



MEDINA CITY COUNCIL

Monday, January 23, 2023

5:00 PM – REGULAR MEETING

AGENDA

VISION STATEMENT

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

MISSION STATEMENT

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



MEDINA, WASHINGTON

MEDINA CITY COUNCIL REGULAR MEETING

Hybrid - Virtual/In-Person
Monday, January 23, 2023 – 5:00 PM

AGENDA

MAYOR | Jessica Rossman

DEPUTY MAYOR | Randy Reeves

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

CITY MANAGER | Stephen R. Burns

CITY ATTORNEY | Scott Missall

CITY CLERK | Aimee Kellerman

Virtual Meeting Participation

The Medina City Council has moved to hybrid meetings, offering both in-person and online meeting participation. In accordance with the direction from Governor Inslee, masking and social distancing will be optional for those participating in person. Individuals who are participating online and wish to speak live must register their request with the City Clerk at 425.233.6411 or email akellerman@medina-wa.gov and leave a message before 2PM on the day of the January 23 Council meeting. Please reference Public Comments for January 23 Council Meeting on your correspondence. The City Clerk will call on you by name or telephone number when it is your turn to speak. You will be allotted 3 minutes for your comment and will be asked to stop when you reach the 3 minute limit. The city will also accept written comments. Any written comments must be submitted by 2 PM on the day of the January 23 Council meeting to the City Clerk at akellerman@medina-wa.gov.

[Join Zoom Meeting](#)

Meeting ID: 832 5227 3105

Passcode: 589036

One tap mobile

+12532158782,,83252273105# US (Tacoma)

1. REGULAR MEETING - CALL TO ORDER / ROLL CALL

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

2. APPROVAL OF MEETING AGENDA

3. PUBLIC COMMENT PERIOD

Individuals wishing to speak live during the Virtual City Council meeting will need to register their request with the City Clerk at 425.233.6411 or email akellerman@medina-wa.gov and leave a message **before 2PM** on the day of the January 23 Council meeting.

Please reference Public Comments for January 23 Council Meeting on your correspondence. The City Clerk will call on you by name or telephone number when it is your turn to speak. You will be allotted 3 minutes for your comment and will be asked to stop when you reach the 3 minute limit.

4. **PRESENTATIONS**

None.

5. **CONSENT AGENDA**

None.

6. **LEGISLATIVE HEARING**

None.

7. **PUBLIC HEARING**

None.

8. **CITY BUSINESS**

[8.1](#)

City Arborist Presentation and Discussion

Recommendation: Discussion item only.

Staff Contact: Steven R. Wilcox, Development Services Director

Time Estimate: 30 minutes

[8.2](#)

Tree Management Code Amendments

Recommendation: Approve.

Staff Contact: Steven R. Wilcox, Development Services Director

Time Estimate 60 minutes

9. **CITY MANAGER'S REPORT**

None.

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

11. **PUBLIC COMMENT**

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

12. **ADJOURNMENT**

Next regular City Council Meeting: February 13, 2023 at 5 PM.

ADDITIONAL INFORMATION

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

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

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

UPCOMING MEETINGS

Monday, February 13, 2023 - City Council Meeting (5:00 PM)

Monday, February 20, 2023 - President's Day - City Hall Closed

Monday, February 27, 2023 - City Council Meeting (5:00 PM)

Monday, March 13, 2023 - City Council Meeting (5:00 PM)

Monday, March 27, 2023 - City Council Meeting (5:00 PM)

Monday, April 10, 2023 - City Council Meeting (5:00 PM)

Monday, April 24, 2023 - City Council Meeting (5:00 PM)

Monday, May 8, 2023 - City Council Meeting (5:00 PM)

Monday, May 22, 2023 - City Council Meeting (5:00 PM)

Monday, May 29, 2023 - Memorial Day - CITY HALL CLOSED

Monday, June 12, 2023 - City Council Meeting (5:00 PM)

Monday, June 26, 2023 - City Council Meeting (5:00 PM)

Tuesday, July 4, 2023 - Independence Day - City Hall Closed

Monday, July 10, 2023 - City Council Meeting (5:00 PM)

Monday, July 24, 2023 - City Council Meeting (5:00 PM)

Monday, August 14, 2023 - City Council Meeting - **Dark No Meeting**

Monday, August 28, 2023 - City Council Meeting - **Dark No Meeting**

Monday, September 4, 2023 - Labor Day - City Hall Closed

Monday, September 11, 2023 - City Council Meeting (5:00 PM)

Monday, September 25, 2023 - City Council Meeting (5:00 PM)

Monday, October 9, 2023 - City Council Meeting (5:00 PM)

Monday, October 23, 2023 - City Council Meeting (5:00 PM)

Friday, November 10, 2023 - Veterans Day - City Hall Closed

Monday, November 13, 2023 - City Council Meeting (5:00 PM)

Thursday, November 23, 2023 - Thanksgiving Holiday - City Hall Closed

Friday, November 24, 2023 - Day After Thanksgiving Holiday - City Hall Closed

Monday, November 27, 2023 - City Council Meeting (5:00 PM)

Monday, December 11, 2023 - City Council Meeting (5:00 PM)

Monday, December 25, 2023 - Christmas Day - City Hall Closed

CERTIFICATION OF POSTING AGENDA

The agenda for Monday, January 23, 2023 Regular Meeting of the Medina City Council was posted and available for review on Friday, January 20, 2023 at City Hall of the City of Medina,

501 Evergreen Point Road, Medina, WA 98039. The agenda is also available on the city website at www.medina-wa.gov.

Tree Management Code

Medina's Arborists



SEAN DUGAN

*ISA BOARD CERTIFIED MASTER ARBORIST
ASCA REGISTERED CONSULTING ARBORIST
ISA QUALIFIED TREE RISK ASSESSOR
PRINCIPAL, TREE SOLUTIONS, INC.*



Andy Crossett

*ISA CERTIFIED ARBORIST
ISA QUALIFIED TREE RISK ASSESSOR
WSNLA CERTIFIED PROFESSIONAL HORTICULTURALIST
OWNER TREE FROG LLC.*

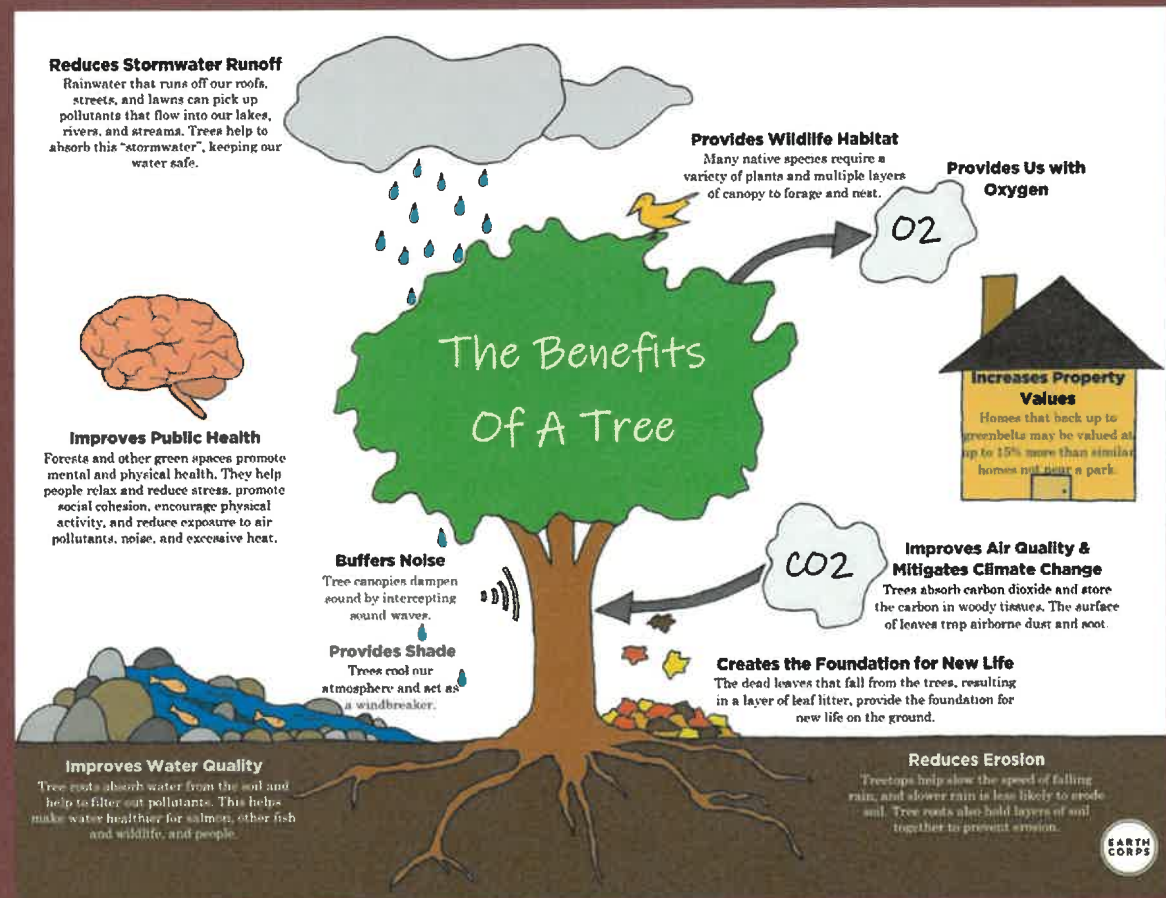
Importance of Urban Forest and Tree Canopy

