

# JUNCTION CITY PLANNING COMMISSION

## AGENDA ITEM SUMMARY



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### Zoning Text Amendment

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Meeting Date: March 18, 2015  
Department: Planning  
www.junctioncityoregon.gov

Agenda Item Number: 5a  
Staff Contact: Jordan Cogburn  
Contact Telephone Number: 541-998-4763

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#### **ISSUE STATEMENT**

The Junction City Council has proposed zone text amendments to the Junction City Municipal Code (JCMC), Title 17, Chapter 17.165 based on research of the existing redundancy within the Code. At the December 23rd City Council standing meeting, the Council directed staff to initiate the Code Text Amendment process and present revisions to the JCMC regarding the removal of Annexation Agreement language.

#### **BACKGROUND**

At the April 3<sup>rd</sup> 2014 Finance & Judiciary Committee meeting, the Committee reviewed the Draft Standard Annexation Agreement and forwarded the draft to Council, as prepared, with no recommendation on approval. Committee forwarded the discussion of an agreement to Council with the following considerations for Council:

1. Recommend that Council discussion be in full on the annexation Code and process not solely the concept of a standard agreement nor standard agreement draft.
2. Request that sampling of other cities in the region be done by staff to see how they process annexations.
3. Request that Council direct staff to research what the State requirements are for City processing of annexations and research what the City is required to do by law.
4. Request that Council discuss what an annexation agreement looks like, in the interim, given the current Code, a simplified agreement is desired.
5. Request that Council direct staff to seek multiple professional opinions on the requirements, processing, code language, and/or standard agreement.
6. Request Council direction about whether Code revision is needed.
7. Request that Council consider a future work session on topic, should Council wish to proceed with discussion on topic.
8. Request Council direction about staff time and resources on the considerations listed above.

At the July 8<sup>th</sup> 2014 Council work session, the Council reviewed the Draft Standard Annexation Agreement and the Council consensus was to continue the topic of Annexation Process and discuss staff research on the processes of other municipalities in regard to annexations. Staff will bring the information, along with State requirements, and the City's current annexations process to the work session for discussion.

At the August 14, 2014 Council work session, the Council reviewed materials presented by staff regarding various municipalities in the region and regulations set forth by each in regard to annexation procedures. Based on the research presented, Council consensus was to have Staff work on specific code amendments that would be necessary to the annexation and development codes to be able to implement something similar to a Summary of Urban Service Provision used by the City of Eugene and to eliminate the City's requirement of an annexation agreement. Staff was directed to bring findings and material back to the Council in regular session for discussion, public comment, and potential decision on whether or not the Council would like to make those revisions.

At the October 28, 2014 Council meeting, Staff updated Council on progress made regarding annexation agreement provisions. Staff indicated they had contacted additional legal counsel at Garvey Shubert and Barer, as Council had recommended seeking additional review, and that materials from the contacted firm were anticipated, but had not be received prior to the Council regular session. The City's contracted legal counsel indicated they would also be available as a resource in regard to necessary Municipal Code revisions. Staff noted the availability and has communicated the availability with the City Administrator. Council directed Staff to return to the November regular session with the materials provided by the proposed additional legal counsel for review and discussion.

The contracted legal counsel at Garvey Shubert and Barer provided a memorandum outlining areas of the JCMC they believe could use revision, in regard to Annexation Agreements, in order to mitigate potential financial and legal impacts to the City. The memorandum was received on November 30<sup>th</sup>, 2014.

At the December 23<sup>rd</sup> Council meeting, Staff presented the recommendations from Garvey Shubert and Barer. The Council consensus was to follow the recommendation of the outside legal Counsel and remove the Annexation Agreement language from the JCMC. Council directed staff to initiate the Code Text Amendment process and present revisions to the JCMC regarding the removal of Annexation Agreement language. The suggested revisions are as follows:

***17.165.020 Costs associated with annexations, withdrawals from special districts after annexation, and extraterritorial extensions.***

- A. Applicants for annexations, withdrawals from special districts after annexations, and extraterritorial extensions shall pay the costs of processing the annexation, including any costs associated with recording, as established by the city council.*
- B. Property owners within the territory requesting annexation must agree to pay all costs of extending city services. The city will require the property owners to sign a nonremonstrance agreement. The city may agree to commit its resources to extend services to an area or contribute to the costs of extending services.*
- ~~*C. The city will reach agreement with the property owner(s) requesting annexation on how payment of costs for extending city services will be made during the city's review of an annexation request.*~~
- ~~*D. C. The city may consider formation of an assessment district in accordance with the Junction City Municipal Code during its review of the annexation request. [Ord. 1181 § 4, 2008; Ord. 1112 § 1, 2003; Ord. 1027 § 1, 1996; Ord. 950 Appx. D, 1991.]*~~

**17.165.110 Criteria.**

An annexation application may be approved only if the city council finds that the proposal conforms to the following criteria:

- A. The affected territory proposed to be annexed is within the city’s urban growth boundary and is:
  - 1. Contiguous to the city limits; or
  - 2. Separated from the city only by a public right-of-way or a stream, lake or other body of water;
- B. The proposed annexation is consistent with applicable policies in the city of Junction City comprehensive plan and in any applicable refinement plans;
- C. The proposed annexation will result in a boundary in which key services can be provided;
- ~~D. A signed annexation agreement to resolve fiscal impacts upon the city caused by the proposed annexation shall be provided. The annexation agreement shall address, at a minimum, connection to and extension of public facilities and services. Connection to public facilities and services shall be at the discretion of the city, unless otherwise required by ORS. Where public facilities and services are available and can be extended, the applicant shall be required to do so. [Ord. 1182 § 2(7), 2008.]~~

**COMMITTEE REVIEW AND/OR RECOMMENDATION**

None

**RELATED CITY POLICIES**

17.145.010 Authorization to initiate amendments. An amendment to the text of this title or the zoning map may be initiated by the city council, by the planning commission or by application of a property owner or his authorized agent. The planning commission shall, within 40 days after a hearing, recommend to the city council approval, denial, or modification of the proposed amendment. An amendment to the text or the zoning map may be consolidated with a related amendment to the comprehensive plan text or map. [Ord. [1170](#) § 6, 2007; Ord. [950](#) § 107, 1991.]

**CITY ADMINISTRATOR’S COMMENT**

The City Administrator requests that the Planning Commission follow process for review of the Zoning text amendment as presented.

**POSSIBLE ACTIONS BY THE PLANNING COMMISSION**

The Commission may:

- a. Recommend approval of the Zoning text Amendment based on the proposed findings.
- b. Recommend modification of the Zoning text Amendment based on changes to the proposed findings.
- c. Deny the request for a Zoning text Amendment with findings to support the denial.
- d. Continue the public hearing to a date certain if more information is needed.

**SUGGESTED MOTION**

I make a motion to recommend to Council (approval/conditional approval/deny/continue) of the proposed zoning text amendment initiated by the City Council, file # AMD-15-01 based on the findings as stated in the Final Order.

**ATTACHMENTS**

- I. Proposed Text Amendments to JCMC Chapters 17.165 Annexation, Withdrawal From Special Districts After Annexation, And Extraterritorial Extensions
- II. Public Hearing Notice
- III. Proposed Planning Commission Final Order (AMD-15-01) Annexation Agreements

**FOR MORE INFORMATION**

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**Chapter 17.165**  
**ANNEXATION, WITHDRAWAL FROM SPECIAL DISTRICTS AFTER ANNEXATION,**  
**AND EXTRATERRITORIAL EXTENSIONS**

Sections:

Article I. General Provisions

- [17.165.010](#) Consent for annexation.
- [17.165.020](#) Costs associated with annexations, withdrawals from special districts after annexation, and extraterritorial extensions.
- [17.165.030](#) Appeal procedures.
- [17.165.040](#) Definitions – Boundary changes.

Article II. Annexations

- [17.165.050](#) Purpose.
- [17.165.060](#) Applicability.
- [17.165.070](#) Procedure.
- [17.165.080](#) Annexation initiation.
- [17.165.090](#) Application requirements.
- [17.165.100](#) Notice.
- [17.165.110](#) Criteria.
- [17.165.120](#) Application of zoning districts.
- [17.165.130](#) Effective date – Filing of approved annexation – Notice.
- [17.165.140](#) Withdrawals authorized by ORS [222.510](#) through [222.580](#).
- [17.165.150](#) Appeals.

Article III. Extraterritorial Extension of Water and Sewer Service

- [17.165.160](#) Purpose.
- [17.165.170](#) Procedures.
- [17.165.180](#) Application requirements.
- [17.165.190](#) Criteria.
- [17.165.200](#) Water.
- [17.165.210](#) Sewer.
- [17.165.220](#) Extraterritorial components of water or sewer system.

## Article I. General Provisions

### 17.165.010 Consent for annexation.

It is a policy of Junction City that no property will be annexed, except in health hazard situations, unless owners petition the city as allowed by state law. [Ord. [1112](#) § 1, 2003; Ord. [1027](#) § 1, 1996; Ord. [950](#) Appx. D, 1991.]

### 17.165.020 Costs associated with annexations, withdrawals from special districts after annexation, and extraterritorial extensions.

A. Applicants for annexations, withdrawals from special districts after annexations, and extraterritorial extensions shall pay the costs of processing the annexation, including any costs associated with recording, as established by the city council.

B. Property owners within the territory requesting annexation must agree to pay all costs of extending city services. The city will require the property owners to sign a nonremonstrance agreement. The city may agree to commit its resources to extend services to an area or contribute to the costs of extending services.

~~C. The city will reach agreement with the property owner(s) requesting annexation on how payment of costs for extending city services will be made during the city's review of an annexation request.~~

DC. The city may consider formation of an assessment district in accordance with the Junction City Municipal Code during its review of the annexation request. [Ord. [1181](#) § 4, 2008; Ord. [1112](#) § 1, 2003; Ord. [1027](#) § 1, 1996; Ord. [950](#) Appx. D, 1991.]

### 17.165.030 Appeal procedures.

Following the appeals procedures outlined in JCMC [17.150.120](#) and [17.150.130](#), city council determinations on annexations may be appealed to the Land Use Board of Appeals. [Ord. [1181](#) § 5, 2008; Ord. [1112](#) § 1, 2003; Ord. [1027](#) § 1, 1996; Ord. [950](#) Appx. D, 1991.]

