



MEDINA, WASHINGTON

PLANNING COMMISSION SPECIAL MEETING

Virtual/Online

Tuesday, September 28, 2021 – 4:00 PM

AGENDA

COMMISSION CHAIR | Laurel Preston

COMMISSION VICE-CHAIR | Shawn Schubring

COMMISSIONERS | Laura Bustamante, David Langworthy, Mark Nelson, Mike Raskin, Randy Reeves

PLANNING MANAGER | Stephanie Keyser

Virtual Meeting Participation

With the passage of the City's Proclamation of Local Emergency, City Hall is closed to the public. Planning Commission participation in this meeting will be by teleconference/online only. Members of the public may also participate by phone/online. Individuals wishing to speak live during the Virtual Planning Commission meeting will need to register their request with Rebecca Bennett, the Development Services Coordinator at 425.233.6414 or email rbennett@medina-wa.gov and leave a message before 12PM on the day of the September 28th Planning Commission meeting. Please reference Public Comments for September 28 Planning Commission Meeting on your correspondence. The Development Services Coordinator 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.

Join Zoom Meeting

<https://us06web.zoom.us/j/87394164355?pwd=TFdpcDNZSjBZMXVBajh1SGFoa3E3UT09>

Meeting ID: 873 9416 4355

Passcode: 759850

One tap mobile

+12532158782,,87394164355# US (Tacoma)

1. **CALL TO ORDER / ROLL CALL**

2. **APPROVAL OF MEETING AGENDA**

3. **APPROVAL OF MINUTES**

3.1 Planning Commission Minutes of July 27, 2021

Recommendation: Approve

Staff Contact: Stephanie Keyser, AICP, Planning Manager

4. **ANNOUNCEMENTS**

4.1 Staff/Commissioners

5. AUDIENCE PARTICIPATION

Individuals wishing to speak live during the Virtual Planning Commission meeting will need to register their request with the Development Services Coordinator, Rebecca Bennett via email (rbennett@medina-wa.gov) or by leaving a message at 425.233.6414 before 12pm the day of the Planning Commission meeting. Please reference Public Comments for the September 28th Planning Commission meeting on your correspondence. The Development Services Coordinator 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.

[5.1](#) Email received August 28, 2021 from Doug Hutson re: tree code

6. DISCUSSION

[6.1](#) Tree Code Retention and Replacement Requirements

Recommendation: N/A

Staff Contact(s): Stephanie Keyser, AICP, Planning Manager

Time Estimate: 30 minutes

[6.2](#) Tree Code Enforcement – Supplemental Trees

Recommendation: N/A

Staff Contact(s): Stephanie Keyser, AICP, Planning Manager

Time Estimate: 90 minutes

7. ADJOURNMENT

ADDITIONAL INFORMATION

Planning Commission meetings are held on the 4th Tuesday of the month at 6 PM, unless otherwise specified.

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

Tuesday, October 19, 2021 - Special Meeting at 4:00 PM

Tuesday, November 23, 2021 - Regular Meeting Cancelled

November 2021 - ***Meeting Date TBD***

Tuesday, December 28, 2021 - Regular Meeting Cancelled

December 2021 - ***Meeting Date TBD***



MEDINA, WASHINGTON

PLANNING COMMISSION SPECIAL MEETING

Virtual/Online

Tuesday, July 27, 2021 – 4:00 PM

MINUTES

COMMISSION CHAIR | Laurel Preston

COMMISSION VICE-CHAIR | Shawn Schubring

COMMISSIONERS | Laura Bustamante, David Langworthy, Mark Nelson, Mike Raskin, Randy Reeves

PLANNING MANAGER | Stephanie Keyser

1. CALL TO ORDER / ROLL CALL

Chair Laurel Preston called the meeting to order at 4:03 PM

PRESENT

- Chair Laurel Preston
- Commissioner Laura Bustamante
- Commissioner Mark Nelson
- Commissioner Mike Raskin
- Commissioner Randy Reeves

ABSENT

- Vice Chair Shawn Schubring
- Commissioner David Langworthy

STAFF PRESENT: Kellerman, Keyser, Minor, Sauerwein, Wilcox

2. APPROVAL OF MEETING AGENDA

By consensus the meeting agenda was approved.

3. APPROVAL OF MINUTES

Motion made by Commissioner Bustamante, Seconded by Chair Preston, to amend the June 22, 2021 minutes by adding the phrase, "as presented in the staff report dated June 22, 2021" to the motion that was made by Commissioner Langworthy, Seconded by Commissioner Nelson to remove the sentence in 20.52.120(A)(1)(d)(iii) and 20.52.120(A)(2)(d)(iii). (Approved 5-0)

Voting Yea: Chair Preston, Commissioner Bustamante, Commissioner Nelson, Commissioner Raskin, Commissioner Reeves

Motion made by Commissioner Nelson, Seconded by Commissioner Raskin to approve the amended minutes. (Approved 5-0)

Voting Yea: Chair Preston, Commissioner Bustamante, Commissioner Nelson, Commissioner Raskin, Commissioner Reeves

- 3.1 Planning Commission Minutes of June 22, 2021
Recommendation: Adopt Minutes.
Staff Contact: Stephanie Keyser, AICP, Planning Manager

4. ANNOUNCEMENTS

- 4.1 Staff/Commissioners

Keyser made the following announcements:

Amber will not be returning from maternity leave so the city is looking for a new development services coordinator.

The September 28, 2021 meeting will be a virtual meeting. In October the city will offer a hybrid version for meetings.

Thanks to the Commissioners for all of the hard work they've put into the tree code update.

5. AUDIENCE PARTICIPATION

Individuals wishing to speak live during the Virtual Planning Commission meeting will need to register their request with the Planning Manager, Stephanie Keyser, via email (skeyser@medina-wa.gov) or by leaving a message at 425.233.6416 before 12pm the day of the Planning Commission meeting. Please reference Public Comments for the July 27 Planning Commission meeting on your correspondence. The Planning Manager 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.

Kevin Dosch of Buchan Homes spoke to the Commission.

6. DISCUSSION

- 6.1 Tree Code Retention and Replacement Requirements

Keyser discussed the staff report.

Commissioners discussed and asked questions.

Keyser and Minor responded.

