

**Frankford****NAME AND TERRITORIAL LIMITS**

The inhabitants of the Town of Frankford, in the County of Sussex, State of Delaware, are hereby constituted a municipal corporation and body politic. The name and style of said corporation shall be "The Town of Frankford."

The Boundaries of the Town of Frankford are hereby established and declared to be as follows:

BEGINNING, for the purpose of this description at a point on the Southwesterly right-of-way line of Main Street at the center of Vine Branch Canal; thence by and with the centerline of said Vine Branch Canal, in a Southwesterly direction approximately 1,635 feet; thence in a Westerly direction to a point on the Westerly right-of-way line of Delaware Street and the Westerly right-of-way line of the Penn Central Transportation Company; thence in a Northwesterly direction approximately 1,100 feet to the Southeasterly right-of-way line of Frankford Avenue; thence in a Northwesterly direction approximately 590 feet to the Easterly right-of-way line of U.S. Route 113; thence by and with the Easterly right-of-way line of said U.S. Route 113 to its intersection with the Southerly right-of-way line of Hickory Street; thence by and with the Southerly right-of-way line of Hickory Street approximately 636 feet to a point; thence Northerly 1,651.5 feet approximately, to a point on the Easterly right-of-way of the Penn Central Transportation Company; thence by and with the following 5 courses and distances, to-wit: 1) N 52 degrees 35 minutes 40 seconds E, 1,497.92 feet; 2) N 02 degrees 05 minutes 00 seconds E, 2,640.97 feet; 3) S 87 degrees 05 minutes 00 seconds E, 660.0 feet; 4) S 02 degrees 05 minutes 00 seconds W, 60.0 feet to a point on the Westerly right-of-way line of Honolulu Road; thence by and with the Westerly right-of-way line of Honolulu Road to the Southerly right-of-way line of Thatcher Street; thence in a Southeasterly direction to the center of Vine Branch Canal; thence by and with the center of Vine Branch Canal in a Southwesterly direction to the BEGINNING.

The Council may, at any time hereafter, cause a survey and plot to be made of said Town, and the said plot, when so made and approved by the said Council, and signed by the President and Secretary of the Council, and sealed with the Town Seal, and when recorded in the Office of the Recorder of Deeds of the State of Delaware, in and for Sussex County, at Georgetown, shall be deemed to be a true map and plot of the Town, and the same, or the record thereof or a duly certified copy of said record, shall be evidence in all Courts of law and equity in this State.

**GENERAL POWERS**

Section 2.(A) The inhabitants of the Town of Frankford, within the limits and boundaries referred to in Section I of this Act, or within the limits and boundaries hereafter established, shall be and they are hereby created a body politic and corporate in Law and Equity by the Corporate name of "The Town of Frankford," hereinafter called The Town, and under that name shall have perpetual succession; may have and use a corporate seal, which may be altered, changed or renewed at pleasure; may sue and be sued, plead and be impleaded in all Courts of Law and equity in the State of Delaware, and elsewhere, by said corporate name, may hold and acquire by purchase, gift, devise, lease or by condemnation real property and personal property within or without its boundaries, for any municipal purposes, in fee simple or for lesser estate or interest, and may sell, lease, hold, manage and control such property as its interest may require, subject however to other sections of this Act.

As hereinafter provided in Section 20 of this Charter relating to power to issue Bonds, the Town shall have all other powers and functions requisite to or appropriate, for the government of the Town, its peace and order, its sanitation, beauty, the health, safety, convenience, comfort, and well being of its population and the protection and preservation of property, public and private; and all actions, suits, and proceedings shall be brought in the name of "The Town of Frankford."

(B) The enumeration of particular powers by this Charter shall not be held to be exclusive, or to restrict in any manner the general powers conferred herein, but in addition to the powers enumerated herein, implied thereby, or appropriate to the exercise thereof, it is intended that the Town of Frankford shall have, and may exercise, all powers which, under the Constitution of the State of Delaware, it would be competent for this Charter specifically to enumerate. All powers of the Town of Frankford whether expressed or implied, shall be exercised as prescribed by this Charter, or, if not prescribed herein, by ordinance or resolution of the Town Council.

**STRUCTURE OF GOVERNMENT**

Section 3. The Government of the Town and the exercise of the powers conferred by this Charter, except as otherwise provided herein, shall be vested in a Town Council. The Town Council shall consist of five members who shall be citizens of the State of Delaware and residents of the said Town above the age of eighteen. No compensation shall be paid to Councilmen. 78 Del. Laws, c. 260, § 1

**ELECTION IN GENERAL**

Section 4. The present Members of the Town Council, shall by this Act be appointed to serve and shall continue to act as Councilmen of said Town from and after the passage hereof until Councilmen are duly elected; and that at the annual election held on the first Saturday in February, 1981, after the passage of this Act as provided for in Section 5 of this Act: two (2) Councilmen shall be elected for a term of two (2) years and that at the annual election to be held the first Saturday in February 1982 three (3) councilmen shall be elected for a term of two (2) years; and thereafter the successor of each member of the Town Council shall be elected by the qualified voters as defined in Section 5 of this act to serve for a term of two (2) years.

**ELECTIONS****Section 5.**

A. An election shall be held in the Town of Frankford for Town Council on the first Saturday of February. Hours for the length of poll openings shall be set by the Town Council and announced in all notices required by law.

B. Every person who is a citizen of the United States; is at least eighteen (18) years of age; has resided within the corporate limits of the Town for at least thirty (30) days prior to the next Town election; and is registered as required by law, shall be a qualified voter of the Town. Every qualified voter of the Town shall be entitled to vote in any or all Town elections.

C. Each Council member shall be at least eighteen (18) years of age; shall have resided in the Town for at least one year immediately preceding the date of election; shall be a qualified voter (as set out above) in the Town of Frankford; and shall not have been convicted of a felony.

D. Except as set out herein, the conduct of general elections of the Town of Frankford and absentee voting shall be governed by the laws of Delaware set out in Title 15, Chapter 75, of Delaware Code, entitled Municipal Elections, as they may be from time to time hereafter amended. 78 Del. Laws, c. 260, § 1

**ORGANIZATION AND ANNUAL MEETING OF COUNCIL**

Section 6. On the first Monday following the annual election each year, the Council shall meet and the newly elected officers shall assume the duties of office. Before entering upon the duty of their office, the newly elected members shall be sworn by a Notary Public, a Justice of the Peace or by a hold-over Member of the Council to faithfully and impartially perform their duties. At this annual meeting the Council shall organize and thereafter shall hold meetings at such time as hereinafter provided.

**SPECIAL MEETING, WAIVER OF NOTICE**

Section 7. Special meetings shall be called by the Secretary upon the written request of the President of Council, or upon the written request of any two members of Council, stating the day, hour and place of the special meeting requested and the subject or subjects proposed to be considered thereat. The Secretary shall thereupon give written notice to the President and to each member of Council of the day, hour and place of such special meeting and of the subject or subjects proposed to be considered thereat. Such notices of the Secretary must be deposited in the U.S. mail in the main post office in the Town of Frankford at least forty-eight hours prior to the time set for such special meeting, provided, however, that a written waiver of such notice, signed by the President and all other members of Council prior to or immediately upon the convening of such special meeting, shall make such forty-eight hour written notice unnecessary and shall authorize and make valid the holding of a special meeting at any time named in such waiver, and the transaction of any other business at the meeting, if the waiver so states. The Town Council of the Town of Frankford shall have the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at any such special meeting, called as aforesaid, as Council has at regular meeting.

**QUORUM**

Section 8. In the general performance of their duties, the acts, doings and determinations of a majority of the entire Council shall be as good as the acts, doings and determinations of all of the members of Council, but if a less number be present at any regular or properly called special meeting, they may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance adopted by a majority of the entire Council. No ordinance, resolution, motion, order or other act of Council, except as immediately hereinabove provided for, shall be valid unless it received the affirmative vote of a majority of all members elected to Council.

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**RULES AND MINUTES OF COUNCIL**

Section 9. The Council shall determine its own rules and order of business and shall keep a journal of its proceedings and the Yeas and Nays shall be taken upon the passage of every ordinance and resolution, and shall be entered in the Journal with the text of the ordinance or resolution.

**VACANCIES**

Section 10. In case of a vacancy created in the members of the Council either by death, resignation, loss of residence in the Town of Frankford, or otherwise, the Council shall fill such vacancy for the remainder of the entire term. In the event of any such vacancy, a special meeting shall be called by the secretary adhering to the notice requirements hereinbefore mentioned therefor, which special meeting held for the purpose of filling such vacancy shall be held within 45 days.

**DISQUALIFICATION**

Section 11. If any Councilman shall, during his term of office, lose his residence in said Town, or his citizenship in the State of Delaware, or be found guilty of any crime or misdemeanor other than minor traffic violations, he shall forthwith be disqualified to act as a Member of Council, and his office shall be deemed vacant and shall be filled by Council, as aforesaid.

**CONTRACTS WITH MEMBERS**

Section 12. It shall be unlawful for the said Council, to make or enter into any contract for materials, supplies, work or labor for the use and benefit of the Town of Frankford with any member of the Council or with any partnership in which any member of Council is a partner, or with any corporation in which any member of Council is a director or stockholder or with any firm or company in which any member of Council is pecuniarily interested, except with the unanimous consent of the entire Council, and such contract shall be absolutely null and void without such unanimous consent.

**REGULAR MEETINGS OF COUNCIL**

Section 13. The Council of the Town of Frankford shall hold regular meetings once a month at such times as may be prescribed by the ordinance and resolution at the Town Hall, or at such other suitable place in said Town as the Council may select, but in the event of a temporary change in the place of meeting, public notice shall be posted in the usual place of meeting not later than seven o'clock P.M. on the evening of the said meeting, plainly stating the new place of meeting selected by Council, and the day and hour of such meeting.

**OFFICERS**

Section 14. (A) The Council shall, at the annual meeting held on the first Monday next following the annual election, organize by the election of a President, Vice-President, Secretary-Treasurer and Collector of Taxes. The President and the Vice-President shall be Members of the Council. The Secretary-Treasurer and Collector of Taxes may or may not be a member of the Town Council. The Council shall also elect and appoint any such other officers, employees and agents of the Town which by it may be deemed proper and necessary for the proper conduct and management of the Town. Any officer may be removed at any time by the Town Council for sufficient cause.

(B) The Council shall by ordinance fix the salaries and compensation of employees, officers and agents of the Town and the time and manner of his or her payment. No officer, employee or agent of the Town shall in any form have, take, or receive from the Town any compensation in any form in addition to the salary or compensation fixed by Council.

(C) The Council shall cause to be kept a full and complete record of all officers appointed and employees and agents hired by the Town containing the names of such officers, employees, and agents, the dates and term of their appointment or employment, the salary or compensation and the date of the termination of service.

