

Ordinance No. 1017

MEDINA CITY COUNCIL

AN ORDINANCE OF THE CITY OF MEDINA, WASHINGTON RELATING TO LAND USE AND ZONING, CORRECTING TYPOGRAPHICAL ERRORS, CORRECTING SECTION REFERENCES, CLARIFYING REGULATIONS, AND MAKING MINOR AMENDMENTS TO MEDINA MUNICIPAL CODE (MMC) CHAPTER 10.08 (STREETS AND ROADS), MMC CHAPTER 12.44 (STREET VACATIONS), MMC CHAPTER 16.12 (H AND S DEFINITIONS), MMC CHAPTER 16.22 (PROTRUSIONS INTO SETBACKS), MMC CHAPTER 16.34 (ACCESSORY DWELLING UNITS), MMC CHAPTER 16.70 (ADMINISTRATIVE APPROVALS), MMC CHAPTER 16.71 (ADMINISTRATIVE DISCRETIONARY APPROVALS), MMC CHAPTER 16.72 (QUASI-JUDICIAL APPROVALS), MMC CHAPTER 16.80 (PROJECT PERMIT PROCEDURES); PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Title 16 of the Medina Municipal Code (“MMC” or “Code”) contains the City of Medina’s (“City”) unified development code; and

WHEREAS, the Growth Management Act requires that development regulations and codes be subject to continuing evaluation and review; and

WHEREAS, City staff have identified within MMC Title 16 opportunities for improvements to clarify the format, structure, terminology, and narrative of the development regulations for strategic and timely revisions to further the City’s goals, visions, plans and priorities; and

WHEREAS, the City provided a Notice of Intent to Adopt certain code amendments to the Washington State Department of Commerce for expedited review in accordance with RCW 36.70A.106 and MMC 16.81.070 on October 25, 2022; and

WHEREAS, the Washington State Department of Commerce approved the City’s request for an expedited review on November 8, 2022; and

WHEREAS, a State Environmental Policy Act (SEPA) checklist was prepared and a Determination of Non-Significance (DNS) was issued on October 28, 2022; and

WHEREAS, the City published a legal ad in the Seattle Times on October 28, 2022 for a public hearing before the Planning Commission, to solicit and receive public testimony regarding the proposed amendments; and

WHEREAS, the Medina Planning Commission reviewed and evaluated the proposed annual amendments over the course of three meetings, including a public hearing on November 15, 2022; and

WHEREAS, after considering staff recommendation and reviewing the record, the Planning Commission voted unanimously to recommend approval of the proposed amendments and forwarded their recommendation to City Council; and

WHEREAS, the City published a legal notice in the Seattle Times on November 16, 2022, for a public hearing on December 12, 2022 before the City Council to solicit and receive additional public testimony regarding Planning Commission's recommendation on the proposed amendments; and

WHEREAS, the City Council finds that based on the recommendation from City staff and Planning Commission, and public testimony that these amendments are consistent with the City's Comprehensive Plan, will enhance the public health, safety and welfare, and advance the public's interest; and

WHEREAS, the City Council desires to adopt the amendments as set forth herein.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MEDINA, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council adopts the foregoing recitals as its findings and conclusions concerning the matters described therein, also intending thereby to provide a record of the facts, issues and process involved in its consideration.

Section 2. Amendment to MMC 10.08.010(B). The Medina Municipal Code Section MMC 10.08.010(B)(5) is hereby amended as follows:

5. Lake Washington Boulevard, from NE 12th Street to the Medina city limit near ~~854~~ Lake Washington Boulevard.

Section 3. Amendment to MMC 12.44.050. The Medina Municipal Code Section MMC 12.44.050 is hereby amended as follows:

12.44.050. - Petition by owners.

The owners of an interest in real estate abutting upon or underlying public ROW may petition the city council for vacation thereof in accordance with requirements of this chapter.

A. The petitioner shall apply for a vacation by submitting the following to the city clerk:

1. A vacation petition with supporting affidavits on forms provided by the city.
2. A diagram of the location and a survey of the subject property and immediate area of the proposed vacation including the abutting and/or underlying properties, all prepared by a licensed surveyor registered in the State of Washington.
3. A legal description of the subject property prepared by a licensed surveyor registered in the State of Washington.
4. For each abutting and underlying property and petitioner, a title report indicating the extent and type of ownership and providing a legal description of the petitioner's property.
5. The vacation fees **and deposits** as established by this chapter and city ordinance.
6. Any additional information or material the city determines is reasonably necessary for the city council to understand, consider and evaluate the requested vacation.

B. The petition shall be filed with the city clerk and shall be signed by owners of more than two-thirds of the property abutting the subject property (based on front footage) or underlying the subject property (based on square footage).

C. The city clerk shall determine the petition's compliance with this chapter. For the purpose of determining the sufficiency of signatures of owners of private property on a petition or a consent to vacate determined by the city council, the following rules shall govern as applicable:

1. The signature of an owner of property shall be as set forth in the King County assessor records and confirmed by a title report.

2. In the case of a property subject to a contract of purchase, the signature of the contract grantor and grantee shall be required.

3. In the case of property ownership by corporation or similar entity, the signature of the officer authorized by the bylaws and resolution of the board of directors evidenced by an excerpt of the bylaws and copy of the resolution, each duly certified by the secretary of the corporation, and granting such authority.

4. In the case of property owned or controlled by an estate, guardian or conservator of a decedent or incompetent, the signature of the duly qualified administrator, executor or guardian accompanied by a duly certified copy of his/her judicial appointment or designation.

D. Each petitioner shall be responsible to reimburse the City for the full expenses and costs incurred by the City to process the petitioner's requested vacation, regardless of the outcome of the City's review and decision thereon or petitioner's withdrawal of the petition. In addition to any other provisions of the MMC or this chapter, the City Manager or designee shall keep account of all administrative time, costs and expenses incurred by City employees, contractors, consultants, legal counsel, appraisers, appointed officers and other individuals acting on behalf of or for the benefit of the City in the course of processing the petition. The City Manager or designee shall periodically compile such time, costs and expenses and invoice the petitioner for payment thereof, which shall be made by petitioner not more than fifteen (15) from the date of the invoice. Upon the City's final decision to grant, deny or otherwise act on the petition, the City Manager or designee shall compile a final invoice for all remaining unpaid time, costs and expenses and shall present such invoice to the petitioner for prompt payment. No vacation shall become final nor be recorded until all invoices have been paid in full by the petitioner. In the event the petitioner does not make timely payment as set forth herein, the City may suspend further review and processing of the petition.

Section 4. Amendment to MMC 12.44.080. The Medina Municipal Code Section MMC 12.44.080 is hereby amended as follows:

12.44.080. – Petition fees and costs; compensation.

A. The petition, properly signed, shall be filed with the city clerk and accompanied by payment of the application fee and the estimated appraisal cost as set forth herein, which amounts shall be paid into the general fund of the city to defray the costs and expenses incurred by the city to: appraise the subject property, determine the sufficiency of the petition, evaluate and investigate the petition, and report the facts, circumstances and conclusions concerning the petition to the city council. Fees and costs shall not be returned or refunded to the petitioners regardless of the city council's action on the petition.

B. The amount of the fees and costs due upon filing shall be as follows:

1. The minimum application fee established by the city's then current fee schedule.

2. An appraisal fee deposit of \$2,500.00, which may be adjusted by the city manager up to the amount of the MAI appraisal bid or estimate submitted to the city.

C. In the event that the application fee, and/or the appraisal ~~deposit costs~~ set forth in subsection (B) of this section is insufficient to reimburse the city for all of the city's costs and expenses incurred in relation to the petition, the balance shall be determined and paid by the petitioner in accordance with MMC 12.44.050(D). ~~immediately upon receipt of the city's invoice.~~

D. In the event the vacation is granted by the city council, the petitioner shall immediately pay upon receipt of an invoice the amount required by the city council as compensation for the area being vacated as provided in MMC 12.44.180 and all amounts payable in accordance with MMC 12.44.050(D). A vacation ordinance shall not be effective until such time as the petitioner pays all sums due to the city, including all compensation due to the city for the vacation and all costs and expenses of the city in processing the petition. The city shall not record an approved vacation ordinance until such time as all such compensation, fees, costs and reimbursements are paid in full. If any portion of such amount remains unpaid for 30 days after submittal of a final invoice to the petitioner, the city council shall rescind and vacate the approved vacation ordinance.

E. In the event that the city council initiates a vacation, fees shall not be required unless council directs otherwise.

Section 5. Amendment to MMC 16.12.090. The Medina Municipal Code Section MMC 16.12.090 is hereby amended as follows:

16.12.090. "H" definitions.

Habitat conservation areas means areas designated as fish and wildlife habitat conservation areas.

Hardscape means any inorganic decorative landscape materials, including but not limited to stones, boulders, cobbles, pavers, decorative concrete incorporated into an overall landscape design of the grounds. This definition includes, but is not limited to, patios, walkways, steps, and other paved areas on the ground.

Hazard areas means areas designated as geologically hazardous areas due to potential for erosion, landslide, seismic activity, or other geologic condition.

Hazard tree means a tree designated by the city arborist as having a high to extreme risk using the International Society of Arborists Tree Risk Assessment Qualification (TRAQ) system. A hazard tree must have a likely or very likely potential to fail and a target that might sustain injury or damage. Hazard trees are created through a variety of circumstances including human influences, disease, and weather.

Hearing body means the body designated by the city council to preside over an open-record hearing or closed-record appeal.

Hearing examiner means the person appointed pursuant to MMC 2.72.020 with the powers and duties prescribed in Chapter 2.72 MMC.

Height means a vertical distance measured between two points.

Home business means an economic enterprise to make a product or perform a service, or to undertake any activity that requires a business license from the State of Washington, that is conducted or operated pursuant to MMC 16.31.010 within a single family dwelling by the resident occupant or owner thereof, which use or activity shall be clearly incidental and secondary to the residential use of the dwelling, including the use of the dwelling as a business address in a directory or as a business mailing address.

Horticulture means the occupation of cultivating plants, especially flowers, fruit, and vegetables.

Hot tub means a hydro-massage pool, or tub for recreational or therapeutic use designed for immersion of users, and usually having a filter, heater, and motor-driven blower.

Household staff means individuals who spend more than 50 percent of their working time employed at the residence site and in no event work less than 20 hours per week, including caregivers.

~~*Housekeeping unit* means one or more persons living together sharing household responsibilities and activities, which may include sharing expenses, chores, eating evening meals together and participating in recreational activities and having close social, economic and psychological commitments to each other. A housekeeping unit does not include larger institutional group living situations such as dormitories, fraternities, sororities, and similar groups where the common living arrangement or basis for the establishment of the housekeeping unit is temporary.~~

Hydraulic project approval (HPA) means a permit issued by the State Department of Fish and Wildlife for modifications to waters of the state in accordance with Chapter 75.20 RCW.

Hydric soil means a soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the approved federal wetland delineation manual and applicable regional supplements.

Hydrophytic vegetation means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the approved federal wetland delineation manual and applicable regional supplements.

Section 6. Amendment to MMC 16.12.200. The Medina Municipal Code Section MMC 16.12.200 is hereby amended as follows:

16.12.200. "S" definitions.

School means a school operation with 13 or more attendees at any one time, not including immediate family members who reside in the school or employees.

