

ORDINANCE NO. {{item.sequential\_number}}  
(FY-24-5-ANX)

AN ORDINANCE OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE VOLUNTARY ANNEXATION OF APPROXIMATELY 16.776 ACRES OF LAND SITUATED IN THE HENRY MILLARD SURVEY, ABSTRACT NUMBER 552 IN THE CITY OF TEMPLE'S EXTRATERRITORIAL JURISDICTION, GENERALLY LOCATED NORTH OF CEDAR CREEK ROAD AND ADDRESSED AS 4170 CEDAR CREEK ROAD; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, Chapter 43 of the Texas Local Government Code (LGC) governs the annexation process and requires that land to be annexed must be in the municipality's extraterritorial jurisdiction (ETJ) as well as contiguous to the municipality - the subject property is within the City's northern ETJ;

**Whereas**, LGC § 43.0671 allows a municipality to annex an area if each owner of land in the area requests the annexation - on April 18, 2024, a written request for voluntary annexation was received from property owner BWH Holdings – Series 3, LLC and BWH Holdings – Series 6, LLC for a total of approximately 16.776 acres of land, as shown and being more particularly described in Exhibit A;

**Whereas**, prior to annexing an area of land, the City must offer the property owner a development agreement if the area would be eligible for an agreement under Chapter 212, Subchapter G of the LGC and appraised for ad valorem tax purposes as land for agricultural use, wildlife management use, or timber use pursuant to Chapter 23 of the Texas Tax Code - the property owner was offered and rejected offers for a development agreement on April 22, 2024;

**Whereas**, the City and property owner have entered into a written agreement for the provision of municipal services in the area - before offering the proposed Municipal Services Agreement to the property owner, the proposed Agreement was circulated to all relevant City departments to determine the services that would be provided on the effective date of the annexation, such as fire, police, solid waste disposal, and code enforcement;

**Whereas**, no issues were identified by any of the reviewing departments and the property owner accepted the proposed Agreement, which was offered on May 10, 2024 - the City is not required to provide a service that is not included in the agreement;

**Whereas**, LGC § 43.0673 requires that the City hold one public hearing prior to adopting an ordinance annexing an area on the written request of a landowner and the City's Charter requires a second reading to adopt the annexation ordinance - the second reading will be held on October 3, 2024;

**Whereas,** LGC §§ 43.905 and 43.9051 require a City to provide written notice regarding any financial impact caused by the proposed annexation to the affected school district, as well as the political subdivisions and public entities that provide services in the area - the public entities, political subdivisions, and the Troy Independent School District were notified by certified mail by the City on September 3, 2024;

**Whereas,** while the City of Temple will notify all of the public entities required by State law about the potential fiscal impact on those organizations, a better understanding of that impact can be determined once the owner develops the property in the future;

**Whereas,** the annexation is required for a future development of duplex units and the property owner has made application for Two-Family (2F) zoning, which will allow duplexes - the rezoning is on hold pending the outcome of the annexation. The applicant submitted, Gwendolyn's Place (FY-24-46-PLT), a 12.570 +/- acre, 42-lot, 3-block, final plat. The plat is currently under review and is scheduled for a September 3, 2024 DRC. Approval of the plat will be conditioned on the approval of the annexation, zoning, and comprehensive plan amendment;

**Whereas,** the annexation was discussed with the Development Review Committee on May 20, 2024 and no issues were identified - further discussion about proposed uses and impacts will be addressed during the rezoning and platting stages of development;

**Whereas,** the annexation, along with the acceptance of the Municipal Service Agreement, does not contain any proposal to extend water or wastewater services to the area, or any other new physical facilities to serve the approximately 16.776-acre tract of land;

**Whereas,** if the property is annexed, the City's ad valorem tax base will increase and result in future property tax revenue for the City - the City will provide municipal services in accordance with the Municipal Service Agreement; and

**Whereas,** the City Council has considered these matters and deems it in the public interest to authorize these actions.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:**

**Part 1: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**Part 2:** The City Council approves the voluntary annexation of approximately 16.776 acres of land situated in the Henry Millard Survey, Abstract No. 552 in the City of Temple's Extraterritorial Jurisdiction, generally located north of Cedar Creek Road and addressed as 4170 Cedar Creek Road, further described by the survey and field notes attached hereto and incorporated herein as Exhibit A.

**Part 3:** The services plan submitted in accordance with Chapter 43 of the Texas Local Government Code, attached hereto and made a part hereof as Exhibit B, is hereby approved as part of this Ordinance.

**Part 4:** The official map and boundaries of the City of Temple, Texas are hereby amended to include the annexed Property as part of the City of Temple, Texas.

**Part 5:** The annexed Property shall be zoned at a future date, in compliance with the Zoning Ordinance of the City of Temple, Texas.

**Part 6:** The annexed Property shall be included in, and become a part of, the City of Temple, Texas, City Council Election District Number 1.

**Part 7:** If the taking of any territory annexed by this Ordinance is declared by a court of competent jurisdiction to be invalid and/or illegal, it shall not affect the balance of the Property annexed and attempted to be annexed, and that Property shall remain as part of the City of Temple, Texas. It is the intent of this Ordinance that any territory that is not lawful for the City to incorporate shall be excluded from this annexation and that such exclusion be documented by having a qualified surveyor correct the property description of the annexed area to conform to the City Council's intention and to ensure that the boundary description closes.

**Part 8: Severability.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any section, paragraph, sentence, clause, or phrase of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid section, paragraph, sentence, clause, or phrase.

**Part 9: Effective Date.** This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

**Part 10: Open Meetings.** It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **19<sup>th</sup>** day of **September, 2024**.

PASSED AND APPROVED on Second and Final Reading on the **3<sup>rd</sup>** day of **October, 2024**.

THE CITY OF TEMPLE, TEXAS

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TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen  
City Secretary

Kathryn H. Davis  
City Attorney