

**ORDINANCE NO. 34.05**

**AN ORDINANCE OF THE CITY OF FRANKLIN ANNEXING LAND LOCATED  
IN THE TOWN OF BIRCH COOLEY, RENVILLE COUNTY, MINNESOTA  
PURSUANT TO MINNESOTA STATUTES § 414.033 SUBDIVISION 5,  
PERMITTING ANNEXATION BY ORDINANCE PURSUANT TO PETITION OF  
PROPERTY OWNERS**

**WHEREAS**, a petition signed by all the property owners requesting that property legally described on the attached Exhibit A be annexed to the City of Franklin, Minnesota, was duly presented to the City Council of the City of Franklin on the 10th day of March, 2008; and

**WHEREAS**, said property is unincorporated and abuts the City of Franklin on its east boundary; and

**WHEREAS**, said property is not located within a flood plain or shoreland area, or delineated wetland area; and

**WHEREAS**, said property is currently agricultural and annexation is requested to facilitate the extension of city services for the commercial/industrial development of the property; and

**WHEREAS**, the City of Franklin held a hearing on March 10, 2008, following receipt of the petition of all property owners within the area proposed to be annexed; and

**WHEREAS**, the City has given the petitioners notice that the cost of electric utility service may change upon annexation, and provided an estimate of the cost of impact of any change in electric utility services, including rate changes and assessments, resulting from annexation, as required by Minnesota Statutes section 414.033, subdivision 13.

**NOW, THEREFORE**, THE CITY COUNCIL OF THE CITY OF FRANKLIN  
HEREBY ORDAINS AS FOLLOWS:

1. The City Council hereby determines that the property as hereinafter described abuts the city limits and is or is about to become urban or suburban in nature in that a commercial/industrial use is being proposed for said property, the construction of which requires or will need city services, including public sewer facilities.
2. None of the property is now included within the limits of any city, or in any area that has already been designated for orderly annexation pursuant to Minnesota Statute § 414.0325.

3. The corporate limits of the City of Franklin, Minnesota, are hereby extended to include the following described property on Exhibit A, pursuant to a petition of all the affected property owners (Exhibit C), said land abutting the City of Franklin to the east.

The described property on Exhibit A consists of 12 acres, more or less. Copies of the corporate boundary map showing the property to be annexed and its relationship to the corporate boundaries and all appropriate plat maps are attached hereto as Exhibit D.

4. That the population of the area legally described on the attached Exhibit A and hereby annexed is -0-.


5. The City of Franklin, pursuant to Minnesota Statutes § 414.036, with respect to the property taxes payable in the area legally described on the attached Exhibit A, hereby annexed, states that the Town of Birch Cooley and the City of Franklin have duly agreed that no reimbursement of taxes will be made by the City to the Town, and the City will not levy on the parcels to be annexed until levy year 2009 and pursuant to Town of Birch Cooley Resolution No. \_\_\_\_\_, attached as Exhibit B.

6. That pursuant to Minnesota Statutes § 414.036 for the area legally described on Exhibit A there are no special assessments or debt incurred by the Town on the subject area for which reimbursement is required.


7. That the City Clerk of the City of Franklin is hereby authorized and directed to file a copy of this Ordinance with the Municipal Boundary Adjustment Unit of the Minnesota Office of Administrative Hearings, the Minnesota Secretary of State, the Renville County Auditor, and the Birch Cooley Township Clerk.

8. That this Ordinance shall be in full force and effect and final upon the date this Ordinance is approved by the Office of Administrative Hearings.

PASSED AND ADOPTED by the City Council of the City of Franklin, Minnesota, this 10<sup>th</sup> day of March 2008.

  
Michael Duck, Mayor

ATTEST:

  
Wendy Pederson, Clerk/Treasurer

**EXHIBIT A**  
**Legal Descriptions of Annexed Property**

**Property in Renville County, Minnesota, described as follows:**  
for the 5 acre farm site, parcel 03-00041-00;

Part of the South Half of the Southeast Quarter (S 1/2 of SE 1/4) of Section (1), Township One Hundred twelve (112) , Range thirty Four (34), Renville, County, Minnesota, described as follows: Commencing at the Southeast corner of said Section No. 1: thence on as assumed bearing of North 90 degrees 00 minutes 00 seconds West along the South line of said Section No. 1 a distance of 802.16 feet; thence North 02 degrees 19 minutes 43 seconds West 675.84 feet to the beginning of the tract to be described; thence South 87 degrees 40 minutes 17 seconds West 627.67 feet; thence North 02 degrees 19 minutes 43 seconds West 347.00 feet to the southerly right of way line of the Railroad; thence North 87 degrees 40 minutes 17 seconds East along said right of way 627.67 feet; thence South 02 degrees 19 minutes 43 seconds East 347.00 feet to the point of beginning.