**DUTIES AND POWERS OF PRESIDENT**

(D) The duties of the President of the Council shall be to preside at all meetings of Council; to have general superintendence of municipal affairs, provided, however, that such general superintendency shall in all cases be subordinate to the authority of all committees, and appointees as selected by Council for the superintendency or conduct of any specified municipal activity, to receive complaints or nuisances and all complaints or violations of Law and Ordinances, and present the same to Council at its first meeting thereafter

for action of Council. The President shall issue and sign all licenses for every exhibition within the Town, or licenses for any other purpose for which, under the Laws of Delaware, or the Ordinances of said Town, a license therefor is required.

The President may sign all warrants on the Treasurer for the payment of any Town money and shall perform such other duties as may be prescribed by resolution or ordinance of Council. If the President be incapacitated from acting by reason or absence, or for any other cause whatsoever, then all the powers and duties conferred and imposed under him by this Act, or any other Law, or any resolution or ordinance now or hereafter adopted or enacted by Council, shall be exercised and performed by the Member of Council chosen by Council as Vice-President for the period of such incapacity or absence.

The President shall have the same right as other Councilmen to vote on all matters and may at any time appoint another Councilman to preside if he desires to make a motion, move the adoption of a resolution, second either, or debate any question from the floor, and may thereafter immediately resume his duties, as presiding officer.

#### **SECRETARY**

- (E) The Secretary shall record all the proceedings of the Council and keep a correct journal of the same in a book to be provided for that purpose; and shall file and keep in a safe place the Seal of the Town and all papers, and documents, relative to the affairs of the Town, and deliver the same to his successor in office. The Secretary shall attest the seal of the Town when authorized by Council, and shall perform such duties and have such other powers as may be prescribed by ordinance. All records, books, papers and documents in the custody of the Secretary shall be open for the inspection of Council and the public.

#### **TREASURER**

- (F) The Treasurer shall be a citizen and resident of the said Town above the age of twenty-one years at the time of his appointment.

The Town Treasurer, before entering upon the duties of his office, shall be sworn or affirmed to faithfully and honestly perform the duties of his office, which oath or affirmation shall be administered by the President or Vice-President.

The Town Treasurer, before entering upon the duties of his office, shall also give bond to the Town of Frankford, with sufficient surety to be approved by, Council, in the penal sum of Fifteen Thousand Dollars (\$15,000), conditioned for the faithful discharge of the duties of his office.

#### **COLLECTOR OF TAXES**

- (G) The Collector of Taxes shall be at least of the age of twenty-one years at the time of his appointment.

It shall be the duty of the Town Collector to collect all Town Taxes, water and sewer rents, charges for electric current and all other kinds of Town revenue and to deposit to appropriate Town account.

The Town Collector, before entering upon the duties of his offices, shall give bond to the Town of Frankford, with sufficient surety to be approved by Council, in the sum of Fifteen Thousand Dollars (\$15,000), conditioned for the faithful performance of the duties of his office.

- (H) The Council shall commission the Auditors who shall audit the accounts of the Town and all of its officers whose duty involves the collection, custody and payment of the moneys of THE TOWN. They shall audit the books and the records of all fines, penalties and costs imposed or collected, pursuant to any judgment order or decree made. The Auditors shall make and deliver a detailed report of all and every of the accounts, records and books by them examined and audited, which copies of said report under their hands and seals may be printed in a newspaper of general circulation in the Town in the issue immediately succeeding their annual report. The Auditors in the performance of their duties shall have access to all records of Council and the officers of the Town; and are authorized and empowered to employ such clerks or accountants as in their judgment may be necessary for the proper performance of their duties.

#### **TOWN SOLICITOR**

- (I) At the annual meeting, the Council may select a Town Solicitor. The Town Solicitor shall be a member of the Bar of Sussex County. It shall be his duty to give legal advice to the Council and other officers of the Town, and to perform other legal service as may be required of him by the Council.

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**POLICE OFFICERS**

- (J) The Council may appoint a Police force consisting of a Chief and such members or subordinates as the Council may deem wise; and the Council shall from time to time make rules and regulations as may be necessary for the organization, government and control of the Police force. The members of the force shall be subject to the direction of the Council, and may be removed by the Council at any time. They shall preserve peace and order, and shall compel obedience within the Town limits to the ordinances of the Town and the Laws of the State; and they shall have such other duties as the Council shall from time to time prescribe.

Each member of the Police force shall be vested with all powers and authority of a Constable of Sussex County, and in the case of a pursuit of an offender their powers and authority shall be without territorial limitations.

It shall be the duty of the police to suppress riotous disorderly or turbulent assemblages of persons in the streets of the Town, or the noisy conduct of any person in the same, and upon view of the above, or upon the view of the violation of any ordinances of the Town relating to the peace and good order thereof, the Police shall have the right and power to arrest without warrant and to take the offender before a Justice of the Peace for hearing thereon.

**TOWN CLERK**

- (K) The Town Council of the Town of Frankford shall appoint a Town Clerk. Upon the appointment of the Town Clerk, his duties shall be prescribed by the Town Council. The Town Clerk shall not be a member of Town Council. At the discretion of the Town Council, he shall give corporate bond to the Town in an amount fixed by the Town Council conditioned for the faithful performance of his duties, the payment to the Town Council of all money coming into his hands as Town Clerk from whatever source derived, and in the event of death, resignation or removal from office, the delivery to his successor of all papers, books, records and other property of the Town in his hands or under his control.

He may receive as compensation for his services, a salary to be fixed, from time to time, by resolution of the Town Council. He shall attend all meetings of the Town Council and keep proper and adequate minutes of its acts and proceedings and keep a correct journal of the same in a book or books provided for that purpose. Said journal must show all bills approved by the Town Council, the amount of said bills and to whom payable; and he shall be in attendance at his office on such days and between such hours as may be directed by ordinance or resolution of the Town Council.

He shall keep a record of all officers, agents and employees of the Town, when elected or appointed, the terms of office or employment, if a term be fixed, and the salary or compensation thereof. He shall keep the assessment books and tax records of the Town with the names of the tax payers arranged alphabetically, showing the tax, a short description, and assessed value, as determined by the provisions hereof, of each parcel of real estate and a short description of each item of personal property assessed, if any. He shall also keep and maintain proper books and records showing the names of persons charged with utility rentals or service charges and detailed accounts thereof.

**Section 15. TAXATION****(A) Levy of Annual Taxes**

- (1) Prior to July 1, of each year, after receiving the assessments of property situated in the Town as established by the Sussex County Board of Assessment, the Town Council shall determine, to their best judgment and knowledge, the total amount necessary to be raised by the Town to meet all fixed and anticipated expenses and obligations of the Town including reasonable and appropriate reserves, for the then current fiscal years as set forth in the Town Budget for such year plus a reasonable amount to cover unanticipated expenses and emergencies.
- (2) They shall then proceed to determine, in their sole discretion, from which sources of the authorized revenues of the Town the amount so determined by them shall be raised and, within the limits prescribed by this charter with respect to any such source, the amount to be raised from each such source.
- (3) They shall then proceed to determine, assess, fix and/or levy:
  - (1) The rate of tax on real estate per one hundred dollars (\$100.00) of assessed value; and/or
  - (2) The rate of tax on improvements on owned real estate per one hundred dollars (\$100.00) of assessed value; and the value located on land under a lease, which said lease has been recorded in the Office of the Recorder of Deeds, in and for Sussex County; and/or

- (3) The amount of personal or per capita tax upon each qualified voter; and/or
  - (4) The rate or rates to be charged for furnishing services of a public nature: and/or
  - (5) The fees or rates to be charged in respect of any other authorized source of revenue sufficient in their best judgment and estimation to realize the amount to be raised from each such source determined by them to be used.
- (4) Prior to July 1 of each and every year the Town Council shall make, or cause to be made, a full, true and correct annual tax list showing the amount of tax levied against each taxable thereon from sources mentioned above. This list shall be known as the annual Tax List of the Town of Frankford. In addition to the information contained as to the rate of tax upon real estate per \$100 of assessed value thereof.
- (5) The Councilmen shall cause to be delivered to the Town Clerk a duplicate of said annual tax list, and the Town Clerk shall immediately proceed to collect the same as hereinafter provided.
- (6) The Council shall also have the right to levy and collect taxes upon all telephone, telegraph, power poles, or other erections of like character erected within the limits of the Town, together with the wires and appliances thereto or thereon attached, that are now assessable and taxable, and to this end, may at any time direct the same to be included in or added to the Town Assessment. In case the owner or lessee of such poles or erections shall refuse or neglect to pay the taxes that may be levied thereon, the said taxes may be collected by the Collector of Taxes as in case of other taxes and the Council shall have authority to cause the same to be removed.
- (7) Nothing contained in this Charter shall be construed to effect or impair in any way the validity of any tax, fee, assessment, or other charge lawfully levied, assessed, or due the Town of Frankford under existing laws in reference to said Town and the same are hereby declared to be valid, binding and vested in the Town of Frankford.
- (B) Taxation of Real Estate Transfers
- (1) The Town Council of the Town of Frankford, in addition to all other powers conferred upon it by this Act, shall have the power and authority by ordinance or ordinances to levy, assess and collect or provide for the levying, assessment and collection of such taxes as shall be determined by the Town Council to be paid by the transferor or transferee upon the transfer of real property or any interest in real property situate within the corporate limits of the Town of Frankford, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfers occur; provided, however, that no tax shall be levied upon an organization exempted from ad valorem real estate taxes.
- (2) No ordinance or ordinances providing for a tax on the transfer of real property or any interest in real property authorized under this Subsection shall become effective unless it receives an affirmative vote of two-thirds (2/3) of all the elected members of the Town Council of the Town of Frankford. If the taxing power authority granted under this Subsection shall be exercised by way of a stamp affixed to a document presented for recording, the Recorder of Deeds, in and for Sussex County, shall not receive for record any document subject to such tax unless stamps are affixed thereto.
- (3) The Town Council of the Town of Frankford may adopt an ordinance or ordinances to provide for the effective administration, regulation and collection of an tax adopted pursuant to the provisions of this Subsection.
- (4) No tax levied under this Subsection shall exceed one and a half percent (1.5%) of the sale price (including the value of any assumed mortgage or mortgages) or of the fair market value of the real property so transferred; provided, however, that no tax shall be imposed upon an organization which is exempted from ad valorem taxes. The provisions of Section 5401 and Section 5403, Chapter 54, Title 30, Delaware Code, shall be applicable to any realty transfer tax imposed pursuant to this Act.
- (5) The Town Council may provide by Ordinance for the collection of such tax by the Recorder of Deeds, in and for Sussex County, or such other agent as may be appointed by the Commissioners and shall prescribe in such Ordinance the charge that will be paid for such collection of such realty transfer tax authorized by this Subsection. 67 Del. Laws, c. 98; 84 Del. Laws, c. 492;

## COLLECTION OF ANNUAL TAXES

### Section 16.

- (A) The Town Clerk, as soon as the Councilmen shall have placed in his hands the duplicate annual tax list, shall proceed at once to collect the taxes on said duplicate list.