### 17.165.040 Definitions – Boundary changes.

A. Specific examples of terms related to boundary changes are listed as follows:

“Affected city” means a city, city-county or cities, named in a petition, for which a boundary change is proposed or a city, city-county or cities, named in an ordinance or order, for which a boundary change is ordered.

“Affected county” means each county that contains any territory for which a boundary change is proposed or ordered.

“Affected district” means each special district named in a petition that contains or would contain territory for which a boundary change is proposed or ordered. “Affected district”

also means a district or districts, named in a petition, for which a boundary change is proposed or ordered.

“Affected territory” means territory described in a petition. “Affected territory” also means an area within the urban growth boundary of a city that is otherwise eligible for annexation to a city where there exists an actual or alleged danger to public health as defined in ORS Chapter [222](#).

“Annexation” means the attachment or addition of territory to, or inclusion of territory in, an existing city or district.

“Annexation agreement” means a written agreement between the city and owners of land requesting annexation that states the terms, conditions and obligations of the parties to mitigate fiscal and service impacts to the city associated with the annexation and future development of the property. The agreement may be used to ensure annexation consistent with the comprehensive plan.

“Annexation contract” means a contract between a city and a landowner relating to extraterritorial provision of service and consent to eventual annexation of property of the landowner. The contract shall be recorded and shall be binding on all successors with an interest in that property.

“Boundary change” means an action by the city council duly authorized by ORS Chapter [222](#) that results in the adjustment of the city limits or the boundary of a special district.

“Cadastral map” means a map prepared by the Lane County assessor’s office showing bearings and distances and the boundaries of parcels, lots, and tracts of land.

“Consent to annex” means forms provided by the affected city that must be signed by the owner when urban services are provided to property that cannot annex. The consent to annex commits the property to future annexation, is recorded, and is binding on any successive owner or owners. The signature of the owner of part or all of the affected territory and electors, if any, is required, as applicable.

“Contiguous” means territory that abuts the city limits at any point along the property’s exterior boundary or separated from the city limits by a public right-of-way or a stream, bay, lake, or other body of water.

Domestic. As used in this chapter, “domestic” includes residential and commercial uses and loads, and excludes agricultural and industrial processed water.

“Effective date of annexation” means the effective date of the boundary change as prescribed in ORS [222.040](#), [222.180](#), or [222.465](#).

“Elector” means a registered voter at an address located within the affected territory who may be active or inactive. Only an active registered voter is qualified to sign a petition.

“Extraterritorial connection of service” means the connection of water or sanitary sewer service to developed property located outside the city limits and within or outside the urban growth boundary.

“Extraterritorial extension of a facility” means the extension of a water, sanitary sewer, or stormwater facility outside the city limits or urban growth boundary to serve territory inside the urban growth boundary.

“Extraterritorial service/facility contract” means a contract between the owner of property proposed to be served and the city, specifying service provisions and identifying the respective obligations of the parties.

“Filing” means the submittal of materials to initiate a boundary change process.

“Initiation methods” means any of the following descriptions of participants and documentation necessary for commencement of city annexation process:

1. All of the owners of land in the territory proposed to be annexed, and not less than 50 percent of the electors, if any, residing in the territory proposed to be annexed, have consented in writing to the annexation and file a statement of their consent to annexation with the city;
2. More than half of the owners of land in the territory proposed for annexation who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation and file a statement of their consent to annexation with the city;
3. A majority of the electors registered in the territory proposed to be annexed and owners of more than half of the land in that territory consent in writing to the annexation and file a statement of their consent to annexation with the city;
4. The city council may, without any vote or any consent by the owners, annex territory within the urban growth boundary if it is found that a danger to public health exists within that territory and that such condition can be removed or alleviated by sanitary, water or other facilities ordinarily provided by incorporated cities; or
5. The city council may by resolution initiate annexation of territory contiguous to the city limits.

“Legal description” means as defined in ORS [308.225\(2\)](#), which states: the legal description of the boundary change shall consist of a series of courses in which the first course shall start at a point of beginning and the final course shall end at that point of beginning. Each course shall be identified by bearings and distances and, when available, refer to deed lines, deed corners, and other monuments, or, in lieu of bearings and distances, be identified by reference to:

1. Township, range, section, or section subdivision lines of the U.S. rectangular survey system;
2. Survey centerline or right-of-way lines of public roads, streets or highways;
3. Ordinary high water or ordinary low water of tidal lands;
4. Right-of-way lines of railroads;
5. Any line identified on the plat of any recorded subdivision defined in ORS [92.010](#);
6. Donation land claims;
7. Line of ordinary high water and line of ordinary low water of rivers and streams, as defined in ORS [274.005](#), or the thread of rivers and streams.

In lieu of the requirements of the above, boundary change areas conforming to areas of the U.S. rectangular survey may be described by township, section, quarter-section or quarter-quarter section, or, if the areas conform to subdivision lots and blocks, may be described by lot and block description.

“Notice” means an ordinance, resolution, order, or other similar matter providing notice authorized or required to be published, posted, or mailed.

