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**TO:** Manzanita Planning Commission

**FROM:** Walt Wendolowski, Contract City Planner

**SUBJECT:** Ordinance 95-5 Revisions

**DATE:** August 10, 2025

1. **BACKGROUND**

The Planning Commission previously reviewed proposed revisions to Ordinance 95-5 at their July 21 meeting. The purpose of this memorandum is to provide additional background material on the current regulations, outline the revised document, and respond to the Commissioner’s questions raised at the July meeting.

1. **CURRENT 95-5**

The City adopted the original land division document in 1979, replacing it in 1996 with Ordinance 95-5. The last update occurred in 2003. As written, the land division provisions fail to serve the city:

* The document is poorly organized and cumbersome to apply.
* It provides little guidance on design standards such as access, facility requirements, or street design.
* In a similar vein, the creation of access easements and flag lots are common design alternatives – the Ordinance does not include such provisions.
* The Commission reviews land division applications, with some exceptions for partitions. This runs contrary to state law which requires a staff-level review for all land divisions.
* The decision criteria are unclear, which is contrary to the state requirements for clear and objective standards.
* The Ordinance does not include a process for a property boundary adjustment, leaving the city to rely on regulations in ORD Chapter 92.

There are other issues as well, but it is clear from planning and administrative points, the current Ordinance 95-5 is not an up to date and user-friendly document.

1. **PROPOSED 95-5**

The new document contains eight articles. A summary of each Article follows, along with commentary on the significant changes:

1. Article 1 - General Information. This Article introduces the Ordinance, identifies its purpose, its relationship to Ordinance 95-4, along with administration, and supporting definitions. This Ordinance only applies to land divisions: partitions, subdivisions, and property boundary adjustments; Ordinance 95-4 governs planned unit developments. Variances to the Ordinance standards requires Planning Commission approval.

*Significant Changes* – This Article organizes much of the administrative provisions in the current Ordinance with greater clarity and detail. A series partition is defined and subject to subdivision regulations. No changes to the variance requirements and the definitions reflect the revised Ordinance content.

1. Article 2 - Lots and Parcels. This Article incorporates existing Ordinance requirements but expands the material to include land division provisions not currently found in 95-5. There are now minimum requirements for property access, including flag lots, provisions for utility easements, preference for running lot lines at right angles, and prohibition on lot averaging.

*Significant Changes* – Lots must still meet the minimum lot area requirements of the underlying zone. The proposed language provides consistent design standards and avoid discretionary interpretation of partition or subdivision layouts.

1. Article 3 - Street Standards. This is a new Article focusing on streets. The material identifies the minimum right-of-way width and improvement requirements and incorporates many current provisions that mostly apply to subdivisions: alignment, street extensions, intersection angles, half-streets, cul-de-sacs, grade/curvature, and marginal access streets. The Article introduces new design guidelines for private streets and allowing the creation of a private access easement. Finally, language identifies the improvement requirements of new streets.

*Significant Changes* – The current Ordinance refernces street standards, alludes to private streets, but does not contain supporting standards or provisions for a private access easement. Updating specific street requirements (consistent with the TSP), clarifying the use of private streets, and allowing access easements are the major revisions.

1. Article 4 - Property Boundary Adjustments. This is a new Article that governs the adjustment of boundaries between properties. The submittal requirements, review criteria, and processing of an approval are all contained in this Article. The decision criteria include accepted standards for review.

*Significant Changes* – As noted, this is a new Article and avoids the need to use ORS Chapter 92 provisions. Boundary adjustments are a Type I application and reviewed by staff (see Article 7).

1. Article 5 – Partitions. The Article outlines the entire process to submit and record an approved partition. This is a Type II application with specific notice requirements (see Article 7). The language specifies the decision criteria, along with improvement requirements and procedures, and the plat recording requirements.

*Significant Changes* – The revised document incorporates most of the current regulations and clarifies the decision criteria. The biggest change is that staff reviews all partition applications.

1. Article 6 - Subdivisions. The Article outlines the entire process to submit and record an approved subdivision. Like a partition, this is a Type II application with specific notice requirements. New language specifies the decision criteria, along with improvement requirements and procedures, and recording requirements. In addition to meeting the lot and parcel design standards, and the street standards, there are additional subdivision layout requirements emphasizing neighborhood connectivity.

*Significant Changes* – The revised document incorporates, and updates, most of the current subdivision regulations. The biggest change is that staff reviews an application and not the Commission.

1. Article 7 - Administration. This is a completely new Article focusing on the administration of the Ordinance. The provisions follow the requirements in state law, in which staff review, and decide upon, all land division applications. The staff decision is appealable to the Commission, and an applicant has the option of bypassing staff to have the Commission review the case.

There are two types of reviews: I and II. There is no discretion with a Type I application – proposal either meets or does not meet the requirements. The decision may include conditions to ensure compliance with the requirements. Only the applicant(s) receive notice and maintain the right to make an appeal to the Planning Commission.