- (B) All taxes so laid or imposed by the councilmen of the Town of Frankford in such annual tax list, shall be and constitute a lien upon all the real estate of the taxable, against or upon whom such taxes are laid or imposed, of which such taxable was seized or possessed, at any time after such taxes shall have been levied and imposed, that is situated in the Town. Such lien shall have preference and priority to all other such liens on real estate or upon improvements located on land under lease, as aforesaid, created or suffered by said taxable although such other lien or liens be of a date prior to the time of the attaching of such lien for taxes.
- (C) All taxes, when and as collected by the Town Clerk shall be paid to the Treasurer of the Town, and all taxes shall be due and payable at and from the time of the delivery of the tax list to the Town Clerk.
- (D) On all taxes paid after the first day of October next succeeding the delivery of the annual duplicate tax list to the Town Clerk, there shall be added an amount equal to one (1%) per centum per month for each and every month such taxes shall remain unpaid and shall be collected in the same manner as the original amount of the tax.
- (E) If the Collector of Taxes shall be unable, within one year of the date of the delivery of the duplicate annual tax list to him, to collect the tax of any taxable, he is authorized and empowered, to collect such tax from such taxable by any of the processes of law.

## **REMEDIES, POWERS AND METHODS FOR THE COLLECTION OF TAXES, ASSESSMENTS AND OTHER CHARGES DUE THE TOWN**

### **Section 17.**

The following remedies are cumulative and, if two or more proceedings are pending to recover the amount due for taxes upon the same property for any year, neither proceeding shall be pleaded in a bar or in suspension of other proceedings, although when the full amount due for taxes upon the property for the year shall have been fully paid to the Town in any proceeding, together with all costs in all proceedings then pending, the Town shall enter upon the records thereof discontinuances thereof:

- (A) A remedy by distress as now prescribed by law is hereby preserved to the Town Clerk for the collection of any taxes, assessments, fees, warrants, or other charges for which the taxable may be liable to the Town.
- (B) At any time after the delivery of the duplicate annual tax list or warrant, or any other list of charges due the Town of Frankford, the Town Clerk may with the approval of and in the name of the Town Council institute suit before any Justice of the Peace or Court of the State of Delaware, in any of the Counties of the State, for the recovery of the unpaid tax, assessment, fee, or other charge, in an action of debt, and upon judgement obtained, may issue Writs of Execution as in case of other judgments recovered before a Justice of the Peace. The action shall be brought in the name of " \_\_\_\_\_, Receiver of Taxes and Town Treasurer for the Town of Frankford". The said execution shall constitute a lien upon all of the personal property of the taxable within the County where the judgment shall have been obtained, which lien shall have preference and priority to all other liens on the personal property created or suffered by the taxable, although such other lien or liens be of a date prior to the time of the attachment of such lien for taxes.
- (C) At any time after the delivery of the tax list and warrant, the Collector of Taxes may notify, in writing, the person, firm, or corporation by whom any taxable is employed, that the tax of said employee is due and unpaid. 'Me notice shall be signed by the President of the Council and shall contain the correct name of the taxable as it appears upon the tax list, the amount of the tax due and the penalty added, if any; and thereupon it shall be the duty of the employer to take from the wage, salary, or other money then due the taxable, the amount of the tax due and owing from the employee, and charge the same against him and to pay the same to the Collector of Taxes within ten (10) days. The Collector of Taxes shall give to the employer a Certificate of Payment which shall be allowed in any suit or accounting between the employer and the taxable. If any employer, being notified as aforesaid, and having in his hands money belonging to the taxable, shall neglect or refuse to comply with the provisions hereof, such employer shall become personally liable for the amount of the tax of the persons as to whom notice was given, and the amount thereof may be recovered from such employer in any action of debt before any Justice of the Peace, as aforesaid. This process shall be deemed to be in the nature of a garnishment proceeding.
- (D) For the purpose of collecting the tax of any taxable, and without the necessity of first employing the remedies herein provided, the Collector of Taxes is empowered to sell the lands and tenements of a taxable, or the lands and tenements of a taxable alienated subsequent to the levy of the tax. The rights of the Town to conduct such a sale, as well as the procedures to be followed for the holding of such a sale, shall be the same in every manner as those rights available and those procedures specified for the sale of land for the collection of taxes on the part of the individuals charged with the responsibility for the collection of taxes for Sussex County, and

all such procedures and methods available for the sale of land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part hereof by reference thereto, including the method of sale by monition, as the same is set forth in the statutes made and provided, substituting the Town of Frankford for Sussex County therein.

## ENUMERATION OF POWERS

### Section 18.

- (A) Not by way of limitation upon the power vested in the Councilmen to exercise all powers delegated by this Charter to the municipal corporation of the Town of Frankford except as may expressly appear herein to the contrary, but, rather by way of enumeration and for purposes of clarity, the Councilmen are vested by this Charter with the following powers, to be exercised by said Councilmen in the interest of good government and the safety, health, and welfare of the Town, its inhabitants and affairs, that is to say:
- (1) To prevent vice, drunkenness and immorality.
  - (2) To provide for and preserve the health, peace, safety, cleanliness, ornament and good order of the Town and its inhabitants.
  - (3) To prohibit all gaming and fraudulent devices.
  - (4) To prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements, and games.
  - (5) To ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, gravel, shell, improve, dredge, erect, remove, repair, or replace any new or present street, highway, lane, alley, watercourse, park, lake, strand, crosswalk, wharf, dock, sewer, drain, aqueduct or pipeline, or portion thereof, or any new or present sidewalk, curb, or gutter, or portion thereof, in the Town; to specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done; and to enter into contracts or agreements for the doing thereof, including contracts or agreements with the State Highway of the State of Delaware for the permanent maintenance, repair and upkeep of any street, alley, lane, roadway or other highway within the Town.
  - (6) To regulate or control the observance of the Sabbath Day.
  - (7) To establish and regulation pounds and to restrain, prohibit and empound any domestic or wild animal, beast, bird or fowl running at large, and to authorize the destruction of the same, and to impose taxes on the owners of dogs.
  - (8) To locate, regulate, license, restrain or require the removal of slaughter houses, wash houses, laundries, canning establishments, phosphate, fish, fertilizer, or manure plants or establishments, swine pens, privies, water closets, and any businesses or buildings or conditions detrimental to the public health or constituting a public nuisance or of an offensive or noxious nature.
  - (9) To enforce the removal of snow, ice, dirt or other foreign substance from sidewalks and gutters by owners or abutting owners.
  - (10) To prohibit, remove, or regulate the erection and maintenance of, any stoop, step, platform, bay window, cellar door, gate, area, descent, sign, post, or any other erection or projection in, over, upon or under any street, highway, alley, lane, watercourse, park, lake, strand, sidewalk, crosswalk, wharf, dock, sewer, drain, aqueduct, or pipeline of the Town.
  - (11) To define, prevent, abate or remove nuisances, obstructions or any condition detrimental to the public safety, health or welfare.
  - (12) To provide an amply supply of pure water for the Town and its inhabitants and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines, stations, tanks, standpipes, water mains, fire hydrants and all other equipment, property or rights used in and about the collection, storage, purification, conveyance, distribution or sale of water; to regulate and prescribe for what private or public purposes the water furnished by the municipal corporation may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any wilful or negligent injury or damage to or interference with the water system or equipment of the Town; to furnish, or refuse to furnish, water from the Town system to places and properties outside the Town limits; and to contract for and purchase water and distribute same to users within or without the Town with the same full powers as though such water had been initially reduced to usefulness by the municipal



corporation itself. For all purposes of this Charter the word "user" when referring to the users of either the public water system or the public sewer system shall be deemed to mean either the owner to whom the real estate is assessed or a leaseholder who holds land under a valid lease for a term of not less than ten (10) years and whose lease is of record in the Office of the Recorder of Deeds, in and for Sussex County, and who has erected upon the leasehold an improvement having an assessed valuation of at least One Thousand Dollars (\$1,000.00)

- (13) To provide, construct, extend, maintain, manage and control a sewer system and/or a sewage treatment and disposal plant and facilities for the health, sanitation and convenience of the inhabitants of the Town; to regulate and prescribe for what private or public purposes the system may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any wilful or negligent injury or damage to, or interference with the said system, plant or facilities; to furnish or refuse to furnish, sewer disposal service from the Town system to places and properties outside the Town limits; in the interest of the public's health, to compel any and all properties in the Town to be connected to the sewer system of the Town; and to contract for and purchase sewer disposal service and to resell the same to users within or without the Town with the same full powers as though such service had been initially provided by the facilities therefor of the municipal corporation itself.
- (14) To provide, construct, extend, maintain, manage and control a plant and system, or plants and systems, for the generating, manufacturing and distributing of electric current or gas, or both, to the inhabitants of the Town and for lighting the streets, highways, lanes, alleys, watercourses, parks, lakes, strands, sidewalks, crosswalks, wharves, docks, public buildings or other public places of the Town, and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control, and dispose of transmission and distribution lines, pipes, mains and other conveyances for any such current or gas as may be necessary properly to light the Town, and to furnish proper connections for electric current and gas to the properties of the inhabitants of the Town who may desire the same; to regulate and prescribe for what private or public purpose the current or gas furnished by the municipal corporation may be used, the manner of its use, the amount to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any wilful or negligent injury or damage to or interference with the electric or gas system or systems of the Town; to furnish or refuse to furnish, electric current or gas from the Town's system or systems to places and properties outside the Town limits; and to contract for and purchase electric current or gas and distribute the same to users within or without the Town with the same full powers as though such current or gas had been initially reduced to usefulness by the municipal corporation itself.
- (15) To fully control within the Town the drainage of all water and, to that end, to alter or change the course and direction of any natural water course, runs or rivulet within the Town, to regulate, maintain, clean and keep the same open, clean and unobstructed, and to provide, construct, extend, maintain, manage and control a surface water drainage system and facilities for the health, sanitation and convenience of the inhabitants of the Town.
- (16) To provide, construct, extend, maintain, manage and control jetties, bulkheads, embankments, flood gates, piers, boardwalks, or fills for the preservation of any strand or high land within the limits of the Town or contiguous thereto, to the end that the same may be preserved, property protected and the general public might enjoy the use thereof.
- (17) To grant franchises or licenses to any responsible person, firm, association or corporation, for such period of time, upon such terms, restrictions, stipulations and conditions and for such considerations as the Councilmen shall deem wise, to use the present and future streets, highways, lanes, alleys, watercourses, parks, lakes, strands, sidewalks, crosswalks, wharves, docks and other public places of the Town for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current, telephone, telegraph, railroad, excepting railroads or railways engaged in interstate commerce, bus, taxi or other transportation, carrier or public service to the Town and to the persons, firms, or corporations residing or located therein and for the purpose of transmitting the same from or through the Town to points outside the limits thereof, and for the purpose of erecting wharves and piers, and for the purpose of vending any article of merchandise or service upon, or from any vehicle upon, any such present and future street, highway, lane, alley, etc.; provided, that no exclusive franchise or license shall be granted for any such purpose to any person, firm, association or corporation whomsoever.
- (18) To regulate and control the exercise of any license or franchise mentioned in Section 18 (17) of this Charter or intended so to be.