School operation means any institution of learning, excluding those offering post-secondary education, offering instruction in the several branches of learning and study required by the Basic Education Code of the State of Washington to be taught in the public, private and parochial school.

Scrub-shrub wetland means a regulated wetland with at least 30 percent of its surface area covered by woody vegetation less than 20 feet in height as the uppermost strata as measured from existing grade.

Security barrier means an obstruction, such as fences, walls, vegetation and similar elements that restricts public access.

Seismic hazard areas means areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting.

Sensitive areas. See "critical areas."

SEPA. See definition of "State Environmental Policy Act (SEPA)."

Service area means the vicinity around a wireless communication facility that effectively receives signals from and transmits signals to the facility.

Setback means the minimum distance from the property line to where a structure may be built. (See MMC 16.22.030.)

Setback area means the area of a lot or building site between the property line and the limits set by the Medina Municipal Code city regulations within which no ~~permanent~~ structure may intrude unless allowed otherwise by law.

Shorelands or shoreland areas means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark or floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters which are subject to the provisions of the Washington State Shoreline Management Act of 1971 and the City of Medina shoreline master program, Chapters 16.60 through 16.67 MMC.

Shorelines means all of the water areas of the state as defined in RCW 90.58.030, including reservoirs and their associated shorelands, together with the lands underlying them except:

1. Shorelines of statewide significance;
2. Shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less and the wetlands associated with such upstream segments; and
3. Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

Shorelines of statewide significance means those areas defined in RCW 90.58.030 and limited in the City of Medina to Lake Washington.

Sign means any medium visible to the public including its structure and component parts which is used or intended to be used out of doors to convey a message to the public or otherwise attract attention to its subject matter, for advertising or any other purposes.

Sign, A-board means a portable sign consisting of two sign faces hinged at the top and separated at the bottom to make it self-standing.

Sign area means the area of the face of the sign. When a dimensional sign contains information on two sides of the sign, only one side is counted in determining sign area, except A-board signs where the average area of the two faces shall be used to determine sign area.

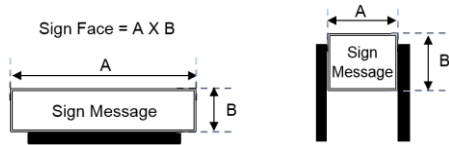
Sign, banner means a sign made of lightweight fabric or similar material that is temporarily mounted to a pole or building by one or more edge. National, state or municipal flags, or the official flag of any institution, shall not be considered banners.

Sign, commercial means a sign containing commercial content used for identifying a building, use, business or event, or to advertise the sale of goods, products, events or services. This includes real estate and event signs.

Sign face means the surface upon, against or through which the letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign is displayed or illustrated, not including the sign support structure, or architectural features of a building.

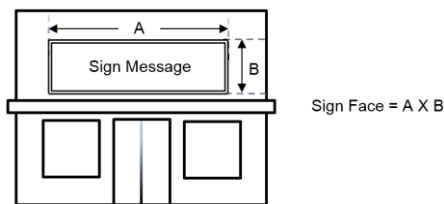
1. In the case of freestanding signs, the sign face shall include the entire area of the sign panel, cabinet or face substrate including borders upon which the sign message is displayed or illustrated. See Figure 1.

Figure 1



2. In the case of signs displayed on or mounted to buildings or fences, the sign face shall include the area of the entire panel, cabinet or face substrate upon which the sign message is displayed including framed, painted or illuminated borders that contrast the sign from the background of the building or fence. See Figure 2.

Figure 2



3. In the case of signs consisting of individual letters and/or individual graphic elements painted or affixed to a building or structure, the sign face shall comprise the sum of the geometric figures or combination of regular geometric figures drawn using connected straight lines closest to the edge of the letters or separate graphic elements comprising the sign message. See Figure 3.

Figure 3



Sign, freestanding means a sign attached to a self-supporting structure such as column, poles, or braces placed in or upon the ground.

Sign height means the total vertical measurement of a sign including all components of the sign and the sign's support structure.

Sign, illuminated means a sign characterized using artificial light, either projecting through its surface (internally or trans-illuminated), or reflecting off its surface (externally illuminated).

Sign, location identity means signs that identify address numbers, property owners, and/or geographic areas such as neighborhoods and subdivisions.

Sign, mounted means a sign that is applied or affixed to a building, wall or fence.

Sign, municipal means a sign erected by the City of Medina, or its authorized representatives, for the safety, convenience or information of its citizens, including, but not limited to, traffic control signs, legal notices, city entrance signs, and signs announcing public and community events, meetings, and activities.

Sign, noncommercial means a sign containing noncommercial content used for identifying a building, use, or event, or to advertise noncommercial matters, excluding municipal signs.

Sign, off-site means any sign that advertises or relates to an event, activity, use, good, product, or service that is not available on the premises upon which the sign is erected.

Sign, on-site means any sign that advertises or relates to an event, activity, use, good, product, or service that is lawfully permitted to be offered, sold, traded, provided, or conducted at the location or premises upon which the sign is erected.

Sign, permanent means any sign which is affixed to the ground or to any permanent structure or building, including walls, awnings and fences, in such a manner that it cannot be moved or transported with ease, and which is intended to remain in one location and position for an extended period of time.

Sign, real estate and events means a temporary sign that is for the sole purpose of advertising a parcel, tract, lot, site or home for rent, lease or sale; for advertising the sale of a home's household belongings; or which identifies an individual or company performing an active construction project that has obtained building permits under MMC 16.40.010(A) or (B), and which construction activity is visible from a public street right-of-way, including remodels. For purposes of this definition, "construction projects" shall not include routine maintenance of property such as landscaping care.

Sign support structure means any structure designed specifically for the support of a sign and which does not form part of the sign proper or of the display.

Sign, temporary means a sign displaying either commercial or noncommercial messages which is not permanently affixed to the ground or any permanent structure or building and which is capable of being moved or transported with ease.

Sign, window means a sign affixed to the surface of a window with its message intended to be visible to the exterior environment.

Significant tree means a tree of at least six-inch DBH size and of a species as identified on the "City of Medina List of Suitable Tree Species" as set forth in Chapter 16.52 MMC.

Single-family dwelling means a dwelling unit which is occupied as, or designed or intended for occupancy as, a residence by one family and may include family guests and/or household staff. The owner of the single-family dwelling may provide lodging to persons who are not guests and who are not part of a family provided the total number of persons, including nonfamily persons living in the dwelling, does not exceed three, excluding children with familial status within the meaning of Title 42 United States Code, Section 3602(k). The limitation on the number of nonfamily persons living in the dwelling shall not apply to adult family homes, family day-care providers' home facilities as prescribed by RCW 35A.63.215, and other living arrangements which would violate Title 42 United States Code, Section 3604.

Single-family dwelling, detached means a separate unconnected single-family dwelling surrounded by open space and yards and which contains one dwelling unit and up to one accessory dwelling unit. A detached single-family dwelling may have detached accessory buildings including, but not limited to, garages, accessory recreational facilities, cabanas and similar residential accessories having no more than one room plus a bathroom and otherwise not designed as an independent residence.

Single Housekeeping Unit, means one or more person(s) who jointly have common access to and common use of all living, kitchen, and eating areas within the dwelling unit and household activities and responsibilities such as meals, chores, expenses and maintenance of the premises are shared or carried out according to a household plan or other customary method.

Soil survey means the most recent soil survey for the local area or county by the National Resources Conservation Service, U.S. Department of Agriculture.

Spa. See definition under "hot tub."

Species means any group of animals classified as a species or subspecies as commonly accepted by the scientific community.

Species, endangered means any fish or wildlife species or subspecies that is threatened with extinction throughout all or a significant portion of its range and is listed by the state or federal government as an endangered species.

Species of local importance means those species of local concern due to their population status or their sensitivity to habitat manipulation, or that are game species.

Species, priority means any fish or wildlife species requiring protective measures and/or management guidelines to ensure their persistence as genetically viable population levels as classified by the Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

Species, threatened means any fish or wildlife species or subspecies that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range without cooperative management or removal of threats, and is listed by the state or federal government as a threatened species.

Sport court means an area of ground defined by permanent surfacing, equipment and/or fencing for the purpose of playing tennis, badminton, basketball and similar social games.

State Environmental Policy Act (SEPA) means environmental review procedures required under Chapter 43.21C RCW, Chapter 197-11 WAC, and Chapter 16.04 MMC.

Steep slope means any area with a slope of 40 percent or steeper and with a vertical relief of ten or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

Story means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof.

Stream means a course or route, formed by nature or modified by humans and generally consisting of a channel with a bed, banks, or sides throughout substantially all its length, along which surface waters, with some regularity (annually in the rainy season), naturally and normally flow in draining from higher to lower lands. This definition does not include specially designed irrigation and drainage ditches, grass-lined swales, canals, stormwater runoff devices, or other courses unless they are used by salmonids or to convey watercourses that were naturally occurring prior to construction.

Street means a right-of-way, opened or unopened, that is intended for motor vehicle travel or for motor vehicle access to abutting property. "Street" includes all the area within the right-of-way, such as roadways, parking strips, and sidewalks. For the purposes of the zoning code, "street" shall not include private lanes.

Street frontage means the property line abutting streets.

Structural coverage means the area of a lot covered by structures. (See MMC 16.23.030.)

Structure means that which is erected, built or constructed, including an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Subdivision means the division or redivision of land into five or more lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership.

Subdivision, accumulative short means multiple short subdivisions of contiguous existing lots held under common ownership, which would result in the creation of five or more lots within a five-year period of the initial short subdivision approval. "Ownership" for the purpose of this definition means ownership as established at the date of the initial short subdivision approval.

Subdivision, short means the division or redivision of land into four or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership.

Substantial destruction means ~~to remove more than 60 percent of the existing exterior wall framing of a structure, as measured by the horizontal linear length of all existing exterior walls. Any partial removal of existing framing shall count towards the measurement of horizontal linear length the same as if the entire framing within that horizontal linear length was removed, except partial removal shall not include replacement of windows or doors when no beams or struts are removed. For the purpose of substantial destruction, existing exterior walls shall exclude exterior walls built less than 18 months prior to submittal of a building permit application. damage of any origin that is voluntarily or involuntarily sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 60 percent of the fair market value of the structure before the damage occurred. The calculation of the 18 months shall include to the time after the date the last permit involving construction of a new exterior wall was finalized by the city.~~

Substantially means significant in the size or amount and has a noticeable impact on the current situation to a degree that would satisfy a reasonable person as significant.

Support structures means the structure to which ~~signs,~~ antennas ~~and or~~ other necessary associated hardware are mounted, including, but not limited to, lattice towers, monopoles, utility support structures, and existing nonresidential buildings.

Swimming pool means any artificially constructed water-holding device that has a minimum depth of 42 inches and is of sufficient size for swimming, wading, immersion, or therapeutic purposes.

