

**ORDINANCE BILL NO. 3-20**

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2 AN ORDINANCE DECLARING AND PROCLAIMING CERTAIN TERRITORY LOCATED  
3 AT 4696 CENTER STREET NE AND 592 HILE LANE, NE, ANNEXED TO THE CITY OF  
4 SALEM, PRESCRIBING SALEM AREA COMPREHENSIVE PLAN MAP DESIGNATION,  
5 PRESCRIBING ZONING, AND WITHDRAWING THE TERRITORY FROM THE MARION  
6 COUNTY FIRE DISTRICT #1 AND EAST SALEM SEWER AND DRAINAGE DISTRICT  
7 *The City of Salem ordains as follows:*

**Section 1. Findings.**

9       **(a) Petition.** On March 27, 2019, Steve Kay of Cascadia Planning and Development  
10       Services submitted an application for annexation signed by applicant Creations  
11       Northwest LLC (Hans Thygeson), Brent Malcom, and Arlena Malcom and a valid triple-  
12       majority annexation petition signed by property owners and petitioners, Center Street  
13       Holding LLC (Hans Thygeson), Brent Malcom, and Arlena Malcom, and Center Street  
14       Holding LLC paid the filing fee, for certain real property located at the 4696 Center  
15       Street NE and 592 Hile Lane NE (the Territory), as more particularly described in  
16       “Exhibit A,” which is attached hereto and incorporated herein by reference.

17       **(b) Exemption from Voter Approval.** State law (ORS 222.111 to 222.180) was  
18       amended in 2016 through Senate Bill 1573 to prohibit cities that have voter approved  
19       annexation from submitting an annexation decision to the voters if all of the owners of  
20       the property proposed to be annexed have submitted the annexation petition. The law  
21       further specifies that in order for the voter approval prohibition to apply, the territory  
22       proposed for annexation must be included within an urban growth boundary, subject to an  
23       acknowledged comprehensive plan upon annexation, and contiguous to the city limits,  
24       and the proposal shall comply with all other requirements of the city’s ordinances.

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

29       (1) The territory is within the Salem Urban Growth Boundary (UGB).  
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1 (2) The territory is currently subject to the acknowledged Salem Area Comprehensive  
2 Plan, and will continue to be subject to the Plan upon annexation.

3 (3) The territory is contiguous to the city limits.

4 (4) The proposal conforms to all other requirements of the city's ordinances.

5 **(c) Hearing and Decision.** The Council held a duly advertised public hearing on  
6 December 9, 2019, and received evidence and testimony regarding whether the Petitioner  
7 signed a valid triple majority petition for annexation of the Territory; whether the  
8 proposed annexation of the Territory was exempt from a vote of the people pursuant to  
9 Senate Bill 1573(2016); whether the proposed annexation of the Territory, including the  
10 change in the Salem Area Comprehensive Plan Map designation for the southern part of  
11 the Territory (592 Hile Lane NE and Marion County Assessor Map and Tax Lot  
12 072W29BC03801) from "Developing Residential" to "Multi-Family Residential" and the  
13 change in zoning designation from Marion County Urban Development (UD) to City of  
14 Salem Multiple Family Residential II (RM-II) upon annexation, complied with SRC  
15 Chapter 260 and the applicable land use and other criteria; and whether the withdrawal of  
16 the Territory from the Marion County Fire District #1 and East Salem Sewer and  
17 Drainage District (the Districts) upon annexation would be in the best interest of the City.  
18 At the conclusion of the public hearing, after due consideration of the evidence and  
19 testimony, the Council adopted Order No. 2019-16 ANX as its final decision and findings  
20 determining that the proposed annexation is exempt from voter approval because it meets  
21 the requirements of Senate Bill 1573(2016); the proposed annexation of the Territory,  
22 including land use designations, complies with SRC Chapter 260 and the applicable land  
23 use and other criteria, subject to the following Condition of Approval imposed on the  
24 proposed zone change to City of Salem "Multiple Family Residential II" (RM-II):

25 **Condition 1:** A wetland delineation study shall be completed prior to any  
26 development of the Territory;  
27 and the withdrawal of the Territory from the Districts would be in the best interest of the  
28 City.

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

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

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

19 **Section 3. Land Use Designations.** The Territory is designated “Multi-Family Residential” on  
20 the Salem Area Comprehensive Plan, and the Plan Map. The zoning for the Territory is  
21 prescribed as “Multiple Family Residential II.” The Planning Administrator shall add to the  
22 official zoning map the Territory herein annexed.

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

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

29 PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

30 ATTEST:

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City Recorder

Approved by City Attorney: \_\_\_\_\_

Checked by: P. Cole