Motion made by Commissioner Nelson, Seconded by Commissioner Reeves to adopt the six bullet points outlined in the staff report dated July 27, 2021 listed on page seven of the agenda packet with additional direction to staff to review and provide comments from Mercer Island and Bellevue's code as it relates to locational requirements and bring

those back with stakeholder input at the next meeting as it pertains to locational requirements in section 20.52.140(C).

Motion made by Chair Preston, Seconded by Commissioner Bustamante to amend the motion on the table to include directing staff to make the housekeeping changes that were discussed at the beginning of the July 27, 2021 Planning Commission meeting. Approved (5-0)

Voting Yea: Chair Preston, Commissioner Bustamante, Commissioner Nelson, Commissioner Raskin, Commissioner Reeves

Chair Preston called for a vote on the main motion on the table made by Commissioner Nelson. Approved (5-0)

Voting Yea: Chair Preston, Commissioner Bustamante, Commissioner Nelson, Commissioner Raskin, Commissioner Reeves

6.2 Supplemental Trees and Enforcement

Keyser discussed staff report.

Commissioners discussed and asked questions.

Keyser, Minor, and Wilcox responded.

7. ADJOURNMENT

Meeting adjourned at 6:31 PM.

Motion made by Commissioner Raskin, Seconded by Commissioner Nelson to adjourn. (Approved 5-0)

Voting Yea: Chair Preston, Commissioner Bustamante, Commissioner Nelson, Commissioner Raskin, Commissioner Reeves

Stephanie Keyser

From: Doug Hutson <airbear1@me.com>
Sent: Saturday, August 28, 2021 10:38 PM
To: Stephanie Keyser
Subject: Tree code

Hi Stephanie,

Heard you were seeking comments on the tree code...I don't have anything super specific right this minute, but I'll just comment that I was heavily invested in getting it changed a few years ago from the incredibly onerous system that existed then. I live on a heavily forested property and wanted to have some freedom to manage my property as I saw fit for the safety of my family, as well as for aesthetics of my property. I objected to people on lots w/o trees telling me that I had to keep all of mine.

Please keep me in the loop if you are seeking more comments and how the tree code may be proposed to change.

Thanks,

Doug Hutson



MEDINA, WASHINGTON

AGENDA BILL

Tuesday, September 28, 2021

Subject: Tree Code Retention and Replacement Requirements

Category: Discussion

Staff Contact(s): Stephanie Keyser, AICP, Planning Manager

Summary

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.

The draft code was made available on the city’s website at the end of August. Staff has had general inquiries and one general comment, but nothing specific to the proposed changes. An open house via Zoom has been scheduled for October 14th and Planning Commission will hold a public hearing on October 19th.

Attachment(s) Tree Code Retention and Replacement Requirements

Budget/Fiscal Impact: N/A

Recommendation: N/A

City Manager Approval: N/A

Proposed Commission Motion: N/A

Time Estimate: 30 minutes



CITY OF MEDINA

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

MEMORANDUM

DATE: September 28, 2021

TO: Medina Planning Commission

FROM: Stephanie Keyser, AICP, Planning Manager

RE: Tree Code Retention and Replacement Requirements

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.

The draft code was made available on the city’s website at the end of August. Staff has had general inquiries and one general comment, but nothing specific to the proposed changes. An open house via Zoom has been scheduled for October 14th and Planning Commission will hold a public hearing on October 19th. The work plan item description is below:

Review tree retention and replacement requirements for new single-family construction

Description

Medina’s sylvan nature is something that distinguishes it from the surrounding jurisdictions and contributes to its high-quality residential character. Recent projects have demonstrated a deficiency in the tree code regarding new construction. This task would only review the sections of the tree code that relate to new single-family site redevelopment.

Requests to Staff

The first step will be to examine the retention and replacement requirements for lots undergoing redevelopment.

Deliverable

The initial deliverable from PC to CC would be a high-level recommendation regarding changes to the retention and replacement requirement in the tree code for new single-family development (MMC 20.52.110) and/or the minimum performance standards for land under development (MMC 20.52.130).

PC Discussions

Items that have been identified for consideration as the commission works through this work plan topic include:

- the definition of a significant tree
- better legacy tree protection
- the specific tree species that the city requires/encourages
- the role of natural loss
- long-term survival rates and enforcement
- the numerical tree replacement requirement
- the location of trees, both removal and replacements
- making sure the code is simple and flexible

The following have been provided to move the conversation forward with respect to the items above:

The definition of a significant tree (COMPLETED – APPROVED MARCH 23rd: 4-0)

The definition of a significant tree will stay as it is currently written in the code.

Better legacy tree protection: Landmark, Legacy, and Significant (COMPLETED – APPROVED JUNE 22nd: 6-0)

Planning Commission voted to create a new tree category for trees larger than 100” – Landmark trees, and to reduce the threshold for legacy trees from 50” to 36”.

Fee-in-Lieu (COMPLETED – APPROVED APRIL 27th: 3-2)

Planning Commission voted to change the fee-in-lieu section so that fees-in-lieu will be permitted only if the city arborist determines there is insufficient area to replant on site. Additionally, the associated fee shall be tied to the most current council of tree and landscaper appraiser guide for plant appraisal. The Council of Tree and Landscaper Appraisers periodically updates their appraised values, which will take the burden off of the city having to raise the fees every few years.

Medina Tree Fund (COMPLETED – NO ACTION NEEDED)

The question of what the city does with the money received from owners opting to use the fee-in-lieu (or payment into the Medina tree fund) option was asked. The Public Works department oversees the fund and they use it to cover the costs of tree trimming, removal of hazard trees, and new plantings on city property. One thing the city should do is create a plan and prioritize where future plantings should occur.

Amending tree credit value section MMC 20.52.130(C) (increase or decrease) (COMPLETED – APPROVED JUNE 22nd: 6-0)

Planning Commission voted to reduce all of the values in the tree credit section by .25.

Long-term survival rates and enforcement (Discussion in agenda item 6.2)

The code does say that owners are responsible for ensuring that the supplemental trees remain viable for 5 years, however there is no mechanism for enforcement or follow-up. There has been

concern raised on the logistics and cost of site visits after a project is finalized if we were to add an enforcement section. However, Planning Commission is a recommending body and it is ultimately up to Council to decide what should and should not be included.