Section 7. Amendment to MMC 16.22.040. The Medina Municipal Code Section MMC 16.22.040 is hereby amended as follows:

16.22.040. Protrusions into setback areas.

The following structures may be located within a setback area, ~~excluding except~~ setbacks from Lake Washington, which are subject to Chapter 16.63 MMC:

- A. Utilities which are located underground and accessory to a principal use, except the requirement for undergrounding is not required if the limitation in MMC 16.50.090(I)(6) applies.⚡
- B. Walkways, stairs and steps, and driveways, not including parking spaces, which do not exceed 30 inches above the existing or finished grade, whichever grade is lower.⚡

- C. Uncovered decks and patios, provided:
 1. No part of the structure exceeds 30 inches in height above the existing or finished grade, whichever grade is lower; and
 2. The following setbacks are maintained:
 - a. A minimum 15-foot setback is maintained from the front property line;
 - b. A minimum 10-foot setback is maintained from the rear property line; and
 - c. A minimum side-yard setback equal to one-half the required distance pursuant to Table 16.22.030.
- D. Window wells that do not project more than six inches above the ground level and do not protrude more than four feet into the setback area.;
- E. Fences and freestanding walls which comply with the requirements set forth in MMC 16.30.010.;
- F. Irrigation systems at or below finished grade, including yard hydrants, sprinkler heads and similar features that do not exceed 36 inches above the finished grade.;
- G. Ramps and similar structures installed to a single-family dwelling to provide ADA access ~~for elderly and/or disabled persons.~~;
- H. Foundation footings where the footing structure does not protrude more than two feet into the setback area and is located entirely below the ground surface.;
- I. Improved surface areas for off-street parking provided:
 1. The protrusion is limited to the front setback area and a minimum 15-setback is maintained from a front property line; and
 2. The parking area is designed in a manner that is clearly distinguishable from the driveway; and
 - ~~3. A minimum 15-foot setback is maintained from the front property line;~~
 - ~~34.~~ The top of the parking surface does not exceed 30 inches above the existing or finished grade, whichever is lower.;
- J. A chimney provided:
 1. The protrusion is limited to the side setback area and does not exceed more than two feet into the setback area from a side property line;
 2. The maximum horizontal width of the chimney inside the setback area is five feet.;
 - ~~and 3. The chimney does not protrude more than two feet into the setback area;~~
- K. ~~Small-a-A~~ accessory structures and outdoor mechanical equipment provided:
 1. The protrusion is limited to the rear setback area from a rear property line and a minimum 15-foot setback from the rear property line is maintained; and
 2. The highest point of the accessory structure or outdoor mechanical equipment does not exceed eight feet in height above the finished grade; and
 3. The accessory structure or outdoor mechanical equipment does not occupy a footprint greater than 100 square feet; and
 4. Solid landscape screening pursuant to MMC 16.30.070 is planted that screens the structure or mechanical equipment from adjoining properties; and
 5. A minimum 15-foot setback from the rear property line is maintained; For outdoor mechanical equipment, the following shall apply:
 - a. An existing unit may be replaced with a new unit in the same location regardless of setback requirements;

b. For existing legally nonconforming residences that do not conform to the current side yard setback requirements, a new unit may be installed in the side yard setback provided a minimum 5-foot setback is maintained from the side property line; and
6. All mechanical equipment shall meet the sound requirements set forth in Chapter 8.06 MMC.

- L. Open play structures without roofs or walls provided:
1. The protrusion is limited to rear setback areas and a minimum 10 foot setback from a rear property line is maintained; and
 2. The maximum height of the play structure does not exceed ten feet above the finished grade; and
 3. The play structure does not occupy a footprint greater than 100 square feet.;
 - ~~4. A minimum ten-foot setback from the rear property line is maintained;~~
- M. Swimming pools, spas and hot tubs as provided for in MMC 16.34.040.;
- N. Raised planting bed boxes, which do not exceed 30 inches above the existing or finished grade, whichever grade is lower.;
- O. Low impact development best management practices or treatment best management practices provided:
1. The best management practice shall be designed, constructed, and maintained in accordance with the stormwater manual adopted under MMC 13.06.020.
 2. Best management practices, including associated vegetation, shall be located entirely on private property.
 3. The maximum height of any structural element associated with the best management practice shall not exceed 30 inches above the existing or finished grade, whichever grade is lower.
 4. The best management practice shall be designed to manage or treat stormwater runoff solely from the building site and from less than 5,000 square feet of impervious surface.
 5. Examples of acceptable best management practices, as those practices are defined in Chapter 16.12 MMC, include but are not limited to the following:
 - a. Rain garden;
 - b. Bioretention;
 - c. Dispersion; and
 - d. Biofiltration treatment.

Section 8. Amendment to MMC 16.34.020. The Medina Municipal Code Section MMC 16.34.020 is hereby amended as follows:

16.34.020. Accessory dwelling units.

This section establishes the development criteria that apply to accessory dwelling units.

- A. Accessory dwelling units meeting the requirements of this section are excluded from density and minimum lot area requirements.
- B. Accessory dwelling units shall be fully contained within and attached to a single-family dwelling, or must be located within a detached accessory building ~~containing another permitted accessory use.~~
- ~~C. Accessory dwelling units are prohibited as the only use in a detached accessory building.~~

CD. Only one accessory dwelling unit may be permitted on a lot per each single-family dwelling located on the same lot.

DE. Development standards.

1. The accessory dwelling unit shall comply with the development standards of the zoning where the accessory dwelling unit is located.;
2. The accessory dwelling unit shall contain no more than the lesser of 1,000 square feet of gross floor area, or 40 percent of the total square footage of the gross floor area of the single-family dwelling and accessory dwelling unit combined.;
3. All of the structures on the property shall have the appearance of a single-family dwelling and any other permitted accessory structures.;
4. The entry door to the accessory dwelling unit shall be screened from the street by portions of the structure or by dense evergreen vegetation.;
5. There shall be no sign or other indication of the accessory dwelling unit's existence other than an address sign and a separate mail box.;
- ~~6. The exterior finish of the accessory dwelling unit shall be identical to the residence or accessory structure in which it is contained; and~~
67. A certification by City of Bellevue utilities is required indicating that water supply and sanitary sewage are available to adequately serve the accessory dwelling unit.

EF. There shall be one off-street parking space provided for the accessory dwelling unit, which shall be in addition to any off-street spaces required for the principal single-family dwelling.

FG. Garage space may be converted into an accessory dwelling unit only if the number of covered garage spaces eliminated by the conversion is replaced by the same number of covered garage spaces elsewhere on the property.

GH. An accessory dwelling unit must contain:

1. Bathroom facilities that include a toilet, sink and a shower or bathtub; and
2. ~~Kitchen or f~~ Food storage and preparation facilities and a sink.

H. A property owner seeking to establish a legal accessory dwelling unit shall apply to register the dwelling unit with the city pursuant to MMC 16.70.070. The application shall include an agreement in a form approved by the City, by the property owner to maintain the accessory dwelling unit in compliance with the standards set forth in this section.

I. After the accessory dwelling unit is approved, a registration form signed by the record holders of the property shall be recorded with the King County auditor's office. Said registration form shall contain:

1. The street address and legal description of the property; and
2. The requirement for maintaining the accessory dwelling unit in compliance with the requirements of this section.

JK. The registration of the accessory dwelling unit may be canceled pursuant to MMC 16.70.070 by the property owner by recording a certificate of cancellation in a form satisfactory to the city with the King County department of records and elections. The city may record a notice of cancellation upon failure to comply with the standards set forth in this section.

Section 9. Amendment to MMC 16.34.040(C). The Medina Municipal Code Section MMC 16.34.040(C)(3) is hereby amended as follows:

3. Major recreational facilities may protrude into setback areas provided:

- a. At least a 15-foot setback is maintained from each rear and front property line; and
- b. At least a ~~ten~~10-foot setback is maintained from each side property line.

Section 10. Amendment to MMC 16.52.190(A). The Medina Municipal Code Section MMC 16.52.190(A) is hereby amended as follows:

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

Section 11. Amendment to MMC 16.70. The Medina Municipal Code Section MMC 16.70 is hereby amended as follows:

CHAPTER 16.70 – ADMINISTRATIVE APPROVALS

16.70.010. Building permit.

- A. *Applicant.* Any owner may submit an application for a building permit.
- B. *Procedures.* Building permits are processed as a Type 1 decision, unless a SEPA threshold determination is required in which case the application is processed as a Type 2 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.
- C. *Applicability.* This section applies to all permits required under Chapter 16.40 MMC (Building Codes).
- D. *Criteria for approval.* The codes and standards referenced in Chapter 16.40 MMC and other applicable ordinances and regulations as they currently exist or are hereafter amended set forth the criteria for approving building permits.
- E. *Conditions of approval.* The decision authority may attach such conditions as reasonably necessary to safeguard the public health, general welfare, and safety.
- F. *Lapse of approval.* Building permits shall expire as prescribed in Chapter 16.40 MMC.

16.70.020. Right-of-way permit.

- A. *Applicant.* Any owner may submit an application for a right-of-way permit.
- B. *Procedures.* Right-of-way permits are processed as a Type 1 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.
- C. *Applicability.*
 - 1. This section applies to uses and activities within the city rights-of-way as prescribed in MMC Title 12 (Streets, Sidewalks and Public Places) requiring a right-of-way permit; and
 - 2. The decision authority may waive the requirement for a right-of-way permit for work performed by employees of the city, or by any contractor of the city performing work for and on behalf of the city.
- D. *Criteria for approval.* The codes and standards referenced in Chapters 12.04 through 12.12 MMC, and Chapter 12.28 MMC, and other applicable ordinances and regulations as they

currently exist or are hereafter amended set forth the criteria for approving right-of-way permits.

- E. *Conditions of approval.* The decision authority may attach such conditions as reasonably necessary to safeguard the public health, general welfare, and safety.
- F. *Expiration.* A right-of-way permit shall expire after 12 months from the date of issuance of the permit or upon expiration of a building permit associated with the right-of-way work, whichever occurs later.

~~16.70.030 Construction code of conduct.~~

~~A. *Applicant.* Any owner may submit an application for a construction code of conduct.~~

~~B. *Procedures.*~~

- ~~1. Construction code of conducts are processed as a Type 1 decision pursuant to the review procedures set forth in Chapter 16.80 MMC; and~~
- ~~2. Before the city issues permits authorizing grading, demolition or construction activity, the property owners, designated agent, and contractor shall sign the construction code of conduct.~~

~~C. *Applicability.* This section applies to where a construction code of conduct is required pursuant to MMC 16.75.040.~~

~~D. *Limitations.* The construction code of conduct is a construction mitigation plan prepared by the city that establishes prescriptive measures for reducing construction impacts on neighboring properties and streets. Compliance with the measures set forth in a construction code of conduct are binding on the signatories required in subsection (B)(2) of this section.~~

~~E. *Criteria for approval.* The evaluation criteria set forth in MMC 16.75.040 as they currently exist or are hereafter amended constitute the criteria for approving a construction code of conduct.~~

~~F. *Conditions of approval.* The decision authority may attach to a code of conduct on a case-by-case basis such reasonable mitigation measures as necessary to protect the public health, general welfare and safety from the negative impacts of construction activity.~~

16.70.0430. Substantial development permit exemption.

- A. *Applicant.* Any owner may submit a request for a written exemption from the requirement for a substantial development permit.
- B. *Procedures.* An exemption from a substantial development permit is processed as a Type 1 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.
- C. *Applicability.* This section shall apply to activities defined as development pursuant to RCW 90.58.030(3)(a), and located within the shoreline jurisdiction as defined by the Shoreline Management Act, and implements the provisions set forth in WAC 173-27-040 as they currently exist or are hereafter amended.
- D. *Limitations.*
 - 1. Exemptions are to be construed narrowly and only development that meets the precise terms of one or more of the listed exemptions may be granted an exemption; and
 - 2. If any part of a proposed development is not eligible for one of the listed exemptions, then an exemption shall not be granted.