Trees provide a multitude of benefits and services.

These services have value and provide numerous "assets".

Science supports that people are happier and healthier when they have access to nature.

Property values are higher in areas with large mature tree canopy.



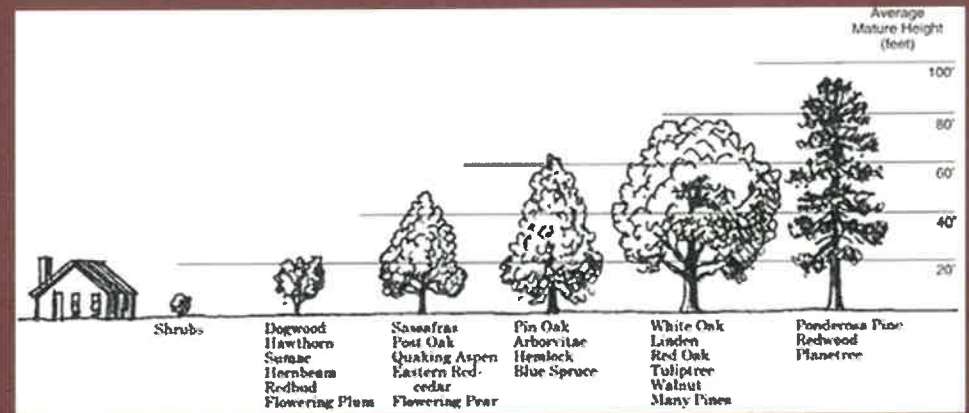
Tree Canopy is being lost in Medina



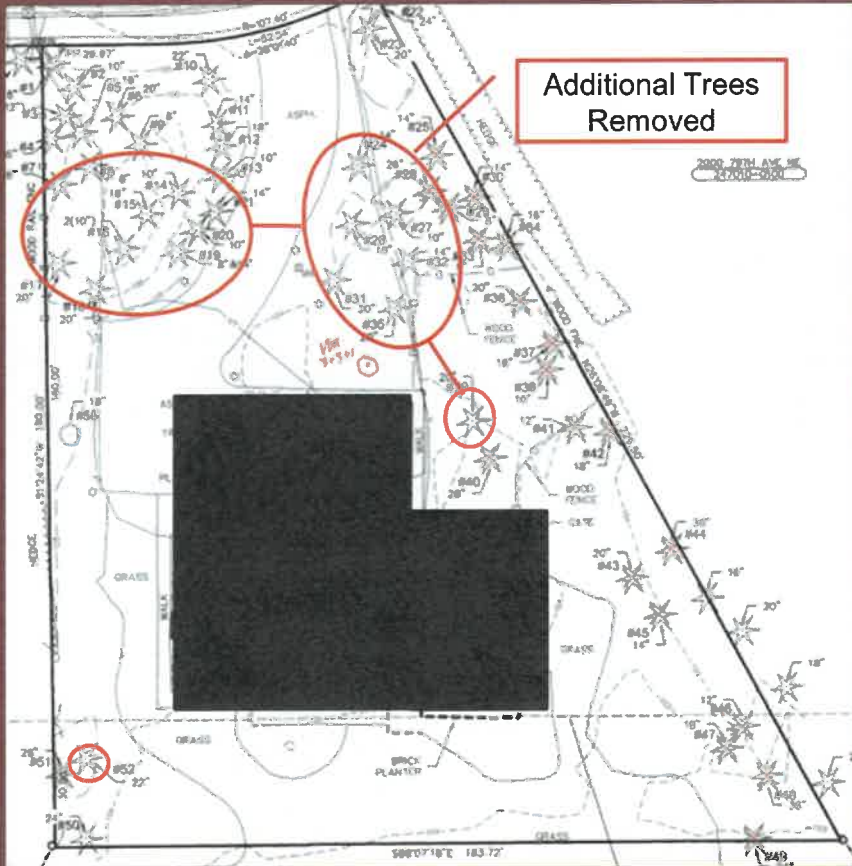
- The intent of the Tree Mangement Code is not being fully achieved.
- Significant tree canopy is being removed and not adequately being replaced.
- Tree species diversity is decreasing.
- Tree protection during construction not prioritized or realized.
- Land under development is held to a lower replacement standard then land not under development.
- Non-development projects - little to prevent indiscriminate tree removal

Development- Observations

- 2022 Code changes address design phase issues.
- Legacy and Landmark tree requirements working?
- Standards replace trees removed, not canopy lost.
- Minimum standards producing limited results:
 - "Supplemental trees in excess of those needed to meet the minimum required tree units shall not be required."
 - Attrition and replacement (significant) tree removal.
 - Future canopy loss due to construction impacts.
- Tree permits allow for building permit approval, then adjusted to meet site objectives.
- Minimum standards and supplemental planting.



Minimum Tree Standards and Canopy Preservation



- Lot Size >25K sq. Ft.
10 Tree Units Required
- 2016
 - Significant trees removed; minimum standards achieved - no replacement required.
- 2022
 - Significant trees proposed for removal; if approved, minimum standards achieved - no replacement required.

Development Observations - Supplemental Planting

- Purpose - Preserve the existing sylvan appearance through long-term preservation and planting of trees."
- Large tree canopy is being replaced by small tree canopy.
- Deciduous trees lack diversity, species selection driven by availability.
- Native vs. Non-native
- Native Tree Concerns:
 - Maple Decline and Sooty Bark Disease
 - Western Red Cedar Decline
 - Bronze Birch Borer/ Emerald Ash Borer
 - Port Orford Cedar – Phytophthora
 - Mt. Pine Beetle/ Blue Stain Fungus
- No tracking system to ensure supplemental trees are viable or remain after installation, as required by code.
- Measurable Goal?



Non-development Observations



- There are no restrictions in place to remove any significant, landmark, or legacy trees provided the following criteria is met:
 - *Trees are outside of critical areas and their associated setbacks*
 - *Meet the minimum retention requirements set forth in 16.52.010*
 - *Are replaced or found on property (if necessary) per 16.52.110.*
- As a result, healthy trees that are low-risk and defect/disease free could be removed for any reason.
- Medina currently allows several species of small trees to be used as replacements for large trees. These trees are often favored over native conifers as replacement trees.

Questions and Discussion



Recommended Adjustments: Short-term Solutions

se0



- Remove - "Supplemental trees in excess of those needed to meet the minimum required tree units shall not be required."
- Require species that can attain a similar canopy size to trees being removed.
- Expand "List of Suitable Trees" to allow select deciduous non-native species.
- Tree preservation plan shall include a report by a qualified professional that identifies compliance with code objectives.
- Increase minimum replacement trees to account for attrition.
- Legacy and Landmark trees: Remove "the risk of the tree declining or becoming a nuisance is unenhanced by any proposed development."



MEDINA, WASHINGTON

AGENDA BILL

Monday, January 23, 2023

Subject: Tree Management Code Amendments

Category: City Business

Staff Contact: Steven R. Wilcox, Development Services Director

Summary

The purpose of this Agenda Bill is for Council to consider directing city staff to perform two tasks:

1. Prepare draft amendments to Medina Municipal Code Chapter 16.52 Tree Management Code according to the six (6) "Short-term Solutions" as presented by our City Arborists.
2. Prepare a plan for an approach to a comprehensive review of MMC Code Chapter 16.52 Tree Management Code.

