



MEDINA CITY COUNCIL

Monday, June 27, 2022

5:00 PM – REGULAR MEETING

AGENDA

VISION STATEMENT

Medina is a family-friendly, diverse and inclusive community on the shores of Lake Washington. With parks and open spaces, Medina is a quiet and safe small city, with active and highly-engaged residents. Medina honors its heritage while preserving its natural environment and resources for current and future generations.

MISSION STATEMENT

Ensure efficient delivery of quality public services, act as responsible stewards of Medina's financial and natural resources, celebrate diversity, leverage local talent, and promote the safety, health, and quality of life of those who live, work, and play in Medina.



MEDINA, WASHINGTON

MEDINA CITY COUNCIL CITY COUNCIL MEETING

Hybrid - Virtual/In-Person
Monday, June 27, 2022 – 5:00 PM

AGENDA

MAYOR | Jessica Rossman

DEPUTY MAYOR | Randy Reeves

COUNCIL MEMBERS | Cynthia F. Adkins, Jennifer Garone, Harini Gokul, Mac Johnston, Bob Zook

CITY MANAGER | Stephen R. Burns

CITY ATTORNEY | Scott Missall

CITY CLERK | Aimee Kellerman

Virtual Meeting Participation

The Medina City Council has moved to hybrid meetings, offering both in-person and online meeting participation. In accordance with the direction from Governor Inslee, masking and social distancing will be optional for those participating in person. Individuals who are participating online and wish to speak live must register their request with the City Clerk at 425.233.6411 or email akellerman@medina-wa.gov and leave a message before 2PM on the day of the June 27th Council meeting. Please reference "Public Comments for June 27th Council Meeting" on your email correspondence. The City Clerk will call on you by name or telephone number when it is your turn to speak. You will be allotted 3 minutes for your comment and will be asked to stop when you reach the 3 minute limit. The city will also written comments. Any written comments must be submitted by 2 PM on the day of the June 27th Council meeting to the City Clerk at akellerman@medina-wa.gov.

[Join Zoom Meeting](#)

Meeting ID: 832 5227 3105

Passcode: 589036

One tap mobile

+12532158782,,83252273105# US (Tacoma)

1. REGULAR MEETING - CALL TO ORDER / ROLL CALL

Council Members Adkins, Garone, Gokul, Johnston, Reeves, Rossman and Zook

2. APPROVAL OF MEETING AGENDA

3. PUBLIC COMMENT PERIOD

Individuals wishing to speak live during the Virtual City Council meeting will need to register their request with the City Clerk at 425.233.6411 or email akellerman@medina-wa.gov and leave a message **before 2PM** on the day of the June 27th Council meeting.

Please reference Public Comments for June 27th Council Meeting on your correspondence. The City Clerk will call on you by name or telephone number when it is your turn to speak. You will be allotted 3 minutes for your comment and will be asked to stop when you reach the 3 minute limit.

4. **PRESENTATIONS**

- [4.1](#) Stormwater Management Action Plan (SMAP) Presentation by Stacey Clear, P.E. - Gray and Osborne, Inc.

Time Estimate: 30 minutes

- [4.2](#) Tree Code Update by Director of Development Services, Steven Wilcox and City Manager, Stephen Burns.

Time Estimate: 5 minutes

5. **CONSENT AGENDA**

Time Estimate: 5 minutes

Consent agenda items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a Councilmember or City staff requests the Council to remove an item from the consent agenda.

- [5.1](#) Resolution Addressing Interim City Manager (ICM) Compensation

Recommendation: Adopt Resolution No. 427.

Staff Contact: Scott Missall, City Attorney

- [5.2](#) Acceptance of Professional Services Agreement with Stephen R. Burns

Recommendation: Accept.

Staff Contact: Scott Missall, City Attorney

6. **LEGISLATIVE HEARING**

None.

7. **PUBLIC HEARING**

None.

8. **CITY BUSINESS**

- 8.1 City Departments Goals and Projects Update and Discussion

a) City Council Calendar

b) City Council Webpage

c) Department Directors Reports

Recommendation: Discussion and direction.

Staff Contact: Stephen R. Burns, City Manager

Time Estimate: 1 hour

9. **CITY MANAGER'S REPORT**

None.

10. **REQUESTS FOR FUTURE AGENDA ITEMS AND COUNCIL ROUND TABLE**

11. **PUBLIC COMMENT**

Comment period is limited to 10 minutes. Speaker comments limited to one minute per person.

12. **ADJOURNMENT**

Next regular City Council Meeting: July 11, 2022 at 5 PM.

ADDITIONAL INFORMATION

Public documents related to items on the open session portion of this agenda, which are distributed to the City Council less than 72 hours prior to the meeting, shall be available for public inspection at the time the documents are distributed to the Council. Documents are available for inspection at the City Clerk's office located in Medina City Hall.

The agenda items are accessible on the City's website at www.medina-wa.gov on Thursdays or Fridays prior to the Regular City Council Meeting.

In compliance with the Americans with Disabilities Act, if you need a disability-related modification or accommodation, including auxiliary aids or services, to participate in this meeting, please contact the City Clerk's Office at (425) 233-6410 at least 48 hours prior to the meeting.

UPCOMING MEETINGS

Monday, July 4, 2022 - Independence Day - City Hall Closed

Monday, July 11, 2022 - City Council Meeting (5:00 PM)

Monday, July 25, 2022 - City Council Meeting (5:00 PM)

Monday, August 8, 2022 - City Council Meeting - ***Dark No Meeting***

Monday, August 22, 2022 - City Council Meeting - ***Dark No Meeting***

Monday, September 5, 2022 - Labor Day - City Hall Closed

Monday, September 12, 2022 - City Council Meeting (5:00 PM)

Monday, September 26, 2022 - City Council Meeting (5:00 PM)

Monday, October 10, 2022 - City Council Meeting (5:00 PM)

Monday, October 24, 2022 - City Council Meeting (5:00 PM)

Monday, November 14, 2022 - City Council Meeting (5:00 PM)

Thursday, November 24, 2022 - Thanksgiving Holiday - City Hall Closed

Friday, November 25, 2022 - Day After Thanksgiving Holiday - City Hall Closed

Monday, November 28, 2022 - City Council Meeting (5:00 PM)

Monday, December 12, 2022 - City Council Meeting (5:00 PM)

Monday, December 26, 2022 - Day After Christmas Holiday - City Hall Closed

Tuesday, December 27, 2022 - City Council Meeting (5:00 PM)

CERTIFICATION OF POSTING AGENDA

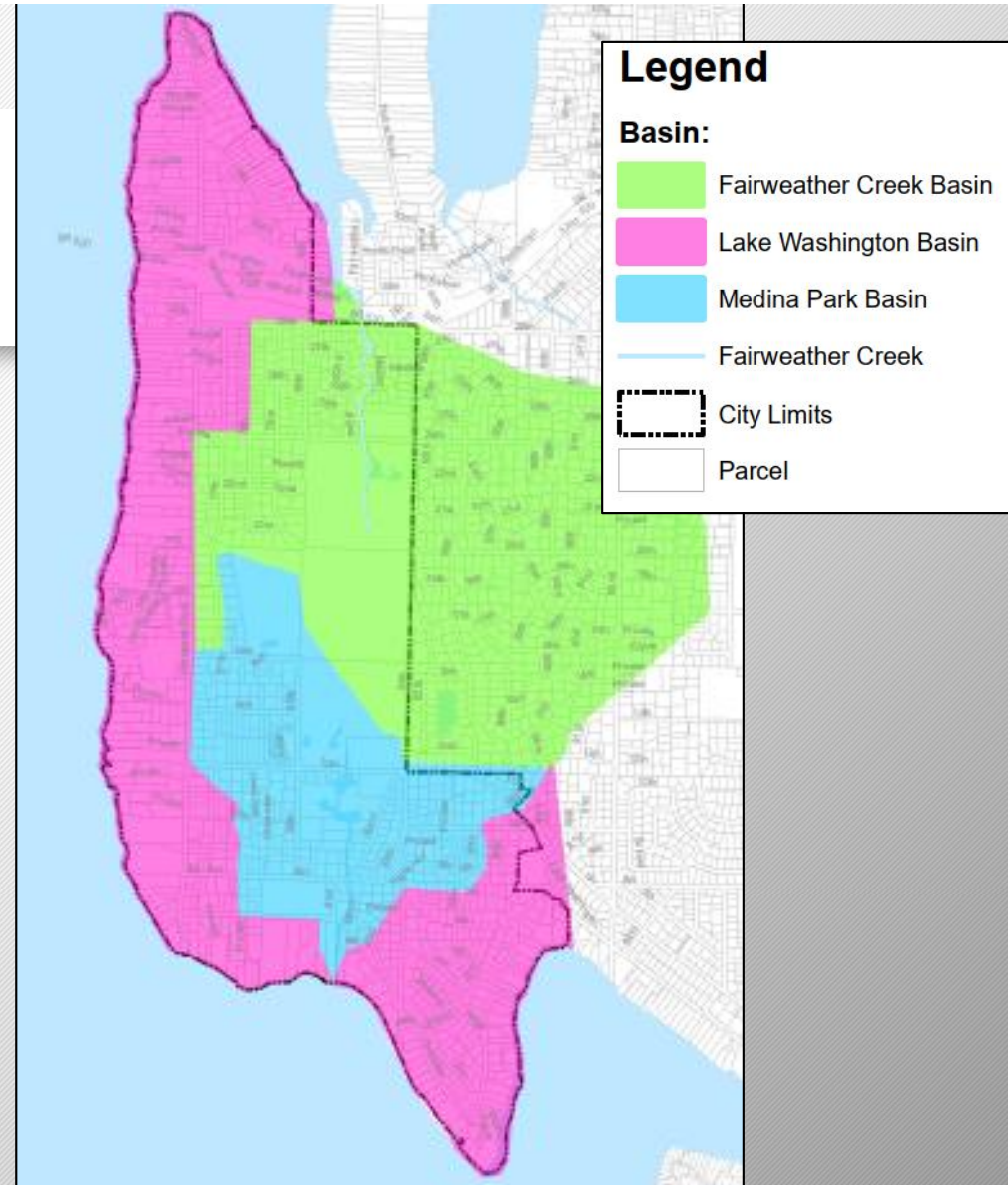
The agenda for Monday, June 27, 2022 Regular Meeting of the Medina City Council was posted and available for review on Thursday, June 24, 2022 at City Hall of the City of Medina, 501 Evergreen Point Road, Medina, WA 98039. The agenda is also available on the city website at www.medina-wa.gov.

Stormwater Management Action plan (SMAP)

June 27, 2022

Background

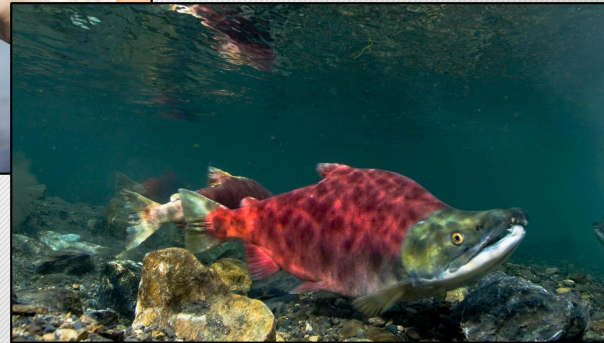
- City is required to do a Stormwater Management Action Plan (SMAP) per the NPDES Phase II Stormwater Permit
 - Focus on Water Quality
- SMAP involves:
 - Delineating watersheds
 - Analyzing water quality data in these watersheds
 - Prioritizing a watershed
 - Picking a subbasin within the priority watershed to focus on for water quality measures



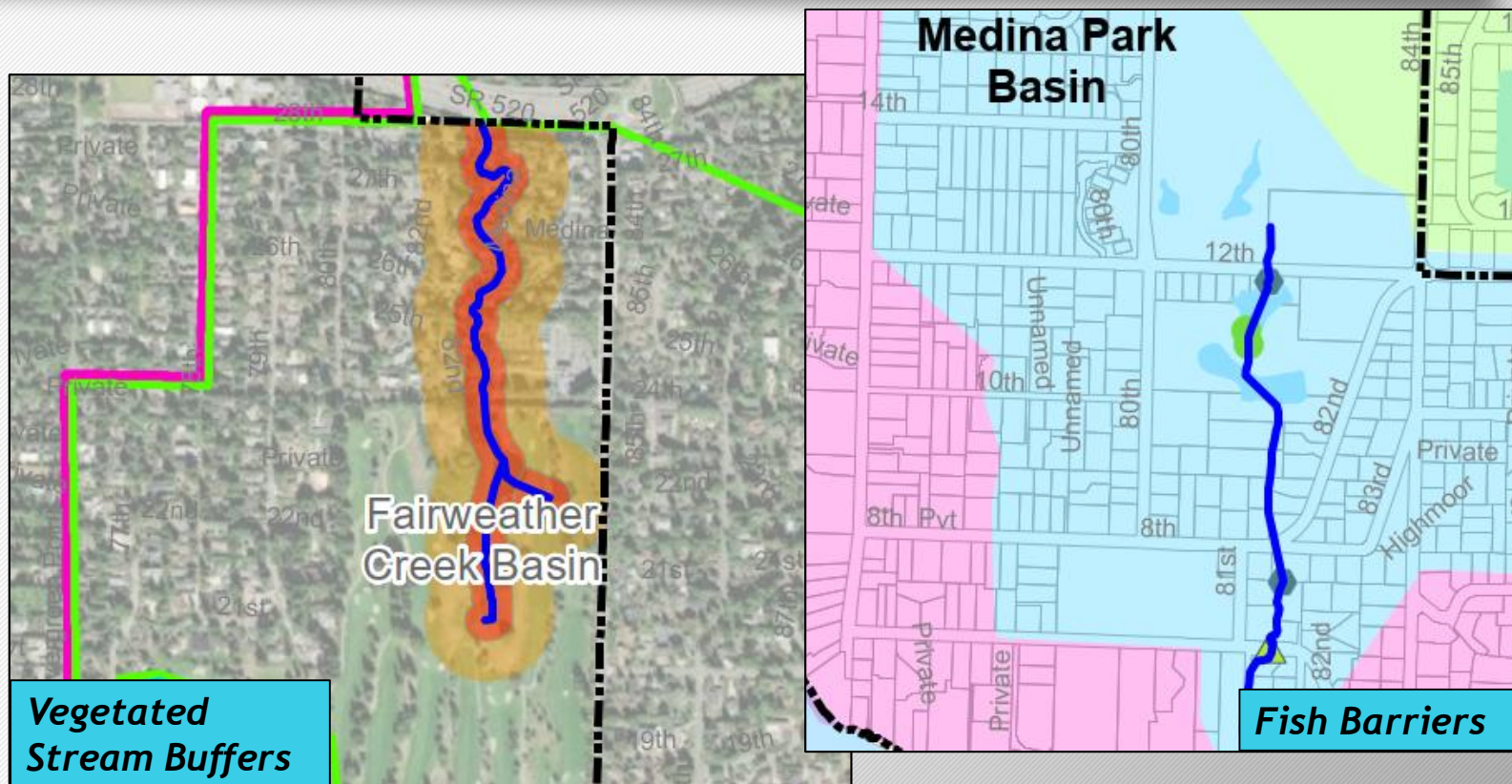
Watershed Prioritization - Overview

Watershed Prioritization based on:

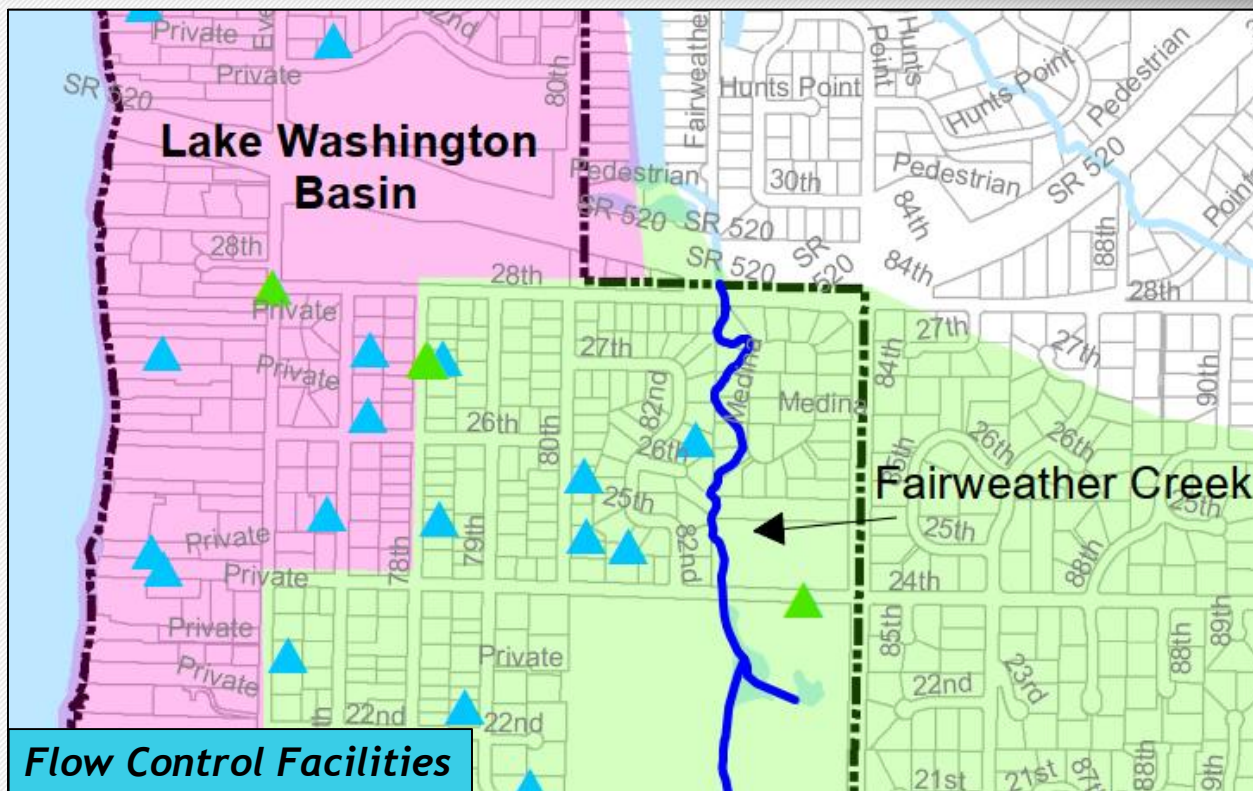
- Fish Habitat
- Flow
- Water Quality
- Land Use
- Environmental Justice



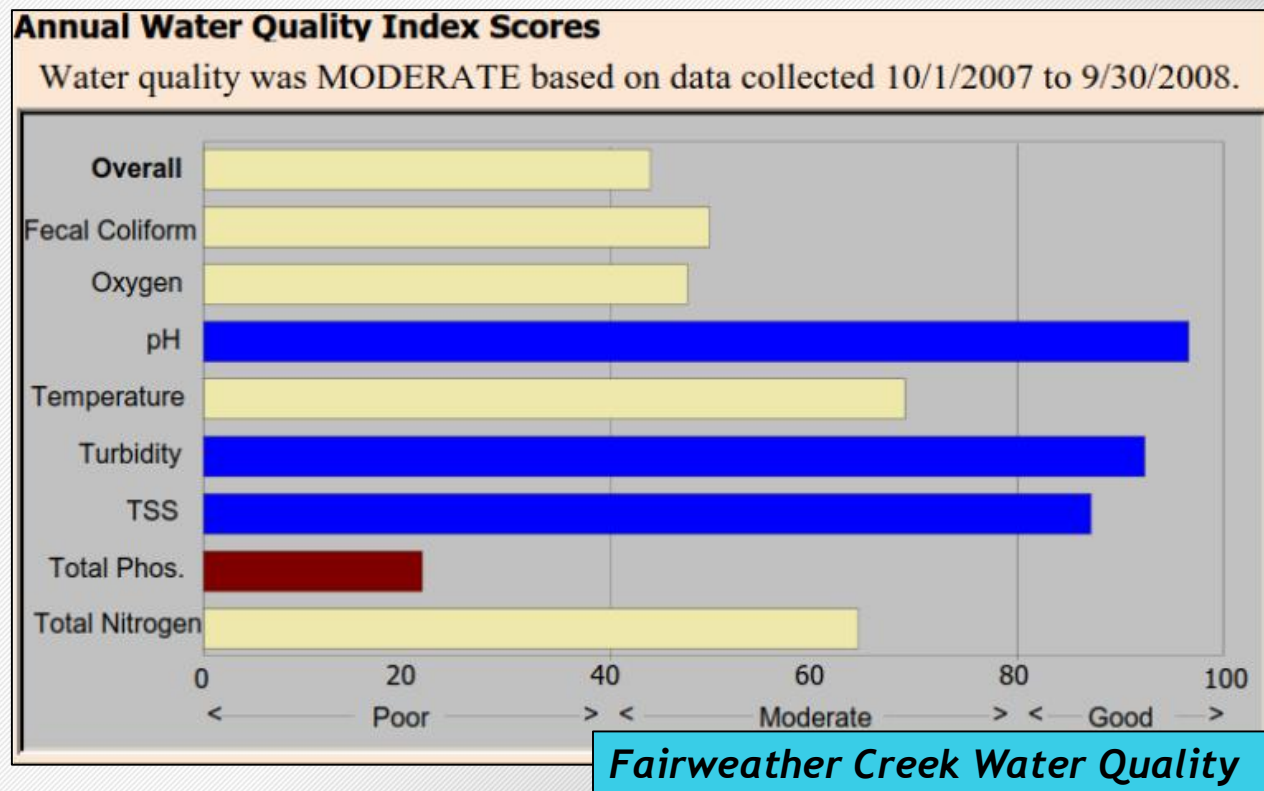
Watershed Prioritization - Fish Habitat



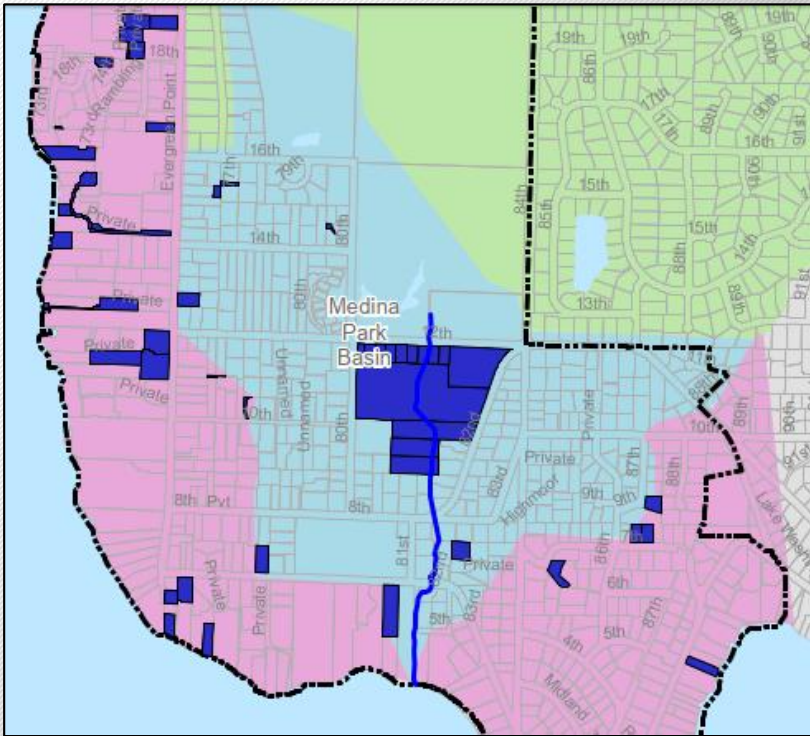
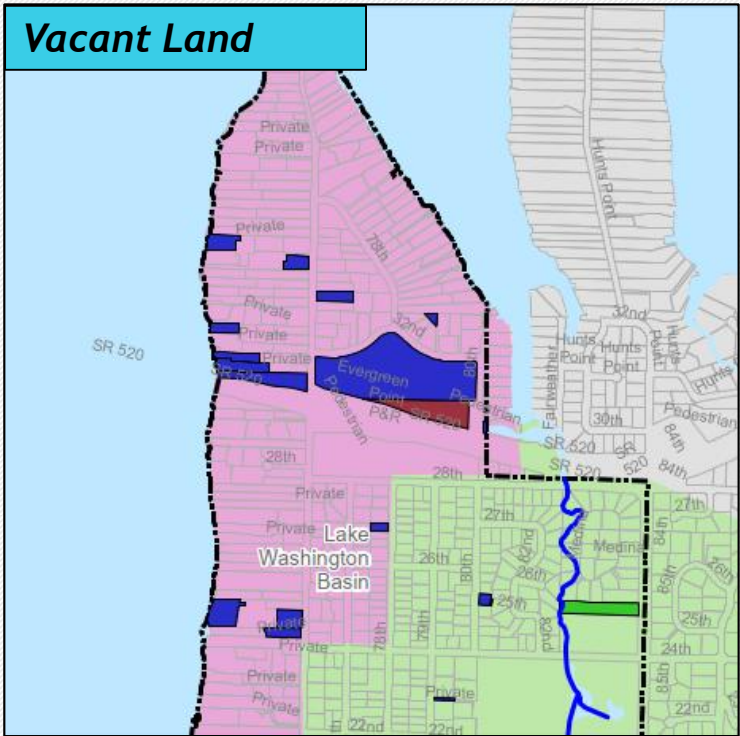
Watershed Prioritization - Flow



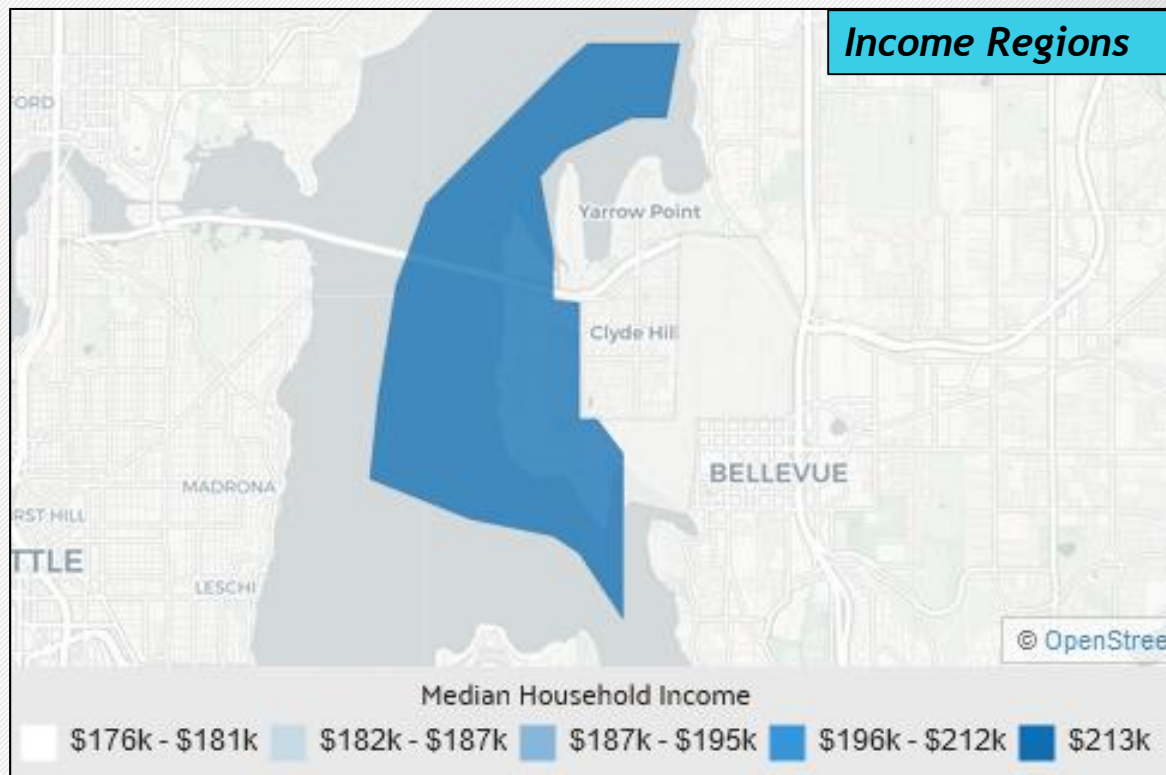
Watershed Prioritization - Water Quality



Watershed Prioritization - Land Use



Watershed Prioritization - Environmental Justice



Watershed Prioritization - Matrix

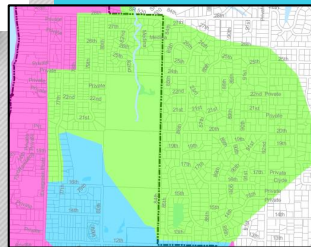
	Fairweather Creek Basin (ac)	Medina Park Basin (ac)	Lake Washington Basin (ac)
Relative Condition⁽¹⁾			
Watershed Area w/in City UGA (ac)	213	224	500
Total Watershed Area (ac) to a Flow-Control Exempt Water Body	543	224	567
% within City UGA	39%	100%	88%
General Description			
	Topography is from south to north and includes Fairweather Creek which discharges to Lake Wa. and has a TMDL for DO, temperature, fecal coliform and copper ; Land use includes developed residential, minor commercial, a school, and the golf course. Ample flow control exists but there is little treatment.	Topography is from north to south where runoff discharges to Lake Wa. via an unnamed creek; Land use includes developed residential, the golf course, a gas station, church and two schools. Ample flow control exists but there is no treatment.	Topography is generally westerly where runoff flows directly toward Lake Washington; Land use is developed residential. Ample flow control exists but there is no treatment.
Fish			
Fish Barriers	2	3	1
Fish Habitat – Stream Typing	3	1	2
Fish Habitat – Puget Sound Habitat Characterization	3	3	3
Stream Vegetation Buffer	3	3	3
B-IBI	3	N/A	N/A

Watershed Prioritization - Matrix

	Fairweather Creek Basin (ac)	Medina Park Basin (ac)	Lake Washington Basin (ac)
Flow			
Existing Flow Control Facilities	3	2	1
Flow Control – Puget Sound Habitat Characterization	3	3	3
Water Quality			
Existing Water Quality Treatment	2	3	3
Water Quality – Puget Sound Habitat Characterization	3	3	3
303d Listing Parameters	3	-	-
Land Use			
Existing Land Use	2	1	3
Future Development	2	1	3
Environmental Justice			
Demographic	1	1	1
Wage Divide	1	1	1
Total Score	34	25	27

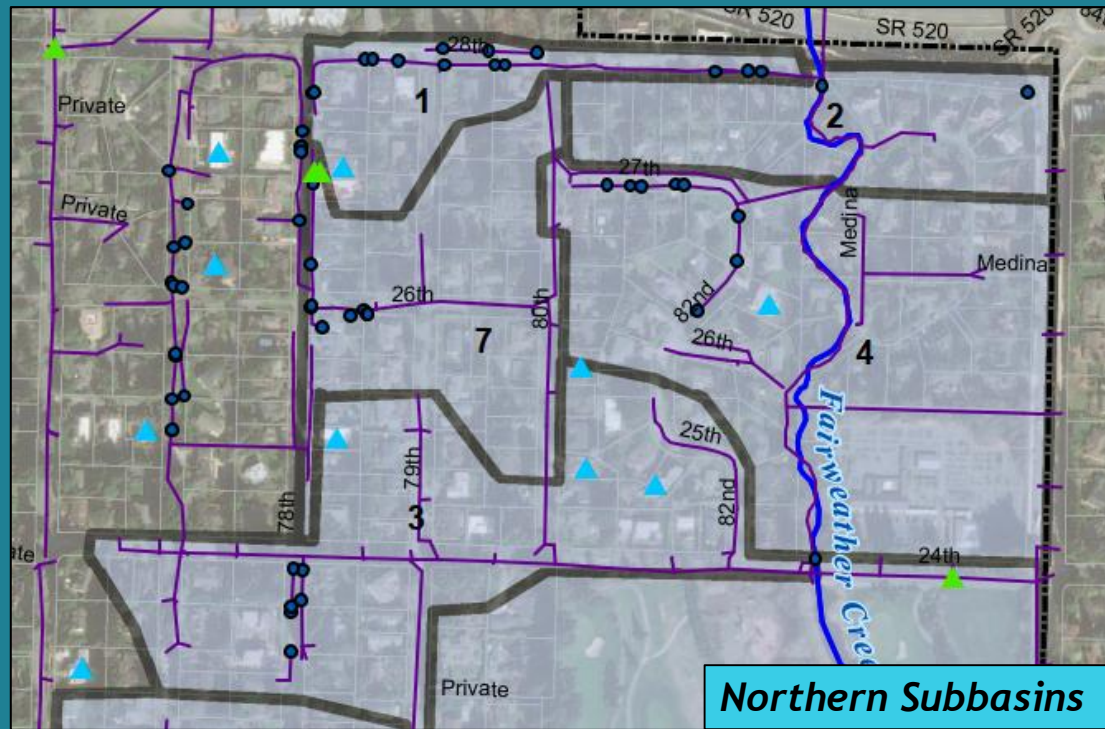
(1) A score of 1 represents the relative best condition compared to a score of 3 which is the relative worst condition of each of the basins.

Fairweather Creek Basin =
Priority Watershed

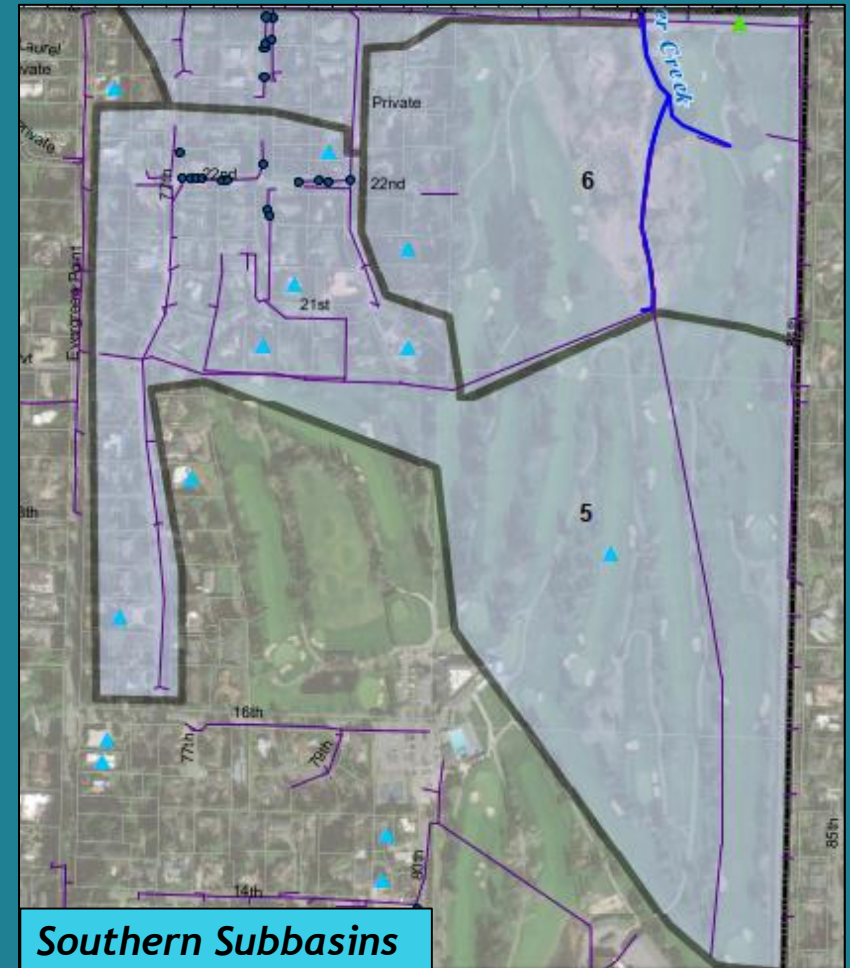


Next Step - Choose a Subbasin

- Goals
- Selection Process (things to think about)
 - Potential future projects/policies
 - Upcoming required actions
- Next Steps
- Subbasin Discussion



**Fairweather Creek
Subbasins**



Subbasin Selection - Goals

Protect

Change land use to
preserve an area

Restore

Retrofit an area to
provide water quality
treatment

- Structural Means
- Non-Structural Means

Subbasin Selection - Potential Actions

Non-Structural (Policies/Activities):

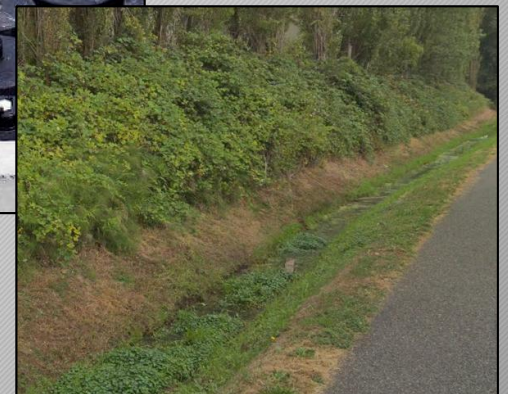
- Source tracking study to see what pollutants are entering streams
- Public education
- Require developers to provide 'enhanced' treatment
- More frequent illicit discharge/spill inspections
(i.e. catch basin inspections)
- Prioritize inspections of businesses for their stormwater practices
- Prioritize maintenance of city owned stormwater facilities
- Prioritize street sweeping / catch basin cleaning



Subbasin Selection - Potential Actions

Structural:

- Retrofit existing flow control/water quality facility (detention pond)
- Install new water quality facility (proprietary, possibly w/ future road/utility projects)
- Permeable pavement
- Modify ditches/biofiltration swales
- 'Road diet' - reduce impervious surfaces
- Install tree canopy over stream
- Also includes property acquisition for future facilities



Subbasin Selection - What's Coming

- Besides SMAP, City will also be required to do “Structural Stormwater Controls” *(Projects that reduce pollutants or affect hydrology downstream)*
- Counties/Large Cities doing these now
- Beginning 2024 *(next NPDES Ph. II Permit cycle)*
- Possibly choose SMAP subbasin knowing that these types of projects will be coming
- Each project = points; City needs X amount of points in the permit cycle

Subbasin Selection - What's Coming

Current Relative Structural Stormwater Controls Point System: *(subject to change)*

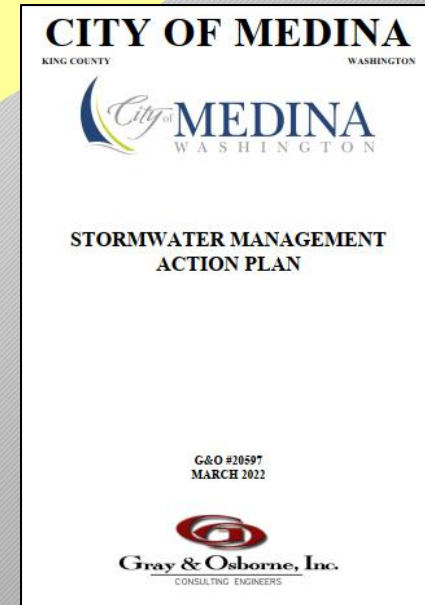
	Points
New/Retrofit flow control facility <i>(detention)</i>	1.0
<i>In a known flooded area</i>	1.5
New/Retrofit water quality facility	1.0
<i>In a known water quality problem area</i>	1.5
WQ provides enhanced/phosphorus treatment	2.0
<i>Meets WQ standards (not just a retrofit project)</i>	2.5
<i>Low Impact Development (LID) (i.e. rain garden)</i>	1.5
Property acquisition	0.5
<i>Maintenance (>\$25k, miles swept or pipes cleaned)</i>	0.25

	Points
<i>Restoration of riparian buffer</i>	0.35
<i>Restoration of forest cover</i>	0.25
<i>Floodplain reconnection</i>	0.10
Permanent removal of impervious surface	1.0

- *Points get multiplied by area served*
- *Currently counties/large cities have to collect 300 points (up to 75 points (or 25%) can be maintenance related)*

Subbasin Selection - Next Steps

- Recap
 1. Chose Fairweather Creek Watershed
 2. Talked goals for subbasin (*protect or restore*)
 3. Discussed possible future project types (*structural / non-structural*)
 4. Time to pick a subbasin (*Ecology recommended 400 - 600 acres*)
- By June 30th, only need to choose a subbasin (not projects) (*per permit*)
- Allow other interested parties (*Tribes, Public, Natural Resource Agencies, etc.*) to comment on selected subbasin.
- By March 2023, SMAP written to include subbasin, projects, costs, schedule and implementation plan.



Subbasin Selection - Next steps

- Recommend selecting flow control/water quality projects that will meet the future permit (*structural stormwater control projects*)
 - Retrofit Detention pond
 - New Proprietary WQ vault/filter
- Projects selected will likely need to be constructed (*In 2024+*)
 - Set realistic budget (*possible Ecology grants*)
 - Realize realistic construction opportunities
- Combine w/ future road/utility projects?

Subbasin Discussion

Subbasin Selection Discussion

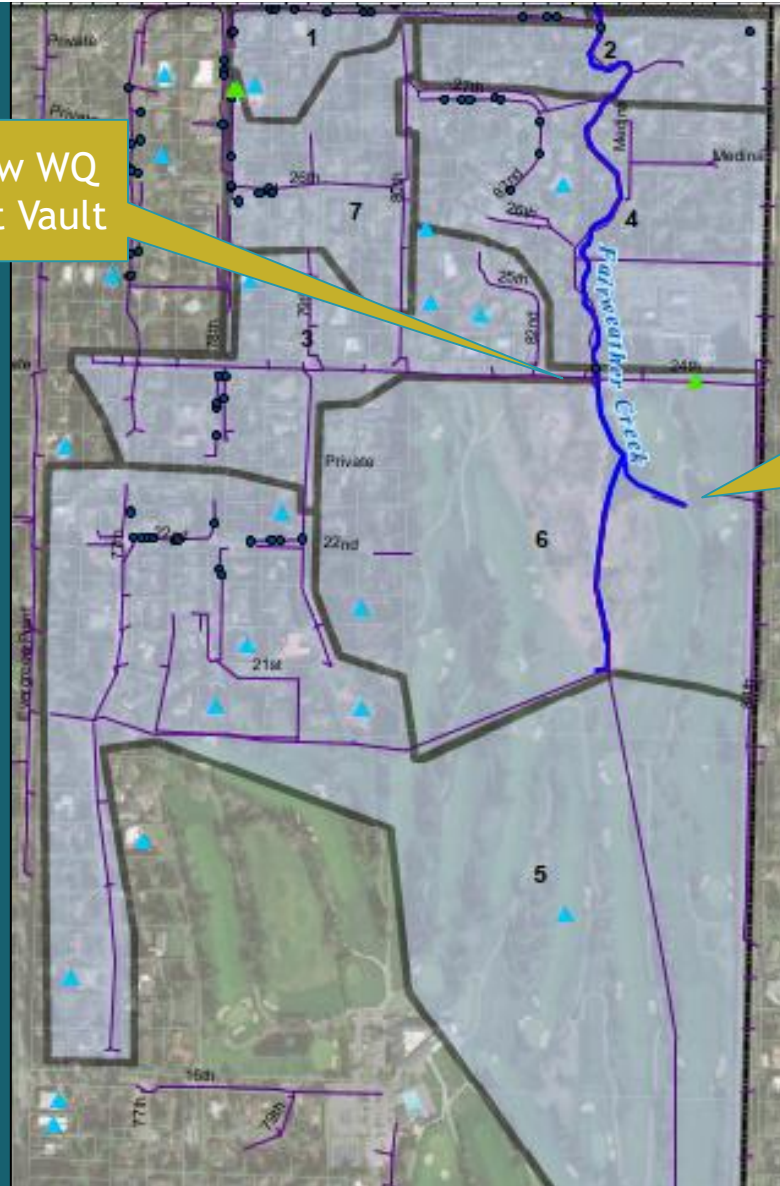
Recommend Entire Fairweather Creek Watershed (Potential Projects Shown)

- ❑ Creek listed on State list for impaired waterbodies
- ❑ 'End of pipe' types of facilities before discharging to the creek
- ❑ Potential Tree Canopy Opportunities

Install new WQ Treatment Vault

Potential Expansion of Existing Pond

Potential Tree Canopy around Pond





CITY OF MEDINA

501 EVERGREEN POINT ROAD | PO BOX 144 | MEDINA WA 98039-0144
TELEPHONE 425-233-6400 | www.medina-wa.gov

MEMORANDUM

DATE: June 27, 2022

TO: Honorable Mayor and Medina City Council

FROM: Stephanie Keyser, AICP, Planning Manager

RE: Tree Code Update: How We Got Here and Where to Go

The following memorandum is being offered to assist Council in their decision on Planning Commission's recommendation for the Tree Code Update. This topic will have a second public hearing before Council on July 11th.