Numerical tree replacement requirement; Location of trees, both removal and replacement; Making sure the code is simple and flexible

Location Component

At the July meeting, the Commission asked for staff to return with information on what surrounding cities (Mercer Island and Bellevue were specifically mentioned) do for location requirements in their tree code. It should be noted that Staff did pull from surrounding jurisdictions when drafting the proposed code.

Mercer Island requires 30% of trees with 10” DBH are retained and prohibits tree removal from the area outside of the land disturbance except where necessary to install site improvements like driveways. For trees that are replaced (supplemental plantings), they require something similar to what we are proposing:

- a. On-site replacement adjacent to or within critical tree areas as defined in Chapter 19.16 MICC;
- b. On-site replacement outside of critical tree areas adjacent to other retained trees making up a grove or stand of trees;
- c. On-site replacement outside of critical tree areas; and
- d. Off-site in adjacent public right-of-way where explicitly authorized by the city.

Bellevue requires retention of trees based on the size, zoning designation, and type of development.

- For subdivisions, PUD, Change in Lot Coverage, etc.: Mandates that all significant trees in perimeter landscaping area to be retained, and must retain at least 15% of the diameter inches of significant trees on the site outside of the perimeter landscaping area
- For new single-family structures or additions to impervious surface areas: mandates that a minimum of 30% of the diameter inches of significant trees be retained

Sammamish requires retention in the following order from most important to least:

- (a) Significant trees part of a continuous canopy adjacent to an environmentally critical area and associated buffer;
- (b) Significant trees part of a continuous canopy adjacent to a public park and/or other protected open space;

- (c) Significant trees part of any other on-site and/or off-site continuous canopy;
- (d) Significant trees providing relief from identified environmental impacts;
- (e) Significant trees providing perimeter connectivity and/or off-site screening;
- (f) Significant trees able to be incorporated into required landscaping;
- (g) An isolated cluster of significant trees;
- (h) Individual significant trees.

Bothell requires tree retention to be based on the following objectives:

- a. Provide continuous overstory tree canopies;
- b. Preserve trees in groupings or mutually supporting groves;
- c. Protect trees adjacent to critical area buffers;
- d. Retain or enhance the “feathered edge” visual effect of ridgeline trees against the sky. The feathered edge is more completely described within the Imagine Bothell... Comprehensive Plan Land Use Element and is depicted in Land Use Element Figure LU-5;
- e. Retain those trees which a qualified professional has identified have the best chance of survival following development;
- f. Retain trees which will be used as part of a low impact development storm water facility such as dispersion of surface water; and
- g. Retain trees within an open space tract created as part of a clustered subdivision planned unit development pursuant to Chapter 12.30 BMC.

Large Lot (+20,000 sq. ft.) Considerations

Large lots (anything 20,000 square feet or larger) statistically have more trees than smaller lots. This should not be surprising, nor should it be surprising that these larger, more heavily wooded lots are able to cut down more trees. In the future, and with another tree canopy assessment, it would be reasonable to do an analysis and require coverage or the density ratio based on lot size, however this is currently outside of the scope and timeframe for this amendment. One of the complaints often heard is the perceived ‘clear cutting’ that these larger lots seemingly are able to accomplish. One of the ways to address this is to require a percentage of the retained trees to be located within the setbacks in the following prioritized locations: front yard and rear yard. Staff is

of the opinion that this type of requirement would not be appropriate for smaller lots that may only have two or three trees to begin with.

Update Density Ratio to .4 (COMPLETED – APPROVED MARCH 23rd: 4-0)

The increase in the density ratio requirement from .35 to .4, as was recommended by the city arborist and staff, was approved.

Draft Code

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 while language that Planning Commission has previously approved is green and underlined.

Chapter 20.52

TREE MANAGEMENT CODE

Sections:

- 20.52.010 Purpose and intent.
- 20.52.015 General provisions and applicability.
- 20.52.020 Applicability of the tree management code.
- 20.52.025 *Repealed.*
- 20.52.030 Exemptions.
- 20.52.040 Using this chapter.
- 20.52.050 Designation of significant tree species.
- 20.52.060 *Repealed.*
- 20.52.070 *Repealed.*
- 20.52.080 *Repealed.*
- 20.52.090 *Repealed.*
- 20.52.100 Designation of land under development.
- ~~20.52.110 Tree retention requirements. Repealed.~~
- 20.52.120 Legacy and Landmark tree protection measures.
- 20.52.130 Minimum performance preservation standards for land under development.
- 20.52.140 ~~Off-site tree planting~~ Supplemental tree standards and priorities.
- 20.52.150 Minimum restoration standards for land not under development.
- 20.52.160 *Repealed.*
- 20.52.200 Hazard tree risk assessment.
- 20.52.210 Nuisance tree.
- 20.52.220 City arborist established.
- 20.52.300 Notice of tree removal involving no construction.
- 20.52.310 Tree activity permits.
- 20.52.320 Tree ~~removal and planting~~ preservation plan.
- 20.52.330 Fee-in-lieu of supplemental plantings.
- 20.52.340 Tree protection measures during construction.
- 20.52.400 City tree removals.
- 20.52.410 Minimum street tree standards.
- 20.52.420 Owner responsibility within city rights-of-way.
- 20.52.500 Liability.
- 20.52.510 Other general provisions.

20.52.010 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.

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. (Ord. 923 § 9, 2015; Ord. 909 § 2 (Att. A), 2014)

20.52.015 General provisions and applicability:

Where land is designated as under development pursuant to MMC 20.52.100, 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 20.52.130(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 20.52.320.
4. Any applicable grading plans, pursuant to MMC Chapter 20.43, 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

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 20.50 and 20.67; and
 - b. Removal of any vegetation or woody debris, including trees, from a critical area is subject to the regulations in MMC Chapters 20.50 and 20.67.
8. All of the following shall be excluded from the requirements of this ~~section~~ chapter:
 - a. Hazard trees designated pursuant to MMC 20.52.200;
 - b. Nuisance trees designated pursuant to MMC 20.52.210 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.