- (19)To direct, regulate and control the planting, rearing, treatment and preserving of ornamental shade trees in the streets, highways, avenues, parks and grounds of the Town and to authorize or prohibit the removal or destruction of said trees.
- (20)To direct the digging down, draining, filling up, cleaning, cutting or fencing of lots, tracts, pieces or parcels of ground in the Town which may be deemed dangerous or unwholesome or necessary to carry out any improvements authorized by this Charter.
- (21)To provide for or regulate the numbering of houses and lots on the streets, and the naming of streets and avenues.
- (22)To regulate, control or prevent the use or storage of gunpowder, fireworks, tar, pitch, resin and all other combustible materials and the use of candles, lamps and other lights in stores, shops, stables and other places; to suppress, remove, or secure any fireplace, stove, chimney, oven, broiler, or other apparatus which may be dangerous in causing fire.
- (23)For the prevention of fire and the preservation of the beauty of the Town, to regulate and control the manner of building or removal of dwelling houses and other buildings; to establish a code for the same and to provide for the granting of permits for the same; to establish a building line for buildings to be erected; zone or district the Town and make particular provisions for particular zones or districts with regard to building or building materials; and, generally to exercise all the powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of Chapter 3, Title 22, Revised Code of Delaware, 1974, and all amendments thereto.
- (24)To acquire, build, erect and maintain a suitable place as a lock-up or jail for the Town, which shall be used as a place of detention for persons convicted of violation of law or ordinances for a reasonable time, in cases of necessity, prior to hearing and trial; and to provide for the restraint, support and employment of paupers, beggars and vagrants; provided, that the jails of Sussex County may be used for any such purpose, in which event the Town shall pay for the board of persons committed thereto for violations of ordinances of the Town which are not violations of any general law of the State.
- (25)To acquire, build, erect and maintain buildings and facilities necessary or required for housing and equipping offices of the Town.
- (26)To regulate or prevent the use of guns, airguns, spring guns, pistols, sling shots, beanshooters, and any other devices for discharging missiles which might cause bodily harm or injury to property; and to regulate or prevent the use of fireworks, bombs, and detonating works of all kinds.
- (27)To provide for the punishment of a violation of any ordinance of the Town by fine or imprisonment, or both, not exceeding One Hundred Dollars (\$100.00) or thirty days, and for working any person sentenced to such imprisonment or any person who shall refuse to so work when ordered.
- (28)To provide for the organization of a fire department and the control and government thereof; to establish fire limits and do all things necessary for the prevention or extinguishment of fires; and, in their discretion, to contribute, donate or give an amount or amounts, not to exceed in the total during any given fiscal year three per centum (3%) of the total taxes levied on real estate, unto any Volunteer fire company or Companies incorporated under the Laws of Delaware, or any Volunteer Fire Association or Associations maintaining and, operating fire fighting equipment and service to the Town; provided that any such contribution, donation or gift may be made subject to such conditions and stipulations as to the use thereof as the Councilmen shall deem advisable.
- (29)To purchase, take, and hold real and personal property when sold for any delinquent tax, assessment, water rent, electric bill, gas line, license fee, tapping fee, charge growing out of abatement of nuisances and the like, laying out and repairing sidewalks, or other charge due the Town and to sell the same.
- (30)To levy and collect taxes for any and all municipal purposes upon all real estate within the Town, except lands belonging to the Town; provided that the amount to be raised from this source shall not exceed the sum of one million dollars (\$1,000,000.00).
- (31)To levy and collect a personal or per capita tax upon all persons otherwise qualified to vote at any annual municipal election to be used for any and all municipal purposes and not to exceed the sum of Ten Dollars (\$10.00) in any one year for each such person.
- (32)To levy and collect taxes upon all telephone, telegraph, power poles, pipe lines, rail lines, or other constructions or erections of a like character erected within the limits of the Town, together with the wire or other appliances thereto or thereon attached; expressly excepting all telephone, telegraph, power lines or poles and rail lines owned or operated by any railroad or railway company engaged in interstate commerce, for any and all purposes, and to this end may at any time direct the same to be included in or

added to the Town assessment. In case the owner or lessee of such constructions or erections, wires or other appliances shall refuse or neglect to pay the taxes levied thereon, in addition to the remedies for the collection thereof set forth in Section 17 of this Charter, the Councilmen shall have authority to cause the same to be removed.

- (33) To license, tax and collect fees annually for any and all municipal purposes (including the cost and expense of advertising in the Town) of such various amounts as the Councilmen from time to time shall fix, from any individual, firm, association or corporation carrying on or practicing any business, profession, or occupation within the limits of the Town; provided, however, that nothing herein shall be so construed as to make it mandatory upon any resident of the State to apply for a license in order to sell in the Town any farm produce or products grown upon a farm owned by the vendor or any member of this family with whom he resides.
- (34) To determine from which authorized source and in what proportions taxes shall be levied and used each year to raise the revenue or funds required to meet the general expenses of the municipal corporation and all funding, amortization and interest requirements on its outstanding bonds or other indebtedness.
- (35) To provide for the collection of and disbursement of all monies to which the Town may become entitled by law, including licenses and fines, where no provision for the collection and disbursement thereof is otherwise provided in the Charter.
- (36) To accept from any authorized agency of the State or Federal Government, or from persons, firms or corporations, grants, or contributions for the planning, construction, acquisition, lease, reconstruction, improvement, betterment, or extension or operation and maintenance of any sewerage or water system and enter into agreements with such agency respecting such loans and grants, as well as to enter into and perform a contract or contracts with any person, municipality, or agency of the State or Federal Government for the sale, purchase, treatment, purification, transmission, or distribution of water.
- (37) To acquire, and/or to vacate the use of, lands, tenements, personalty, property, easements, rights-of-way, or other interest in property, either within or without the limits of the Town, by way of condemnation and eminent domain, for any proper and lawful municipal purpose or whenever required properly to carry out, exercise or fulfill any power conferred upon or delegated to the municipal corporation by the Charter. Proceedings by way of condemnation in any such case shall be the same as prescribed hereafter in Section 24 of the Charter for the opening and laying out of new streets or the vacating or abandoning of old streets and the resolutions referred to in said Section 24 shall be changed and modified to cover any case contemplated hereby.
- (38) To appropriate money to pay the debts, liabilities and expenditures of the Town, or any part or item thereof, from any fund applicable thereto, and to transfer temporarily money from one fund to another fund of the Town in case of emergency.
- (39) To provide for the payment of any tax, fine penalty, license, forfeiture, assessment, fee, charge or other amount due the Town by the performance of labor or service for the Town by any person owing the same.
- (40) To inquire into and investigate the conduct of any office, officer, agent, or employee of the Town or any municipal affair and for any such purpose or purposes may subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and production of books, papers or other evidence by summary process.
- (41) To make, adopt and establish all such ordinances, regulations, rules and by-laws, not contrary to the laws of this State and the United States, as the Councilmen may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the good government of the Town, the protection and preservation of persons and property and of the public health and welfare of the Town and its inhabitants; provided, that any ordinance relating to the public health of the Town and its inhabitants, or designed to prevent the introduction or spread of infectious or contagious diseases, or to prevent nuisances affecting the same shall apply not only within the corporate limits of the Town but as well to all areas and persons outside the Town within one mile from said limits.
- (42) To establish, by ordinance duly adopted in accordance with this Charter, a pension plan or a health and welfare plan, or both, for the employees of the Town under such terms and conditions as the Councilmen, in their discretion, deem most appropriate, provided, however, that the method of funding may, if deemed advisable by the Councilmen, be accomplished through an insurance company licensed by the State of Delaware or authorized to do business in this State and approved by a majority of the Councilmen. 79 Del. Laws, c. 236

- (43) To borrow money in anticipation of the issuance of bonds on the full faith and credit of the Town a sum or sums not exceeding One Hundred Thousand Dollars (\$100,000.00) in any one year when, in the opinion of the majority of the Councilmen, the needs of the Town require it. Any sum so borrowed shall be secured by promissory notes of the Town duly authorized by a Resolution adopted by the Councilmen and signed by the President of the Town Council of Frankford and attested by the Secretary of the Town Council of Frankford with the corporate seal affixed and no officer or councilman shall be liable for notes because they are signed by them as officers of the Town and are authorized by the Resolution of the Councilmen of Frankford; PROVIDED, HOWEVER, that the total sum outstanding at any one time shall not exceed One Hundred Thousand Dollars (\$100,000.00); and PROVIDED FURTHER, that any sum of money so borrowed, as aforesaid, in any fiscal year shall be paid from the general fund of the Town and shall be completely repaid at any time but must be completely paid at the end of ten (10) fiscal years following the first fiscal year when said sum or sums were borrowed with interest thereon; AND PROVIDED FURTHER, that such ad valorem taxes shall be levied as are necessary to pay the principal of and interest on said bonds as is required without regard to any other limitation concerning the maximum rate of taxation and such notes and the interest thereon shall be exempt from all taxation by the State of Delaware or by any political subdivision, agency or subdivision thereof.
- (44) To exercise all other powers vested in towns and municipalities in the State of Delaware, generally, which powers are granted to such entities by the Delaware General Assembly, as well as such powers which may be granted to such entities by the General Assembly in the future, which powers are not denied to said entities by the Constitution or any Statute in effect.

## USE OF TOWN MONEY

Section 19. The Town Council of said Town shall have full power and authority to use the money in the Treasury of said Town or any portion thereof, from time to time, for the improvement, benefit, protection, ornament and best interest of the said Town, as Council may deem proper, and to use Town money to accomplish and carry into effect all acts and things which it has power to do by virtue of the Laws of Delaware, this Act and all lawful ordinances and resolutions of Council. In the general performance of its duties and particularly in the expenditure of moneys of the said Town, the acts, doings and determinations of a majority of the entire Council shall be as good as the acts, doings and determinations of all of the members of Council. In case of the absence or other incapacity of Councilmen, or in case of a vacancy or vacancies in Council, the remaining members, providing they constitute a majority of the entire Council, may conduct regular meetings and preside over hearings as specified herein and conduct all other necessary business, but no funds of the said Town shall be used for any purpose without the affirmative action of a majority of all members elected to Council.