Basic Tree Code 101:

- The tree code regulates land under development and land not under development separately
- For land under development, there are two main pieces of the code that are complimentary but separate
- The first piece establishes a minimum percentage of tree canopy, or a density ratio, that every lot must have; the existing ratio is 35% or .35
- The second piece assigns a number or a tree credit unit to each tree. The number assigned depends on the type of tree (coniferous vs. deciduous) and the size of the diameter breast height (DBH)
 - Please note that tree unit values are not a universal number, and every city assigns values to their trees differently
- If you do a project that triggers a tree activity permit and you don't have enough tree credits on your property or if you end up having to remove trees that will cause you to fall below that 35% density ratio, you'll be required to plant supplemental trees

Background:

- In 2020, Council received many complaints from residents regarding the number of trees that were coming down from new construction
- The general feeling was that the tree code (last updated in 2015) was not working as originally intended
- In September 2020, at their joint meeting, Council placed a review of the tree code on Planning Commission's work plan
- The scope was limited to looking at the **retention and replacement requirements for new single-family construction** and the **minimum performance standards for land under development**

- It was stressed to keep the amendments *small, surgical*, and to *not reopen the whole code*

Process and Analysis:

- Planning Commission was limited to working with what we had to do an existing conditions analysis which was:
 - Looking at the tree permits that had been approved since 2015 when the newest tree code went into effect
 - Looking at the existing code
- The following are the results of the analysis:
 - There's a conflict between two existing tree code sections (tree retention requirements and the minimum performance standards)
 - There's no guidance on where trees should be retained or replanted
 - Most properties are able to cut down a lot of trees on their properties without having to plant supplemental trees (See Tree Permit Data)
 - The \$400 fee-in-lieu for legacy tree replacement inches not accounted for in replacement trees isn't acting as a disincentive

Legacy Trees¹

- Throughout their discussion, Planning Commissioners were concerned that there wasn't enough protection for larger, Legacy trees, and that the threshold of what identifies a Legacy tree was too high (in the current code, Legacy trees have a DBH of 50" or greater and are on the list of significant trees)
- The suggestion was made to lower what constitutes a Legacy tree and to create a third category of tree called Landmark
 - The original suggestion was to have Legacy be either 36" or 50" DBH up to less than 100" DBH and Landmark be 100" DBH and greater
 - The number 36" DBH is already called out in the existing code as the bookend of a new grouping of trees. In the fee-in-lieu section, the contribution rate of replacing an existing significant tree is broken into 3 categories: less than 20" DBH; 20" to less than 36" DBH; 36" DBH and greater
 - It therefore made sense for 36" DBH to be the beginning of a new Legacy tree category
 - This assumption was supported by the City's Tree Arborist
 - The City's Tree Arborist commented on this proposal and informed the Commissioners that he hadn't seen a tree that was 100" DBH in Medina; the largest tree he had seen was 65" DBH
 - It was decided that Legacy trees would be 36" to less than 50" DBH and Landmark would be 50" DBH and greater
- Once the DBH was decided, the discussion turned to the appropriate mitigation for removing one of these trees

¹ Legacy trees have to have a minimum DBH **and** be listed on the legacy tree species list

- In the current code, the required Legacy mitigation is 50% the removed DBH has to be replanted – so an owner who removed a 50” DBH tree would be required to replant 25” or 13 2” trees
- Asking an 8,000 square foot lot to replant 18” DBH or 9 2” trees if they removed a new 36” Legacy tree seemed excessive and unfair
- Groupings based on lot size that mirror the setback groups were created for mitigation: less than 10,001; from 10,001 to 13,000; from 13,001 to 15,000; 15,001 to 20,000; greater than 20,000
- Again, working with the existing code requirement of 50% mitigation, the thought was to create a sliding scale for mitigation that ranged from 10%-50% and increased as lot sizes increased
 - The rationale for this is that larger lots could accommodate more plantings than smaller lots
- **The Legacy/Landmark proposal would apply to all lots, regardless of development status and expanded Council’s direction of only focusing on lots under development**

Proposed Amendments

- **Increase the density ratio from 35% to 40%**
 - Rationale – on average this will result in one more tree being required on site
 - Increasing the density ratio by 5% was suggested by the City’s Tree Arborist as a minor tweak to the code
 - The 40% was actually the number that was going to be used as the density ratio in the 2015 update but was decreased to 35% prior to adoption. 40% is incorrectly shown as the density ratio in the existing code’s Diagram 16.52.090 which demonstrates how to calculate supplemental trees
- **Decrease each tree credit unit by .25**
 - Rationale – on average this will result in one more tree needing to be retained to meet the density ratio
 - Planning Commission looked at increasing the tree units to assign greater weight to larger trees with the thought that people would want to retain higher credited trees
 - When Staff compared the higher numbers with what the existing tree permits were, there was no difference—there were not any more trees required for supplemental planting than under the current code
 - When the tree units were decreased, that ended up requiring one or two more trees to meet the density ratio either through supplemental plantings or retention
- **Create new Legacy Tree and Landmark Tree categories**
 - Rationale – it’s currently too easy for large trees to come down
 - Trees are synonymous with Medina and there should be a policy directive that supports and protects them
- **Location requirement for supplemental trees**
 - Rationale – there’s no direction in the current code for where to replant supplemental trees
 - The proposal establishes a priority list of where supplemental trees should be replanted
- **Additional requirements for larger lots (20,000 sq. ft.) under development**

- Rationale – on average larger lots are able to cut down more trees which can create the appearance of being clear cut
- The proposal establishes criteria on where trees should be saved on larger lots larger than 20,000 so that all of the retained trees aren't along the back property line
- **Fee-in-Lieu**
 - Rationale – the option of selecting to pay a fee-in-lieu of replacement or supplemental trees should only be permitted if the city arborist determines there's insufficient area to replant on site
 - The fee should be tied to the most current council of tree and landscaper appraiser guide for plant appraisal so that the City doesn't have to periodically raise the fees

General Notes

36" DBH

During the tree discussion last year, there was a lot of confusion over what 36" DBH meant. Circumference is what you get when you take a measuring tape and wrap it around a tree trunk. Diameter is what you get when you divide the circumference by 3.14. A tree needs to be at least 113 in circumference at 4 ½ feet from the ground to have a DBH of 36" (See Proposed Tree Code Change FAQ Visual).



To assist residents and Council this time around, Staff has tagged two trees in Medina Park and one in Fairweather to show the sizes of some trees that would be considered Legacy under the new code. Most of the trees that Staff measured and was sure had 36" DBH were not, which is why the number of tagged trees is so low—36" DBH 4 ½ feet from the ground is a pretty big tree.

It might be helpful to also tag large trees that are under 36" DBH just so people can see. As of the writing of this memo, Staff has not had time to do so but will try to get some more trees tagged in the next week.

Council's Task for Planning Commission

By increasing the density ratio and lowering the tree credit unit, on average this will result in one or two additional trees either through retention or having to plant supplemental trees. It might not appear as dramatic a change as some might have wanted, but it's the cumulative impact that matters. These proposed amendments meet Council's direction to Planning Commission.

The proposed new Legacy and Landmark tree designations send a very clear policy directive that larger trees (of a certain species) are important to the City and that there are consequences if you want to remove them. Planning Commission sought to be equitable when it came to the required replanting mitigation by taking into account the different lot sizes throughout the city and creating a sliding scale for replacement.

Supporting Information

To enable Council to come to a decision, the following supported documents are offered:

Attachment A – Redlined Draft Code

Attachment B – Clean Draft Code

Attachment C – Tree Permit Data August 2015 – July 2021

Attachment D – List of Significant Trees

Attachment E – Permit Analysis from April 27, 2021, Planning Commission Packet: Status Quo vs Reducing Legacy Tree to 36" and increasing those tree units by .25 vs Reducing Legacy Tree to 36" and reducing all units by .25 plus associated tree permits

Attachment F – Proposed Tree Code Change FAQ Visual

Attachment G – Tree Map – Proposed Legacy Trees in Medina Park and Fairweather

Attachment H – Questions and Answers from Development Services Committee – May 24, 2022

Attachment I – Public Comments

Next Steps

On July 11th, Council will have a second public hearing on the tree code proposal. At the conclusion of the hearing, there are a number of options:

1. Adopt the code as presented
2. Adopt the code with specific revisions voted on during the meeting
3. Direct staff to make specific amendments to the code and bring them back to Council for consideration
4. Direct Planning Commission to review and consider other amendments

For ease of identifying what's new, the code language that is existing but has been moved to a new section is underlined, while the completely new language is red and underlined.

Chapter 16.52

TREE MANAGEMENT CODE

Sections:

- 16.52.010 Purpose and intent.
- 16.52.020 General provisions and applicability.
- 16.52.0230 Applicability of the tree management code.
- 16.52.0340 Exemptions.
- 16.52.0450 Using this chapter.
- 16.52.0560 Designation of significant tree species.
- 16.52.0670 Designation of land under development.
- ~~16.52.070 Tree retention requirements. Repealed.~~
- 16.52.080 Legacy and Landmark tree protection measures.
- 16.52.090 Minimum ~~performance~~ preservation standards for land under development.
- 16.52.100 ~~Off-site tree planting~~ Supplemental tree standards and priorities.
- 16.52.110 Minimum restoration standards for land not under development.
- 16.52.120 Hazard tree risk assessment.
- 16.52.130 Nuisance tree.
- 16.52.140 City arborist established.
- 16.52.150 Notice of tree removal involving no construction.
- 16.52.160 Tree activity permits.
- 16.52.170 Tree ~~removal and planting~~ preservation plan.
- 16.52.180 Fee-in-lieu of supplemental plantings.
- 16.52.1890 Tree protection measures during construction.
- 16.52.1900 City tree removals.
- 16.52.2010 Minimum street tree standards.
- 16.52.2120 Owner responsibility within city rights-of-way.
- 16.52.2230 Liability.
- 16.52.2340 Other general provisions.

16.52.010 Purpose and intent.

A. The purpose of the tree management code is to preserve the existing sylvan appearance through long-term ~~retention~~ preservation and planting of trees that contribute to the community's distinct features including proximity to the lakeshore, views, heavily landscaped streetscapes, and large tracts of public and private open spaces. The city recognizes that trees:

1. Contribute to the residential character of Medina;
2. Provide a public health benefit;
3. Provide wind protection, ecological benefits to wetlands and watercourses, and aid in the stabilization of geologically hazardous areas;
4. Improve surface water quality and control and benefit Lake Washington; and
5. Reduce noise and air pollution.

For ease of identifying what's new, the code language that is existing but has been moved to a new section is underlined, while the completely new language is red and underlined.

B. The intent of this chapter is to establish regulations and standards that:

1. Protect and preserve the existing tree canopy;
2. Provide homeowners flexible standards that encourage the preservation of trees while recognizing the importance of having access to sunlight and views;
3. Recognize through the standards in this chapter that certain factors may require the removal or pruning of certain trees due to circumstances such as disease, danger of falling, proximity to structures and improvements, interference with utility services, protection of view and sunlight, and the reasonable enjoyment of property;
4. Encourage best practices for the planting and managing of trees appropriately to minimize hazards, nuisances, and maintenance costs while allowing access to sunlight and views;
5. Prevent the indiscriminate removal or destruction of trees except as provided for in accordance with this chapter;
6. Promote building and site planning practices consistent with the purpose and intent of this chapter;
7. Ensure prompt development, restoration, replanting and effective erosion control of property after tree removal with landscape plans and other reasonable controls; and
8. Foster public education on the local urban forestry program and encourage good tree management consistent with this chapter.

16.52.020 General provisions and applicability:

Where land is designated as under development pursuant to MMC 16.52.090, the preservation of healthy trees shall be considered in accordance with the following guidance:

1. Tree preservation shall be included as a primary step in site planning and shall be achieved by meeting the minimum required tree units established in Table 16.52.090(B).
2. Site design strategies and specific development site areas demonstrating preservation of significant trees shall be presented at the pre-application meeting with the city.
3. A tree preservation plan shall be required that demonstrates the objectives outlined in MMC 20.52.170.
4. Any applicable grading plans, pursuant to MMC Chapter 16.43, shall be developed to avoid significant alteration to the grades around preserved trees.
5. Multiple applications of the tree ~~retention~~ preservation requirements in this ~~section~~ chapter over a 10-year period shall not cause the number and size of trees required to be

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retained to be reduced below the number and size of trees required to be retained with the first application.

6. When calculating ~~retention requirements~~ tree preservation requirements, trees excluded from ~~retention~~ preservation requirements shall not be included in the calculation.
7. For the purpose of calculating tree density requirements, critical areas and their associated buffers shall be excluded from the lot area used for calculation (example: a 16,000 square foot lot has a stream on site that encompasses 1,500 square feet including the stream buffer. The lot area used for tree density calculation would be 14,500 square feet (16,000 – 1,500 = 14,500) provided:
 - a. Critical areas shall be limited to wetlands, streams, geologically hazardous areas, conservation easements, and their associated buffers as described in MMC Chapters 16.50 and 16.67; and
 - b. Removal of any vegetation or woody debris, including trees, from a critical area is subject to the regulations in MMC Chapters 16.50 and 16.67.
8. All of the following shall be excluded from the requirements of this ~~section~~ chapter:
 - a. Hazard trees designated pursuant to MMC 16.52.120;
 - b. Nuisance trees designated pursuant to MMC 16.52.130 and where, if applicable, re-development does not remedy the conditions causing the nuisance;
 - c. Those significant trees having less than a ~~36~~ 24-inch diameter breast height size and located within the footprint of the principal building on the lot.

16.52.02~~30~~30 Applicability of the tree management code.

A. No person or their representative, directly or indirectly, shall remove or destroy trees located on private property or public property within the jurisdictional boundaries of the city except as provided for in accordance with this chapter.

B. Additional tree management requirements are set forth in the Medina shoreline master program as provided in MMC 16.66.050.

16.52.03~~40~~40 Exemptions.

The following are exempt from the requirements in this chapter:

A. Trees less than six inches diameter breast height unless the tree is used to satisfy a requirement of this chapter;

B. Normal and routine trimming and pruning operations and maintenance of trees and vegetation on private property following the most current ANSI standards;

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C. Emergency tree removal or hazard pruning for any tree that poses an imminent threat to life or property provided:

1. The city is notified within seven days after the emergency tree removal or hazard pruning takes place and evidence is provided of the imminent threat supporting the emergency tree removal; and
2. If evidence of the imminent threat is not provided, or the director determines the evidence does not warrant an emergency tree removal, the director may require the responsible person to obtain a permit as prescribed by this chapter and require compliance with the requirements of this chapter;

D. Trimming and pruning operations and maintenance of trees and vegetation following the most current ANSI standards or removal of trees performed by the city or a contractor contracted by the city within a public right-of-way or city-owned parkland;

E. Removal of trees and vegetation management by the city or an agency under contract with the city for purposes of installing and maintaining fire hydrants, water meters, pumping stations, or similar utilities; or

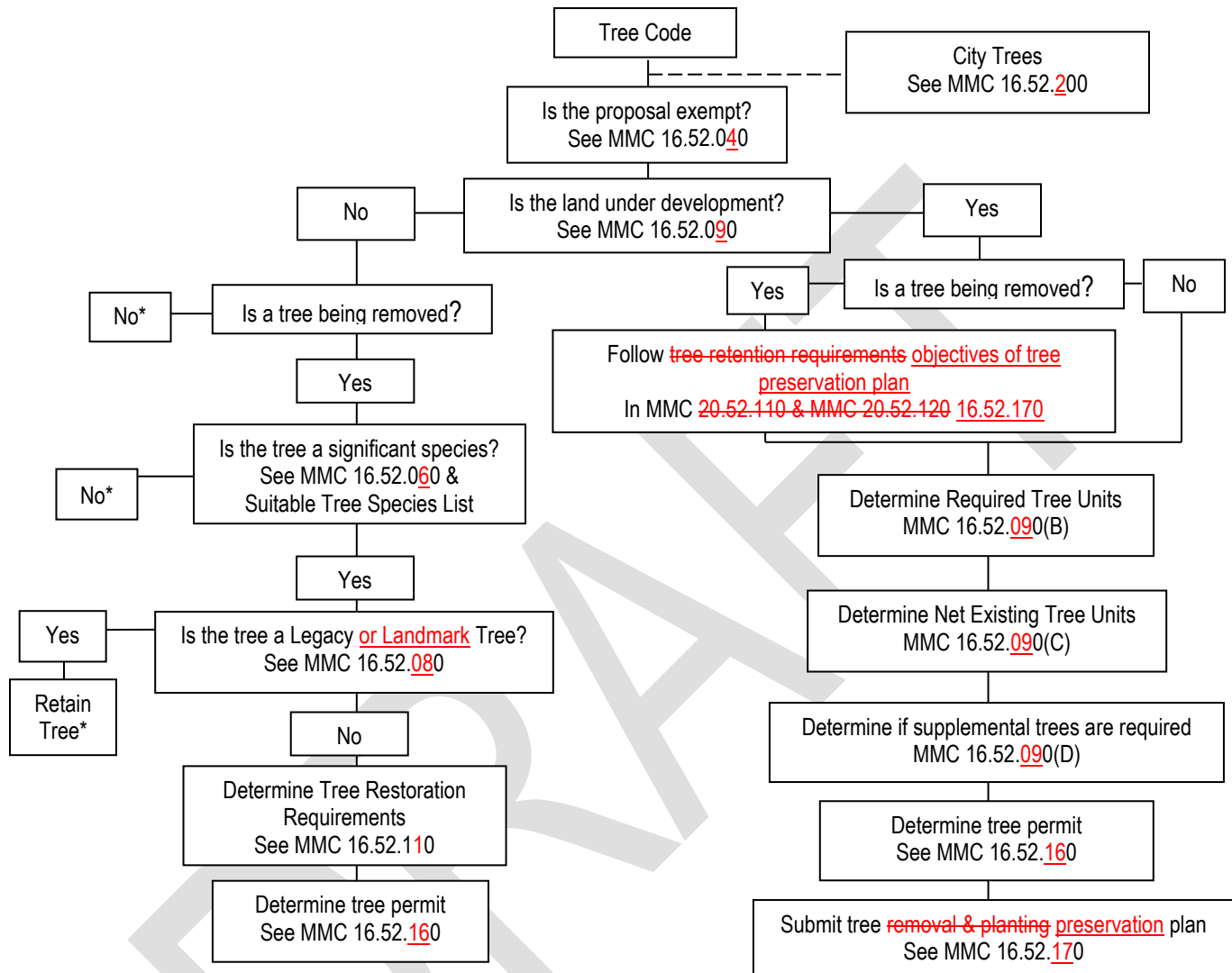
F. The removal of a dead tree where the director pre-determines that the tree died from naturally occurring causes.

16.52.0450 Using this chapter.

This chapter prescribes the requirements for tree retention preservation and planting on lands undergoing development, and the requirements for removal of significant trees on private and public lands. Diagram 16.52.0450 offers a user's guide that outlines the general process for applying the provisions of this chapter.

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Diagram 16.52.0450



* Denotes no further action required.

16.52.0560 Designation of significant tree species.

A. A list of suitable tree species consisting of coniferous and deciduous trees is set forth in the document entitled “City of Medina List of Suitable Tree Species,” adopted by Ordinance No. 923 and on file with the city for the purpose of establishing significant tree species on private property, public property, and city rights-of-way; and tree species that are eligible for credits in this chapter.

B. The director shall maintain the “City of Medina List of Suitable Tree Species” document at Medina City Hall and may administratively modify the list consistent with the following criteria:

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1. The designation of coniferous trees should include all species excluding tree species known to have invasive root structures and to be fast growing such as Leyland cypress and should also exclude trees planted, clipped or sheared to be used as a hedge;
2. The designation of deciduous trees should include those suitable to United States Department of Agriculture Plant Hardiness Zones 8 and 9, excluding those trees with crown diameter of 10 feet or less at maturity;
3. Plantings of the following tree species within the city's rights-of-way shall be prohibited: London plane, quaking aspen, Lombardy poplar, bolleana poplar, cottonwood, and bigleaf maple.

C. The director shall submit proposals to modify the "City of Medina List of Suitable Tree Species" to the city council for their consideration. The city council may approve, modify or deny the proposed modifications. The city council may also decline to take action on the proposed modifications, in which case the modifications shall be incorporated into the list and take effect five days after the date the city council declines to take action.

D. The "City of Medina List of Suitable Tree Species" is used in conjunction with the definition of significant tree set forth in MMC 16.12.200 to denote the term significant tree as used in this chapter.

16.52.0670 Designation of land under development.

Land is designated as under development for purposes of this chapter if one or more of the following conditions is present:

A. Any development activity requiring a building permit where:

1. Construction of a dwelling having a gross floor area of 2,500 square feet or more;
2. Construction of accessory buildings on property containing a residential use, or supporting a residential use, where the total gross floor area of all accessory buildings on the lot is 1,000 square feet or more;
3. Any building constructed to be occupied principally by a nonresidential use where the gross floor area of the building is 1,000 square feet or more;
4. Any series of exterior alterations, modifications or additions that over a four-consecutive-year period increases the total building footprint on a lot by more than 500 square feet or 15 percent, whichever is larger;
5. Construction of any structures, including but not limited to driveways, decks, patios, and walkways, that over a four-consecutive-year period increases the impervious surface on the lot by a total of 2,000 square feet or more;
6. Grading that over a four-consecutive-year period totals 2,000 cubic yards or more.

B. Any development activity requiring a building permit, a right-of-way permit, and/or a land use or shoreline permit where:

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1. One or more significant trees are removed, with at least one tree having a 10-inch diameter breast height or larger size; or
2. Four or more significant trees are removed, provided each has less than a 10-inch diameter breast height size; and
3. The criteria in subsections (B)(1) and (2) of this section shall include the following trees:
 - a. Significant trees removed within two years prior to the submittal of an application for such permits; or
 - b. Significant trees removed within two years after such permits are finalized by the city and the project completed.

C. Clearing or grubbing of land that:

1. Is located outside of city rights-of-way;
2. Requires no permits, except for a tree permit; and
3. Removes four or more significant trees, with at least four trees having a 10-inch diameter breast height or larger size, over a four-consecutive-year period.

D. The counting of removed trees under subsections (B) and (C) of this section shall not include those trees designated as a hazard or nuisance tree pursuant to MMC 16.52.120 and 16.52.130, respectively.

20.52.110 Tree retention requirements Repealed.

~~A. Where land is designated as under development pursuant to MMC 20.52.100, trees within the boundaries of the lot (retention of trees in the city right-of-way are governed by MMC 20.52.400) shall be retained in accordance with any one of the following:~~

- ~~1. Preserve at least 50 percent of the existing trees that are:

 - ~~a. Six inches diameter breast height and larger; and~~
 - ~~b. Of a native species eligible for credit on private property as set forth in the "City of Medina List of Suitable Tree Species"; or~~~~
- ~~2. Preserve at least 40 percent of the existing trees that are:

 - ~~a. Six inches diameter breast height and larger with at least half of those required to be retained each having 10 inches diameter breast height or larger size; and~~
 - ~~b. Of a native species eligible for credit on private property as set forth in the "City of Medina List of Suitable Tree Species"; or~~~~
- ~~3. Preserve at least 35 percent of the existing trees that are:

 - ~~a. Six inches diameter breast height and larger with at least half of those required to be retained meeting the following:~~~~

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- ~~i. All shall have a diameter breast height size of 10 inches or larger; and~~
- ~~ii. Forty percent shall have a diameter breast height size of 24 inches or larger; and~~
- ~~b. Of a native species eligible for credit on private property as set forth in the "City of Medina List of Suitable Tree Species"; or~~
- ~~4. Preserve at least 25 percent of the existing trees that are:~~
 - ~~a. Six inches diameter breast height and larger with at least 75 percent of those required to be retained each having 24 inches diameter breast height or larger size; and~~
 - ~~b. Of a native species eligible for credit on private property as set forth in the "City of Medina List of Suitable Tree Species."~~
- ~~B. All fractions in subsection (A) of this section shall be rounded up to the next whole number.~~
- ~~C. The requirement for tree retention under subsection (A) of this section shall not exceed the trees necessary to meet the required tree units set forth in MMC 20.52.130.~~
- ~~D. Multiple applications of the tree retention requirements in this section over a 10-year period shall not cause the number and size of trees required to be retained to be reduced below the number and size of trees required to be retained with the first application.~~
- ~~E. When calculating retention requirements, trees excluded from retention requirements shall not be included in the calculation.~~
- ~~F. All of the following shall be excluded from the requirements of this section:~~
 - ~~1. Hazard trees designated pursuant to MMC 20.52.200;~~
 - ~~2. Nuisance trees designated pursuant to MMC 20.52.210 and where, if applicable, re-development does not remedy the conditions causing the nuisance;~~
 - ~~3. Those significant trees having less than a 36-inch diameter breast height size and located within the footprint of the principal building on the lot.~~

16.52.080 Legacy and Landmark tree protection measures.

This section applies to trees designated as Hlegacy and Landmark trees, which are native trees that because of their age, size and condition are recognized as having exceptional outstanding value in contributing to the character of the community. Legacy and Landmark trees within the shoreline jurisdiction are regulated in MMC 16.66.050.

A. A Legacy or Landmark tree ~~meeting all of the following criteria~~ shall be designated as a legacy tree by meeting the following criteria:

1. Legacy tree:

- ~~1a.~~ The tree species is denoted as a legacy tree on the "City of Medina List of Suitable Tree Species"; and

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2b. The diameter breast height of the tree is ~~50~~ 36 inches or larger but less than 100 inches; and

3c. The city arborist determines the tree to be healthy with a likelihood of surviving more than 10 years based on assumptions that:

ai. The tree is properly cared for; and

bii. The risk of the tree declining or becoming a nuisance is unenhanced by any proposed development; ~~and.~~

2. Landmark tree:

a. The tree species is denoted as a legacy tree on the "City of Medina List of Suitable Tree Species"; and

b. The diameter breast height of the tree is 100 inches or larger; and

c. The city arborist determines the tree to be healthy with a likelihood of surviving more than 10 years based on assumptions that:

i. The tree is properly cared for; and

ii. The risk of the tree declining or becoming a nuisance is unenhanced by any proposed development.

4. The tree is not:

a. A hazard tree pursuant to MMC 20.52.200; or

b. A nuisance tree pursuant to MMC 20.52.210; excluding those trees where, if applicable and feasible, redevelopment can remedy the conditions causing the nuisance; or

c. Located within the footprint of the principal building on the lot, excluding those trees where alternative design of the building is feasible in retaining the tree.

B. Legacy and Landmark trees shall be preserved and retained unless replacement trees are planted in accordance with the following:

1. Legacy tree:

1a. The quantity of replacement trees is calculated by multiplying the diameter breast height of ~~the each~~ subject Legacy tree by 50 percent the required percentage standards in Table 16.52.080(B) to establish the number of replacement inches; and

2. Where more than one legacy tree is removed, the replacement inches for each legacy tree being removed shall be added together to produce a total number of tree replacement inches; and

b. All fractions of this section shall be rounded up to the next whole number.

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~~3. The total number of replacement trees is determined by the total caliper inches of the replacement trees equaling or exceeding the required tree replacement inches established in subsections (B)(1) and (2) of this section.~~

Table 16.52.080(B) Legacy Tree Replacement Requirements

<u>Square Footage of the Lot Area</u>	<u>Required number of replacement inches</u>
<u>Less than 10,001</u>	<u>10% removed DBH</u>
<u>From 10,001 to 13,000</u>	<u>15% removed DBH</u>
<u>From 13,001 to 15,000</u>	<u>25% removed DBH</u>
<u>From 15,001 to 20,000</u>	<u>35% removed DBH</u>
<u>Greater than 20,000</u>	<u>50% removed DBH</u>

The following example illustrates how to calculate legacy tree replacement units on a lot that is less than 10,001 square feet:

Lot size: 8,120 sq. ft.

Required tree units: $8,120 / 1,000 \times 0.4$ (tree density ratio) = 3.2 (rounded up to the next whole number) = 4

Total existing tree units on site: 6.5 units

Eight 10-inch DBH trees – 4 units (.5 units per tree)

Two 24-inch DBH trees - 1.5 units (.75 units per tree)

One 44-inch DBH Tree – 1 unit (1 unit per tree)

Total tree units removed: 3

Four 10-inch DBH trees = 2 units removed

One 44-inch DBH tree = 1 unit removed

Net tree units: 3.5

Supplemental Units Required: Yes (4 required tree units – 3.5 net tree units) = $.5$

Legacy Tree Removed: Yes – One 44-inch DHB tree

Legacy Tree Supplemental Units: $10\% \times 44 = 4.4$ (rounded up to the next whole number) = 5

Landmark Tree Removed: No

Total supplemental Requirements = 5.5 units (.5 supplemental units + 5 legacy supplemental units) = 6 trees

2. Landmark tree:

- a. The quantity of replacement inches is calculated by multiplying the diameter breast height of each subject Landmark tree by 100 percent to establish the minimum number of replacement inches; and

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b. All fractions of this section shall be rounded up to the next whole number.

C. In lieu of planting the replacement trees prescribed in subsection (B) of this section, an applicant may satisfy the tree replacement requirements by: meeting the criteria set forth in MMC 16.52.180.

1. Planting at least three replacement trees; and
2. Contributing to the Medina tree fund at a rate of \$400.00 per each replacement inch not accounted for in the planting of replacement trees; and
3. The sum of the tree replacement inches accounted for by contributing to the Medina tree fund and the total caliper inches of the replacement trees planted shall not be less than the total replacement inches calculated in subsection (B) of this section.

D. Other Provisions.

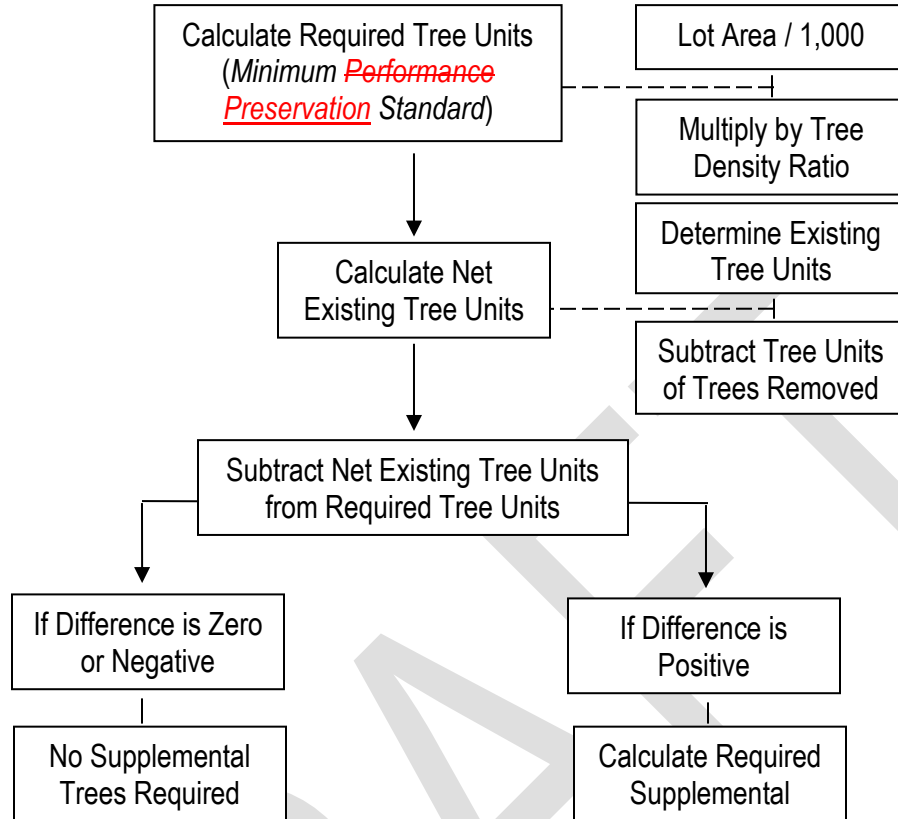
1. Each replacement tree shall meet the standards prescribed in MMC 16.52.090 ~~(D)(4)(a) through (d) and (g);~~
2. The tree replacement requirements set forth in subsections (B) and (C) of this section shall apply to the removal of a Legacy and Landmark trees in lieu of and in addition to requirements for removing nonlegacy trees;
3. The tree replacement requirements set forth in this section for a Legacy and Landmark tree shall not be used to satisfy requirements for removing nonlegacy trees or a pre-existing tree unit gap;
4. If the minimum performance preservation standards in MMC 16.52.090 are used, and if supplemental tree units are required, the tree replacement requirements set forth in subsections (B) and (C) of this section shall together count as one supplemental tree unit;
5. Off-site tree planting as described in MMC 16.52.100 ~~(A), (B), (C)(2), and (E)~~ are acceptable alternatives to on-site replacement tree planting provided the director or designee approves of the off-site location in writing.

16.52.090 Minimum performance preservation standards for land under development.

A. The requirements and procedures set forth in this section shall apply to lands that are designated as under development pursuant to MMC 16.52.0670. Figure 16.52.090 outlines the primary steps prescribed by this section in establishing requirements and determining compliance with this chapter.

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Figure 16.52.090 Tree Performance Preservation Process



B. Lots with land under development shall contain a sufficient number of significant trees to meet the minimum required tree units established by the following procedures:

1. The lot area is divided by 1,000 square feet; and
2. The quotient is multiplied by the corresponding tree density ratio applicable to the lot as set forth in Table 16.52.090(B); and
3. The resulting product is rounded up to the next whole number to establish the minimum number of required tree units.

Table 16.52.090(B) Tree Density Ratio

Zoning District	Category of Land Use	Tree Density Ratio
R-16, R-20, R-30 & SR-30	Residential	0. 35 <u>40</u>
	Golf Course	0.15
	Nonresidential other than specifically listed	0.25
Public	Schools	0.15

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Zoning District	Category of Land Use	Tree Density Ratio
	Parks	0.42
	Residential	0. 35 <u>40</u>
	Nonresidential other than specifically listed	0.25
N-A	All	0.25
State Highway	All	0.12

C. To determine compliance with the required tree units applicable to the lot, apply the following procedures:

1. Inventory all existing significant trees on the subject lot; and
2. Assign a tree unit to each significant tree using the corresponding tree unit set forth in Table 16.52.090(C); and
3. Add the tree units together to compute the total existing tree units and subtract the tree units of those significant trees removed to determine the net existing tree units (do not round fractions); and
4. Subtract the net existing tree units from the required tree units determined in this subsection (C) to establish:
 - a. If the net existing tree units equal or exceed the required tree units then no supplemental trees are required; or
 - b. If the net existing tree units are less than the required tree units then supplemental trees are required pursuant to subsection (D) of this section.

Table 16.52.090(C) Existing Tree Unit

Tree Type	Diameter Breast Height of Existing Tree	Tree Unit
Deciduous	6 to 10 inches	0. 75
	Greater than 10 inches	1.0 <u>0.75</u>
Coniferous	6 to 10 inches	0. 75
	Greater than 10 inches, but less than 50 <u>36</u> inches	1.0 <u>0.75</u>
	50 <u>36</u> inches and greater	1. 25 <u>0</u>

D. If supplemental trees are required, the quantity of trees is determined by applying the following procedures:

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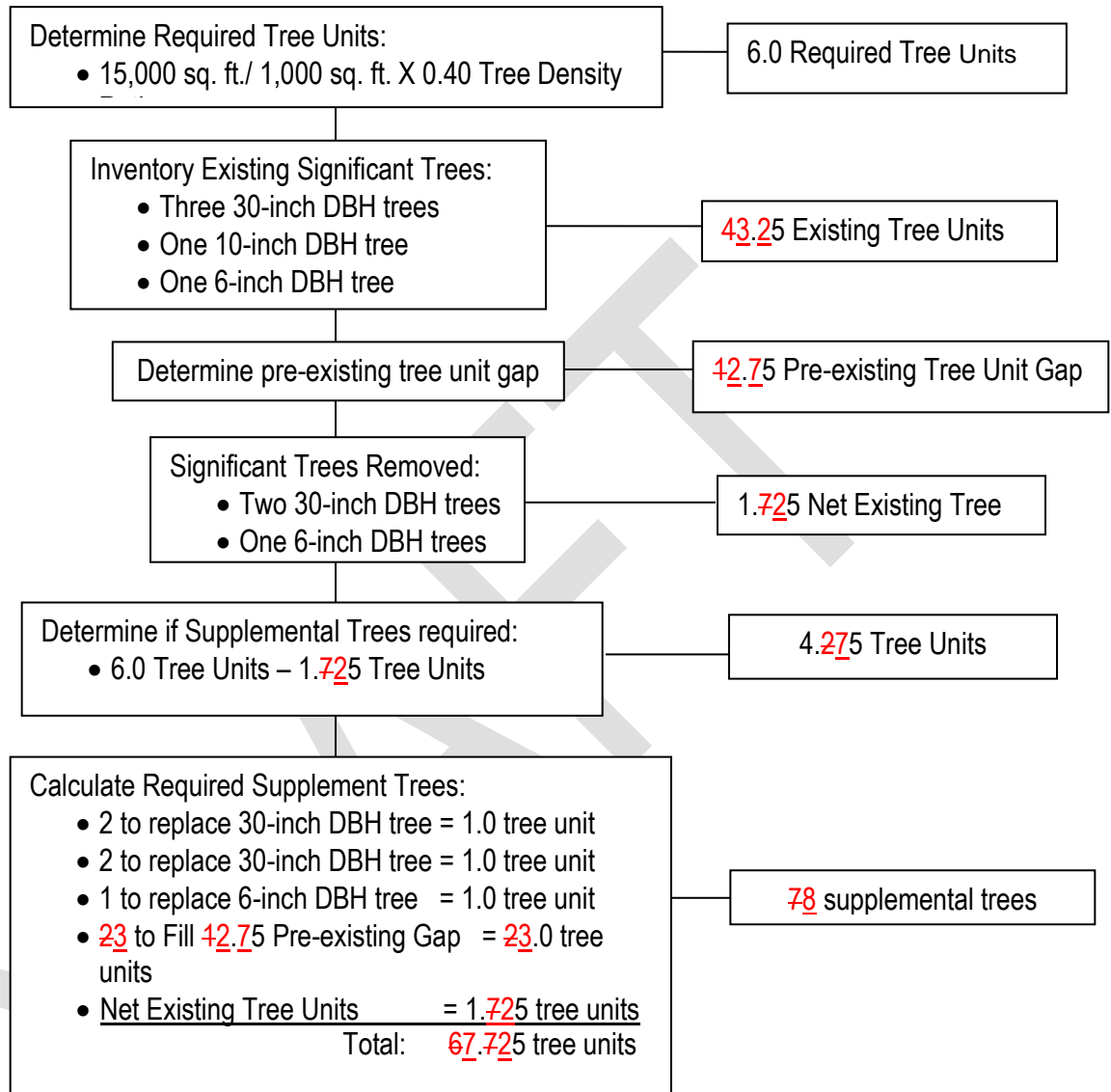
1. Determine if a pre-existing tree unit gap exists by subtracting the total existing tree units from the required tree units:
 - a. If the difference is less than zero round to zero;
 - b. A difference of zero means no pre-existing tree unit gap is present;
 - c. If the difference is greater than zero, the difference is the pre-existing tree unit gap;
2. To calculate the quantity of supplemental trees required, apply the provisions in subsection (D)(3) of this section first to those supplemental trees replacing an existing significant tree starting in order with the largest tree to the smallest tree, and then, if applicable, apply subsection (D)(3) of this section to those filling a pre-existing tree unit gap;
3. The quantity of supplemental trees is determined by:
 - a. Assigning a tree unit to each supplemental tree using Table 16.52.090(D);
 - b. Two supplemental trees shall be required for replacing each existing significant tree having a diameter breast height of 24 inches and larger subject to the limitation in subsection (D)(3)(d) of this section, and consistent with subsection (D)(2) of this section these shall be counted first;
 - c. The quantity of supplemental trees shall be of a sufficient number that their total assigned tree units added to the net existing tree units shall equal or exceed the minimum required tree units established in subsection (B) of this section; and
 - d. Supplemental trees in excess of those needed to meet the minimum required tree units shall not be required.
 - e. See Diagram 16.52.090 for an example of calculating supplemental trees.

Table 16.52.090(D) Supplemental Tree Unit

Purpose of Supplemental Tree	Diameter Breast Height of Removed Tree	Tree Unit for Supplemental Trees
Replace an existing significant tree	6 inches to less than 24 inches	1.0
	24 inches and larger	0.5
Fill a pre-existing tree unit gap	Not applicable	1.0

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Diagram 16.52.090 Example Calculating Supplemental Trees



4. ~~Minimum Development Standards Applicable to All Supplemental Trees:~~

~~a. To be eligible as a supplemental tree, the tree species must be selected from the appropriate list set forth in the “City of Medina List of Suitable Tree Species” established in MMC 20.52.050;~~

~~b. Trees shall be planted on the subject lot;~~

~~c. Each supplemental tree shall have a minimum caliper of two inches or, if the tree is coniferous, it shall have a minimum height of six feet at the time of final inspection by the city;~~

For ease of identifying what's new, the code language that is existing but has been moved to a new section is underlined, while the completely new language is red and underlined.