E. *Criteria for approval.*

1. The development for which the exemption is sought must meet one or more of the conditions set forth in WAC 173-27-040(2); and
2. The development must comply with and be consistent with the Medina shoreline master program (Chapters 16.60 through 16.67 MMC), Chapter 173-27 WAC (Shoreline Management Permit and Enforcement Procedures), and Chapter 90.58 RCW (Shoreline Management Act).

F. *Conditions of approval.* The decision authority may attach conditions as necessary to prevent undesirable effects on the shoreline area and carry out the spirit and purpose of the regulations set forth in the Medina shoreline master program and the Shoreline Management Act.

16.70.0540. Administrative tree activity permit.

A. *Applicant.* Any owner may submit an application for an administrative tree activity permit.

B. *Procedures.* Administrative tree activity permits are processed as a Type 1 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.

C. *Applicability.* This section applies to the activities associated with removing and planting trees set forth in MMC 16.52.160(B).

D. *Criteria for approval.* The decision authority may approve an administrative tree activity permit only if the requirements set forth in Chapter 16.52 MMC are satisfied.

E. *Conditions of approval.* The decision authority may attach reasonable conditions as necessary to safeguard the public health, general welfare and safety.

F. *Lapse of approval.*

1. An administrative tree activity permit shall expire after 18 months from the later date of the decision being issued or an appeal becoming final;
2. Expiration of the administrative tree activity permit is automatic and notice is not required; and
3. No extension of the time period for the permit is allowed.

16.70.0650. Temporary use permit.

A. *Applicant.* Any owner may submit an application for a temporary use permit.

B. *Procedures.* Temporary use permits are processed as a Type 1 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.

C. *Applicability.* This section shall apply to those uses authorized as temporary uses pursuant to Chapter 16.35 MMC.

D. *Limitations.* Only one temporary use permit may be granted within a five-year time period from the date the original temporary use permit is issued, except a second temporary use permit may be granted if:

1. For temporary public facilities:
 - a. In the opinion of the director, a significantly different public facility will occupy the use of the property;
 - b. The second temporary use permit is consistent with the requirements set forth in this chapter; and

- c. No additional temporary use permit is approved for at least five years following approval of the second temporary use permit.
- 2. For temporary wireless communication facilities:
 - a. A complete nonadministrative special use permit application has been submitted to the city;
 - b. The extension of time, at the discretion of the director, is necessary to allow for the processing of permits and construction of facilities; and
 - c. No additional temporary use permit is approved for at least five years following approval of the second temporary use permit.
- E. *Criteria for approval.* The decision authority may approve a temporary use permit only when the following criteria are satisfied:
 - 1. The temporary use will not materially be detrimental to the public health, safety, or welfare, or injurious to property or improvements in the immediate vicinity;
 - 2. For a temporary public facility, there is adequate parking within a sufficient proximity to the site for employees, city vehicles and customers;
 - 3. Except in the case of emergencies, the temporary use will not cause noise, light or glare which adversely impacts surrounding uses; and
 - 4. The temporary use shall comply with all codes applicable to development, such as zoning and building codes, except as otherwise provided for in MMC 16.35.040 and 16.35.050.
- F. *Conditions of approval.* The decision authority may attach reasonable conditions as necessary to safeguard the public health, general welfare and safety.

16.70.0760. Accessory dwelling unit registration.

- A. *Applicability.* Any owner installing an accessory dwelling unit (ADU) pursuant to MMC 16.34.020 shall apply for an accessory dwelling unit registration.
- B. *Review procedures.* Approval of an accessory dwelling unit is processed as a Type 1 decision pursuant to the requirements set forth in Chapter 16.80 MMC.
- C. *Approval criteria.* The decision authority may approve an ADU only when the following criteria are met:
 - 1. The ADU meets the requirements set forth in MMC ~~2016~~.34.020; and
 - 2. The property owner agrees to maintain the ADU in compliance with the requirements in MMC ~~2016~~.34.020.
- D. *Written agreement.*
 - 1. Before a certificate of occupancy is issued for the ADU, the property owner shall complete, sign, have notarized, and record an ADU registration form.
 - 2. The contents of the ADU registration form shall include the following:
 - a. The street address and legal description of the property where the accessory dwelling unit is located;
 - b. The written agreement to maintain the ADU as prescribed in subsection (C)(2) of this section; and
 - c. Any other relevant information determined necessary by the decision authority.

3. The property owner shall record the ADU registration with King County recorder's office. A copy of the recorded document and recording number shall be provided to the city.
4. The ADU registration may be cancelled under the following conditions:
 - a. The property owner may cancel the ADU registration if:
 - i. The ADU is permanently removed from the property; or
 - ii. The property owner provides to the city evidence that the use has been removed and obtains approval from the city to cancel the ADU registration; and
 - iii. The property owner records a certificate of cancellation with King County recorder's office and provides a copy of the recorded certificate of cancellation to the city.
 - b. The city may cancel the ADU registration if the property owner fails to comply with the general requirements in MMC 16.34.020. Cancellation of the ADU registration shall be in accordance with the following procedures:
 - i. The city provides a notice of cancellation to the property owner who shall have a right to appeal the decision to cancel pursuant to MMC 16.80.220 for a Type 1 decision;
 - ii. Once a decision to cancel becomes final, the city shall record a certificate of cancellation with King County recorder's office;
 - iii. A copy of the recorded certificate of cancellation shall be provided to the property owner after which the use as an accessory dwelling unit shall cease.
- E. *Lapse of approval.* Approval of an accessory dwelling unit shall expire if the building permit for the accessory dwelling unit expires and substantial construction of the accessory dwelling unit has not started. Approval of an accessory dwelling unit shall also expire if the use is abandoned during its existence, or if a certificate of cancellation is recorded.

16.70.0870. Grading and drainage permit.

- A. *Applicant.* Any owner may submit an application for a grading and drainage permit.
- B. *Procedures.* Grading and drainage permits are processed as a Type 1 decision, unless a SEPA threshold determination is required in which case the application is processed as a Type 2 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.
- C. *Applicability.* This section applies to all permits required under Chapter 16.43 MMC.
- D. *Criteria for approval.* The codes and standards referenced in Chapter 16.43 MMC and other applicable ordinances and regulations, as they currently exist or are hereafter amended, set forth the criteria for approving grading and drainage permits.
- E. *Conditions of approval.* The decision authority may attach such conditions as reasonably necessary to safeguard the public health, general welfare, and safety.
- F. *Lapse of approval.* Grading and drainage permits shall expire as prescribed for building permits in Chapter 16.40 MMC.

Section 12. Amendment to MMC 16.71. The Medina Municipal Code Section MMC 16.71 is hereby amended as follows:

CHAPTER 16.71 – ADMINISTRATIVE DISCRETIONARY APPROVALS

16.71.010. Minor deviation.

- A. *Purpose.* The purpose of a minor deviation is:
1. To allow for minor departures from numeric development standards for remodeling projects; and
 2. To allow flexibility in design while preserving nonconforming conditions with respect to setback requirements and maximum building heights.
- B. *Applicant.* Any owner may submit an application for a minor deviation.
- C. *Procedures.* Minor deviations are processed as a Type 2 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.
- D. *Applicability.* A minor deviation may be approved for the following:
1. Departures by five percent or less from any numeric development standard provided:
 - a. If the numeric development standard is expressed as a percentage, the five percent is calculated as the numeric percentage multiplied by 1.05; and
 - b. Requests for departures may include qualifying conditions such as structural coverage bonuses and height bonuses.
 2. Departures from building height and zoning setback standards to allow a building addition to match an existing nonconforming building height or setback that was legally established provided:
 - a. Matching a nonconforming building height means a building addition extending above the maximum zoning height applicable to the building, but the highest point of the addition does not exceed the highest point of the roof of the existing building; or
 - b. Matching a nonconforming zoning setback means a building addition extending into the setback area, but the addition does not extend closer to the property line than the closest point of the existing building, excluding gutters; and
 - c. The total above-ground bulk of the building located within the nonconforming height or setback envelope does not occupy more than 60 percent of the maximum possible above-ground bulk that could otherwise be built within the nonconforming building height or setback envelope with approval of a minor deviation.
- E. *Limitations.* A minor deviation shall not be approved for the following:
1. Where the structure experienced substantial destruction as defined by MMC 16.12.200.
 2. Where the request is to obtain final approval of a structure that compliance with the numeric development standard was represented in the building permit application, but subsequent construction is noncompliant; or
 - ~~3~~2. Where the project consists of a building alteration or improvement that was completed at any time within the previous five years.
- F. *Criteria for approval.* The decision authority may approve a minor deviation only if the following criteria are satisfied:
1. The minor deviation does not constitute a granting of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the subject property is located; and
 2. The granting of such minor deviation will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated; and

3. The proposed development will not substantially reduce the amount of privacy enjoyed by adjoining property owners than if the development was built as specified by the zoning code; and
 4. For departures set forth in subsection (D)(1) of this section, the minor deviation is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located.
- G. *Conditions of approval.* The decision authority may attach reasonable conditions as necessary to safeguard the public health, general welfare and safety.
- H. *Lapse of approval.*
1. An approved minor deviation shall expire after one year from the later date of the decision being issued or an appeal becoming final unless a complete building permit application is submitted; and
 2. Expiration of the minor deviation is automatic and notice is not required; and
 3. The director may grant a single six-month extension if the applicant makes such a request in writing prior to the expiration date and can show good cause for granting the extension.

16.71.020. Administrative variance.

- A. *Purpose.* The purpose of administrative variances is to allow minor relief from specific zoning standards.
- B. *Applicant.* Any owner may submit an application for an administrative variance.
- C. *Procedures.* Administrative variances are processed as a Type 2 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.
- D. *Applicability.* An administrative variance may be granted for the following:
1. Fences and walls less than eight feet in height; or
 2. Structural coverage increases provided:
 - a. The increase is for less than one percent of the lot area; and
 - b. If existing structural coverage on the lot exceeds the zoning code, the total structural coverage will not exceed the structural coverage increase permitted in subsection (D)(2)(a) of this section plus the lesser amount between the existing structural coverage on the lot and the structural coverage on the lot on the date the structure became nonconforming with regards to structural coverage.
- E. *Criteria for approval.* The decision authority may approve an administrative variance only if the following criteria are satisfied:
1. The variance does not constitute a granting of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the subject property is located; and
 2. The variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and

3. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated; and
 4. The variance is the minimum necessary to provide reasonable relief.
- F. *Conditions of approval.* The decision authority may attach reasonable conditions as necessary to safeguard the public health, general welfare and safety.
- G. *Lapse of approval.*
1. An approved administrative variance shall expire after one year from the later date of the decision being issued or an appeal becoming final unless a complete building permit application is submitted; and
 2. Expiration of the administrative variance is automatic and notice is not required; and
 3. The director may grant a single six-month extension if the applicant makes such a request in writing prior to the expiration date and can show good cause for granting the extension.

