

ORDINANCE BILL NO. 18-17

AN ORDINANCE DECLARING CERTAIN TERRITORY LOCATED AT 3652 AND 3672
MALY PLACE, SE, ANNEXED TO THE CITY OF SALEM, PRESCRIBING ZONING, AND
WITHDRAWING THE TERRITORY FROM THE MARION COUNTY FIRE DISTRICT #1,
THE EAST SALEM SEWER DISTRICT, AND THE SUBURBAN EAST SALEM WATER
DISTRICT

The City of Salem ordains as follows:

Section 1. Findings.

(a) **Petition.** On March 8, 2016, Hallie Wolf and Prentice Wolf submitted an application for annexation, paid the filing fee, and submitted a valid triple-majority annexation petition for certain real property located at 3562 and 3672 Maly Place SE (the Territory), as more particularly described in “Exhibit A,” which is attached hereto and incorporated herein by reference. On April 20, 2016, the Public Works Department issued sewer permits to John R. Davenport for proposed dwellings at for the property, which is located in the East Salem Sewer District and Suburban East Salem Water District. On May 2, 2016, the Wolfs sold the subject property to John R. Davenport and Patricia S. Davenport. On July 8, 2016, staff notified the Davenports that a revised annexation petition would be required to complete the annexation. On July 15, 2016, John R. Davenport paid systems development charges for the sewer permits. On August 4, 2016, John R. Davenport and Patricia S. Davenport (the Petitioners) filed a valid triple-majority annexation petition.

(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 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.

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

4 (1) The territory is within the Salem Urban Growth Boundary (UGB).

5 (2) The territory is currently subject to the acknowledged Salem Area Comprehensive
6 Plan, and will continue to be subject to the Plan upon annexation.

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

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

9 **(c) Hearing and Decision.** The Council held a duly advertised public hearing on
10 February 27, 2017, and received evidence and testimony regarding whether the Petitioner
11 signed a valid triple majority petition for annexation of the Territory; whether the
12 proposed annexation of the Territory was exempt from a vote of the people pursuant to
13 Senate Bill 1573(2016); whether the proposed annexation of the Territory, including the
14 proposed change in the Territory's zone designation from Marion County Single Family
15 Residential (RS) to City of Salem Single Family Residential (RS) upon annexation
16 complied with SRC Chapter 260 and the applicable land use and other criteria; and
17 whether the withdrawal of the Territory from the Marion County Fire District #1, the East
18 Salem Service District, and the Suburban East Salem Water District (the Districts) upon
19 annexation would be in the best interest of the City. At the conclusion of the public
20 hearing, after due consideration of the evidence and testimony, the Council adopted
21 Order No. 2017-01-ANX as its final decision and findings determining that the proposed
22 annexation is exempt from voter approval because it meets the requirements of Senate
23 Bill 1573(2016); the proposed annexation of the Territory, including land use
24 designations, complies with SRC Chapter 260 and the applicable land use and other
25 criteria; and the withdrawal of the Territory from the Districts would be in the best
26 interest of the City.

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

29 **(e) Withdrawal from Special Districts.** After due consideration of the evidence and
30 testimony, the City Council finds it is in the best interest of the City to withdraw the

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

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

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

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

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

4 PASSED by the City Council this _____ day of _____, 2017.

5 ATTEST:

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8 City Recorder

9 Approved by City Attorney: _____
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11 Checked by: P. Cole
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