~~d. Trees shall be planted in a manner of proper spacing and lighting that allows them to grow to maturity;~~

~~e. Existing trees within the boundaries of the lot having less than six inches diameter breast height may count as supplemental trees provided the tree meets all other requirements applicable to a supplemental tree;~~

~~f. Supplemental trees replacing existing significant trees shall have at least one tree be of the same plant division (coniferous or deciduous) as the significant tree it is replacing; and~~

~~g. The owner of the subject lot shall take necessary measures to ensure that supplemental trees remain healthy and viable for at least five years after inspection by the city and the owner shall be responsible for replacing any supplemental trees that do not remain healthy and viable for the five years after inspection by the city.~~

~~E. All trees used to satisfy the supplemental tree requirements of this chapter shall be included as a significant tree for purposes of this chapter.~~

~~F. In lieu of the supplemental tree requirements prescribed by this section, an owner may satisfy the requirements for supplemental trees by meeting the requirements for off site tree planting set forth in MMC 20.52.140.~~

16.52.100 Off-site tree planting Supplemental tree standards and priorities.

~~A. Where this chapter authorizes off site tree plantings, an owner may use the provisions of this section to satisfy requirements for planting trees on site.~~

~~B. Except where contribution to the Medina tree fund is used in lieu of planting required trees, application of this section shall not result in planting trees below the minimum requirements for on-site plantings.~~

~~C. An owner may plant required trees at an off-site location provided all of the following are satisfied:~~

~~1. The off-site location is within the boundaries of the city including:~~

~~a. Private property with the written consent of the owner of the off-site location;~~

~~b. City property with the written approval of the director;~~

~~c. Other public property with the written consent of the entity with jurisdiction over the off-site location;~~

~~2. Existing trees at the off-site location shall not be included as satisfying tree planting requirements;~~

~~3. Trees planted off site in lieu of on-site requirements shall not be counted as an existing tree on the property where the off-site tree is located;~~

~~4. Trees planted off site in lieu of on-site requirements shall meet development standards including:~~

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- ~~a. Having a minimum caliper of two inches or, if the tree is coniferous, having a minimum height of six feet at the time of final inspection by the city;~~
- ~~b. If applicable, having at least one tree of the same plant division (coniferous or deciduous) as the significant tree it is replacing;~~
- ~~c. The owner of the off-site property shall take necessary measures to make certain that the trees planted to satisfy the requirements of this chapter remain healthy and viable for at least five years after inspection by the city, and the owner shall be responsible for replacing any subject trees that do not remain healthy and viable for the five years after inspection by the city.~~

~~D. In lieu of planting trees, an owner may contribute to the Medina tree fund provided the following are satisfied:~~

- ~~1. When the contribution is for replacing an existing significant tree, payment is at a rate of:~~
 - ~~a. Two hundred dollars per each diameter breast height inch of the significant tree where the tree removed has less than a 20-inch diameter breast height size;~~
 - ~~b. Two hundred fifty dollars per each diameter breast height inch of the significant tree where the tree removed has at least a 20-inch diameter breast height, but less than 36-inch diameter breast height size;~~
 - ~~c. Four hundred dollars per each diameter breast height inch of the significant tree where the tree removed has at least a 36-inch diameter breast height or larger size;~~
- ~~2. When the contribution is for required tree plantings used to satisfy the pre-existing tree unit gap determined in MMC 20.52.130(D)(1), payment shall be at a rate of \$1,700 per required tree not planted.~~

~~E. An owner may select to apply a combination of planting trees on-site, off-site and/or contributing to the Medina tree fund provided:~~

- ~~1. The combination is consistent with the provisions of this chapter; and~~
- ~~2. The combination results shall be equivalent to or greater than the minimum requirements for on-site plantings.~~

~~F. Consistent with the authority granted in MMC 20.10.040, the director may establish additional administrative rules as necessary relating to the care and maintenance of off-site trees.~~

A. To be eligible as a supplemental tree, the tree species must be selected from the appropriate list set forth in the "City of Medina List of Suitable Tree Species" established in MMC 16.52.060 and shall meet the following general requirements:

- 1. Each supplemental tree shall have a minimum caliper of two inches, or, if the tree is coniferous, it shall have a minimum height of six feet at the time of final inspection by the city;

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2. Trees shall be planted in a manner of proper spacing and lighting that allows them to grow to maturity;

3. Existing trees within the boundaries of the lot having less than six inches diameter breast height may count as supplemental trees provided the tree meets all other requirements applicable to a supplemental tree;

4. Supplemental trees replacing existing significant trees shall have at least one tree be of the same plant division (coniferous or deciduous) as the significant tree it is replacing; and

5. The owner of the subject lot shall take necessary measures to ensure that supplemental trees remain healthy and viable for at least five years after inspection by the city and the owner shall be responsible for replacing any supplemental trees that do not remain healthy and viable for the five years after inspection by the city.

B. All trees used to satisfy the supplemental tree requirements of this chapter shall be included as a significant tree for the purpose of this chapter.

C. Where supplemental trees are required pursuant to MMC 16.52.090(D), the trees shall be planted in the following order of priority from most important to least important:

1. On-site and adjacent right-of-way:

a. Adjacent to or within critical areas and their associated buffers as defined in MMC Chapters 16.50 and 16.67;

b. Outside of critical areas and their associated buffers adjacent to other preserved trees making up a grove or stand of trees;

c. Adjacent to a low impact development (LID) stormwater facility;

d. Outside of critical areas and their associated buffers but within the front yard setback;

d. Outside of critical areas and their associated buffers;

e. Off-site in adjacent right-of-way where explicitly authorized by the city.

2. Off-site. An owner may elect to plant the required trees off-site upon written request, and approval from the City. Except where contribution to the Medina tree fund is used in lieu of planting required trees, application of this section shall not result in planting trees below the minimum requirements for on-site plantings. Off-site locations include:

a. City-owned properties;

b. Street rights-of-way not immediately adjacent to the property;

c. Private property with the written consent of the owner of the off-site location;

d. Other public property with the written consent of the entity with jurisdiction over the off-site location;

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e. Any other property determined appropriate by the director.

3. Fee-in-Lieu. If the director or designee determines there is insufficient area to replant on-site or within the adjacent public right-of-way, the director or designee may authorize payment of a fee-in-lieu in accordance with MMC. 16.52.180.

D. An owner may elect a combination of planting trees on site, off site and/or fee-in-lieu upon written request, and approval by the City, provided:

1. The combination is consistent with the provisions of this chapter; and
2. The combination results shall be equivalent to or greater than the minimum requirements for on-site plantings.

E. Consistent with the authority granted in MMC 16.10.040, the director may establish additional administrative rules as necessary relating to the care and maintenance of off-site trees.

F. Existing trees at the off-site location shall not be included as satisfying tree planting requirements.

G. Trees planted off-site in lieu of on-site requirements shall not be counted as existing trees on the property where the off-site tree is located.

16.52.110 Minimum restoration standards for land not under development.

A. The requirements set forth in this section apply to tree removals on lots not meeting the criteria for land under development set forth in MMC 16.52.0670.

B. Removal of significant trees on a lot, including hazard and nuisance trees, is authorized only if the restoration requirements in Table 16.52.110 are satisfied, or if the property meets the requirements prescribed in subsection (K) of this section.

Table 16.52.110 Tree Restoration Standards

	Diameter Breast Height of Removed Tree	Restoration Requirements
Each Significant Tree	6 to 10 inches	Plant one tree
	Greater than 10 inches, but less than 24 inches	Plant two trees
	24 inches and larger	Plant three trees
	Legacy <u>or Landmark</u> trees	See MMC 16.52.080
	Hazard trees – 10 inches and larger	Plant one tree

C. To be eligible as a restoration tree, the tree species must be selected from the appropriate list in the “City of Medina List of Suitable Tree Species” established in MMC 16.52.0560.

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D. Restoration trees shall be planted within the boundaries of the lot, except as authorized pursuant to subsection (J) of this section.

E. Restoration trees shall be planted in a manner of proper spacing and lighting that allows them to grow to maturity.

F. Each restoration tree shall have a minimum caliper of two inches or, if the tree is coniferous, it shall have a minimum height of six feet at the time of final inspection by the city.

G. Existing trees on site having less than six inches diameter breast height may be included as restoration trees provided:

1. The subject tree is located within the boundaries of the lot; and
2. The subject tree meets all of the other requirements applicable to restoration trees.

H. The owner of the subject lot shall take necessary measures to make certain that restoration trees remain healthy and viable for at least five years after inspection by the city and the owner shall be responsible for replacing any restoration trees that do not remain healthy and viable for the five years after inspection by the city.

I. All trees used to satisfy the restoration requirements of this chapter shall be included as a significant tree for purposes of this chapter.

J. In lieu of the tree restoration requirements prescribed by this section, an owner may satisfy the requirements for restoration trees by meeting the requirements for off-site tree planting set forth in MMC 16.52.100.

K. The restoration requirements in Table 16.52.110 for removing significant trees shall be waived if the following criteria are satisfied:

1. The subject lot contains a sufficient number of significant trees to meet the performancee preservation standard for required trees established in MMC 16.52.090; and
2. The owner demonstrates that removal of the significant tree, including hazard and nuisance trees, will not result in a failure to meet the performancee preservation standards for required trees established in MMC 16.52.090.

16.52.120 Hazard tree risk assessment.

A. Hazard trees are trees assessed by the city arborist as having a high to extreme risk rating using the International Society of Arborists Tree Risk Assessment Qualification (TRAQ) method in its most current form.

B. Steps in the TRAQ method in developing a tree risk rating include the following:

1. Identify possible targets and estimate occupancy rate;
2. Inspect tree and identify tree parts that could fail and strike targets (referred to as failure mode);
3. For each significant failure mode identified:

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- a. The likelihood of failure is assessed;
- b. The likelihood of a tree part impacting a target is assessed;
- c. The likelihood of a tree failure impacting a target is assessed;
- d. Consequences of failure are estimated;
- e. The risk is designated pursuant to the matrix in Table 16.52.120(C);
- f. Possible mitigation treatments to reduce the risk are identified;
- g. The risk is again designated pursuant to the matrix in Table 16.52.120(C) after mitigation treatment is completed.

4. When assessing the risk of a tree, the city arborist shall evaluate the tree based on existing conditions and shall exclude possible impacts caused by new development, any land alteration activity, or other similar such activities that might otherwise unnaturally cause the risk rating to increase.

C. The following table is from the International Society of Arborists TRAQ method and denotes the risk rating matrix used to assess levels of tree risk as a combination of likelihood of a tree failing and impacting a specified target, and the severity of the associated consequences should the tree or any part of the tree fail:

Table 16.52.120(C) Tree Risk Rating Matrix

Likelihood of Failure or Impact	Consequences			
	Negligible	Minor	Significant	Severe
Very Likely	Low Risk	Moderate Risk	High Risk	Extreme Risk
Likely	Low Risk	Moderate Risk	High Risk	High Risk
Somewhat likely	Low Risk	Low Risk	Moderate Risk	Moderate Risk
Unlikely	Low Risk	Low Risk	Low Risk	Low Risk

1. The consequences listed in Table 16.52.120(C) have meanings as follows:
 - a. Extreme Risk. This category applies to trees in which failure is “imminent” and there is a high likelihood of impacting a target, and the consequences of the failure are “severe.”
 - b. High Risk. This category applies to situations in which consequences are significant and likelihood is “very likely” or “likely,” or when consequences are “severe” and likelihood is “likely.”

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c. Moderate Risk. This category applies to trees in which consequences are “minor” and likelihood is “very likely” or “likely” or when likelihood is “somewhat likely” and the consequences are “significant” or “severe.”

d. Low Risk. This category applies to trees in which consequences are “negligible” and likelihood is “unlikely”; or when consequences are “minor” and likelihood is “somewhat likely.”

2. Definitions of TRAQ method terminology that are not set forth in this chapter or Chapter 16.12 MMC can be found in the article “Qualitative Tree Risk Assessment” by E. Thomas Smiley, Nelda Matheny, and Sharon Lilly on file at Medina City Hall.

3. Potential targets are permanent structures or an area of moderate to high use. Where a target does not exist, applicants should consider routine pruning and maintenance to mitigate hazards.

D. Where a tree is found to have a high or extreme risk, the city arborist may authorize hazard pruning to mitigate the risk rather than removing the entire tree.

E. If the city arborist assesses a tree to have a high or extreme risk and mitigation of the risk through pruning or moving of potential targets is not feasible, the city arborist shall designate the tree a hazard tree.

16.52.130 Nuisance tree.

A. A nuisance tree, for purposes of this chapter, is a tree whose branches, stem and/or roots cause one or more of the following conditions to exist:

1. Substantial physical damage to public or private structures;
2. A qualified professional provides verification based on conditions on the property that substantial physical damage will occur within five years to a building containing a principal use;
3. Substantially impairs, interferes or restricts streets, sidewalks, sewers, power lines, utilities or other public improvements;
4. Substantially impairs, interferes, or obstructs any street, private lane, or driveway; or
5. The tree is diseased and restoration of the tree to a sound condition is not practical.

B. Designation of a nuisance tree is by the director following receipt of a written request and findings are made supporting a nuisance designation using the following criteria:

1. One or more of the conditions in subsection (A) of this section is present;
2. The nuisance associated with the subject tree cannot be corrected by reasonable measures including, but not limited to, pruning, cabling, bracing, or if feasible, relocating structures and other improvements; and
3. Other relevant information provided by the applicant and the city's inspection of the subject tree.

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16.52.140 City arborist established.

The director shall appoint a person to the position of city arborist who shall be assigned responsibility for evaluating the hazardousness of trees and other duties consistent with the requirements of this chapter.

16.52.150 Notice of tree removal involving no construction.

A. Property owners removing a significant tree requiring a permit under MMC 16.52.160, but not undergoing new construction or land alteration activity, shall notify the city at least 10 calendar days prior to the date the tree will be removed. The director may reduce this time with receipt of a written request from the applicant and upon finding that the lesser time will provide the city reasonable notification.

B. All property owners removing a nonsignificant tree that does not require a permit are encouraged, but not required, to notify the city of the tree removal at least 48 hours prior to the tree being removed.

16.52.160 Tree activity permits.

A. This section sets forth the criteria for applying permits that implement this chapter. All uses and activities not requiring a permit must still comply with this chapter.

B. An administrative tree activity permit meeting the requirements set forth in MMC 16.70.050 is required for the following activities unless a permit is required elsewhere under this section:

1. Land designated under development as determined in MMC 16.52.0670;
2. Removal at any time of a significant tree, including hazard and nuisance trees, located on private property or Washington State controlled land associated with the SR 520 highway;
3. Removal of any nonsignificant tree, including hazard and nuisance trees, located on private property or Washington State controlled land associated with the SR 520 highway that is located within 200 feet of Lake Washington pursuant to MMC 16.60.050;
4. Removal or pruning of any tree that is:
 - a. Six inches or larger diameter breast height size;
 - b. Located in any open or closed city right-of-way; and
 - c. Designated a hazard tree pursuant to MMC 16.52.120, or involving hazard pruning authorized by the director.

C. An administrative right-of-way tree activity permit meeting the requirements set forth in MMC 16.71.050 is required for the following activities:

1. Removal of any tree, excluding hazard trees, that is:
 - a. Six inches or larger diameter breast height size;
 - b. Located in any open or closed city right-of-way;

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- c. Application for the permit is made by the owner of property adjoining the right-of-way where the tree is located measured to the centerline of the right-of-way; and
- d. The removal does not require a nonadministrative right-of-way activity permit under subsection (D) of this section.

2. Pruning of any tree, excluding hazard pruning, that is:

- a. Six inches or larger diameter breast height size;
- b. Located in any open or closed city right-of-way;
- c. Application for the permit is made by an owner of property adjoining the right-of-way where the tree is located measured to the centerline of the right-of-way; and
- d. Excluding pruning activity that:
 - i. Follows ANSI standards in their most recent form;
 - ii. Does not endanger the life of the tree in the opinion of the director;
 - iii. Does not remove more than 25 percent of the natural canopy of the tree;
 - iv. Does not remove a limb having a diameter greater than three inches; and
 - v. Application for the pruning is made by an owner of property adjoining the right-of-way where the tree is located measured to the centerline of the right-of-way.

D. A nonadministrative right-of-way tree activity permit meeting the requirements set forth in MMC 20.72.090 is required for the following activities:

- 1. Removal of any tree, excluding hazard trees, which is:
 - a. Six inches or larger diameter breast height size;
 - b. Located in any open or closed city right-of-way; and
 - c. Application for the permit is made by an owner of property who is not adjoining the right-of-way where the tree is located measured to the centerline of the right-of-way.
- 2. Pruning or removal of any tree, excluding hazard trees and hazard pruning, for any purpose, which is:
 - a. Six inches or larger diameter breast height size;
 - b. Located in any open or closed city right-of-way; and
 - c. Application for the permit is made by a public or private utility or their agent.
- 3. Removal at any time of a significant tree, excluding hazard trees, which is:
 - a. Fifty inches or larger diameter breast height size;

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- b. Located in any open or closed city right-of-way; and
- c. Application for the permit is made by an owner of property adjoining the right-of-way where the tree is located measured to the centerline of the right-of-way.

E. A nonadministrative tree activity permit meeting the requirements set forth in MMC 16.72.100 is required for the following:

1. Removal at any time of a significant tree, excluding hazard trees, which is:
 - a. Fifty inches or larger diameter breast height size;
 - b. Located on private property; and
 - c. Located outside of the footprint of a building containing the principal use of the property.
2. The director may modify the procedures for deciding a nonadministrative tree activity permit and approve the application using a Type 2 decision process provided:
 - a. The subject tree is designated a nuisance tree pursuant to MMC 16.52.130; and
 - b. During the public comment period, the city does not receive any written objection to a Type 2 decision decided by the director being used; and
 - c. The approval criteria in MMC 16.72.100 are satisfied.

16.52.170 Tree removal and planting preservation plan.

A. Permits for lands under development and permits for removing city trees in city rights-of-way shall include a tree removal and planting preservation plan containing the following information:

1. A survey plan prepared by a Washington State licensed surveyor that includes the following:
 - ~~a. The location, genus, species, common name, and size of all significant trees located within the boundaries of the property and within any adjoining city rights-of-way;~~
 - ~~b~~a. Topography of the site at two-foot contour intervals~~;~~;
 - ~~e~~b. Critical areas as defined in Chapters 16.50 and 16.67 MMC~~;~~; ~~and.~~
 - ~~d. If existing trees that are less than six inches diameter breast height are to be counted as supplemental trees, the location, genus, common name, and size of such tree.~~
2. A site plan drawing showing the following:
 - a. Proposed improvements, alterations or adjustments to the subject property including, but not limited to, buildings, driveways, walkways, patios, decks, utilities, and proposed contours~~;~~;
 - b. Existing structures, whether proposed to remain or proposed for removal~~;~~; ~~and.~~

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c. The shoreline jurisdiction as defined in RCW 90.58.030, if applicable to the property.

3. A ~~conceptual or definitive~~ tree-planting plan that includes:

a. ~~Identification of all trees having a six inches or larger diameter breast height size to be retained and those to be removed;~~ The location, genus, species, common name, and size of all significant trees located within the boundaries of the property and within any adjoining city rights-of-way and notation of which significant trees will be retained and which are proposed to be removed.

b. ~~Analysis of required tree units, existing tree units, and net tree units;~~ If existing trees that are less than six inches diameter breast height are to be counted as supplemental trees, the location, genus, common name, and size of such tree.

c. Compliance with the following objectives:

- i. Trees shall be incorporated as a site amenity with strong emphasis on tree protection. To the extent possible, forested sites should retain their forested look, value, and function after development.
- ii. Trees should be preserved as vegetated islands and stands rather than as individual, isolated trees scattered throughout the site.
- iii. Trees to be preserved shall be healthy and wind-firm as identified by a qualified arborist.
- iv. Preservation of significant trees as follows:
 1. Significant trees which form a continuous canopy.
 2. Significant trees located adjacent to critical areas and their associated buffers.
 3. Significant trees located within the first 15 feet adjacent to a property line.
 4. Significant trees which will be used as part of a low impact development (LID) storm water facility.
 5. Significant trees over sixty (60) feet in height or greater than twenty-four (24) inches diameter breast height.

c. For lots larger than 20,000 square feet, excluding lots within the shoreline jurisdiction as defined by MMC 16.66.050, the tree density ratio shall be achieved as follows:

- i. At least 20 percent of the required significant trees as determined by MMC 16.52.090 shall be retained equally within the site perimeter as follows:

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1. 10 percent within the first 15-feet of the front property line.

2. 10 percent within the first 15-feet of the rear property line.

ii. At least 20 percent of the required significant trees as determined by MMC 16.52.090 shall be retained within the site interior.

e. Compliance with the required tree density ratio pursuant to MMC Table 16.52.090(B).

ef. If applicable, a list of supplemental trees to be planted consistent with the requirements of this chapter~~;~~.

dg. If right-of-way trees are proposed for removal, an analysis of the tree mitigation and a list of replacement trees to be planted~~;~~.

eh. The list of required tree plantings shall include the size, genus, species and common names~~;~~ and.

fi. As applicable, a proposed general-planting landscaping plan that includes the required tree plantings and other vegetation being planted, as appropriate, for determining compliance with other provisions of the Medina Municipal Code (i.e., grading and drainage and shoreline master program regulations).

B. The director may authorize modifications to the tree removal-and-planting preservation plan on a case-by-case basis that reduce submittal requirements if the director concludes such information to be unnecessary.

C. The director may require additional information to be included with the tree removal-and-replacement preservation plan, such as tree protection measures, where the director concludes the information is necessary to determine compliance with this chapter.

D. The applicant may combine the survey, site plan drawing, and/or tree replacement preservation plan into a single document, or may combine the required information with other documents, provided the city determines the submitted information is reasonably easy to understand. All plans shall be drawn to a scale acceptable by the director.

E. Permits not involving land under development do not require a tree removal-and-planting preservation plan. However, this shall not preclude the director from requiring such information as necessary to determine compliance with this chapter.

16.52.180 Fee-in-lieu of supplemental plantings.

A. The director or designee may authorize payment of a fee-in-lieu provided:

1. There is insufficient area on the lot or adjacent right-of-way to meet the number of replacement inches prescribed by MMC 16.52.090; or

2. Tree replacement provided within public right-of-way or a city park in the vicinity will be of greater benefit to the community.

3. Fees shall be provided in lieu of on-site tree replacement based upon the following:

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a. The expected tree replacement cost including labor, materials, and maintenance for each replacement tree; and

b. The most current Council of Tree and Landscape Appraisers Guide for Plant Appraisal.

5. The applicant executes a written agreement with the City demonstrating compliance with the criteria in this section.

16.52.1890 Tree protection measures during construction.

A. Tree protection measures shall be implemented and maintained before and during all construction activities to ensure the preservation of significant trees that are planned to be retained. Tree protection measures shall be shown on grading and drainage plans, tree protection plans, and construction mitigation plans.

B. Tree protection measures shall include, but are not limited to, the following:

1. Establish tree protection zones and install protective fencing at the drip line or other barriers that are at least four feet in height, except where tree protection zones are remote from areas of land disturbance, and where approved by the director, alternative forms of tree protection may be used in lieu of tree protective fencing; provided, that the critical root zones of protected trees or stands of trees are clearly delineated and protected;
2. Limit grading levels around subject trees to not raise or lower grades within the larger of the following areas:
 - a. The drip line area of the tree; or
 - b. An area around the tree equal to one foot in diameter for each inch of tree diameter measured at DBH;
3. Installation of a tree well, but only where necessary and only with pre-approval of the city;
4. Designation of areas on site for parking, material and equipment storage, construction ingress and egress, and similar designated areas that do not negatively impact significant trees;
5. Locate trenches for utilities that minimize negative effects on the tree root structure with provisions for filling the trenches with a suitable growing medium in the vicinity of the trees;
6. Employ measures to protect critical root systems from smothering and compaction;
7. Implement a tree care program during construction to include watering, fertilizing, pruning and pest control; and
8. Measures for the disposal of potentially harmful items such as excess concrete, polluted water runoff, and other toxic materials.

C. The director may approve deviations to the tree protection measures set forth in subsection (B) of this section if the director determines that the deviation will provide equal or better tree protection than the required tree protection measure.

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16.52.~~129~~00 City tree removals.

A. This section sets forth the requirements applicable to all trees located on city-owned property and city rights-of-way.

B. General Provisions.

1. This section is intended to be of general application for the benefit of the public at large; it is not intended for the particular benefit of any individual person or group of persons other than the general public;
2. In addition to the limits set forth in MMC 16.52.0~~23~~30, no city tree shall be broken, injured, mutilated, killed, destroyed, pruned or removed unless authorized by the provisions of this section; and
3. The exemptions in MMC 16.52.0~~34~~40 apply to this section.

C. Pruning and trimming of city trees is permitted provided ANSI standards in their most recent form are followed and the trimming and pruning comply with the requirements for tree activity permits set forth in MMC 16.52.160.

D. Removal of a city tree located within an open or closed city right-of-way may be allowed for the following:

1. Hazard trees designated pursuant to MMC 16.52.120;
2. Nuisance trees designated pursuant to MMC 16.52.130;
3. Trees not suitable under utility lines, or in the city right-of-way, as prescribed in the "City of Medina List of Suitable Tree Species";
4. Any tree having less than a 10-inch diameter breast height size; and any trees not included on the "City of Medina Suitable Tree Species List" for the right-of-way having less than a 36-inch diameter breast height size;
5. Trees where pruning and trimming for utilities caused significant defects to the primary stem of the tree resulting in significant abnormal growth;
6. Trees where removal is necessary to allow vehicle access to a property;
7. Trees where removal is necessary to restore a view significantly obstructed by the tree provided all of the following criteria are satisfied:
 - a. The owner of the adjoining property to the subject tree and the city both accept allowance to have the tree removed;
 - b. The person claiming the view obstruction establishes the tree causes an unreasonable view obstruction using the provisions established in MMC 14.08.040 through 14.08.080; and
 - c. The approval of a nonadministrative right-of-way activity permit is obtained pursuant to MMC 16.72.090.

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E. Where subsection (D) of this section allows removal of a city tree, the following shall apply:

1. Removal of city trees, including hazard and nuisance trees, is permitted only if replacement trees are planted in accordance with the requirements in Table 16.52.~~1290~~290 (E)(1), except as allowed otherwise by this section;

Table 16.52.~~1290~~290(E)(1) Replacement City Trees

	Diameter Breast Height of Removed Tree	Significant/Nonsignificant Tree Species	Tree Replacement
Each Tree (Include Nuisance Trees)	Less than 6 inches	All	None
	6 to 10 inches	All	Plant one tree
	Greater than 10 inches, but less than 24 inches	Nonsignificant	Plant one tree
		Significant	Plant two trees
	24 inches and larger	Nonsignificant	Plant two trees
		Significant	Plant three trees
Each Hazard Tree	6 to 10 inches	All	None
	Greater than 10 inches	All	Plant one tree

2. Replacement trees shall meet the following standards:

- a. To be eligible as a replacement tree, the tree species must be selected from the appropriate list in the “City of Medina List of Suitable Tree Species” established in MMC 16.52.0~~560~~560;
- b. Replacement trees shall be planted within the city right-of-way adjoining the subject lot;
- c. Each replacement tree shall have a minimum caliper of two inches or, if the tree is coniferous, it shall have a minimum height of six feet at the time of final inspection by the city;
- d. Replacement trees shall be planted in a manner of proper spacing and lighting that allows them to grow to maturity;
- e. At least one replacement city tree shall be of the same plant division (coniferous or deciduous) as the city tree removed;
- f. Approval to remove a city tree shall include conditions to make certain that replacement trees remain healthy and viable for at least five years after inspection by the city, including measures to replace those replacement trees that do not remain healthy and viable;

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3. In addition to the requirement for replacement trees in subsections (E)(1) and (2) of this section, the public benefits lost due to the removal of the city tree shall be mitigated by paying a contribution to the Medina tree fund in accordance with the following:

- a. The contribution shall be determined by multiplying the diameter breast height inches of the tree removed (significant and nonsignificant tree species) by a rate of \$25.00;
- b. Where more than one city tree is removed, the contribution for each removed tree shall be added together to produce the total payment to the Medina tree fund;
- c. The contribution rate for a city tree designated a hazard pursuant to MMC 20.52.120 is zero;
- d. If removal of the city tree was not authorized by the city at the time of its removal, the contribution rates shall triple and be in addition to any other penalties that might apply;
- e. Unless a city tree qualifies for the emergency exemption pursuant to MMC 16.52.0340 ~~(B)(C)~~, city trees removed before a hazard or nuisance determination is made by the city shall be presumed not to be a hazard or a nuisance.

F. The following planting requirements apply within the city right-of-way when a city tree is removed:

1. The maximum number of trees in the city right-of-way shall be one tree for each 17 feet of linear public street frontage, or one tree for each 300 square feet of plantable area within the city right-of-way, whichever is greater, adjoining the subject lot;
2. The director may increase the maximum number of city trees prescribed in subsection (F)(1) of this section, provided there is sufficient space in the city right-of-way adjoining the lot to accommodate the increase in city trees;
3. If the tree replacement requirements prescribed in subsection (E) of this section would result in the total number of city trees in the right-of-way to exceed the maximum prescribed in subsection (F)(1) or (2) of this section, an applicant shall contribute \$290.00 to the Medina tree fund for each replacement tree above the maximum in lieu of planting replacement trees above the maximum;
4. If the tree replacement requirements prescribed in subsection (E) of this section would result in the total number of city trees in the right-of-way to be below the maximum prescribed in subsection (F)(1) or (2) of this section, an applicant may plant additional trees in the right-of-way, subject to the limits in subsection (F)(1) or (2) of this section, and reduce contributions to the Medina tree fund by:
 - a. Six hundred dollars for each coniferous tree planted;
 - b. Five hundred dollars for each deciduous tree planted; and
5. New trees shall not be planted within three feet of the edge of any paved roadway.

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G. The requirements of this section may be used to satisfy the requirements set forth in MMC 16.52.2010.

H. Where a proposal includes application of this section and application of MMC 16.52.090 and/or 16.52.100, the requirements for supplemental trees and restoration trees shall be applied independent of the requirements in this section for replacement trees.

16.52.2010 Minimum street tree standards.

A. This section shall apply to properties adjoining the following city rights-of-way:

1. Minor arterial and collector street rights-of-way as defined in Chapter 10.08 MMC;
2. NE 8th Street;
3. 82nd Avenue NE between NE 8th Street and NE 12th Street;
4. 84th Avenue NE south of NE 12th Street; and
5. Evergreen Point Road north of 78th Place NE.

B. The following street tree standards shall apply when the lot adjoining the right-of-way is under development pursuant to MMC 16.52.0670:

1. There shall be at least one city tree planted for each 300 square feet of plantable area within the city right-of-way adjoining the lot with a minimum of two trees planted; and
2. The new city trees planted shall have a minimum two-inch caliper with coniferous trees also having a minimum height of six feet at the time of final inspection; and
3. The requirements of this subsection may be satisfied with existing trees in the adjoining city right-of-way measured to the centerline; and
4. New city trees shall not be planted within three feet of the edge of any paved roadway; and
5. Trees shall be planted in an informal pattern to create a natural appearance.

C. The following exceptions shall apply:

1. Shrubs, trees and plantings within the required sight line areas at private drives, private lane outlets and street intersections shall not interfere with required sight distances;
2. The director may waive the requirements of this section if the right-of-way to be planted is planned for modification in the Medina capital improvements plan.

16.52.2120 Owner responsibility within city rights-of-way.

A. All owners of property adjoining a city right-of-way shall be responsible for maintaining all trees, shrubs, and other landscaping planted in the adjoining right-of-way by the property owner or previous owner of the property, or for which responsibility has been assumed by the owner through a recorded agreement with the city.

For ease of identifying what's new, the code language that is existing but has been moved to a new section is underlined, while the completely new language is red and underlined.

B. All owners of the property adjoining a city right-of-way shall ensure the trees, shrubs and landscaping in the right-of-way adjoining their property do not interfere with the free passage of vehicles and pedestrians or cause any risk of danger to the public or property.

C. No hazardous or destructive tree species shall be planted in the city rights-of-way. The city shall maintain a list of suitable trees that are acceptable to be planted in city rights-of-way consistent with MMC 16.52.0560.

D. The requirements of this section shall apply equally to the city rights-of-way whether the city's title to the right-of-way was obtained by dedication, condemnation, deed or in any other manner.

E. For the purpose of this chapter, an owner shall be considered adjoining up to the centerline of the city right-of-way.

16.52.2230 Liability.

Consistent with MMC 16.10.070, nothing contained in this chapter shall be construed or form the basis for any liability on the part of the city, or its officers, agents, consultants or employees, for any injury or damage resulting from any person's failure to comply with the provisions of this chapter or by reason of or in consequence of any act or omission in connection with the implementation of or enforcement of this chapter.

16.52.2340 Other general provisions.

A. Implementation and Costs.

1. All costs associated with trimming and removal of trees shall be the responsibility of the applicant or property owner; and
2. Any tree trimming or removal governed by this chapter shall be performed by a state of Washington licensed tree service contractor, bonded and insured for the liabilities associated with tree removal.

B. Survey. The city may require as a condition of approving a tree removal permit that the applicant obtain a survey by a state of Washington licensed surveyor to determine if the trees described in the application are located on the subject property, or if a tree is located within a city right-of-way.

C. Supplemental Notice. The following shall supplement noticing requirements set forth in MMC 16.80.140(A) when applied to tree activity permits:

1. Notice shall be posted on or near the subject tree or trees in a manner that clearly identifies all trees being considered under the application;
2. The director may approve the use of a variety of reasonable methods to identify trees provided the methods clearly identify all trees being considered under the application; and
3. The director may require additional notices to be posted when, in the opinion of the director, it is determined necessary to provide reasonable notification to the public of a pending application.

For ease of identifying what's new, the code language that is existing but has been moved to a new section is underlined, while the completely new language is red and underlined.

D. Limitations on Occupancy. A certificate of occupancy shall not be issued until all required tree plantings and landscaping associated with this chapter is complete and receives final approval from the city. Temporary occupancy may be granted pursuant to MMC 16.40.100 before completion of the tree planting and landscaping work provided all of the following criteria are satisfied:

1. The property owner provides a financial guarantee to the city to ensure completion of the tree planting and landscaping;
2. The financial guarantee may take the form of a bond, line of credit, cash deposit, or another form acceptable to the city;
3. The minimum amount of the financial guarantee shall be 150 percent of the estimated cost of landscaping and required tree plantings not completed at the time of the inspection; and
4. Terms of the financial guarantee shall include, but are not limited to, conditions for approving the financial guarantee, a timeframe for the work to be completed, and terms under which the city shall release the financial guarantee.

E. View and Sunlight Obstructions Caused by Trees. Pursuant to MMC 14.08.040, unreasonable obstructions of views or sunlight by uncontrolled growth or maintenance of trees may constitute a private nuisance subject to redress as set forth in Chapter 14.08 MMC.

Chapter 16.52

TREE MANAGEMENT CODE

Sections:

- 16.52.010 Purpose and intent.
- 16.52.020 General provisions and applicability.
- 16.52.030 Applicability of the tree management code.
- 16.52.040 Exemptions.
- 16.52.050 Using this chapter.
- 16.52.060 Designation of significant tree species.
- 16.52.070 Designation of land under development.
- 16.52.080 Legacy and Landmark tree protection measures.
- 16.52.090 Minimum preservation standards for land under development.
- 16.52.100 Supplemental tree standards and priorities.
- 16.52.110 Minimum restoration standards for land not under development.
- 16.52.120 Hazard tree risk assessment.
- 16.52.130 Nuisance tree.
- 16.52.140 City arborist established.
- 16.52.150 Notice of tree removal involving no construction.
- 16.52.160 Tree activity permits.
- 16.52.170 Tree preservation plan.
- 16.52.180 Fee-in-lieu of supplemental plantings.
- 16.52.190 Tree protection measures during construction.
- 16.52.200 City tree removals.
- 16.52.210 Minimum street tree standards.
- 16.52.220 Owner responsibility within city rights-of-way.
- 16.52.230 Liability.
- 16.52.240 Other general provisions.

16.52.010 Purpose and intent.

A. The purpose of the tree management code is to preserve the existing sylvan appearance through long-term preservation and planting of trees that contribute to the community's distinct features including proximity to the lakeshore, views, heavily landscaped streetscapes, and large tracts of public and private open spaces. The city recognizes that trees:

1. Contribute to the residential character of Medina;
2. Provide a public health benefit;
3. Provide wind protection, ecological benefits to wetlands and watercourses, and aid in the stabilization of geologically hazardous areas;
4. Improve surface water quality and control and benefit Lake Washington; and
5. Reduce noise and air pollution.

B. The intent of this chapter is to establish regulations and standards that:

1. Protect and preserve the existing tree canopy;
2. Provide homeowners flexible standards that encourage the preservation of trees while recognizing the importance of having access to sunlight and views;
3. Recognize through the standards in this chapter that certain factors may require the removal or pruning of certain trees due to circumstances such as disease, danger of falling, proximity to structures and improvements, interference with utility services, protection of view and sunlight, and the reasonable enjoyment of property;
4. Encourage best practices for the planting and managing of trees appropriately to minimize hazards, nuisances, and maintenance costs while allowing access to sunlight and views;
5. Prevent the indiscriminate removal or destruction of trees except as provided for in accordance with this chapter;
6. Promote building and site planning practices consistent with the purpose and intent of this chapter;
7. Ensure prompt development, restoration, replanting and effective erosion control of property after tree removal with landscape plans and other reasonable controls; and
8. Foster public education on the local urban forestry program and encourage good tree management consistent with this chapter.

16.52.020 General provisions and applicability:

Where land is designated as under development pursuant to MMC 16.52.090, the preservation of healthy trees shall be considered in accordance with the following guidance:

1. Tree preservation shall be included as a primary step in site planning and shall be achieved by meeting the minimum required tree units established in Table 16.52.090(B).
2. Site design strategies and specific development site areas demonstrating preservation of significant trees shall be presented at the pre-application meeting with the city.
3. A tree preservation plan shall be required that demonstrates the objectives outlined in MMC 20.52.170.

4. Any applicable grading plans, pursuant to MMC Chapter 16.43, shall be developed to avoid significant alteration to the grades around preserved trees.
5. Multiple applications of the tree preservation requirements in this chapter over a 10-year period shall not cause the number and size of trees required to be retained to be reduced below the number and size of trees required to be retained with the first application.
6. When calculating tree preservation requirements, trees excluded from preservation requirements shall not be included in the calculation.
7. For the purpose of calculating tree density requirements, critical areas and their associated buffers shall be excluded from the lot area used for calculation (example: a 16,000 square foot lot has a stream on site that encompasses 1,500 square feet including the stream buffer. The lot area used for tree density calculation would be 14,500 square feet ($16,000 - 1,500 = 14,500$) provided:
 - a. Critical areas shall be limited to wetlands, streams, geologically hazardous areas, conservation easements, and their associated buffers as described in MMC Chapters 16.50 and 16.67; and
 - b. Removal of any vegetation or woody debris, including trees, from a critical area is subject to the regulations in MMC Chapters 16.50 and 16.67.
8. All of the following shall be excluded from the requirements of this chapter:
 - a. Hazard trees designated pursuant to MMC 16.52.120;
 - b. Nuisance trees designated pursuant to MMC 16.52.130 and where, if applicable, re-development does not remedy the conditions causing the nuisance;
 - c. Those significant trees having less than a 24-inch diameter breast height size and located within the footprint of the principal building on the lot.

16.52.030 Applicability of the tree management code.

A. No person or their representative, directly or indirectly, shall remove or destroy trees located on private property or public property within the jurisdictional boundaries of the city except as provided for in accordance with this chapter.

B. Additional tree management requirements are set forth in the Medina shoreline master program as provided in MMC 16.66.050.

16.52.040 Exemptions.

The following are exempt from the requirements in this chapter:

A. Trees less than six inches diameter breast height unless the tree is used to satisfy a requirement of this chapter;

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B. Normal and routine trimming and pruning operations and maintenance of trees and vegetation on private property following the most current ANSI standards;

C. Emergency tree removal or hazard pruning for any tree that poses an imminent threat to life or property provided:

1. The city is notified within seven days after the emergency tree removal or hazard pruning takes place and evidence is provided of the imminent threat supporting the emergency tree removal; and
2. If evidence of the imminent threat is not provided, or the director determines the evidence does not warrant an emergency tree removal, the director may require the responsible person to obtain a permit as prescribed by this chapter and require compliance with the requirements of this chapter;

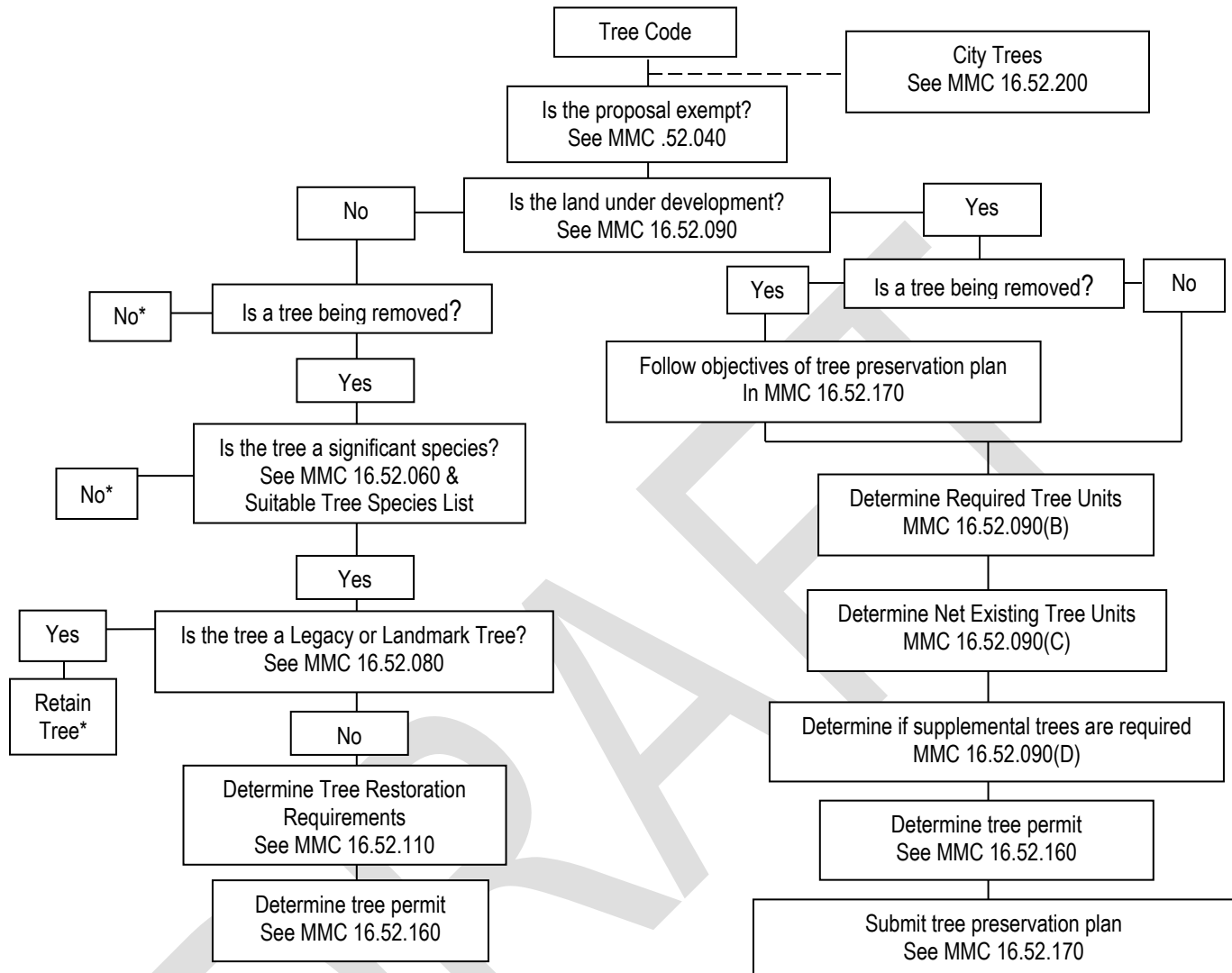
D. Trimming and pruning operations and maintenance of trees and vegetation following the most current ANSI standards or removal of trees performed by the city or a contractor contracted by the city within a public right-of-way or city-owned parkland;

E. Removal of trees and vegetation management by the city or an agency under contract with the city for purposes of installing and maintaining fire hydrants, water meters, pumping stations, or similar utilities; or

F. The removal of a dead tree where the director pre-determines that the tree died from naturally occurring causes.

16.52.050 Using this chapter.

This chapter prescribes the requirements for tree preservation and planting on lands undergoing development, and the requirements for removal of significant trees on private and public lands. Diagram 16.52.050 offers a user's guide that outlines the general process for applying the provisions of this chapter.