In 2022 Medina employed two new arborist consultants, Sean Dugan (Tree Solutions, Inc.) and Andy Crossett (Tree Frog, LLC). Following a consistent 15-years of success with our previous consulting arborist Tom Early, our two new arborists have brought us a fresh perspective and have voiced their observations regarding the effectiveness of our Tree Management Code while considering the defined Purpose and Intent.

Ordinances adopted by municipalities require amendments from time to time. A discussion about the effectiveness of our Tree Management Code is appropriate now that we have new information. Presenting our arborist's observations is important for Council to hear so that decisions about possible actions can be made.

Sean Dugan is a Principal with Tree Solutions, Inc. Sean performs development project work for Medina. Sean is involved with proposed development projects from pre-application through final inspection approval. Sean primarily interacts with property developers and contractors. More information about Sean and his company may be found at [Tree Solutions Inc. - a tree consulting company in the Pacific Northwest](#).

Andy Crossett is owner of Tree Frog LLC. Andy performs non-development work for Medina. Any request by a Medina resident for tree removal, tree health assessment, and general tree related code enforcement outside of new development projects including the public right of way, are assigned to Andy. Andy primarily interacts with our residents and finds himself often guiding people through our permit process. More information about Andy and his LLC may be found at [Tree Frog LLC](#).

The proposed project meets and supports Council priorities 3, 4, and 5.

Council Priorities:

1. Financial Stability and Accountability
2. Quality Infrastructure
3. Efficient and Effective Government
4. Public Safety and Health
5. Neighborhood Character

Attachments

PowerPoint presentation prepared by Sean Dugan and Andy Crossett

MMC Ch. 16.52 with our arborist's and staff comments

Budget/Fiscal Impact:

1. Code amendment draft preparation estimated at \$25,000. This is an estimated cost to draft simple code amendments necessary to affect short-term solutions to matters involving the Tree Management Code.
2. Comprehensive review plan draft estimated at \$2,000 preparation. This is not the cost to comprehensively review the entirety of the Tree Management Code.

Estimates are for consulting arborists and attorney's costs. There is no defined budget for this work.

Recommendation: Approve.

City Manager Approval:



Proposed Council Motions:

1. I move to direct city staff to prepare for Council consideration draft amendments to the Medina Municipal Code Chapter 16.52 Tree Management Code according to the six (6) "Short-term Solutions" bullet points as presented at the 1/23/23 meeting by our tree code consultants.
2. I move to direct city staff to prepare for Council consideration a plan for a comprehensive review of the Medina Municipal Code Chapter 16.52 Tree Management Code.

16.52.010. Purpose and intent.

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

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

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

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

(Code 1988 § 20.52.010; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 923 § 9, 2015; Ord. No. 909 § 2 (Att. A), 2014)

16.52.020. General provisions and applicability.

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

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

Commented [se1]: Purpose of review: What additional can be addressed to ensure the preservation and protection of trees, especially larger trees

Commented [se2]: The intent of the code discusses tree canopy but the minimum standards focus on the number of trees. Canopy retention and the number of retained trees is not always a direct correlation when trying to address the items identified within the purpose of the code.

Commented [se3]: This section of the code is a tool that is used to help prevent the indiscriminate removal of trees not associated with development.

Commented [se4]: Need more clarity and direction regarding how the city arborist is to qualify the reasonable enjoyment of property.

Commented [se5]: This requires the city arborist to be an advocate for the code's intent.

Commented [se6]: Need to identify what specific sections of the code the city arborist needs to reference to document that a proposed tree removal is considered indiscriminate.

Commented [se7]: City arborist will need to request and suggest alternative construction methods. Reference to use should include ISA BMP's for construction.

Commented [se8]: City arborist will need to work with city's grading and drainage consultant. Suggested approach should be to reach out following pre-app and before permit approval.

Commented [se9]: How do we know that preservation of the required minimum tree units is working to achieve the codes purpose and intent? To be inline with the intent, should there be an account of existing canopy, canopy retained, and canopy removed?

Commented [se10]: This is not how the process always goes. Often the applicant is presenting a significantly developed plan set. The 2022 code revisions provides the city arborist with better tools to address how development can exist with trees.

3. A tree preservation plan shall be required that demonstrates the objectives outlined in MMC 16.52.170.
4. Any applicable grading plans, pursuant to MMC Chapter 16.43, shall be developed to avoid significant alteration to the grades around preserved trees.
5. Multiple applications of the tree preservation requirements in this chapter over a ten-year period shall not cause the number and size of trees required to be retained to be reduced below the number and size of trees required to be retained with the first application.
6. When calculating tree preservation requirements, trees excluded from preservation requirements shall not be included in the calculation.
7. For the purpose of calculating tree density requirements, critical areas and their associated buffers shall be excluded from the lot area used for calculation (example: a 16,000 square foot lot has a stream on site that encompasses 1,500 square feet including the stream buffer. The lot area used for tree density calculation would be 14,500 square feet (16,000 - 1,500 = 14,500) provided:
 - a. Critical areas shall be limited to wetlands, streams, geologically hazardous areas, conservation easements, and their associated buffers as described in MMC chapters 16.50 and 16.67; and
 - b. Removal of any vegetation or woody debris, including trees, from a critical area is subject to the regulations in MMC chapters 16.50 and 16.67.
8. All of the following shall be excluded from the requirements of this chapter:
 - a. Hazard trees designated pursuant to MMC 16.52.120;
 - b. Nuisance trees designated pursuant to MMC 16.52.130 and where, if applicable, re-development does not remedy the conditions causing the nuisance;
 - c. Those significant trees having less than a 24-inch diameter breast height size and located within the footprint of the principal building on the lot.

(Ord. No. 1012 , § 2, 7-11-2022)

Editor's note(s)—Ord. No 1012 , § 2, adopted July, 11, 2022, amended the Code by adding a new § 16.52.020, and renumbering former §§ 16.52.020—16.52.060 as §§ 16.52.030—16.52.070.

16.52.030. Applicability of the tree management code.

- A. No person or their representative, directly or indirectly, shall remove or destroy trees located on private property or public property within the jurisdictional boundaries of the city except as provided for in accordance with this chapter.
- B. Additional tree management requirements are set forth in the Medina shoreline master program as provided in MMC 16.66.050.

(Code 1988 § 20.52.020; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 923 § 10, 2015; Ord. No. 909 § 2 (Att. A), 2014)

Note(s)—Former § 16.52.020. See editor's note, § 16.52.020.

16.52.040. Exemptions.

The following are exempt from the requirements in this chapter:

Commented [se11]: The language is still not 100% clear. Does this mean just make sure minimum standards are followed? Need to establish a tracking method to ensure this requirement is met.

Commented [se12]: Per sections of code, exclude: non approved species, hazard, nuisance, hedge trees, non-healthy trees, trees <24" in the building envelope

Commented [se13]: This section is unclear if trees in the critical area are included in the calculation. It only reads the critical area and buffer. As I interpret this, while the critical areas are excluded from the calculations the trees in the critical areas are not excluded and can be used for tree credits.

This is concerning in that there might be a 10,000 sq. ft. lot with 2,000 sq feet of steep slope. Four trees on the slope can achieve the minimum tree units for the entire lot. The remaining 8,000 sq. ft. can be cleared.

If the trees on the slope are excluded, then there needs to be at least 4 trees for the 8,000 sq. ft. portion of the lot.

Per Stephanie K: The intent was to exclude critical areas and their buffers and not count those trees in the calculations. The thought was that critical areas have their own section of the code and you're very limited with what you can remove in that area period. We had a discussion in Planning Commission similar to what you pointed out in that we didn't think the intent of the code was to allow someone with a critical area on their property be able to clearcut everything outside of the critical area.

Commented [se14]: Conflicts with 16.52.160.B.4.a; also should be in exemption 16.52.040

-
- 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.