**Property in Renville County, Minnesota, described as follows:**  
for the 7 acre portion of bare farm land, parcel 03-00040-00;

A seven acre portion of parcel 03-0040-00, the northern most 7 acres of that part of the Southeast Quarter (SE 1/4) of Section 1, Town 112, Range 34, lying south of State Highway 19.

*[Legal descriptions meeting the requirements of Minn. Stat. section 414.012 shall be added as acquired]*

## Exhibit A-1

### Prairie Agra Fuels, LLC

#### Legal description of 2 properties for annexation into the city of Franklin, MN

**Property in Renville County, Minnesota, described as follows:**  
for the 5.0 acre farm site;

Part of the South Half of the Southeast Quarter (S 1/2 of SE 1/4) of Section (1), Township One Hundred twelve (112) , Range thirty Four (34), Renville, County, Minnesota, described as follows: Commencing at the Southeast corner of said Section No. 1: thence on as assumed bearing of North 90 degrees 00 minutes 00 seconds West along the South line of said Section No. 1 a distance of 802.16 feet: thence North 02 degrees 19 minutes 43 seconds West 675.84 feet to the beginning of the tract to be described; thence South 87 degrees 40 minutes 17 seconds West 627.67 feet; thence North 02 degrees 19 minutes 43 seconds West 347.00 feet to the southerly right of way line of the Railroad; thence North 87 degrees 40 minutes 17 seconds East along said right of way 627.67 feet; thence South 02 degrees 19 minutes 43 seconds East 347.00 feet to the point of beginning.

**Property in Renville County, Minnesota, described as follows:**  
for the 7.81 acres of bare farm land;

That part of Outlot 3, of the record plat entitled PLAT OF OUTLOTS 1,2 & 3 OF THE SW 1/4 OF THE SE 1/4 OF SEC1, TWP 112, RGE34, on file in the office of the Renville County Recorder, and also that part of the Southwest Quarter of the Southeast Quarter of Section 1, Township 112 North, Range 34 West of the Fifth Principal Meridian, Birch Cooley Township, Renville County, Minnesota, described as follows:

- Beginning at the Southeast corner of said Section 1;
- thence on a geodetic bearing of North 88 degrees 31 minutes 52 seconds West, along the south line of said Section 1, a distance of 802.15 feet;
- thence on a bearing of North 00 degrees 48 minutes 03 seconds West a distance of 676.68 feet;
- thence on a bearing of South 89 degrees 11 minutes 57 seconds West a distance of 627.67 feet to the point of beginning of the land to be described;
- thence on a bearing of North 00 degrees 48 minutes 03 seconds West, a distance of 347.00 feet to the southerly boundary of the railroad right of way;
- thence on a bearing South 89 degrees 11 minutes 57 seconds West, along the southerly boundary of the railroad right of way, a distance of 983.34 feet to the northerly extension of the east line of the record plat entitled OUTLOT NO. 4 OF THOMPSON'S SUBDIVISION NO. 1, on file in the office of the Renville County Recorder;
- thence on a bearing of South 01 degree 44 minutes 32 seconds East, along the east line of said record plat entitled OUTLOT NO.4 OF THOMPSON'S SUBDIVISION NO.1 and its northerly extension, a distance of 347.05 feet;
- thence on a bearing of North 89 degrees 11 minutes 57 seconds East a distance of 977.63 feet to the point of beginning.

REC'D BY  
MMB

MAR 13 2008

**EXHIBIT B**

**Town of Birch Cooley Resolution No. \_\_\_\_\_**

## Resolution

REC'D BY  
M M B

MAR 13 2008

### Town of Birch Cooley Resolution No.

#### RESOLUTION APPROVING THE ANNEXATION PETITION OF PRAIRIE AGRA FUELS

WHEREAS, the City of Franklin has received a Petition for Annexation from Prairie Agra Fuels, dated March 3, 2008, to annex the following:

A seven acre portion of parcel 03-00040-00, whose legal description is:  
the northern most 7 acres of that part of the Southeast Quarter (SE1/4) of Section 1,  
Town 112, Range 34, lying south of State Highway 19;

And parcel 03-00041-00, whose legal description is:  
a five acre (more or less) building site located in the South Half of the Southeast  
Quarter of Section 1, Town 112, Range 34;