20.52.020 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 20.66.050. (Ord. 923 § 10, 2015; Ord. 909 § 2 (Att. A), 2014)

20.52.025 Using this chapter.

Repealed by Ord. 923. (Ord. 909 § 2 (Att. A), 2014)

20.52.030 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;

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;

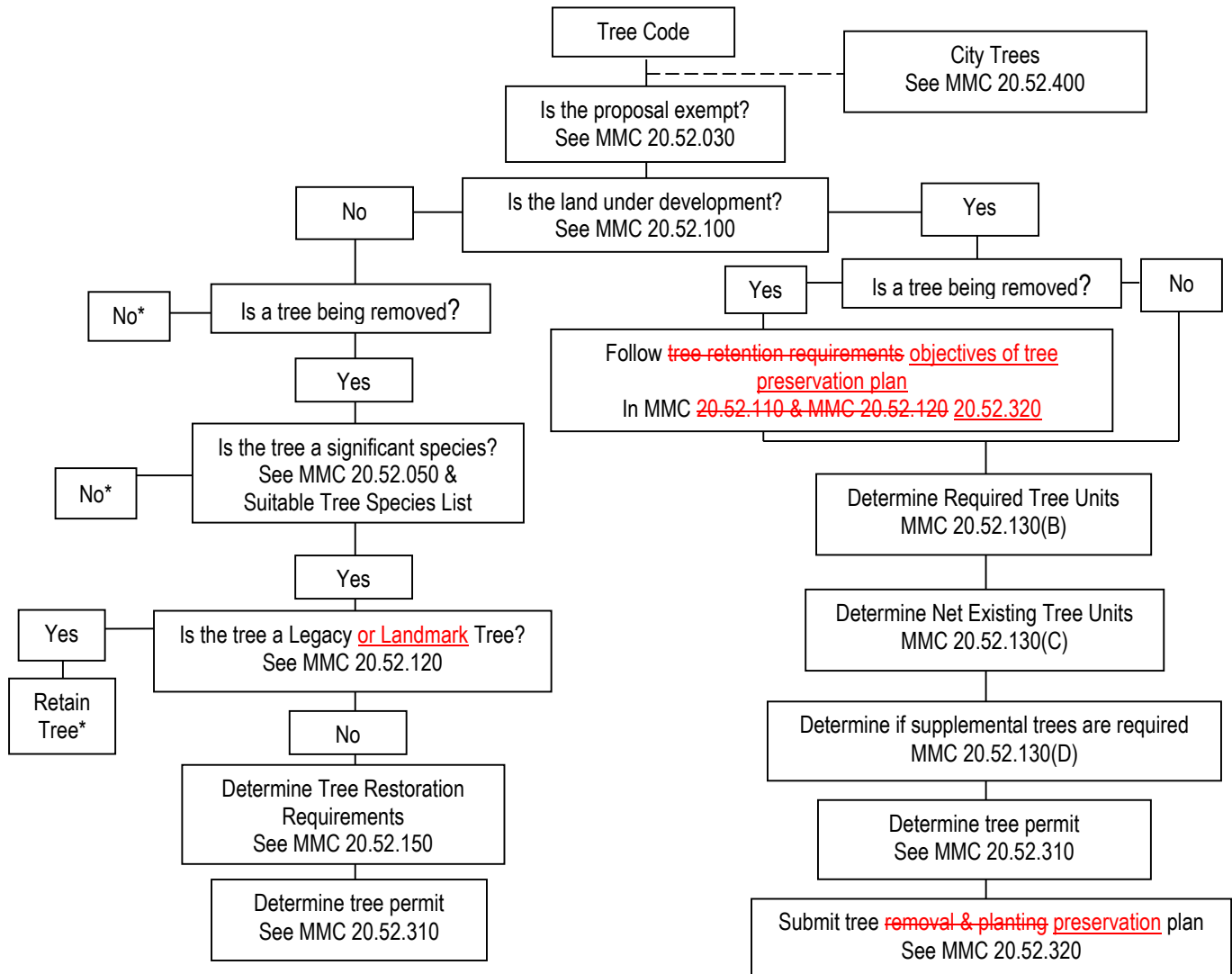
E. Removal of trees and vegetation management by the city or an agency under contract with the city for purposes of installing and maintaining fire hydrants, water meters, pumping stations, or similar utilities; or

F. The removal of a dead tree where the director pre-determines that the tree died from naturally occurring causes. (Ord. 923 § 12, 2015; Ord. 909 § 2 (Att. A), 2014)

20.52.040 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 20.52.040 offers a user's guide that outlines the general process for applying the provisions of this chapter.

Diagram 20.52.040



* Denotes no further action required.

20.52.050 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 20.12.200 to denote the term significant tree as used in this chapter. (Ord. 923 § 14, 2015; Ord. 909 § 2 (Att. A), 2014)

20.52.060 Notice of tree removal involving no construction.

Repealed by Ord. 923. (Ord. 909 § 2 (Att. A), 2014)

20.52.070 Tree removal and replacement plan.

Repealed by Ord. 923. (Ord. 909 § 2 (Att. A), 2014)

20.52.080 Designation of significant tree species.

Repealed by Ord. 923. (Ord. 909 § 2 (Att. A), 2014)

20.52.090 Tree replacement requirements.

Repealed by Ord. 923. (Ord. 909 § 2 (Att. A), 2014)

20.52.100 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 20.52.200 and 20.52.210, respectively. (Ord. 925 § 1, 2015; Ord. 923 § 16, 2015; Ord. 909 § 2 (Att. A), 2014)

~~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:
 - ~~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. (Ord. 923 § 17, 2015; Ord. 909 § 2 (Att. A), 2014)~~

20.52.120 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 exceptional outstanding value in contributing to the character of the community. Legacy and Landmark trees within the shoreline jurisdiction are regulated in MMC 20.66.050.

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

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 ~~H~~ legacy tree by ~~50 percent~~ the required percentage standards in Table 20.52.120(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.

~~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 20.52.120(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 x 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% x 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 20.52.330.