16.71.030. Administrative special use permit.

- A. *Purpose.* The purpose of administrative special use permits is to allow certain uses, which by their nature can have an undue impact upon other uses of land, but also by their nature warrant a less cumbersome approval process than a nonadministrative special use permit.
- B. *Applicant.* Any owner may submit an application for an administrative special use permit.
- C. *Procedures.* Administrative special use permits are processed as a Type 2 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.
- D. *Applicability.* This section shall apply to uses and activities listed or referenced as requiring an administrative special use permit.
- E. *Criteria for approval.* The decision authority may approve an administrative special use permit only if the following criteria are satisfied:
1. The use is compatible with and meets the spirit of the comprehensive plan;
 2. The use is designed to minimize detrimental effects on neighboring properties;
 3. The use satisfies all requirements specified for the use;
 4. The use complies with all applicable zoning and development standards and requirements; and
 5. The use will have no materially detrimental effects on neighboring properties due to excessive noise, lighting, off-site traffic generation, or other interferences with the peaceful use and possession of said neighboring properties.
- F. *Conditions of approval.* The decision authority may attach reasonable conditions as necessary to safeguard the public health, general welfare and safety.
- G. *Lapse of approval.*
1. An approved administrative special use permit shall expire after one year from the later date of the decision being issued or an appeal becoming final unless a complete building permit application is submitted; and
 2. Expiration of the administrative special use permit is automatic and notice is not required; and
 3. The director may grant a single six-month extension if the applicant makes such a request in writing prior to the expiration date and can show good cause for granting the extension.

~~16.71.040. Level 1 tailored construction mitigation plan.~~

- ~~A.—*Purpose.* The purpose of a Level 1 tailored construction mitigation plan is to mitigate the adverse effects on adjacent properties and public streets caused by major construction projects.~~
- ~~B.—*Applicant.* Any owner may submit an application for a Level 1 tailored construction mitigation plan.~~
- ~~C.—*Procedures.*
 - ~~1.— Level 1 tailored construction mitigation plans are processed as a Type 2 decision pursuant to the review procedures set forth in Chapter 16.80 MMC; and~~
 - ~~2.— Before the city issues permits authorizing grading, demolition or construction activity, the property owners, designated agent, and contractor shall sign the Level 1 tailored construction mitigation plan.~~~~
- ~~D.—*Applicability.* This section applies to where a Level 1 tailored construction mitigation plan is required pursuant to the criteria in Chapter 16.75 MMC.~~
- ~~E.—*Limitations.* The tailored construction mitigation plan is a construction mitigation plan consisting of both city-developed and applicant-proposed measures for reducing construction impacts on neighboring properties and streets. The measures set forth in a Level 1 tailored construction mitigation plan are binding on all of the signatories required in subsection (C)(2) of this section.~~
- ~~F.—*Criteria for approval.* The criteria for approval of a Level 1 tailored construction mitigation plan are those set forth in MMC 16.75.040, as it currently exists or is hereafter amended.~~
- ~~G.—*Conditions of approval.* The decision authority may attach reasonable mitigation measures as necessary to protect the public health, safety and general welfare from the impacts of construction activity.~~
- ~~H.—*Lapse of approval.* A Level 1 tailored construction mitigation plan shall remain in effect until such time all construction permits associated with the Level 1 tailored construction mitigation plan expires.~~

16.71.0540. Administrative right-of-way tree activity permit.

- A. *Purpose.* The purpose of an administrative right-of-way tree activity permit is to authorize removal or pruning of city trees and vegetative cover in the right-of-way consistent with the Chapter 16.52 MMC Medina tree code.
- B. *Applicant.* Only owners enumerated in MMC 16.52.160(C) may submit an application for an administrative right-of-way tree activity permit.
- C. *Procedures.* Administrative right-of-way tree activity permits are processed as a Type 2 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.
- D. *Applicability.* This section shall apply to the pruning and removal of trees as set forth in MMC 16.52.160(C).
- E. *Criteria for approval.* The decision authority may approve an administrative right-of-way tree activity permit only if the following criteria are satisfied:

1. The proposal is compatible with Chapter 3, Community Design Element, of the comprehensive plan;
 2. The proposal is consistent with the public interest in maintaining an attractive and safe environment;
 3. The tree trimming, pruning or removal will have no materially detrimental effects on nearby properties;
 4. Removal of the city tree is permitted pursuant to MMC 16.52.190(D);
 5. Tree mitigation is provided in accordance with MMC 16.52.190(E) for removed trees;
 6. Tree trimming or pruning is done in accordance with the following:
 - a. The trimming or pruning does not exceed 25 percent of the canopy of the tree in the area, unless supported by ANSI Standard A300;
 - b. The trimming or pruning does not adversely affect adjoining and nearby properties regarding erosion control, noise control, shade, or other existing landscaping within the unimproved areas of the right-of-way; and
 - c. The trimming or pruning complies with ANSI Standard A300 and does not cause unnecessary mutilation or damage to the tree;
 7. All other requirements set forth in MMC 16.52.190 are satisfied.
- F. *Reasonable conditions.* The decision authority may attach reasonable conditions as necessary to safeguard the public health, general welfare and safety.
- G. *Lapse of approval.*
1. An administrative right-of-way tree activity permit shall expire after 18 months from the later date of the decision being issued or an appeal becoming final;
 2. Expiration of the administrative right-of-way tree activity permit is automatic and notice is not required; and
 3. No extension of the time period for the permit is allowed.

16.71.0650. Administrative substantial development permit.

- A. *Purpose.* The purpose of an administrative substantial development permit is to regulate developments and uses of water bodies and associated upland areas to protect human health and the natural environment, but by the scope of the development warrant a less cumbersome approval process.
- B. *Applicant.* Any owner may submit an application for an administrative substantial development permit.
- C. *Procedures.* Administrative substantial development permits are processed as a Type 2 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.
- D. *Applicability.* This section shall apply to activities within the meaning of the term "development" as defined in RCW 90.58.030(3)(a), and located within the shoreline jurisdiction as defined by the Shoreline Management Act, provided:
 1. The development is not exempt from a substantial development permit pursuant to WAC 173-27-040 as it currently exists or is hereafter amended; and
 2. The development does not include any dredging waterward of the ordinary high water mark; and
 3. The development does not include grading activity involving more than 500 cubic yards of material within the shoreline jurisdiction, excluding fill material used specifically for fish and wildlife habitat restoration; and

4. The total cost or fair-market value of the entire proposed development does not exceed \$50,000.00 provided:
 - a. The calculation for total cost or fair-market value shall include all costs, excluding permit fees and taxes, associated with development on the property during a period beginning from the date an application for the administrative substantial development permit is submitted and ending 18 months after the date all permits issued by the city for the property are finalized; and
 - b. Development may not be divided into phases for the purpose of avoiding a higher designation of decision type, except as provided in subsection (D)(4)(a) of this section.
- E. *Additional submittal requirements.* In addition to the requirements set forth in MMC 16.80.080, the applicant shall provide the following with an administrative substantial development permit:
1. A site plan containing the following:
 - a. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project;
 - b. Identification of the shoreline water body;
 - c. A general description of the property as it now exists, including physical characteristics and improvements and structures;
 - d. A general description of the vicinity of the proposed project, including identification of adjacent uses, structures and improvements, intensity of development and physical characteristics;
 - e. Identification of the ordinary high water mark:
 - i. This may be an approximate location; provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark, the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan;
 - ii. Where the ordinary high water mark is neither adjacent to nor within the boundary of the project, the site plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline;
 - f. Existing and proposed land contours with minimum two-foot elevation intervals;
 - g. A general description of the character of vegetation found on the site;
 - h. The dimensions and locations of all existing and proposed structures and improvements;
 2. A landscaping and/or restoration plan, as applicable;
 3. Mitigation measures, as applicable;
 4. Quantity, source, and composition of all fill material that is placed on the site, whether temporary or permanent;
 5. Quantity, composition and destination of all excavated and/or dredged material; and
 6. Additional submittal information set forth in the shoreline master program for the use.
- F. *Criteria for approval.* The decision authority may approve an administrative substantial development permit only if the following criteria are satisfied:
1. The proposed development is consistent with the policy and provisions of the State Shoreline Management Act of 1971 (Chapter 90.58 RCW);

2. The proposed development is consistent with the State Shoreline Management Permit and Enforcement Procedures (Chapter 173-27 WAC); and
 3. The proposed development is consistent with the requirements of the Medina shoreline master program.
- G. *Conditions of approval.* The decision authority may attach reasonable conditions as necessary to prevent undesirable effects of the proposed development and to assure consistency of the development with the Shoreline Management Act and the Medina shoreline master program.
- H. *Revisions to permit.* Revisions to an administrative substantial development permit shall be consistent with WAC 173-27-100 as it currently exists or is hereafter amended.
- I. *Lapse of approval.* Administrative substantial development permit shall expire as set forth in WAC 173-27-090 and amendments thereto.

Section 13. Amendment to MMC 16.72. The Medina Municipal Code Section MMC 16.72 is hereby amended as follows:

CHAPTER 16.72 – QUASI-JUDICIAL APPROVALS

16.72.010. Nonadministrative special use permit/conditional use permit.

- A. *Purpose.* The purpose of nonadministrative special use and conditional use permits is to allow certain uses which, by their nature, can have an undue impact upon other uses of land within the zoning district, subject to the controls, limitations and regulations of a nonadministrative special use permit/conditional use permit.
- B. *Applicant.* Any owner may submit an application for a nonadministrative special use permit or conditional use permit.
- C. *Procedures.* Nonadministrative special use permit/conditional use permits are processed as a Type 3 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.
- D. *Applicability.* Uses and activities listed or referenced as requiring a nonadministrative special use or a conditional use permit.
- E. *Criteria for approval.* The decision authority may approve a nonadministrative special use permit or nonadministrative conditional use permit only if the following criteria are satisfied:
1. The use complies with the adopted goals and policies set forth in the comprehensive plan;
 2. The use is designed to minimize detrimental effects on neighboring properties;
 3. The use satisfies all requirements specified for the use;
 4. The use complies with all applicable zoning and development standards and requirements; and
 5. The use will have no materially detrimental effects on neighboring properties due to excessive noise, lighting, off-site traffic generation, or other interferences with the peaceful use and possession of said neighboring properties.
- F. *Conditions of approval.* The decision authority may impose reasonable conditions as necessary to safeguard the public health, general welfare and safety.
- G. *Lapse of approval.*

1. An approved nonadministrative special use permit shall expire after one year from the later date of the decision being issued or an appeal becoming final unless a complete building permit application is submitted; and
2. Expiration of the nonadministrative special use permit is automatic and notice is not required; and
3. The director may grant a single six-month extension if the applicant makes such a request in writing prior to the expiration date and can show good cause for granting the extension.

16.72.020. Historical use permit.

- A. *Purpose.* The purpose of historical use permits is to serve as a mechanism for reestablishing a use on a property where that use had historically existed at one time on the property, but subsequently the rights to the use had ceased.
- B. *Applicant.* Any owner may submit an application for a historical use permit.
- C. *Procedures.* Historical use permits are processed as a Type 3 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.
- D. *Applicability.* Uses identified as a historical use requiring authorization to reestablish the use pursuant to Chapter 16.33 MMC.
- E. *Deviations to zoning regulations authorized.* Where unnecessary hardships or practical difficulties are created for the historical use by application of specific zoning regulations, deviations from the specific zoning regulation may be granted under the approval of a historical use permit.
- F. *Criteria for approval.* The decision authority may approve a historical use permit only if the following criteria are satisfied:
 1. The applicant demonstrates that the use was an established use on the date the city incorporated;
 2. The use will not have materially detrimental effects on neighboring properties due to excessive noise, lighting or other interference with the peaceful use and possession of said neighboring properties;
 3. The use has been designed to minimize adverse effects on neighboring properties, taking into account the historical use of the property; and
 4. If a deviation pursuant to subsection (E) of this section is requested, approval of the deviation must relate to the use of the land or to structures containing the historical use.
- G. *Conditions of approval.* The decision authority may impose reasonable conditions as necessary to safeguard the public health, general welfare and safety.
- H. *Lapse of approval.*
 1. An approved historical use permit shall expire after one year from the later date of the decision being issued or an appeal becoming final unless a complete building permit application is submitted; and
 2. Expiration of the historical use permit is automatic and notice is not required; and
 3. The director may grant a single six-month extension if the applicant makes such a request in writing prior to the expiration date and can show good cause for granting the extension.