Diagram 16.52.050

* Denotes no further action required.

16.52.050 Designation of significant tree species.

A. A list of suitable tree species consisting of coniferous and deciduous trees is set forth in the document entitled “City of Medina List of Suitable Tree Species,” adopted by Ordinance No. 923 and on file with the city for the purpose of establishing significant tree species on private property, public property, and city rights-of-way; and tree species that are eligible for credits in this chapter.

B. The director shall maintain the “City of Medina List of Suitable Tree Species” document at Medina City Hall and may administratively modify the list consistent with the following criteria:

1. The designation of coniferous trees should include all species excluding tree species known to have invasive root structures and to be fast growing such as Leyland cypress and should also exclude trees planted, clipped or sheared to be used as a hedge;

2. The designation of deciduous trees should include those suitable to United States Department of Agriculture Plant Hardiness Zones 8 and 9, excluding those trees with crown diameter of 10 feet or less at maturity;

3. Plantings of the following tree species within the city's rights-of-way shall be prohibited: London plane, quaking aspen, Lombardy poplar, bolleana poplar, cottonwood, and bigleaf maple.

C. The director shall submit proposals to modify the "City of Medina List of Suitable Tree Species" to the city council for their consideration. The city council may approve, modify or deny the proposed modifications. The city council may also decline to take action on the proposed modifications, in which case the modifications shall be incorporated into the list and take effect five days after the date the city council declines to take action.

D. The "City of Medina List of Suitable Tree Species" is used in conjunction with the definition of significant tree set forth in MMC 16.12.200 to denote the term significant tree as used in this chapter.

16.52.070 Designation of land under development.

Land is designated as under development for purposes of this chapter if one or more of the following conditions is present:

A. Any development activity requiring a building permit where:

1. Construction of a dwelling having a gross floor area of 2,500 square feet or more;
2. Construction of accessory buildings on property containing a residential use, or supporting a residential use, where the total gross floor area of all accessory buildings on the lot is 1,000 square feet or more;
3. Any building constructed to be occupied principally by a nonresidential use where the gross floor area of the building is 1,000 square feet or more;
4. Any series of exterior alterations, modifications or additions that over a four-consecutive-year period increases the total building footprint on a lot by more than 500 square feet or 15 percent, whichever is larger;
5. Construction of any structures, including but not limited to driveways, decks, patios, and walkways, that over a four-consecutive-year period increases the impervious surface on the lot by a total of 2,000 square feet or more;
6. Grading that over a four-consecutive-year period totals 2,000 cubic yards or more.

B. Any development activity requiring a building permit, a right-of-way permit, and/or a land use or shoreline permit where:

1. One or more significant trees are removed, with at least one tree having a 10-inch diameter breast height or larger size; or

2. Four or more significant trees are removed, provided each has less than a 10-inch diameter breast height size; and
3. The criteria in subsections (B)(1) and (2) of this section shall include the following trees:
 - a. Significant trees removed within two years prior to the submittal of an application for such permits; or
 - b. Significant trees removed within two years after such permits are finalized by the city and the project completed.

C. Clearing or grubbing of land that:

1. Is located outside of city rights-of-way;
2. Requires no permits, except for a tree permit; and
3. Removes four or more significant trees, with at least four trees having a 10-inch diameter breast height or larger size, over a four-consecutive-year period.

D. The counting of removed trees under subsections (B) and (C) of this section shall not include those trees designated as a hazard or nuisance tree pursuant to MMC 16.52.120 and 20.52.130, respectively.

16.52.080 Legacy and Landmark tree protection measures.

This section applies to trees designated as Legacy and Landmark trees, which are native trees that because of their age, size and condition are recognized as having outstanding value in contributing to the character of the community. Legacy and Landmark trees within the shoreline jurisdiction are regulated in MMC 16.66.050.

A. A Legacy or Landmark tree shall be designated by meeting the following criteria:

1. Legacy tree:
 - a. The tree species is denoted as a legacy tree on the “City of Medina List of Suitable Tree Species”; and
 - b. The diameter breast height of the tree is 36 inches or larger but less than 100 inches; and
 - c. The city arborist determines the tree to be healthy with a likelihood of surviving more than 10 years based on assumptions that:
 - i. The tree is properly cared for; and
 - ii. The risk of the tree declining or becoming a nuisance is unenhanced by any proposed development.
2. Landmark tree:

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- a. The tree species is denoted as a legacy tree on the “City of Medina List of Suitable Tree Species”; and
- b. The diameter breast height of the tree is 100 inches or larger; and
- c. The city arborist determines the tree to be healthy with a likelihood of surviving more than 10 years based on assumptions that:
 - i. The tree is properly cared for; and
 - ii. The risk of the tree declining or becoming a nuisance is unenhanced by any proposed development.

B. Legacy and Landmark trees shall be preserved and retained unless replacement trees are planted in accordance with the following:

1. Legacy tree:

- a. The quantity of replacement trees is calculated by multiplying the diameter breast height of each subject Legacy tree by the required percentage standards in Table 16.52.080(B) to establish the number of replacement inches; and
- b. All fractions of this section shall be rounded up to the next whole number.

Table 16.52.080(B) Legacy Tree Replacement Requirements

Square Footage of the Lot Area	Required number of replacement inches
Less than 10,001	10% removed DBH
From 10,001 to 13,000	15% removed DBH
From 13,001 to 15,000	25% removed DBH
From 15,001 to 20,000	35% removed DBH
Greater than 20,000	50% removed DBH

The following example illustrates how to calculate legacy tree replacement units on a lot that is less than 10,001 square feet:

Lot size: 8,120 sq. ft.

Required tree units: $8,120 / 1,000 \times 0.4$ (tree density ratio) = 3.2 (rounded up to the next whole number) = 4

Total existing tree units on site: 6.5 units

Eight 10-inch DBH trees – 4 units (.5 units per tree)

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Two 24-inch DBH trees - 1.5 units (.75 units per tree)

One 44-inch DBH Tree – 1 unit (1 unit per tree)

Total tree units removed: 3

Four 10-inch DBH trees = 2 units removed

One 44-inch DBH tree = 1 unit removed

Net tree units: 3.5

Supplemental Units Required: Yes (4 required tree units – 3.5 net tree units) = .5

Legacy Tree Removed: Yes – One 44-inch DHB tree

Legacy Tree Supplemental Units: $10\% \times 44 = 4.4$ (rounded up to the next whole number) = 5

Landmark Tree Removed: No

Total supplemental Requirements = 5.5 units (.5 supplemental units + 5 legacy supplemental units) = 6 trees

2. Landmark tree:

- a. The quantity of replacement inches is calculated by multiplying the diameter breast height of each subject Landmark tree by 100 percent to establish the minimum number of replacement inches; and
- b. All fractions of this section shall be rounded up to the next whole number.

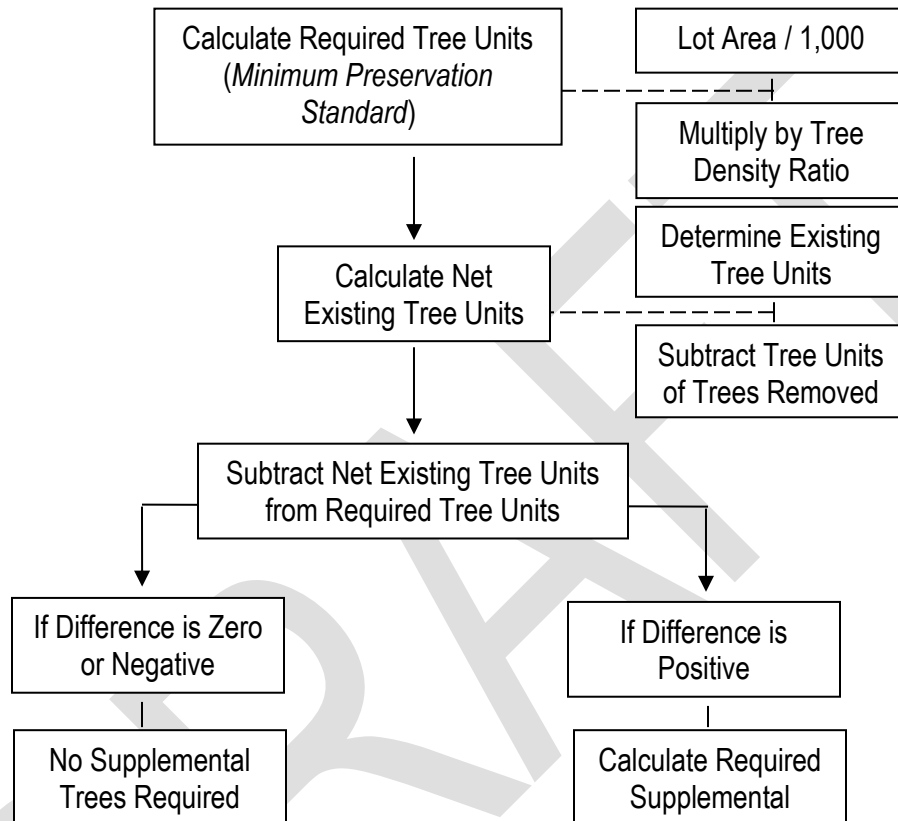
C. In lieu of planting the replacement trees prescribed in subsection (B) of this section, an applicant may satisfy the tree replacement requirements by meeting the criteria set forth in MMC 16.52.180.

D. Other Provisions.

1. Each replacement tree shall meet the standards prescribed in MMC 16.52.100;
2. The tree replacement requirements set forth in subsections (B) and (C) of this section shall apply to the removal of Legacy and Landmark trees in lieu of and in addition to requirements for removing nonlegacy trees;
3. The tree replacement requirements set forth in this section for a Legacy and Landmark tree shall not be used to satisfy requirements for removing nonlegacy trees or a pre-existing tree unit gap;
4. If the minimum preservation standards in MMC 16.52.090 are used, and if supplemental tree units are required, the tree replacement requirements set forth in subsections (B) and (C) of this section shall together count as one supplemental tree unit;
5. Off-site tree planting as described in MMC 16.52.1400(C) are acceptable alternatives to on-site replacement tree planting provided the director or designee approves of the off-site location in writing.

16.52.090 Minimum preservation standards for land under development.

A. The requirements and procedures set forth in this section shall apply to lands that are designated as under development pursuant to MMC 16.52.090. Figure 16.52.090 outlines the primary steps prescribed by this section in establishing requirements and determining compliance with this chapter.

Figure 16.52.090 Tree Preservation Process

B. Lots with land under development shall contain a sufficient number of significant trees to meet the minimum required tree units established by the following procedures:

1. The lot area is divided by 1,000 square feet; and
2. The quotient is multiplied by the corresponding tree density ratio applicable to the lot as set forth in Table 16.52.090(B); and
3. The resulting product is rounded up to the next whole number to establish the minimum number of required tree units.

Table 16.52.090(B) Tree Density Ratio

Zoning District	Category of Land Use	Tree Density Ratio
R-16, R-20, R-30 & SR-30	Residential	0.40

Zoning District	Category of Land Use	Tree Density Ratio
	Golf Course	0.15
	Nonresidential other than specifically listed	0.25
Public	Schools	0.15
	Parks	0.42
	Residential	0.40
	Nonresidential other than specifically listed	0.25
N-A	All	0.25
State Highway	All	0.12

C. To determine compliance with the required tree units applicable to the lot, apply the following procedures:

1. Inventory all existing significant trees on the subject lot; and
2. Assign a tree unit to each significant tree using the corresponding tree unit set forth in Table 16.52.090(C); and
3. Add the tree units together to compute the total existing tree units and subtract the tree units of those significant trees removed to determine the net existing tree units (do not round fractions); and
4. Subtract the net existing tree units from the required tree units determined in this subsection (C) to establish:
 - a. If the net existing tree units equal or exceed the required tree units then no supplemental trees are required; or
 - b. If the net existing tree units are less than the required tree units then supplemental trees are required pursuant to subsection (D) of this section.

Table 16.52.090(C) Existing Tree Unit

Tree Type	Diameter Breast Height of Existing Tree	Tree Unit
Deciduous	6 to 10 inches	0.5
	Greater than 10 inches	0.75
Coniferous	6 to 10 inches	0.5

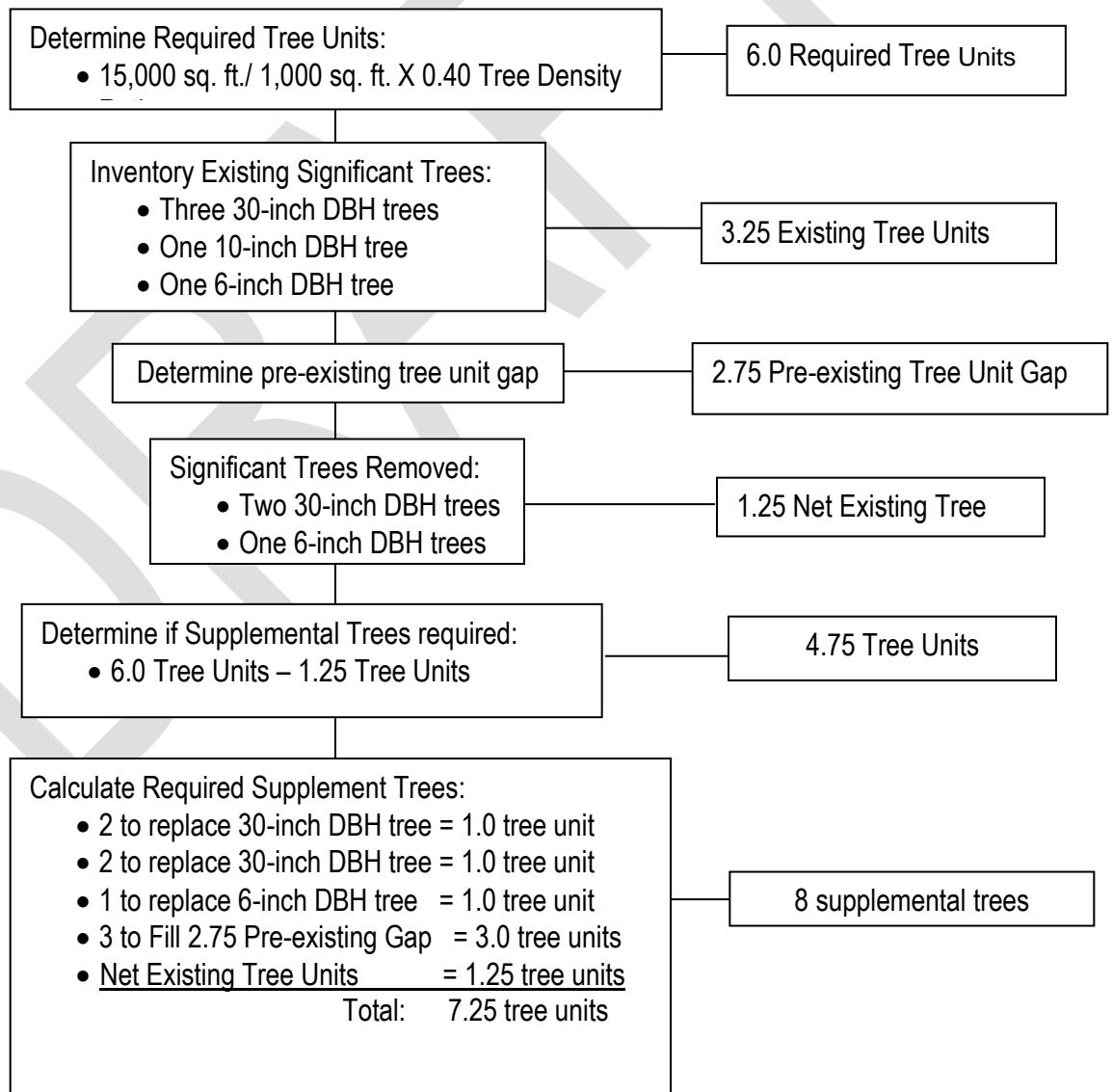
Tree Type	Diameter Breast Height of Existing Tree	Tree Unit
	Greater than 10 inches, but less than 36 inches	0.75
	36 inches and greater	1.0

D. If supplemental trees are required, the quantity of trees is determined by applying the following procedures:

1. Determine if a pre-existing tree unit gap exists by subtracting the total existing tree units from the required tree units:
 - a. If the difference is less than zero round to zero;
 - b. A difference of zero means no pre-existing tree unit gap is present;
 - c. If the difference is greater than zero, the difference is the pre-existing tree unit gap;
2. To calculate the quantity of supplemental trees required, apply the provisions in subsection (D)(3) of this section first to those supplemental trees replacing an existing significant tree starting in order with the largest tree to the smallest tree, and then, if applicable, apply subsection (D)(3) of this section to those filling a pre-existing tree unit gap;
3. The quantity of supplemental trees is determined by:
 - a. Assigning a tree unit to each supplemental tree using Table 16.52.090(D);
 - b. Two supplemental trees shall be required for replacing each existing significant tree having a diameter breast height of 24 inches and larger subject to the limitation in subsection (D)(3)(d) of this section, and consistent with subsection (D)(2) of this section these shall be counted first;
 - c. The quantity of supplemental trees shall be of a sufficient number that their total assigned tree units added to the net existing tree units shall equal or exceed the minimum required tree units established in subsection (B) of this section; and
 - d. Supplemental trees in excess of those needed to meet the minimum required tree units shall not be required.
 - e. See Diagram 16.52.090(D) for an example of calculating supplemental trees.

Table 16.52.090(D) Supplemental Tree Unit

Purpose of Supplemental Tree	Diameter Breast Height of Removed Tree	Tree Unit for Supplemental Trees
Replace an existing significant tree	6 inches to less than 24 inches	1.0
	24 inches and larger	0.5
Fill a pre-existing tree unit gap	Not applicable	1.0

Diagram 16.52.090 Example Calculating Supplemental Trees

16.52.100 Supplemental tree standards and priorities.

A. To be eligible as a supplemental tree, the tree species must be selected from the appropriate list set forth in the “City of Medina List of Suitable Tree Species” established in MMC 16.52.060 and shall meet the following general requirements:

1. Each supplemental tree shall have a minimum caliper of two inches, or, if the tree is coniferous, it shall have a minimum height of six feet at the time of final inspection by the city;
2. Trees shall be planted in a manner of proper spacing and lighting that allows them to grow to maturity;
3. Existing trees within the boundaries of the lot having less than six inches diameter breast height may count as supplemental trees provided the tree meets all other requirements applicable to a supplemental tree;
4. Supplemental trees replacing existing significant trees shall have at least one tree be of the same plant division (coniferous or deciduous) as the significant tree it is replacing; and
5. The owner of the subject lot shall take necessary measures to ensure that supplemental trees remain healthy and viable for at least five years after inspection by the city and the owner shall be responsible for replacing any supplemental trees that do not remain healthy and viable for the five years after inspection by the city.

B. All trees used to satisfy the supplemental tree requirements of this chapter shall be included as a significant tree for the purpose of this chapter.

C. Where supplemental trees are required pursuant to MMC 16.52.090(D), the trees shall be planted in the following order of priority from most important to least important:

1. On-site and adjacent right-of-way:
 - a. Adjacent to or within critical areas and their associated buffers as defined in MMC Chapters 16.50 and 16.67;
 - b. Outside of critical areas and their associated buffers adjacent to other preserved trees making up a grove or stand of trees;
 - c. Adjacent to a low impact development (LID) stormwater facility;
 - d. Outside of critical areas and their associated buffers but within the front yard setback;
 - d. Outside of critical areas and their associated buffers;
 - e. Off-site in adjacent right-of-way where explicitly authorized by the city.
2. Off-site. An owner may elect to plant the required trees off-site upon written request, and approval from the City. Except where contribution to the Medina tree fund is used in lieu of

planting required trees, application of this section shall not result in planting trees below the minimum requirements for on-site plantings. Off-site locations include:

- a. City-owned properties;
- b. Street rights-of-way not immediately adjacent to the property;
- c. Private property with the written consent of the owner of the off-site location;
- d. Other public property with the written consent of the entity with jurisdiction over the off-site location;
- e. Any other property determined appropriate by the director.

3. Fee-in-Lieu. If the director or designee determines there is insufficient area to replant on-site or within the adjacent public right-of-way, the director or designee may authorize payment of a fee-in-lieu in accordance with MMC. 16.52.180.

D. An owner may elect a combination of planting trees on site, off site and/or fee-in-lieu upon written request, and approval by the City, provided:

1. The combination is consistent with the provisions of this chapter; and
2. The combination results shall be equivalent to or greater than the minimum requirements for on-site plantings.

E. Consistent with the authority granted in MMC 16.10.040, the director may establish additional administrative rules as necessary relating to the care and maintenance of off-site trees.

F. Existing trees at the off-site location shall not be included as satisfying tree planting requirements.

G. Trees planted off-site in lieu of on-site requirements shall not be counted as existing trees on the property where the off-site tree is located.

16.52.110 Minimum restoration standards for land not under development.

A. The requirements set forth in this section apply to tree removals on lots not meeting the criteria for land under development set forth in MMC 16.52.070.

B. Removal of significant trees on a lot, including hazard and nuisance trees, is authorized only if the restoration requirements in Table 16.52.110 are satisfied, or if the property meets the requirements prescribed in subsection (K) of this section.

Table 16.52.110 Tree Restoration Standards

	Diameter Breast Height of Removed Tree	Restoration Requirements
	6 to 10 inches	Plant one tree

	Diameter Breast Height of Removed Tree	Restoration Requirements
Each Significant Tree	Greater than 10 inches, but less than 24 inches	Plant two trees
	24 inches and larger	Plant three trees
	Legacy or Landmark trees	See MMC 16.52.080
	Hazard trees – 10 inches and larger	Plant one tree

C. To be eligible as a restoration tree, the tree species must be selected from the appropriate list in the “City of Medina List of Suitable Tree Species” established in MMC 16.52.060.

D. Restoration trees shall be planted within the boundaries of the lot, except as authorized pursuant to subsection (J) of this section.

E. Restoration trees shall be planted in a manner of proper spacing and lighting that allows them to grow to maturity.

F. Each restoration tree shall have a minimum caliper of two inches or, if the tree is coniferous, it shall have a minimum height of six feet at the time of final inspection by the city.

G. Existing trees on site having less than six inches diameter breast height may be included as restoration trees provided:

1. The subject tree is located within the boundaries of the lot; and
2. The subject tree meets all of the other requirements applicable to restoration trees.

H. The owner of the subject lot shall take necessary measures to make certain that restoration trees remain healthy and viable for at least five years after inspection by the city and the owner shall be responsible for replacing any restoration trees that do not remain healthy and viable for the five years after inspection by the city.

I. All trees used to satisfy the restoration requirements of this chapter shall be included as a significant tree for purposes of this chapter.

J. In lieu of the tree restoration requirements prescribed by this section, an owner may satisfy the requirements for restoration trees by meeting the requirements for off-site tree planting set forth in MMC 16.52.100.

K. The restoration requirements in Table 16.52.110 for removing significant trees shall be waived if the following criteria are satisfied:

1. The subject lot contains a sufficient number of significant trees to meet the preservation standard for required trees established in MMC 16.52.090; and
2. The owner demonstrates that removal of the significant tree, including hazard and nuisance trees, will not result in a failure to meet the preservation standards for required trees established in MMC 16.52.090.

16.52.120 Hazard tree risk assessment.

A. Hazard trees are trees assessed by the city arborist as having a high to extreme risk rating using the International Society of Arborists Tree Risk Assessment Qualification (TRAQ) method in its most current form.

B. Steps in the TRAQ method in developing a tree risk rating include the following:

1. Identify possible targets and estimate occupancy rate;
2. Inspect tree and identify tree parts that could fail and strike targets (referred to as failure mode);
3. For each significant failure mode identified:
 - a. The likelihood of failure is assessed;
 - b. The likelihood of a tree part impacting a target is assessed;
 - c. The likelihood of a tree failure impacting a target is assessed;
 - d. Consequences of failure are estimated;
 - e. The risk is designated pursuant to the matrix in Table 16.52.120(C);
 - f. Possible mitigation treatments to reduce the risk are identified;
 - g. The risk is again designated pursuant to the matrix in Table 16.52.120(C) after mitigation treatment is completed.
4. When assessing the risk of a tree, the city arborist shall evaluate the tree based on existing conditions and shall exclude possible impacts caused by new development, any land alteration activity, or other similar such activities that might otherwise unnaturally cause the risk rating to increase.

C. The following table is from the International Society of Arborists TRAQ method and denotes the risk rating matrix used to assess levels of tree risk as a combination of likelihood of a tree failing and impacting a specified target, and the severity of the associated consequences should the tree or any part of the tree fail:

Table 16.52.120(C) Tree Risk Rating Matrix

Likelihood of Failure or Impact	Consequences			
	Negligible	Minor	Significant	Severe
Very Likely	Low Risk	Moderate Risk	High Risk	Extreme Risk
Likely	Low Risk	Moderate Risk	High Risk	High Risk
Somewhat likely	Low Risk	Low Risk	Moderate Risk	Moderate Risk
Unlikely	Low Risk	Low Risk	Low Risk	Low Risk

1. The consequences listed in Table 16.52.120(C) have meanings as follows:

- a. Extreme Risk. This category applies to trees in which failure is “imminent” and there is a high likelihood of impacting a target, and the consequences of the failure are “severe.”
- b. High Risk. This category applies to situations in which consequences are significant and likelihood is “very likely” or “likely,” or when consequences are “severe” and likelihood is “likely.”
- c. Moderate Risk. This category applies to trees in which consequences are “minor” and likelihood is “very likely” or “likely” or when likelihood is “somewhat likely” and the consequences are “significant” or “severe.”
- d. Low Risk. This category applies to trees in which consequences are “negligible” and likelihood is “unlikely”; or when consequences are “minor” and likelihood is “somewhat likely.”

2. Definitions of TRAQ method terminology that are not set forth in this chapter or Chapter 16.12 MMC can be found in the article “Qualitative Tree Risk Assessment” by E. Thomas Smiley, Nelda Matheny, and Sharon Lilly on file at Medina City Hall.

3. Potential targets are permanent structures or an area of moderate to high use. Where a target does not exist, applicants should consider routine pruning and maintenance to mitigate hazards.

D. Where a tree is found to have a high or extreme risk, the city arborist may authorize hazard pruning to mitigate the risk rather than removing the entire tree.

E. If the city arborist assesses a tree to have a high or extreme risk and mitigation of the risk through pruning or moving of potential targets is not feasible, the city arborist shall designate the tree a hazard tree.

16.52.130 Nuisance tree.

A. A nuisance tree, for purposes of this chapter, is a tree whose branches, stem and/or roots cause one or more of the following conditions to exist:

- 1. Substantial physical damage to public or private structures;
- 2. A qualified professional provides verification based on conditions on the property that substantial physical damage will occur within five years to a building containing a principal use;
- 3. Substantially impairs, interferes or restricts streets, sidewalks, sewers, power lines, utilities or other public improvements;
- 4. Substantially impairs, interferes, or obstructs any street, private lane, or driveway; or
- 5. The tree is diseased and restoration of the tree to a sound condition is not practical.

B. Designation of a nuisance tree is by the director following receipt of a written request and findings are made supporting a nuisance designation using the following criteria:

1. One or more of the conditions in subsection (A) of this section is present;
2. The nuisance associated with the subject tree cannot be corrected by reasonable measures including, but not limited to, pruning, cabling, bracing, or if feasible, relocating structures and other improvements; and
3. Other relevant information provided by the applicant and the city's inspection of the subject tree.

16.52.140 City arborist established.

The director shall appoint a person to the position of city arborist who shall be assigned responsibility for evaluating the hazardousness of trees and other duties consistent with the requirements of this chapter.

16.52.150 Notice of tree removal involving no construction.

A. Property owners removing a significant tree requiring a permit under MMC 16.52.160, but not undergoing new construction or land alteration activity, shall notify the city at least 10 calendar days prior to the date the tree will be removed. The director may reduce this time with receipt of a written request from the applicant and upon finding that the lesser time will provide the city reasonable notification.

B. All property owners removing a nonsignificant tree that does not require a permit are encouraged, but not required, to notify the city of the tree removal at least 48 hours prior to the tree being removed.

16.52.160 Tree activity permits.

A. This section sets forth the criteria for applying permits that implement this chapter. All uses and activities not requiring a permit must still comply with this chapter.

B. An administrative tree activity permit meeting the requirements set forth in MMC 16.70.050 is required for the following activities unless a permit is required elsewhere under this section:

1. Land designated under development as determined in MMC 16.52.0670;
2. Removal at any time of a significant tree, including hazard and nuisance trees, located on private property or Washington State controlled land associated with the SR 520 highway;
3. Removal of any nonsignificant tree, including hazard and nuisance trees, located on private property or Washington State controlled land associated with the SR 520 highway that is located within 200 feet of Lake Washington pursuant to MMC 16.60.050;
4. Removal or pruning of any tree that is:
 - a. Six inches or larger diameter breast height size;
 - b. Located in any open or closed city right-of-way; and

c. Designated a hazard tree pursuant to MMC 16.52.120, or involving hazard pruning authorized by the director.

C. An administrative right-of-way tree activity permit meeting the requirements set forth in MMC 16.71.050 is required for the following activities:

1. Removal of any tree, excluding hazard trees, that is:
 - a. Six inches or larger diameter breast height size;
 - b. Located in any open or closed city right-of-way;
 - c. Application for the permit is made by the owner of property adjoining the right-of-way where the tree is located measured to the centerline of the right-of-way; and
 - d. The removal does not require a nonadministrative right-of-way activity permit under subsection (D) of this section.
2. Pruning of any tree, excluding hazard pruning, that is:
 - a. Six inches or larger diameter breast height size;
 - b. Located in any open or closed city right-of-way;
 - c. Application for the permit is made by an owner of property adjoining the right-of-way where the tree is located measured to the centerline of the right-of-way; and
 - d. Excluding pruning activity that:
 - i. Follows ANSI standards in their most recent form;
 - ii. Does not endanger the life of the tree in the opinion of the director;
 - iii. Does not remove more than 25 percent of the natural canopy of the tree;
 - iv. Does not remove a limb having a diameter greater than three inches; and
 - v. Application for the pruning is made by an owner of property adjoining the right-of-way where the tree is located measured to the centerline of the right-of-way.

D. A nonadministrative right-of-way tree activity permit meeting the requirements set forth in MMC 20.72.090 is required for the following activities:

1. Removal of any tree, excluding hazard trees, which is:
 - a. Six inches or larger diameter breast height size;
 - b. Located in any open or closed city right-of-way; and
 - c. Application for the permit is made by an owner of property who is not adjoining the right-of-way where the tree is located measured to the centerline of the right-of-way.

2. Pruning or removal of any tree, excluding hazard trees and hazard pruning, for any purpose, which is:

- a. Six inches or larger diameter breast height size;
- b. Located in any open or closed city right-of-way; and
- c. Application for the permit is made by a public or private utility or their agent.

3. Removal at any time of a significant tree, excluding hazard trees, which is:

- a. Fifty inches or larger diameter breast height size;
- b. Located in any open or closed city right-of-way; and
- c. Application for the permit is made by an owner of property adjoining the right-of-way where the tree is located measured to the centerline of the right-of-way.

E. A nonadministrative tree activity permit meeting the requirements set forth in MMC 16.72.100 is required for the following:

1. Removal at any time of a significant tree, excluding hazard trees, which is:

- a. Fifty inches or larger diameter breast height size;
- b. Located on private property; and
- c. Located outside of the footprint of a building containing the principal use of the property.

2. The director may modify the procedures for deciding a nonadministrative tree activity permit and approve the application using a Type 2 decision process provided:

- a. The subject tree is designated a nuisance tree pursuant to MMC 16.52.130; and
- b. During the public comment period, the city does not receive any written objection to a Type 2 decision decided by the director being used; and
- c. The approval criteria in MMC 16.72.100 are satisfied.

16.52.170 Tree preservation plan.

A. Permits for lands under development and permits for removing city trees in city rights-of-way shall include a tree preservation plan containing the following information:

1. A survey plan prepared by a Washington State licensed surveyor that includes the following:

- a. Topography of the site at two-foot contour intervals.
- b. Critical areas as defined in Chapters 16.50 and 16.67 MMC.

2. A site plan drawing showing the following:

- a. Proposed improvements, alterations or adjustments to the subject property including, but not limited to, buildings, driveways, walkways, patios, decks, utilities, and proposed contours.
- b. Existing structures, whether proposed to remain or proposed for removal.
- c. The shoreline jurisdiction as defined in RCW 90.58.030, if applicable to the property.

3. A tree-planting plan that includes:

- a. The location, genus, species, common name, and size of all significant trees located within the boundaries of the property and within any adjoining city rights-of-way and notation of which significant trees will be retained and which are proposed to be removed.
- b. If existing trees that are less than six inches diameter breast height are to be counted as supplemental trees, the location, genus, common name, and size of such tree.
- c. Compliance with the following objectives:
 - i. Trees shall be incorporated as a site amenity with strong emphasis on tree protection. To the extent possible, forested sites should retain their forested look, value, and function after development.
 - ii. Trees should be preserved as vegetated islands and stands rather than as individual, isolated trees scattered throughout the site.
 - iii. Trees to be preserved shall be healthy and wind-firm as identified by a qualified arborist.
 - iv. Preservation of significant trees as follows:
 - 1. Significant trees which form a continuous canopy.
 - 2. Significant trees located adjacent to critical areas and their associated buffers.
 - 3. Significant trees located within the first 15 feet adjacent to a property line.
 - 4. Significant trees which will be used as part of a low impact development (LID) storm water facility.
 - 5. Significant trees over sixty (60) feet in height or greater than twenty-four (24) inches diameter breast height.
- c. For lots larger than 20,000 square feet, excluding lots within the shoreline jurisdiction as defined by MMC 16.66.050, the tree density ratio shall be achieved as follows:

- i. At least 20 percent of the required significant trees as determined by MMC 16.52.090 shall be retained equally within the site perimeter as follows:
 - 1. 10 percent within the first 15-feet of the front property line.
 - 2. 10 percent within the first 15-feet of the rear property line.
 - ii. At least 20 percent of the required significant trees as determined by MMC 16.52.090 shall be retained within the site interior.
 - e. Compliance with the required tree density ratio pursuant to MMC Table 16.52.090(B).
 - f. If applicable, a list of supplemental trees to be planted consistent with the requirements of this chapter.
 - g. If right-of-way trees are proposed for removal, an analysis of the tree mitigation and a list of replacement trees to be planted.
 - h. The list of required tree plantings shall include the size, genus, species and common names.
 - i. As applicable, a proposed landscaping plan that includes the required tree plantings and other vegetation being planted, as appropriate, for determining compliance with other provisions of the Medina Municipal Code (i.e., grading and drainage and shoreline master program regulations).
- B. The director may authorize modifications to the tree preservation plan on a case-by-case basis that reduce submittal requirements if the director concludes such information to be unnecessary.
- C. The director may require additional information to be included with the tree preservation plan, such as tree protection measures, where the director concludes the information is necessary to determine compliance with this chapter.
- D. The applicant may combine the survey, site plan drawing, and/or tree preservation plan into a single document, or may combine the required information with other documents, provided the city determines the submitted information is reasonably easy to understand. All plans shall be drawn to a scale acceptable by the director.
- E. Permits not involving land under development do not require a tree preservation plan. However, this shall not preclude the director from requiring such information as necessary to determine compliance with this chapter.

16.52.180 Fee-in-lieu of supplemental plantings.

A. The director or designee may authorize payment of a fee-in-lieu provided:

- 1. There is insufficient area on the lot or adjacent right-of-way to meet the number of replacement inches prescribed by MMC 16.52.090; or

2. Tree replacement provided within public right-of-way or a city park in the vicinity will be of greater benefit to the community.
3. Fees shall be provided in lieu of on-site tree replacement based upon the following:
 - a. The expected tree replacement cost including labor, materials, and maintenance for each replacement tree; and
 - b. The most current Council of Tree and Landscape Appraisers Guide for Plant Appraisal.
5. The applicant executes a written agreement with the City demonstrating compliance with the criteria in this section.

16.52.190 Tree protection measures during construction.

- A. Tree protection measures shall be implemented and maintained before and during all construction activities to ensure the preservation of significant trees that are planned to be retained. Tree protection measures shall be shown on grading and drainage plans, tree protection plans, and construction mitigation plans.
- B. Tree protection measures shall include, but are not limited to, the following:
 1. Establish tree protection zones and install protective fencing at the drip line or other barriers that are at least four feet in height, except where tree protection zones are remote from areas of land disturbance, and where approved by the director, alternative forms of tree protection may be used in lieu of tree protective fencing; provided, that the critical root zones of protected trees or stands of trees are clearly delineated and protected;
 2. Limit grading levels around subject trees to not raise or lower grades within the larger of the following areas:
 - a. The drip line area of the tree; or
 - b. An area around the tree equal to one foot in diameter for each inch of tree diameter measured at DBH;
 3. Installation of a tree well, but only where necessary and only with pre-approval of the city;
 4. Designation of areas on site for parking, material and equipment storage, construction ingress and egress, and similar designated areas that do not negatively impact significant trees;
 5. Locate trenches for utilities that minimize negative effects on the tree root structure with provisions for filling the trenches with a suitable growing medium in the vicinity of the trees;
 6. Employ measures to protect critical root systems from smothering and compaction;
 7. Implement a tree care program during construction to include watering, fertilizing, pruning and pest control; and

8. Measures for the disposal of potentially harmful items such as excess concrete, polluted water runoff, and other toxic materials.

C. The director may approve deviations to the tree protection measures set forth in subsection (B) of this section if the director determines that the deviation will provide equal or better tree protection than the required tree protection measure.

16.52.200 City tree removals.

A. This section sets forth the requirements applicable to all trees located on city-owned property and city rights-of-way.

B. General Provisions.

1. This section is intended to be of general application for the benefit of the public at large; it is not intended for the particular benefit of any individual person or group of persons other than the general public;

2. In addition to the limits set forth in MMC 16.52.020, no city tree shall be broken, injured, mutilated, killed, destroyed, pruned or removed unless authorized by the provisions of this section; and

3. The exemptions in MMC 16.52.040 apply to this section.

C. Pruning and trimming of city trees is permitted provided ANSI standards in their most recent form are followed and the trimming and pruning comply with the requirements for tree activity permits set forth in MMC 16.52.160.

D. Removal of a city tree located within an open or closed city right-of-way may be allowed for the following:

1. Hazard trees designated pursuant to MMC 16.52.120;
2. Nuisance trees designated pursuant to MMC 16.52.130;
3. Trees not suitable under utility lines, or in the city right-of-way, as prescribed in the “City of Medina List of Suitable Tree Species”;
4. Any tree having less than a 10-inch diameter breast height size; and any trees not included on the “City of Medina Suitable Tree Species List” for the right-of-way having less than a 36-inch diameter breast height size;
5. Trees where pruning and trimming for utilities caused significant defects to the primary stem of the tree resulting in significant abnormal growth;
6. Trees where removal is necessary to allow vehicle access to a property;
7. Trees where removal is necessary to restore a view significantly obstructed by the tree provided all of the following criteria are satisfied:
 - a. The owner of the adjoining property to the subject tree and the city both accept allowance to have the tree removed;

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b. The person claiming the view obstruction establishes the tree causes an unreasonable view obstruction using the provisions established in MMC 14.08.040 through 14.08.080; and

c. The approval of a nonadministrative right-of-way activity permit is obtained pursuant to MMC 16.72.090.

E. Where subsection (D) of this section allows removal of a city tree, the following shall apply:

1. Removal of city trees, including hazard and nuisance trees, is permitted only if replacement trees are planted in accordance with the requirements in Table 16.52.200(E)(1), except as allowed otherwise by this section;

Table 16.52.200(E)(1) Replacement City Trees

	Diameter Breast Height of Removed Tree	Significant/Nonsignificant Tree Species	Tree Replacement
Each Tree (Include Nuisance Trees)	Less than 6 inches	All	None
	6 to 10 inches	All	Plant one tree
	Greater than 10 inches, but less than 24 inches	Nonsignificant	Plant one tree
		Significant	Plant two trees
	24 inches and larger	Nonsignificant	Plant two trees
		Significant	Plant three trees
Each Hazard Tree	6 to 10 inches	All	None
	Greater than 10 inches	All	Plant one tree

2. Replacement trees shall meet the following standards:

a. To be eligible as a replacement tree, the tree species must be selected from the appropriate list in the “City of Medina List of Suitable Tree Species” established in MMC 16.52.060;

b. Replacement trees shall be planted within the city right-of-way adjoining the subject lot;

c. Each replacement tree shall have a minimum caliper of two inches or, if the tree is coniferous, it shall have a minimum height of six feet at the time of final inspection by the city;

d. Replacement trees shall be planted in a manner of proper spacing and lighting that allows them to grow to maturity;

e. At least one replacement city tree shall be of the same plant division (coniferous or deciduous) as the city tree removed;

f. Approval to remove a city tree shall include conditions to make certain that replacement trees remain healthy and viable for at least five years after inspection by the city, including measures to replace those replacement trees that do not remain healthy and viable;

3. In addition to the requirement for replacement trees in subsections (E)(1) and (2) of this section, the public benefits lost due to the removal of the city tree shall be mitigated by paying a contribution to the Medina tree fund in accordance with the following:

a. The contribution shall be determined by multiplying the diameter breast height inches of the tree removed (significant and nonsignificant tree species) by a rate of \$25.00;

b. Where more than one city tree is removed, the contribution for each removed tree shall be added together to produce the total payment to the Medina tree fund;

c. The contribution rate for a city tree designated a hazard pursuant to MMC 20.52.120 is zero;

d. If removal of the city tree was not authorized by the city at the time of its removal, the contribution rates shall triple and be in addition to any other penalties that might apply;

e. Unless a city tree qualifies for the emergency exemption pursuant to MMC 16.52.040(B), city trees removed before a hazard or nuisance determination is made by the city shall be presumed not to be a hazard or a nuisance.

