

ORDINANCE NO. F-0065

AN ORDINANCE AUTHORIZING THE SIGNING OF AN  
ANNEXATION AGREEMENT -  
26W526 EMBDEN LANE/BARTHOLOMEW

WHEREAS, a written petition has been filed with the City Clerk of Wheaton, Illinois, requesting the annexation to the City of Wheaton, Illinois ("City"), of certain territory contiguous to the boundaries of the City and not within the corporate boundaries of any other municipality, pursuant to a proposed annexation agreement which sets forth the terms and conditions under which annexation shall take place; and

WHEREAS, pursuant to notice, a public hearing was conducted by the City Council on October 7, 1996, to consider the terms and conditions of the proposed annexation agreement; and

WHEREAS, an annexation agreement dated October 21, 1996, among the City and Thomas M. Bartholomew and Catherine C. Bartholomew ("Owners") ("Annexation Agreement"), is the direct result of deliberations on the proposed Annexation Agreement pursuant to the public hearing and other meetings before the City Council and City Staff.

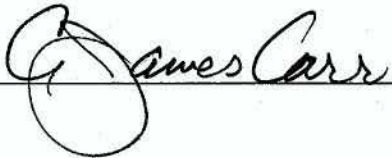
NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, Du Page County, Illinois, pursuant to its home rule powers, as follows:

Section 1: The Mayor of the City is authorized and directed to sign, on behalf of the City, the Annexation Agreement; and the City Clerk is authorized and directed to attest to the signature of the Mayor and affix the corporate seal of the City thereon. A copy of the Annexation Agreement is on file in the Office of the City Clerk and is incorporated into this ordinance by this reference as though fully set forth herein.

Section 2: The Annexation Agreement shall be recorded in the Office of the Recorder of Deeds, Du Page County, Illinois, at the expense of the Owners.

Section 3: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 4: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

\_\_\_\_\_  
Mayor 

ATTEST:

\_\_\_\_\_  
Emily M. Connelley  
City Clerk

Ayes:

Roll Call Vote:

Councilman Gresk  
Councilwoman Johnson  
Councilman Mork  
Councilman Gerig  
Councilwoman Davenport  
Councilman Eckhoff  
Mayor Carr

Nays:

None

Absent:

None

Motion Carried Unanimously

Passed: October 21, 1996

Published: October 22, 1996

## ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT, made and entered into this 21st day of October, 1996, among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and Thomas M. Bartholomew and Catherine C. Bartholomew ("Owners").

### WITNESSETH

WHEREAS, the Owners have an interest in or controls the real estate comprised of 20,350 square feet, a description of which is set forth on the Plat of Annexation, marked as Exhibit "A", which is attached to and made a part of this Agreement, and is commonly known as 26W526 (said real estate will hereafter be referred to in its entirety as "Subject Property").

WHEREAS, the Subject Property is contiguous to the corporate limits of the City; and

WHEREAS, a Declaration of Restrictions (Doc. No. R76-64334) provides for when the Subject Property becomes contiguous to the City, a petition for annexation shall be subscribed to which shall pray annexation to the City; and

WHEREAS, it is the desire of the Owners that all of said real estate be annexed to the City under the terms and conditions of this Agreement; and

WHEREAS, the City has concluded that annexation of the Subject Property under the terms and conditions of this Agreement would further the growth of the City, enable the City to control the development of the area, increase the taxable value of the property within the City, extend the corporate limits and jurisdiction of the City, permit the sound



planning and development of the City, and otherwise enhance and promote the health, safety, and general welfare of the City; and

WHEREAS, pursuant to the provisions of Section 6.1, et.seq., of the Wheaton City Code and applicable provisions of the Illinois Revised Statutes and Illinois Constitution, a proposed Annexation Agreement in substance and form of the same as this Agreement was submitted to the Wheaton City Council, and a public hearing was held thereon pursuant to notice as provided by ordinance and statute; and

WHEREAS, the City has had such hearings and heard such testimony as prescribed by law with respect to the requested zoning classification of R-3, Residential District; and

WHEREAS, notice has been duly served in the manner provided by statute on the appropriate governmental entities and an affidavit that service of said notice has been duly served has been placed on record with the Recorder of Deeds, DuPage County, Illinois.

NOW, THEREFORE, in consideration of the foregoing preambles and mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. **LEGAL CONFORMANCE WITH LAW.** This Agreement is made pursuant to and in accordance with the provisions of the Wheaton City Code and applicable provisions of the Illinois Revised Statutes and Illinois Constitution.