(Code 1988 § 20.52.030; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 923 § 12, 2015; Ord. No. 909 § 2 (Att. A), 2014)

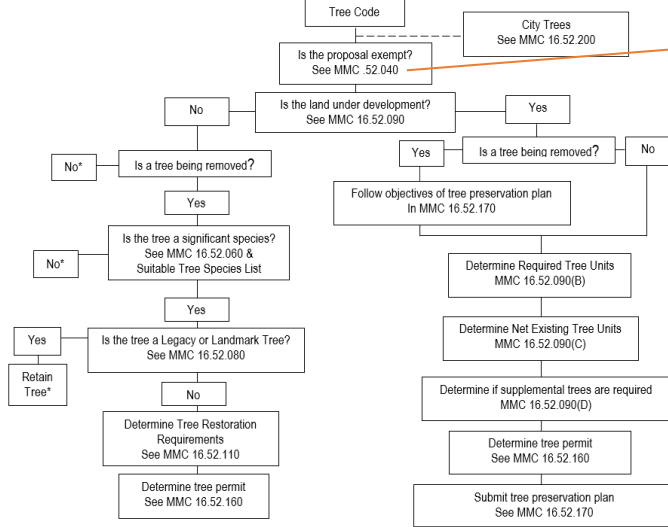
Note(s)—Former § 16.52.030. See editor's note, § 16.52.020.

16.52.050. Using this chapter.

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

Commented [se15]: There are no sections within the code that outline violations or appeal process. Both are common in tree code. Recommend clarifying violations process.

Diagram 16.52.050



16.52.040 Formatted: Centered

* Denotes no further action required.

(Code 1988 § 20.52.040; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 923 § 13, 2015; Ord. No. 909 § 2 (Att. A), 2014)

Note(s)—Former § 16.52.040. See editor's note, § 16.52.020.

16.52.060. 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 ten 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.

Commented [se16]: Trees with questions:
 Vine maple - over use
 Hinoki cypress - over use and size
 Broadleaf evergreens - how to classify
 Palm trees - should not count
 Port Orford Cedar - Disease issues

(Supp. No. 4)

Created: 2022-10-03 13:32:36 [EST]

The city council may also decline to take action on the proposed modifications, in which case the modifications shall be incorporated into the list and take effect five days after the date the city council declines to take action.

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

(Code 1988 § 20.52.050; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 923 § 14, 2015; Ord. No. 909 § 2 (Att. A), 2014)

Note(s)—Former § 16.52.050. See editor's note, § 16.52.020.

16.52.070. Designation of land under development.

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

- A. Any development activity requiring a building permit where:
 - 1. Construction of a dwelling having a gross floor area of 2,500 square feet or more;
 - 2. Construction of accessory buildings on property containing a residential use, or supporting a residential use, where the total gross floor area of all accessory buildings on the lot is 1,000 square feet or more;
 - 3. Any building constructed to be occupied principally by a nonresidential use where the gross floor area of the building is 1,000 square feet or more;
 - 4. Any series of exterior alterations, modifications or additions that over a four-consecutive-year period increases the total building footprint on a lot by more than 500 square feet or 15 percent, whichever is larger;
 - 5. Construction of any structures, including but not limited to driveways, decks, patios, and walkways, that over a four-consecutive-year period increases the impervious surface on the lot by a total of 2,000 square feet or more;
 - 6. Grading that over a four-consecutive-year period totals 2,000 cubic yards or more.
- B. Any development activity requiring a building permit, a right-of-way permit, and/or a land use or shoreline permit where:
 - 1. One or more significant trees are removed, with at least one tree having a ten-inch diameter breast height or larger size; or
 - 2. Four or more significant trees are removed, provided each has less than a ten-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

Commented [se17]: Recommend updating list to allow for some deciduous non-native trees that can attain a large size to be supplemental trees. The current list of native only deciduous trees is small, the nursery stock is not always available at the required size, the native trees are experiencing many biotic issues making them poor choices to establish. The conditions the trees are being planted in are not native.

Commented [se18]: Should there be a square footage clearing component that would trigger a land to be under development, such as clearing of 10K square feet?

- 3. Removes four or more significant trees, with at least four trees having a ten-inch diameter breast height or larger size, over a four-consecutive-year period.

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

(Code 1988 § 20.52.100; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 925 § 1, 2015; Ord. No. 923 § 16, 2015; Ord. No. 909 § 2 (Att. A), 2014)

Editor's note(s)—Former § 16.52.070, which pertained to tree retention requirements and derived from Code 1988 § 20.52.110; Ord. No. 923 § 17, adopted 2015; and Ord. No. 909 § 2 (Att. A), adopted 2014, was repealed by Ord. No. 1012 , § 2, adopted July 11, 2022, and replaced by former § 16.52.060, which was renumbered by Ord. No. 1012 . See the editor's note at § 16.52.020 for more information.

16.52.080. Legacy and landmark tree protection measures.

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

Commented [se19]: Why not include not native trees? Non-native would capture redwood, which has the potential to achieve this size and is a great tree for the region.

- A. A legacy or landmark tree shall be designated by meeting the following criteria:
 - 1. Legacy tree:
 - a. The tree species is denoted as a legacy tree on the "City of Medina List of Suitable Tree Species"; and
 - b. The diameter breast height of the tree is 36 inches or larger but less than 50 inches; and
 - c. The city arborist determines the tree to be healthy with a likelihood of surviving more than ten years based on assumptions that:
 - i. The tree is properly cared for; and
 - ii. The risk of the tree declining or becoming a nuisance is unenhanced by any proposed development.
 - 2. Landmark tree:
 - 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 50 inches or larger; and
 - c. The city arborist determines the tree to be healthy with a likelihood of surviving more than ten years based on assumptions that:
 - i. The tree is properly cared for; and
 - ii. The risk of the tree declining or becoming a nuisance is unenhanced by any proposed development.
- B. Legacy and landmark trees shall be preserved and retained unless replacement trees are planted in accordance with the following:
 - 1. Legacy tree:
 - a. The quantity of replacement trees is calculated by multiplying the diameter breast height of each subject legacy tree by the required percentage standards in Table 16.52.080(B) to establish the number of replacement inches; and

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

Table 16.52.080(B) Legacy Tree Replacement Requirements

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

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

Lot size: 8,120 square feet.

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

Total existing tree units on site: 6.5 units

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

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

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

Total tree units removed: 3

Four 10-inch DBH trees = 2 units removed

One 44-inch DBH tree = 1 unit removed

Net tree units: 3.5

Supplemental units required: Yes (4 required tree units - 3.5 net tree units) = .5 or 1 tree

Legacy tree removed: Yes - One 44-inch DHB tree

Legacy tree supplemental units: 10 percent x 44 = 4.4 (rounded up to the next whole number) = 5 legacy replacement inches

Landmark tree removed: No

Total supplemental requirements = 1 tree plus 5 inches = 4 2-inch trees

2. Landmark tree:

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

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

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

D. *Other provisions.*

1. Each replacement tree shall meet the standards prescribed in MMC 16.52.090;

Commented [se20]: This section should reference where the tree unit value is coming from for clarity.

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

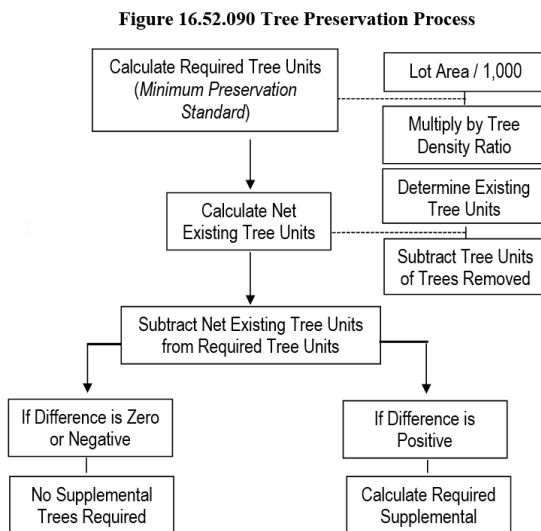
(Code 1988 § 20.52.120; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 923 § 18, 2015; Ord. No. 909 § 2 (Att. A), 2014)

Commented [an21]: Is this still applicable? Last time I spoke to Tom, he said Medina didn't have any suitable off-site locations for replanting.

16.52.090. Minimum preservation standards for land under development.

A. The requirements and procedures set forth in this section shall apply to lands that are designated as under development pursuant to MMC 16.52.070. Figure 16.52.090 outlines the primary steps prescribed by this section in establishing requirements and determining compliance with this chapter.

