

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

ORDINANCE BILL NO. 1-22

AN ORDINANCE DECLARING CERTAIN TERRITORY LOCATED AT ASH GROVE
SUBDIVISION AND ADJACENT LANDS, NE, ANNEXED TO THE CITY OF SALEM,
PRESCRIBING ZONING, AND WITHDRAWING THE TERRITORY FROM THE EAST
SALEM SEWER AND DRAINAGE DISTRICT AND MARION COUNTY FIRE DISTRICT
#1

The City of Salem ordains as follows:

Section 1. Findings.

(a) Petition. On March 12, 2019, Thomas Kay, Jr., for the Thomas Kay Co., the petitioner, filed an application for annexation for certain real property identified as Marion County Assessor Map and Tax Lot Number 072W18AC02002) (the Territory), as more particularly described in “Exhibit A,” which is attached hereto and incorporated herein by reference. On June 12, 2019, Mr. Kay paid the filing fee. On June 13, 2019, Mr. Kay submitted a signed annexation application, valid triple-majority annexation petition, and recorded annexation agreement for the Territory.

On October 19, 2021, the Ash Grove Subdivision plat was recorded within the Territory. The Territory now consists of 14 platted lots (Marion County Assessor Map and Tax Lot Number 072W18AC / 9400, 9500, 9600, 9700, 9800, 9900, 10000, 10100, 10200, 10300, 10400, 10500, 10600, 10700) and two street rights-of-way.

The owners of all of the parcels in the original territory have requested annexation and submitted a valid triple majority annexation petition. The annexation agreement submitted by the petitioner runs with the land and binds subsequent property owners to complete the annexation.

(b) Exemption from Voter Approval. State law (ORS 222.111 to 222.180) was amended in 2016 through Senate Bill 1573 to prohibit cities that have voter approved annexation from submitting an annexation decision to the voters if all of the owners of the property proposed to be annexed have submitted the annexation petition. The law further specifies that in order for the voter approval prohibition to apply, the territory

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

proposed for annexation must be included within an urban growth boundary, subject to an acknowledged comprehensive plan upon annexation, and contiguous to the city limits, and the proposal shall comply with all other requirements of the city’s ordinances.

The annexation is subject to the requirements of Senate Bill 1573 because all the owners of the property have applied for annexation, and the annexation may not be referred to the voters for approval as set forth below:

- (1) The territory is within the Salem Urban Growth Boundary (UGB).
- (2) The territory is currently subject to the acknowledged Salem Area Comprehensive Plan, and will continue to be subject to the Plan upon annexation.
- (3) The territory is contiguous to the city limits.
- (4) The proposal conforms to all other requirements of the city’s ordinances.

(c) Hearing and Decision. The Council held a duly advertised public hearing on December 13, 2021, and received evidence and testimony regarding whether the Petitioner signed a valid triple majority petition for annexation of the Territory; whether the proposed annexation of the Territory was exempt from a vote of the people pursuant to Senate Bill 1573(2016); whether the proposed annexation of the Territory, including the proposed application of City of Salem Single Family Residential (RS) zoning to the Territory upon annexation, complied with SRC Chapter 260 and the applicable land use and other criteria; and whether the withdrawal of the Territory from the East Salem Sewer and Drainage District and Marion County Fire District #1 (the Districts) upon annexation would be in the best interest of the City. At the conclusion of the public hearing, after due consideration of the evidence and testimony, the Council adopted Order No. 2021-6 ANX as its final decision and findings determining that the proposed annexation is exempt from voter approval because it meets the requirements of Senate Bill 1573(2016); the proposed annexation of the Territory, including land use designations, complies with SRC Chapter 260 and the applicable land use and other criteria; and the withdrawal of the Territory from the Districts would be in the best interest of the City.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

(d) Additional Finding. The Council finds that the Petitioner signed a valid triple majority petition for annexation of the Territory.

(e) Withdrawal from Special Districts. After due consideration of the evidence and testimony, the City Council finds it is in the best interest of the City to withdraw the Territory from the East Salem Sewer and Drainage District and Marion County Fire District #1, and to provide the Territory with city services because the public good of the City and the citizens residing in the annexed Territory would be best served if the citizens residing in the Territory receive city services without the problems attendant with coordination that would result from the Territory being subject to the jurisdiction of overlapping urban service providers. It would not be in the best interest of the City for the citizens residing in newly annexed Territory to pay both City taxes and an additional assessment to the East Salem Sewer and Drainage District and Marion County Fire District #1 to receive services that may readily be supplied by the City without such additional taxation. Leaving the Territory in the East Salem Sewer and Drainage District and Marion County Fire District #1 would lead to a fragmented approach to delivery of public services, unequal tax bases, and resistance to cooperation. Withdrawal would promote efficiency, economy, and sound management in the provision of urban services for newly annexed Territory, and the Territory should be withdrawn from the Districts.

Section 2. Annexation. The Territory described in “Exhibit A” is hereby annexed to the City of Salem, Oregon.

Section 3. Land Use Designations. The Territory is designated “Single Family Residential” on the Salem Area Comprehensive Plan, and the Plan Map. The zoning for the Territory is prescribed as “Single Family Residential.” The Planning Administrator shall add to the official zoning map the Territory herein annexed.

Section 4. Withdrawal. The Territory is hereby withdrawn from the East Salem Sewer and Drainage District and Marion County Fire District #1, such withdrawal to be effective upon, and contemporaneous with, the date of annexation.

Section 5. The City Recorder shall submit a copy of this ordinance and such other information as ORS 222.177 requires to the Oregon Secretary of State, and shall provide the notice and reports required by ORS 222.005(1) and ORS 222.010 to the person or entities described therein.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

PASSED by the City Council this _____ day of _____, 2022.

ATTEST:

City Recorder

Approved by City Attorney: _____

Checked by: P. Cole