16.72.030. Nonadministrative variance.

- A. *Purpose.* The purpose for a nonadministrative variance is to provide property owners relief from certain provisions of this title where conditions justify such relief on a case-by-case basis.
- B. *Applicant.* Any owner may submit an application for a nonadministrative variance.
- C. *Procedures.* Nonadministrative variances are processed as a Type 3 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.
- D. *Applicability.* Circumstances where relief from a dimensional standard is sought subject to the limitation set forth in subsection (E) of this section.
- E. *Limitations.*
 - 1. Nonadministrative variances may be granted where the application of a dimensional standard would result in an unusual or unreasonable hardship due to physical characteristics of the site;
 - 2. Evidence of other variances granted under similar circumstances shall not be considered in the granting of a nonadministrative variance; and
 - 3. No variance shall be granted for any of the following:
 - a. To alter any definition or interpretation of this title;
 - b. To alter any provision establishing a use within a zoning district; or
 - c. To alter any procedural provisions.
- F. *Criteria for approval.* The decision authority may approve a nonadministrative variance only if the following criteria are satisfied:
 - 1. The variance does not constitute a granting of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the subject property is located; and
 - 2. The variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and
 - 3. The variance is necessary to relieve a material hardship that cannot be relieved by any other means such that the material hardship must relate to the land itself and not to problems personal to the applicant; and
 - 4. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated; and
 - 5. The variance is the minimum necessary to provide reasonable relief.
- G. *Conditions of approval.* The decision authority may attach reasonable conditions to safeguard the public health, general welfare and safety.
- H. *Lapse of approval.*
 - 1. An approved nonadministrative variance shall expire after one year from the later date of the decision being issued or an appeal becoming final unless a complete building permit application is submitted; and
 - 2. Expiration of the nonadministrative variance is automatic and notice is not required; and
 - 3. The director may grant a single six-month extension if the applicant makes such a request in writing prior to the expiration date and can show good cause for granting the extension.

16.72.040. Site plan review.

A. *Purpose.* The purpose of site plan review is to:

1. Encourage better site planning to help ensure certain new development enhances the character of the city and sensitively fits into the neighborhood;
2. To protect the desirable aspects of natural landscape features of the city by minimizing undesirable impacts on the physical environment by proposed new development;
3. Improve communication and mutual understanding early and throughout the review process among developers, neighborhoods, and the city; and
4. Create a mechanism for addressing neighborhood impacts by the layout of the site without unreasonably interfering with an applicant's architectural goals; and
5. Be mindful of an applicant's reasonable expectation of privacy and/or security of their property.
6. It is not the intent of site plan review to regulate the architectural style or massing of a proposed home.

B. *Applicant.* Any owner may submit an application for site plan review.

C. *Procedures.*

1. Site plan reviews are processed as a Type 3 decision pursuant to the review procedures set forth in Chapter 16.80 MMC;
2. Revisions to an approved site plan review are as follows:
 - a. Minor revisions consistent with the scope of work already approved in the site plan review may be approved by the director as a Type 1 decision; or
 - b. All other revisions shall be processed as follows:
 - i. The city issues notice consistent with a notice of application set forth in MMC 16.80.110, including sending notice to all previous parties of record of the original site plan review;
 - ii. If no written objections to the revision are received during the public comment period, the director may decide the revision as a Type 2 decision;
 - iii. If written objections to the revision are received during the public comment period, the revision shall be processed as a Type 3 decision, subject to the same process requirements for a site plan review set forth in MMC 16.80.050(C), except a new notice of application is not required.

D. *Applicability.*

1. The requirements for site plan review set forth in this section shall apply if one or more of the following conditions are present:
 - a. Construction of a new building, or expansion or alteration of an existing building where the lot area of the building site is 80,000 square feet;
 - b. Construction of a new building, or expansion or alteration of an existing building where the lot area of the building site is at least 40,000 square feet and the lot area is at least 50 percent larger than the average lot area of all residentially developed lots touching the property;
 - c. Construction of a new building, or expansion or alteration of an existing building where the lot area of the building site is at least 40,000 square feet and the lot area is at least twice the size of the lot area of the smallest residentially developed lot touching the subject site; or

- d. Construction of a new building, or expansion or alternation of existing building where the lot area of the building site is less than 16,000 square feet and the property owner requests departure from setbacks, excluding shoreline setbacks, to preserve significant trees on the property 24 inches diameter breast height and larger in size.
2. In no case shall the following types of development require site plan review under this section:
 - a. Interior remodels that do not conflict with a previously approved site plan or modify the existing layout of the building site;
 - b. Modifications to the exterior facade of an existing building that do not:
 - i. Conflict with a previously approved site plan;
 - ii. Modify the existing layout of the building site; or
 - iii. Increase the exterior bulk of the building from the perspective of the adjacent lots;
 - c. Building additions that do not enlarge the building footprint by more than a total of 200 square feet during any five-consecutive-year time period;
 - d. Reconstruction of an existing building within its existing surface area footprint;
 - e. Construction of new buildings with a gross floor area of 1,000 square feet or less and that are set back at least 50 feet from the following:
 - i. Property lines that adjoin residentially developed properties; and
 - ii. Property lines that are only separated from a residentially developed property by a city right-of-way.
 3. The director may waive the requirement for a site plan review if all of the following are present:
 - a. The building site is constrained by the existence of critical areas or topography in a manner that the director determines a site plan review will have limited to no benefits; and
 - b. The city issues notice consistent with the requirements set forth for a notice of application in MMC 16.80.110 alerting recipients of the proposed project and the matter of the applicability of site plan review to the proposed project; and
 - c. No written objection to waiving the requirement for site plan review is received during the public comment period.
- E. *Departures from development regulations authorized.* Departures from certain development requirements may be permitted provided the following are satisfied:
1. The departure is for the purpose of minimizing an undesirable impact that cannot be better achieved by a strict application of the code;
 2. The departure meets the site plan review purpose statements set forth in subsection (A) of this section;
 3. The departure increases the project's conformance with the approval criteria set forth in subsection (H) of this section;
 4. Approval of departures under site plan review is limited to the following standards, except where site plan review is requested under subsection (D)(1)(d) of this section, departures shall be limited to subsections (E)(4)(a) and (d) of this section:
 - a. Minimum setbacks, excluding shoreline setbacks;
 - b. Maximum structural coverage, including bonus structural coverage;

- c. Maximum building and structure height;
- d. On-site parking spaces; and
- e. Fence and wall development standards.

F. *Limitations.*

- 1. In considering site plan review, the scope of the review is intended to evaluate the placement of primary site features and reduce negative impacts to adjacent properties. This may require setback distances from property lines greater than the zoning requirements. Primary features include, but are not limited to, all buildings, driveways, decks, patios, and landscaping.
- 2. Site plan review shall not include changes in the shape of a building footprint unless unique circumstances exist caused by the configuration of the subject lot and/or adjoining lots. In the case of unique circumstances, changes to the shape of the building footprint may only be required if the criteria in subsections (H)(3)(a) and (b) of this section cannot be met solely by moving the placement of a building.

G. *Additional application submittal requirements.* In addition to the submittal requirements set forth in MMC 16.80.070, the applicant shall provide the following with a site plan review application:

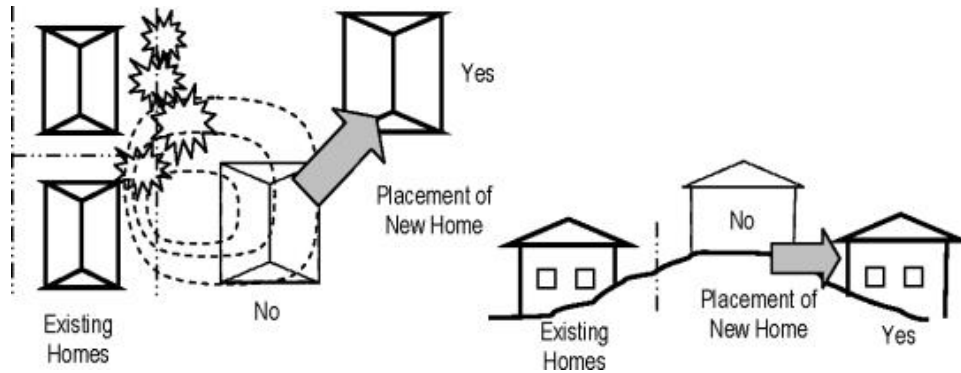
- 1. A site analysis addressing site opportunities and constraints, the use of all adjacent buildings, and the zoning of the site and adjacent properties;
- 2. A site plan drawing showing topography of the site and the location of structures and prominent landscape elements on or abutting the site (including but not limited to all trees that are at least 24 inches diameter breast height, with species indicated);
- 3. Preliminary building floor plans;
- 4. Photos showing the facades of adjacent development, trees on the site, general streetscape character and territorial or other views from the site, if any;
- 5. A graphical depiction of the property's zoning envelope—the three-dimensional space confined by the maximum building height and all applicable setback requirements from the zoning code;
- 6. A description of the proponent's objectives with regard to site development;
- 7. Architectural renderings of the proposed primary residence from the perspective of each home on an abutting property coupled with photographs of existing conditions supporting these same perspectives.

H. *Criteria for approval.* The decision authority may approve a site plan review only if the following criteria are satisfied (see Figure 16.72.040):

- 1. Placement of the proposed development on the property minimizes the visibility of buildings from the perspective of the adjacent lots;
- 2. Placement of the proposed development does not create significant privacy impacts for adjacent property owners;
- 3. The existing landscape is preserved consistent with the following:
 - a. The natural topography of the building site is not substantially altered;
 - b. Existing trees 24 inches in diameter breast height and larger and other natural landscaping on the property are preserved to a reasonable extent;
- 4. If applicable, site placement measures are incorporated to accommodate large gatherings and mitigate impacts including, but not limited to, traffic, parking, noise, and exterior lighting on the neighborhood;

5. If applicable, measures to accommodate people such as domestic employees and groundskeepers and mitigate impacts including, but not limited to, traffic, parking, and noise; and
6. Comply with all other applicable development requirements.

Figure 16.72.040: Example of Using Site Plan Review to Place a New Home



- I. *Conditions of approval.* The decision authority may attach reasonable conditions and/or may modify the site plan that are determined necessary to safeguard the public health, welfare and safety (e.g., additional screening, buffering measures, building location and orientation, modified setbacks, paving, landscaping, vegetation removal, areas of grading, etc.).
- J. *Lapse of approval.*
 1. An approved site plan review shall expire two years after the later of the date the site plan review was approved or the date a decision on an appeal becomes final, unless a complete building permit application is submitted prior to the later of the two dates specified herein; and
 2. Expiration of the site plan review is automatic and notice is not required; and
 3. The director may grant extensions if:
 - a. The applicant makes such a request in writing prior to the expiration date and can show good cause for granting the extension;
 - b. The director determines there have been no significant changes to any aspect of the project setting that was the basis of the site plan review approval.