“Owner” means the legal owner of record according to the latest available Lane County tax assessment roll or, where there is an existing recorded land contract that is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land, each consenting owner is counted as a fraction to the same extent as the interest of the other owners and the same fraction is applied to the parcel’s land mass and assessed value for purposes of the consent petition. If a corporation owns land in the affected territory, the corporation must be considered the individual owner of that land.

“Petition” means any document such as signature sheets, resolutions, orders, or articles of incorporation, required for initiating an annexation, withdrawal, or provision of extraterritorial services. In the case of a petition initiated by property owners, the person signing on behalf of a corporation or business must provide evidence showing that person is authorized to sign legal documents for the firm.

“Proceeding” means a proceeding to consider a boundary change.

“Proposal” means the set of documents required to initiate proceedings for a boundary change.

“Special district” means any of the districts identified in ORS Chapter [198](#).

“Urbanizable land” means those lands between the city limits and urban growth boundary.

“Urban growth boundary” means a site-specific line, delineated on a map or by written description, that separates urban and urbanizable land from rural lands, that is part of a comprehensive plan.

“Withdrawal” means the detachment, disconnection or exclusion of territory from an existing city or district. [Ord. [1198](#) § 1, 2010; Ord. [1182](#) § 1, 2008.]

## **Article II. Annexations**

### **17.165.050 Purpose.**

The purpose of this article is to establish procedures relating to the annexation of territory into the city of Junction City and provide a process for the subsequent withdrawal of territory from special districts in accordance with applicable state statutes. [Ord. [1182](#) § 2(1), 2008.]

### **17.165.060 Applicability.**

These regulations apply to annexation applications as specified in this section. Other proposals permitted by ORS Chapter [222](#) shall be processed as provided in ORS Chapter [222](#). [Ord. [1182](#) § 2(2), 2008.]

### **17.165.070 Procedure.**

Annexation applications are reviewed under Type IV procedures per JCMC [17.150.070](#). The planning commission shall forward a written recommendation on the application to the city council based on the approval criteria specified in this article. The city council shall approve proposed annexations and withdrawals by ordinance. [Ord. [1182](#) § 2(3), 2008.]

### **17.165.080 Annexation initiation.**

An annexation application may be initiated by city council resolution, or by written consents from electors and/or property owners as provided for in this article. [Ord. [1182](#) § 2(4), 2008.]

### **17.165.090 Application requirements.**

In addition to the provisions specified in other sections of this title, an annexation application shall include the following:

A. A list of all owners, including partial holders of owner interest, within the affected territory, indicating for each owner:

1. The affected tax lots, including the township, section and range numbers;
2. The street or site addresses within the affected territory as shown in the Lane County Regional Land Information Database system (RLID);

3. A list of all eligible electors registered at an address within the affected territory; and

4. Signed petitions as required.

B. Written consents on city-approved petition forms that are:

1. Completed and signed, in accordance with ORS [222.125](#), by:

a. All of the owners within the affected territory; and

b. Not less than 50 percent of the eligible electors, if any, registered within the affected territory; or

2. Completed and signed, in accordance with ORS [222.170](#), by:

a. More than half the owners of land in the territory, who also own more than half the land in the contiguous territory and of real property therein representing more than half the assessed value of all real property in the contiguous territory; or

b. A majority of the electors registered in the territory proposed to be annexed and a majority of the owners of more than half the land.

c. Publicly owned rights-of-way can be added to annexations initiated by these two methods without any consents.

C. A city council resolution to initiate a boundary change, including but not limited to rights-of-way.

D. In lieu of a petition form described in subsection (B) of this section, an owner's consent may be indicated on a previously executed consent to annex form that has not yet expired as specified in ORS [222.173](#).

E. Verification of property owners form signed by the Lane County department of assessment and taxation.

F. A certificate of electors form signed by the Lane County elections voter registration department including the name and address of each elector.

G. An ORS [197.352](#) waiver form signed by each owner within the affected territory.

H. A waiver form signed by each owner within the affected territory as allowed by ORS [222.173](#).

I. A legal description of the affected territory proposed for annexation consistent with ORS [308.225](#) that will include contiguous or adjacent right-of-way to ensure contiguity as required by ORS [222.111](#).

J. A Lane County assessor's cadastral map to scale highlighting the affected territory and its relationship to the city limits.

K. A list of the special districts providing services to the affected territory.

L. A public/private utility plan describing how the proposed affected territory can be served by key facilities and services.

M. A written narrative addressing the proposal's consistency with the approval criteria specified in this article.

N. A completed application in the form provided by the city, accompanied by an application fee as established by council resolution. [Ord. [1198](#) § 2, 2010; Ord. [1182](#) § 2(5), 2008.]

**17.165.100 Notice.**

In addition to the requirements of JCMC [17.150.080](#), the following are also required for annexations:

A. Mailed Notice. Notice of the annexation application shall be mailed to:

1. The applicant, property owner and active electors in the affected territory;
2. Owners and occupants of properties located within 300 feet of the perimeter of the affected territory;
3. Affected special districts and all other public utility providers; and
4. Lane County land management division, Lane County elections, and the Lane County board of commissioners.

