AN ACT TO AMEND CHAPTER 401, VOLUME 62, LAWS OF DELAWARE, ENTITLED “AN ACT TO REINCORPORATE THE TOWN OF FRANKFORD” RELATING TO ANNEXATIONS

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 Chapter 401, Volume 62, Laws of Delaware, being entitled “An Act to Reincorporate the Town of Frankford” by deleting Section 40, ANNEXATION, and substituting in lieu thereof, the following:

ANNEXATION

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

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
Ordinance of Annexation.

(5) 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.

(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
day 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 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).

(9) 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.
Therefore, 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.

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:

(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 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 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).

(7) If the Certificate of the Annexation Referendum (Special Election) shall
declare that a majority of the voters within the Town limits and within the territory
proposed for annexation voted for the annexation, annexation as provided therein shall
become effective immediately after the certification to the Commissioners. Therefore, 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.

6812136/
SYNOPSIS

This amendment to the Charter of Frankford establishes annexation processes for the Town where (1) a petition is filed by all property owners within territory to be annexed or (2) a petition is filed by more than half the property owners; and provides for annexation referenda.