



6.2 CAO UPDATE – CITY ATTORNEY CONSIDERATIONS REGARDING:

- NONCONFORMITIES
- REASONABLE USE

CRITICAL AREAS ORDINANCE UPDATE

- The Washington State Growth Management Act (GMA) requires cities and counties to develop policies and regulations to designate and protect critical areas.
 - City of Medina adopted Chap. 16.50 Critical Areas (CAO).
 - The GMA also requires the City to periodically update its CAO and include the Best Available Science (BAS) (Sept. 23, 2025, agenda materials: Facet, “Best Available Science Review” and “Gap Analysis City of Medina”).
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- Acknowledge that revisions to the existing CAO can cause questions and concerns relating to how new regulations may affect development on properties that contain critical areas.
 - General discussion intended to identify procedures that may afford “relief.”
 - Not intended to address site-specific questions as to potential development on any one parcel after adoption of CAO Update.
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PROPOSED MMC 16.50.040.B (CAO UPDATE)

Exemptions, existing structures and limited exemptions:

B. Existing structures.

1. Uses, buildings, or structures lawfully established in a critical area or its buffer prior to the adoption of this chapter that no longer conform to the provisions of this chapter shall be considered a nonconforming structure to this chapter and shall be subject to the following, superseding the provisions of Chapter 16.36 MMC, Non-Conformity.
 2. Existing structures that are legally established may be expanded, maintained, repaired and remodeled only under the following conditions: provided there is no further intrusion into a critical area or its buffer.
 - a. Expansion is allowed outside of required critical area buffer;
 - b. Existing structure may expand vertically to add upper stories;
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(CONT.)

- c. The building expansion occurs within an existing improved area of the site (e.g., lawn, garden, patio, or other existing disturbed area) provided the expansion does not encroach further into the critical area buffer than the existing development. Buffer enhancement, equal to the building expansion area, is required with an approved mitigation plan per 16.50.060.D; and
 - d. The Director determines through a critical areas report per MMC 16.50.070 that the proposed expansion will result in no net loss to critical area functions or values. 32. All new construction must conform to the requirements of this chapter except as provided for single-family residences in subsection (C)(1) of this section and in compliance with the provisions of Chapter 16.36 MMC Nonconformity.
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REASONABLE USE EXCEPTION (RUE)

MMC 16.50.050. Relief from critical areas regulations.

1. If strict application of this chapter would deny all reasonable use of the subject property, the owner may apply for a reasonable use exception pursuant to MMC 16.72.060 and shall be based on the following criteria:

- a. The proposed use is the minimum necessary to allow reasonable use of the property and there is no feasible alternative with less impact to critical areas;
 - b. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant or a predecessor in interest after the effective date of this regulation;
 - c. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
 - d. The proposal will result in no net loss of critical area functions and values consistent with the best available science; and
 - e. The proposal is consistent with other applicable regulations and standards
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QUESTIONS??