B. Posted Notice. Notice of the public hearing at which an annexation application will be considered shall be posted in four public places in the city for two successive weeks prior to the hearing date. [Ord. [1182](#) § 2(6), 2008.]

**17.165.110 Criteria.**

An annexation application may be approved only if the city council finds that the proposal conforms to the following criteria:

A. The affected territory proposed to be annexed is within the city's urban growth boundary and is:

1. Contiguous to the city limits; or
2. Separated from the city only by a public right-of-way or a stream, lake or other body of water;

B. The proposed annexation is consistent with applicable policies in the city of Junction City comprehensive plan and in any applicable refinement plans;

C. The proposed annexation will result in a boundary in which key services can be provided;

~~D. A signed annexation agreement to resolve fiscal impacts upon the city caused by the proposed annexation shall be provided. The annexation agreement shall address, at a minimum, connection to and extension of public facilities and services. Connection to public facilities and services shall be at the discretion of the city, unless otherwise required by ORS. Where public facilities and services are available and can be extended, the applicant shall be required to do so. [Ord. 1182 § 2(7), 2008.]~~

#### **17.165.120 Application of zoning districts.**

Application to apply a zoning district consistent with the comprehensive plan designation may be applied for concurrently with the annexation application. Chapter [17.145](#) JCMC, Amendments, also applies. [Ord. [1182](#) § 2(8), 2008.]

#### **17.165.130 Effective date – Filing of approved annexation – Notice.**

A. The effective date of an approved annexation shall be set in accordance with ORS [222.040](#), [222.180](#) or [222.465](#). The city council's decision is the city's final decision either on the date the decision is made, or 30 days after the decision is made if there is no emergency clause in the adopting ordinance, or as specified herein. Notwithstanding the effective date of an ordinance as specified above, the effective date of annexations shall be as prescribed in ORS [222.040](#), [222.180](#), or [222.465](#), or as otherwise established by statute.

#### **B. Filing of Approved Annexation.**

1. Not later than 10 working days after the passage of an ordinance approving an annexation, the city administrator shall:

- a. Send by certified mail a notice to public utilities (as defined in ORS [757.005](#)), electric cooperatives, and telecommunications carriers (as defined in ORS [133.721](#)) operating within the city; and
- b. Mail a notice of the annexation to the Secretary of State, Department of Revenue, Lane County clerk, Lane County assessor, affected districts, and owners and electors in the affected territory. The notice shall include:
  - i. A copy of the ordinance approving the annexation;
  - ii. A legal description and map of the annexed territory;
  - iii. The findings; and
  - iv. Each site address to be annexed as recorded on Lane County assessment and taxation rolls or found in RLID.
- c. The notice to the Secretary of State will also include copies of the petitions signed by electors and/or owners of the affected territory.

d. Notice of decision is mailed to the applicant, property owner, those persons who submitted written or oral testimony, those who requested notice, and as required by ORS Chapter [222](#) and JCMC [17.150.080](#).

2. If the effective date of an annexation is more than one year after the city council passes the ordinance approving it, the city administrator shall mail a notice of the annexation to the Lane County clerk not sooner than 120 days and not later than 90 days prior to the effective date of the annexation. [Ord. [1182](#) § 2(9), 2008.]

**17.165.140 Withdrawals authorized by ORS [222.510](#) through [222.580](#).**

A. Withdrawal from special districts may occur concurrently with the approved annexation ordinance or after the effective date of the annexation of territory to the city. The city administrator shall recommend to the city council for consideration of the withdrawal of the annexed territory from special districts as specified in ORS Chapter [222](#).

B. Withdrawal from special districts processed separate from the process annexing the territory to the city requires a public hearing with notice as required in this article and JCMC [17.150.070](#)(A)(4), Type IV Procedure – Legislative.

C. Criteria. In determining whether to withdraw the territory, the city council shall determine whether the withdrawal is in the best interest of the city.

D. Effective Date. The effective date of the withdrawal shall be as specified in ORS [222.465](#), as applicable.

E. Notice of Withdrawal. Notice will be provided in the same manner as specified in this article and JCMC [17.150.070](#)(A)(4), Type IV Procedure – Legislative. [Ord. [1182](#) § 2(10), 2008.]

**17.165.150 Appeals.**

When appealed, city council decisions are subject to review by the state Land Use Board of Appeals (LUBA).

A. Who May Appeal. The following people have legal standing to appeal the decision:

1. The applicant or owner of the subject property;
2. Any person who was entitled to written notice of the decision;
3. Any other person who participated in the proceeding by submitting written comments.

B. Appeal Filing Procedure.

1. Notice of Appeal. Any person with standing to appeal, as provided above, may appeal the decision by filing a notice of appeal according to the following procedures.
2. Time for Filing. A notice of appeal shall be filed with the city administrator on a form provided by the city within 14 days of the date the notice of decision was mailed.
3. Content of Notice of Appeal. The notice of appeal shall contain:
  - a. An identification of the decision being appealed, including the date of the decision;
  - b. A statement demonstrating the person filing the notice of appeal has standing to appeal;
  - c. A statement explaining the specific issues being raised on appeal;
  - d. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period;
  - e. Filing fee (nonrefundable).
4. Jurisdictional Requirements. Failure to comply with any of the appeal filing procedure requirements as set forth in this section precludes the appeal from moving forward or any further review by a city decision-maker.