2. **PETITION TO ANNEX.** The Owners have filed with the Clerk of the City, a petition pursuant to the provisions of Section 7-1-8 of the Illinois Municipal Code (Ill. Rev. Stat., Ch. 24, par. 7-1-8), conditioned upon the signing of this Agreement, to annex the Subject Property to the City. The petition is attached as Exhibit B. This Agreement in its entirety, together with the aforesaid petition for annexation, shall be null, void, and of no

force and effect unless the Subject Property is validly zoned and classified under the City's Zoning Ordinance as hereinafter set forth and amended.

3. **ANNEXATION ORDINANCE.** Immediately upon the approval of this Agreement, the City Council will enact an ordinance annexing the Subject Property to the City, which ordinance shall provide that the annexation shall be effective on the second anniversary after enactment of the ordinance. (For example, if the annexation ordinance is enacted on May 1, 1996, the annexation shall be effective on May 1, 1998.)

4. **EFFECTIVE DATE FOR CITY SERVICES AND TAXES.** Except as otherwise provided in this Agreement, City services and taxes that are not presently available or applicable to Owners shall not be available or applicable to Owners until the effective date of the annexation pursuant to this Agreement.

5. **REZONING.** Immediately after the passage of the ordinance annexing the Subject Property, the City shall, without further hearing, adopt an amendment to its Zoning Map which is part of the Zoning Ordinance of the City and the Comprehensive Plan of the City, zoning and classifying the Subject Property in the R-3, Residential Zoning District. Such amendment to Zoning Ordinance shall have the same effective date as the Annexation Ordinance.

6. **CITY ADDRESS.** Upon the effective date of annexation of the Subject Property to the City, Owners shall, forthwith, change the address of the Subject Property from the current County address to a City address as directed by the City and/or the United States Post Office.

7. **SIDEWALK CONSTRUCTION.** Owners shall construct a sidewalk along the north side of Embden Lane for the full frontage of the Subject Property, pursuant to Section 20-56 of the City Code, within one (1) year after the effective date of the annexation pursuant to this Agreement and provided a sidewalk is constructed along the full frontage of the property immediately east (PIN 5-30-301-010), lot 7 in the Wiesbrocks Subdivision, of the Subject Property.

8. **CONDITION OF PUBLIC IMPROVEMENTS.** The City shall have no obligation of any kind with respect to the public improvements presently existing within and adjacent to the Subject Property. Once the Subject Property is annexed to the City, the City shall maintain the public improvements within and adjacent to the Subject Property in the customary manner in which it maintains public improvements.

9. **WHEATON PARK DISTRICT ANNEXATION.** Owners agree to annex, pursuant to Statute, the subject property to the Wheaton Park District within one (1) year after the effective date of annexation.

10. **ANNEXATION AND PERMIT FEES.** The amount of the permit, license, tap-on or connection fees imposed by the City which are applicable to or required to be paid by the Owners or successor owners, contractors, subcontractors, materialmen, or others performing work or supplying materials in connection with the development or construction of improvements on the Subject Property shall be the amount or rate of said fees in effect at the time of application for same.



11. **CONFLICT IN REGULATIONS.** The provisions of this annexation Agreement shall supersede the provisions of any ordinances, codes, or regulations of the City which may be in conflict with the provisions of this Annexation Agreement.

12. **AMENDMENT OF ANNEXATION AGREEMENT.** This Annexation Agreement, and any exhibit attached hereto, may be amended pursuant to the provisions of Chapter 6 of the City Code.

13. **TIME OF THE ESSENCE.** Time is of the essence of this Agreement.

14. **INVALIDITY.** If any provision of this Annexation Agreement, or any section, sentence, clause, phrase, or word, or the application thereof in any circumstances, is held invalid, the validity of the remainder of this Annexation Agreement and the application of such provision, section, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby.

15. **TERM OF AGREEMENT.** This Annexation Agreement shall be binding upon the parties hereto, their respective successors and the assigns for a full term of ten (10) years from the date on which this Agreement has been executed by the parties.

16. **BINDING EFFECT.** This Agreement shall be binding upon the parties hereto, their heirs, executors, administrator, assigns, successors, and grantees.

17. **NOTICES.** Notices or other writings which any party is required to, or may wish to, serve upon any other party in connection with this Agreement shall be in writing and shall be delivered personally or sent by certified or registered mail, return receipt requested, postage prepaid, addressed as follows:

A. **Mr. and Mrs. Thomas Bartholomew**  
26W526 Embden Lane  
Wheaton, IL 60187

B. **City of Wheaton.**

City Clerk  
City of Wheaton  
303 West Wesley Street  
Wheaton, IL 60189-0727

18. **RECORDING.** This Agreement shall be recorded in the Office of the Recorder of Deeds, DuPage County, Illinois at the expense of the Owners.

IN WITNESS WHEREOF, the Corporate authorities and Owners have hereunto set their hands and seals, and have caused this instrument to be executed by their duly authorized officials and the Corporate seal attached here, all on the day and year first above written.

By \_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner

ATTEST:

\_\_\_\_\_