



MEDINA, WASHINGTON

AGENDA BILL

Monday, July 11, 2022

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**Subject:** Tree Code Amendments

**Category:** Public Hearing

**Staff Contact:** Stephanie Keyser, Planning Manager

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### **Summary**

In the fall of 2019, the City began receiving complaints from residents regarding the number of trees coming down as a result of new construction. The concern raised was that the tree code, which was last updated in 2015, was not working as originally intended. In 2020, City Council placed a review of the tree code on Planning Commission's work plan with the direction to keep the amendments small and to not reopen the entire code. Planning Commission's tree code recommendation achieves this modest, incremental goal.

### **Existing Conditions Analysis**

To assist their analysis, Planning Commission reviewed the tree permits that had been approved since 2015 and completed a detailed analysis of the existing tree code. The results indicated that: (1) there was a discrepancy in the current code between two sections (Tree Retention Requirements and Minimum Performance Standards for Land Under Development), (2) the code lacked guidance on where trees should be retained and/or replanted, (3) most owners are able to cut down a lot of trees on their properties without having to plant supplemental trees, and (4) the fees associated with the fee-in-lieu option are not creating a disincentive.

In order to address the discrepancies, inconsistencies, and lack of clarity around existing regulations, Planning Commission identified the following topics for consideration:

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

## **Planning Commission Recommendations**

After extensive consideration, the Planning Commission made the following recommendations:

<b>Code Reference</b>	<b>Proposed Change</b>
MMC 16.52.010 Purpose and Intent	Additional statements of intent for the tree code have been added
MMC 16.52.020 General Provisions and Applicability	Clarifies how trees for land under development will be preserved
MMC 16.52.070 Tree Retention Requirements	Repealed
MMC 16.52.080 Legacy and Landmark Tree Protection Measures	A new tree category should be created for trees larger than 50” inches (Landmark Trees), and the threshold for Legacy Trees should be reduced from 50” to 36”
MMC Table 16.52.090(B) Minimum Preservation Standards for Land Under Development	Increase the significant tree density ratio requirement for .35 to .4.
MMC Table 16.52.090(C) Minimum Preservation Standards for Land Under Development	Reduce in the values of the tree credit section by .25
MMC 16.52.100 (C) Supplemental Tree Standards and Priorities) and MMC 16.52.170 Tree Preservation Plan	A locational requirement for the placement of supplemental trees
MMC 16.52.100 (A)(3)(d) Tree Preservation Plan	Additional requirements for larger lots (+20,000 s.f) under development
MMC 16.52.180 (Fee-in-Lieu)	The option of selecting to pay a fee in lieu of replacement or supplemental trees should only be permitted if the city arborist determines there is insufficient area to replant on site. Additionally, the fee should be tied to the most current council of tree and landscaper appraiser guide for plant appraisal so that the City doesn't have to periodically raise the fees