Commented [se22]: The code is based on a tree unit formula approach and using replacement trees to achieve the minimum standards. Does this approach achieve the code's purpose and intent in regard to preserving and protecting canopy? Is it measurable? Is it enforceable?



- 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

Commented [se23]: There is no method to address trees that straddle the property line.

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

Table 16.52.090(B) Tree Density Ratio

Zoning District	Category of Land Use	Tree Density Ratio
R-16, R-20, R-30 & SR-30	Residential	0.40
	Golf course	0.15
	Nonresidential other than specifically listed	0.25
Public	Schools	0.15
	Parks	0.42
	Residential	0.40
	Nonresidential other than specifically listed	0.25
N-A	All	0.25
State highway	All	0.12

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

1. Inventory all existing significant trees on the subject lot; and
2. Assign a tree unit to each significant tree using the corresponding tree unit set forth in Table 16.52.090(C); and
3. Add the tree units together to compute the total existing tree units and subtract the tree units of those significant trees removed to determine the net existing tree units (do not round fractions); and
4. Subtract the net existing tree units from the required tree units determined in this subsection (C) to establish:

If the net existing tree units equal or exceed the required tree units then no supplemental trees are required; or

If the net existing tree units are less than the required tree units then supplemental trees are required pursuant to subsection (D) of this section.

Table 16.52.090(C) Existing Tree Unit

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

Commented [se24]: This approach can still allow for a substantial clearing of a site with little regard to canopy cover or preservation/protection of canopy. Other municipalities address this by allowing only a certain % of the overall trees be removed or place annual limits on removal, often tied to lot size. (ex. 1 tree/yr lots <10k feet; 2/yr 10k<20K;...

Commented [se25]: How to assign a value for broad leaf evergreen?

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

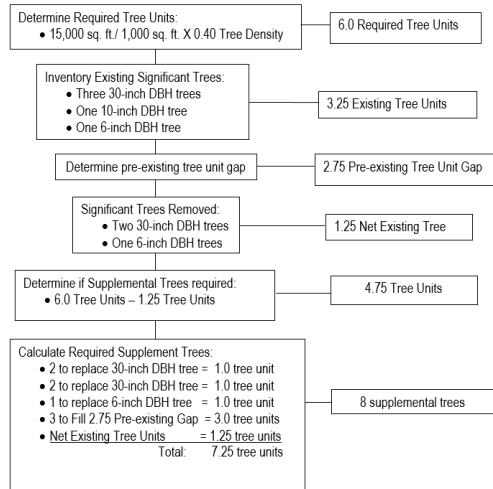
1. Determine if a pre-existing tree unit gap exists by subtracting the total existing tree units from the required tree units:
 - If the difference is less than zero round to zero;
 - A difference of zero means no pre-existing tree unit gap is present;
 - If the difference is greater than zero, the difference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

Table 16.52.090(D) Supplemental Tree Unit

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

Commented [se26]: This allows for a substantial number of trees to be removed. Does this achieve the intent of the code or the comprehensive plan? In my opinion, this should be removed. Has minimum 1:1 replacement ratio been considered for trees less than 24"? Should there be something similar to restoration 16.52.110?

Diagram 16.52.090 Example Calculating Supplemental Trees



(Code 1988 § 20.52.130; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 923 § 19, 2015; Ord. No. 909 § 2 (Att. A), 2014)

16.52.100. Supplemental tree standards and priorities.

- A. To be eligible as a supplemental tree, the tree species must be selected from the appropriate list set forth in the "City of Medina List of Suitable Tree Species" established in MMC 16.52.060 and shall meet the following general requirements:
 - 1. Each supplemental tree shall have a minimum caliper of two inches, or, if the tree is coniferous, it shall have a minimum height of six feet at the time of final inspection by the city;
 - 2. Trees shall be planted in a manner of proper spacing and lighting that allows them to grow to maturity;
 - 3. Existing trees within the boundaries of the lot having less than six inches diameter breast height may count as supplemental trees provided the tree meets all other requirements applicable to a supplemental tree;
 - 4. Supplemental trees replacing existing significant trees shall have at least one tree be of the same plant division (coniferous or deciduous) as the significant tree it is replacing; and
 - 5. The owner of the subject lot shall take necessary measures to ensure that supplemental trees remain healthy and viable for at least five years after inspection by the city and the owner shall be responsible for replacing any supplemental trees that do not remain healthy and viable for the five years after inspection by the city.
- B. All trees used to satisfy the supplemental tree requirements of this chapter shall be included as a significant tree for the purpose of this chapter.
- C. Where supplemental trees are required pursuant to MMC 16.52.090(D), the trees shall be planted in the following order of priority from most important to least important:

Commented [se27]: Projects are planting the same species. Often vine maple and hinoki cypress, very small trees. Require multiple species be planted, or only allow up to a % of trees from a single species, or require same species as replacement, or replacements need to be able to achieve the size of the ones removed if canopy preservation is the intent.

Commented [an28]: The list of suitable trees that count for tree credits in Medina include several small trees. This means that an existing on-site hinoki cypress or vine maple could count as replacement trees when a Douglas fir or Western Redcedar is removed. The small trees wont fill the canopy like a native large tree.

Commented [se29]: There should be a limit on the number of same species. Issue developing that everyone wants to plant vine maple and hinoki cypress due to small future stature of canopy and less resilient forest.

Commented [se30]: There is no system in place to ensure the trees are being retained or are viable after 5 years. A budget is needed to manage such an endeavor. Where is the information to be housed? Consider adding more trees to account for the ones that will likely die over 5 years - typically 20% attrition.

Commented [se31]: There needs to be a way to track this so that a new owner may be aware that a smaller diameter tree is actually a significant tree.

(Supp. No. 4)

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1. On-site and adjacent right-of-way:
 - a. Adjacent to or within critical areas and their associated buffers as defined in MMC Chapters 16.50 and 16.67;
 - b. Outside of critical areas and their associated buffers adjacent to other preserved trees making up a grove or stand of trees;
 - c. Adjacent to a low impact development (LID) stormwater facility;
 - d. Outside of critical areas and their associated buffers but within the front yard setback;
 - e. Outside of critical areas and their associated buffers;
 - f. Off-site in adjacent right-of-way where explicitly authorized by the city.
 2. *Off-site*. An owner may elect to plant the required trees off-site upon written request, and approval from the city. Except where contribution to the city tree fund is used in lieu of planting required trees, application of this section shall not result in planting trees below the minimum requirements for on-site plantings. Off-site locations include:
 - a. City-owned properties;
 - b. Street rights-of-way not immediately adjacent to the property;
 - c. Private property with the written consent of the owner of the off-site location;
 - d. Other public property with the written consent of the entity with jurisdiction over the off-site location;
 - e. Any other property determined appropriate by the director.
 3. *Fee-in-lieu*. If the director or designee determines there is insufficient area to replant on-site or within the adjacent public right-of-way, the director or designee may authorize payment of a fee-in-lieu in accordance with MMC. 16.52.180.
- D. An owner may elect a combination of planting trees on site, off site and/or fee-in-lieu upon written request, and approval by the city, provided:
1. The combination is consistent with the provisions of this chapter; and
 2. The combination results shall be equivalent to or greater than the minimum requirements for on-site plantings.
- E. Consistent with the authority granted in MMC 16.10.040, the director may establish additional administrative rules as necessary relating to the care and maintenance of off-site trees.
- F. Existing trees at the off-site location shall not be included as satisfying tree planting requirements.
- G. Trees planted off-site in lieu of on-site requirements shall not be counted as existing trees on the property where the off-site tree is located.
- (Code 1988 § 20.52.140; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 923 § 20, 2015; Ord. No. 909 § 2 (Att. A), 2014)

Commented [se32]: How is this being tracked? Where are these trees located? Are they being inspected after 5 years?

16.52.110. Minimum restoration standards for land not under development.

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

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

Table 16.52.110 Tree Restoration Standards

	Diameter Breast Height of Removed Tree	Restoration Requirements
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 or landmark trees	See MMC 16.52.080
	Hazard trees—10 inches and larger	Plant one tree

Commented [se33]: Approvable reasons for removal are identified in 16.52.010. B. 3. Are there other sections in the code that provide other reasoning not to be considered indiscriminate removal?

