

ORDINANCE NO. {{item.sequential\_number}}

AN ORDINANCE OF THE CITY OF TEMPLE, TEXAS, ESTABLISHING A PRO-RATA REIMBURSEMENT FEE AND PROVIDING FOR THE COLLECTION THEREOF FROM ALL PERSONS, FIRMS, AND ENTITIES OF EVERY KIND OR CHARACTER THAT DESIRE TO USE ANY PART OF A PARTICULAR WASTEWATER COLLECTION LINE AND LIFT STATION CONSTRUCTED AND PROVIDING FOR EXCEPTIONS THERETO; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas,** the Texas Legislature has specifically exempted off-site wastewater collection construction costs from the definition of “impact fee” as referenced in Section 395.001 (4) of the Texas Local Government Code, as amended, provided the construction is required by valid Ordinance and is necessitated by and attributable to the new development;

**Whereas,** the City Council of the City of Temple, Texas, therefore, is empowered by law to promulgate and establish pro-rata charges for construction of off-site wastewater collection lines and to establish a pro-rata reimbursement ordinance for such charges;

**Whereas,** the City of Temple, Texas (the “City”) and The Ridge at Knob Creek Land Investments, LLC, a Texas limited liability company (the “Developer”) entered into that certain Developer Participation Agreement dated on or about the date hereof, regarding the development of the Property, which development includes the construction of a wastewater line and lift station providing sufficient capacity to serve at least 2,552 Living Unit Equivalents as defined below (“Wastewater Utilities”), the location of such Wastewater Utilities being more particularly identified in the attached Exhibit A, said exhibit being incorporated as if fully set forth herein;

**Whereas,** said agreement provides substantial benefits to the citizens of the City; and

**Whereas,** the City is obligated to establish an ordinance providing for the assessment and collection of a subsequent user pro-rata fee related to the use of said Wastewater Utilities by those who did not share in its cost, but who may desire to obtain the benefits arising by the construction of said Wastewater Utilities.

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

**Part 1:** When used herein the following terms shall mean:

- (a) “Subsequent User” means any person, firm, or entity of any kind or character which utilizes the Wastewater Utilities, except for the Developer, and shall include development in all property located in any of the areas outlined in Exhibit A.
- (b) “LUE” and the term “Living Unit Equivalents” shall be a calculation based on the type of development and the impact of that type of development on the Wastewater Utilities. The following conversion criteria for Living Unit Equivalents (LUE) shall be used:

<u>Development Type</u>	<u>LUE Conversion</u>
1 Single Family Residence (attached or detached)	1 LUE/Dwelling Unit
1 Duplex Residential Structure	1 LUE/Dwelling Unit
Multi-Family Residential Structures	0.7 LUE/Dwelling Unit
Retail or Commercial Structures	0.6 LUE/1,000 sq. ft. (floor space)
Industrial or Warehouse Structure	0.2-0.5 LUE/1,000 sq. ft. (land area)

- a. For industrial, warehouse, or other heavy commercial development, a registered professional engineer must submit design flow criteria based on the actual proposed development to justify the specific conversion factor used within the general range.
- (c) “Construction Costs” means the cost of the construction of Wastewater Utilities and all engineering, inspection, testing, legal, and administrative fees incurred by the City and the Developer in the preparation, design, and construction of the Wastewater Utilities. Said Construction Costs being in the amount of \$3,028,970.00.
- (d) “Dwelling Unit” shall have the same definition as provided in the Unified Development Code of the City of Temple, Texas.

**Part 2:** No Subsequent User shall be permitted access to or service from the Wastewater Utilities without having first paid to the City the Subsequent User Pro-Rata Fee established in Part 3 hereof.

**Part 3:** The Subsequent User Pro-Rata Fee shall be in the amount of \$19,797.19 per acre, said amount being found and determined to be the actual amount of pro-rata cost per acre, and shall be collected at the time of final platting.

**Part 4:** After collecting the Subsequent User Pro-Rata Fees provided for herein, the City shall reimburse the particular fund or funds the City used to pay Developer under the above-mentioned Developer Participation Agreement. Such reimbursements shall be recovered on a pro-rata basis so that all participants, other than those expressly exempted, shall share proportionately in the Construction Costs of the Wastewater Utilities.

**Part 5:** The City, through its duly appointed representatives, is hereby authorized and directed to collect the Subsequent User Pro-Rata Fee herein defined and to disburse the same in accordance with this Ordinance.

**Part 6:** The maximum period of time the City may collect the pro-rata reimbursement for the Wastewater Utilities shall not exceed fifteen (15) years.

**Part 7:** If any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**Part 8:** 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 will apply to agreements executed after this effective date, and it is accordingly so ordained.

**Part 9:** 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 **5<sup>th</sup>** day of **September, 2024**.

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

THE CITY OF TEMPLE, TEXAS

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TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

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Jana Lewellen  
City Secretary

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Kathryn H. Davis  
City Attorney