- ~~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.~~

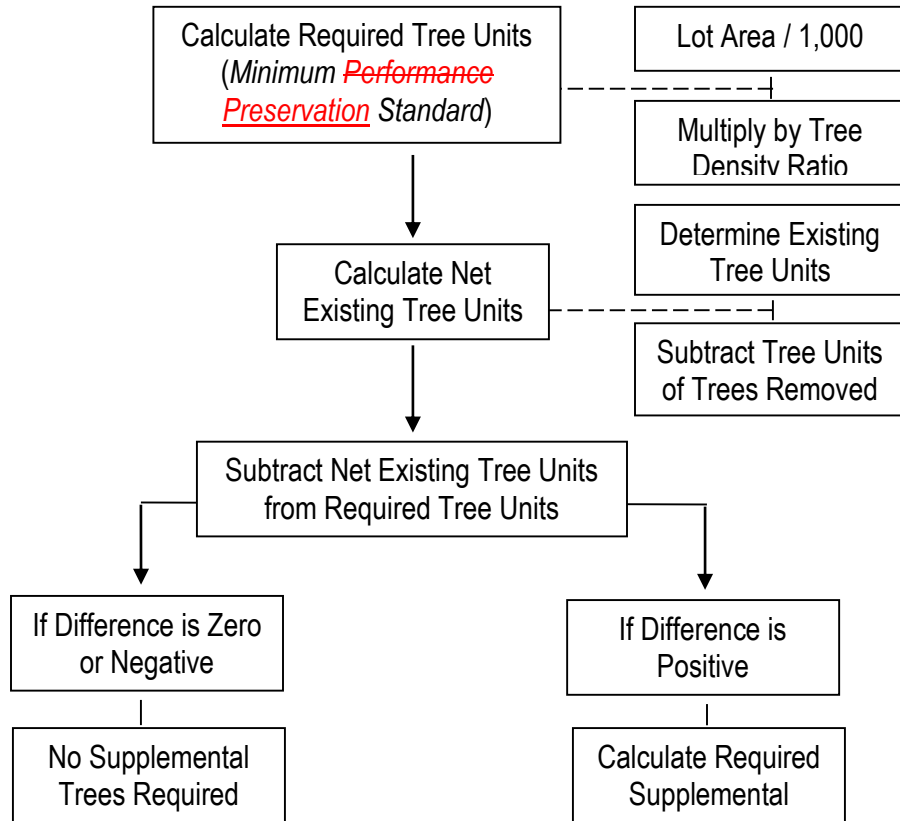
D. Other Provisions.

- 1. Each replacement tree shall meet the standards prescribed in MMC 20.52.1340~~(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 20.52.130 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 20.52.140~~(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.

20.52.130 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 20.52.100. Figure 20.52.130 outlines the primary steps prescribed by this section in establishing requirements and determining compliance with this chapter.

Figure 20.52.130 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 20.52.130(B); and
3. The resulting product is rounded up to the next whole number to establish the minimum number of required tree units.

Table 20.52.130(B) Tree Density Ratio

Zoning District	Category of Land Use	Tree Density Ratio
R-16, R-20, R-30 & SR-30	Residential	0.3540

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	0.35 <u>0.40</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 20.52.130(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 20.52.130(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

Tree Type	Diameter Breast Height of Existing Tree	Tree Unit
	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	1.250

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

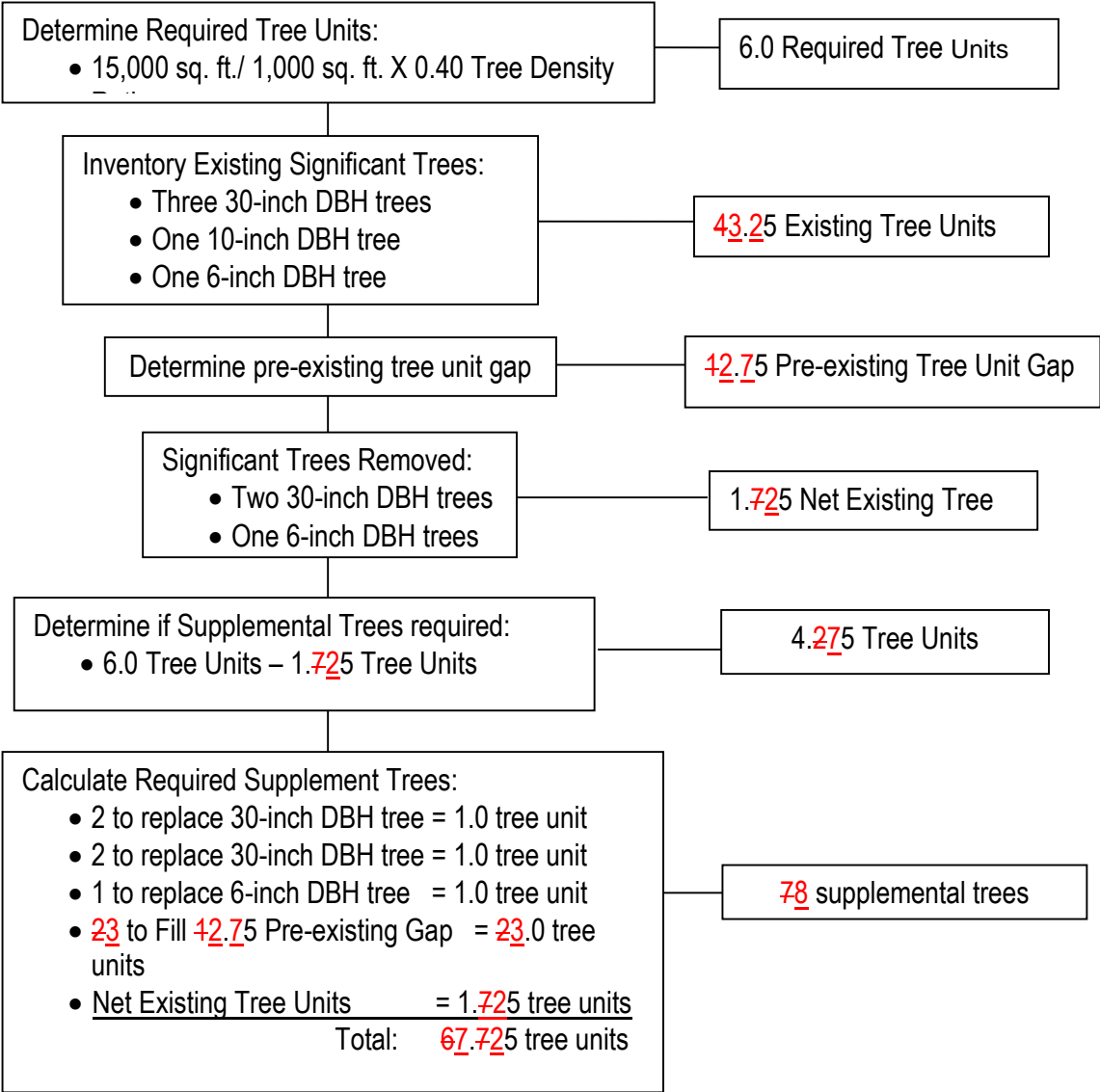
1. Determine if a pre-existing tree unit gap exists by subtracting the total existing tree units from the required tree units:
 - a. If the difference is less than zero round to zero;
 - b. A difference of zero means no pre-existing tree unit gap is present;
 - c. If the difference is greater than zero, 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 20.52.130(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 20.52.130 for an example of calculating supplemental trees.

