

1                                   **A BILL FOR ORDINANCE NO. 121-07**

2 AN ORDINANCE DECLARING CERTAIN TERRITORY LOCATED AT 3887 HOMESTEAD  
3 ROAD S., ANNEXED TO THE CITY OF SALEM, PRESCRIBING ZONING, AND WITHDRAWING  
4 THE TERRITORY FROM THE SALEM SUBURBAN RURAL FIRE PROTECTION DISTRICT.

5 *The City of Salem ordains as follows:*

6 **Section 1. Findings.**

7       **(a) Petition.** On October 30, 2006, Robert D. McCarthy and Cheryl S. McCarthy (the  
8       Petitioners) filed an annexation petition for certain real property located at 3887 Homestead Road  
9       S. (the Territory), as more particularly described in Exhibit 1, which is attached hereto and  
10      incorporated herein by reference, in order to connect to the city water system because the well  
11      serving the existing dwelling on the property had become contaminated. A letter from the  
12      Marion County Health Department supports the applicants' claim that the well is a public health  
13      hazard.

14      **(b) Exemption from Voter Approval.** Salem City Charter Section 61 exempts "annexations  
15      that are necessitated by failing septic systems or health hazards" from voter approval.

16      **(c) Hearing and Decision.** The Council held a duly advertised public hearing on September  
17      4, 2007 and received evidence and testimony regarding: whether the Petitioners signed a valid  
18      triple majority petition for annexation of the Territory; whether the proposed annexation of the  
19      Territory was exempt from a vote of the people pursuant to Salem City Charter Section 61;  
20      whether the proposed annexation of the Territory, including the proposed change in the  
21      Territory's zoning designation from Marion County "UT-5" (Urban Transitional) to City "RA"  
22      (Residential Agriculture) upon annexation, complied with SRC Chapter 165 and the applicable  
23      land use and other criteria; and whether the withdrawal of the Territory from Salem Suburban  
24      Rural Fire Protection District (the District) upon annexation would be in the best interest of the  
25      City. At the conclusion of the public hearing, after due consideration of the evidence and  
26      testimony, the Council adopted Order No. 07-C-653 as its final decision and findings  
27      determining that: the proposed annexation is exempt from voter approval because it is necessary

1 to address a health hazard ; the proposed annexation of the Territory, including land use  
2 designations, complied with SRC Chapter 165 and the applicable land use and other criteria; and,  
3 the withdrawal of the Territory from the District would be in the best interest of the City.

4 **(d) Additional finding.** The Council finds that the Petitioners signed a valid triple majority  
5 petition for annexation of the Territory.

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

20 **Section 2. Annexation.** The Territory described in Exhibit 1 is hereby annexed to the City of Salem,  
21 Oregon.

22 **Section 3. Land Use Designations.** The Territory is designated "Developing Residential" on the Salem  
23 Area Comprehensive Plan, and the Plan Map. The zoning for the territory is prescribed as RA  
24 (Residential Agriculture). The Planning Administrator shall add to the official zoning map the Territory  
25 herein annexed.

26 **Section 4. Withdrawal from the Salem Suburban Rural Fire Protection District.** The Territory is  
27 hereby withdrawn from the Salem Suburban Rural Fire Protection District, such withdrawal to be


1 effective upon, and contemporaneous with, the date of annexation.

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

5 PASSED by the Council this \_\_\_\_ day of \_\_\_\_\_, 2007.

6 ATTEST:

7  
8  
9 City Recorder

10 Approved by the City Attorney:  \_\_\_\_\_

11 Checked by: G. Stephenson

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3887 Homestead Road S

Beginning at the point of intersection of the West Right-of-way Line of County Road No. 807 (commonly known as Homestead Road S) and the North Line of Lot 21 of Homestead Acres, as recorded in Volume 9, Page 147, Book of Town Plats, City of Salem, Marion County, Oregon; said point being in Section 5, Township 8 South, Range 3 West of the Willamette Meridian, City of Salem, Marion County, Oregon; said point also being on the now existing City Limits Line; and running thence:


South 00° 02' 21" East 220.47 feet along the West Right-of-way Line of said Homestead Road S and the now existing City Limits Line to the point of intersection of the South Line of that tract of land described in that instrument recorded in Reel 2497, Page 294, Marion County Records;

thence North 89° 49' 39" West 235.00 feet along the South Line to the southwest corner thereof;

thence North 00° 02' 39" West 220.26 feet along the West Line of said Reel 2497, Page 294, to the northwest corner thereof also being on the North Line of said Lot 21, Homestead Acres;

thence South 89° 52' 45" East 235.00 feet along said North Line of said Lot 21 to the Point of Beginning.

**EXHIBIT 1**

Approved:   
May 14, 2007  
Annexation No.: C-653  
DOR No.: 24-P155-2007  
DOR Date: 5/18/2007