Commented [se34]: Why are lands under development, where there is likely more issues related to tree canopy loss, held to a lower replacement standard than lands not under development?

- C. To be eligible as a restoration tree, the tree species must be selected from the appropriate list in the "City of Medina List of Suitable Tree Species" established in MMC 16.52.060.
- D. Restoration trees shall be planted within the boundaries of the lot, except as authorized pursuant to subsection (J) of this section.
- E. Restoration trees shall be planted in a manner of proper spacing and lighting that allows them to grow to maturity.
- F. Each restoration tree shall have a minimum caliper of two inches or, if the tree is coniferous, it shall have a minimum height of six feet at the time of final inspection by the city.
- G. Existing trees on site having less than six inches diameter breast height may be included as restoration trees provided:
1. The subject tree is located within the boundaries of the lot; and
 2. The subject tree meets all of the other requirements applicable to restoration trees.
- H. The owner of the subject lot shall take necessary measures to make certain that restoration trees remain healthy and viable for at least five years after inspection by the city and the owner shall be responsible for replacing any restoration trees that do not remain healthy and viable for the five years after inspection by the city.
- I. All trees used to satisfy the restoration requirements of this chapter shall be included as a significant tree for purposes of this chapter.
- J. In lieu of the tree restoration requirements prescribed by this section, an owner may satisfy the requirements for restoration trees by meeting the requirements for off-site tree planting set forth in MMC 16.52.100.
- K. The restoration requirements in Table 16.52.110 for removing significant trees shall be waived if the following criteria are satisfied:
1. The subject lot contains a sufficient number of significant trees to meet the preservation standard for required trees established in MMC 16.52.090; and
 2. The owner demonstrates that removal of the significant tree, including hazard and nuisance trees, will not result in a failure to meet the preservation standards for required trees established in MMC 16.52.090.

Commented [se35]: Consider adopting enforcement procedures for ensuring the supplemental tree 5-year health/viability requirement.

Commented [se36]: Need to develop a tracking system to ensure trees planted as supplemental trees are also identified as significant trees.

Commented [se37]: You can remove trees as long as you either replace or meet the minimum standards. This does not meet the intent of 16.52.010 B 1& 5.

(Code 1988 § 20.52.150; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 923 § 20, 2015; Ord. No. 909 § 2 (Att. A), 2014)

16.52.120. Hazard tree risk assessment.

- A. Hazard trees are trees assessed by the city arborist as having a high to extreme risk rating using the International Society of Arborists Tree Risk Assessment Qualification (TRAQ) method in its most current form.
- B. Steps in the TRAQ method in developing a tree risk rating include the following:
 - 1. Identify possible targets and estimate occupancy rate;
 - 2. Inspect tree and identify tree parts that could fail and strike targets (referred to as failure mode);
 - 3. For each significant failure mode identified:
 - a. The likelihood of failure is assessed;
 - b. The likelihood of a tree part impacting a target is assessed;
 - c. The likelihood of a tree failure impacting a target is assessed;
 - d. Consequences of failure are estimated;
 - e. The risk is designated pursuant to the matrix in Table 16.52.120(C);
 - f. Possible mitigation treatments to reduce the risk are identified;
 - g. The risk is again designated pursuant to the matrix in Table 16.52.120(C) after mitigation treatment is completed.
 - 4. When assessing the risk of a tree, the city arborist shall evaluate the tree based on existing conditions and shall exclude possible impacts caused by new development, any land alteration activity, or other similar such activities that might otherwise unnaturally cause the risk rating to increase.
- C. The following table is from the International Society of Arborists TRAQ method and denotes the risk rating matrix used to assess levels of tree risk as a combination of likelihood of a tree failing and impacting a specified target, and the severity of the associated consequences should the tree or any part of the tree fail:

Table 16.52.120(C) Tree Risk Rating Matrix

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

- 1. The consequences listed in Table 16.52.120(C) have meanings as follows:
 - a. *Extreme risk.* This category applies to trees in which failure is "imminent" and there is a high likelihood of impacting a target, and the consequences of the failure are "severe."

- b. *High risk.* This category applies to situations in which consequences are significant and likelihood is "very likely" or "likely," or when consequences are "severe" and likelihood is "likely."
- c. *Moderate risk.* This category applies to trees in which consequences are "minor" and likelihood is "very likely" or "likely" or when likelihood is "somewhat likely" and the consequences are "significant" or "severe."
- d. *Low risk.* This category applies to trees in which consequences are "negligible" and likelihood is "unlikely"; or when consequences are "minor" and likelihood is "somewhat likely."

- 2. Definitions of TRAQ method terminology that are not set forth in this chapter or Chapter 16.12 MMC can be found in the article "Qualitative Tree Risk Assessment" by E. Thomas Smiley, Nelda Matheny, and Sharon Lilly on file at Medina City Hall.
- 3. Potential targets are permanent structures or an area of moderate to high use. Where a target does not exist, applicants should consider routine pruning and maintenance to mitigate hazards.

- D. Where a tree is found to have a high or extreme risk, the city arborist may authorize hazard pruning to mitigate the risk rather than removing the entire tree.
- E. If the city arborist assesses a tree to have a high or extreme risk and mitigation of the risk through pruning or moving of potential targets is not feasible, the city arborist shall designate the tree a hazard tree.

(Code 1988 § 20.52.200; Ord. No. 923 § 22, 2015)

16.52.130. Nuisance tree.

- A. A nuisance tree, for purposes of this chapter, is a tree whose branches, stem and/or roots cause one or more of the following conditions to exist:
 - 1. Substantial physical damage to public or private structures;
 - 2. A qualified professional provides verification based on conditions on the property that substantial physical damage will occur within five years to a building containing a principal use;
 - 3. Substantially impairs, interferes or restricts streets, sidewalks, sewers, power lines, utilities or other public improvements;
 - 4. Substantially impairs, interferes, or obstructs any street, private lane, or driveway; or
 - 5. The tree is diseased and restoration of the tree to a sound condition is not practical.
- B. Designation of a nuisance tree is by the director following receipt of a written request and findings are made supporting a nuisance designation using the following criteria:
 - 1. One or more of the conditions in subsection (A) of this section is present;
 - 2. The nuisance associated with the subject tree cannot be corrected by reasonable measures including, but not limited to, pruning, cabling, bracing, or if feasible, relocating structures and other improvements; and
 - 3. Other relevant information provided by the applicant and the city's inspection of the subject tree.

(Code 1988 § 20.52.210; Ord. No. 923 § 23, 2015)

Commented [se38]: What is the definition of substantial?

Commented [se39R38]: andycrossett@hotmail.com

I agree. This needs to be defined. Everyone seems to have a different idea of what substantial damage is.

Commented [se40]: How has the City defined "substantially impairs, interferes...?"

16.52.140. City arborist established.

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

(Code 1988 § 20.52.220; Ord. No. 923 § 24, 2015)

Commented [se41]: Is this the title to use or tree code consultant?

16.52.150. Notice of tree removal involving no construction.

A. Property owners removing a significant tree requiring a permit under MMC 16.52.160, but not undergoing new construction or land alteration activity, shall notify the city at least ten 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.

(Code 1988 § 20.52.300; Ord. No. 923 § 25, 2015)

Commented [se42]: Is this being done? Who is notified? Who reviews? How does the owner know if the non-significant size tree is a supplemental tree that is actually a significant tree?

16.52.160. Tree activity permits.

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

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

1. Land designated under development as determined in MMC 16.52.070;
2. Removal ~~at of any time of a~~ significant tree, including hazard and nuisance trees, located on private property or ~~state-controlled~~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 ~~state-controlled~~state-controlled land associated with the SR 520 highway that is located within 200 feet of Lake Washington pursuant to MMC 16.60.050;
4. Removal or pruning of any tree that is:
 - a. Six inches or larger diameter breast height size;
 - b. Located in any open or closed city right-of-way; and
 - c. Designated a hazard tree pursuant to MMC 16.52.120, or involving hazard pruning authorized by the director.

Commented [se43]: Unless exempt

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

1. Removal of any tree, excluding hazard trees, that is:
 - a. Six inches or larger diameter breast height size;
 - b. Located in any open or closed city right-of-way;
 - c. Application for the permit is made by the owner of property adjoining the right-of-way where the tree is located measured to the centerline of the right-of-way; and

- d. The removal does not require a non-administrative 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 16.72.090 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 ~~of 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 non-administrative tree activity permit meeting the requirements set forth in MMC 16.72.100 is required for the following:
 - 1. Removal ~~of 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.