F. The following planting requirements apply within the city right-of-way when a city tree is removed:

1. The maximum number of trees in the city right-of-way shall be one tree for each 17 feet of linear public street frontage, or one tree for each 300 square feet of plantable area within the city right-of-way, whichever is greater, adjoining the subject lot;

2. The director may increase the maximum number of city trees prescribed in subsection (F)(1) of this section, provided there is sufficient space in the city right-of-way adjoining the lot to accommodate the increase in city trees;

3. If the tree replacement requirements prescribed in subsection (E) of this section would result in the total number of city trees in the right-of-way to exceed the maximum prescribed in subsection (F)(1) or (2) of this section, an applicant shall contribute \$290.00 to the Medina tree fund for each replacement tree above the maximum in lieu of planting replacement trees above the maximum;

4. If the tree replacement requirements prescribed in subsection (E) of this section would result in the total number of city trees in the right-of-way to be below the maximum prescribed in subsection (F)(1) or (2) of this section, an applicant may plant additional trees in the right-of-way, subject to the limits in subsection (F)(1) or (2) of this section, and reduce contributions to the Medina tree fund by:

- a. Six hundred dollars for each coniferous tree planted;
- b. Five hundred dollars for each deciduous tree planted; and

5. New trees shall not be planted within three feet of the edge of any paved roadway.

G. The requirements of this section may be used to satisfy the requirements set forth in MMC 16.52.210.

H. Where a proposal includes application of this section and application of MMC 16.52.090 and/or 16.52.100, the requirements for supplemental trees and restoration trees shall be applied independent of the requirements in this section for replacement trees.

16.52.210 Minimum street tree standards.

A. This section shall apply to properties adjoining the following city rights-of-way:

- 1. Minor arterial and collector street rights-of-way as defined in Chapter 10.08 MMC;
- 2. NE 8th Street;
- 3. 82nd Avenue NE between NE 8th Street and NE 12th Street;
- 4. 84th Avenue NE south of NE 12th Street; and
- 5. Evergreen Point Road north of 78th Place NE.

B. The following street tree standards shall apply when the lot adjoining the right-of-way is under development pursuant to MMC 16.52.070:

- 1. There shall be at least one city tree planted for each 300 square feet of plantable area within the city right-of-way adjoining the lot with a minimum of two trees planted; and
- 2. The new city trees planted shall have a minimum two-inch caliper with coniferous trees also having a minimum height of six feet at the time of final inspection; and
- 3. The requirements of this subsection may be satisfied with existing trees in the adjoining city right-of-way measured to the centerline; and
- 4. New city trees shall not be planted within three feet of the edge of any paved roadway; and
- 5. Trees shall be planted in an informal pattern to create a natural appearance.

C. The following exceptions shall apply:

- 1. Shrubs, trees and plantings within the required sight line areas at private drives, private lane outlets and street intersections shall not interfere with required sight distances;
- 2. The director may waive the requirements of this section if the right-of-way to be planted is planned for modification in the Medina capital improvements plan.

16.52.220 Owner responsibility within city rights-of-way.

A. All owners of property adjoining a city right-of-way shall be responsible for maintaining all trees, shrubs, and other landscaping planted in the adjoining right-of-way by the property owner or previous owner of the property, or for which responsibility has been assumed by the owner through a recorded agreement with the city.

B. All owners of the property adjoining a city right-of-way shall ensure the trees, shrubs and landscaping in the right-of-way adjoining their property do not interfere with the free passage of vehicles and pedestrians or cause any risk of danger to the public or property.

C. No hazardous or destructive tree species shall be planted in the city rights-of-way. The city shall maintain a list of suitable trees that are acceptable to be planted in city rights-of-way consistent with MMC 16.52.060.

D. The requirements of this section shall apply equally to the city rights-of-way whether the city's title to the right-of-way was obtained by dedication, condemnation, deed or in any other manner.

E. For the purpose of this chapter, an owner shall be considered adjoining up to the centerline of the city right-of-way.

16.52.230 Liability.

Consistent with MMC 16.10.070, nothing contained in this chapter shall be construed or form the basis for any liability on the part of the city, or its officers, agents, consultants or employees, for any injury or damage resulting from any person's failure to comply with the provisions of this chapter or by reason of or in consequence of any act or omission in connection with the implementation of or enforcement of this chapter.

16.52.240 Other general provisions.**A. Implementation and Costs.**

1. All costs associated with trimming and removal of trees shall be the responsibility of the applicant or property owner; and
2. Any tree trimming or removal governed by this chapter shall be performed by a state of Washington licensed tree service contractor, bonded and insured for the liabilities associated with tree removal.

B. Survey. The city may require as a condition of approving a tree removal permit that the applicant obtain a survey by a state of Washington licensed surveyor to determine if the trees described in the application are located on the subject property, or if a tree is located within a city right-of-way.

C. Supplemental Notice. The following shall supplement noticing requirements set forth in MMC 16.80.140(A) when applied to tree activity permits:

1. Notice shall be posted on or near the subject tree or trees in a manner that clearly identifies all trees being considered under the application;

2. The director may approve the use of a variety of reasonable methods to identify trees provided the methods clearly identify all trees being considered under the application; and
3. The director may require additional notices to be posted when, in the opinion of the director, it is determined necessary to provide reasonable notification to the public of a pending application.

D. Limitations on Occupancy. A certificate of occupancy shall not be issued until all required tree plantings and landscaping associated with this chapter is complete and receives final approval from the city. Temporary occupancy may be granted pursuant to MMC 16.40.100 before completion of the tree planting and landscaping work provided all of the following criteria are satisfied:

1. The property owner provides a financial guarantee to the city to ensure completion of the tree planting and landscaping;
2. The financial guarantee may take the form of a bond, line of credit, cash deposit, or another form acceptable to the city;
3. The minimum amount of the financial guarantee shall be 150 percent of the estimated cost of landscaping and required tree plantings not completed at the time of the inspection; and
4. Terms of the financial guarantee shall include, but are not limited to, conditions for approving the financial guarantee, a timeframe for the work to be completed, and terms under which the city shall release the financial guarantee.

E. View and Sunlight Obstructions Caused by Trees. Pursuant to MMC 14.08.040, unreasonable obstructions of views or sunlight by uncontrolled growth or maintenance of trees may constitute a private nuisance subject to redress as set forth in Chapter 14.08 MMC.

Attachment C

Tree Permit Number	Address	Total Tree Units	Total Actual Trees (not in units)	Sig. Tree Units Removed	Actual Sig. Trees Removed	Sig. Tree Units Remain	Actual Remaining Sig. Trees	Required Tree Units	Required Supplemental Tree Units	Actual Supplemental Trees Planted (not in units)	Sq. Ft.
TREE-15-023	2403 76TH AVE NE	60.5	71	20.5	26	40	45	19	None required	0	52,345
TREE-15-024	7916 NE 22ND ST	21.5	22	1.75	1	19.75	21	9	None required	0	24,487
TREE-15-026	1425 80TH AVE NE	5.75	6	1	1	4.75	5	4	None required	0	10,975
TREE-15-032	923 76TH AVE NE	141.75	145	1	1	140.75	144	82	None required	0	232,610
TREE-15-038	3242 78TH PL NE	11.5	13	4.5	5	7	8	7	None required	0	20,023
TREE-15-040	8703 NE 11TH ST	7.75	7	1	1	6.75	6	5	None required	0	12,653
TREE-15-042	3239 EVERGREEN PT RD	22	23	14	15	8	8	7	None required	0	20,000
TREE-15-043	7640 NE 12TH ST	11.25	12	0	0	11.25	12	7	None required	0	19,844
TREE-16-002	8658 NE 7TH ST	33	34	7.5	8	25.5	26	9	None required	0	24,550
TREE-16-003	3225 EVERGREEN POINT RD	0	0	0	0	0	0	8	8	8	20,350
TREE-16-006	2209 79TH AVE NE	5.25	6	2.5	3	2.75	3	3	0.5	1	8,119
TREE-16-013	2000 79TH AVE NE	35.5	38	20.5	22	15	16	14	None required	0	40,642
TREE-16-015	820 80TH AVE NE	8.5	9	2	2	6.5	7	5	None required	0	13,815
TREE-16-023	830 80TH AVE NE	15.25	16	5	5	10.25	11	5	None required	0	13,816
TREE-16-026	1456 76TH AVE NE	15.5	16	10	10	5.5	6	8	3	6	20,373
TREE-16-027	2656 78TH AVE NE	5	6	2	2	3	4	6	3	5	15,564
TREE-16-030	2637 77TH AVE NE	22.25	23	0.75	1	21.5	22	7	None required	0	16,240
TREE-16-031	2426 78TH AVE NE	4.75	5	0.75	1	4	4	3	None required	0	8,119
TREE-16-032	7650 NE 10TH ST	24.5	26	14.25	18	10.25	8	6	None required	0	16,051
TREE-16-033	3311 EVERGREEN POINT RD	33.75	35	8.25	9	25.5	26	10	None required	0	26,136
TREE-16-036	1632 77TH AVE NE	6.25	6	0	0	6.25	6	7	1	1	18,449
TREE-16-037	7841 NE 21ST ST	2.5	3	1.5	2	1	1	9	8	8	24,911
TREE-16-042	1013 84TH AVE NE	8.5	10	0	0	8.5	10	5	None required	0	12,163
TREE-16-048	1625 RAMBLING LN	22.5	23	0	0	22.5	23	18	None required	0	52,707
TREE-16-051	911 87TH AVE NE	6.75	7	2	2	4.75	5	6	1.25	3	17,030
TREE-16-053	7842 NE 21ST ST	35.5	36	17.75	18	17.75	18	9	None required	0	24,345
TREE-16-057	2750 EVERGREEN POINT RD	23	25	13.5	15	9.5	10	6	None required	0	16,963
TREE-16-061	7842 NE 14TH ST	20	21	9	9	11	12	8	None required	0	19,868
TREE-17-001	8400 NE 7TH ST	7.25	8	3	3	4.25	5	9	4.75	7	23,784
TREE-17-003	520 EVERGREEN PT RD	1.25	1	0	0	1.25	1	3	1.75	2	9,600
TREE-17-008	543 OVERLAKE DR E	23	25	1	1	22	24	5	None required	0	13,826
TREE-17-010	619 84TH AVE NE	17.75	18	8	8	9.75	10	8	None required	0	21,625
TREE-17-011	2625 82ND AVE NE	6.75	7	1	1	5.75	6	6	0.25	2	16,355
TREE-17-013	7871 NE 21ST ST	53	55	25.5	26	27.5	29	9	None required	0	25,763
TREE-17-022	3401 EVERGREEN POINT RD	27.25	29	1	1	26.25	28	10	None required	0	27,007
TREE-17-025	2209 79TH AVE NE	2.75	3	0.75	1	2	2	3	1	2	8,119
TREE-17-028	7819 NE 10TH ST	6.75	8	2.5	2	4.25	6	4	None required	0	10,650
TREE-17-033	1306 EVERGREEN POINT RD	20	21	11.75	12	8.25	9	6	None required	0	16,368
TREE-17-038	8233 OVERLAKE DR W	3.5	4	0	0	3.5	4	5	1.5	2	10,668
TREE-17-040	8700 NE 11TH ST	6.25	7	2	2	4.25	5	4	None required	0	11,288
TREE-17-041	7842 NE 10TH ST	11.25	12	6.5	7	4.75	5	6	1.25	2	16,000
TREE-17-044	2612 79TH AVE NE	10	10	2	2	8	8	6	None required	0	16,240
TREE-17-046	2610 82ND AVE NE	4	4	3	3	1	1	5	4	5	15,388
TREE-17-047	7545 NE 28TH PL	24.25	27	12.5	13	11.75	14	13	1.25	15	36,370
TREE-17-048	2841 76TH AVE NE	76	80	11.25	12	64.75	68	16	None required	0	44,789
TREE-17-051	3244 76TH AVE NE	12.25	13	6.5	7	5.75	6	7	1.25	1	21,208
TREE-17-054	8423 Midland Road	5.5	6	2.5	3	3	3	5	2	2	12,920
TREE-17-060	1201 76TH AVE NE	67	67	7	6	60	61	48	None required	0	136,900
TREE-18-002	7852 NE 14TH ST	9.5	10	5.5	6	4	4	3	None required	0	8,675
TREE-18-005	433 86TH AVE NE	5.25	6	0.75	1	4.5	5	7	2.75	5	17,680
TREE-18-013	1221 EVERGREEN POINT RD	79.5	86	48.75	51	30.75	35	23	None required	0	67,700
TREE-18-017	202 OVERLAKE DR E	19.25	20	13	14	6.25	6	9.5	3.25	4	26,400
TREE-18-019	515 OVERLAKE DR E	7.5	9	1	1	6.5	8	4	None required	0	9,900
TREE-18-022	3265 EVERGREEN PT RD	18.5	19	11	11	7.5	8	7	None required	0	20,023
TREE-18-023	3267 EVERGREEN PT RD	17	17	12	12	5	5	8.5	3.5	8	23,967
TREE-18-024	3263 EVERGREEN PT RD	19.5	21	10.5	11	9	10	12.25	3.5	8	34,342
TREE-18-031	8426 OVERLAKE DR W	11.75	15	8	10	3.75	5	9	5.25	6	25,828
TREE-18-032	7747 OVERLAKE DR W	23.75	25	13.5	14	10.25	11	22	1.75	5	62,153
TREE-18-035	1024 82ND AVE NE	4	4	1	1	3	3	2.5	None required	0	6,925
TREE-18-037	1655 73RD AVE NE	15.25	18	6	7	9.25	11	9	None required	8	21,720
TREE-18-038	111 84th AVE NE	53	57	24.75	27	28.25	30	28	None required	0	79,918
TREE-19-009	1637 77TH AVE NE	25	26	5.75	6	19.25	20	12	None required	0	32,614
TREE-19-019	607 86th Ave NE	14.25	15	8.75	9	5.5	6	6	0.5	1	17,036
TREE-19-021	2519 82nd Ave NE	9.5	10	2.75	3	6.75	7	5	None required	0	12,024
TREE-19-023	2230 Evergreen Point Rd	14.75	15	7.75	8	7	7	6	None required	0	16,238
TREE-19-024	8080 NE 24TH ST	4.75	5	2	2	2.75	3	6	3.25	5	15,952
TREE-19-026	7648 NE 12th St	25.5	26	16.5	17	9	9	7	None required	0	19,850
TREE-19-032	7838 NE 8TH ST	17	18	7.25	8	9.75	10	6	None required	0	15,971
TREE-19-034	2436 82nd Ave NE	24	24	4.25	4	19.75	20	6	None required	0	15,948
TREE-19-038	2231 78TH AVE NE	10.25	11	4.75	5	5.5	6	12	6.5	9	32,485
TREE-19-044	1848 77th Ave NE	17.25	18	10.75	11	6.5	7	9	2.5	4	25,586
TREE-19-045	226 Overlake Dr E	4.25	5	1.75	2	2.5	3	7	5.5	7	17,820
TREE-19-049	3300 78TH PL NE	21.25	22	12.75	13	8.5	9	7	None required	0	18,675
TREE-19-057	1405 Evergreen Point Rd	39.25	44	0.75	1	38.5	43	12	None required	0	34,105
TREE-19-058	8015 NE 28th St	10.5	11	5.75	6	4.75	5	4	None required	0	9,382

Attachment C

TREE-19-062	7823 NE 14TH ST	21.25	26	12.75	14	8.5	12	7	None required	0	19,862
TREE-19-063	2019 79TH AVE NE	42.5	43	32.75	33	9.75	10	9	None required	0	23,219
TREE-19-072	2033 77TH AVE NE	2	2	1	1	1	1	3	2	2	8,188
TREE-19-076	8297 Overlake Dr W	24.25	26	7.25	8	17	18	11	None required	0	124,636
TREE-19-080	1010 84TH AVE NE	6.75	9	3.75	5	3	4	4	1	1	8,979
TREE-19-081	442 87TH AVE NE	63	73	28.5	33	34.5	40	21	None required	0	59,480
TREE-20-002	850 80TH AVE NE	20.25	21	11	11	9.25	10	7	None required	0	17,904
TREE-20-004	8909 GROAT PT	3.75	5	0.75	1	3	4	8	5	5	23,188
TREE-20-005	444 OVERLAKE DR E	8.25	10	5	6	3.25	4	5	1.75	3	13,950
TREE-20-006	438 OVERLAKE DR E	20	22	10	12	10	10	7	None required	0	19,970
TREE-20-008	2626 78TH AVE NE	10	10	7	7	3	3	3	None required	0	8,120
TREE-20-009	2632 78TH AVE NE	7	7	2	2	5	5	3	None required	0	8,120
TREE-20-010	1407 76TH AVE NE	23.25	25	5.5	6	17.75	19	11	None required	0	30,004
TREE-20-011	2451 78TH AVE NE	6.75	7	4	4	2.75	3	3	0.25	2	8,119
TREE-20-012	619 84TH AVE NE	21.5	23	2.75	3	18.75	20	8	None required	0	21,625
TREE-20-013	7815 NE 28TH ST	11.5	14	8.5	9	3	5	3	None required	0	8,120
TREE-20-014	1645 73RD AVE NE	5.25	6	5.25	6	0	0	5	5	5	13,300
TREE-20-019	7619 NE 22ND ST	17.25	18	9.5	10	7.75	8	6	None required	0	16,303
TREE-20-042	2036 EVERGREEN POINT RD	17	18	5	5	12	13	6	None required	0	14,850
TREE-20-049	707 OVERLAKE DR E	36.75	39	21.5	23	15.25	16	7	None required	0	19,753
TREE-20-055	8024 NE 8TH ST	60.25	69	41.75	47	18.5	22	8	None required	0	22,879
TREE-20-060	1800 77TH AVE NE	26	27	10.75	11	15.25	16	11	None required	0	29,250
TREE-20-075	7811 NE 10TH ST	14.75	17	0	0	14.75	17	9	None required	0	24,127
TREE-20-080	8425 RIDGE RD	3.5	4	2.5	3	1	1	5	4	4	12,768
TREE-20-081	2621 78TH AVE NE	2	2	2	2	0	0	3	3	3	8,120
TREE-20-082	1686 77TH AVE NE	15.25	15	8	8	7.25	7	11	3.75	8	31,082
TREE-20-085	2627 78TH AVE NE	0	0	0	0	0	0	3	3	3	8,120
TREE-21-001	2226 79TH AVE NE	10	10	4.25	4	5.75	6	9	3.25	8	23,144
TREE-21-008	2604 79TH AVE NE	5.75	6	3.75	4	2	2	4	2	6	10,734
TREE-21-013	7777 OVERLAKE DR W	87.25	90	0.75	1	86.5	89	81	None required	0	230,103
TREE-21-014	550 OVERLAKE DR E	11.75	13	7	7	4.75	6	9	4.25	9	24,756
TREE-21-016	7611 NE 12TH ST	12.75	15	0.75	1	12	14	3	None required	0	8,473
TREE-21-027	2450 78TH AVE NE	1.75	2	1.75	2	0	0	3	3	4	8,119
TREE-21-032	8604 NE 6TH ST	3.5	4	1	1	2.5	3	4	1.5	2	10,239
TREE-21-053	1312 76TH AVE NE	6	6	1	1	5	5	6	1	2	16,200
Total:		2146	2290	785	839	1361	1451	1025.75	116	209	



DEVELOPMENT
SERVICES

Attachment D

LISTS OF SUITABLE TREES

501 EVERGREEN POINT ROAD MEDINA, WA 98039
PHONE: 425-233-6414/6400

PURPOSE: The suitable tree species listed under each section are for the purpose of establishing significant trees under the Medina Tree Code (Chapter 16.52 Medina Municipal Code). This list includes trees species eligible towards planting requirements.*

LIST 1: SIGNIFICANT TREE SPECIES ON PRIVATE PROPERTY**

The following trees are designated as significant tree species pursuant to MMC 16.52.050. List 1 is used in conjunction with the definition of “significant tree” set forth in MMC 16.12.200 to denote the application of the term “significant tree” in the Medina Tree Code (Chapter 16.52 MMC). Please note that not all trees in this list are eligible for credit as supplemental or restoration trees. See List 4 for tree species eligible for supplemental tree or restoration tree credit.

A. EVERGREENS (CONIFERS):

1. All, except the following:
 - a. Leyland Cypress – *Cupressocyparis leylandii*
 - b. Arborvitae – *Thuja occidentalis*
 - c. Italian Cypress - *Cupressus sempervirens*
 - d. Blue Surprise Port Orford Cedar – *Chamaecyparis lawsoniana* ‘Blue Surprise’
 - e. Wissel’s Saguaro False Cypress – *Chamaecyparis lawsoniana* ‘Wissels Saguaro’
 - f. Other species not listed that typically have a crown diameter of less than 10 feet at maturity
 - g. Trees planted, clipped or sheared into use as a hedge regardless of species

B. DECIDUOUS

1. All that coincide with United States Department of Agriculture hardiness zones 8b and 9a, except the following:
 - a. Swedish Aspen – *Populus tremula* ‘Erecta’
 - b. Skyward Bald Cypress – *Taxodium distichum* ‘Skyward’
 - c. Other species not listed that typically have a crown diameter of less than 10 feet at maturity
 - d. Trees planted, clipped or sheared into use as a hedge regardless of species

* *The list of native trees are those that are naturally occurring and propagating in the Puget Sound lowlands in the last 100 years and coincide with the USDA hardiness zone 8b.*

** *Private property includes state highway right-of-way.*

Note: *The USDA Plant Hardiness Zones helps determine which plants are most likely to thrive at a location. The zones are based on the average annual minimum winter temperature, divided into 10-degree F zones.*

List of Suitable Trees**LIST 2: SIGNIFICANT TREE SPECIES ON CITY RIGHTS-OF-WAY**

This list shall apply only where a tree is removed from city rights-of-way. It is used to distinguish significant and non-significant trees. Tree species eligible for replacement credit in the city right-of-way are set forth in List 6 and 7.

A. EVERGREENS (CONIFERS) - NATIVE:

1. Lawson Cypress – *Chamaecyparis lawsoniana*
2. Alaska Yellow Cedar – *Chamaecyparis nootkatensis*
3. Western Red Cedar – *Thuja plicata*
4. Douglas Fir – *Pseudotsuga menziesii*
5. Engelmann Spruce – *Picea engelmannii*
6. Grand Fir – *Abies grandis*
7. Pacific Silver Fir – *Abies amabilis*
8. Rocky Mountain Juniper – *Juniperus scopulorum*
9. Mountain Hemlock – *Tsuga mertensiana*
10. Western Hemlock – *Tsuga heterophylla*
11. Shore Pine – *Pinus contorta* var. *contorta*
12. Sitka Spruce – *Picea sitchensis*
13. Western White Pine – *Pinus monticola*

B. EVERGREENS (CONIFERS) – NON-NATIVE:

1. None

C. DECIDUOUS - NATIVE:

1. Pacific or Western Flowering Dogwood -- *Cornus nuttallii*
2. Vine Maple -- *Acer circinatum*
3. Red Alder -- *Alnus rubra*
4. Western Hazelnut -- *Corylus cornuta*
5. Oregon Ash -- *Fraxinus latifolia*
6. Narrow-leaved Cherry – *Prunus emarginata* var. *mollis*
7. Western Serviceberry - *Amelanchier alnifolia*
8. Black Hawthorn - *Crataegus douglasii*
9. Cascara - *Rhamnus purshiana*
10. Oregon White Oak - *Quercus garryana*
11. Pacific Crabapple - *Malus fusca*
12. Pacific Willow - *Salix lasiandra*

D. DECIDUOUS – NON-NATIVE:

1. None

List of Suitable Trees**LIST 3: LEGACY TREE SPECIES LIST**

The following trees are Legacy Tree species that if the criteria in MMC 16.52.120 are present are subject to the replacement requirements for a Legacy Tree.

A. EVERGREENS (CONIFERS):

1. Lawson Cypress – *Chamaecyparis lawsoniana*
2. Alaska Yellow Cedar – *Chamaecyparis nootkatensis*
3. Western Red Cedar – *Thuja plicata*
4. Douglas Fir – *Pseudotsuga menziesii*
5. Grand Fir – *Abies grandis*
6. Mountain Hemlock – *Tsuga mertensiana*
7. Western Hemlock – *Tsuga heterophylla*
8. Pacific Madrone – *Arbutus menziesii*
9. Shore Pine – *Pinus contorta* var. *contorta*
10. Western White Pine – *Pinus monticola*
11. Sitka Spruce – *Picea sitchensis*

B. DECIDUOUS:

1. None

LIST 4: TREE SPECIES ELIGIBLE FOR CREDIT ON PRIVATE PROPERTY

This list establishes eligibility requirements for receiving supplemental tree unit or restoration credits under MMC 16.52.130 and MMC 16.52.150 respectively. This list is used for determining existing trees that may be included as credit; and new tree plantings on private property that are eligible for credit. The list of native species in Sub-list 4A and 4C apply to determining tree retention requirements in MMC 16.52.110.

A. EVERGREENS (CONIFEROUS) - NATIVE:

1. Lawson Cypress – *Chamaecyparis lawsoniana*
2. Alaska Yellow Cedar – *Chamaecyparis nootkatensis*
3. Western Red Cedar – *Thuja plicata*
4. Douglas Fir – *Pseudotsuga menziesii*
5. Engelmann Spruce – *Picea engelmannii*
6. Grand Fir – *Abies grandis*
7. Pacific Silver Fir – *Abies amabilis*
8. Rocky Mountain Juniper – *Juniperus scopulorum*
9. Mountain Hemlock – *Tsuga mertensiana*
10. Western Hemlock – *Tsuga heterophylla*
11. Shore Pine – *Pinus contorta* var. *contorta*
12. Sitka Spruce – *Picea sitchensis*
13. Western White Pine – *Pinus monticola*

List of Suitable Trees**B. EVERGREENS (CONIFEROUS) – NON-NATIVE:**

1. Korean Fir – *Abies koreana*
2. Spanish Fir – *Abies pinsapo*
3. White Fir – *Abies concolor*
4. Incense Cedar – *Calocedrus decurrens*
5. Deodar Cedar – *Cedrus deodara*
6. Atlas Cedar – *Cedrus atlantica*
7. Cedar of Lebanon – *Cedrus libani*
8. Moss Cypress – *Chamaecyparis pisifera*
9. Dwarf Hinoki Cypress – *Chamaecyparis obtusa*
10. Smooth-barked Arizona Cypress – *Cupressus glabra*
11. Dawn Redwood – *Metasequoia glyptostroboides*
12. Swiss Stone Pine – *Pinus cembra*
13. Austrian Black Pine – *Pinus nigra*
14. Japanese Black Pine – *Pinus thunbergii*
15. Japanese Red Pine – *Pinus densiflora*
16. Japanese Cryptomeria – *Cryptomeria japonica*
17. Serbian Spruce – *Picea omorika*
18. Umbrella Pine – *Sciadopitys verticillata*
19. Bald Cypress – *Taxodium distichum*
20. Hiba Cedar – *Thuja plicata*
21. Canadian Hemlock – *Tsuga canadensis*

C. DECIDUOUS - NATIVE:

1. Pacific or Western Flowering Dogwood -- *Cornus nuttallii*
2. Vine Maple -- *Acer circinatum*
3. Red Alder -- *Alnus rubra*
4. Western Hazelnut -- *Corylus cornuta*
5. Oregon Ash -- *Fraxinus latifolia*
6. Narrow-leaved Cherry – *Prunus emarginata* var. *mollis*
7. Western Serviceberry - *Amelanchier alnifolia*
8. Black Hawthorn - *Crataegus douglasii*
9. Cascara - *Rhamnus purshiana*
10. Oregon White Oak - *Quercus garryana*
11. Pacific Crabapple - *Malus fusca*
12. Pacific Willow - *Salix lasiandra*

D. DECIDUOUS – NON-NATIVE:

1. None

List of Suitable Trees**LIST 5: REPLACEMENT TREE SPECIES FOR CREDIT ON CITY RIGHTS-OF-WAY**

The following trees are designated as eligible for receiving replacement credit on the city right-of-way. Trees planted in the rights-of-way shall ensure that sight-distance requirements are maintained and utilities will not become encumbered. If overhead power distribution or transmission lines are within 20 horizontal feet of the planting location, the replacement tree species shall be selected from List 6.

A. EVERGREENS (CONIFERS) - NATIVE:

1. Lawson Cypress – *Chamaecyparis lawsoniana*
2. Alaska Yellow Cedar – *Chamaecyparis nootkatensis*
3. Western Red Cedar – *Thuja plicata*
4. Douglas Fir – *Pseudotsuga menziesii*
5. Engelmann Spruce – *Picea engelmannii*
6. Grand Fir – *Abies grandis*
7. Pacific Silver Fir – *Abies amabilis*
8. Rocky Mountain Juniper – *Juniperus scopulorum*
9. Mountain Hemlock – *Tsuga mertensiana*
10. Western Hemlock – *Tsuga heterophylla*
11. Shore Pine – *Pinus contorta* var. *contorta*
12. Sitka Spruce – *Picea sitchensis*
13. Western White Pine – *Pinus monticola*

B. EVERGREENS (CONIFERS) – NON-NATIVE:

1. Korean Fir – *Abies koreana*
2. Spanish Fir – *Abies pinsapo*
3. White Fir – *Abies concolor*
4. Incense Cedar – *Calocedrus decurrens*
5. Deodar Cedar – *Cedrus deodara*
6. Atlas Cedar – *Cedrus atlantica*
7. Cedar of Lebanon – *Cedrus libani*
8. Moss Cypress – *Chamaecyparis pisifera*
9. Dwarf Hinoki Cypress – *Chamaecyparis obtusa*
10. Smooth-barked Arizona Cypress – *Cupressus glabra*
11. Dawn Redwood – *Metasequoia glyptostroboides*
12. Swiss Stone Pine – *Pinus cembra*
13. Austrian Black Pine – *Pinus nigra*
14. Japanese Black Pine – *Pinus thunbergii*
15. Japanese Red Pine – *Pinus densiflora*
16. Japanese Cryptomeria – *Cryptomeria japonica*
17. Serbian Spruce – *Picea omorika*
18. Umbrella Pine – *Sciadopitys verticillata*
19. Bald Cypress – *Taxodium distichum*
20. Hiba Cedar – *Thujopsis dolabrata*
21. Canadian Hemlock – *Tsuga canadensis*

List of Suitable Trees**C. DECIDUOUS - NATIVE:**

1. Pacific or Western Flowering Dogwood -- *Cornus nuttallii*
2. Vine Maple -- *Acer circinatum*
3. Red Alder -- *Alnus rubra*
4. Western Hazelnut -- *Corylus cornuta*
5. Oregon Ash -- *Fraxinus latifolia*
6. Narrow-leaved Cherry – *Prunus emarginata* var. *mollis*
7. Western Serviceberry - *Amelanchier alnifolia*
8. Black Hawthorn - *Crataegus douglasii*
9. Cascara - *Rhamnus purshiana*
10. Oregon White Oak - *Quercus garryana*
11. Pacific Crabapple - *Malus fusca*
12. Pacific Willow - *Salix lasiandra*

D. DECIDUOUS – NON-NATIVE:

1. None

LIST 6: TREE SPECIES FOR CREDIT IN RESTRICTED CITY RIGHT-OF-WAY

The tree species in List 7 shall be used for replacement credit in those locations identified as “Restricted R.O.W” in the Medina Landscape Plan set forth in Figure 3 of the Community Design Element of the Medina Comprehensive Plan. The city may accept other tree species not on the list for replacement credit provided the tree is an appropriate species to be planted where overhead utility lines or view corridors necessitate lower tree heights.

LIST 7: LOW-GROWING TREE SPECIES SUITABLE NEAR POWER LINES

The tree species in this list may be used for replacement credit when replacement trees are planted under or within 20 horizontal feet of overhead power distribution and transmission lines. The city may accept non-native tree species in this list and other non-native tree species not on the list for replacement credit provided the tree is an appropriate species to be planted near power lines.

A. EVERGREENS:

1. Mugo Pine – *Pinus mugo*
2. Tanyosho Pine – *Pinus densiflora* ‘*Umbraculifera*’
3. Dwarf Hinoki Cypress – *Chamaecyparis obtusa* ‘*Nana gracilis*’
4. Chinese Juniper – *Juniperus chinensis*
5. Swiss Stone Pine – *Pinus cembra*
6. Japanese Umbrella Pine – *Sciadopitys verticillata*
7. Bristlecone Pine – *Pinus aristata*
8. Dwarf Japanese Red Pine – *Pinus densiflora* sp

List of Suitable Trees**B. DECIDUOUS:**

1. Vine Maple – *Acer circinatum*
2. Amur Maple – *Acer ginnala*
3. Rocky Mountain Maple – *Acer grandidentatum*
4. Paperbark Maple – *Acer griseum*
5. Japanese Maple – *Acer palmatum*
6. Pacific Serviceberry – *Amelanchier alnifolia*
7. Western Serviceberry – *Amelanchier grandiflora*
8. Japanese Hornbeam – *Carpinus japonica*
9. Eastern Redbud – *Cercis canadensis*
10. Corneliancherry Dogwood – *Cornus mas*
11. Japanese Dogwood – *Cornus officinalis*
12. European Filbert – *Corylus avellana*
13. Smoketree – *Cotinus* sp.
14. Hawthorn – *Crataegus* sp.
15. Goldenrain Tree – *Koeleruteria paniculata*
16. Galaxy Magnolia – *Magnolia* 'Galaxy'
17. Star Magnolia – *Magnolia stellata*
18. Lily Magnolia – *Magnolia liliiflora*
19. Victoria Southern Magnolia – *Magnolia grandiflora* 'Victoria'
20. Carmine Crabapple -- *Malus x atrosanguinea*
21. Sargent Crabapple – *Malus sargentii*
22. Pink Perfection Crabapple – *Malus* 'Pink Perfection'
23. Radiant Crabapple – *Malus* 'Radiant'
24. Strathmore Crabapple – *Malus* 'Strathmore'
25. Persian Parrotia – *Parrotia persica*
26. Flowering Cherry/Plum – *Prunus* sp.
27. Amur Chokecherry – *Prunus maackii*
28. Mt. Fuji Flowering Cherry – *Prunus serrulata* 'Shirotae'
29. Staghorn Sumac – *Rhus typhina*
30. Red Cascade Mountain Ash – *Sorbus americana* 'Dwarfscrown'
31. Japanese Stewartia – *Stewartia pseuocamellia*
32. Japanese Snowbell – *Styrax japonicus*
33. Japanese Tree Lilac – *Syringa reticulata*

SOURCE FOR IDENTIFYING NATIVE SPECIES:

- Kruckerberg, Arthur R. *Gardening with Native Plants of the Pacific Northwest – an illustrated guide*. Seattle: University of Washington Press, 1982. Print.
- Arno, Stephen F. and Hammerly, Ramona P. *Northwest Trees – identifying and understanding the regions native trees*. Seattle: The Mountaineers, 1977. Print.
- Hitchcock, C. Leo and Cronquist, Arthur. *Flora of the Pacific Northwest – an illustrated manual*. Seattle: University of Washington Press, 1973. Print.
- Breen, Patrick. *Oregon State University Department of Horticulture Landscape Plants – Images, identification and information* (<http://oregonstate.edu/dept/ldplants/>, September 12, 2013). Corvallis, OR 97331-4501, USA.
- USDA, NRCS. 2013. *The PLANTS Database* (<http://plants.usda.gov>, 19 September 2013). National Plant Data Team, Greensboro, NC 27401-4901 USA.
- USDA Plant Hardiness Zone Map, 2012. Agricultural Research Service, U.S. Department of Agriculture. Accessed from <http://planthardiness.ars.usda.gov>.

Excerpt from Staff report memo, April 27, 2021 Planning Commission meeting

Amending tree credit value section MMC 20.52.130(C) (increase or decrease) (NEW)

At the March Planning Commission meeting, the possibility of amending the tree credit value table (MMC 20.52.130(C)) so that larger trees (36" DBH or greater) were given a value of 1.25 was suggested (the current code has trees with a DBH of 50" or greater assigned to this value). As staff began the analysis, it quickly became apparent that assigning trees that are 36" or larger the 1.25 value did not have the impact that was assumed. In fact, it did not alter the net trees of any of the analyzed permits. Instead of raising the tree credit values, perhaps reducing them would be more appropriate. In the examples, a reduced tree credit value coupled with the .4 tree density multiplier resulted in more trees either being saved through retention or by supplemental planting.

The following is an analysis of six previously approved tree permits. Using the approved applications the examples show: what was permitted per the code; increasing the value to 1.25 for trees with a 36" DBH or greater; and reducing all of the tree credit values. For ease of reference, the baseline of what is used for each example is shown in the tables below:

Table for 1st Example (current code)

Tree Type	Diameter Breast Height of Existing Tree	Tree Unit
Deciduous	6 to 10 inches	0.75
	Greater than 10 inches	1.0
Coniferous	6 to 10 inches	0.75
	Greater than 10 inches, but less than 50 inches	1.0
	50 inches and greater	1.25

Table for 2nd Example (36" and larger 1.25)

Tree Type	Diameter Breast Height of Existing Tree	Tree Unit
Deciduous	6 to 10 inches	0.75
	Greater than 10 inches	1.0
Coniferous	6 to 10 inches	0.75
	Greater than 10 inches, but less than 36 inches	1.0
	36 inches and greater	1.25

Table for 3rd Example (reduce all values by .25)

Tree Type	Diameter Breast Height of Existing Tree	Tree Unit
Deciduous	6 to 10 inches	0.5
	Greater than 10 inches	0.75
Coniferous	6 to 10 inches	0.5
	Greater than 10 inches, but less than 36 inches	0.75
	36 inches and greater	1.0

707 Overlake Drive (TREE-20-049)

This is one of the permits that Steve Wilcox discussed in his presentation. This is a property on a steep slope critical area and is a heavily wooded site.

Lot size: 19,753

Zoning: R-16

Permitted

Total Existing Tree Units: 35.5

Total Tree Units Removed: 20.75

Net Tree Units: 14.75

Required Tree Units (.35): $6.9 = 7$

Supplemental Units Required: No

Using 1.25 tree credits for trees 36" and greater and the .4 multiplier

Total Existing Tree Units: 36

Total Tree Units Removed: 21.25 (based on updated credits)

Net Tree Units: 14.75

Required Tree Units (.4): $7.9 = 8$

Supplemental Units Required: No

Reducing tree credits and the .4 multiplier

Total Existing Tree Units: 26.25

Total Tree Units Removed: 15.5 (based on updated credits)

Net Tree Units: 10.75

Required Tree Units (.4): $7.9 = 8$

Supplemental Units Required: No

Result between tree credit values – No Difference

There was no difference in increasing the tree credit value for the two trees that were 36" on this site (both of which were approved to be removed) to 1.25. Once the trees that were to be removed were subtracted from the existing tree units, there was no difference in the net tree units between the existing code and increasing the credit value for trees larger than 36". Additionally, by reducing the number of credits the trees are worth, they would have still been able to remove the same

number of trees and have more tree credits than the minimum required. No supplemental trees would have been required under any of the examples.

Result of legacy tree removal

This project removed two 36" trees. By amending the code to include trees 36" and above, this would either have required the homeowner to amend their site plan to ensure both trees were saved (the trees were located on the outer perimeter) or would have required 36" of replacement tree caliper. If the owner did not want to amend the site plan, this would have likely resulted in the homeowner requesting to use the in-lieu of planting section of the code.

**707 Overlake Drive East
Tree Credit Analysis Table**

Description	Tree Diameter	Proposed Removal	Tree Credits Per Existing Code	Tree Credits w/ 36" DBH and larger at 1.25	Tree Credits Reduced
Madrona	6	x	0.75	0.75	0.5
Douglas Fir	6		0.75	0.75	0.5
Madrona	6		0.75	0.75	0.5
Tree	6	x	0.75	0.75	0.5
Cedar	6	x	0.75	0.75	0.5
Cedar	6	x	0.75	0.75	0.5
Deciduous	8		0.75	0.75	0.5
Tree	8	x	0.75	0.75	0.5
Hemlock	8	x	0.75	0.75	0.5
Cedar	10		0.75	0.75	0.5
Cedar	10		0.75	0.75	0.5
Deciduous	10	x	0.75	0.75	0.5
Cedar	10	x	0.75	0.75	0.5
Cedar	10	x	0.75	0.75	0.5
Cedar	12		1	1	0.75
Cedar	12	x	1	1	0.75
Douglas Fir	12	x	1	1	0.75
Madrona	12	x	1	1	0.75
Douglas Fir	14		1	1	0.75
Douglas Fir	16	x	1	1	0.75
Cedar	18	x	1	1	0.75
Douglas Fir	22	x	1	1	0.75
Deciduous	22		1	1	0.75
Douglas Fir	24		1	1	0.75
Hemlock	24		1	1	0.75
Douglas Fir	24	x	1	1	0.75
Deciduous	26		1	1	0.75
Douglas Fir	26	x	1	1	0.75
Douglas Fir	28		1	1	0.75

Douglas Fir	30	x	1	1	0.75
Douglas Fir	30		1	1	0.75
Cedar	30		1	1	0.75
Douglas Fir	30	x	1	1	0.75
Douglas Fir	32		1	1	0.75
Douglas Fir	32		1	1	0.75
Douglas Fir	32	x	1	1	0.75
Douglas Fir	32	x	1	1	0.75
Douglas Fir	36	x	1	1.25	1
Douglas Fir	36	x	1	1.25	1
TOTAL			35.5	36	26.25

7815 NE 28th ST (TREE-20-013)

Lot size: 8,120 sq. ft.

Zoning: R-16

Permitted

Total Existing Tree Units: 12

Total Tree Units Removed: 8.25

Net Tree Units: 3.75

Required Tree Units (.35): $2.9 = 3$

Supplemental Units Required: No

Using 1.25 tree credits for trees 36" and greater and the .4 multiplier

Total Existing Tree Units: 12.25

Total Tree Units Removed: 8.5 (based on updated credits)

Net Tree Units: 3.75

Required Tree Units (.4): $3.2 = 4$

Supplemental Units Required: **Yes – 1 tree**

Reducing tree credits and the .4 multiplier

Total Existing Tree Units: 8.75

Total Tree Units Removed: 6.25 (based on updated credits)

Net Tree Units: 2.5

Required Tree Units (.4): $3.2 = 4$

Supplemental Units Required: **Yes – 2 trees**

Result between tree credit values – Reducing tree credits with the .4 multiplier resulted in more trees

The net tree unit number was unchanged for what was permitted per code and increasing the tree credit value for trees over 36" to 1.25. The .4 multiplier increased the requirement of a supplemental tree by 1 tree (or this could have been achieved by retaining another tree). Having the multiplier at .4 plus reducing the tree credit value resulted in 2 additional tree credits, which again could have been accomplished by retaining two more or by supplemental planting.

Result of legacy tree removal

This project removed one 44" tree that was located in the corner of the lot. It's possible that the site plan would have been amended so that the tree root wasn't disturbed and the tree could remain, or that the owners would not be willing to plant 22" of replacement tree caliper and so would ask to utilize the in-lieu of planting section of the code.