## **Summary of Proposed Amendments**

1. MMC 16.52.010 – Purpose and Intent. The purpose of these amendments is to add a few more declarative statements that recognize the value of trees to the community.
2. MMC 16.52.020 – General Provisions and Applicability. The purpose of these amendments is to clarify how trees on properties that are under development should be considered for preservation.
3. MMC 16.52.070 – Tree Retention Requirements. This section has been repealed.
4. MMC 16.52.080 – Legacy and Landmark Tree Protection Measures. The rationale for these amendments is that it is currently too easy for large, native trees to be removed. Trees are synonymous with Medina and there should be a policy directive that supports and protects them. The proposal lowers the Legacy tree threshold from 50” DBH (current code) to *36” DBH to less than 50” DBH* and creates a third category of tree called Landmark tree which would be *50” DBH and greater*. 36” DBH is already called out in the existing code as the bookend of a new grouping of trees. In the fee-in-lieu section, the contribution rate of replacing an existing significant tree is broken into 3 categories: less than 20” DBH; 20” to less than 36” DBH; 36” DBH and greater. It therefore made sense for 36” DBH to be the beginning of a new Legacy tree category. Both Legacy and Landmark trees have to be a species listed on the Legacy Tree List. For example, a Willow or a Sequoia would not be eligible for this designation but a Douglas Fir would.
5. MMC Table 16.52.090(B) – Minimum Preservation Standards for Land Under Development. This would increase the density ratio (or required tree canopy on site) from 35% to 40%. The rationale for this is that this will on average result in one more tree being required on site.
6. MMC Table 16.52.090(C) – Minimum Preservation Standards for Land Under Development. This would reduce in the values of the tree credit section by .25. The rationale for this is that on average this will result in one more tree needing to be retained to meet the density ratio.
7. MMC 16.52.100 (C) – Supplemental Tree Standards and Priorities and MMC 16.52.170 Tree Preservation Plan. This would establish a priority list of where supplemental trees should be replanted. The rationale for this is that there’s no direction in the current code for where to replant supplemental trees.
8. MMC 16.52.100 (A)(3)(d) Tree Preservation Plan. This would establish additional requirements for where trees should be retained on lots that are larger than 20,000 square feet. The rationale for this is that on average, larger lots are able to cut down more trees which can create the appearance of being clear-cut. This would establish criteria for where trees should be saved so that all of the retained trees are not along the back property line.

9. MMC 16.52.180 – Fee-in-Lieu. The purpose of this amendment is to clarify that the option of selecting to pay a fee-in-lieu of supplemental planting should only be permitted if the City’s Arborist determines there is insufficient area to replant on site. Additionally, the fee would be tied to the most current Council of Tree and Landscaper Appraiser Guide for Plant Appraisal.

Planning Commission made two additional recommendations outside of the scope of the tree code:

1. Urban Forestry Manual (UFM) – An Urban Forestry Manual (UFM) is a supplemental guide for a tree code and can be used by homeowners and professionals to help facilitate the planning, design, installation, and maintenance of trees and landscaping. Planning Commission recommends that the City do an Urban Forestry Manual, similar to Clyde Hill’s. It should be noted that this is not the first time Planning Commission has recommended the City do such a guide; a similar recommendation was forwarded to Council in 2014. As this is more of a technical document where the work would be done primarily by a consultant, it is staff’s intention to recommend placing this on the work plan for 2023 or 2024, permitted funds are available.
2. Driveway Standards – Trees and driveways can conflict with each other, yet the code is silent on driveway standards. It is not unheard of for a tree to be removed solely for new construction to be able to create a wider apron or general driveway. This was a point of discussion for Planning Commission but a formal vote on this topic was never made. However, it is staff’s opinion that having some guidance, even if it was only a few sentences, would be beneficial.

### **Public Process**

The City has held two open houses on the tree code proposal. The first was virtual and held on October 14, 2021, and the second was in-person and held on June 30, 2022.

Planning Commission held a public hearing on the tree code proposal on October 19, 2021. Council held a second public hearing on November 8, 2021. On July 11, 2022, Council will hold its second public hearing.

### **Next Steps**

At the conclusion of the third public hearing on July 11<sup>th</sup>, Council has a number of options:

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

**Attachment(s)** Attachment A – Ordinance 1012  
Attachment B – Clean Draft Code  
Attachment C – Tree Permit Data August 2015 – July 2021  
Attachment D – List of Significant Trees  
Attachment E – Permit Analysis from April 27, 2021, Planning Commission Packet: Status Quo vs Reducing Legacy Tree to 36” and increasing those tree units by .25 vs Reducing Legacy Tree to 36” and reducing all units by .25 plus associated tree permits  
Attachment F – Proposed Tree Code Change FAQ Visual  
Attachment G – Tree Map – Proposed Legacy Trees in Medina Park and Fairweather  
Attachment H – Public Comments  
Attachment I – Questions and Answers

**Budget/Fiscal Impact:** N/A

**Recommendation:** Adopt Ordinance No. 1012.

**City Manager Approval:** 

**Proposed Council Motion:** “I move to adopt Ordinance No. 1012.”

**Time Estimate:** 30 minutes