16.72.050. Reclassification of zoning.

- A. *Purpose.* This section establishes a mechanism for site-specific reclassification of property or properties from one zoning district to another zoning district. The new zone must be consistent with the comprehensive plan and approval of such requests results in a change to the official Medina zoning map.
- B. *Applicant.* Any owner may submit an application for a site-specific rezone.
- C. *Applicability.* This section applies to amendments of the official Medina zoning map that are site-specific in nature and not involving an area-wide zoning map amendment as prescribed in Chapter 16.82 MMC.

- D. *Procedures.* Applications for a site-specific rezone are processed as a Type 3 decision pursuant to the review procedures set forth in Chapter 16.80 MMC and the following:
1. The planning commission holds an open-record public hearing and makes a recommendation in writing to the city council;
 2. The planning commission shall issue its written recommendation within 45 calendar days of the closing of the open-record hearing;
 3. The planning commission's written recommendation shall include the following:
 - a. Statement of the facts presented that supports the recommendation;
 - b. A statement of the conclusions reached based on those facts;
 - c. Any conditions or restrictions that are recommended to be placed upon the rezone; and
 - d. The date of issuance of the recommendation;
 4. The city council shall consider the planning commission's written recommendation no later than their next regularly scheduled meeting after the planning commission issues their recommendation;
 5. The city council shall decide the site-specific rezone application at a closed-record meeting;
 6. The 120-day processing timeline set forth in MMC 16.80.210 may be extended as reasonably necessary to allow the city council to deliberate on the planning commission's recommendation at a regularly scheduled meeting.
- E. *Limitations.* If a comprehensive plan amendment is required in order to satisfy subsection (F)(1) of this section, approval of the comprehensive plan amendment is required prior to or concurrently with the granting of an approval on the rezone.
- F. *Approval criteria.* The city council may approve a site-specific rezone only if the following criteria are satisfied:
1. The rezone is consistent with the comprehensive plan, or will be consistent with the comprehensive plan if a comprehensive plan amendment is proposed to be approved concurrently with the rezone approval;
 2. The rezone bears a substantial relationship to the public health, general welfare and safety;
 3. The rezone is appropriate because:
 - a. The rezone will not result in a reclassification to a zoning district where the lot area of the subject property is greater than 120 percent of the required minimum lot area of the new zoning district (e.g., a 20,000-square-foot R-20 zoned lot could be rezoned to R-30 (67 percent of the minimum 30,000 square feet lot size), but not to R-16 (125 percent of the minimum 16,000 square feet lot size)); or
 - b. The rezone will correct a zone classification or zone boundary that was inappropriate when established; and
 4. The rezone is not a spot rezone.

16.72.060. Reasonable use exception.

- A. *Purpose.* The purpose for a reasonable use exception is to permit development of a site only when application of Chapter 16.50 MMC (Critical Areas) would deny all reasonable uses of a site.
- B. *Applicant.* Any owner may submit an application for a reasonable use exception.

- C. *Procedures.* Reasonable use exceptions are processed as a Type 3 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.
- D. *Applicability.* This section shall apply where applying the critical areas regulations set forth in Chapter 16.50 MMC would deny all reasonable use of the subject property.
- E. *Additional application submittal requirements.* In addition to the submittal requirements set forth in MMC 16.80.070, the applicant shall provide the following with a reasonable use exception application:
 1. Critical area report consistent with the requirements of MMC 16.50.070;
 2. Mitigation plan consistent with the requirements in Chapter 16.50 MMC, if necessary;
 3. Applications/approvals from other agencies, as applicable;
 4. Special studies prepared to support the reasonable use exception; and
 5. SEPA documents.
- F. *Criteria for approval.* The decision authority may approve a reasonable use exception only if the following criteria are satisfied:
 1. The application of the critical areas regulations would deny all reasonable use of the property;
 2. The proposed development does not pose an unreasonable threat to the public health, general welfare, or safety on or off the site, nor does it damage nearby public or private property;
 3. Any alteration of the critical area and/or buffer is the minimum necessary to allow for reasonable use of the property;
 4. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant or their predecessors;
 5. Any impacts permitted to the critical area and/or buffer are mitigated in accordance with MMC 16.50.060(B) and (D) to the greatest extent feasible;
 6. The proposed development protects critical areas and/or buffer functions and values consistent with the best available science;
 7. The proposed development is consistent with other applicable regulations and requirements.
- G. *Conditions of approval.* The decision authority may attach reasonable conditions as necessary to safeguard the public health, general welfare and safety.

16.72.070. Public agency and utility critical areas exception.

- A. *Purpose.* The purpose of a public agency and utility critical areas exception is to allow development within a critical area by a public agency or public utility, which would otherwise be prohibited by the critical areas regulations.
- B. *Applicant.* An owner, or a federal, state or local agency, or a public utility, or their authorized agents who has written authorization to act on their behalf may submit an application for a public agency and utility critical areas exception.
- C. *Procedures.* Public agency and utility critical areas exceptions are processed as a Type 3 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.
- D. *Applicability.* This section shall apply where applying the critical areas regulations set forth in Chapter 16.50 MMC would deny development by a public agency or public utility.
- E. *Additional application submittal requirements.* In addition to the submittal requirements set forth in MMC 16.80.080, the applicant shall provide the following with a public agency and utility critical areas exception application:

1. Critical area report consistent with the requirements in MMC 16.50.070;
 2. Mitigation plan consistent with the requirements in Chapter 16.50 MMC, if necessary;
 3. Applications/approvals from other agencies, as applicable;
 4. Special studies prepared to support the reasonable use exception; and
 5. SEPA documents.
- F. *Criteria for approval.* The decision authority may approve a public agency and utility critical areas exception only if the following criteria are satisfied:
1. There is no other practical alternative to the proposed development with less impact on critical areas and/or buffers;
 2. The application of the critical areas regulations would unreasonably restrict the ability to provide utility services to the public; and
 3. The proposal meets the following conditions:
 - a. It minimizes the impact on critical areas and/or buffers in accordance with MMC 16.50.060(C);
 - b. It does not pose an unreasonable threat to the public health, general welfare or safety on or off the site, nor does it damage nearby public or private property;
 - c. Any impacts permitted to the critical area and/or buffer are mitigated in accordance with MMC 16.50.060(B) and (D) to the greatest extent feasible;
 - d. The proposal protects critical areas and/or buffer functions and values consistent with the best available science; and
 - e. It is consistent with other applicable regulations and requirements.
- G. *Conditions of approval.* The decision authority may attach reasonable conditions as necessary to safeguard the public health, general welfare and safety.

~~16.72.080. Level 2 tailored construction mitigation plan.~~

- ~~A.—*Purpose.* The purpose of a Level 2 tailored construction mitigation plan is to mitigate the adverse effects on adjacent properties and public streets caused by major construction projects.~~
- ~~B.—*Applicant.* Any owner may submit an application for a Level 2 tailored construction mitigation plan.~~
- ~~C.—*Procedures.*~~
- ~~1.— Level 2 tailored construction mitigation plans are processed as a Type 3 decision pursuant to the review procedures set forth in Chapter 16.80 MMC; and~~
 - ~~2.— Before the city issues permits authorizing grading, demolition or construction activity, the property owners, designated agent, and contractor shall sign the Level 2 tailored construction mitigation plan.~~
- ~~D.—*Applicability.* This section applies to where a Level 2 tailored construction mitigation plan is required pursuant to the criteria in Chapter 16.75 MMC.~~
- ~~E.—*Limitations.* The Level 2 tailored construction mitigation plan is a construction mitigation plan consisting of both city-developed and applicant-proposed measures for reducing construction impacts on neighboring properties and streets. The measures set forth in a Level 2 tailored construction mitigation plan are binding on all of the signatories required in subsection (C)(2) of this section.~~
- ~~F.—*Criteria for approval.* The evaluation criteria set forth in MMC 16.75.040 shall serve as the criteria for approving a Level 2 tailored construction mitigation plan.~~

~~G. *Conditions of approval.* The decision authority may attach such mitigation measures as necessary to protect the public health, safety and general welfare from the impacts of construction activity.~~

~~H. *Lapse of approval.* A Level 2 tailored construction mitigation plan shall remain in effect until such time all construction permits associated with the construction mitigation plan expire.~~

16.72.0980. Nonadministrative right-of-way tree activity permit.

- A. *Purpose.* The purpose of a nonadministrative right-of-way tree activity permit is to authorize removal or pruning of trees and vegetative cover in the right-of-way consistent with the [Chapter 16.52 MMC Medina tree code](#).
- B. *Applicant.* Any owner, or any public or private agencies with authority to operate within the city right-of-way or their authorized agents who have written authorization to act on their behalf, may submit an application for a nonadministrative right-of-way tree activity permit.
- C. *Procedures.* Nonadministrative right-of-way tree activity permits are processed as a Type 3 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.
- D. *Applicability.* This section shall apply to the pruning and removal of **city trees** [in the right-of-way](#) as set forth in MMC 16.52.160(D).
- E. *Criteria for approval.* The decision authority may approve a nonadministrative right-of-way tree activity permit only if the following criteria are satisfied:
1. The proposal is compatible with Chapter 3, Community Design Element, of the comprehensive plan;
 2. The proposal is consistent with the public interest in maintaining an attractive and safe environment;
 3. The tree trimming, pruning or removal will have no materially detrimental effects on nearby properties;
 4. Removal of a city tree is permitted pursuant to MMC 16.52.190(D);
 5. Tree mitigation is provided in accordance with MMC 16.52.190(E) for removed trees;
 6. Tree trimming or pruning is done in accordance with the following:
 - a. The trimming or pruning does not exceed 25 percent of the canopy of the tree in the area, unless supported by ANSI Standard A300;
 - b. The trimming or pruning does not adversely affect adjoining and nearby properties regarding erosion control, noise control, shade, or other existing landscaping within the unimproved areas of the right-of-way; and
 - c. The trimming or pruning complies with ANSI Standard A300 and does not cause unnecessary mutilation or damage to the tree.
 7. All other requirements set forth in MMC 16.52.190 are satisfied.
- F. *Reasonable conditions.* The decision authority may attach reasonable conditions as necessary to safeguard the public health, general welfare and safety.
- G. *Lapse of approval.*
1. A nonadministrative right-of-way tree activity permit shall expire within 18 months from the later date of the decision being issued or an appeal becoming final;
 2. Expiration of the nonadministrative right-of-way tree activity permit is automatic and notice is not required; and
 3. No extension of the time period for the permit is allowed.