7815 NE 28th
Tree Credit Analysis Table

Description	Tree Diameter	Proposed Removal	Tree Credits Per Existing Code	Tree Credits w/ 36" DBH and larger at 1.25	Tree Credits Reduced
Cedar	7		0.75	0.75	0.5
Douglas Fir	7		0.75	0.75	0.5
Cedar	7.2		0.75	0.75	0.5
Cedar	8		0.75	0.75	0.5
Cedar	8.5		0.75	0.75	0.5
Plum	9	x	0.75	0.75	0.5
Apple	9.5	x	0.75	0.75	0.5
Hawthorne	10	x	0.75	0.75	0.5
Plum	12.6	x	1	1	0.75
Douglas Fir	18	x	1	1	0.75
Douglas Fir	24	x	1	1	0.75
Douglas Fir	26	x	1	1	0.75
Douglas Fir	28	x	1	1	0.75
Douglas Fir	44	x	1	1.25	1
TOTAL			8.25	8.5	6.25

2000 79th Ave NE (TREE-16-013)

Lot size: 40,108 sq. ft.

Zoning: R-20

Permitted

Total Existing Tree Units: 35.5

Total Tree Units Removed: 20.5

Net Tree Units: 15

Required Tree Units (.35): 14

Supplemental Units Required: No

Using 1.25 tree credits for trees 36" and greater and the .4 multiplier

Total Existing Tree Units: 36

Total Tree Units Removed: 21 (based on updated credits)

Net Tree Units: 15

Required Tree Units (.4): 16

Supplemental Units Required: **Yes – 1 tree**

Reducing tree credits and the .4 multiplier

Total Existing Tree Units: 26.5

Total Tree Units Removed: 15.5 (based on updated credits)

Net Tree Units: 11

Required Tree Units (.4): 16

Supplemental Units Required: **Yes – 5 trees**

Result between tree credit values – Reducing tree credits with the .4 multiplier resulted in more trees

Once again, the net tree unit number was unchanged for what was permitted and increasing trees over 36" to a 1.25 tree credit. The multiplier of .4 increased the requirement of a supplemental tree by 1 tree (or this could have been achieved by retaining another tree). Having the multiplier at .4 plus the reduced tree credit value resulted in 5 additional trees, which could have been accomplished by retaining more trees or by supplemental planting.

Result of legacy tree removal

This project removed one 36" tree and one 38" tree, both of which were located well outside of the building envelope. Due to their locations, it is staff's opinion that both of these trees were removed to improve the view of the golf course. Lowering the legacy tree requirements would have possibly made the owners reconsider removing these trees, or they would have most likely requested to use the in-lieu of planting section to not have to plant 37" of replacement tree caliper.

**2000 79th Avenue NE
Tree Credit Analysis Table**

Description	Tree Diameter	Proposed Removal	Tree Credits Per Existing Code	Tree Credits w/ 36" DBH and larger at 1.25	Tree Credits Reduced
Dogwood	6	x	0.75	0.75	0.5
Dogwood	6	x	0.75	0.75	0.5
Dogwood	6	x	0.75	0.75	0.5
Dogwood	6	x	0.75	0.75	0.5
Dogwood	6		0.75	0.75	0.5
Dogwood	6		0.75	0.75	0.5
Dogwood	8	x	0.75	0.75	0.5
Dogwood	8	x	0.75	0.75	0.5
Dogwood	8		0.75	0.75	0.5
Dogwood	9		0.75	0.75	0.5
Douglas Fir	10		0.75	0.75	0.5
Cherry	12		0.75	0.75	0.5
Ash	12		0.75	0.75	0.5
Ash	14	x	0.75	0.75	0.5
Cherry	15	x	1	1	0.75

Douglas Fir	16	x	1	1	0.75
Magnolia	16		1	1	0.75
Douglas Fir	16		1	1	0.75
Birch	16		1	1	0.75
Maple	17		1	1	0.75
Cedar	18	x	1	1	0.75
Douglas Fir	18		1	1	0.75
Douglas Fir	18	x	1	1	0.75
Douglas Fir	20	x	1	1	0.75
Cherry	20	x	1	1	0.75
Douglas Fir	24		1	1	0.75
Douglas Fir	24		1	1	0.75
Douglas Fir	24		1	1	0.75
Douglas Fir	25	x	1	1	0.75
Douglas Fir	26	x	1	1	0.75
Douglas Fir	30	x	1	1	0.75
Douglas Fir	30	x	1	1	0.75
Douglas Fir	30	x	1	1	0.75
Douglas Fir	32		1	1	0.75
Douglas Fir	32	x	1	1	0.75
Douglas Fir	35	x	1	1	0.75
Hemlock	36	x	1	1	0.75
Cedar	38	x	1	1.25	1
TOTAL			35.5	36	26.25

1306 Evergreen Point Road (TREE-17-033)

Lot size: 16,364 sq. ft.

Zoning: R-16

Permitted

Total Existing Tree Units: 22.75

Total Tree Units Removed: 14.5

Net Tree Units: 8.25

Required Tree Units (.35): 5.7=6

Supplemental Units Required: No

Using 1.25 tree credits for trees 36" and greater and the .4 multiplier – *this property had no trees larger than 36"*

Total Existing Tree Units: 22.75

Total Tree Units Removed: 14.5 (no trees 36" or larger)

Net Tree Units: 8.25

Required Tree Units (.4): 6.5=7

Supplemental Units Required: No

Reducing tree credits and the .4 multiplier

Total Existing Tree Units: 16.75
 Total Tree Units Removed: 10.75 (no trees 36" or larger)
 Net Tree Units: 6
 Required Tree Units (.4): 6.5=7
 Supplemental Units Required: **Yes – 1 tree**

Result between tree credit values – Reducing tree credits with the .4 multiplier resulted in more trees

Although there were no trees that were 36" or larger on this site, the increased multiplier and reduced tree credit value did result in an additional tree.

Result of legacy tree removal

This project did not have any legacy trees.

**1306 Evergreen Point Road
Tree Credit Analysis Table**

Description	Tree Diameter	Proposed Removal	Tree Credits Per Existing Code	Tree Credits w/ 36" DBH and larger at 1.25	Tree Credits Reduced
Dogwood	6		0.75	0.75	0.5
Dogwood	6		0.75	0.75	0.5
Dogwood	6		0.75	0.75	0.5
Dogwood	6	x	0.75	0.75	0.5
Dogwood	6	x	0.75	0.75	0.5
Dogwood	6		1	1	0.75
Dogwood	8	x	1	1	0.75
Dogwood	8	x	1	1	0.75
Dogwood	8	x	1	1	0.75
Dogwood	9	x	1	1	0.75
Douglas Fir	10		1	1	0.75
Cherry	12	x	1	1	0.75
Ash	12	x	1	1	0.75
Ash	14		1	1	0.75
Cherry	15	x	1	1	0.75
Douglas Fir	16	x	1	1	0.75
Magnolia	16	x	1	1	0.75
Douglas Fir	16		1	1	0.75
Birch	16	x	1	1	0.75
Maple	17	x	1	1	0.75
Cedar	18	x	1	1	0.75
Douglas Fir	18		1	1	0.75
Douglas Fir	18		1	1	0.75
Douglas Fir	20	x	1	1	0.75
TOTAL			22.75	22.75	16.75

1221 Evergreen Point Road (TREE-18-013)

Lot size: 65,556 sq. ft.

Zoning: R-30

Permitted

Total Existing Tree Units: 79.5
 Total Tree Units Removed: 29.75
 Net Tree Units: 49.75
 Required Tree Units (.35): 22.9=23
 Supplemental Units Required: No

Using 1.25 tree credits for trees 36" and greater and the .4 multiplier

Total Existing Tree Units: 79.5
 Total Tree Units Removed: 29.79 (no trees 36" or larger being removed)
 Net Tree Units: 49.75
 Required Tree Units (.4): 26.22=27
 Supplemental Units Required: No

Reducing tree credits and the .4 multiplier

Total Existing Tree Units: 59.25
 Total Tree Units Removed: 22 (no trees 36" or larger being removed)
 Net Tree Units: 37.25
 Required Tree Units (.4): 26.222=27
 Supplemental Units Required: No

Result between tree credit values – No Difference

Due to the size of the lot and the number of existing trees, there was neither a difference in having the trees that were 36" on this site (all of which were kept) have a tree credit of 1.25, nor was there any difference in reducing the tree credit values. No supplemental trees were required for any of the analyses.

Result of legacy tree removal

This project did not remove any legacy trees.

**1221 Evergreen Point Road
Tree Credit Analysis Table**

Description	Tree Diameter	Proposed Removal	Tree Credits Per Existing Code	Tree Credits w/ 36" DBH and larger at 1.25	Tree Credits Reduced
Cedar	6		0.75	0.75	0.5
Hazelnut	6	x	0.75	0.75	0.5
Cedar	6		0.75	0.75	0.5
Cedar	6		0.75	0.75	0.5
Cedar	6		0.75	0.75	0.5

Cedar	6		0.75	0.75	0.5
Cedar	6		0.75	0.75	0.5
Cedar	6		0.75	0.75	0.5
Cedar	6		0.75	0.75	0.5
Cedar	6.5	x	0.75	0.75	0.5
Cedar	8		0.75	0.75	0.5
Cedar	8		0.75	0.75	0.5
Apple	8	x	0.75	0.75	0.5
Cedar	8	x	0.75	0.75	0.5
Cedar	8		0.75	0.75	0.5
Hazelnut	8		0.75	0.75	0.5
Hazelnut	8		0.75	0.75	0.5
Ash	8		0.75	0.75	0.5
Maple	8		0.75	0.75	0.5
Cedar	9	x	0.75	0.75	0.5
Cedar	9		0.75	0.75	0.5
Cedar	9		0.75	0.75	0.5
Cedar	9		0.75	0.75	0.5
Cedar	9		0.75	0.75	0.5
Cedar	9		0.75	0.75	0.5
Cedar	9		0.75	0.75	0.5
Cedar	10		1	1	0.75
Cedar	10		1	1	0.75
Cedar	10		1	1	0.75
Douglas Fir	10		1	1	0.75
Douglas Fir	10		1	1	0.75
Douglas Fir	10		1	1	0.75
Douglas Fir	10	x	1	1	0.75
Cedar	10		1	1	0.75
Hawthorn	10	x	1	1	0.75
Douglas Fir	10	x	1	1	0.75
Douglas Fir	10	x	1	1	0.75
Cherry	10		1	1	0.75
Ash	10		1	1	0.75
Dogwood	10		1	1	0.75
Maple	10		1	1	0.75
Douglas Fir	11		1	1	0.75
Hemlock	11	x	1	1	0.75
Cedar	11		1	1	0.75
Douglas Fir	12		1	1	0.75
Cedar	12		1	1	0.75
Cedar	12		1	1	0.75
Cedar	12		1	1	0.75
Dogwood	12	x	1	1	0.75
Dogwood	12	x	1	1	0.75
Plum	12	x	1	1	0.75

Douglas Fir	12	x	1	1	0.75
Madrone	12		1	1	0.75
Madrone	12		1	1	0.75
Hawthorn	12		1	1	0.75
Cedar	13		1	1	0.75
Yew	13	x	1	1	0.75
Douglas Fir	15		1	1	0.75
Douglas Fir	15		1	1	0.75
Apple	15	x	1	1	0.75
Cedar	16	x	1	1	0.75
Cedar	16		1	1	0.75
Douglas Fir	16		1	1	0.75
Apple	16	x	1	1	0.75
Apple	16	x	1	1	0.75
Douglas Fir	16		1	1	0.75
Cedar	17	x	1	1	0.75
Douglas Fir	18		1	1	0.75
Cherry	18	x	1	1	0.75
Cedar	20		1	1	0.75
Cottonwood	20	x	1	1	0.75
Cedrus	22	x	1	1	0.75
Cypress	22	x	1	1	0.75
Douglas Fir	23		1	1	0.75
Cedar	23	x	1	1	0.75
Cedar	23	x	1	1	0.75
Cedar	26	x	1	1	0.75
Cedar	27	x	1	1	0.75
Cedar	27	x	1	1	0.75
Cedar	35	x	1	1	0.75
Cedar	35	x	1	1	0.75
Douglas Fir	36		1	1.25	1
Maple	36		1	1.25	1
Cottonwood	36		1	1.25	1
Cottonwood	36		1	1.25	1
Cottonwood	38		1	1.25	1
TOTAL			79.5	80.75	59.25

2626 78th Avenue NE (TREE-20-008)

Lot size: 8,120 sq. ft.

Zoning: R-16

Permitted

Total Existing Tree Units: 10

Total Tree Units Removed: 7

Net Tree Units: 3

Required Tree Units (.35): 3
 Supplemental Units Required: No

Using 1.25 tree credits for trees 36” and greater and the .4 multiplier

Total Existing Tree Units: 10.5
 Total Tree Units Removed: 7.5
 Net Tree Units: 3
 Required Tree Units (.4): 3.2=4
 Supplemental Units Required: **Yes – 1 tree**

Reducing tree credits and the .4 multiplier

Total Existing Tree Units: 8
 Total Tree Units Removed: 5.75
 Net Tree Units: 2.25
 Required Tree Units (.4): 3.2=4
 Supplemental Units Required: **Yes – 2 trees**

Result between tree credit values – Reducing tree credits with the .4 multiplier resulted in more trees

Again, assigning trees 36” or larger a tree credit of 1.25 did not result in much of a difference. However, the increased multiplier along with a reduction in tree credit value resulted in two additional trees, which could have been satisfied by either retaining two more trees or supplemental plantings.

Result of legacy tree removal

This project removed one 38” tree and one 39” tree. The 39” tree was located in the front of the property and the 38” was located in the rear building envelope. It’s possible that the 39” tree would have been saved but the 38” would have only been saved with a redesign of the house and possibly some sort of variance for setbacks. If the owner elected to have both trees removed, a small lot (8,120 sq. ft.) could not reasonably support 38.5” of replacement tree caliper and so they would have had to request the in-lieu of planting section.

**2626 78th Ave NE
 Tree Credit Analysis Table**

Description	Tree Diameter	Proposed Removal	Tree Credits Per Existing Code	Tree Credits w/ 36” DBH and larger at 1.25	Tree Credits Reduced
Cedar	10		1	1	0.75
Douglas Fir	15		1	1	0.75
Douglas Fir	16	x	1	1	0.75
Douglas Fir	17		1	1	0.75
Douglas Fir	17	x	1	1	0.75
Douglas Fir	26	x	1	1	0.75
Douglas Fir	29	x	1	1	0.75

Douglas Fir	33	x	1	1	0.75
Douglas Fir	38	x	1	1.25	1
Douglas Fir	39	x	1	1.25	1
TOTAL			10	10.5	8

Conclusions for reducing legacy trees to 36” or greater

Throughout the analysis of tree permits this year, it has been fairly evident that if a property is heavily wooded the homeowner can cut down a large number of trees; no slight modification or tweaking of numbers is going to change that. This is evidenced by the analysis of 707 Overlake Drive and 1221 Evergreen Point Road, both of which were heavily wooded and both of which were able to remove a large number of trees as a result. It is staff’s opinion that putting in place priorities for areas of retention should help curb the clear-cut complaints that are received. However, if after five or so more years this does not create the intended result, then the city should perhaps consider either varying tree retention requirements based on lot size or existing on-site canopy.

In analyzing six approved tree permits, raising the credit for trees that are 36” or larger to 1.25 credits did not seem to have the impact that was hypothesized at the March meeting. Permits where larger trees had been removed would not have been hindered by this additional .25 tree credit value. It’s possible that a change like that might encourage someone to save one or two additional trees, but ultimately the impact would be minimal. On average, increasing the tree density multiplier from .35 to .4 (which was voted unanimously to recommend in March) will have the result of requiring an additional tree. Reducing the tree credit values by .25 seems to result in more trees either being saved or requiring supplemental plantings more often.

Reducing the DBH of what qualifies as a legacy would require those trees to follow the legacy tree protection measures (MMC 20.52.120) which includes the replacement section. Large lots would be able to accommodate at least some of the replanting that is required more often than small lots.

Proposed Tree Code Change FAQ Visual

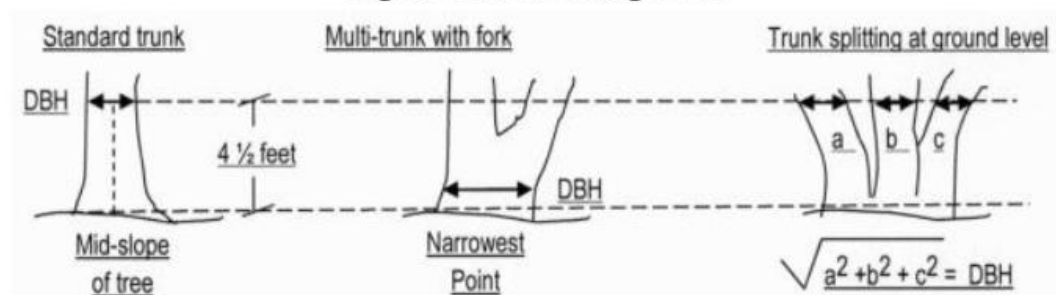
Proposed Code Change:

Lowering Legacy Trees from 50" DBH to 36" DBH

How is DBH determined?

Diameter Breast Height (DBH) is determined by measuring the outside bark of a tree trunk, 4 ½ feet (54-inches) above the surrounding existing ground surface.

Figures Measuring DBH



What does this look like?

The hula hoop has a diameter of 36". To visualize this, a tree would need to be measured 4 ½ feet from the ground and have a minimum circumference of 113 inches

Finding the DBH of a 113-inch tree:

Diameter = Circumference / π

Diameter = 113 / 3.14

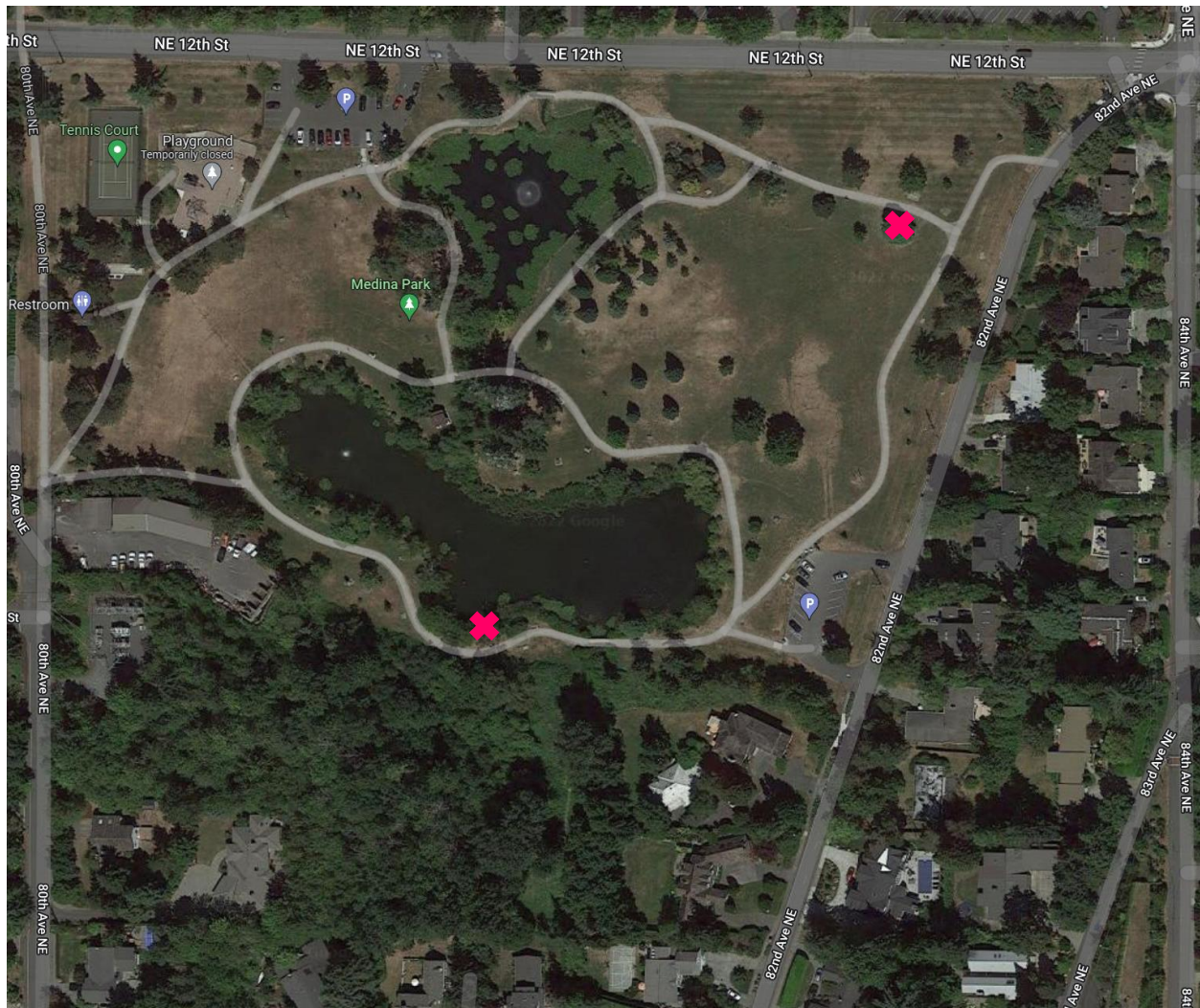
Diameter = 36

Map of Proposed Legacy* Trees Under New Code

* Just looking at DBH, not species

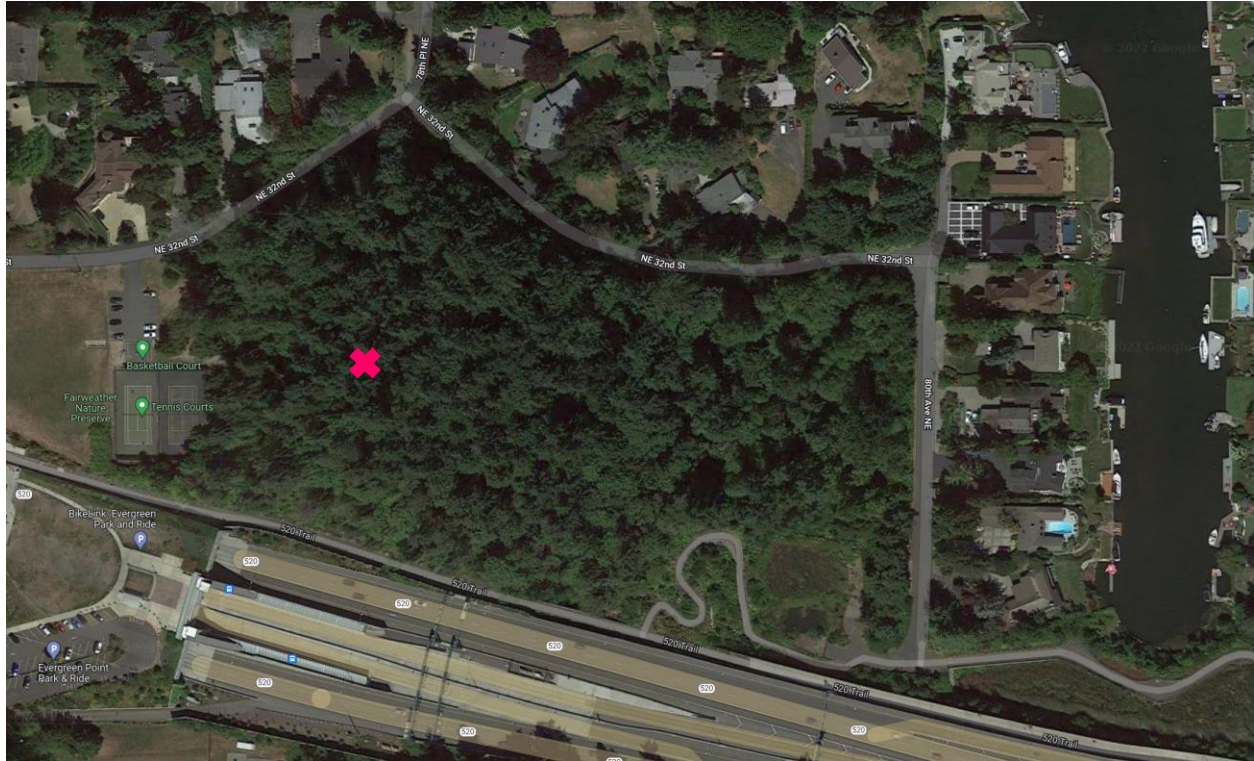
Medina Park – 2 Trees

1. 36" DBH by pond
2. 48.8" DBH by 82nd Ave



Fairweather – 1 Tree

1. 39.8" DBH – head left once you go into Fairweather and keep walking – tree will be on left





CITY OF MEDINA

501 EVERGREEN POINT ROAD | PO BOX 144 | MEDINA WA 98039-0144
TELEPHONE 425-233-6400 | www.medina-wa.gov

MEMORANDUM

DATE: May 24, 2022

TO: Honorable Mayor and Development Services Committee

FROM: Stephanie Keyser, AICP, Planning Manager and Emily Miner, Assistant City Attorney

RE: Tree Code Update 2021/2022 – Dev Svc Committee Questions and Answers

Background

Medina's previous tree code (pre-2015) was complex and burdensome. The fees were too high, the required supplemental plantings were onerous, and the code seemed to be at odds with development. Council directed Planning Commission to do a total re-write of the code in 2012. The update was done in two phases with the final adoption being in 2015. The first permit vested under the new code was submitted on August 13, 2015.

It was assumed that the 2015 update *fixed* the tree code and that it would protect one of Medina's greatest assets, its trees. It's always important to remember that there is no such thing as a perfect code, and no one will ever be able to predict all of the unintended consequences. Codes are not static and should change as the needs of the communities they serve change. In 2020, Council started to receive a lot of complaints regarding the number of trees that were being removed from the redevelopment of lots. These complaints prompted Council to place a review of the tree code on the Planning Commission's Work Plan with the direction to be *surgical* and make *minor changes* to the part of the tree code for land under development.

Planning Commission's recommendation is composed of two pieces that are complimentary but separate. Raising the density ratio and lowering the tree credit values directly addresses Council's request to make minor changes, is focused solely on lots that are under development, and on average will result in more trees on site either through being saved or through supplemental plantings. It is Staff's opinion that Council's task will be satisfied with that piece of Planning Commission's recommendation.

As Planning Commission's discussion evolved over the months, the scope expanded to include an amendment that would be applied to all lots, regardless of development status. This second piece lowered the DBH required for a Legacy tree designation (from: 50" DBH to 36" DBH or larger but less than 50" DBH) and created a new category called Landmark for those trees with a DBH of 50" and greater. The Legacy tree replacement requirements are a sliding scale that is based on lot size with smaller lots having fewer replacement caliper inches required than larger lots. Legacy and Landmark trees must be of a certain DBH and be a species on the Legacy Tree Species List:

- A. EVERGREENS (CONIFERS):
1. Lawson Cypress – *Chamaecyparis lawsoniana*
 2. Alaska Yellow Cedar – *Chamaecyparis nootkatensis*
 3. Western Red Cedar – *Thuja plicata*
 4. Douglas Fir – *Pseudotsuga menziesii*
 5. Grand Fir – *Abies grandis*
 6. Mountain Hemlock – *Tsuga mertensiana*
 7. Western Hemlock – *Tsuga heterophylla*
 8. Pacific Madrone – *Arbutus menziesii*
 9. Shore Pine – *Pinus contorta* var. *contorta*
 10. Western White Pine – *Pinus monticola*
 11. Sitka Spruce – *Picea sitchensis*
- B. DECIDUOUS:
1. None

Questions and Answers

Here are answers to some of the questions that came up during the May 5th Development Services Committee meeting:

Q. How do the replanting requirements apply on more wooded lots?

A. When it comes to lots under development, wooded lots are at an advantage because they can remove more trees and still meet the density ratio (this was the case for the wooded property on 79th that appeared to be clear cut because they just kept trees along the back of the lot). This is true under the current code, and this is still true under the proposal. When it comes to Landmark and Legacy tree designation, there is no exemption or relief for wooded lots.

Q. Are the requirements more stringent on such lots? (i.e. do they apply any differently because the property has a greater tree canopy baseline?)

A. No, the requirements are not more stringent they are the same. However, heavily wooded lots would likely be unable to meet the replanting requirements.

Q: For example, a heavily wooded lot removes a 36” DBH tree. How much do they have to replant and what are the alternatives?

A. Legacy tree replacement plantings are a sliding scale based on lot size so it would depend on the size of the lot. The following examples are assuming one 36” DBH tree is removed:

If the lot was less than 10,001 square feet, the number of replacement inches is 10% of the removed DBH. They would need to plant 4 inches or 2, 2” trees ($36 \times .1 = 3.6 = 4$ (rounded up to the next whole number)).

If the lot was 10,001-13,000 square feet, the number of replacement inches is 15% of the removed DBH. They would need to plant 6 inches or 3, 2” trees ($36 \times .15 = 5.4 = 6$ (rounded up to the next whole number)).

If the lot was 13,001-15,000 square feet, the number of replacement inches is 25% of the removed DBH. They would need to plant 9 inches ($36 \times .25 = 9$). They could accomplish this by either planting 5, 2" trees or 3, 3" trees.

If the lot was 15,001-20,000 square feet, the number of replacement inches is 35% of the removed DBH. They would need to plant 13 inches ($36 \times .35 = 12.6 = 13$ (rounded up to the next whole number)). They could accomplish this by planting 7, 2" trees or 5, 3" trees.

If the lot was greater than 20,000 square feet, the number of replacement inches is 50% of the removed DBH. They would need to plant 18 inches ($36 \times .5 = 18$). This could be accomplished by planting 9, 2" trees, or 6, 3" trees.

If the property was unable to meet the replanting requirements, they could do the replanting in the adjacent ROW, they could plant within another public ROW or a city park, or they could pay a fee-in-lieu.

Q. Re: heavily wooded lots, what is the perceived benefit to applying the code this way?

A. Creating a new Legacy tree category sends a clear policy directive that trees are important in Medina. It does not make sense to designate something as important and then regulate it separately depending on the status of development on the lot. If two different replanting requirements were created, this is something that could very easily be circumvented by an applicant applying for a tree permit a few months before a building submittal, or by a seller cutting down trees before they sell their house. From a staff perspective, there's less administration on the City side by treating these trees the same regardless of development status.

Q. How many trees would a property owner not developing their property, versus a property owner with a lot under development, have to replant for removing one legacy and one landmark tree?

A. There is no difference in requirements based on land under development. Again, the mitigation is dependent upon the size of the lot and the DBH removed for legacy trees. Landmark trees (50" DBH and above) have a one-to-one replacement requirement. Taking the most stringent example, a 20,000+ square foot lot removes one 36" Legacy tree and one 50" Landmark tree. The mitigation required would be 18 inches for the Legacy tree and 50 inches for the Landmark for a total of 68 inches or 34, 2" trees. Obviously, very few lots would be able to accommodate this number of trees, so they would then look at planting off site or doing fee-in-lieu.

It should be noted that a primary reason for the creation of an additional class of trees is to prevent them from being cut down. As we saw during our analysis, it's easy for these larger trees to come down right now. The intent is to make people pause before cutting down a healthy tree in the corner of their lot to get a better view of the golf course.

Q. How many legacy and landmark trees are there in Medina?

A. The only data we have is based on the permits for tree removals that have been submitted since 2015. As part of this discussion, staff looked at 295 tree permits. The table below uses the proposed new code's parameters (new Legacy 36-less than 50 and Landmark 50 and above):

Removed		Remain	
Landmark	2	Landmark	7
50" and greater but not considered Landmark	5	50" and greater but not considered Landmark	7
Legacy	83	Legacy	118
36"-less than 50" but not considered Legacy	8	36"-less than 50" but not considered Legacy	23
Total Trees	98	Total Trees	155

Using the new code's definitions, 2 Landmark trees and 83 Legacy trees have been removed since 2015. 5 trees that are larger than 50" but not considered Landmark and 8 trees larger than 36" but less than 50" and not considered Legacy were also removed. The total trees in all categories removed is 98.

Based on the applications, 7 Landmark trees and 118 Legacy trees remain. Additionally, there are 7 trees larger than 50" but not considered Landmark and 23 trees larger than 36" but less than 50" and not considered Legacy that also remain.

Q. Why can't the City have different definitions for Legacy and Landmark trees on lots under development versus not under development?

A. They can, but it will create more administrative tracking problems and will require an entirely new procedure for determining replanting requirements for lots not underdevelopment. This will also be something that applicants can easily circumvent by cutting down trees before submitting a building permit or having a seller cut down trees before the sale closes. Staff would strongly discourage this.

Q. How does tree density ratio impact the tree replanting analysis?

A. The density ratio informs how many tree units are required on site. The proposal increases the density ratio by .05 from .35% to .4%. For example, a 10,000 square foot lot is required to have 4 tree units ($10,000 / 1,000 \times 0.4 = 4$ units). If a lot doesn't have enough tree units to meet that minimum density ratio, they will have to plant supplemental trees.

Q. What complaints did the City receive related to the 2015 tree code update?

A. Most complaints would have gone to Tom Early but there have definitely been complaints about the complexity of the tree application.

Q. Did the code go far enough for new construction?

A. For lots undergoing redevelopment, the changes will result (on average) in one additional tree being saved. It's important to keep in mind that this is a cumulative effect. Planning Commission

Attachment H

was deliberate in trying to balance the desires of the residents to redevelop their properties with the value of retaining existing trees.

Q. Did the code go too far for existing owners?

A. The general consensus from Planning Commission was that the existing code is too lax when it comes to the removal of larger trees; it is acknowledged that this wasn't their assigned task. To make owners think twice about removing larger trees, the mitigation was intentionally created to be high but also attempted to not be overly burdensome. In the existing code for land not under development, if a resident removes a tree 24" DBH to less than 50", they are required to plant 3 trees. If they remove a legacy tree (in the current code a legacy tree is 50" or greater), they are supposed to plant $\frac{1}{2}$ the DBH removed, i.e. a 50" DBH legacy tree requires 25" of replacement inches). A hazard tree 10" or greater requires one tree.

Stephanie Keyser

From: Stephanie Keyser
Sent: Friday, November 5, 2021 5:49 AM
To: Allyson Jackson
Subject: RE: proposed tree ordinance

Hi Allyson,

Thank you for these comments! There is a proposal to lower what counts as a legacy tree from 50" to 36" which would be applicable to all lots. Removing one of these trees would require mitigation, but on a sliding scale based on lot size. This is a part of the proposal that has generated public comment, so I'm not sure if this suggestion will ultimately be passed. There will not be a vote on the amendments at Monday's Council meeting, it's just a public hearing on the proposal. Council can send the proposal or pieces of it back to Planning Commission to reconsider or rework, which I think is a possibility for this piece.

Your interpretation of that line is correct—it's an existing piece of the code where trees that are within the site of the new house don't count if they're less than 36" DBH, which is a pretty big tree. Planning Commission is suggesting that number is lowered to trees that are less than 24" DBH.

Let me know if you have questions!
 Stephanie

From: Allyson Jackson <abjack5@comcast.net>
Sent: Thursday, November 4, 2021 8:22 PM
To: Stephanie Keyser <skeyser@medina-wa.gov>
Subject: RE: proposed tree ordinance

Thank you Stephanie.

I am so glad that the City is reviewing the tree ordinance for properties under development. I have been so shocked and saddened seeing some of the properties basically clear cut for a new house to be developed and some stands of beautiful old evergreens taken down.

My hope is that this applies primarily to new development in order to avoid clearcutting or the situation where just a few trees are left along a property line. As a long time homeowner, the tree ordinance can be very cumbersome and expensive for those of us trying to take out a tree here or there that has become too invasive or too large for the space and is negatively impacting the health of other landscaping etc. It's a balance for sure! ☺

Also, I noted one line in the verbiage of the ordinance about regulations not applying to trees within the building perimeter. I may not be understanding this correctly but want to make sure this does not mean that a developer or property owner can avoid regulation requirements for taking down trees that fall within the perimeter of new development. With the huge houses being developed these days, this in effect would allow clearcutting of everything where the new house is!

Thanks!
 Allyson

From: Stephanie Keyser [<mailto:skeyser@medina-wa.gov>]
Sent: Tuesday, November 02, 2021 6:39 AM

To: Allyson Jackson <abjack5@comcast.net>

Subject: RE: proposed tree ordinance

Hi Allyson,

Yes! Attached please find a summary of the amended/proposed sections of the tree code update. Additionally, the [tree code website](#) will continue to be updated with information over the next few days (including the final version of the proposed draft).

Please let me know if I can answer any questions!

Thanks,
Stephanie

From: Allyson Jackson <abjack5@comcast.net>

Sent: Saturday, October 30, 2021 9:58 AM

To: Stephanie Keyser <skeyser@medina-wa.gov>

Subject: proposed tree ordinance

Hi Stephanie,

I have reviewed the redlined chapter on changes to the tree code. It's complicated and hard for the average person to understand the impact of all the proposed changes without spending hours studying it. Is there a summary of the proposed changes that explains the overall intent/impact that the proposed changes are intended to have.

Appreciate any info you can provide.

Thank you,

Allyson Jackson

7633 NE 14th St

Medina, WA 98039

Stephanie Keyser

From: Allyson Jackson <abjack5@comcast.net>
Sent: Monday, November 8, 2021 12:42 PM
To: Stephanie Keyser
Subject: Re: proposed tree ordinance

Hi Stephanie. Thank you for that info. I am traveling today so not easily able to forward any comments for public hearing. If comments need to be submitted in time for public hearing, I'm wondering if you can forward my previous comments and the ones below?

My husband and I have shocked and saddened by the number of lots that have been basically clear cut for new development. We are particularly concerned about the language in the existing code that allows developers to avoid mitigation for trees less than 36 dbh if they are within the perimeter of the proposed development. This single line may be one of the reasons we are experiencing so many clear cut sites. A 36 dbh tree is incredibly large so exempting everything larger than that includes a lot of larger trees. This exemption allows developers to site the new structure in a way that allows for maximum removal of trees without mitigation. In addition with so many really large homes being built and replacing smaller footprint homes, again the result is the easy removal of a large percentage of trees on the lot without any mitigation. This exemption essentially gives a hall pass to developers, while at the same time, home owners who want or need to remove a single tree, are subject to the full mitigation requirements and complexity of the code even though their impact on tree canopy is minimal.

I encourage council and the planning commission to relook at the impacts of this one development exemption and significantly tighten it up. Thank you for your consideration.

Allyson Jackson

e

Sent from my iPhone

On Nov 5, 2021, at 7:49 AM, Stephanie Keyser <skeyser@medina-wa.gov> wrote:

Hi Allyson,

Thank you for these comments! There is a proposal to lower what counts as a legacy tree from 50" to 36" which would be applicable to all lots. Removing one of these trees would require mitigation, but on a sliding scale based on lot size. This is a part of the proposal that has generated public comment, so I'm not sure if this suggestion will ultimately be passed. There will not be a vote on the amendments at Monday's Council meeting, it's just a public hearing on the proposal. Council can send the proposal or pieces of it back to Planning Commission to reconsider or rework, which I think is a possibility for this piece.

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Appreciate any info you can provide.

Thank you,
Allyson Jackson
7633 NE 14th St
Medina, WA 98039

Stephanie Keyser

From: COLIN RADFORD <c.radford@comcast.net>
Sent: Wednesday, November 3, 2021 3:40 PM
To: Stephanie Keyser; Council
Subject: RE: Response to Medina 2021 Tree Code Amendments-Legacy and Landmark Update Proposal

Thank you, Stephanie;
 I know a lot of us really care and would like the opportunity to think and respond before rushing into an ordinance revision.

Colin

On 11/02/2021 1:21 PM Stephanie Keyser <skeyser@medina-wa.gov> wrote:

Hi Colin,

Thanks for your comments; they will be entered into the record. I would like to clarify a couple of points in **green**.

- **Oct. 14:** 2021 Tree Code Update Virtual Open House
- First public notice via presentation of proposed Tree Code Amendments. **The first notice was sent out on August 27th to Medina residents that Planning Commission was working on a tree code update—I did receive some emails from residents after the notice was sent out.**
- **Oct. 15:** Tree Management Code Chapter 20.52
- Proposed red-lined draft version made available on city's website referencing proposed changes provided day before **The date of the draft indicates the date the document was worked on, which I can see is confusing. A final/completed version of the draft will be available on Friday.**
- **Oct. 19:** Planning Commission, Public Hearing
- Agenda available online but no minutes available. No minutes for September meetings. Last available minutes were provided in July. **Planning Commission minutes aren't finalized until City Council adopts them. However, the draft minutes from the previous meeting are always included in the packet for the next Planning Commission meeting. For example, the October 19th Planning Commission packet has the minutes from the September 28th meeting. Everything is available on the Planning Commission [website](#).**
- **Oct. 22:** Medina 2021 Tree Codes Amendments – Legacy and Landmarks Memorandum

- Document presents modifications to the proposed changes identified in both the 10/14 presentation and the 10/15 red-lined Tree Management Code draft.
- No records are currently available to the public to confirm whether these modifications are in alignment with what the Planning Commission voted on. **Everything is available on the Planning Commission [website](#) in the packets—all of the changes have been approved by Planning Commission.**
- **Nov. 8:** City Council Public Hearing
 - What is the definition of proper public notice for amendments/changes to city codes? **The first [notice](#) was sent out to the public on August 27th. Planning Commissions notice of hearing was sent out September 30th. Council's notice of hearing was sent out October 20th.**
 - When will the public have access to the Planning Commission's approval of the currently "unknown" proposed amendments? **Everything is available on the Planning Commission [website](#) in the packets. The final Council packet will be available this Friday, November 5th.**
 - Does this fit within the window of time between receipt of public notice and the scheduled public hearing? **Yes, it does. We are required to post/mail/notice public hearings at least 15-day in advance.**
- **Dec. 13:** City Council Tentative Adoption

Proposed Amendment to Legacy tree protection measures (MMC 20.52.120)

On the off-hand chance that the tree ordinance will be considered in November meetings, I request your consideration of the following: **Council is just having a public hearing in November—no action will be taken to adopt anything during that meeting.**

Thanks,

Stephanie

From: c.radford@comcast.net c.radford@comcast.net

Sent: Saturday, October 30, 2021 9:59 AM

To: Stephanie Keyser skeyser@medina-wa.gov

Subject: Response to Medina 2021 Tree Code Amendments-Legacy and Landmark Update Proposal

October 29, 2021

FR: Colin W. Radford

RE: Medina 2021 Tree Code Amendments – Legacy and Landmark Updates

Response to Memorandum dated October 22, 2021, from Stephanie Keyser, AICP, Planning Manager and upcoming proposed changes to MMC 20.52.120.

I understand that the tree ordinance has re-surfaced and proposed modifications are now on the docket to modify the Tree Management Code Chapter (MMC 20.52). As a life-long resident of Medina with family roots here going back to 1921, I have always appreciated the opportunity to have a voice and say in my community's path forward. For this reason, I would like to share some thoughts on the current situation regarding the suggested Tree Code Amendment and the timeline to vote.

Public Participation

Our greatest individual public power is the power to vote. The ability to participate in the democratic process of sharing one's opinion and support (or lack of) for any given topic that impacts us as individuals and as a group is key to our overall harmony as a society.