## BORROWING OF MONEY AND ISSUANCE OF BONDS

### Section 20.

- (A) The Council of The Town of Frankford may borrow money and issue bonds or certificates of indebtedness to secure the repayment thereof on the faith and credit of the Town of Frankford or such other security or securities as the Councilmen shall elect for the payment of principal thereof and interest due thereon.
- (B) All bond or other kinds or forms of certificate or certificates of indebtedness issued by the Councilmen of The Town pursuant to the provisions of this section shall be exempt from all State, county or municipal taxes.
- (C) The power or authority to borrow money may be exercised by the Councilmen of The Town of Frankford to provide funds, for, or to provide for the payment of, any of the following objects and purposes: (1) refunding any or all outstanding bonds or other indebtedness of the Town at the maturity thereof or in accordance with any callable feature or provision contained therein; (2) meeting or defraying current operating expenses of the Town; (3) erecting, extending, enlarging, maintaining, and repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of gas, water, electricity, sewerage or drainage system, or any of them, and the condemning or purchasing of any lands, easements and rights-of-way which may be required therefore; (4) constructing, paving, laying-out, widening, extending, repairing and maintaining streets, lanes, alleys and ways and the paving, constructing, laying-out, widening, extending, repairing and maintaining of curbing and gutters along the same and the condemning or purchasing of any lands, easements or rights-of-way which may be required therefor; (5) constructing, laying-out, widening, extending, and repairing sidewalks, crosswalks, or embankments, or any of them and the condemning or purchasing of any lands, easements or rights-of-way which may be required therefor; (6) defraying the costs to the Town of any other municipal improvement provided for or authorized or implied by the provisions of this Charter.

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- (D) The Councilmen shall adopt a resolution proposing unto the electors of the Town by resolution that an amount of money shall be borrowed for any of the above purposes. The resolution shall state the amount of money desired to be borrowed, the purpose for which it is desired, the manner of securing the same, and other pertinent facts relating to the loan which are deemed pertinent by the Councilmen of The Town of Frankford and in their possession, and shall fix the time and place for a public hearing on said resolution.
- (E) Notice of the time and place of the hearing on the resolution authorizing said loan shall be printed in a newspaper having a general circulation in the Town of Frankford at least one week before the time fixed for the public hearing.
- (F) After the public hearing, a second resolution may then be passed by the Councilmen of The Town of Frankford ordering a Special Election to be held not less than thirty days and no more than sixty days after said public hearing to borrow the said money for the purpose of voting for or against the proposed loan. The passing of the second resolution calling the Special Election shall, ipso facto, be considered the determination of the Councilmen of The Town of Frankford to proceed in the matter in issue.
- (G) The notice of the time and place of holding the said Special Election shall be printed in two issues of a newspaper having a general circulation in the Town of Frankford within thirty days prior to the date of the said Special Election.
- (H) At the said Special Election, every owner or leaseholder, as defined in this Charter, of property, whether an individual, partnership or corporation, shall have one vote and every person who is a bona fide resident of the Town of Frankford, but who is not an owner or leaseholder, as defined in this Charter, of property within the corporate limits of the Town of Frankford and who would be entitled at the time of holding of the said Special Election to register and vote in the Annual Municipal Election if such Annual Municipal Election were held on the day of the Special Election shall have one vote whether or not such person be registered to vote in the Annual Municipal Election.
- (I) Any Special Election held pursuant to the provisions of this section shall be conducted by voting machines which shall have the following designations:
- ☐ For the proposed borrowing
  - ☐ Against the proposed borrowing
- The voter shall be instructed to mark the box for which he casts his vote.
- (J) In the event that an individual holds a power of attorney duly executed and acknowledged of another person or of a firm or corporation specifically authorizing the said individual to vote at the said Special Election, a duly authenticated copy of which has been filed in the Office of the Town Clerk of the Town of Frankford, such individual shall be entitled to cast the vote of said person, firm or corporation.
- (K) The President of the Town Council shall appoint a Board of Special Election, whose members shall have the same qualifications as provided in this Charter in the case of the Board of Elections of an Annual Municipal Election of the Town of Frankford.
- (L) The polling places shall be opened from eleven o'clock (11:00) in the morning, prevailing time, until seven o'clock (7:00) in the evening, prevailing time, on the date set for the Special Election. Persons in the polling place at 7:00 in the evening shall be entitled to vote even though such votes may be cast after 7:00 in the evening.
- (M) Immediately upon the closing of the polling places, the Board of Special Election shall count the ballots for and against the proposed borrowing and shall announce the result thereof and shall make a certificate under their hands of the number of votes cast for and the number of votes cast against the proposed borrowing and the number of void votes and shall deliver such certificate in duplicate, to the Councilmen of The Town of Frankford. The said certificate shall be filed with the papers of the Town Council.
- (N) The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the interest rate, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or appurtenant matter pertaining thereto shall all be determined by the Town Council of The Town of Frankford after said Special Election.
- (O) The faith and credit of the Town of Frankford shall be deemed to be pledged for the due payment of the bonds and the interest thereon issued under the provisions hereon when the same shall have been properly executed and delivered for value notwithstanding any other provision of this Charter.
- (P) The bonds may be sold at either public or private sale. If it is determined to sell the said bonds at public sale, the bonds shall be offered for sale to the best and most responsible bidder therefor after advertisement in the

newspaper having a general circulation in the Town of Frankford and otherwise if the Councilmen of the Town shall deem it advisable for at least fifteen days before offering the same for sale.

- (Q) In no event shall the indebtedness of the Town of Frankford authorized by this section at any one time exceed in the aggregate twenty-five percent of the assessed valuation of all real property situate within the corporate limits of the Town of Frankford and subject to assessment for the purpose of levying the annual tax as provided in this Charter.

### **GRANTS OR LOANS FROM FEDERAL, STATE OR INTERSTATE AGENCIES**

Section 20A. For the purposes set forth in Section 20. (c), above, the council of the Town of Frankford may accept grants or loans of money, labor, material, equipment or technical assistance from agencies of the federal or state government or from interstate agencies. The council of the Town of Frankford may issue bonds to evidence loans made by an agency of the federal or state government, at private sale, providing that the total of such loans shall not exceed \$2,500,000. The council of the Town of Frankford may pledge its taxing power to the payment of the bonds without limitation as to rate or amount and the bonds may be payable at a place approved by the agency making the loan. Bonds issued pursuant to this section shall not be subject to the limitation set out in Section 20 (Q). 71 Del. Laws, c. 390

### **EXEMPTION OF PROPERTY FROM TAXATION**

Section 21. The Town Council of said Town shall have power by an ordinance, or by a resolution, to relieve, release, exonerate and exempt the real or personal property, or both, of any person, firm, association or corporation used in any manufacturing business within the limits of said Town and employing no less than six persons; and the real, or personal property, or both, of any person, firm, association or corporation used in the manufacture or distribution or both, of water, gas, electric current or other service or commodity deemed desirable or necessary for the best interest of the inhabitants of said Town, and the real or personal property, or both, held, owned, leased, or employed by any person, firm, association or corporation with whom Council may now or in the future have a contract for the furnishing to said Town and its inhabitants of electric current, light, power, heat, water or any or all of them over which Council has power or authority and from the payment of the same. No property shall be exempt from taxation aforesaid until such an ordinance is enacted or such special resolution adopted and the period of such exemption shall be only such as is set forth in said ordinance or resolution, and shall not be in excess of ten years, and shall only be revokable upon the breach of a condition contained in such ordinance or resolution. The Town Council may by an ordinance or by a resolution, exempt from property taxation those qualified citizens who are exempt as established by law.

### **TOWN BUDGET**

Section 22.

- (A) The fiscal year for the Town of Frankford shall be July 1 through the next June 30.
- (B) Annually each year and not later than the last week in June the Town Clerk and the Treasurer may prepare a rough draft of a Town Budget. From this rough draft the Town Council may not later than July 31, of each year, prepare the Town Budget, containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year.
- (C) The Budget may contain the following information:
1. A detailed estimate showing the expense of conducting each department and office of the Town for the ensuing fiscal year.
  2. The value of supplies and materials on hand, together with the nature and kind of machinery or other implements and the condition thereof.
  3. The amount of the debt of the Town, together with a schedule of maturities of bond issues.
  4. An itemized statement of all other estimated expense to be incurred in the affairs of the Town.
  5. A statement of the amount required for interest on the bonded debt, the amount necessary to pay any Bond maturing during the year and the amount required for the 'Sinking Fund' or 'Sinking Funds'.
  6. An estimate of the amount of money to be received from taxes, assessment, and all other anticipated income of the Town from any source or sources whatsoever.
- (D) The Town Council shall, so far as possible, adhere to the Budget so adopted in the making of appropriations.

### **REMOVAL OF OBSTRUCTIONS, NUISANCES, AND UNSANITARY CONDITIONS**

Section 23.

- (A) In addition to the power to impose fines and penalties for the maintenance of obstructions, nuisances, and unsanitary conditions, as those terms may be defined by the Councilmen, if the Councilmen either upon their own inspection or upon information obtained from the Town Clerk or Police Force, shall deem that such obstruction, nuisances, or unsanitary condition ought to be removed or abated as the case may be, the Councilmen shall enact an ordinance or adopt a resolution, or both, to that effect and thereupon shall direct the Town Clerk to forward, to the person or persons continuing or causing such obstruction, nuisances, or unsanitary condition, or to the person or persons who are responsible for its existence or continuance, by the mails of the United States, in a sealed wrapper addressed to his or their last and best known post office address, a notice to remove or abate the same as soon as may be possible. If such person or persons refuse or neglect, for the space of five (5) days after such notice is mailed, to remove or abate the same, the Councilmen may have a warrant issued in the name of the Town Council of the Town of Frankford. The warrant shall command him forthwith to remove or abate such obstruction, nuisance or unsanitary condition. The Town Clerk shall forthwith proceed to remove or abate the same and, to that end, he shall have full power and authority to enter into and upon any lands and premises in the Town. He shall likewise have the authority to take with him such assistants, implements, vehicles or other things as may be necessary and proper to do and perform all matters and things in connection with the removal or abatement of such obstruction, nuisance, or unsanitary condition.
- (B) At the regular monthly meeting of the Town Council next succeeding the delivery of the warrant to him, the Town Clerk shall make a return to the Councilmen of his proceedings upon the warrant and shall specify the costs and expenses of all necessary work, labor, and proceedings incurred by him in the abatement or the removal of the same.
- (C) At such meeting, the Councilmen shall determine, from the return of the Town Clerk, the costs and expenses of all necessary work, labor, and proceeding in reference to the abatement or removal of such obstruction, nuisance, or unsanitary condition. The Councilmen shall issue or have issued a warrant, containing an itemized account of that information, together with the name and last and best known address of the person from whom the Councilmen shall determine the amount to be due and shall deliver such warrant to the Town Clerk. The warrant shall command him forthwith to collect the amount stated to be due thereon from the person or persons designated therein. The Town Clerk shall forward to such person or persons, in a sealed wrapper, a true and correct copy of the warrant by depositing the same in the United States mails and addressed to such person's or persons' last and best known post office address. If such person or persons shall refuse or neglect to pay the same to the Town Clerk for the use of the Town within thirty (30) days from the date of the mailing of such true and exact copy of the warrant, the Town Clerk shall then be authorized and required to collect the same in any of the manners hereinbefore provided in Section 17 hereof.

