

ORDINANCE BILL NO. 9-21

AN ORDINANCE VACATING A PORTION OF AN EASEMENT OVER PREVIOUSLY
VACATED GEORGE STREET NW

The City of Salem ordains as follows:

Section 1. Findings.

(a) On May 24, 2021, Council accepted a petition from The Family Life Church to vacate a portion of an easement over previously vacated George Street NW.

(b) A public hearing before the City Council to consider the vacation of the easement was set for June 28, 2021, and notice of the hearing was provided as required by Oregon Revised Statutes (ORS) 271.110 and Salem Revised Code (SRC) 255.065.

(c) A public hearing before the City Council was held on June 28, 2021, at which time interested persons were afforded the opportunity to present evidence and provide testimony in favor of, or in opposition to, the proposed vacation, and upon consideration of such evidence and testimony and after due deliberation, the City Council finds as follows:

(1) The vacation will not substantially impact the market value of abutting properties such that damages would be required to be paid pursuant to ORS 271.130; any impact would be to increase the market value of abutting properties.

(2) The vacation is consistent with SRC 255.065 and complies with Section 255.065(b)(6) which establishes the criteria listed below for approving a right-of-way vacation:

(A) *The area proposed to be vacated is not presently, or will not in the future be needed for public services, facilities, or utilities;*

FINDING: Transportation: The easement to be vacated currently lies over a portion of the parking lot for the Family Life Church, a small portion of the church itself, a portion of the church lawn, and a portion of a single-family residential property located at 847 George Street NW. Vacation of the easement would not impact the transportation network. The vacation complies with this criterion.

1 *Utilities:* Notice of the proposed vacation was sent to all potentially affect public utilities. No
2 utilities indicated that they have facilities located within the area proposed for vacation. The
3 vacation complies with this criterion.

4 *(B) The vacation does not prevent the extension of, or the retention of public services, facilities,*
5 *or utilities;*

6 **FINDING:** There are no utilities located in or planned for the proposed vacation area.
7 However, a new utility easement is needed from Wallace Road NW to the northern terminus of
8 Valley View Avenue NW in order to supply tax lot 073W16DD00300 with necessary gravity
9 utilities, including storm and sanitary sewer. With the condition to provide a new easement, the
10 vacation meets this criterion.

11 *(C) Public services, facilities, or utilities can be extended in an orderly and efficient manner in*
12 *an alternate location;*

13 **FINDING:** There are no utilities located in or planned for the proposed vacation area.
14 However, a new utility easement is needed from Wallace Road NW to the northern terminus of
15 Valley View Avenue NW in order to supply tax lot 073W16DD00300 with necessary gravity
16 utilities, including storm and sanitary sewer. With the condition to provide a new easement, the
17 vacation meets this criterion.

18 *(D) The vacation does not impede the future best use, development of, or access to abutting*
19 *property;*

20 **FINDING:** The vacation will not impede access to the abutting properties. The easement does
21 not serve to maintain access to the transportation network. The vacation complies with this
22 criterion.

23 *(E) The vacation does not conflict with provisions of the Unified Development Code (UDC),*
24 *including street connectivity standards and block lengths;*

25 **FINDING:** The vacation will not impede access to the abutting properties. The easement does
26 not serve to maintain access to the transportation network. The vacation complies with this
27 criterion.

28 *(F) All required consents have been obtained;*

29 **FINDING:** Petition-initiated vacations require the consent of 100 percent of the abutting real
30 property owners and two-thirds of the property owners within the affected area, which is defined

1 in ORS 271.080. The applicant has submitted the signed consent of abutting and affected
2 property owners and staff has determined that all of the required consents have been obtained.
3 The vacation complies with this criterion.

4 *(G) Notices required by ORS 271.080-271.130 have been duly given;*

5 **FINDING:** Notice of Public Hearing was provided as required by ORS 271.080-271.030. Notice
6 was published in the *Statesman Journal* and posted on the right-of-way for vacation. The
7 vacation complies with this criterion.

8 *(H) The public interest would not be prejudiced by the vacation;*

9 **FINDING:** The conditional vacation of the easement would have no impact on the public
10 interest. Petitioner intends to construct another building that will maintain the property's current
11 use. The vacation complies with this criterion.

12 **Section 2. Assessment of Special Benefit.**

13 In accordance with SRC 255.065 (b)(7)(C), Council may, in its discretion, require the petitioner
14 to pay an assessment of special benefit in an amount deemed by Council to be just and equitable.
15 The amount of the assessment is generally determined by computing the square foot value of the
16 property in the vicinity of the vacation and multiplying it by the square footage of the area to be
17 vacated. The Real Property Services Division of the Urban Development Department estimated
18 the fee value of this property at \$7.50 per square foot; the value of the easement is estimated to
19 be 30 percent of the fee value. The area to be vacated totals 9,572 square feet, resulting in a
20 potential assessment of special benefit in the amount of \$21,550 (30 percent of the fee value).
21 The new utility easement from Wallace Road NW to the northern terminus of Valley View
22 Avenue NW is approximately 8,300 square feet. Because the new easement is similar in size and
23 value to the easement to be vacated, staff recommends that City Council waive the assessment of
24 special benefit for this vacation.

25 **Section 3. Vacation.** That certain property more particularly described in Section 1(a) of this
26 Ordinance is hereby vacated, subject to a new utility easement being provided from Wallace
27 Road NW to the northern terminus of Valley View Avenue NW.

28 **Section 4. Vacation Effective Date.** Pursuant to SRC 255.065(c)(3), this vacation shall not be
29 effective until:

30 (a) All fees have been satisfied.

1 (b) All required legal documents have been signed, filed, and if required, recorded.

2 (c) The petition has complied with all conditions attached to the vacation.

3 (d) A certified copy of this ordinance is recorded with the Polk County Clerk.

4 **Section 5. Codification.** In preparing this ordinance for publication and distribution, the City
5 Recorder shall not alter the sense, meaning, effect, or substance of this ordinance, but within such
6 limitations, may:

7 (a) Renumber sections and parts of sections of the ordinance;

8 (b) Rearrange sections;

9 (c) Change reference numbers to agree with renumbered chapters, sections, or other parts;

10 (d) Delete references to repealed sections;

11 (e) Substitute the proper subsection, section, or chapter, or other division numbers;

12 (f) Change capitalization and spelling for the purpose of uniformity;

13 (g) Add headings for purposes of grouping like sections together for ease of reference; and

14 (h) Correct manifest clerical, grammatical, or typographical errors.

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16 PASSED by the City Council this _____ day of _____, 2021.

17 ATTEST:

18 City Recorder

19 Approved by City Attorney: _____
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22 Checked by: Anthony Gamallo
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