C. Scope of Appeal. The appeal of the decision shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review. The city council may allow additional evidence, testimony or argument concerning any relevant standard, criterion, condition, or issue.

D. Appeal Procedures. Type IV notice, hearing procedures, and decision process shall be used. [Ord. [1182](#) § 2(11), 2008.]

### **Article III. Extraterritorial Extension of Water and Sewer Service**

#### **17.165.160 Purpose.**

A. These regulations govern the approval of requests for the extension of water or sewer facilities outside of the city limits and within or outside the urban growth boundary to serve property within the urban growth boundary, and subsequent extraterritorial connections thereto. These regulations are intended to accomplish the orderly development of land within the community, ensure the adequate provision of public facilities and services, protect the public health and safety of the community, and enable development to occur consistent with applicable provisions of the comprehensive plan.

B. Components of water or sewer systems that serve lands within the city's urban growth boundary (UGB) may be located on lands outside the UGB, in accordance with this article.

C. The city shall not allow connections to its water or sanitary sewer systems outside the city's boundaries or its urban growth boundary, unless as otherwise permitted by Goal 11, implementing rules thereunder, and this article. Annexation of the territory so served is required if the territory is within the urban growth boundary and is contiguous to the city limits. An alternative to annexation, if agreed to by the city and the owners of the affected property, may occur in the place of annexation.

D. An extraterritorial service/facility contract between a property owner and the city is required to govern the costs and responsibilities associated with extraterritorial connections. [Ord. [1198](#) § 3, 2010; Ord. [1182](#) § 3(1), 2008.]

#### **17.165.170 Procedures.**

Applications for extraterritorial extensions of water or sewer facilities are reviewed under JCMC [17.150.070](#)(A)(4), Type IV Procedures. Applications for extraterritorial connections to water or sewer service are reviewed under JCMC [17.150.070](#)(A)(2), Type II Procedures. [Ord. [1198](#) § 3, 2010; Ord. [1182](#) § 3(2), 2008.]

#### **17.165.180 Application requirements.**

An application for an extraterritorial extension of a facility or an extraterritorial connection of service shall include the following:

- A. A list of all tax lots proposed to be served, including street addresses and property owner names;
- B. A legal description of the property or properties to be served with water or sewer service;
- C. A signed consent to annex form for the property or properties proposed to be served;
- D. A map drawn to scale showing the proposed extension of water or sanitary sewer lines to include the proposed number of service connections and their sizes and locations;
- E. A written narrative addressing the proposal's consistency with the approval criteria in JCMC [17.165.190](#);
- F. A completed application in the form provided by the city, accompanied by an application fee as established by council resolution. [Ord. [1198](#) § 3, 2010; Ord. [1182](#) § 3(3), 2008.]

#### **17.165.190 Criteria.**

The city administrator shall forward a written recommendation on a proposed extraterritorial extension of a facility or connection to water or sewer service to the city council based on the approval criteria specified in subsections (A) through (F) of this section and JCMC [17.165.200](#) through [17.165.220](#), as applicable:

- A. Annexation of the property proposed to be served is currently not possible due to the inability to meet the criteria for annexation specified in Article II of this chapter.
- B. The provision of service will not prolong uses that are nonconforming uses as specified in Chapter [17.125](#) JCMC, or the Lane County Code.
- C. The proposed extension is consistent with state goals and implementing statutes and administrative rules, specifically OAR 660-011-0060 and 660-011-0065, as well as city and county comprehensive plans and land use regulations concerning extraterritorial extensions and connections.
- D. Sufficient capacity exists in the requested service facilities to serve the existing use(s), as determined by the city in its sole discretion. This determination shall take into account future capacity needed to serve properties and uses within city limits, anticipated by the city's comprehensive plan and this title.
- E. A signed extraterritorial service/facility contract shall be provided in a form approved by the city attorney to resolve issues raised by the requested connection. This contract will be recorded and shall run with the subject property until such time as the parcel is annexed into the city.

The provisions of such a contract shall include, at a minimum: payment of all city SDCs applicable to the existing use(s); development review by the city regarding storm drainage; compliance with all city design and construction standards for extension, connection and future development; compliance with city ordinances and standards regarding system connection and usage (to the extent such city ordinances do not conflict with the terms of the contract or this chapter); a nonremonstrance agreement for future local improvement districts; a provision that written city permission is required prior to submittal of any land division or development application to Lane County or any change in use; and payment of all applicable connection fees, zone of benefit charges, and out-of-city service rates. Other provisions shall be as directed by the city council in response to the circumstances and conditions within the affected territory causative of the request for extraterritorial service.

- F. For connection applications: (1) the subject property's boundary is located within 300 feet of an existing main service line; (2) the existing use can be directly connected to the main line by way of a lateral connection, without a main line extension; (3) the subject property is not vacant; and (4) the connection will only serve domestic uses and loads. [Ord. [1198](#) § 3, 2010; Ord. [1182](#) § 3(4), 2008.]