## **STREETS**

Section 24. The Town Council shall have power and authority to locate, lay out, and open new streets and to widen or abandon streets or parts thereof, whenever they shall deem it for the best interest of the said Town. The procedure in every case as aforesaid, shall be as follows: The Council shall, by a majority vote, adopt a resolution favorable to the opening of the new street, or to the widening or altering of a street, or to the vacating or abandoning of a street, or any part thereof, as the case may be, and giving a general description of the street to be opened or widened, or altered, or of the street or part thereof to be vacated or abandoned, as the case may be. The said resolution shall also state the day, hour and place when the said Council will sit to hear objections and to award just and reasonable compensation to anyone who will be deprived of property. A copy of such resolution shall be posted in five (5) or more public places in the said Town at least five days before the day fixed for the hearing aforesaid.

At the time and place fixed in the said resolution said Council shall hear such residents of the Town or owners of the property affected as shall attend, and it shall at said meeting or at a subsequent day, as it shall deem proper, adopt a resolution by a majority vote, to proceed with, or to abandon as it shall deem for the best interest of the said Town, the opening of the street or streets, or the widening, altering, vacating or abandoning of the existing street or streets, or part thereof, as the case may be, as contemplated in its prior resolution. And in case the determination of the said Council shall be to proceed with the plan contemplated by the resolution first aforesaid, Council shall award just and reasonable compensation to anyone who will be deprived of property in consequence thereof. Such compensation, if any be awarded, shall be paid by the Treasurer of the Town, on a warrant drawn on him by authority of the Council aforesaid upon delivery of a Deed in fee simple in favor of the Town of Frankford, and clear of all liens and encumbrances. If anyone who will be deprived of property as aforesaid be dissatisfied with the compensation awarded by the Council aforesaid, he may, within five days after the award of the Council as aforesaid, appeal from such award by serving written notice to that effect on the Secretary or President of Council. In order to prosecute said appeal such appellant shall within five days after the expiration

of the five days allowed for the appeal as aforesaid, apply to the Judge of the Superior Court for the State of Delaware, resident in Sussex County, or in his absence at that time, to the Chief Justice of the said Court, for the appointment of freeholders to hear and determine the matter of compensation to such appellant for any of which will be deprived as aforesaid, and thereupon the said Judge or Chief Justice, as the case may be, shall issue a commission under his hand directed to five impartial freeholders of Sussex County, commanding them to determine and fix the damages which the said appellant will sustain by reason of being deprived of any property as aforesaid, taking into consideration the benefit or advantages that will enure to the said appellant from said new street or otherwise, and to make return of their funds to the said Judge or Chief Justice, as the case may be, at a time appointed in said commission. The said freeholders shall give notice of the day, hour and place when they will meet to view the premises and to assess the damages, if any, as aforesaid. Such notice shall be served upon the appellant personally, or by posting a copy of the premises affected at least five days before the day when they are to view the premises as aforesaid and a copy of such notice shall also be served on the Secretary or the President of Council at least five days before the day of such meeting.

The freeholders named in such commission being first sworn or affirmed on the day and at the hour and place stated in the notice aforesaid, shall view the premises and hear the appellant and his witnesses and the Council and its witnesses, and shall without delay, determine and fix the damages, if any, which the said appellant will sustain by reason of being deprived of any property as aforesaid. Thereupon and without delay the said freeholders shall make return in writing of their proceedings in the premises to the said Judge or Chief Justice, as the case may be, who shall cause the said return to be delivered to the said Secretary or President of Council and such return shall be found and conclusive. The said Judge or Chief Justice shall have power to fill any vacancy among the freeholders. The amount of damages being ascertained as aforesaid, the said Council may pay or tender the same to the person or persons entitled thereto, within one month after the same shall be finally ascertained, or may deposit the same to his credit in any Bank in the Town of Frankford to the credit of the person or persons entitled thereto within the said period of one month, and thereupon the said Council may carry into effect the plan contemplated in their resolutions aforesaid. In the ascertainment and assessment of damages by the freeholders appointed by the Judge or Chief Justice aforesaid, if the damages shall be increased or if the Council shall decide not to take said land, the costs of the appeal shall be paid by the Treasurer of the said Town of any money in his hands belonging to the Town, but if said damages shall not be increased, the costs of the appeal shall be paid by the party appealing. The fees of the freeholders shall be five dollars per day to each, which shall be taxed as part of the costs. After the damages shall be fixed and ascertained by the freeholders as aforesaid, Council shall have the option of paying the damages assessed within the term aforesaid and proceed with the improvements, or upon the payment of the costs only, may abandon the proposed improvement.

Whenever the land comprehended or included in any street, or part thereof, is vacated or abandoned under this Section if owned by the said Town, the Council may, in its discretion, sell such land at public sale and for such consideration as the Council shall deem proper, and shall have the right and power to convey to the purchaser or purchasers thereof a good and sufficient title thereto for whatever estate the said Town may have therein.

The word 'street' shall be deemed and held to comprehend and include sidewalks, lanes, and alleys for all the purposes of this Section.

## **PAVING, GUTTERING, CURBING**

Section 25. The Council shall have the power to cause to be paved or repaved the sidewalks of the said Town, or any part or portion thereof, and shall have power to have existing curbs or gutters, or both, repaired or relaid, or new curbs or gutters, or both, constructed, or any part of or portion thereof, in said Town, with such material or materials and of such width or size, and subject to such specifications as it shall determine. Before the exercise of said power in any particular instance, the Council shall adopt an ordinance or resolution stating in effect that on a named day and at a named hour and place the Council will meet to consider the question of paving or repaving the sidewalks with a specified material or materials, or repairing existing curbs or gutters, or both, or altering existing curbs or gutters, or both, with any specified material or materials and according to the stated specifications on a named street in front of the property of named owners, and of assessment of the costs thereof against such owners. The said ordinance or resolution shall be published at least one week prior to the meeting aforesaid in at least one issue of a newspaper published in the said Town, or in a newspaper published elsewhere in Sussex County, if there be none in said Town published. The Council shall hold a meeting in said Town in accordance with said ordinance or resolution and thereat shall hear the aforesaid owners of property and other residents of the Town appearing on the question referred to in the said ordinance or resolution.

After such hearing, the Council, either at said meeting or at a subsequent meeting, shall decide whether or not to proceed with the improvements referred to in said ordinance or resolution, and if it shall decide to proceed, it shall determine whether the whole or some specified proportion of the costs of the improvements aforesaid in front of the real property of the owner or owners named in the aforesaid ordinance or resolution shall be borne by said owners. If said determination shall be that the whole or specified proportion of said costs shall be borne by said owners, then in such case



the said owners shall be compelled to pay the whole or specified proportion of the cost aforesaid, as the case may be, the amount to be paid by the owner of each parcel of property affected to be determined by the lineal frontage of the parcel on the sidewalk to be paved or repaved, or in the gutter to be repaired or laid, or on the curb, to be repaired or constructed, or any or all of said improvements, as the case may be.

When the said paving or repaving, curbing or recurbing, guttering or reguttering, or any or all of them, have been done and the costs thereof ascertained, the Council shall ascertain the amount that the owner of each parcel of property aforesaid shall pay as hereinbefore stated, and shall give written notice thereof to such owner, or one of the co-owners, by mailing the same to his last known address. If any such owner shall fail to pay the specified amount within thirty days after the mailing of such notice, the same may be collected in any of the manners hereinbefore provided in Section 17 hereof.

## **CONTRACTS**

Section 26. Contracts, Bidding, and Awards.

(a) All expenditures for supplies, materials, equipment, construction and labor of public improvements or contractual services involving more than Seven Thousand Five Hundred Dollars (\$7,500) shall be by public competitive bidding. The Town Manager shall be required to advertise for bids, in the manner as may be prescribed by ordinance for all such public competitive bidding. If the Town Council shall determine not to adopt such an ordinance, the procurement of material and the provision of labor shall be governed by the laws of the State of Delaware applicable to State agencies. All such contracts shall be approved by the Council before becoming effective and shall be protected by such bonds, penalties and conditions as the Town may require.

(b) All contracts involving professional services, such as accounting, architecture, auditing, engineering, law, planning and surveying, need not be on a bid basis but may be negotiated by the Town Manager or the Council. The Town Manager shall advertise the intention to negotiate for such professional service prior to making any contract in excess of Seven Thousand Five Hundred Dollars (\$7,500). 78 Del. Laws, c. 17

## **WATER SYSTEM**

Section 27. The Town Council is hereby vested with full power and authority to provide for the Town of Frankford an ample supply of pure water and to purchase, lease, erect, construct, maintain, operate and control wells, reservoirs, pumping machines and stations, water mains, fire hydrants and all other instruments for the collection, storage, conveyance and distribution of water on, over, under or through the lands of any person. The Council shall have power to enact ordinances, rules and regulations, in regard to the use for public or private purposes of water furnished by the Town, and the amounts to be paid by the user thereof, and to fix fines, or penalties, or both for any wilful or negligent injury or damage to, or interference with the water system of the Town. The Council may, at its option, furnish water from the Town system to places and properties outside the Town limits upon such special terms, charges and conditions as it shall deem wise.

The Council may, by condemnation proceedings, take private land, or the right to use private lands, under, over or on the surface thereof, for the proper operation or extension of the water system. The proceedings by condemnation under this Section shall be the same as prescribed in Section 24 of this Act for the opening and laying out of new streets, and the resolutions referred to in said Section 24 shall be changed and modified to cover the cases contemplated by this present Section.

## **SEWER SYSTEM**

Section 28. The Town Council is hereby vested with full power and authority to provide, construct, extend, maintain, manage and control a sewer system for the health, sanitation and convenience of the inhabitants of the said Town, on, over, under or through the lands of any person. The Council shall have power to enact ordinances, rules and regulations regarding the sewers and the sewer system of the Town and the use thereof, and the amounts to be paid by the users thereof, and to fix fines or penalties, or both, for any wilful or negligent injury or damage to or interference with the said sewers or sewer system of the Town. The Council may at its option furnish sewer facilities to places and properties outside of the Town limits upon such special terms, charges and conditions as it shall deem wise. The Council may require any property in the Town, for which there is any available sewer, to be connected with the sewer system and may compel the owner of such property to pay the cost of such connection and the tapping fee therefor, as provided in Section 23 of this Act.

The Council may, by condemnation proceedings, take private land, or the right to use private land, under, over or on the surface thereof, for the proper operation or extension of the sewers and sewer system of the Town. The proceedings by condemnation under this Section shall be the same as prescribed by Section 24 of this Act, for the opening and laying out

of new streets, and the resolutions referred to in said Section 24 shall be changed and modified to cover the cases contemplated by this present Section.