I question whether the current timeline surrounding the Tree Code Amendment is sufficient for proper consideration. I am concerned that the upcoming City Council meeting on Nov. 8 will be held without adequate notice or discussion by Medina residents/citizens. This occurred previously during the employment of Robert Grumbach as chief enforcer of regulations. If there is a code change I would support, it is that no code changes can be voted on or changed unless the changes are advertised and made available for review not less than 30 days prior to any vote being taken.

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- **Dec. 13:** City Council Tentative Adoption

Proposed Amendment to Legacy tree protection measures (MMC 20.52.120)

On the off-hand chance that the tree ordinance will be considered in November meetings, I request your consideration of the following:

Lake Washington was lowered over 100 years ago to expose land now wooded and landscaped. Photographs of the Medina landscape from that time show that all of Medina, including the present Overlake G&C property and Medina Parks areas had fewer trees then than now.

The proposed code changes at the last public hearings on the tree ordinance failed to take into consideration many important aspects of city planning and the health of trees:

- Slopes and soils.
- Locations near public rights of way and utility lines.
- The needs of trees to grow uncrowded: root and foliage characteristics.
- Canopies of various trees that compete or benefit one another.
- Normal lifespans of tree varieties.
- Deaths and damage caused by trees within Medina and surrounding neighborhoods (although rare).

I would hope that requirements for cutting and planting of potentially large trees would take into consideration power lines, roadways, sewer lines as well as view corridors. Perhaps the changes in the tree ordinance should be primarily aimed at new construction.

Indeed, there is so much to consider when law-making for plants that may live to be over 50 years old.

Stephanie Keyser

From: COLIN RADFORD <c.radford@comcast.net>
Sent: Friday, October 29, 2021 3:15 PM
To: Stephanie Keyser
Subject: Response to Tree Code Amendment Proposal
Attachments: Tree Ordinance Response-10.29.21.docx

October 29, 2021

FR: Colin W. Radford

RE: Medina 2021 Tree Code Amendments – Legacy and Landmark Updates

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 - What is the definition of proper public notice for amendments/changes to city codes?
 - When will the public have access to the Planning Commission's approval of the currently "unknown" proposed amendments?
 - Does this fit within the window of time between receipt of public notice and the scheduled public hearing?
- **13: City Council Tentative Adoption**

Proposed Amendment to Legacy tree protection measures (MMC 20.52.120)

On the off-hand chance that the tree ordinance will be considered in November meetings, I request your consideration of the following:

Lake Washington was lowered over 100 years ago to expose land now wooded and landscaped. Photographs of the Medina landscape from that time show that all of Medina, including the present Overlake G&C property and Medina Parks areas had fewer trees then than now.

The proposed code changes at the last public hearings on the tree ordinance failed to take into consideration many important aspects of city planning and the health of trees:

- Slopes and soils.
- Locations near public rights of way and utility lines.
- The needs of trees to grow uncrowded: root and foliage characteristics.
- Canopies of various trees that compete or benefit one another.
- Normal lifespans of tree varieties.
- Deaths and damage caused by trees within Medina and surrounding neighborhoods (although rare).

I would hope that requirements for cutting and planting of potentially large trees would take into consideration power lines, roadways, sewer lines as well as view corridors. Perhaps the changes in the tree ordinance should be primarily aimed at new construction.

Indeed, there is so much to consider when law-making for plants that may live to be over 50 years old.

Respectfully,

Colin W. Radford

I request that these comments be considered as part of the Planning Commission public hearing scheduled for October 19, 2021.

It is well documented that the Tree Code Update 2021 (Tree Management Code Chapter 20.52) is intended for new construction. The term "new construction" is used numerous times in various city documents, social media, and in the open house. During the Open House, Commissioner Nelson requested that I inform the Planning Commission of language that I believe causes the proposed tree code to affect properties other than new construction.

A. AFFECTS MORE THAN NEW CONSTRUCTION ISSUE (INFORMATION REQUESTED BY COMMISSIONER NELSON)

If the Commission adopts proposed tree code changes discussed at the Open House, I urge the Commission to modify the code such that it does not affect properties not under development.

1. Diagram 20.52.040 Delete "Landmark" of the box "Is the tree a legacy or landmark tree.
2. 20.52.120 Keep the same without any of the proposed changes and remove all redlined (added text). Then create a new section 20.52.121 which introduces a term "New Construction Legacy Tree". The language in the red line version of 20.52.120 would then be copied to this new 20.52.121 except the term "New Construction Legacy Tree (NCLGT)" would be used as well as "New Construction Landmark Tree (NCLMT)". The purpose of a separate 20.52.120 and 20.52.121 is so that there will be no change to properties not under development.
3. 20.52.100(A)(4) should be modified, replacing "500 square feet or 15 percent" to "1500 square or 50 percent". The rationale is that if one wants to add only a modest garage and a room, they should not be considered to meet the standards required of constructing a large house.

I know of a Medina resident (initials D.D.) who has a very modest house and no garage. If that resident were to build simply a one car garage, the property would be subject to onerous property under development tree regulations. Should he be punished with bureaucratic complexity for simply building a one car garage when many Medina residents already have 2 or 3 car garages?

It is conceivable that an elderly Medina resident may need to build a handicapped accessible bathroom and adjacent bedroom. Such modest addition could trigger onerous compliance under development tree regulations.

The needs of elderly Medina residents are not merely theoretical. I had a neighbor (initials A.B.) who moved from Medina to downtown Bellevue as a result of circumstances related to the tree code. His easement driveway was narrow and constricted because of a tree that could not be cut down because the then Director (no longer with the City of Medina) determined that there was no threat to life. The tree had,

a few weeks earlier, prevented an ambulance from accessing his property during a medical emergency. His wife expressed to me concern that he could die the next time an ambulance was needed and was unable to pass. The elderly man later cited his age and infirmity as the reason for his moving from Medina. The Bellevue Fire Department wrote a letter to the city to confirm the inability to access due to an offending tree.

B. EVIDENCE DOES NOT SUPPORT NEED FOR TREE CODE CHANGES

The stated purpose of the Tree Code Update 2021 is described in a September 21, 2021 memorandum from city staff to the city council found at <https://mccmeetingspublic.blob.core.usgovcloudapi.net/medinawa-meet-fa4d819369294bdcafa55c4798af82a6/ITEM-Attachment-001-653714c88a2e48e4adc59e45f5289208.pdf>.

This document states *"In 2020, a handful of redevelopment projects caused a visceral reaction from the community. These redevelopments appeared to be able to cut down a significant number of trees which gave the land a stark, clear-cut appearance."* (see p. 1 of 121, background).

Stephanie Keyser, ACIP, Planning Manager kindly responded to a request to identify these projects. The identified projects are located at 1818 77th Ave NE, 2019 79th Ave NE and 707 Overlake Drive East. Construction on the first property appears to have been completed. The latter two properties are currently under construction. It is useful to evaluate these three properties because they are the fundamental basis for Tree Code Update 2021 as stated in documents authored by the city.

1818 77th Avenue NE

Attached are photographs of the property in 2011 (source: Google Street View, date of image at the bottom) and October 2021. The current new house is significantly more attractive than the previous property. The current landscaping is very well kept and attractive as compared to 2011. When facing the front door, the current house has large trees to the right and to the left as well as in front of the house. It is unreasonable to consider this property as clear cutting of trees. In short, it is a beautiful house and property. This property is an improvement to the city and evidence that there is not a need for a stricter tree code.



The detailed landscaping is also situated behind the sidewalk and in front of the entire house.



Foreground, background, and most trees to the photo's right in the subject property.



Note that neighboring property to the left lacks the tall trees of subject property



Google Street View of the old house. It is a small house out of character from its neighbors.

2019 79th Ave NE

The house is currently under construction. The previous house was in poor shape with visibly broken driveway pavement, overgrown vegetation, and a house which is significantly smaller and more spartan than the average house in Medina and in that city block. In view of the house being under construction and in an early stage of construction, it is not possible to judge the aesthetics of the house or future landscaping. However, the current state of trees is compatible with its neighbors. Attached are photographs of houses that are neighboring properties or across the street. All of them have approximately the same tree canopy appearance as the subject property, 2019 79th Ave NE. Some may consider the property's condition prior to construction as an eyesore, overgrown with trees, and not in character with the neighborhood. If that is the case, this construction is an improvement to the city and not evidence of a need for a stricter tree code.



subject property.



next door neighbor. Trees on the left mostly belong to the subject property, not this house.



directly across the street from the subject property. This property has essentially no trees in front. These two properties demonstrate that the subject property has the same visual character, if not more visible trees.

707 Overlake Drive East

Attached are photographs of the property in 2019 (source: Google Street View, date of image at the bottom) and October 2021. In view of the house being under construction and in an early stage of construction, it is not possible to judge the aesthetics of the house or future landscaping. However, the current state of trees viewing from Overlake Drive East remains forested (compare pre-construction Google Street View versus October 2021 where it appears that all trees have been retained). Furthermore, attached is a photograph of the property's next door neighbor. The neighboring property is attractive but has far less vegetation and trees than the subject property, 707 Overlake Drive East. This construction shows that the property is

compatible and more heavily forested than the neighboring property and not evidence of a need for a stricter tree code.



Subject property. Street is Overlake Drive

East. 707 mailbox (white) is on the left.



Historical photo from Google Street View from almost identical angle. White mail box of the 707 Overlake Drive East property is to the left but difficult to see.



Some of the trees in the photo belong to the 707 subject property. This is the neighbor of 707. The street frontage does not compare with the street frontage of the 707 Overlake Drive East property (which was the subject to a complaint causing Tree Update 2021 to be written).

Conclusion

Despite the statement that “(t)hese redevelopments appeared to be able to cut down a significant number of trees which gave the land a stark, clearcut appearance.” (see p. 1 of 121, background, 9/21/2021 city memo)., the above description and photographs of the three properties in question do NOT document a stark clear cut appearance that is inconsistent with its neighbors.

In the only example where construction has been completed, the property is very attractive, both in the house, landscaping, and trees. For this reason, I urge the Planning Commission to request that the City Council allow the Commission to temporarily cease work on the Tree Code Update 2021 and consider that no update is needed. Even more productive would be a temporary one year suspension of the tree code as it relates to development, which could provide evidence whether a tree code should even exist. In the worst possible scenario, the amount of construction in one year would not change the character of the city but could provide valuable guidance and direction.

C. ALTERNATIVES TO TREE CODE UPDATE 2021 (or alternatives to conclusion of Section B.)

The Tree Code Update does not specify where significant trees should be located on properties under development that are new construction. Medina residents who view houses typically view them from the street, not from an airplane or trespassing in the backyard. In view of this behavior, it is likely that Tree Code Update 2021 will not end occasional tree complaints to the city.

Therefore, consider replacing the complex performance requirements of Tree Code Update 2021 with a MMC 20.52.122 reading along the lines of:

“All properties under development which consist of predominantly construction of a new structure or 50% or greater expansion of an existing structure shall have two significant trees situated between the structure and the public road. If the frontage of the property along the public road exceeds 75 feet, three significant trees shall be situated between the structure and the public road and one additional significant tree for each 50 feet in excess of 125 feet of public road frontage. If the distance between the structure and the public road is less than 40 feet, non-significant trees or bushes may be planted in lieu of significant trees.”

D. ADDITIONAL CONSIDERATIONS

Excessive time for tree permits

In the agenda packet, there are two projects where the application date and approval date is disclosed. In both cases, approval took between 6 and 7.5 months to approve. (p. 83 of 121, 9/25/2019 received and 5/7/2020 approved; p. 112 of 121, 1/29/2020 received and 7/30/2020 approved).

Consider adding a provision to Tree Code Update 2021 along the lines of:

MMC 20.52.126 If tree permits for properties under development exceed an average of eight weeks between the date of submission of a complete application for permit and the date of approval based on the average of all tree permits for properties under development for a two calendar year period, the city shall complete a study within six months to reduce the complexity of tree regulations.

Safety concerns and mathematical re-calculations

1. There are currently no provisions in the tree code for extremely tall trees. If the height limitation of a house is 36 feet, consideration should be given to whether trees greater than 72 feet are not desirable or are more hazardous. A good tree plan would be where residents continually cut and replant trees. Historically, Medina was completely harvested for lumber more than 100 years ago, which improved public safety. Eventually, Medina should re-harvest trees, albeit on a careful and staggered timetable. Trees might be like long hair. Long hair can be attractive but can become too long at a certain point.



(credit: SBS TV, Australia)

2. During the Open House, there were comments about no consideration given to how much space is needed for tree roots of a mature tree. There is a danger that increased tree requirements may result in difficulty in compliance despite good faith efforts by homeowners.

If a 10,000 sq. ft. property may have 55% impervious surface, that leaves 4,500 sq. ft. remaining. If it is deemed that trees should not be closer than 20 feet from the house to prevent damage to the foundation and/or sewage system and/or tree roots, this may reduce the amount of land for trees to 3,000 sq. ft. If 4 significant tree units result in 8 trees and if each tree should have a 20 ft. x 20 ft. space for proper tree root growth, this results in needing 3,200 sq. ft. One should note that earlier in the calculator, only 3,000 sq. ft. is available. Furthermore, there may be no more room for any other yard use, such as vegetable planting or recreational use.

3. There was no explanation during the Tree Code Open House as to the rationale for selecting an increased tree density ratio in proposed Table 20.52.130(B) from 0.35 to 0.40. In particular, at 0.40, the tree density ratio for residential properties approaches that of city parks, which is 0.42. There is no explanation to why the residential properties should have an almost identical tree density as city parks. The Planning Commission may consider whether all properties should be required to meet a tree density of 0.36 with the exception of city parks, which might be increased to 0.60

TREE CODE UPDATE 2021 PROPOSED CHANGES TO TREE UNITS IS NOT SUPPORTED BY DATA/FACTS, INTRODUCES MATHEMATICAL ERROR INTO MUNICIPAL CODE (proposed Table 20.52.130(C)).

History: MMC Table 20.52.130(C) Existing Tree Units came into place on or before 2015, in part, due to the work of Mr. Robert Grumbach, then Director of Development Services for the City of Medina, based on reasoned principles.

One average tree was deemed as one tree unit, with a range of 0.75 to 1.25 significant tree units. (Tree Code Update 2021 changes this so one average tree is deemed as less than one tree in units.)

Historical basis for calculation of Existing Tree Units.

1. Tree Canopy: Tree canopy has been defined as the layer of tree leaves, branches, and stems that provide tree coverage of the ground when viewed from above. It varies by tree species, age, and individual idiosyncrasies of a specific tree. It can be measured with a Lemmon densiometer but more accurately measured by more difficult methods using an angular densiometer. Probably due to the variability of different trees and tree species canopy, municipal tree codes may strive to maintain tree canopy but do so indirectly by maintaining the number of trees.
2. The current city-wide tree canopy for residential property is 35.6% or 0.356. Source: <https://medina.civicweb.net/document/11449> p. 62
3. Drip line roughly corresponds to tree canopy and critical root zone / root protection zone (CRZ and RPZ)¹, which is why current Medina practices mandate tree protection fencing surrounding the drip line during new construction. One method of determining the CRZ and tree canopy is to measure the diameter of the tree trunk in inches at breast height (DBH), multiplied by 12, so as:

Trunk diameter in inches at 4 ½' (1.4 m) above grade x 12 = radius in feet of the CRZ (essentially, 1 foot of CRZ radius per 1" DBH)²
4. The canopy dripline (current tree density ratio required) for Land Under Development is 350 sq. ft. per 1000 sq. ft. of land.³ This figure is also expressed as 0.35 tree density ratio. It closely corresponds with the existing conditions city-wide where tree canopy for residential land is 0.356 or 35.6%
5. Pi (π) = 3.1416. The area of a circle = $3.1416 r^2$ where r = radius or ½ diameter.
6. Medina tree code (MMC 20.52.130(B)), considers the tree density ratio as 3.5 significant tree units / 1000 sq. ft. 3.5 significant tree units are defined to be equivalent to 350 sq.

¹ Drip line generally roughly corresponds to CRZ critical root zone / RPZ root protection zone https://nature.berkeley.edu/garbelottowp/?qa_faqs=what-is-the-critical-root-zone . Drip line and tree canopy is also equated <https://www.fcgov.com/forestry/files/critical-root-zone-diagrams.pdf>

² Bear in mind that root systems vary by depth and spread based on tree species, age, soil type, etc. The root systems of some oaks, for example, can extend well beyond the canopy dripline. This full root zone may extend 2 to 3 times beyond the CRZ, particularly when the water table is high.

³ MMC 20.52.120(B)

ft. tree canopy. Therefore 1 significant tree unit is defined to be equivalent to 100 sq. ft tree canopy (350 sq. ft tree canopy divided by 3.5 significant tree units = 100 sq. ft. tree canopy for each tree unit).

The current tree code in MMC Table 20.52.130(C) Existing Tree Unit is consistent, albeit in an extremely conservative manner, with the above principles. It credits the minimum justifiable tree unit to a tree, based on the minimum possible canopy that the tree can provide.

MMC Table 20.52.130(C) Existing Tree Unit currently assesses a coniferous tree of greater than 10" DBH to 50" DBH as 1.00 significant tree units.

Example 1: A 10.1" DBH tree has a calculated CRZ or canopy dripline, using the area formula above, as

$3.1416 \times (10.1 / 2)^2 = 3.1416 \times (5.56 \times 5.56) = 97.12 \text{ sq. ft. or } 0.9712 \text{ significant tree units}$
This compares favorably with MMC Table 20.52.130(C) which assigns a 10.1" DBH coniferous tree as 1.00 significant tree units.

Example 2: A 50" DBH tree has a calculated CRZ or canopy dripline, using the area formula above, as:

$3.1416 \times (50 / 2)^2 = 3.1416 (25 \times 25) = 1,963.5 \text{ sq. ft. or } 19.635 \text{ significant tree units}$
This is significantly less than MMC Table 20.52.130(C) which assigns a 50" DBH coniferous tree as 1.00 significant tree units. However, MMC Table 20.52.130(C) assigns 1.00 significant tree units to greater than 10" up to 50" as one category.

Example 3: A 10.1" DBH and a 50" DBH tree would be assigned 0.75 significant tree units under Tree Code Update 2021 (proposed Table 20.52.130(C)). Planning Commission meeting audio reveals city staff explaining a downgrade in tree units as a tactic to increase trees but not offering any logical or scientific basis of any calculations used to arrive at the proposed figures.

Conclusion: Under the current tree code, a tree deemed as 1.00 significant tree units produces a tree canopy (canopy dripline) of one tree (range of 0.9712 to 19.635 tree units or 97.12 sq. ft. to 1,963.5 sq. ft.). That results in 3.5 significant tree units actually producing at least a 0.35 tree density ratio (or 35% tree canopy coverage) or greater.

Under Tree Code Update 2021, trees 10.1" to 50" DBH are only deemed as 0.75 significant tree units yet would provide a tree canopy (canopy dripline) of between 0.9712 and 19.635 actual significant tree units. Therefore, Tree Code Update 2021 incorrectly assigns too few significant tree units than is factual.

Lay Conclusion of the above: The current tree code assigns the minimum significant tree units justified. Tree Code Update 2021 assigns significantly fewer significant tree units than can be justified by mathematical calculations of the true tree density.

It can be further concluded that an average tree under the current tree code is considered one tree unit but that only the most massive trees greater than 50" DBH are considered one tree unit under Tree Code Update 2021. This part of Tree Code Update 2021 should not be adopted (downgrading the number of tree units for a tree).

Comments to the City Council, David Yee, MD, November 2021

Tree Code Update 2021 was promoted as for new construction only in email responding to Medina residents' inquires¹, on the city's website², and social media. Indeed, the city documents that the city staff was directed to study the tree code relating to new construction only³.

A. Tree Code Update 2021 should be limited to new construction only. It should not place additional burdens on ordinary Medina residents not building a new house.

Unintended consequences of Tree Code Update 2021 affecting Properties Not Under Development.

- a. Changes the definition of "Legacy Tree" and adds a new category of "Landmark Tree". Currently, a legacy tree is a 50" tree. Tree Code Update 2021 changes that for ordinary Medina residents (property not under development) to 36". A new category of "Landmark Tree" under Tree Code Update 2021 is 50".

Unintended consequence: A 36" tree currently requires 3 replacement trees. Under Tree Code 2021 for a property NOT under development, 12 replacement trees would be required. Calculation resulting in 12 trees is shown in the footnote.⁴

Unintended consequence: Under Tree Code Update 2021, for a 50" tree in a property NOT under development, **34 replacement trees** would be required unless 3 trees planted and \$17,600-\$18,800 paid. Note that **5.1% of Medina lives below the poverty line**, and cannot afford high penalties.⁵

- b. Part of Tree Code Update 2021 bans the removal of any 36" tree. This might be a typographical error and conflicts with other parts of the tree code. (solution on p. 3)
- c. New definition of Tree Unit. Currently, in general, 1 tree is a tree unit and ranges from 0.75 to 1.25 depending on tree size. 1 tree = 1 tree unit is an honest and reasonable definition. Under Tree Code 2021, most trees are less than one tree unit in an attempt to arbitrarily force tree plantings (per Planning Commission meeting audio). Only the most massive trees are 1.0 tree units in the proposal. If the city wants more trees, it should

¹ E-mail from the City of Medina writing "The proposed changes are just focusing on new construction (or as the code puts it, *land under development*). There are no changes (sic) being proposed for land that's not under development. So if you want to take down a tree on your property right now, that process and what you can do won't change at all."

² <https://www.medina-wa.gov/index.asp?SEC={3230E35E-4B1B-4169-8FF2-95531A7E27A2}> stating "At a joint meeting in September 2020, the City Council placed the tree code on Planning Commission's work plan. Tasked with only reviewing the sections of the tree code that relate to land under development (i.e., new construction)..."

³ Numerous memos within the City of Medina, including those in meeting agendas. Typical language includes "Planning Commission has been asked to review the tree retention and replacement requirements for new single-family construction with the understanding that Council wants to adopt the changes by the end of the year." (from June 22, 2021 Planning Commission Agenda)

⁴ MMC 20.52.150(B) - "Plant three trees". Tree Code Update 2021 requires, for a 20,000 ft. lot, 50% DBH replacement in Proposed Table 20.52.150(B). R. Grumbach (at the time Director of Development Services) recommended 1.5" and 2" replacement trees in a city memo. He notes that 3-4" trees are difficult to buy. Smaller diameter trees have a higher chance of survival when replanted. 18" can consists of 12 replacement 1.5" trees

⁵ 5.1% live in poverty in Medina. <https://censusreporter.org/profiles/16000US5344725-medina-wa/>

make the policy decision of increasing the required tree density, not arbitrarily calling a medium or large tree less than one tree unit.

B. The vast majority of Medina residents do not want what's in Tree Code Update 2021 that pertains to Properties Not Under Development.

The City of Medina commissioned a study which showed that more than 86% of Medina residents do not want a restrictive tree code (see exact text below). This City of Medina Memo was authored by the Director of Development Services of the City of Medina.⁶

Also note that among properties not under development fewer than one such household per year in Medina cuts down a tree each year. (based on 2015-2020 tree permit data compiled by the City of Medina). This represents a rate of less than 1/3rd of 1 percent (0.0026).⁷ **Bottom line, Medina residents want to be able to cut down a tree without complex and restrictive regulations but do not actually cut down trees.**

The following is the results from the tree questionnaire. We received 210 completed questionnaires as of September 2, 2014 (about 7 percent return). The written comments received were consolidated into one document and are attached.

1. What importance do these trees play in your overall view of Medina?	Percent Selected
a) These trees are very important. These trees should be protected, as we will never get them back; unless there is an immediate safety threat some trees should never be allowed to be taken down even if someone wants to pay a large amount for their removal.	7.6%
b) These trees are very important to our quality of life. More importance should be placed on keeping our tree canopy. Those who want to take these trees down should have to plant or pay a lot to replace them.	6.2%
c) These trees are important. We should do whatever we can to educate people about their importance, but not require so much for taking them down. If you have a good reason for taking a tree down, then paying for replacements seems fair.	7.6%
d) These trees add to our quality of life. However, we do not have to protect every one of them. Some of these trees could be removed without having to compensate for them.	26.7%
e) These trees are important. However, the value of being able to do what I want with trees on my own property is more important. We should not have to pay fees and we should not have to plant replacement trees unless we want too.	51.9%

2. Do you have any of the trees mentioned above on your property?	Percent Selected
• Yes	68.1%
• No	23.7%
• Not Sure	8.2%

⁶ Study conducted by the City of Medina. <https://medina.civicweb.net/document/9695>

⁷ 1,237 households in Medina per <https://censusreporter.org/profiles/16000US5344725-medina-wa/> For a six year period from 2015 to 2020, properties not under development in Medina received two tree permits for tree removal per <https://medina.civicweb.net/document/34658> " This leaves a total of 89 permits available to be analyzed. Out of those, **2 were for properties not under development** (they did not meet the land under development criteria in MMC 20.52.100)"

C. Requested changes to relieve the burden of Tree Code Update 2021 to ordinary Medina residents (Property Not Under Development). These are the most essential changes needed to fix Tree Code Update 2021. 3 simple and easy steps.

1. This can be easily accomplished! A possible solution would be to retain Proposed 20.52.120 but create a similar new section, possibly 20.52.121, that keeps the current legacy tree definition (50" tree) but applies it only to properties not under development. To differentiate, a new term of "PNUD Legacy Tree" might appear on the code, which would keep the current legacy tree definition for but only to properties not under development. (PNUD=property not under development)

The result of this fix would be that Properties Not Under Development would not be affected by Tree Code Update 2021.

Mr. Tom Early, the tree consultant for the City of Medina advised the Planning Commission to delete the category of "Landmark Tree" even for new construction but his recommendation was not followed for Tree Code Update 2021.⁸

2. Do not make arbitrary changes to tree units. 1 tree = 1 tree unit should remain (0.75 to 1.25 tree units depending on the tree size). Keep the current code MMC Table 20.52.130(C). Don't change it as Tree Code Update 2021 does. Raising the Tree Density Ratio is a policy decision. Changing tree units is arbitrary and wrong.
3. Correct MMC Diagram 20.52.040 where it prohibits removal of trees 36" or larger stating "Retain Tree*" on the left part of the diagram. This contradicts the code and is possibly a typographical error.

D. Policy Decision made in Tree Code 2021. Is this what the city council wants?

In 2014, proposals by the Planning Commission to raise the required tree density for residential property to 0.40 were rejected by the City Council. 0.40 now appears in Tree Code 2021 (Proposed Table 20.52.130(B) Tree Density Ratio). Unlike the proposed change in tree units (this outline, Section C-2), which is arbitrary and unjust, selection of the 0.40 Tree Density Ratio is a policy decision.

Q. Does the City Council want to do what it rejected previously, when a previous city council rejected 0.40?

Q. Does the City Council want to demand more from new construction than what currently exists? Medina's actual tree density ratio for residential + roads is greater than 0.35 but less than 0.36.⁹

⁸ <https://media.avcaptureall.com/session.html?sessionId=39c52ff4-7df5-4569-be28-785b052eac06>
Planning Commission meeting, October 19, 2021.

⁹ <https://medina.civicweb.net/document/9695> p. 21

Q. Does the City Council want to require residential property to have almost the same tree density ratio as public parks, which is 0.42?

My recommendation to the City Council is if the residential property tree density ratio is increased from 0.35 to 0.40, then the city parks should be increased from 0.42 to 0.50 and the golf course increased from 0.15 to 0.20 so that the burden is not limited to homeowners. I recommend that the tree density ratio remain at 0.35 or be increased to a maximum of 0.356 to match the tree density that was last measured by a city hired tree consulting firm.

-----END OF COMMENTS, BEGINNING OF ADDENDUM-----

Addendum: Need or lack of need for Tree Code Update 2021.

A. New Construction does NOT materially affect the number of trees in Medina. Data collected by the City of Medina show that less than 1.2% of properties undergo construction per year. 99% of Medina's properties are not new construction.¹⁰

B. People doing new construction keep more than 150% of the tree requirements. From 2015 to the first part of 2021, the city reports that these projects required 1025.75 tree units. These people kept 1361 tree units and planted 209 trees for a combined 1570 tree units/trees.¹¹

C. Tree Code Update does create problems for Medina residents undergoing new construction. Mr. Tom Early, the arborist retained by the city, recommended alternations to Tree Code Update 2021 to prevent difficulties in the construction process of houses. These recommendations were supported in a vote on a motion by the sole architect sitting on the Planning Commission but was rejected by other Planning Commission members who do not appear to have architectural or construction expertise and experience.¹²

In addition, Planning Commission audio and written documentation confirm that Tree Code Update 2021 does introduce new requirements that are a "lot of...challenges"¹³ to the Medina resident building new construction, per Tom Early (city arborist).

D. The events causing Tree Code Update 2021 to be started may not have happened in the first place.

The stated purpose of the Tree Code Update 2021 is stated in a September 21, 2021 memo to the City Council¹⁴. This document states "In 2020, a handful of redevelopment projects caused a visceral reaction from the community. These redevelopments appeared to be able to cut down a significant number of trees which gave the land a stark, clear-cut appearance." (see p. 1 of 121, background).

¹⁰ 1,237 households in Medina per <https://censusreporter.org/profiles/16000US5344725-medina-wa/> For a six year period from 2015 to 2020, properties not under development in Medina received two tree permits for tree removal per <https://medina.civicweb.net/document/34658> "This leaves a total of 89 permits available to be analyzed."

¹¹<https://mccmeetingspublic.blob.core.usgovcloudapi.net/medinawa-meet-fa4d819369294bdcafa55c4798af82a6/ITEM-Attachment-001-653714c88a2e48e4adc59e45f5289208.pdf> p. 75 of 121.

¹² Planning Commission meeting of October 19, 2021, audio starting at 52:40 <https://media.avcaptureall.com/session.html?sessionId=39c52ff4-7df5-4569-be28-785b052eac06>

¹³ Tom Early comments "this should add a lot of trees (and tree challenges) to future permit seekers"

¹⁴<https://mccmeetingspublic.blob.core.usgovcloudapi.net/medinawa-meet-fa4d819369294bdcafa55c4798af82a6/ITEM-Attachment-001-653714c88a2e48e4adc59e45f5289208.pdf>

Ms. Stephanie Keyser, ACIP responded to a request to identify these projects. She identified projects are located at 1818 77th Ave NE, 2019 79th Ave NE and 707 Overlake Drive East. Construction on the first property appears to have been completed. The latter two properties are currently under construction. It is useful to evaluate these three properties because they are the fundamental basis for Tree Code Update 2021 as stated in documents authored by the city.

1818 77th Avenue NE

Attached are photographs of the property in 2011 (source: Google Street View, date of image at the bottom) and October 2021. The current new house is significantly more attractive than the previous condition. The current landscaping is very well kept and attractive as compared to 2011. When facing the front door, the current house has large trees to the right and to the left as well as in front of the house. It is unreasonable to consider this property as clear cutting of trees. In short, it is a beautiful house and property. This property is an improvement to the city and evidence that there is not a need for a stricter tree code.



The detailed landscaping is also situated behind the sidewalk and in front of the entire house.

The detailed landscaping is also situated behind



Foreground, background, and most trees to the photo's right in the subject property.

Foreground, background, and most trees to the



Note that neighboring property to the left lacks the tall trees of subject property



Google Street View of the old house. It is a small house out of character from its neighbors. Some of the eye-catching trees in the front yard are smaller fruit trees that may not be significant trees and are also easily replanted.

2019 79th Ave NE

The house is currently under construction. The previous house was in poor shape with visibly broken driveway pavement, overgrown vegetation, and a house which is significantly smaller and more spartan than the average house in that city block and in Medina. In view of the house being under construction and in an early stage of construction, it is not possible to judge the aesthetics of the house or future landscaping. However, the current state of trees is compatible with its neighbors. Attached are photographs of houses that are neighboring properties or across the street. All of them have approximately the same tree canopy appearance as the subject property, 2019 79th Ave NE. Some may consider the property's condition prior to construction as an eyesore, overgrown with trees, and not in character with the neighborhood. If that is the case, this construction is an improvement to the city and not evidence of a need for a stricter tree code.



subject property.



next door neighbor. Trees on the left mostly belong to the subject property, not this house.



directly across the street from the subject property. This property has essentially no trees in front. These two properties demonstrate that the subject property has the same visual character, if not more visible trees.

707 Overlake Drive East

Attached are photographs of the property in 2019 (source: Google Street View, date of image at the bottom) and October 2021. In view of the house being under construction and in an early stage of construction, it is not possible to judge the aesthetics of the house or future landscaping. However, the current state of trees viewing from Overlake Drive East remains forested (compare pre-construction Google Street View versus October 2021 where it appears that all trees have been retained). Furthermore, attached is a photograph of the property's next door neighbor. The neighboring property is attractive but has far less vegetation and trees than the subject property, 707 Overlake Drive East. This construction shows that the property is compatible and more heavily forested than the neighboring property and not evidence of a need for a stricter tree code.



East. 707 mailbox (white) is on the left.

Subject property. Street is Overlake Drive



Historical photo from Google Street View from almost identical angle. White mail box of the 707 Overlake Drive East property is to the left but difficult to see.



Some of the trees in the photo belong to the 707 subject property. This is the neighbor of 707. The street frontage does not compare with the street frontage of the 707 Overlake Drive East property (which was the subject to a complaint causing Tree Update 2021 to be written).

Conclusion

Despite the statement that "(t)hese redevelopments appeared to be able to cut down a significant number of trees which gave the land a stark, clearcut appearance." (see p. 1 of 121, background, 9/21/2021 city memo), the above description and photographs of the three properties in question do NOT document a stark clear cut appearance that is inconsistent with its neighbors.

In the only example where construction has been completed, the property is very attractive, both in the house, landscaping, and trees.

A good tree plan would be where residents continually cut and replant trees. Some Medina residents are not happy that electricity often gets knocked out at least once or twice a year, sometimes for days, causing basement flooding due to electricity powered sump pumps without power when a tree takes down power lines. Historically, Medina was completely harvested for lumber less than 100 years ago, which improved public safety. Eventually, Medina should re-harvest trees, albeit on a careful and very staggered timetable. Trees might be like long hair. Long hair can be attractive but can become too long at a certain point.



SBS TV, Australia)

(credit:

Stephanie Keyser

From: laurelpr@seanet.com
Sent: Monday, October 11, 2021 11:18 AM
To: davidyee2006@yahoo.com
Cc: Stephanie Keyser
Subject: FW: Planning Commission agenda document 9/21/2021- tree code

Dear David,

Thank you for your email. You are welcome to email me at this address, as the Commissioners do not have government email addresses at this time.

You are correct that the Planning Commission has been considering changes to the tree to code pertaining to new construction and in fact has made recommendations to the City Council for their consideration. The draft proposal is on the City of Medina website, accessible from the list of City Events (Tree Code Open House).

I am copying Stephanie Keyser, Planning Manager, for her assistance in providing the information you requested. Stephanie, please see David's email below. He is interested in the addresses or at least streets/blocks of the properties that were the subject of complaints, that is, the ones that prompted the Council to ask Planning Commission to consider whether the tree code was working as intended and whether or not revisions should be made.

David, please keep in mind that the original complaints came in a year and a half to two years ago, and those specific properties may now have buildings and plantings on them.

I hope you are aware that there will be an Open House on Thursday the 14th and multiple Public Hearings in October (Planning Commission, the 19th), November and December (City Council). We look forward to hearing from you at one or more of these, or by email.

Thank you for your email, and thank you for your interest.

Best regards,
 Laurel

-----Original Message-----

From: David Yee <davidyee2006@yahoo.com>
 Sent: Sunday, October 10, 2021 4:09 PM
 To: Laurel Preston <laurelpr@seanet.com>
 Subject: Planning Commission agenda document 9/21/2021- tree code

Dear Commissioner Preston (Laurel):

I do not have your planning commission e-mail address. If you prefer that I send this message to you to that email address, please let me know. I am under the impression that the Planning Commission is working on a new tree code that applies to properties under development.

Specifically, the Agenda Bill dated September 21, 2021 (
<https://mccmeetingspublic.blob.core.usgovcloudapi.net/medinawa-meet-fa4d819369294bdcafa55c4798af82a6/ITEM->

Attachment-001-653714c88a2e48e4adc59e45f5289208.pdf) notes that the origin of the revision of the tree code pertaining to development was because "In 2020, a handful of redevelopment projects caused a visceral reaction from the community. These redevelopments appeared to be able to cut down a significant number of trees which gave the land a stark, clear-cut appearance. (see p. 1 of 121, background).

Would you kindly identify the 2020 projects that were identified as causing concern? This would help to understand the issue better. Otherwise, it would not be clear to me or others what the reasons for revising the current code. If the Planning Commission wishes to keep the exact locations of these projects secret, then identifying the street and block on that street would be somewhat useful as interested citizens could visit the identified block and see if any of the properties have a "stark, clear-cut appearance".

Best regards,
David
David Yee, MD
3215 Evergreen Point Road

Stephanie Keyser

From: David Yee <davidyee2006@yahoo.com>
Sent: Sunday, October 17, 2021 10:45 PM
To: Laurel Preston
Cc: Stephanie Keyser; Michael Sauerwein
Subject: Comment for Planning Commission public hearing scheduled for October 19, 2021
Attachments: Medina tree code for 2021.pdf

Dear Commissioner Preston (Laurel):

Please consider and/or enter the attached comments for the public hearing that is scheduled for October 19, 2021. I am sending this message to you with a copy to Stephanie Keyser for distribution to the Planning Commission.

The comments include:

1. Provisions in Tree Code Update 2021 that result in affecting properties not under development (and my input requested by Commissioner Nelson)
2. Evidence that the complaints causing Tree Code Update 2021 do not show clear cut of the property but show properties consistent with the neighborhood.
3. Recommendation for a simplified and alternative Tree Code Update that is more likely to address the issues of complaints that caused Tree Code Update 2021.

Best regards,
David

David Yee, MD
3215 Evergreen Point Road

Stephanie Keyser

From: Michael Sauerwein
Sent: Wednesday, November 3, 2021 9:05 AM
To: Stephanie Keyser; Steve Wilcox; Aimee Kellerman; Emily Miner; Scott Missall
Subject: FW: comments for Tree Code Update 2021
Attachments: Tree Code Update 2021 November city council.pdf

Greetings All

Just making sure you are all in the loop...

Michael Sauerwein
 City Manager
 City of Medina
 501 Evergreen Point Road
 Medina, WA 98039
 425 233-6412

-----Original Message-----

From: David Yee <davidyee2006@yahoo.com>
 Sent: Tuesday, November 2, 2021 5:03 PM
 To: Jessica Rossman <jrossman@medina-wa.gov>; Cynthia Adkins <cadkins@medina-wa.gov>; Alex Morcos <amorcos@medina-wa.gov>; Jen Garone <jgarone@medina-wa.gov>; Roger Frey <rfrey@medina-wa.gov>; Harini Gokul <hgokul@medina-wa.gov>; Bob Zook <bzook@medina-wa.gov>
 Cc: Michael Sauerwein <msauerwein@medina-wa.gov>
 Subject: comments for Tree Code Update 2021

Dear Mayor Rossman (Jessica), Deputy Mayor Adkins (Cindy), Council Member Morcos (Alex), Council Member Garone (Jennifer), Council Member Frey (Roger), Council Member Gokul (Harini), Council Member Zook (Bob):

When the City Council considers Tree Code Update 2021, I urge that all provisions that affects Medina residents not having new construction done (properties not under development) be removed from the proposed tree code changes. There has been no public consultation. Even now, the city still advertises the changes as for new construction only. I ignored the issue for months, believing that it didn't affect me, only learning about the proposals by chance two to three weeks ago where Tree Code Update 2021 affects more than new construction, but potentially every homeowner.

There are significant unintended consequences of Tree Code Update 2021. One is that currently 3 replacement trees have to be planted for removing a medium or large tree. Under Tree Code Update 2021, a dozen trees may have to be planted. If the tree is 50", 34 replacement trees may have to be planted. This is unreasonable.

The fact is that Medina residents overwhelmingly want the ability to easily remove a tree but do not actually remove their trees.

Attached are pertinent points and unintended consequences listed in a concise manner. The majority of the length are footnotes for documentation and photos. The facts presented are well documented with the source of information noted (mostly from City of Medina documents).

What I present is largely not opinion but data driven solutions and facts. Where there is a policy decision to be made, I have noted it. If there is a desire for verbal discussion with me, please let me know. I do not specifically request it but would be glad to be available.

Respectfully yours,
David

David Yee, MD
3215 Evergreen Point Road

Stephanie Keyser

From: David Yee <davidyee2006@yahoo.com>
Sent: Monday, November 8, 2021 1:58 PM
To: Council
Subject: Easy fix to Tree Code Update 2021 for those not building new construction
Attachments: Screenshot_20211108-110524_Drive.jpg

Dear Members of the City Council,

While it has been purported that Tree Code Update 2021 changes that affect those not having new construction done are just a part of "natural evolution", changing the tree code for properties under development is not inevitable.

Attached is a diagram from Tree Code Update 2021 with the relevant part circled in yellow. Properties not under development could simply be unaffected by Tree Code Update 2021 by keeping the yellow circled part mostly the same except to write "Is the tree a Property Not Under Development Legacy Tree (PNUD Legacy Tree)? See MMC 20.52.121" then create a 20.52.121 that is has identical language as the current MMC 20.52.120 except to use the term "PNUD Legacy Tree". That way, new construction follows the new legacy tree definition in 20.52.120 and ordinary homeowners follow the old MMC 20.52.120 that is renumbered as 20.52.121.

Such a simple change would be a tremendous relief for homeowners not building a new house. Currently, homeowners generally do not cut down trees (fewer than one tree permit every 2 years over the past 6 years 2015-2020) but occasionally need to remove a tree. I have a wonderful forest on my ordinary sized lot that I intend to keep for generations but see that an occasional tree might have to be cut down every decade. Replacing such tree with 3 trees is reasonable and what I would do anyway but replacing it with 12-35 trees is completely unreasonable.

Sincerely,
David

David Yee, MD

Stephanie Keyser

From: David Yee <davidyee2006@yahoo.com>
Sent: Thursday, November 11, 2021 1:33 PM
To: Laurel Preston; David Langworthy; Randy Reeves
Cc: Stephanie Keyser; Michael Sauerwein
Subject: Comments for the 11/16/2021 Planning Commission meeting regarding tree enforcement

Dear Commissioner Preston (Laurel), Commissioner Langworthy (David), Commissioner Reeves (Randy):

It has come to my attention that the Planning Commission is considering additional enforcement measures for the tree code next week. I've recently learned that Planning Commission members do not have City of Medina e-mail addresses but use personal email addresses. I do not wish to exclude the other members of the Planning Commission but do not have their email addresses. This email may be shared with them.