**17.165.200 Water.**

In addition to the criteria set forth in JCMC [17.165.190](#), extraterritorial water facility extensions and connections:

A. Shall not: (1) allow an increase in a base density in a residential zone outside city limits due to the availability of service from a water system; (2) allow a higher density for residential development outside city limits served by a water system than would be authorized without such service; or (3) allow an increase in the allowable density of residential development outside city limits due to the presence, establishment, or extension of a water system.

B. Require that the property to be served is connected to an approved means of sewage disposal. [Ord. [1198](#) § 3, 2010.]

**17.165.210 Sewer.**

In addition to the criteria set forth in JCMC [17.165.190](#), the city may approve an extraterritorial connection to sewer service:

A. To a property within a dissolved special district within which the city is providing services to some properties; or

B. As allowed under OAR 660-011-0060: (1) to mitigate a public health hazard; (2) where DEQ determines there is no practicable alternative to a sewer system to abate a health hazard; or (3) where a Goal 11 exception has been granted by Lane County; or

C. As state legislation otherwise allows. [Ord. [1198](#) § 3, 2010.]

**17.165.220 Extraterritorial components of water or sewer system.**

Components of a water or sewer system that serve land inside a UGB may be placed on lands outside the city's limits or UGB; provided, that the following conditions are met:

A. Such placement is necessary to (1) serve land inside the UGB more efficiently by traversing land outside the boundary; (2) serve lands inside a nearby UGB or unincorporated community; or (3) connect components of the water or sewer system lawfully located on rural lands, such as outfall or treatment facilities;

B. The extraterritorial components of the water or sewer system shall not serve land outside the urban growth boundary, except as otherwise authorized by this chapter; and

C. Component placement protects farm and forest practices, except for components located in the subsurface of public roads and highways along the public right-of-way. [Ord. [1198](#) § 3, 2010.]

**JUNCTION CITY, PLANNING COMMISSION  
NOTICE OF PUBLIC HEARING  
AND OPPORTUNITY TO COMMENT**

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The Junction City, City Council will hold a public hearing on **Wednesday, March 18, 2015 at 6:30 pm, at City Hall, 680 Greenwood Street** to take testimony on the following land use application.

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NATURE OF APPLICATION	Zoning Code Text Amendment
APPLICABLE CRITERIA	Chapter 17.165, Annexation, Withdrawal from Special Districts after Annexation, and Extraterritorial Extensions
APPLICANT	City of Junction City
FILE NUMBER	AMD-15-01
PROPOSAL	Proposed amendment to the Junction City Municipal Code, would strict 17.165.020 (C) method of payment for extension of City services; and 17.165.110 (D) Annexation Agreements
STAFF CONTACT	City Planner Jordan Cogburn, <a href="mailto:jcplanning@ci.junction-city.or.us">jcplanning@ci.junction-city.or.us</a> or 541.998.2153 Ext. 306

The purpose of this notice is to provide an opportunity to comment and express concerns you may have related to the approval criteria, prior to Planning Commission's decision to recommend to the City Council to approve or deny the proposal. Citizens may present testimony for or against the proposed zoning code text amendment by submitting written comments or by giving oral testimony at a public hearing on **Wednesday, March 18, 2015 at 6:30 p.m.**

If you would like your written comments to be included in the staff

report, they must be submitted to City Hall by **by 5:00 p.m. on Monday, March 9, 2015**. Written comments may be submitted:

- in person at City Hall, 680 Greenwood Street weekdays between of 8:00 am and 5:00 pm;
- by mail to City Planner, City of Junction City, PO Box 250, Junction City OR, 97448;
- by fax to (541) 998-3140; or
- by e-mail to [jcplanning@ci.junction-city.or.us](mailto:jcplanning@ci.junction-city.or.us)

The Planning Commission will review the proposal for compliance with applicable criteria based upon information in the staff report and comments received and make a decision. Approval of the proposed zoning code text amendment must include affirmative findings that are consistent with the Zoning Code and provisions of the Comprehensive Plan.

The staff report will be available for review at City Hall seven (7) days prior to the public hearing. Copies of the applicable municipal code, the staff report, and related documents can be reviewed at City Hall or purchased for the cost of copying. The Junction City Municipal Code is available on the city's

website at [www.junctioncityoregon.gov](http://www.junctioncityoregon.gov). The public hearing will follow the city's land use hearing rules of procedure.

Failure to raise an issue at this opportunity for comment or hearing, in person or by letter, or failure to provide statements or evidence related to an issue sufficient to afford the decision maker an opportunity to respond to the issue, precludes reliance on that issue in any later appeal of the decision that will be made after consideration of the statements and evidence submitted, including an appeal to the Oregon Land Use Board of Appeals based on that issue. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the decision maker to respond to the issue precludes an action for damages in circuit court.

**Proposal Would Strike the Sections Below From the Zoning Code:**

17.165.110 (D) "A signed annexation agreement to resolve fiscal impacts upon the city caused by the proposed annexation shall be provided. The annexation agreement shall address, at a minimum, connection to and extension of public facilities and services. Connection to public facilities and services shall be at the discretion of the city, unless otherwise required by ORS. Where public facilities and services are available and can be extended, the applicant shall be required to do so."