### **ELECTRIC CURRENT, POWER PLANT, FRANCHISES**

Section 29. The Town Council of the Town of Frankford shall have full power and authority to erect, construct, equip, maintain and operate a plant or plants for the generating and manufacturing of electric current for the use of the inhabitants of said Town and for lighting of streets, squares, lanes, alleys and public places and buildings of said Town and shall have full power and authority to construct, erect, maintain, improve, extend, equip and operate such transmission and distributing lines for said current as may be necessary to properly light said Town and to furnish proper connections for electric current to the properties of the inhabitants thereof who may desire the same. The Council shall have power to make contracts for the purchase of heat, light, sewer, water and electric current with any responsible persons, firms, or corporations and to distribute the same to users within or without the said Town with the same full powers as if such heat, light, power, water or electric current had been generated or manufactured by the said Town as herein expressly provided for by this Act. Council shall grant to all persons whosoever in said Town the privilege of using the electric current conveyed and distributed by said Town in such manner and on such terms and conditions and at such rates and for such amounts as to the Council may seem just and proper and shall enact such ordinances relating to electric current, its generation and distribution in said Town and the regulation of the connections thereof with the properties of individuals in said Town and its general management and control as to said Council shall from time to time seem most expedient. The Council may at its option transmit electric current from said Town to places and properties outside of the Town limits upon such terms, charges and conditions as it shall deem wise.

The Town Council shall also have full power and authority at any regular or special meeting, by a majority vote, to enact ordinances or adopt resolutions granting franchises to any responsible person, firm, association or corporation, and for such terms of years as shall seem wise to said Council to use the present and future streets, squares, alleys, and lanes of the said Town for purposes of furnishing light, heat, power, gas, television services, or water, or any or all of them to said Town and to the persons, firms, or corporations residing therein and for the purpose of transmitting light, heat, power, gas, television services, and water, or any or all of them through, over, across or under said streets, squares, alleys and lanes to points outside of the limits of said Town, any such franchise or franchises to contain such restrictions, conditions and stipulations as shall to said Council seem wise, and said Council, by a majority vote, at any regular or special meeting, shall also have full power and authority to enter into contracts with any responsible persons, firms, associations or corporations for the furnishing of electric current, either at wholesale or retail to said Town, and to persons, firms and corporations residing therein, or adjacent thereto.

The Councilmen may, by condemnation proceedings, take private land and property, or the right to use private land and property, under, over, or on the surface thereof, for the proper operation, manufacture or extension or distribution of gas or electric current as above provided. The proceedings by condemnation under this Act shall be the same as prescribed by Section 24 and shall be changed and modified to cover those cases contemplated by this particular Section of the Charter.

### **DRAINAGE**

Section 30. The Town Council of said Town shall have the full jurisdiction and control within the limits of said Town of the drainage thereof, and the right to alter and change the course and direction of any of the natural water courses, runs or rivulets within the limits of the Town, and may pass ordinances for the opening of gutters, drains and sewers within said Town limits and the regulating and maintaining, cleaning and keeping the same and the natural water courses, runs and rivulets within the said Town limits open, clean and unobstructed, and for that purpose may authorize the entry upon private lands and take, condemn and occupy the same in the same manner and by the same condemnation proceedings as hereinbefore provided in case of the water and sewer systems of the said Town and as prescribed by Section 24 of this Act for the opening and laying out of new streets, and the resolutions referred to in said Section 24 shall be changed and modified to cover the cases contemplated by this present Section. The Town Council may by an ordinance or by a resolution levy a tax upon all or a portion of the citizens for drainage, as set forth under Section 15 hereof.

### **PROCEDURE FOR REFERENDUM**

Section 31.

- (A) Qualified voters of the Town of Frankford shall have the power to require reconsideration by the Town Council of any adopted Ordinance and to approve or reject it at an election as provided herein; provided, however, that such power of referendum shall not extend to the budget or capital program- or any emergency ordinance or any ordinance relating to the appropriation of money or any ordinance relating to the levy of taxes.

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- (B) A Referendum Petition, signed by qualified voters of the Town of Frankford entitled to register and vote in the Annual Municipal Election if such Annual Municipal Election were held on the day that the Referendum Petition was signed by such qualified voter, whether or not such voter is a registered voter, containing signatures equal in number to at least forty percent (40%) of the total number of voters who voted in the Annual Municipal Election next preceding the execution of the Referendum Petition with the local address of the person so signing, or forty-five (45) resident and property owners, qualified as aforesaid, whichever is greater, shall be presented to the Town Council at the next regular meeting of the Town Council following adoption of the ordinance sought to be reconsidered. Each copy of such petition shall contain and have attached thereto throughout its circulation the full text of the ordinance sought to be reconsidered.
- (C) Each copy of the petition shall have attached to it, when filed, an affidavit executed by the signer thereof stating that he personally circulated the petition, the number of signatures thereon, that all signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be, that each such person who signed it is qualified to sign the petition and that each signer had an opportunity before signing, to read the full text of the ordinance sought to be reconsidered.
- (D) A Petition for Referendum shall be filed at the next regular meeting of the Town Council following adoption by the Town Council of the ordinance sought to be reconsidered or it shall not be the subject of a referendum. If there are less than twenty-eight (28) days from the date of the adoption of the Ordinance sought to be reconsidered until the next regular meeting of the Town Council of the Town of Frankford, the Petition for Referendum shall be presented at the first regular meeting following the expiration of the said twenty-eight (28) day period or the Ordinance sought to be reconsidered shall not be the subject of a referendum.
- (E) Within twenty (20) days after the petition is filed with the Town Council at a regular meeting the Secretary shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective, and shall promptly send a copy of the certificate to the circulator of such petition by certified mail with return receipt requested. A petition certified insufficient for lack of the required number of valid signatures may be amended one (1) time if the circulator files a Notice of Intention to Amend with the Secretary within two (2) days after receiving a copy of his certificate and files a Supplementary Petition upon additional papers within five (5) days after receiving the copy of such certificate. Such Supplementary Petition shall comply with the requirements of this Section concerning form, content, and the affidavit of the circulator. Within five (5) days after it is filed, the Secretary shall complete a certificate as to the sufficiency of the petition, as amended, and shall promptly send a copy of such certificate to the circulator by certified mail with return receipt requested, as in the case of the original petition. If the petition, or amended petition, is certified sufficient, or if the petition or amended petition is certified insufficient, and the circulator does not elect to amend or request a review of the sufficiency of the certificate by the Town Council of the Town of Frankford within the time required, the Secretary shall promptly present his certificate to the Town Council at the next regular meeting and the certificate shall then be a form of determination as to the sufficiency of the petition.
- (F) If a petition has been certified to be insufficient and the circulator has not filed Notice of Intention to amend, or if an amended petition has been certified insufficient, the circulator may, within two (2) days after receiving the copy of such certificate file a request that it be reviewed by the Town Council. The Town Council shall review the certificate at the next regular meeting following the filing of such request, and approve or disapprove it, and the determination of the Town Council shall be a final determination as to the sufficiency of the petition.
- (G) Any person or persons, jointly or severally, aggrieved by the decision of the Town Council may present to the Superior Court of the State of Delaware, a petition duly verified setting forth that such decision is invalid, in whole or in part, specifying the grounds of such invalidity. Such petition shall be presented to the Court within thirty (30) days following the determination by the Town Council as to the insufficiency of such petition. Upon presentation of the petition, the Court may allow a Writ of Certiorari direct to the Town Council of the Town of Frankford to review such decision of the Town Council and shall prescribe therein the time within which a return thereto must be made and served upon the petitioner or his attorney, which shall not be less than ten (10) days and may be extended by the Court. The allowance of the Writ shall stay proceedings upon the decision or determination appealed from. The Court may reverse or affirm, wholly or partly, or may modify the determination brought up for review.
- (H) Upon the filing of the Petition for a Referendum with the Secretary, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate upon the happening of any of the following events.
- (1) There is a final determination of insufficiency of the Petition; or

- (2) The Petition is withdrawn by the circulators thereof or sufficient copies thereof are withdrawn so that there are insufficient numbers of signatures as required by this Section; or
  - (3) The Councilmen repeal the ordinance; or
  - (4) Thirty (30) days have elapsed after a vote by the voters on the ordinance; or
  - (5) There is a final determination by the Superior Court.
- (I) The Town Council shall reconsider the referred ordinance at the first regular meeting after the Petition for a Referendum has been finally determined to be sufficient. If the Town Council fails to repeal the referred ordinance, the referred ordinance shall be submitted to the voters of the Town of Frankford at an election.
  - (J) The vote of the residents and property owners of the Town of Frankford on a referred ordinance shall be held not less than thirty (30) days and no later than ninety (90) days from the date that the petition is determined to be sufficient. If the Annual Municipal Election is to be held within the period prescribed in this Section, such referendum shall be considered as part of that election. If the Annual Municipal Election is not to be held within the period prescribed in this section, the Town Council of the Town of Frankford shall provide for a special election. If the Town Council fails to hold a referendum within the time specified in this section, the ordinance for which the petition was filed shall be deemed to be repealed at the expiration of ninety (90) days from the date that the petition was considered to be sufficient, and shall not be passed in the same form for a Period of six (6) months from the effective date of repeal.
  - (K) At the said Special Election, every person, male or female, who shall have attained the age of eighteen (18) years, and who shall be a freeholder or leaseholder in the Town of Frankford for a period of six (6) months immediately preceding the date of such Special Election, and who shall be a resident of the State of Delaware and of the Town of Frankford shall have one (1) vote provided such person is registered on the corporate "Books of Registered Voters" of the Town of Frankford as prescribed in this Charter. Any person who shall register on the "Books of Registered Voters" shall be entitled to vote in the Special Election provided by this Section. A person may register at the Office of the Town Clerk during the regular office hours on any day in order to vote in the Special Election until the close of business on the second Friday prior to the date of said Special Election. Any person registered to vote in the Annual Municipal Election shall not be required to register in order to vote in the Special Election to be held pursuant to this Section, The "Books of Registered Voters" shall be conclusive evidence of the right of any person to vote at the Special Election.
  - (L) The notice of the time and place of holding the said Special Election shall be printed in at least two (2) issues of a newspaper having a general circulation in the Town of Frankford within thirty (30) days immediately preceding the date of the Special Election.
  - (M) The President of the Town Council shall appoint three (3) persons to act as a Board of Special Election, if a Special Election is required. The polling place shall be open from eleven o'clock (11:00) in the morning, prevailing time, until seven o'clock (7:00) in the evening, prevailing time, on the date set for the Special Election. Persons in the polling place at seven o'clock (7:00) in the evening, shall be entitled to vote even though such votes may be cast after seven o'clock (7:00) in the evening.
  - (N) Immediately after the closing of the polling place or places, the Board of Special Election, or the Board of Election if the referendum is held on the day of the Annual Municipal Election, as the case may be, shall count the ballots for and against the proposition as presented, and shall announce the results thereof. The Board of Special Election or the Board of Election, as the case may be, shall make a certificate under their hands of the number of votes cast for and against the proposed ordinance and the number of void votes, and shall deliver the same to the Town Council. The said certificate shall be filed with the papers of the Town Council of the Town of Frankford.
  - (O) The form of the ballot of the said Election, whether the same be considered at the Annual Municipal Election or at a Special Election shall be as follows-
    - ( ) For the Referred Ordinance
    - ( ) Against the Referred Ordinance
    - (Check your Preference)

Paper ballots may be used in any Special Election on a referral of an ordinance. The Town Council shall cause to be prepared and printed a sufficient number of ballots not less than five (5) days prior to the date of the Special Election. Voting machines shall be used if the referendum is held on the day of the Annual Municipal Election.
  - (P) If the majority of the residents and property owners voting on a referred ordinance vote against such ordinance, it shall be considered repealed upon the certification of the result of the election by the Board of

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Special Election in the case of a Special Election or upon the certification by the Board of Election in the case of such referendum being held on the day of the Annual Municipal Election. No ordinance which has been repealed as a result of a referendum shall be passed again in the same form by the Town Council of the Town of Frankford for a period of six (6) months from the date of the referendum.