Table 20.52.130(D) Supplemental Tree Unit

Purpose of Supplemental Tree	Diameter Breast Height of Removed Tree	Tree Unit for Supplemental Trees
	6 inches to less than 24 inches	1.0

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

Diagram 20.52.130 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;~~

~~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.~~

20.52.140 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;~~

- ~~e. 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:
 - ~~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 20.52.050 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 20.52.130(D), the trees shall be planted in the following order of priority:

1. On-site and adjacent right-of-way. The preferred locations for on-site supplemental trees are in the following order of priority from most important to least important:
 - a. Adjacent to critical areas and their associated buffers as defined in MMC Chapters 20.50 and 20.67;
 - b. Adjacent to a low impact development (LID) stormwater facility;
 - c. Within the first 15 feet of the front property line.
 - d. Within the immediately adjacent right-of-way.
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. 20.52.330.

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 20.10.040, 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.

20.52.150 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 20.52.100.

B. Removal of significant trees on a lot, including hazard and nuisance trees, is authorized only if the restoration requirements in Table 20.52.150 are satisfied, or if the property meets the requirements prescribed in subsection (K) of this section.

Table 20.52.150 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 trees	See MMC 20.52.120

	Diameter Breast Height of Removed Tree	Restoration Requirements
	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 20.52.050.

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 20.52.140.

K. The restoration requirements in Table 20.52.150 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 performance standard for required trees established in MMC 20.52.130; 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 performance standards for required trees established in MMC 20.52.130. (Ord. 923 § 20, 2015; Ord. 909 § 2 (Att. A), 2014)

20.52.160 Lots 12,000 square feet or less.
Repealed by Ord. 923. (Ord. 909 § 2 (Att. A), 2014)

20.52.200 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 20.52.200(C);
 - f. Possible mitigation treatments to reduce the risk are identified;
 - g. The risk is again designated pursuant to the matrix in Table 20.52.200(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 20.52.200(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 20.52.200(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 20.12 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. (Ord. 923 § 22, 2015)

20.52.210 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. (Ord. 923 § 23, 2015)

20.52.220 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. (Ord. 923 § 24, 2015)

20.52.300 Notice of tree removal involving no construction.

A. Property owners removing a significant tree requiring a permit under MMC 20.52.310, 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. (Ord. 923 § 25, 2015)

20.52.310 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 20.70.050 is required for the following activities unless a permit is required elsewhere under this section:

1. Land designated under development as determined in MMC 20.52.100;
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 20.60.050;
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 20.52.200, or involving hazard pruning authorized by the director.

C. An administrative right-of-way tree activity permit meeting the requirements set forth in MMC 20.71.050 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 20.72.100 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 20.52.210; 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 20.72.100 are satisfied. (Ord. 923 § 26, 2015)

20.52.320 ~~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 20.50 and 20.67 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.~~

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 20.66.050, the tree density ratio shall be achieved as follows:

i. At least 20 percent of the required significant trees as determined by MMC 20.52.130 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 20.52.130 shall be retained within the site interior.

e. Compliance with the required tree density ratio pursuant to MMC Table 20.52.130(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.

20.52.330 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 20.52.130; 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.

20.52.3-0 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. (Ord. 923 § 28, 2015)

20.52.400 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 20.52.020, 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 20.52.030 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 20.52.310.

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 20.52.200;
2. Nuisance trees designated pursuant to MMC 20.52.210;
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 18.16.040 through 18.16.080; and
 - c. The approval of a nonadministrative right-of-way activity permit is obtained pursuant to MMC 20.72.090.

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 20.52.400(E)(1), except as allowed otherwise by this section;

Table 20.52.400(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 20.52.050;
 - 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 20.52.200 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 20.52.030(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 20.52.410.

H. Where a proposal includes application of this section and application of MMC 20.52.130 and/or 20.52.150, the requirements for supplemental trees and restoration trees shall be applied independent of the requirements in this section for replacement trees. (Ord. 958 § 3, 2018; Ord. 923 § 29, 2015)

20.52.410 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 20.52.100:

- 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. (Ord. 923 § 30, 2015)

20.52.420 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 20.52.050.

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. (Ord. 923 § 31, 2015)

20.52.500 Liability.

Consistent with MMC 20.10.070, 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. (Ord. 923 § 32, 2015)

20.52.510 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 20.80.140(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 20.40.100 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 18.16.040, 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 18.16 MMC. (Ord. 923 § 33, 2015)



MEDINA, WASHINGTON

AGENDA BILL

Tuesday, September 28, 2021

Subject: Tree Code Enforcement – Supplemental Trees

Category: Discussion

Staff Contact(s): Stephanie Keyser, AICP, Planning Manager

Summary

In July, Planning Commission received direction from Council to consider the enforcement piece of the tree code, specifically as it relates to the survival of supplemental tree plantings. Although the code does require supplemental trees to be healthy for at least five years after planting, there is currently no mechanism to follow up on their survival.

Staff was asked to come back with examples of what other jurisdictions are doing when it comes to tree enforcement. Most cities do not have penalties for tree removal beyond the action being tied to general code enforcement procedures. An infraction therefore results in civil penalties and being a gross misdemeanor. Duvall, Redmond, and Issaquah all require bonds to ensure the survival of the trees and for there to be follow up which ensures the supplemental tree's survival. Duvall and Redmond's bonds are released after 5 years and Issaquah after 3. Pierce County requires a notice on title and an example of that document is attached.