And

17.165.020 (C)

C. The city will reach agreement with the property owner(s) requesting annexation on how payment of costs for extending city services will be made during the city's review of an annexation request.

**PROPOSED FINAL ORDER OF THE PLANNING COMMISSION  
AMENDMENTS TO JUNCTION CITY MUNICIPAL CODE  
(AMD-15-01)**

1. The Junction City Planning Commission met on March 18, 2015 and recommended the proposed amendments to the City Council for adoption. The amendments include revisions to JCMC Chapter 17.165 in order to remove Annexation Agreement requirements as part of the annexation application process. The proposed language changes are included in Exhibit A.
2. A public hearing was conducted on March 18, 2015 before the Junction City Planning Commission in accordance with procedures established in JCMC 17.150.070.4.D for proposed amendments to the Junction City development code.
3. JCMC 17.150.070.4.D sets forth procedure and notice requirements for amendments to the zoning ordinance, as follows:

“A minimum of two hearings, one before the planning commission and one before the city council, are required for all Type IV applications, except for withdrawals of property from special districts prior to annexations where only a review by the council is required. Procedures for these hearings are set forth in JCMC [17.150.090](#). Notice of the decision shall be sent to the applicant and any other person who submitted comments on the application during the time allotted for such submissions.”

The Planning Commission held a public hearing on March 18, 2015. A City Council public hearing will be held once the Planning Commission makes a recommendation on the proposed amendments.

5. JCMC 17.150.080.C.2 reads, “If particular properties are to be affected more than, or in a manner significantly different from, other properties of the same general character within the City of Junction City, individual notice shall be prepared and mailed to those affected, including all persons within 300 feet of the affected property.”

Notice of the meeting was published in the Register Guard on March 5, 2015, a minimum of 10 days prior to the hearing.

A record of proposed amendments was made available on the City’s website March 3, 2015, as well as at City Hall.

6. The proposed amendments are in conformance with the Zoning Ordinance and with the Comprehensive Plan. The proposed amendment is in conformance with the Zoning Ordinance and with the Comprehensive Plan. The proposed amendment is consistent with the statewide planning Goals.

**1. Goal 1 - Citizen Involvement**

OAR 660-015-0000(1) develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process

**FINDING:** Junction City will follow the prescribed procedures for public hearings before the Planning Commission and City Council as required by Title 17, Zoning of the Junction City Municipal Code.

**2. Goal 2 – Land Use Planning**

OAR 660-015-0000(2) (PART I – PLANNING): To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

**FINDING:** The Junction Comprehensive Plan currently serves as the controlling land use document for the City. The proposed amendment removes language from the Junction City Municipal Code that requires applicants sign an Annexation Agreement as part of the annexation process. The Comprehensive Plan policies provide the overarching framework for implementation of the Zoning Code and the process noted above.

**SUMMARY AND CONCLUSION**

For all the reasons set forth above, the proposed amendments comply with the Junction City Comprehensive Plan and other Junction City Municipal Codes.

**DECISION**

**IT IS HEREBY ORDERED that the Junction City Planning Commission recommends that the City Council approve the proposed amendments to the Junction City Municipal Code, based on the findings stated in this report.**

Signature:

\_\_\_\_\_  
Jason Thiesfeld, Chairperson  
Junction City Planning Commission

Approval Date: \_\_\_\_\_

Exhibit A

**17.165.020 Costs associated with annexations, withdrawals from special districts after annexation, and extraterritorial extensions.**

- A. Applicants for annexations, withdrawals from special districts after annexations, and extraterritorial extensions shall pay the costs of processing the annexation, including any costs associated with recording, as established by the city council.
- B. Property owners within the territory requesting annexation must agree to pay all costs of extending city services. The city will require the property owners to sign a nonremonstrance agreement. The city may agree to commit its resources to extend services to an area or contribute to the costs of extending services.
- ~~C. The city will reach agreement with the property owner(s) requesting annexation on how payment of costs for extending city services will be made during the city's review of an annexation request.~~
- ~~D. C.~~ The city may consider formation of an assessment district in accordance with the Junction City Municipal Code during its review of the annexation request. [Ord. 1181 § 4, 2008; Ord. 1112 § 1, 2003; Ord. 1027 § 1, 1996; Ord. 950 Appx. D, 1991.]

**17.165.110 Criteria.**

An annexation application may be approved only if the city council finds that the proposal conforms to the following criteria:

- A. The affected territory proposed to be annexed is within the city's urban growth boundary and is:
  - 1. Contiguous to the city limits; or
  - 2. Separated from the city only by a public right-of-way or a stream, lake or other body of water;
- B. The proposed annexation is consistent with applicable policies in the city of Junction City comprehensive plan and in any applicable refinement plans;
- C. The proposed annexation will result in a boundary in which key services can be provided;
- ~~D. A signed annexation agreement to resolve fiscal impacts upon the city caused by the proposed annexation shall be provided. The annexation agreement shall address, at a minimum, connection to and extension of public facilities and services. Connection to public facilities and services shall be at the discretion of the city, unless otherwise required by ORS. Where public facilities and services are available and can be extended, the applicant shall be required to do so. [Ord. 1182 § 2(7), 2008.]~~