## **COMPENDIUM**

Section 32. The Council is hereby vested with the authority to enact ordinances or resolutions relating to any subject within the power and functions of the Town, or relating to the government of the Town, its peace and order, its sanitation, beauty, the health, safety, convenience and comfort of its population, and the protection and preservation of property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions; and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

It shall be the duty of the Councilmen, at reasonable times, to compile the ordinances, codes, orders, and rules of the Council of the Town of Frankford. It shall have a reasonable number of copies printed for the use of the officials of the Town and for public information. From time to time, upon the enactment of new ordinances, codes, rules and regulations, or upon the enactment of amendments to the same, the Council shall enroll the same in the Minutes of the Council and shall keep copies of the same in a book to be provided for that purpose so that the same may be readily examined. It shall furnish to the President of the Town Council of the Town of Frankford copies thereof as they are enacted; and therefrom may cause supplements to be compiled and printed to any compendium thereof heretofore printed as above-provided. By virtue hereof, all ordinances heretofore adopted by a majority vote of the Town Council of the town of Frankford, as the same was composed at the time of the enactment of these provisions into law, shall be given the full force and effect of law, notwithstanding any previous Charter provisions superceded hereby to the contrary.

## **HEALTH**

Section 33.

- (A) The power to adopt ordinances relating to the health of the population of the Town, or to prevent the introduction or spread of infections or contagious diseases or nuisances affecting the Town, shall extend to the area outside of the Town limits, and within one mile from said limits.

## **FIRE**

- (B) The council shall have the power to adopt all measures requisite or appropriate for protection against fire, and to appropriate money for the purpose of fire equipment, whether owned by the Town or by a Volunteer Fire Company.

## **ZONING**

- (C) For protection against fire, the Council may adopt ordinances to zone or district the Town and to make particular provisions for particular zones or districts with regard to buildings and building materials; to prohibit the use of building materials that may be deemed to create a fire hazard, and this power shall embrace new buildings or additions to or alterations of existing structures of every kind; to condemn buildings or structures, or portions thereof, that constitute a fire menace, and to require or cause the same to be torn down, removed, or so altered as to eliminate the menace of fire; to prescribe the height and thickness of walls of any building and the kind and grade of materials used in the construction thereof; to establish a building line for buildings to be erected, provided that such building line shall not be established more than ten feet back from front line of the lots.

The Council may adopt zoning ordinances limiting and specifying districts and regulating thereon buildings and structures according to their construction and according to the nature and extent of the business to be carried on therein.

The powers to be exercised under and by virtue of this provision shall be deemed to have been exercised under the police power and for the general welfare of the inhabitants.

The Council may create a Town Zoning commission for the development, improvement and beautification of the Town, and may prescribe its powers and duties.

## **BUILDING INSPECTION PERMITS**

- (D) The Council may provide for the issuance of building permits, and may forbid the construction of any new building, or the addition to, or alteration, or repair of any existing building unless a building permit has been obtained therefor.

Should any person, firm or corporation hereafter desire to erect any building or buildings within the corporate limits of said Town for the purpose of conducting therein the business of canning fruits, vegetables, meats, oysters, etc., or for the manufacture or manipulation of phosphate, fertilizer or manures of any kind, he or they before erecting any such building or buildings, or engaging in such business, shall make an application in writing for permission therefor to said Council. And should said Council determine that such building will not endanger the other property of the Town, and said business will not jeopardize the health of or be offensive to the citizens thereof, the Council shall have authority to grant a permit to erect such buildings and conduct such business.

The Council shall have full power to fix and determine the placing and replacing of poles or other structures within the Town limits for the carrying of telegraph, telephone, power or other wires, and the attachments thereto, and to cause existing poles or structures to be removed whenever the same shall be deemed to be obstructions or detrimental to the beauty of the Town, or when such poles or structures are so placed as to inconvenience persons or render property less desirable. This power shall extend as well to the location as to the relocation of such poles and structures, wires, and attachments, and may be exercised from time to time as occasion shall arise.

## **LICENSES**

Section 34. The Council shall have the right to grant or refuse licenses for boxing exhibitions and other sports, to circuses, theatrical or minstrel companies, or like things, and exhibits or parades thereof, or the posting of bills for the advertisement thereof; to pool or billiard rooms and other places of amusement; to peddlers or canvassers, to any person having only a temporary place of business for selling or offering for sale goods, wares and merchandise; to peddlers of meats, fish, oysters or vegetables and the location of wagons or stalls, provided that the Council shall not have the power to permit, by the license, interference with any place of business or with the convenience of public travel; to provide for the payment of taxes, fines, penalties, and forfeitures by performance of labor for the Town by those who may owe taxes, fines, penalties or forfeitures and to make proper regulations and rules therefor.

## **TREES**

Section 35. Trees being among the chief beauties of the Town, and their preservation requiring that they be treated with special care and intelligence, the Council is empowered to create a Tree Commission for the trees in the streets, and other public places of the Town, and to appropriate annually an amount of money adequate for their care and preservation. The Tree Commission may be given authority to take necessary or appropriate action to prevent injuries to trees from electric wires or from any other source or cause whatsoever, and to combat the pests and diseases to which they are subject, and when necessary to employ experts provided that they do not exceed the appropriation regulations made by the Council.

## **PENALTIES**

Section 36. The Council shall have the power to enact ordinances, rules and regulations and to fix the penalties for violations, thereof relating to the use of streets, highways, lanes, and alleys, the parking of vehicles thereon, with the power to prohibit parking on streets, or portions thereof, entirely or within certain hours, or for certain lengths of time.

## **FLOATING DEBT**

Section 37. Notwithstanding the limitations on the Town Council to borrow money and issue bonds or certificates of indebtedness on the faith and credit of the Town as set forth in Section 20 hereof, including the requirements of resolutions, public hearings, public notices and a Special Election as conditions thereto, the town Town Council shall have full power and authority, by a majority vote of all members thereof, to borrow upon the faith and credit of the Town of Frankford, the sum or sums of money, not exceeding a total aggregate amount of Fifteen Thousand Dollars (\$15,000.00) in any one fiscal year, when in the opinion of the majority of Council the operating needs of the Town require such indebtedness. Said Council may secure said sum or sums of money by promissory notes or certificates of indebtedness of the Town of Frankford, duly authorized by resolutions of Council, and signed by the President, or by the acting President, of the Council and by the Secretary, either with or without the corporate seal of the Town, affixed as is requested by the bank or person advancing the money on said notes or certificates, and no officer nor member of Council shall be personally liable for the payment of such notes or certificates because it is signed by them as officers of the Council, and is authorized by the resolution of the Council. Provided, however, any sum of money borrowed on the faith and credit of the Town of Frankford as aforesaid, in any fiscal year shall be paid out of the general funds of the Town, at the minimum rate of twenty-five per centum per fiscal year and shall be paid at the end of four fiscal years following the first fiscal year which said money was borrowed with interest thereon.

**LIMITATION OF ACTIONS**

Section 38. No action, suit or proceeding shall be brought or maintained against the Town of Frankford for damages either compensatory or punitive, on account of any physical injury or injuries, death or injury to property by reason of the negligence of the Town Councilmen of the Town of Frankford or any of its departments, officers, agents, or employees thereof, unless the person by or on behalf of whom such claim or demand is asserted within ninety days from the happening of such injury or the suffering of such damage, shall notify the Councilmen of the Town of Frankford in writing of the time, place, cause, character and extent of the injuries sustained so enrolled or damages suffered. Any suit brought against the Councilmen of the Town of Frankford shall be against them only in their capacity as representatives of the Town Government and not as individuals.

**INVESTIGATIONS**

Section 39. The Town Councilmen of the Town of Frankford shall have the power to inquire into and investigate the conduct of any office, officer or employee of the Town and to make investigations of all municipal affairs, and, for any such purpose or purposes, shall have the power to subpoena witnesses, administer oaths and compel the production of books, papers or other evidence.

**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.) 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:

- (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 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. 79 Del. Laws, c. 239

#### **SURVIVAL OF POWERS AND VALIDATING SECTION**

Section 41. All powers conferred upon or vested in the Town of Frankford or the Town Council of the Town of Frankford by any Act or Law of the State of Delaware not in conflict with the provisions of this Charter, are hereby expressly conferred upon and vested in the Town of Frankford and/or the Council of the Town of Frankford precisely as if each of said powers was expressly repealed in this Charter. All ordinances adopted by the Town Council of the Town of Frankford and in force at the time of the approval, acceptance, and going into effect of this Charter are continued in force until the same or any of them, shall be repealed, modified or altered by the Town Council of the Town of Frankford under the provisions of this Charter. All the acts and doings of the Town Council of the Town of Frankford or of any official of the Town of Frankford which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of the Town Council of the Town of Frankford, prior to the approval, acceptance and going into effect of this Charter, are hereby ratified and confirmed, unless otherwise provided herein.

All taxes, assessments, license fees, penalties, fines, forfeitures due the Town Council of the Town of Frankford or the Town of Frankford shall be due the Town of Frankford or the Town Council of the town of Frankford, and all debts due from the Town or the Town Council shall remain unimpaired until paid by the Town of Frankford or the Town Council of the Town of Frankford. All powers granted by this Charter in respect to the collection of taxes, license fees, assessments or other charges shall be deemed to apply and extend to all unpaid taxes, license fees, assessments or other charges heretofore lawfully imposed by the Town Council or the Town of Frankford. The Bonds given by or on account of any official of the Town of Frankford shall not be impaired or affected by the provisions of this Charter. All acts or parts of acts inconsistent with or in conflict with the provisions of this Charter are hereby repealed. If any part of this Charter shall be held to be unconstitutional, such holdings shall not be deemed to invalidate the remaining provisions of this Charter. The Charter shall be taken as and deemed to be a Public Act of the State of Delaware.

Approved July 11, 1980.

62 Del. Laws, c. 401; 67 Del. Laws, c. 98; 71 Del. Laws, c. 390; 78 Del. Laws, c. 17; 78 Del. Laws, c. 260; 79 Del. Laws, c. 236; 79 Del. Laws, c. 239; 84 Del. Laws, c. 492;