Attachment(s) Tree Code Enforcement – Supplemental Trees

Budget/Fiscal Impact: N/A

Recommendation: N/A

City Manager Approval: N/A

Proposed Commission Motion: N/A

Time Estimate: 90 minutes



CITY OF MEDINA

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MEMORANDUM

DATE: September 28, 2021

TO: Medina Planning Commission

FROM: Stephanie Keyser, AICP, Planning Manager

RE: Tree Code Enforcement – Supplemental Trees

In July, Planning Commission received direction from Council to consider the enforcement piece of the tree code, specifically as it relates to the survival of supplemental tree plantings. Although the code does require supplemental trees to be healthy for at least five years after planting, there is currently no mechanism to follow up on their survival.

Potential problems include:

- How to determine which trees on site are supplemental so that the city can be sure those trees are surviving? As built? Tags?
- How to ensure future property owners know what trees on site are supplemental and need to be retained? Notice on title?
- How to ensure the city can gain access to the property to ensure and enforce the survival requirements? Gaining access to properties has been challenging as the city has had to implement a new stormwater management system this past year.
- How to administer and enforce such a program? Will this require an additional full-time employee? Will this require the hiring of a consultant?

Potential solutions that have been discussed include:

- Require an as-built once construction has been completed but before the project is finalized, that identifies all supplemental trees by species and location.
- Require as-builts to be recorded on title with an agreement and acknowledgement that the trees need to be retained so that all future owners are aware of this
- Educational outreach to residents of new program requirements
- Increase the permit fee and/or require a deposit that will cover the cost of the city having to administer this program

EXAMPLES

In July it was requested for Staff to come back with examples of what other jurisdictions are doing when it comes to tree enforcement. Most cities do not have penalties for tree removal

beyond the action being tied to general code enforcement procedures. An infraction therefore results in civil penalties and being a gross misdemeanor. Duvall, Redmond, and Issaquah all require bonds to ensure the survival of the trees and for there to be follow up which ensures the supplemental tree's survival. Duvall and Redmond's bonds are released after 5 years and Issaquah after 3. Pierce County requires a notice on title and an example of that document is attached.

Below is code from **Duvall**:

Maintenance.

- A. Any existing retained tree or supplemental tree shown on an approved tree retention plan, and any other tree required by the City to be planted, shall be maintained in healthy condition by the property owner or homeowners association for a period of five (5) years following issuance of the certificate of occupancy for the individual lot or development. After five (5) years, all trees on the property are subject to DMC 14.40.030.
 - 1. Trees shall be monitored and maintained for a period of five (5) years to ensure that retained trees were not compromised by adjacent development and that supplemental, replacement, and transplanted trees are surviving. The director may extent the monitoring and maintenance period beyond five (5) years if determined necessary to ensure successful establishment of supplemental and replacement trees.
 - 2. During years 1, 3, and 5 of the monitoring period, trees shall be monitored by a qualified arborist and reports submitted to the City that verify the health of all trees on the approved tree retention plan.
 - 3. Any tree found to be dead or dying shall be replaced by tree(s) that, at minimum, replace the tree's density credit.
 - 4. Any tree found to be unhealthy shall be assessed for opportunity for preventative measures to improve tree health, and shall be identified for additional review in future years of the monitoring period. Reasonable preventative measures to improve tree health, as recommended by a qualified professional arborist, shall be implemented as annual maintenance. For trees found to be unhealthy in year 5 of the monitoring period, the director may require additional supplemental planting based on review of monitoring information submitted by the property owner / home owner's association.
- B. Maintenance Bond for New Development Sites. A maintenance bond, cash deposit, or other security in a form acceptable to the City attorney covering ten (10) percent of the cost of the performance assurance bond amount established for all site landscaping per DMC Chapter 14.38, shall be in place prior to the release of a performance bond and shall be required to be held by the City for five years following issuance of building occupancy permit for the development site.
 - 1. The director is authorized to notify the owner of any property upon which trees were retained or supplemental trees were planted as a condition of approval under this chapter that trees are not being adequately maintained, and the specific nature of such failure to maintain. The notice shall specify a date by which the property owner shall be expected to comply.

2. Upon the failure to perform the required maintenance within the date specified by the notice, the director is authorized to collect funds under the maintenance bond or other security, and cause the required maintenance to be completed.
3. When funds have not been set aside or the performance assurance has expired, the director is authorized to request the city attorney to institute legal action to recover the cost of the required maintenance, and upon receipt of the funds to cause the maintenance to be done.
4. Maintenance as used in this section includes replacement of dead, diseased or damaged trees, preventative measures to improve health of unhealthy trees, and repair of irrigation systems.
5. In subdivisions or site plans where the right-of-way contains retained or supplemental trees, the adjacent property owner, homeowner's association or like mechanism, is required to maintain that landscaping. Such requirement shall be noted on the face of the plat or site plan. If there are such requirements that are maintained by an organization other than the adjacent homeowner, or if there are common areas on a property, a homeowner's association is required.

C. Cutting and Pruning.

1. Protected trees shall not be topped; any tree topping shall result in requirements for replacement tree(s) and fines, as determined consistent with 14.40.100 and review of the tree topping activity by the director.
2. Street trees, on all public streets, shall be cut or pruned only under the supervision of, or with the approval of, the city of Duvall public works department.
3. Pruning and maintenance of protected trees shall be consistent with best management practices in the field of arboriculture and further the long-term health of the tree.

Redmond requires a performance assurance:

Performance Assurance.

To mitigate damages should they occur as a result of unauthorized tree removal, the applicant shall submit a bond, letter of credit or other means of assurance acceptable to the Administrator. The following provisions shall apply to such performance assurance:

(1) **Tree Protection Assurance.** The applicant shall post a performance bond or other acceptable security device to ensure the installation, maintenance and adequate performance of tree protection measures. The amount of this bond shall equal 150 percent of the City's estimated cost of replacing each protected tree. The estimated cost per tree shall be the tree base fee established by City Council. Prior to issuance of the certificate of occupancy, any protected tree found to be irreparably damaged, severely stressed or dying shall be replaced according to the standards identified under RCDG 20D.80.20-130(1), Remediation. The bonding period shall be five years. The Administrator may release all or part of the bond prior to the conclusion of the

bonding period if the applicant demonstrates that the requirements of this section have been satisfied and there is evidence that the protected trees will survive.

