



SPONSOR: Rep. Hocker & Sen. Bunting

HOUSE OF REPRESENTATIVES

142nd GENERAL ASSEMBLY

HOUSE BILL NO. 14

AS AMENDED BY

SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 202, VOLUME 73, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF OCEAN VIEW" 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 1, Chapter 202, Volume 73, Laws of Delaware, Article IV – Annexation, by deleting in its entirety the present text and by substituting in lieu thereof the following:

“Article IV – Annexation

Section 4.101. Annexation of Property Five (5) Acres or Less:

The Town Council shall have the authority to annex any territory containing five (5) acres or less contiguous to the Town by complying with the procedure set forth in this Section.

(A) Any property owner(s) holding record fee title to real property in territory five (5) acres or less contiguous to the then existing corporate limits of the Town may 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 twenty (120) 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 twenty (120) days shall be null and void.

(B) The Town Council shall introduce an ordinance proposing the annexation of such territory of five (5) acres or less 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.

- (C) The Town Council, prior to adopting the 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 Ocean View 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.
- (D) 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 may then adopt the ordinance annexing such territory into the Town of Ocean View. Such ordinance shall be adopted by the affirmative vote of a majority of all members elected the Town Council.
- (E) If the proposed ordinance shall fail to receive the affirmative vote of a majority of all members elected the Town Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the ordinance failed to receive the required affirmative vote.
- (F) If the ordinance shall be adopted, annexation as provided therein shall become effective immediately after the certification of the Commissioners vote. Upon the adoption of the Ordinance of Annexation, a copy thereof, 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, but in no event shall said recordation be completed more than ninety (90) days following the date of adoption. 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 Ordinance of Annexation.

Section 4.102. Annexation of Property More Than Five (5) Acres.

The Town Council shall have the authority to annex any territory containing more than five (5) acres contiguous to the Town by complying with the procedure set forth in this Section.

- (A) Any property owner(s) holding record fee title to undeveloped or primarily developed real property in territory containing more than five (5) acres contiguous to the then existing corporate limits of the Town may 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 twenty (120) 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 twenty (120) days shall be null and void.
- (B) The Town Council shall introduce an ordinance proposing the annexation of such territory of more than five (5) acres 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.
- (C) 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 Ocean View 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.
- (D) 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 Ocean View may then pass the ordinance annexing such territory to the Town of Ocean View.

Such ordinance shall be adopted by the affirmative vote of a majority of all members elected the Town Council.

- (E) The annexation ordinance shall not become effective until thirty-one (31) days after adoption. After the thirty-one (31) day waiting period and, if 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 Ordinance of Annexation.
- (F) If the ordinance shall fail to receive the affirmative vote of a majority of all members elected the Town Council, the territory proposed to be annexed shall not again be considered for annexation for a period of one (1) year from the date that the ordinance failed to receive the required affirmative vote.
- (G) If not less than thirty-three percent (33%) of the qualified voters of the Town of Ocean View 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.
- (H) 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.

- (I) If the Certificate of the Annexation Referendum (Special Election) shall declare that a majority of the voters voted 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).
- (J) If the Certificate of the Annexation Referendum (Special Election) shall declare that a majority of the voters voted for the annexation, annexation as provided therein shall become effective immediately after the certification to the Commissioners. Therefor, 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 Ordinance of Annexation.”.