I urge the Planning Commission to consider:

1. What objective data exist regarding the magnitude of non-compliance with supplemental or replacement trees? What percentage of properties are subject to replacement tree complaints? Or is this merely a theoretical issue?
2. What are the regulatory costs to the city and to homeowners for any proposed regulations? Consider that tree permits under MMC 20.52.130 already cost \$500 if no construction is done and can be as high as \$1,500 plus consultant fees for certain ROW trees. Surprisingly, over 5% of Medina live in poverty and cannot afford additional high regulatory costs.
3. Attachment to land titles is a draconian move with many implications, such as homes with loans and the effort needed to amend titles and, later, change them back. I ask that the Planning Commission reject any such measure.
4. Has the city used the least expensive and least intrusive measures to accomplish enforcement? Least expensive and least intrusive measures might include
 - a. Easy to understand informational sheet written in non-technical English given to tree permit recipients. Similarly, all residents could be informed on a yearly basis to observe all city regulations, including the tree code.
 - b. reliance on public complaints (which can be very effective and already happens with many regulations, such as off hours construction work and tree cutting complaints)
 - c. mailing a reminder postcard in December of the 4th year after the tree permit is issued reminding people to keep their replacement trees. (The December month is selected so that the city may mail all postcards at the same time rather than keep track of the exact anniversary date of tree permits.).

The cost of postcards could be reduced to no costs to the city by requiring that tree permit holders submit a self addressed postcard to the city addressed as "_____(name of homeowner) Or Current Resident, _____ (Medina home address), Medina, WA 98039" and using a forever postage stamp rather than a postage stamp with a numerical value in cents. The city would then send the postcard at the 4th year. Such system would eliminate the cost of hiring a city staff member or paying significant amounts to consultants as is currently being considered. Having the postcard address with "...or current resident" insures that even if the property is sold, the new owner is aware of the trees. In addition, most houses are not sold every few years in Medina. Additional measures could include the notation on the postcard "Do Not Forward".

If there is self certification, the Planning Commission should be aware that governments and government agencies routinely and effectively use self certification, sometime with a clause essentially stating "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct."

d. tags affixed to trees can have unsavory connotations, similar to the tattooing of ID numbers on arms of Jewish concentration camp victims by Nazi prison camp guards. I have personally seen face to face these concentration camp ID tattoos. From a practical standpoint, introduction of nails to trees is not only a bad precedent for disturbing trees but can introduce hazards in the future as nails embedded in trees become impossible to remove and later can present hazards years in the future. This has been documented in the arboriculture literature. Some arborists recommend not using nails or staples in trees smaller than 10" DBH because of the compartmentalization wound that results.

5. The Planning Commission should consider that most Medina residents are law abiding. Furthermore, many of the regulations in Medina, such as not having a marijuana business, not doing noisy yard work at midnight, having a dog or cat license, having a garage sale permit, and other regulations are not subject to dedicated enforcement measures.

6. MMC 04.01.030 currently empowers the City of Medina to enforce violations of ordinances, of which the tree code is one of them. Alternatively, the tree code, now codified as Title 20, was previously codified as Title 16 that had a provision (MMC 16.10.080(A)) reinforcing the topic of enforcement, in addition to MMC 04.01.030, and can be added as a proposed MMC 20.52.081(A) or similar numbering.

Thank you for your kind consideration of this issue.

Respectfully yours,
David

David Yee, MD

Stephanie Keyser

From: David Yee <davidyee2006@yahoo.com>
Sent: Sunday, December 5, 2021 11:12 PM
To: Council
Cc: johnstonmacd@hotmail.com
Subject: Tree Code Update 2021 creates new problems for Medina
Attachments: Tree Code Update 2021 December City Council calculations.pdf

Dear Mayor Rossman, Vice Mayor Adkins, Council Member Morcos, Council Member Garone, Council Member Frey, Council Member Gokul, and Council Member Zook,

I have previously written to members of the City Council expressing serious concerns with changing the tree code as it pertains to Land Not Under Development, particularly since months of public outreach specifically excluded regular homeowners from tree code changes and making changes only to new construction. I write to you to point out additional considerations that should be made to the current Planning Commission proposal.

I ask that the City Council dispense with the tree issue in December by:

1. Rejecting Tree Code Update 2021 in its entirety with the possible exception of making a policy decision as to the required tree density ratio of being either 0.35 or 0.40. (proposed Table 20.52.130(B) Tree Density Ratio), or;
- 2a. As a less positive alternative, accepting Tree Code Update 2021 but exclude any changes in the definition of Legacy Tree (or introduction of Landmark Tree) as it pertains to Land Not Under Development (proposed 20.52.120), and 2b. As it pertains to new construction, reject proposed 20.52.320(C)(iv) because it conflicts with itself and other provisions of the building code.
- 2c. Reject any changes in Significant Tree Units which affects Land Not Under Development, has no basis in fact, and introduces mathematical errors into the municipal code (See attachment for mathematical rationale; I am sorry for the complexity of the math presented but it shows that the current tree code has a basis in fact but the proposed update contradicts these facts)

Reasoning for the above

1. Common assumption: The current tree code for new construction is too lax. The pendulum swung too far and Tree Code Update must be more restrictive for new construction.

Facts: Common assumption is incorrect and contradicted by facts (based on city released data-footnote 1) New construction with tree density ratio of less than 0.35 upon completion: 0% New construction with tree density ratio of 0.35 or greater upon completion: 100% New construction with tree density ratio exceeding 0.35: 85% New construction meeting but not exceeding code: 15% New construction only meeting but not exceeding tree density ratio of 0.35 and received complaints triggering Tree Code Update 2021: 0% People doing new construction keep more than 150% of the required trees. Totality of new construction: percentage of trees compared to tree code requirements: 150% (footnote 2)

2. Reasoning behind Tree Code Update 2021/proposed 20.52.320(C)(iv) conflicting with itself and other municipal code sections.

2a. This section calls for a continuous canopy but also calls for scattering trees. Scattering trees is not good.

2b. This section conflicts with municipal code sections specifying a 30 foot front and rear setback. MMC 20.22.040 allows patios and decks within the 30' setback, making them too close to proposed required trees.

Even with no patios or decks, new construction utilizing the minimum setback will be too close to the proposed required trees. Without this provision, the number of required trees would be unchanged but the owner could situate the trees in a location that best fits the property. Tree Code Update 2021 can obstruct the homeowner from situating trees in the most suitable locations.

Thank you for your kind consideration of these comments. I would be happy to explain the attachment if the Council desires it in the context of a factual presentation. Ultimately, the Council has a tremendous task at hand in having a tree code. The International Society of Arboriculture, of which I believe I am the only Professional Member of the society in Medina, is concerned that municipal tree codes commonly result in the community forest actually suffering because they are often a "band aid approach" for "old 'heritage' trees". (ISA's selection of words). My ties to the ISA originate from a deep commitment to the urban forest that I maintain on my property.

Best regards,
David
David Yee, MD
3215 Evergreen Point Road

footnote 1: p. 11 of 45, <https://medina.civicweb.net/document/34658>

footnote 2: From 2015 to the first part of 2021, the city reports that these projects required 1025.75 tree units. These people kept 1361 tree units and planted 209 trees for a combined 1570 tree units/trees.

<https://mccmeetingspublic.blob.core.usgovcloudapi.net/medinawa-meet-fa4d819369294bdcafa55c4798af82a6/ITEM-Attachment-001-653714c88a2e48e4adc59e45f5289208.pdf> p. 75 of 121.

TREE CODE UPDATE 2021 PROPOSED CHANGES TO TREE UNITS IS NOT SUPPORTED BY DATA/FACTS, INTRODUCES MATHEMATICAL ERROR INTO MUNICIPAL CODE (proposed Table 20.52.130(C)).

History: MMC Table 20.52.130(C) Existing Tree Units came into place on or before 2015, in part, due to the work of Mr. Robert Grumbach, then Director of Development Services for the City of Medina, based on reasoned principles.

One average tree was deemed as one tree unit, with a range of 0.75 to 1.25 significant tree units. (Tree Code Update 2021 changes this so one average tree is deemed as less than one tree in units.)

Historical basis for calculation of Existing Tree Units.

1. Tree Canopy: Tree canopy has been defined as the layer of tree leaves, branches, and stems that provide tree coverage of the ground when viewed from above. It varies by tree species, age, and individual idiosyncrasies of a specific tree. It can be measured with a Lemmon densiometer but more accurately measured by more difficult methods using an angular densiometer. Probably due to the variability of different trees and tree species canopy, municipal tree codes may strive to maintain tree canopy but do so indirectly by maintaining the number of trees.
2. The current city-wide tree canopy for residential property is 35.6% or 0.356. Source: <https://medina.civicweb.net/document/11449> p. 62
3. Drip line roughly corresponds to tree canopy and critical root zone / root protection zone (CRZ and RPZ)¹, which is why current Medina practices mandate tree protection fencing surrounding the drip line during new construction. One method of determining the CRZ and tree canopy is to measure the diameter of the tree trunk in inches at breast height (DBH), multiplied by 12, so as:

Trunk diameter in inches at 4 ½' (1.4 m) above grade x 12 = radius in feet of the CRZ (essentially, 1 foot of CRZ radius per 1" DBH)²
4. The canopy dripline (current tree density ratio required) for Land Under Development is 350 sq. ft. per 1000 sq. ft. of land.³ This figure is also expressed as 0.35 tree density ratio. It closely corresponds with the existing conditions city-wide where tree canopy for residential land is 0.356 or 35.6%
5. Pi (π) = 3.1416. The area of a circle = $3.1416 r^2$ where r = radius or ½ diameter.
6. Medina tree code (MMC 20.52.130(B)), considers the tree density ratio as 3.5 significant tree units / 1000 sq. ft. 3.5 significant tree units are defined to be equivalent to 350 sq.

¹ Drip line generally roughly corresponds to CRZ critical root zone / RPZ root protection zone https://nature.berkeley.edu/garbelottowp/?qa_faqs=what-is-the-critical-root-zone . Drip line and tree canopy is also equated <https://www.fcgov.com/forestry/files/critical-root-zone-diagrams.pdf>

² Bear in mind that root systems vary by depth and spread based on tree species, age, soil type, etc. The root systems of some oaks, for example, can extend well beyond the canopy dripline. This full root zone may extend 2 to 3 times beyond the CRZ, particularly when the water table is high.

³ MMC 20.52.120(B)

ft. tree canopy. Therefore 1 significant tree unit is defined to be equivalent to 100 sq. ft tree canopy (350 sq. ft tree canopy divided by 3.5 significant tree units = 100 sq. ft. tree canopy for each tree unit).

The current tree code in MMC Table 20.52.130(C) Existing Tree Unit is consistent, albeit in an extremely conservative manner, with the above principles. It credits the minimum justifiable tree unit to a tree, based on the minimum possible canopy that the tree can provide.

MMC Table 20.52.130(C) Existing Tree Unit currently assesses a coniferous tree of greater than 10" DBH to 50" DBH as 1.00 significant tree units.

Example 1: A 10.1" DBH tree has a calculated CRZ or canopy dripline, using the area formula above, as

$3.1416 \times (10.1 / 2)^2 = 3.1416 \times (5.05 \times 5.05) = 79.12 \text{ sq. ft.}$ or 0.7912 significant tree units
This compares favorably with MMC Table 20.52.130(C) which assigns a 10.1" DBH coniferous tree as 1.00 significant tree units.

Example 2: A 50" DBH tree has a calculated CRZ or canopy dripline, using the area formula above, as:

$3.1416 \times (50 / 2)^2 = 3.1416 (25 \times 25) = 1,963.5 \text{ sq. ft.}$ or 19.635 significant tree units
This is significantly less than MMC Table 20.52.130(C) which assigns a 50" DBH coniferous tree as 1.00 significant tree units. However, MMC Table 20.52.130(C) assigns 1.00 significant tree units to greater than 10" up to 50" as one category.

Example 3: A 10.1" DBH and a 50" DBH tree would be assigned 0.75 significant tree units under Tree Code Update 2021 (proposed Table 20.52.130(C)). Planning Commission meeting audio reveals city staff explaining a downgrade in tree units as a tactic to increase trees but not offering any logical or scientific basis of any calculations used to arrive at the proposed figures.

Conclusion: Under the current tree code, a tree deemed as 1.00 significant tree units produces a tree canopy (canopy dripline) of one tree (range of 0.7912 to 19.635 tree units or 79.12 sq. ft. to 1,963.5 sq. ft.). That results in 3.5 significant tree units actually producing at least a 0.35 tree density ratio (or 35% tree canopy coverage) or greater.

Under Tree Code Update 2021, trees 10.1" to 50" DBH are only deemed as 0.75 significant tree units yet would provide a tree canopy (canopy dripline) of between 0.7912 and 19.635 actual significant tree units. Therefore, Tree Code Update 2021 incorrectly assigns too few significant tree units than is factual.

Lay Conclusion of the above: The current tree code assigns the minimum significant tree units justified. Tree Code Update 2021 assigns significantly fewer significant tree units than can be justified by mathematical calculations of the true tree density.

It can be further concluded that an average tree under the current tree code is considered one tree unit but that only the most massive trees greater than 50" DBH are considered one tree unit under Tree Code Update 2021. This part of Tree Code Update 2021 should not be adopted (downgrading the number of tree units for a tree).

Stephanie Keyser

From: David Yee <davidyee2006@yahoo.com>
Sent: Sunday, December 5, 2021 11:12 PM
To: Council
Cc: johnstonmacd@hotmail.com
Subject: Tree Code Update 2021 creates new problems for Medina
Attachments: Tree Code Update 2021 December City Council calculations.pdf

Dear Mayor Rossman, Vice Mayor Adkins, Council Member Morcos, Council Member Garone, Council Member Frey, Council Member Gokul, and Council Member Zook,

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Reasoning for the above

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Best regards,
David
David Yee, MD
3215 Evergreen Point Road

footnote 1: p. 11 of 45, <https://medina.civicweb.net/document/34658>

footnote 2: From 2015 to the first part of 2021, the city reports that these projects required 1025.75 tree units. These people kept 1361 tree units and planted 209 trees for a combined 1570 tree units/trees.

<https://mccmeetingspublic.blob.core.usgovcloudapi.net/medinawa-meet-fa4d819369294bdcafa55c4798af82a6/ITEM-Attachment-001-653714c88a2e48e4adc59e45f5289208.pdf> p. 75 of 121.

Stephanie Keyser

From: Doug Dicharry <ddic@msn.com>
Sent: Saturday, November 6, 2021 2:36 PM
To: Council
Cc: Stephanie Keyser
Subject: Tree Code Public Hearing comment

Dear Council,

Many thanks to you and to the Planning Commission for your work on updates to the tree code. I support changes as proposed.

Regards,

Doug Dicharry

Stephanie Keyser

From: Heija Nunn <heija@heija.com>
Sent: Sunday, November 28, 2021 5:03 PM
To: Michael Sauerwein; Stephanie Keyser; Tom Early
Cc: Jessica Rossman
Subject: Legacy Trees

Hello Michael, Stephanie, Tom and Mayor Rossman,

I have been paying loose attention to the proposed changes to the tree code. I am currently renting/caretaking a midcentury home that is situated on a half acre lot in R16 among close to 30 trees. It appears that five or six of these trees could be categorized as above 36inch diameter. Tom visited not long ago to look at some concerns, and although we haven't had a follow up discussion as of yet, I am curious if the new changes might impact or limit the homeowner's flexibility moving forward? One of the thoughts I had while listening in on the council meeting is how our overall approach to code enforcement (complaint driven) favors those willing to dodge the rules (see: chorus of chainsaws on weekends) and burdens those who follow the rules or who are blithely ignorant of changes that affect their properties even if they bear an unequal bounty of foliage or right of way tree coverage.

I have a few questions; If the changes are approved when will the code become effective? If a homeowner applies for a permit now are they grandfathered in? Will the City consider a tree inventory? Would it be a good idea to remind residents of our comp plan tree goals? Have you noticed an increase in applications over the past few weeks? (I have noticed an influx of tree removal companies and equipment.

Thank you to your team, Planning commission and City Council for your hard work to find reasonable solutions to a complex problem. I hope the Council will consider postponing the public hearing on this matter to after the holidays, or plan to continue the matter to allow for stronger and more informed public engagement. More time to understand could equal more support. A final public hearing held in December could be cast as unfavorable to participation.

I appreciate your time and consideration. Thank you!
 Heija Nunn

Sent from my iPad

Stephanie Keyser

From: D Harper <r.d.harper@comcast.net>
Sent: Saturday, October 23, 2021 1:19 PM
To: Council
Subject: Tree Code

Council members,

We have approximately 50 trees of various sizes on our property and so we have a great deal of interest in your new regulations that you are considering. First of all, I am not a lawyer, so I do not fully understand all the ramifications and limitations you are considering in regulating my property. I doubt anyone does or will until the courts tell us. But I am confused on not only why the additional regulation of our property, but why you are doing it. Does someone have an idea of what a perfect yard should look like? If so, are you coming after house colors next? On the other hand if we are now all swept up in the "new green deal" are you going after my cars next? Or maybe my gas water heater and stove. Moving from planting 3 trees (which is silly to begin with) with 34 or whatever the number is makes little sense and sounds like you are trying to up Bernie Sanders. If you are going after green, then look at the amount of board feet a plat has which up to a certain age will be the best measure of a carbon sink. Then after that age it should be replaced by a younger tree(s) which will be able to provide the carbon capture your model suggests. Also why not require all trees of a certain size to be made into lumber when they are cut down where the carbon won't be released for 100 years or so.

It seems to me that there are many ways you can go to probably accomplish whatever you are trying to do (still don't know what) without putting an undue burden on the personal property of your citizens. Especially since you are punishing the very people that have been good stewards and have trees on their property already.

Sorry, but I think your new contemplated regulation is just another over reach in control.

Robbins D. Harper
 1217 Evergreen Point Rd.
 Medina, WA 98039
r.d.harper@comcast.net
 c: 206-920-3938

Stephanie Keyser

From: S Bowman <sbowman990@gmail.com>
Sent: Thursday, December 9, 2021 1:01 PM
To: Council
Subject: tree code changes for ordinary properties is misguided

Dear City Council Members,

For most of the year, there's been city outreach that the tree code is changing for new construction but now it seems that, without adequate notice, the tree code is changing for everybody (except for a city post card that tries to cover the city by burying a little disclaimer).

The current tree code is flawed but making it more complex is even worse. The current tree code makes it difficult to manage diseased trees by having too expensive and complex procedures such that it is easier to let the tree die and infect other trees. Let people manage trees themselves. There is nothing Legacy about a big tree.

As far as new construction, several years ago, the tree code made it such that new construction had to meet or exceed the average tree coverage in Medina according to Mr. Grumbach, who was working for the city. Therefore, code changes are completely unjustified.

I urge the City Council to discard all proposals to change the tree code for existing properties. This should be the most important task for the City Council. The City Council should also not be taken hostage by a few tree activists who want complex tree regulations that actually hurt and discourage tree planting.

Sincerely,
Sarah Bowman

Stephanie Keyser

From: Steve Burnstead <Steve@burnstead.com>
Sent: Monday, December 13, 2021 6:21 PM
To: Council
Subject: Medina Tree Ordinance

From: Steve Burnstead <Steve@burnstead.com>
Sent: Sunday, December 12, 2021 6:19 PM
To: Medina Council
Subject: RE: Medina Tree Ordinance

Medina Council,

I did not receive anything from the City of Medina seeking input from Medina Property Owners regarding the proposed changes to the Medina Tree Ordinance.

1. The existing Tree Ordinance was only recently reviewed and revised after over a year analysis seeking and receiving lots of input from Medina property owners, outside consultant scientific analysis of the existing tree canopy, and taking account the desire for property owners to maintain views and sunlight with reasonable mitigation ratios. The existing tree ordinance should be modified! Stop
2. Just because a couple of properties were redeveloped that had excess tree coverage does by no means justify changing the existing well thought out Tree Ordinance.
3. The reality from an environmental standpoint encouraging Solar power production by far reduces Medina's carbon footprint vs. planting trees. Example, I have installed Solar collectors on my roof because I have a great sun exposure on the lake. I produced 32.4MWh saving 50,120 Lbs. of carbon, the equivalent of planting 379 TREES. You can not access this solar opportunity if you do not allow property owners to reasonably manage their own properties tree coverage and solar exposure. The existing tree Ordinance is reasonable both in its goals of tree coverage and mitigation options for Medina property owners.
4. View and Solar management is a crucial part of Medina property owners ability to maintain the property values they currently have.
5. City of Medina creating an unreasonable Tree Ordinance dictating more and more control over Private property is an unreasonable taking. Secondly, where is the City of Medina going to get the funds to hire the massive staff and arborist to ensure private property safety from every tree over 30", as well enforce an unenforceable Ordinance.

The City of Medina should focus its effort on issues that could vastly improve the livelihoods of its Residents such as:

1. Detailed plan to remove and underground all overhead power lines and poles.
2. Create a more pedestrian friendly Medina with more well marked and defined street walking and most importantly safe sidewalks.
3. Study and address the impact of Medina to Meydenbauer BAY being the direct and only Commercial Airline takeoff route (heading East with a accelerated turn radius directly over Medina) in the summer from a North wind. The goal should be to require in addition to the Medina route, 1 or 2 alternate East turn routing further North so as to spread out the impact of the increasing Airline traffic and noise. Commercial Airline noise on a North wind starts at 6:00 AM and is steady (5-10 planes a minute) until 10:00 PM.
4. Encourage Solar Power generation on all new construction by requiring prewiring for roof top solar panels. (See City of Issaquah building code)

Steve Burnstead

Please add my e-mail to City of Medina comments regarding the Tree Ordinance and general public comment.

From: Alex Morcos <alexmorcos@hotmail.com>
Sent: Monday, November 8, 2021 4:37 PM
To: Steve Burnstead <Steve@burnstead.com>
Subject: RE: Medina Tree Ordinance

You can speak just part of the hearing. No need to notify beforehand.

Alex Morcos

From: Steve Burnstead <Steve@burnstead.com>
Sent: Monday, November 8, 2021 4:33 PM
To: Alex Morcos <alexmorcos@hotmail.com>
Subject: Re: Medina Tree Ordinance

Yes thank you.

I was going to speak tonight, but did not realize about needing to notify by 2:00 to get my 3 minutes.

Sent from my iPhone

On Nov 8, 2021, at 4:29 PM, Alex Morcos <alexmorcos@hotmail.com> wrote:

Steve, the council meeting is happening right now and this item is on the list and will be covered in the next few minutes. I need to reach out to all council members via email and speaking in the public part and expressing your opinion. The more resident feedback the council receives the better. Sorry for being brief but I am multitasking with the council meeting going on.

Alex Morcos

From: Steve Burnstead <Steve@burnstead.com>
Sent: Monday, November 8, 2021 4:24 PM
To: Alex Morcos <alexmorcos@hotmail.com>
Cc: Steve Burnstead <Steve@burnstead.com>
Subject: Medina Tree Ordinance

Hello Alex,.

It has been a long time since we interacted regarding Medina Ordinances. David Lee sent me the revisions to the existing Tree Ordinance being recommended by the present Planning Commission. First of all, I am extremely disappointed to see such a unscientific approach to reviewing a Tree Ordinance that was so recently updated after extensive City Council and staff review as well as considerable public comment.

Fundamentally the existing Tree Ordinance is NOT BROKEN. It mis working. The Existing Tree Ordinance was based on scientific analysis of the present Tree Density with specific goals.

1. Maintain the existing Medina tree canopy density at a minimum.

2. Allow Property owners to reasonable mange the trees on their private property with reasonable mitigation requirements
3. Medina's Sunlight (Solar power opportunity a plus for the environment far exceeding a tree) and View ordinance is reasonable to allow Medina property owners the ability to maintain their existing views or access to sunlight.

The proposed changes to the Tree Ordinance are so onerous and lopsided regarding tree replacement it effectively prevents tree management of private property. The changes would actually eliminate any new trees from being planted on private property. Why would anyone plant a tree and then have the City of Medina take ownership of it and restrict your private property accordingly. Is the City of Medina prepared to hire an Arborist to review every 30inch or larger tree (Landmark?) on all private property to guarantee the safety of each tree related to structures and lives. I assume the City has an Insurance policy to cover all and each mandated tree retention on private property.

The proposed increase in the required Tree density, the decrease in the per unit credit for existing trees has no basis in science or logic what's so ever.

I know most if not all the decisions regarding Ordinance changes are made behind the scenes between staff, Planning Commission, and Council. I don't understand what drove these radical changes to what was already considered one of the most restrictive Tree Code in the State of Washington. I cannot express my disappointed enough to see the Council contemplating radical changes to force more tree density on Medina private property owners. Why doesn't Medina just plant a forest on the park property vs. all that sunlight and grass.

The Trees that exist in Medina today were planted and managed by Medina private property owners BEFORE THERE WERE ANY TREE ORDINANCES. Imagine that.

One final thought. A much more valuable and productive use of the Council time would be to study a immediate plan to prevent the every wind storm Medina Power Outages caused by all the Trees surrounding the old 1950 power lines. As well, create a long term plan and funding to underground all power poles throughout Medina!!! Why do we still have OLD 1950 ABOVE GROUND POWER POLES in Medina. I have not completed a plat in the LAST 50 YEARS that did not require underground power!!

Please forward this letter to all the City Council Members

Sincerely,

Steve Burnstead

Steve Burnstead

Steve Burnstead Construction LLC
11980 NE 24th Street Suite 200

Bellevue, WA 98005

O: (425) 454-1900 x219

C: (206) 369-6869

steve@burnstead.com

www.burnstead.com



MEDINA, WASHINGTON

AGENDA BILL

Monday, June 27, 2022

Subject: Resolution Addressing Interim City Manager (ICM) Compensation

Category: Consent

Staff Contact: Scott Missall, City Attorney

Summary

Stephen R. Burns was appointed the Interim City Manager for the City of Medina effective January 4, 2022. On June 13, 2022, the City Council appointed Stephen Burns to the position of Medina City Manager effective July 1, 2022, and in doing so “directed the City Attorney to finalize the resolution paying retroactive compensation to Stephen Burns for his service as Interim City Manager from January 4 to June 30 at the flat rate of \$1,000/month”.

Attached Resolution No. 427 implements that direction, requiring the compensation sum (\$6,000) be paid to Stephen Burns pursuant to the City’s usual procedures, practices and requirements, and directing that the City Clerk and Finance Director timely report completion thereof to the Council.

Attachment:

- Resolution No. 427 – Determining compensation payable to Stephen R. Burns for his service as Interim City Manager

Budget/Fiscal Impact: \$6,000.

Recommendation: Adopt Resolution No. 427 to complete performance of Council’s June 13, 2022 motion.

City Manager Approval:

Proposed Council Motion: “I move to approve Resolution No. 427 as presented.

CITY OF MEDINA, WASHINGTON

RESOLUTION NO. 427

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MEDINA, WASHINGTON, DETERMINING COMPENSATION PAYABLE TO STEPHEN R. BURNS FOR HIS SERVICE AS INTERIM CITY MANAGER FOR THE CITY OF MEDINA FROM JANUARY 4, 2022, THROUGH JUNE 30, 2022

WHEREAS, Stephen R. Burns was appointed Interim City Manager for the City of Medina by motion of the City Council at its regular meeting on December 13, 2021, said position to formally commence on January 4, 2022 upon completion of former City Manager Michael Sauerwein's duties on January 3, 2022; and

WHEREAS, Stephen Burns and the City Council confirmed the terms of said interim appointment by letter agreement dated January 3, 2022; and

WHEREAS, the letter agreement provided that Stephen Burns "will continue to receive [his] current salary as Police Chief as set forth in the City's 2022 budget, and may be increased while serving as the Interim City Manager in an amount to be set by the Council in the first quarter of 2022 with retroactive effect to [his] first day as Interim City Manager"; and

WHEREAS, the Council was unable to meet the schedule for adjusting compensation in the first quarter of 2022 due to workload; and

WHEREAS, the Council took action at its June 13, 2022 meeting and appointed Stephen Burns to serve as Medina's regular City Manager effective July 1, 2022, and in said motion "directed the City Attorney to finalize the resolution paying retroactive compensation to Stephen Burns for his service as Interim City Manager from January 4 to June 30 at the flat rate of \$1,000/month"; and

WHEREAS, the Council has now determined it is appropriate to complete its consideration of additional compensation payable during Stephen Burns' service as Interim City Manager.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MEDINA, WASHINGTON, RESOLVES AS FOLLOWS:

Section 1. Recitals Acknowledged. The Council acknowledges that the action authorized by this Resolution is made upon due consideration of the facts and circumstances and pursuant to the foregoing recitals.

Section 2. ICM Compensation. The Council formally approves payment to Stephen Burns the amount of \$1,000 per month for his service as Interim City Manager from January 4, 2022 through June 30, 2022, said amount being the total sum of \$6,000. Said sum shall be paid to Stephen Burns per the City's usual procedures, practices and requirements.

Section 3. Completion and Confirmation of Action. The City Finance Director and City Clerk shall timely take the necessary steps to complete the payment described herein and shall report completion thereof to the Council.

Section 4. Effective Date. This Resolution shall be effective upon its adoption by the City Council.

**PASSED BY THE CITY COUNCIL OF THE CITY OF MEDINA ON JUNE 27, 2022 AND
SIGNED IN AUTHENTICATION OF ITS PASSAGE ON JUNE 27, 2022.**

Jessica Rossman, Mayor

Approved as to form:
Ogden Murphy Wallace, PLLC

Attest:

Scott M. Missall, City Attorney

Aimee Kellerman, City Clerk

FILED WITH THE CITY CLERK: June 28, 2022
PASSED BY THE CITY COUNCIL: June 27, 2022
RESOLUTION NO. 427



MEDINA, WASHINGTON

AGENDA BILL

Monday, June 27, 2022

Subject: Acceptance of Professional Services Agreement with Stephen R. Burns

Category: Consent

Staff Contact: Scott Missall, City Attorney; Aimee Kellerman, City Clerk

Summary

On June 13, 2022, the City Council appointed Stephen Burns to the position of Medina City Manager effective July 1, 2022. The Council asked that the previously negotiated Professional Services Agreement (Contract) for Mr. Burns' services as City Manager be signed by Mr. Burns and the Mayor so that the Council could formally accept the Contract prior to commencement of Mr. Burns' services.

The Contract has been signed by the parties and is presented herewith for Council acceptance. It will be authenticated by the City Clerk and City Attorney at Council's June 27th meeting.

Attachment:

- Professional Services Agreement with Stephen R. Burns (signed)

Budget/Fiscal Impact: N/A

Recommendation: Move that Council accept Mr. Burns' Professional Services Agreement to complete performance of Council's June 13, 2022 motion.

City Manager Approval: 

Proposed Council Motion: "I move that Council accept the signed Professional Services Agreement with Stephen R. Burns for his forthcoming service as Medina City Manager."

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**PROFESSIONAL SERVICES AGREEMENT
BETWEEN**

City of Medina, Washington

and

Stephen R. Burns

Contract No. CO-28 __

I. Parties

This Professional Services Agreement (**Agreement**) is made and effective as of the date set forth below by and between the City of Medina, a Washington municipal corporation (**City or Medina**) located at 501 Evergreen Point Road, Medina, Washington 98039, and Stephen R. Burns, City Manager for the City of Medina (**Manager**). City and Manager are each a Party and collectively the Parties to this Agreement.

II. Recitals

1. City is a noncharter, optional municipal code city organized under RCW Title 35A as a Council/Manager form of government. For the purposes of this Agreement, City acts by and through the Medina City Council (**Council or City Council**).

2. Manager has been serving as the Interim City Manager for City since his appointment to that position by the Council on December 13, 2021, effective January 4, 2022, and represents that he possesses the qualifications and experience necessary for the complete and proper performance of the responsibilities of a city manager serving under RCW Title 35A and his responsibilities under this Agreement. City, through its Council, therefore desires to employ Manager to serve as the City Manager for City pursuant to this Agreement, and Manager desires to fill said position and serve as City Manager for City pursuant to this Agreement.

3. These recitals are material terms of this Agreement between the Parties.

III. Agreement

IN CONSIDERATION OF the foregoing recitals, terms, conditions and mutual benefits of this Agreement, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. **Employment; At-Will Employment Status.** City agrees to employ Manager as, and Manager agrees to accept the position of, City Manager for the City of Medina upon and in accordance with the terms and conditions of this Agreement. Manager's employment under this Agreement and with City is "at will" and is subject to termination for any reason or no reason at all under the terms hereof. While employed by City, Manager shall not accept any outside employment and shall devote all time, attention, efforts, knowledge and skills as are necessary to faithfully and fully perform his duties under this Agreement for the benefit of City.

2. **Commencement Date; Term.** Manager shall commence employment as Manager of the City on the Effective date stated in Section 8.7 below, which shall be Manager's first day of employment under this Agreement (**Commencement Date**). Employment will continue for an indefinite term unless terminated as provided by law or by the provisions of this Agreement.

3. **Manager's Duties.** Manager shall perform all the duties and obligations of the city manager as required by law, and such other duties and responsibilities as are assigned from

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time to time by City Council. Manager shall be the chief executive officer of the City and responsible for managing the City and implementing City policies and requirements established by the Council. Manager shall be a confidential employee to the Council and shall keep the Council fully advised of the business and operations of the City by means of regular and special reports and as assigned by or agreed between the Manager and Council. Manager shall attend all special and regular meetings of the Council unless excused, and such other meetings and City functions as are appropriate, necessary or required by the Council. Manager is expected to attend all official functions of City as part of Manager's routine work.

4. Compensation. Manager's compensation will consist of the following while serving as Manager. Unless stated otherwise below, all compensation shall be paid in accordance with City's usual policies and procedures for its employees and new compensation rates shall commence on January 1 of each calendar year.

4.1. Base Salary. Commencing on the Commencement Date, Manager shall receive an annual salary of \$180,000 (**Base Salary**). Thereafter, Base Salary from the prior year shall be increased by the latest CPI for Urban Workers/Seattle region with a 2% floor and 4% maximum increase. In addition, Base Salary may be annually adjusted at Council's discretion based on Council's annual performance review and evaluation of Manager.

4.2 Annual Performance Review. Manager's performance shall be reviewed and evaluated by the City Council annually in accordance with its current procedures and end-of-year schedule (Res. No. 411; 7.13.2020). Council may identify specific performance goals and milestones for Manager's attention and action in the coming year or other pertinent time frame, and shall, as part of the Council's next annual performance review, evaluate Manager's performance in achieving such goals and milestones.

5. Benefits. Manager's benefits shall be: (A) all general benefits uniformly applicable to City Department Directors (**Directors**) pursuant to the City of Medina Personnel Guidelines (December 13, 2021) (**Guidelines**) as adopted and amended from time to time, and (B) other specific benefits stated below, all subject to applicable City policies and code and state laws/regulations.

5.1 General Benefits. General benefits shall include social security/MEBT or equivalent contributions, health, medical and other insurance and contributions covered under Guidelines Chapter 6.0 (Benefits); vacation, holiday, sick leave and the like covered under Guidelines Chapter 7.0; travel, credit card usage and other stated benefits covered under Guidelines Appendix E.

5.2 Retirement. City shall pay into the Mission Square 457 Deferred Compensation Plan instead of the Washington State Department of Retirement System Public Employees Retirement System (PERS) plan for the benefit of Manager at the same rate and manner as provided for Directors and in accordance with applicable state regulations and City procedures.

5.3 Membership Dues for Professional Development. In addition to work-related dues and memberships covered under the Guidelines, City shall pay reasonable annual dues for Manager's membership in the International City/County Management Association (ICMA) and the Washington City/County Managers Association (WCCMA). City shall pay a reasonable cost for such other memberships, subscriptions, or dues desirable for Manager's continued professional growth, advancement and the good of the City as approved by City Council or provided for in City's adopted budget.

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5.4 Vehicle Allowance. Manager shall maintain a personal vehicle for his use in connection with his employment and City related business, for which City shall provide an allowance of \$500 dollars per month. Manager shall obtain, pay for and maintain at all times a valid Washington driver license, the vehicle's annual Washington license and tabs, and the minimum State-required insurance coverages and limits for a personal vehicle, including comprehensive liability, bodily injury and property damage. The City may obtain additional insurance coverages and limits as it determines appropriate, either by coverage under the City's WCIA policy or otherwise.

5.4 Technology. City will provide Manager with appropriate communications device(s) and a portable computing device (e.g., laptop, pad, or similar device) for use in performing his duties. Such devices will be selected by Manager and City for compatibility with the City's technology system. City shall own such devices unless otherwise agreed. City will arrange for 24/7/365 access to police and fire call outs in the City.

6. [Reserved]

7. Termination of Manager's Employment. Manager's employment with City shall be terminated in accordance with the following procedures and requirements.

7.1 Termination by City. As an at-will employee of City, the Parties agree that the Council may terminate Manager's employment at any time for any reason or no reason at all, and with or without cause, including for City's convenience. Such termination shall comply with the following procedures, and with the procedures set forth in RCW 35A.13.130 as applicable.

7.1.1 Severance and COBRA Payment; Requirements. City Council may terminate Manager's employment without cause at any time. In the event Council passes a resolution to terminate Manager's employment for any reason or no reason at all other than cause as defined in Section 7.2.3 below, and Manager chooses in response to voluntarily resign within thirty (30) days of such resolution in lieu of a public hearing that he may otherwise have a right to pursuant to RCW 35A.13.140, Manager shall be paid: (i) compensation in an amount equal to three months of Manager's then current Base Salary commencing on the effective date of termination (**Severance Payment**); and (ii) the monthly cost of continuing Manager's medical insurance coverages under COBRA (**COBRA Costs**); PROVIDED that no Severance Payment shall be made if such termination occurs within four months of the Effective Date. Except for the Severance Payment and as otherwise required by law, no compensation or benefits will be paid to Manager after the effective date of termination or resignation-in-lieu except COBRA Costs. Any Base Salary paid to Manager for paid time off during a suspension or administrative leave that commenced upon or after adoption of the Council's resolution to terminate Manager will be deducted from the Severance Payment. Manager's receipt of Severance Payment and COBRA Costs is expressly conditioned upon Manager executing a full release and waiver of all known and unknown claims he and his marital community may have, directly or indirectly, against City, its elected and appointed officers, employees, and agents arising out of or connected with Manager's employment and Manager's termination of employment with City. The release and waiver shall be in a form approved by the City Attorney.

7.1.2 Payment of Severance Payment and COBRA Costs. Severance Payment and COBRA Costs may be paid in a lump sum or in equal monthly payments at City's option and in accordance with City's usual procedures, but in no event shall it be paid before expiration of ten (10) days after Manager's release and waiver has been fully executed and delivered to the City Attorney and any applicable revocation period under the Age Discrimination in Employment Act (or similar legislation) has expired. Severance Payment and

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COBRA Costs shall be subject to applicable federal and state withholding taxes and all other required deductions and withholdings, including any repayment owed by Manager to City for benefits provided in accordance with Section 5 above.

7.1.3 Termination for Cause. In the event the City Council becomes aware of or determines there is evidence that may constitute grounds to terminate Manager's employment for cause, the Council shall give notice thereof to Manager and provide a prompt opportunity for Manager to respond in a meeting with one or more Councilmembers, prior to adopting any termination resolution under RCW Chapter 35A.13. In the event Manager is terminated for cause as defined in the next sentence, Manager shall not be entitled to any Severance Payment or COBRA Costs under this Section 7. For the purposes of this Agreement, the term "cause" shall include but is not limited to lying, failing a drug or alcohol test, falsifying records, embezzlement, theft, insubordination, fraud, felonious conduct, crime involving moral turpitude, disclosing private and/or confidential information, deliberately violating City policy or rules, and intentionally discriminating against an employee on a basis that is prohibited under the Washington Law Against Discrimination.

7.1.4 Statutory Hearing. In the event Manager requests a hearing under RCW 35A.13.130 and/or RCW 35A.13.140, Manager shall not be entitled to Severance Payment or COBRA Costs under this Agreement.

7.2 Termination by Voluntary Resignation of Manager. In the event Manager elects to voluntarily resign employment with City for any reason other than in response to a City Council resolution to terminate Manager, Manager shall provide City with written notice thereof delivered to the Council not less than forty-five (45) days prior to the effective date of said resignation. Upon receiving Manager's notice of intent to resign Manager's employment, City may ask Manager to voluntarily make the effective date of his resignation less than forty-five (45) days. If Manager advances the effective date of resignation per such request, or if the Council places Manager on administrative leave after Manager provides notice of his intended resignation, City will continue Manager's Base Salary and benefits for up to the full forty-five (45) day notice period. If Manager provides more than forty-five (45) days notice of his intended resignation, City may either accept the resignation as offered or require the resignation be effective in a shorter period of time, but not less than thirty (30) days from the date of the notice. A request or requirement for a shorter resignation period shall not require City to pay any Severance Payment or COBRA Costs.

7.3 Manager's Personal Effects and Devices. At any time following notice of or commencement of any termination or resignation, Manager shall at City request promptly and cooperatively return to City all keys, access cards, technology devices, files, records (written and electronic) and all other City property in Manager's possession or control, without any alteration thereof and with functional passwords and/or codes enabling full operation thereof. City shall likewise promptly and cooperatively return or make available to Manager his personal property and effects located in or at City facilities.

7.4 Unemployment Benefits. Nothing herein shall prevent Manager from seeking unemployment benefits from the State Department of Labor and Industries following termination or resignation, nor shall it prevent City from responding to Department of Labor and Industries information requests concerning such termination or resignation.

8. General Terms.

8.1 Integration; Mutual Drafting. This Agreement constitutes the entire written

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agreement between the Parties. The Parties acknowledge there are no other agreements, oral or otherwise, that have not been fully set forth in the text of this Agreement. This Agreement has been mutually negotiated by the Parties and neither Party shall be deemed or construed to be the drafter.

8.2 Modification. This Agreement may be amended or modified only with the written concurrence of both Parties. Each such amendment or modification shall be denoted a sequentially numbered amendment of this Agreement and, upon the Parties' execution thereof, shall become part of this Agreement.

8.3 Venue; Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Jurisdiction and venue for any proceeding brought to enforce or interpret this Agreement shall be in King County Superior Court for the State of Washington at Seattle, Washington. The Parties consent to such venue and jurisdiction.

8.4 Severability. If any provision or portion of this Agreement is held by a court of competent jurisdiction to be unconstitutional, illegal, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall not be affected and shall remain in full force and effect.

8.5 No Third Party Beneficiaries. The Parties enter into this Agreement for their convenience alone, and there are no third party beneficiaries to this Agreement.

8.6 Legal Consultation. The Parties have the opportunity at their own expense to seek legal assistance and review of all matters connected with this Agreement.

8.7 Effective Date. The Effective Date of this Agreement is July 1, 2022.

9. Acknowledgements.



9.1 Each Party acknowledges that this Agreement is entered into in good faith.

9.2 Each Party acknowledges it has had full and sufficient opportunity to consult with an attorney of its own choosing before entering into this Agreement, and enter into this Agreement knowingly and voluntarily.

9.3 Each Party represents that the terms of this Agreement have been carefully read, are understood, and are voluntarily accepted.

9.4 The City Council has taken all actions necessary and proper to enable it to enter into this Agreement, and has authorized Jessica Rossman, Mayor of the City of Medina, to execute this Agreement on behalf of City and City Council.

Dated for reference purposes July 1, 2022.

CITY OF MEDINA	CITY MANAGER
 Jessica Rossman, Mayor Date <u>14 June 2022</u>	 Stephen R. Burns Date <u>6-14-2022</u>

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ATTEST _____ Aimee Kellerman, City Clerk APPROVED AS TO FORM OFFICE OF THE CITY ATTORNEY _____ Scott M. Missall, City Attorney	
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