(2) **Tree Maintenance Assurance.** Where replacement trees are required pursuant to this section, the applicant shall post a replacement tree maintenance bond or other acceptable security device to ensure the survival of replacement trees. The amount of the maintenance bond shall equal 150 percent the cost of plant material, periodic fertilizing and pruning, and labor until tree survival is ensured. Where possible, the bond may be combined with the landscape maintenance bond, required by Chapter 20D.80.10 RCDG, Landscaping and Natural Screening, which shall include a security covering 10 percent of the cost of the remaining plant materials. In the event a required replacement tree becomes irreparably damaged, severely stressed or dies, the tree shall be replaced according to the standards in RCDG 20D.80.20-080, Tree Replacement. Replacement trees damaged due to natural disasters such as wind storms, hail, ice or snow storms, earthquakes and the like shall be exempt from replacement. The bonding period shall be three years. The Administrator may release all or part of the bond prior to the conclusion of the bonding period if the applicant demonstrates that the requirements of this section have been satisfied and there is evidence that the replacement trees will survive.

(3) The required assurances shall be submitted prior to issuance of a tree removal permit.

(4) The applicant shall provide an estimate of the costs associated with the required performance bond or other security as described above. In lieu of an applicant’s estimate, the performance assurance shall be equal to City Staff’s best estimate of possible costs to meet the above requirements. In no case shall the performance assurance exceed an amount equal to two and one-half times the current cost of replacing the plants in accordance with RCDG 20D.80.20-080, Tree Replacement.

(5) The performance assurances shall not be fully released without final inspection and approval of completed work by the City, submittal of any post-construction evaluations or following any prescribed trial maintenance period required in the permit.

(6) Performance assurances provided in accordance with this section may be redeemed in whole or in part by the City of Redmond upon determination by the Administrator that the applicant has failed to fully comply with approved plans and/or conditions.

Below is **Issaquah’s** code:

Maintenance – Landscape bond required and tree maintenance.

A. Landscape Bond Required and Procedures:

1. All landscapes need to be maintained in a safe, healthy and attractive manner in perpetuity. All existing landscapes within the City shall also be kept weed and litter free and the plant material shall be maintained in good growing condition. The property owner shall replace any unhealthy or dead plant materials in conformance with the approved landscape plans and shall maintain all landscape material. The property owner is the responsible entity to ensure the

landscaping is maintained in an appropriate manner, regardless of any second party landscape maintenance agreements.

2. To insure that all plant material used in landscapes shall be maintained in a healthy growing condition, a cash deposit or other acceptable security worth fifty (50) percent of the value of the landscaped plant material, cost of labor, irrigation and materials shall be posted with the City prior to receipt of a temporary or final Certificate of Occupancy. The cash deposit will be returned in three (3) years if the plants remain in a healthy growing condition and have achieved full coverage (replacement of all plants will not be required if full coverage has been met). The Planning Director/Manager may accept other suitable security as permitted in Chapter 18.04 IMC, Procedures.

3. If any portion of the required landscaping dies within three (3) years, the City shall notify the property owner, in writing, and require replacement within sixty (60) days. If the landscape is not replaced within the specified time period, the City may use whatever portion of the deposit is needed to replace the dead landscaping. The City may use either City employees or private contractors to replace the landscaping, and may assess the property owner all actual costs against the deposit, if it is sufficient. An additional three (3) year cash deposit or other security device at fifty (50) percent of the value of the landscaping may be required at the discretion of the Planning Director/Manager if a significant amount of the plants need to be replaced.

4. Regular maintenance procedures shall be as follows:

- a. Litter pickup;
- b. Mowing turf;
- c. Edging turf;
- d. Weeding planting beds;
- e. Sweeping;
- f. Irrigation;
- g. Fertilization as needed per manufacturer's specifications to keep plants healthy and actively growing;
- h. All mulches used in planter beds shall be kept at least six (6) inches away from the crown of shrubs and trees;
- i. Pruning to required heights and widths; and
- j. Pest and disease control (all chemical products and application methods shall be approved by the City Parks Department).

5. It is recognized that these procedures may vary due to weather conditions, seasonal events, etc. The above guidelines are to serve as a standard for normal maintenance operations.

B. **Tree Maintenance:** The following regulations shall apply to all significant and protected trees. The City Arborist is authorized to make adjustments to the standards and requirements on a case-by-case basis using best professional judgment.

1. An irrigation method, approved by the City, shall be provided to all newly planted protected trees through an establishment period.

2. All pruning shall be done to the most recent ANSI standards (A300-1995 and Z133.1-1994). Canopy raising, canopy cleaning, and canopy thinning as defined in IMC 18.12.030, Definitions, are permitted; provided, that they do not meet the definition of excessive pruning in IMC 18.12.030, Definitions. No permit shall be required for maintenance pruning.

3. Tree topping is prohibited, except under the following circumstances:

- a. Branches interfering with utility lines.
- b. Significant canopy dieback has occurred.
- c. Storm damage or prior incorrect pruning requires correction.

If illegal tree topping has occurred, the property owner shall have a certified arborist develop and implement a five (5) year pruning schedule in addition to monetary fines and required tree replacement.

Pierce County requires a notice on title (attached). This is something that, if we require, would need to be recorded prior to the projected being finalized.

After Recording Return To:

Title Notification Form Tree Conservation and Landscaping

Tax Parcel Number:

Address:

Legal Description:

Present Owner:

NOTICE: This property contains tree conservation and/or landscape areas as defined by Title 18J, Pierce County Code. The site was the subject of a development proposal under application number _____, filed on _____ . A tree conservation and/or landscape plan was approved on _____ ; the approved plan can be found in the Planning and Land Services Online Permit system under the application number. Plant maintenance requirements and plant removal restrictions may apply.

Signature (s) of owner: X _____

X _____

Dated this _____ day of _____, 20__

_____, Notary, Residing in _____

Signature of Notary

Expires _____

Revision Date
06/11/2010