Type II involves a notice to area property owners prior to the staff decision. Affected agencies also receive an application notice. Both area owners and agencies have 14-days on which to submit comments. Staff prepares a report after the comment period ends and incorporates, and responds to, any submitted comments. The applicant, and any area owner or agency that submitted comments, receive a notice of the final decision. Those receiving the notice have a right to appeal the decision to the Commission. As an option, an applicant may request the Commission review the Type II application instead of staff. Staff still creates a report, but the Commission is the final decision maker.

*Significant Changes* – This Article completely revamps the review process for land divisions. However, the changes are necessary to follow provisions in State law, and with the changes, the City will finally comply.

1. Article 8 - Expedited and Middle Housing Land Divisions. This is a two-part addition to Ordinance 95-5, incorporating recent revisions to state law.
2. *Expedited Land Division* – Consistent with the title, the intent is to expedite the review of land divisions. There are stipulations: the request applies only to residential development with supporting open space, cannot incorporate protected Goal 5 resources, must meet the street standards in Article 3, and will either meet or exceed 80% of the underlying zone density, or is designed for low-income housing.

The decision criteria are similar to Article 6. However, the criteria limits the division to the MH-1 to MH-3 zones, cannot include land in the Beaches and Dunes Overlay, and must comply with provisions in Articles 2 and 3 as well as applicable provisions (e.g., lot size) in Ordinance 95-4.

1. *Middle Housing Land Division* – This land division type applies to duplexes, triplexes, a fourplex and cottage cluster. It may apply to the division of existing structures or concurrently with a building permit for one of these types of residential uses.

Approval criteria are distinct for middle housing. The division, and resulting development must comply with building codes, separate utilities are required for each unit, the plat must include appropriate easements for shared access, utilities or common areas, comply with street standards in Article 3, and cannot alter the type of housing on the parent lot.

1. *Regulations Common to Expedited and Middle Housing Divisions* – The completeness check is 21 days instead of 30 days and processed as a Type II application. However, the applicant and anyone who received the original application notice receives a notice of the final decision. Appeals to the Commission are permitted. The submittal requirements comply with provisions in Article 6, with additional building information required for Middle Housing Divisions. Both land division types allow the placement of conditions including prohibiting further land divisions, plat notation indicating compliance with SB458 (for Middle Housing), and the recording of easements with the plat. Finally, platting submittal requirements are the same for both Expedited and Middle Housing requests.
2. Overall, the new 95-5 incorporates basic provisions in the existing document. The major differences are organization and clarity; decision making for land divisions applications; additional guidance on access, streets, and layouts; including decision criteria for partitions and subdivisions; establishing regulations for boundary adjustments; and incorporating Middle Housing requirements consistent with state law.
3. **PLANNING COMMISSION QUESTIONS (JULY 21)**
4. *Is a subdivision without a building permit eligible for an Expedited Middle Housing Land Division?* Based on Section 8.010(B), a building permit is central to the application to ensure the new or modified structures comply with state building codes.
5. *Do Articles 2 and 3 apply to, or only apply to, non-middle housing lots?* Both articles apply to all land divisions, including Expedited land divisions [Section 8.040(D)]. However, Middle Housing divisions need only comply with Article 3.
6. *Application materials should show the trails, multi-modal connections etc. within 250 feet of plat boundaries.* A Commissioner provided this suggestion; the document can be amended to include this requirement.
7. *Is two or more units (example, a townhouse) threshold enough for 8.010 (5)(a) and (b)?* This Section does not require a minimum number of lots/parcels so that it would appear possible based on either density or residential income.
8. *Is there any more required of a regular subdivision than before?* The subdivision requirements are similar. The biggest differences are established criteria and having staff make the decision. The former ensures consistency, and the latter complies with state law.
9. *How does the current 95-5 process compare to what is required by proposed 95-5? Is more required by the new land division code?* Except for a staff level decision, the submittal requirements and recording procedures are similar. Also, staff reviews the final plat, thereby reducing turn-around time.
10. *Does the city get to define approval criteria?* The City establishes the approval criteria for boundary adjustments, partitions, and subdivisions, including compliance with specific design standards. Note that an applicant may still request a variance to these standards with the Commission hearing the combined land division and variance request. Approval criteria for Expedited and Middle Housing divisions (Article 8) are consistent with state law.
11. *95-5, Article 8 includes middle housing land division. Are there elements of the “base” section (meaning 1-7, presumably) that apply to middle housing? When does it apply? What is the threshold?* As noted, Article 3 (Streets) applies to all land divisions. Given the unique nature of Middle Housing land divisions, Article 2 does not apply. Regarding the remaining Articles, it depends on the specific situation. For example, submittal requirements for both Expedited and Middle Housing requests must comply with Article 6, while the administrative Type II process conforms with Article 7.

1. *How is middle housing defined in 95-5?* Section 1.090 contains the definition which states the following:

**“Middle Housing** means duplexes, triplexes, quadplexes and cottage cluster housing as well as townhouses.”

This is consistent with state law, and further clarified under provisions in Article 8, which applies to Middle Housing standards.