Commented [se44]: There are many street trees below 6 inches in diameter. This section of code reads that these trees are allowed to be pruned or removed without a permit? Is this the intent?

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2. The director may modify the procedures for deciding a non-administrative tree activity permit and approve the application using a Type 2 decision process provided:
 - a. The subject tree is designated a nuisance tree pursuant to MMC 16.52.130; and
 - b. During the public comment period, the city does not receive any written objection to a Type 2 decision decided by the director being used; and
 - c. The approval criteria in MMC 16.72.100 are satisfied.

(Code 1988 § 20.52.310; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 923 § 26, 2015)

16.52.170. Tree preservation plan.

- A. Permits for lands under development and permits for removing city trees in city rights-of-way shall include a tree preservation plan containing the following information:
 1. A survey plan prepared by a state licensed surveyor that includes the following:
 - a. Topography of the site at two-foot contour intervals;
 - b. Critical areas as defined in Chapters 16.50 and 16.67 MMC.
 2. A site plan drawing showing the following:
 - a. Proposed improvements, alterations or adjustments to the subject property including, but not limited to, buildings, driveways, walkways, patios, decks, utilities, and proposed contours.
 - b. Existing structures, whether proposed to remain or proposed for removal.
 - c. The shoreline jurisdiction as defined in RCW 90.58.030, if applicable to the property.
 3. A tree-planting plan that includes:
 - a. The location, genus, species, common name, and size of all significant trees located within the boundaries of the property and within any adjoining city rights-of-way and notation of which significant trees will be retained and which are proposed to be removed.
 - b. If existing trees that are less than six inches diameter breast height are to be counted as supplemental trees, the location, genus, common name, and size of such tree.
 - c. Compliance with the following objectives:
 - i. Trees shall be incorporated as a site amenity with strong emphasis on tree protection. To the extent possible, forested sites should retain their forested look, value, and function after development.
 - ii. Trees should be preserved as vegetated islands and stands rather than as individual, isolated trees scattered throughout the site.
 - iii. Trees to be preserved shall be healthy and wind-firm as identified by a qualified arborist.
 - iv. Preservation of significant trees as follows:
 - (A) Significant trees which form a continuous canopy.
 - (B) Significant trees located adjacent to critical areas and their associated buffers.
 - (C) Significant trees located within the first 15 feet adjacent to a property line.
 - (D) Significant trees which will be used as part of a low impact development (LID) storm water facility.

Commented [se45]: Suggest identifying the need to include drip lines and heights - refer to 16.52.190.B.2.a & b and 16.52.170.3.c.iv.5

Commented [se46]: This is one of the most significant tools for the city arborist to use to preserve and protect trees and canopy. This needs to be moved from the tree-planting plan as #3 and tree-planting plan can be #4.

Commented [se47]: Need to gain a better understanding as to what this extent will ultimately mean. Going to work under the premise that there will be negotiations based on factual review and understanding of reasonableness.

Commented [se48]: What metrics does the city want to use to qualify value and function?

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- (E) Significant trees over 60 feet in height or greater than 24 inches diameter breast height.
 - d. For lots larger than 20,000 square feet, excluding lots within the shoreline jurisdiction as defined by MMC 16.66.050, the tree density ratio shall be achieved as follows:
 - i. At least 20 percent of the required significant trees as determined by MMC 16.52.090 shall be retained equally within the site perimeter as follows:
 - (A) Ten percent within the first 15-feet of the front property line.
 - (B) Ten percent within the first 15-feet of the rear property line.
 - b. At least 20 percent of the required significant trees as determined by MMC 16.52.090 shall be retained within the site interior.
 - c. In the event there are not enough existing significant trees to meet the requirements of this section, the applicant shall work with the city arborist to ensure, to the greatest extent possible, tree retention occurs throughout the site and is not concentrated in one area (e.g., only along the back property line).
 - d. Compliance with the required tree density ratio pursuant to MMC Table 16.52.090(B).
 - e. If applicable, a list of supplemental trees to be planted consistent with the requirements of this chapter.
 - f. If right-of-way trees are proposed for removal, an analysis of the tree mitigation and a list of replacement trees to be planted.
 - g. The list of required tree plantings shall include the size, genus, species and common names.
 - h. As applicable, a proposed landscaping plan that includes the required tree plantings and other vegetation being planted, as appropriate, for determining compliance with other provisions of the Medina Municipal Code (i.e., grading and drainage and shoreline master program regulations).
 - B. The director may authorize modifications to the tree preservation plan on a case-by-case basis that reduce submittal requirements if the director concludes such information to be unnecessary.
 - C. The director may require additional information to be included with the tree preservation plan, such as tree protection measures, where the director concludes the information is necessary to determine compliance with this chapter.
 - D. The applicant may combine the survey, site plan drawing, and/or tree preservation plan into a single document, or may combine the required information with other documents, provided the city determines the submitted information is reasonably easy to understand. All plans shall be drawn to a scale acceptable by the director.
 - E. Permits not involving land under development do not require a tree preservation plan. However, this shall not preclude the director from requiring such information as necessary to determine compliance with this chapter.

(Code 1988 § 20.52.320; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 923 § 27, 2015)

16.52.180. Fee-in-lieu of supplemental plantings.

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

1. There is insufficient area on the lot or adjacent right-of-way to meet the number of replacement inches prescribed by MMC 16.52.090; or
2. Tree replacement provided within public right-of-way or a city park in the vicinity will be of greater benefit to the community.
3. Fees shall be provided in lieu of on-site tree replacement based upon the following:
 - a. The expected tree replacement cost including labor, materials, and maintenance for each replacement tree; and
 - b. The most current council of tree and landscape appraisers guide for plant appraisal.
4. The applicant executes a written agreement with the city demonstrating compliance with the criteria in this section.

Commented [se49]: This guide does not have the fees but has a method to determine a cost for replacement.

(Ord. No. 1012 , § 2, 7-11-2022)

Editor's note(s)—Ord. No 1012 , § 2, adopted July, 11, 2022, amended the Code by adding a new § 16.52.180, and renumbering former §§ 16.52.180—16.52.230 as new §§ 16.52.190—16.52.240.

16.52.190. Tree protection measures during construction.

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

Commented [se50]: The tree care program should be included either on a plan or a submitted report. Unfortunately, this is often overlooked. There is no way to know if the program is being implemented outside of arborist inspections.

- 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.

(Code 1988 § 20.52.330; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 923 § 28, 2015)

Note(s)—Former § 16.52.180. See editor's note, § 16.52.180.

16.52.200. City tree removals.

- A. This section sets forth the requirements applicable to all trees located on city-owned property and city rights-of-way.
- B. *General provisions.*
1. This section is intended to be of general application for the benefit of the public at large; it is not intended for the particular benefit of any individual person or group of persons other than the general public;
 2. In addition to the limits set forth in MMC 16.52.030, no city tree shall be broken, injured, mutilated, killed, destroyed, pruned or removed unless authorized by the provisions of this section; and
 3. The exemptions in MMC 16.52.040 apply to this section.
- C. Pruning and trimming of city trees is permitted provided ANSI standards in their most recent form are followed and the trimming and pruning comply with the requirements for tree activity permits set forth in MMC 16.52.160.
- D. Removal of a city tree located within an open or closed city right-of-way may be allowed for the following:
1. Hazard trees designated pursuant to MMC 16.52.120;
 2. Nuisance trees designated pursuant to MMC 16.52.130;
 3. Trees not suitable under utility lines, or in the city right-of-way, as prescribed in the "City of Medina List of Suitable Tree Species";
 4. Any tree having less than a ten-inch diameter breast height size; and any trees not included on the "City of Medina Suitable Tree Species List" for the right-of-way having less than a 36-inch diameter breast height size;
 5. Trees where pruning and trimming for utilities caused significant defects to the primary stem of the tree resulting in significant abnormal growth;
 6. Trees where removal is necessary to allow vehicle access to a property;
 7. Trees where removal is necessary to restore a view significantly obstructed by the tree provided all of the following criteria are satisfied:
 - a. The owner of the adjoining property to the subject tree and the city both accept allowance to have the tree removed;
 - b. The person claiming the view obstruction establishes the tree causes an unreasonable view obstruction using the provisions established in MMC 14.08.040 through 14.08.080; and
 - c. The approval of a non-administrative right-of-way activity permit is obtained pursuant to MMC 16.72.090.
- E. Where subsection (D) of this section allows removal of a city tree, the following shall apply:

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

Table 16.52.200(E)(1) Replacement City Trees

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

2. Replacement trees shall meet the following standards:
 - a. To be eligible as a replacement tree, the tree species must be selected from the appropriate list in the "City of Medina List of Suitable Tree Species" established in MMC 16.52.060;
 - b. Replacement trees shall be planted within the city right-of-way adjoining the subject lot;
 - c. Each replacement tree shall have a minimum caliper of two inches or, if the tree is coniferous, it shall have a minimum height of six feet at the time of final inspection by the city;
 - d. Replacement trees shall be planted in a manner of proper spacing and lighting that allows them to grow to maturity;
 - e. At least one replacement city tree shall be of the same plant division (coniferous or deciduous) as the city tree removed;
 - f. Approval to remove a city tree shall include conditions to make certain that replacement trees remain healthy and viable for at least five years after inspection by the city, including measures to replace those replacement trees that do not remain healthy and viable;
3. In addition to the requirement for replacement trees in subsections (E)(1) and (2) of this section, the public benefits lost due to the removal of the city tree shall be mitigated by paying a contribution to the Medina tree fund in accordance with the following:
 - a. The contribution shall be determined by multiplying the diameter breast height inches of the tree removed (significant and nonsignificant tree species) by a rate of \$25.00;
 - b. Where more than one city tree is removed, the contribution for each removed tree shall be added together to produce the total payment to the Medina tree fund;
 - c. The contribution rate for a city tree designated a hazard pursuant to MMC 16.52.120 is zero;

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- d. If removal of the city tree was not authorized by the city at the time of its removal, the contribution rates shall triple and be in addition to any other penalties that might apply;
 - e. Unless a city tree qualifies for the emergency exemption pursuant to MMC 16.52.040(C), city trees removed before a hazard or nuisance determination is made by the city shall be presumed not to be a hazard or a nuisance.
- F. The following planting requirements apply within the city right-of-way when a city tree is removed:
- 1. The maximum number of trees in the city right-of-way shall be one tree for each 17 feet of linear public street frontage, or one tree for each 300 square feet of plantable area within the city right-of-way, whichever is greater, adjoining the subject lot;
 - 2. The director may increase the maximum number of city trees prescribed in subsection (F)(1) of this section, provided there is sufficient space in the city right-of-way adjoining the lot to accommodate the increase in city trees;
 - 3. If the tree replacement requirements prescribed in subsection (E) of this section would result in the total number of city trees in the right-of-way to exceed the maximum prescribed in subsection (F)(1) or (2) of this section, an applicant shall contribute \$290.00 to the Medina tree fund for each replacement tree above the maximum in lieu of planting replacement trees above the maximum;
 - 4. If the tree replacement requirements prescribed in subsection (E) of this section would result in the total number of city trees in the right-of-way to be below the maximum prescribed in subsection (F)(1) or (2) of this section, an applicant may plant additional trees in the right-of-way, subject to the limits in subsection (F)(1) or (2) of this section, and reduce contributions to the Medina tree fund by:
 - a. Six hundred dollars for each coniferous tree planted;
 - b. Five hundred dollars for each deciduous tree planted; and
 - 5. New trees shall not be planted within three feet of the edge of any paved roadway.
- G. The requirements of this section may be used to satisfy the requirements set forth in MMC 16.52.210.
- H. Where a proposal includes application of this section and application of MMC 16.52.090 and/or 16.52.1100, the requirements for supplemental trees and restoration trees shall be applied independent of the requirements in this section for replacement trees.

(Code 1988 § 20.52.400; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 958 § 3, 2018; Ord. No. 923 § 29, 2015)

Note(s)—Former § 16.52.190. See editor's note, § 16.52.180.

16.52.210. Minimum street tree standards.

- A. This section shall apply to properties adjoining the following city rights-of-way:
- 1. Minor arterial and collector street rights-of-way as defined in Chapter 10.08 MMC;
 - 2. NE 8th Street;
 - 3. 82nd Avenue NE between NE 8th Street and NE 12th Street;
 - 4. 84th Avenue NE south of NE 12th Street; and
 - 5. Evergreen Point Road north of 78th Place NE.
- B. The following street tree standards shall apply when the lot adjoining the right-of-way is under development pursuant to MMC 16.52.070:

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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.

(Code 1988 § 20.52.410; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 923 § 30, 2015)

Note(s)—Former § 16.52.200. See editor's note, § 16.52.180.

16.52.220. Owner responsibility within city rights-of-way.

- A. All owners of property adjoining a city right-of-way shall be responsible for maintaining all trees, shrubs, and other landscaping planted in the adjoining right-of-way by the property owner or previous owner of the property, or for which responsibility has been assumed by the owner through a recorded agreement with the city.
- B. All owners of the property adjoining a city right-of-way shall ensure the trees, shrubs and landscaping in the right-of-way adjoining their property do not interfere with the free passage of vehicles and pedestrians or cause any risk of danger to the public or property.
- C. No hazardous or destructive tree species shall be planted in the city rights-of-way. The city shall maintain a list of suitable trees that are acceptable to be planted in city rights-of-way consistent with MMC 16.52.060.
- D. The requirements of this section shall apply equally to the city rights-of-way whether the city's title to the right-of-way was obtained by dedication, condemnation, deed or in any other manner.
- E. For the purpose of this chapter, an owner shall be considered adjoining up to the centerline of the city right-of-way.

(Code 1988 § 20.52.420; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 923 § 31, 2015)

Note(s)—Former § 16.52.210. See editor's note, § 16.52.180.

16.52.230. Liability.

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

(Code 1988 § 20.52.500; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 923 § 32, 2015)

(Supp. No. 4)

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Note(s)—Former § 16.52.220. See editor's note, § 16.52.180.

16.52.240. Other general provisions.

- A. *Implementation and costs.*
1. All costs associated with trimming and removal of trees shall be the responsibility of the applicant or property owner; and
 2. Any tree trimming or removal governed by this chapter shall be performed by a State of Washington licensed tree service contractor, bonded and insured for the liabilities associated with tree removal.
- B. *Survey.* The city may require as a condition of approving a tree removal permit that the applicant obtain a survey by a State of Washington licensed surveyor to determine if the trees described in the application are located on the subject property, or if a tree is located within a city right-of-way.
- C. *Supplemental notice.* The following shall supplement noticing requirements set forth in MMC 16.80.140(A) when applied to tree activity permits:
1. Notice shall be posted on or near the subject tree or trees in a manner that clearly identifies all trees being considered under the application;
 2. The director may approve the use of a variety of reasonable methods to identify trees provided the methods clearly identify all trees being considered under the application; and
 3. The director may require additional notices to be posted when, in the opinion of the director, it is determined necessary to provide reasonable notification to the public of a pending application.
- D. *Limitations on occupancy.* A certificate of occupancy shall not be issued until all required tree plantings and landscaping associated with this chapter is complete and receives final approval from the city. Temporary occupancy may be granted pursuant to MMC 16.40.100 before completion of the tree planting and landscaping work provided all of the following criteria are satisfied:
1. The property owner provides a financial guarantee to the city to ensure completion of the tree planting and landscaping;
 2. The financial guarantee may take the form of a bond, line of credit, cash deposit, or another form acceptable to the city;
 3. The minimum amount of the financial guarantee shall be 150 percent of the estimated cost of landscaping and required tree plantings not completed at the time of the inspection; and
 4. Terms of the financial guarantee shall include, but are not limited to, conditions for approving the financial guarantee, a timeframe for the work to be completed, and terms under which the city shall release the financial guarantee.
- E. *View and sunlight obstructions caused by trees.* Pursuant to MMC 14.08.040, unreasonable obstructions of views or sunlight by uncontrolled growth or maintenance of trees may constitute a private nuisance subject to redress as set forth in Chapter 14.08 MMC.

(Code 1988 § 20.52.510; Ord. No. 1012 , § 2, 7-11-2022; Ord. No. 923 § 33, 2015)

Note(s)—Former § 16.52.230. See editor's note, § 16.52.180.