexation Referendum (Special Election). The Annexation Referendum Petition shall be filed with the Town Clerk not later than thirty (30) days following the adoption of the annexation ordinance by the Town Council. Within twenty (20) days the Commissioners shall fix the date of the Annexation Referendum (Special Election) which shall be not less than thirty (30) nor more than ninety (90) days thereafter.

(7) At the Annexation Referendum, every qualified voter shall have one vote. Immediately upon the closing of the polling place, the Election Board shall count the ballots for and against the proposed annexation and shall announce the results thereof and shall certify the votes cast for and against the proposed annexation and the number of void votes, and shall deliver the same to the Town Council. Said Certificate shall be filed with the papers of the Town Council.

(8) If the Certificate of the Annexation Referendum (Special Election) shall declare that a majority of the votes cast were against the annexation, no part of the territory proposed to be annexed shall again be considered for annexation for a period of at least one (1) year from the date of the Annexation Referendum (Special Election).

(9) If the Certificate of the Annexation Referendum (Special Election) shall declare that a majority of the votes cast were for the annexation, annexation as provided therein shall become effective immediately after the certification to the Commissioners. Thereafter, a copy of the annexation ordinance signed by the Mayor and certified by the Town Clerk, with the Town Seal affixed, together with a plot of the area annexed, shall forthwith be filed for recording in the Office of the Recorder of Deeds in and for Sussex County, Delaware. The failure to record the description or the plot within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the adoption of the annexation ordinance.

(B.) If a more than one-half of the property owners, but not all property owners, of a territory contiguous to the then existing corporate limits of the Town petition the Town Council to annex that certain territory in which they own property, such petition shall be in writing, duly executed and acknowledged by each petitioner, shall describe with reasonable certainty the territory proposed for annexation, indicate the property owned by each petitioner therein, and state the reasons for the requested annexation. The Town Council may, within one hundred eighty (180) days following the filing of such petition, vote to accept such petition and proceed as hereinafter provided, or to reject such petition. A petition not so accepted within said one hundred eighty (180) days shall be null and void. The description for the territory proposed for annexation shall include any street, road or way previously conveyed, transferred or delivered to the Public or to the State, County, or other local governmental authority having

jurisdiction over the subject matter thereof for the public use as a road or as a public right-of-way corridor that is contiguous with or adjacent to the territory proposed for annexation and all streams, rivers, canals, or other waterways to the centerline thereof that are contiguous with or adjacent to the territory proposed for annexation; provided however, that any such territory that is included in the limits or boundary of an adjacent municipality shall not be annexed into the limits and the bounds of the Town of Frankford.

If the petition is accepted, the annexation process shall be as follows:

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(2) The Town Council prior to adopting an annexation ordinance shall require the Planning and Zoning Commission to prepare a report to the Town Council as soon as practicable but no later than two (2) months from the initial request. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the Town of Frankford and to the territory proposed to be annexed, and shall contain the recommendation of the Commission whether or not to proceed with the proposed annexation and the reasons therefore.

(3) In the event that the Commission concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Council of Frankford may then pass the ordinance annexing such territory to the Town of Frankford. Such ordinance shall be adopted by the majority vote of all members of the Town Council.

(4) The annexation ordinance shall not become effective until after the Annexation Referendum (Special Election) referred to hereinafter. The Council shall at the time of adoption fix the date of the Annexation Referendum which shall be not less than thirty (30) nor more than ninety (90) days thereafter.

(5) At the Annexation Referendum, every qualified voter within the Town limits and within the territory proposed for annexation shall have one vote. Immediately upon the closing of the polling place, the Election Board shall count the ballots for and against the proposed annexation and shall announce the results thereof and shall certify the votes cast for and against the proposed annexation and the number of void votes, and shall deliver the same to the Town Council. Said Certificate shall be filed with the papers of the Town Council.

(6) If the Certificate of the Annexation Referendum (Special Election) shall declare that a majority of the votes cast were against the annexation, no part of the territory proposed to be annexed shall again be considered for annexation for a period of at least one (1) year from the date of the Annexation Referendum (Special Election).

(7) If the Certificate of the Annexation Referendum (Special Election) shall declare that a majority of the votes cast from within the Town limits and within the territory proposed for annexation were for the annexation, annexation as provided therein shall become effective immediately after the certification to the Commissioners. Thereafter, a copy of the annexation ordinance signed by the Mayor and certified by the Town Clerk, with the Town Seal affixed, together with a plot of the area annexed, shall forthwith be filed for recording in the Office of the Recorder of Deeds in and for Sussex County, Delaware. The failure to record the description or the plot within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the adoption of the annexation of ordinance.

Approved June 05, 2014