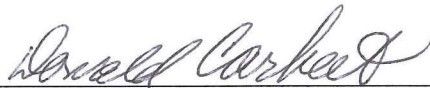
WHEREAS, the Town of Birch Cooley and the City of Franklin have duly agreed to authorize the City to annex the above described parcels by ordinance as provided by Minnesota Statutes Section 414.033, subdivision 5, pursuant to a petition for annexation by all property owners of the property described above;

WHEREAS, the Town of Birch Cooley has no objection to the annexation and has duly agreed to waive the 90 day period before the annexation ordinance may be adopted, as permitted by Minnesota Statutes section 414. 033, subdivision 6;


WHEREAS, the Town of Birch Cooley and the City of Franklin have duly agreed that no reimbursement of taxes will be made by the City to the Town, and the City will not levy on the parcel to be annexed until levy year 2009;

NOW THEREFORE BE IT RESOLVED, by the Town Board of the Town of Birch Cooley hereby adopts this resolution and thereby has no objection to the annexation of the above described land by ordinance of the City of Franklin and further, waives the 90 day period before a city ordinance can be adopted.

TOWN OF BIRCH COOLEY



Donald Carbert, Chairman



Bill Rademacher, Clerk

Date: 3-11-08

Date: 3-11-08

REC'D BY  
M M B

MAR 13 2008

## **EXHIBIT C**

### **Petition for Annexation**

**PROPERTY OWNER PETITION FOR ANNEXATION BY ORDINANCE**

IN THE MATTER OF THE PETITION OF  
CERTAIN PERSONS FOR ANNEXATION PURSUANT  
TO MINNESOTA STATUTES § 414.033, SUBD. 5

-----  
TO: Council of the City of Franklin, Minnesota  
AND

REC'D BY MAR 13 2008  
MMB

Office of Administrative Hearings  
Municipal Boundary Adjustments  
P. O. Box 64620  
St. Paul, MN 55164-0620  
651-361-7900

PETITIONER(S) STATE: The property owner or a majority of the property owners in number are required to commence a proceeding under Minnesota Statutes § 414.033, Subd. 5.

It is hereby requested by:

☒ X the sole property owner; or  
☐ all of the property owners; or  
☐ a majority of the property owners

of the area proposed for annexation to annex certain property described herein lying in the Town of **Birch Cooley** to the City of **Franklin**, County of **Renville**, Minnesota.

The area proposed for annexation is described as follows:

***See attached Exhibit A.***

1. There are 1 property owners in the area proposed for annexation. (If a property owner owns more than one parcel in the area proposed for annexation, he/she is only counted once as an owner - the number of parcels owned by a petitioner is not counted.)
2. 1 property owners have signed this petition. (If the land is owned by both husband and wife, both must sign the petition to represent all owners.)
3. Said property is unincorporated, abuts on the city's N-S (E) ~~W~~-(circle one) boundary(ies), and is not included within any other municipality.
4. The area of land proposed for annexation, in acres, is:  
12 Unplatted 0 Platted 12 Total

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5. The reason for the requested annexation is - *to receive city water and sewer and qualify for TIF.*
6. The area proposed for annexation will be zoned - *M1 manufacturing/industrial.*
7. All of the area proposed for annexation is or is about to become urban or suburban in character.
8. The area proposed for annexation is not included in any area that has already been designated for orderly annexation pursuant to Minnesota Statutes § 414.0325, nor in any other boundary adjustment proceeding pending before the Office of Administrative Hearings - Municipal Boundary Adjustments. *No it has not.*

PETITIONERS REQUEST: That pursuant to Minnesota Statutes § 414.033, the property described herein be annexed to and included within the City of *Franklin*, Minnesota.

Dated: March 10, 2008

Signatures: Russell Kuyper  
President

NOTE: Pursuant to Minnesota Statutes § 414.033 and Minnesota Rules 6000.0800, the petition to the Office of Administrative Hearings must be accompanied by a certification showing that a copy of the petition was filed within 10 days after service on the annexing city to the affected township(s), county, and any other abutting municipality(ies).

NOTE: Under Minnesota Statutes § 414.033, Subd. 5, if the petition is not signed by all of the property owners of the land proposed for annexation, the ordinance shall not be enacted until the the municipal council has held a hearing on the proposed annexation after at least 30 days mailed notice to all property owners within the area to be annexed.

REC'D BY  
MMB

MAR 13 2008

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REC'D BY  
A.M.B

MAR 13 2008

**EXHIBIT D**

**Corporate Map**

# CITY OF FRANKLIN

RENNVILLE COUNTY, MINNESOTA

## PLAT MAP



REC'D BY  
M.A.B.

MAR 13 2008

200 0 200  
SCALE FEET

MARCH 2008  
CORPORATE LIMIT LAND AREA = 685± ACRES