16.72.10090. Nonadministrative tree activity permit.

- A. *Purpose.* The purpose of a nonadministrative tree activity permit is to authorize removal of landmark and legacy ~~large significant~~ trees consistent with the Medina tree code.
- B. *Applicant.* Any owner may submit an application for a nonadministrative tree removal permit.
- C. *Procedures.* Nonadministrative tree removal permits are processed as a Type 3 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.
- D. *Applicability.* This section shall apply to removal of trees as set forth in MMC 16.52.160(D), excluding trees rated as hazard pursuant to MMC 16.52.120.
- E. *Criteria for approval.* The decision authority may approve a nonadministrative tree activity permit only if the following criteria are satisfied:
 - 1. The proposal is compatible with Chapter 3, Community Design Element, of the comprehensive plan;
 - 2. The proposal is consistent with the public interest in maintaining an attractive and safe environment;
 - 3. The tree removal will have no materially detrimental effects on nearby properties;
 - 4. The tree has not been granted special protection pursuant to MMC 16.52.080;
 - 5. All requirements set forth in Chapter 16.52 MMC are satisfied;
 - 6. All other ordinances, regulations and policies applicable to tree removal are followed.
- F. *Reasonable conditions.* The decision authority may attach reasonable conditions as necessary to safeguard the public health, general welfare and safety.
- G. *Lapse of approval.*
 - 1. A nonadministrative tree activity permit shall expire after 18 months from the later date of the decision being issued or an appeal becoming final;
 - 2. Expiration of the nonadministrative tree activity permit is automatic and notice is not required; and
 - 3. No extension of the time period for the permit is allowed.

16.72.1400. Substantial development permit.

- A. *Purpose.* The purpose of a substantial development permit is to regulate development and uses of water bodies and associated upland areas consistent with the Medina shoreline master program.
- B. *Applicant.* Any owner may submit an application for a substantial development permit.
- C. *Procedures.* Substantial development permits are processed as a Type 3 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.
- D. *Applicability.* This section shall apply to activities and uses defined as development pursuant to RCW 90.58.030(3)(a) and located within the shoreline jurisdiction as defined by the Shoreline Management Act, provided:
 - 1. The development does not qualify for an exemption as set forth in MMC 16.70.040;
 - 2. The development does not qualify for an administrative substantial development permit as set forth in MMC 16.71.060.

- E. *Additional submittal requirements.* In addition to the requirements set forth in MMC 16.80.070, an application for a substantial development permit shall include the following:
1. A site plan containing the following:
 - a. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project;
 - b. Identification of the shoreline water body;
 - c. A general description of the property as it now exists, including physical characteristics and improvements and structures;
 - d. A general description of the vicinity of the proposed project, including identification of adjacent uses, structures and improvements, intensity of development and physical characteristics;
 - e. Identification of the ordinary high water mark:
 - i. This may be an approximate location; provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark, the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan;
 - ii. Where the ordinary high water mark is neither adjacent to nor within the boundary of the project, the site plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline;
 - f. Existing and proposed land contours with minimum two-foot elevation intervals;
 - g. A general description of the character of vegetation found on the site;
 - h. The dimensions and locations of all existing and proposed structures and improvements;
 2. A landscaping and/or restoration plan, as applicable;
 3. Mitigation measures, as applicable;
 4. Quantity, source and composition of all fill material that is placed on the site whether temporary or permanent;
 5. Quantity, composition and destination of all excavated and/or dredged material; and
 6. Additional submittal information set forth in the Medina shoreline master program for the use.
- F. *Criteria for approval.* The decision authority may approve a substantial development permit only if the following criteria are satisfied:
1. The proposed development is consistent with the policy and provisions of the State Shoreline Management Act of 1971 (Chapter 90.58 RCW);
 2. The proposed development is consistent with the State Shoreline Management Permit and Enforcement Procedures (Chapter 173-27 WAC); and
 3. The proposed development is consistent with the provisions of the Medina shoreline master program.
- G. *Conditions of approval.* The decision authority may attach such conditions as to prevent undesirable effects of the proposed development and to assure consistency of the development with the Shoreline Management Act and the Medina shoreline master program.
- H. *Revisions to permit.* Revisions to a substantial development permit shall be consistent with WAC 173-27-100.

- I. *Lapse of approval.* Substantial development permit shall expire as set forth in WAC 173-27-090 and amendments thereto.

16.72.1210. Shoreline conditional use permit.

- A. *Purpose.* The purpose of a shoreline conditional use permit is to provide a system within the Medina shoreline master program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020.
- B. *Applicant.* Any owner may submit an application for a shoreline conditional use permit.
- C. *Procedures.*
 - 1. Shoreline conditional use permits are processed as a Type 3 decision pursuant to the review procedures set forth in Chapter 16.80 MMC; and
 - 2. Shoreline conditional use permits approved by the city are transmitted to the Washington State Department of Ecology pursuant to WAC 173-27-200 for Ecology's approval, approval with conditions, or denial.
- D. *Applicability.* The following may be permitted if a shoreline conditional use permit is approved:
 - 1. Uses listed as a conditional use in the Medina shoreline master program; or
 - 2. Uses which are not classified or specifically prohibited in the Medina shoreline master program provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the Medina shoreline master program.
- E. *Additional submittal requirements.* In addition to the requirements set forth in MMC 16.80.070, an application for a shoreline conditional use permit shall include the following:
 - 1. The site plan shall include:
 - a. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project;
 - b. Identification of the shoreline water body;
 - c. A general description of the property as it now exists, including physical characteristics and improvements and structures;
 - d. A general description of the vicinity of the proposed project, including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics;
 - e. Identification of the ordinary high water mark:
 - i. This may be an approximate location; provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark, the mark shall be located precisely and the biological and hydrological basis for the mark's location as indicated on the plans shall be included in the development plan;
 - ii. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline;
 - f. Existing and proposed land contours with minimum two-foot elevation intervals;
 - g. A general description of the character of vegetation found on the site;

- h. The dimensions and locations of all existing and proposed structures and improvements;
 - 2. A landscaping and/or restoration plan, as applicable;
 - 3. Mitigation measures, as applicable;
 - 4. Quantity, source and composition of all fill material that is placed on the site, whether temporary or permanent;
 - 5. Quantity, composition and destination of all excavated and/or dredged material; and
 - 6. Additional submittal information set forth in the Medina shoreline master program for the use.
- F. *Criteria for approval.* The decision authority may approve a shoreline conditional use permit only if the following criteria are satisfied:
- 1. That the proposed use is consistent with the policies set forth in RCW 90.58.020 and the Medina shoreline master program;
 - 2. That the proposed use will not interfere with the normal public use of public shorelines;
 - 3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and Medina shoreline master program;
 - 4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
 - 5. That the public interest suffers no substantial detrimental effect.
- In the granting of a shoreline conditional use permit, consideration shall be given to the cumulative impact of additional requests for like actions in the area.
- G. *Conditions of approval.* The decision authority and the Washington State Department of Ecology may attach reasonable conditions as necessary to prevent undesirable effects of the proposed development and to assure consistency of the development with the Shoreline Management Act and the Medina shoreline master program.
- H. *Revisions to permit.* Revisions to a shoreline conditional use permit shall be consistent with WAC 173-27-100 and amendments thereto.
- I. *Lapse of approval.* A shoreline conditional use permit shall expire as set forth in WAC 173-27-090.

16.72.1320. Shoreline variance.

- A. *Purpose.* The purpose for a shoreline variance is to provide a mechanism strictly limited to granting relief where there are extraordinary circumstances relating to the physical character or configuration of property.
- B. *Applicant.* Any owner may submit an application for a shoreline variance.
- C. *Procedures.*
 - 1. Shoreline variances are processed as a Type 3 decision pursuant to the review procedures set forth in Chapter 16.80 MMC; and
 - 2. Shoreline variances approved by the city are transmitted to the Washington State Department of Ecology pursuant to WAC 173-27-200 for Ecology's approval, approval with conditions, or denial.
- D. *Applicability.* Shoreline variances may be granted for relief from specific bulk dimensional or performance standards set forth in the Medina shoreline master program where the

requirement of such will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020 and the Medina shoreline master program.

- E. *Additional submittal requirements.* In addition to the requirements set forth in MMC 16.80.070, an application for a shoreline variance shall include the following:
1. The site plan shall include:
 - a. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project;
 - b. Identification of the shoreline water body;
 - c. A general description of the property as it now exists, including physical characteristics and improvements and structures;
 - d. A general description of the vicinity of the proposed project, including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics;
 - e. Identification of the ordinary high water mark:
 - i. This may be an approximate location provided that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark, the mark shall be located precisely and the biological and hydrological basis for the mark's location as indicated on the plans shall be included in the development plan;
 - ii. Where the ordinary high water mark is neither adjacent to nor within the boundary of the project, the site plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline;
 - f. Existing and proposed land contours with minimum two-foot elevation intervals;
 - g. A general description of the character of vegetation found on the site;
 - h. The dimensions and locations of all existing and proposed structures and improvements;
 2. A landscaping and/or restoration plan, as applicable;
 3. Mitigation measures, as applicable;
 4. Quantity, source and composition of all fill material that is placed on the site, whether temporary or permanent;
 5. Quantity, composition and destination of all excavated or dredged material; and
 6. A site plan that clearly indicates where development may occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.
- F. *Criteria for approval.* The decision authority may approve a shoreline variance only if the following criteria are satisfied:
1. Where the variance is for development landward of the ordinary high water mark the following approval criteria shall apply:
 - a. That the strict application of the bulk, dimensional or performance standards set forth in the Medina shoreline master program precludes, or significantly interferes with, reasonable use of the property;
 - b. That the hardship described in subsection (F)(1)(a) of this section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;

- c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and Medina shoreline master program and will not cause adverse impacts to the shoreline environment;
 - d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - e. That the variance requested is the minimum necessary to afford relief; and
 - f. That the public interest will suffer no substantial detrimental effect.
2. Where the variance is for development waterward of the ordinary high water mark the following approval criteria shall apply:
- a. That the strict application of the bulk, dimensional or performance standards set forth in the Medina shoreline master program precludes all reasonable use of the property;
 - b. That the hardship described in subsection (F)(2)(a) of this section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;
 - c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and Medina shoreline master program and will not cause adverse impacts to the shoreline environment;
 - d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - e. That the variance requested is the minimum necessary to afford relief;
 - f. That the public interest will suffer no substantial detrimental effect; and
 - g. That the public rights of navigation and use of the shorelines will not be adversely affected.
3. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area.
- G. *Conditions of approval.* The decision authority may attach reasonable conditions as necessary to prevent undesirable effects of the proposed development and to assure consistency of the development with the Shoreline Management Act and the Medina shoreline master program.
- H. *Revisions to permit.* Revisions to a shoreline conditional use permit shall be consistent with WAC 173-27-100.
- I. *Lapse of approval.* A shoreline variance shall expire as set forth in WAC 173-27-090.

Section 13. Amendment to MMC 16.80.050(C). The Medina Municipal Code Section MMC 16.80.050(C) is hereby amended as follows:

- C. Table 16.80.050(C) sets forth project permits that are categorized as Type 3 decisions with the applicable corresponding review procedures.

Table 16.80.050(C)—Type 3 Decisions

Project Permit	Decision Authority	Procedure Requirements			
		DOC	NOA	NOH	NOD

Nonadministrative special use permit	HE	Yes	Yes	Yes	Yes
Conditional use permit	HE	Yes	Yes	Yes	Yes
Historical use permit	HE	Yes	Yes	Yes	Yes
Nonadministrative variance	HE	Yes	Yes	Yes	Yes
Site-specific rezone	PC/CC ¹	Yes	Yes	Yes	Yes
Reasonable use exception	HE	Yes	Yes	Yes	Yes
Nonadministrative right-of-way tree activity permit	HE	Yes	Yes	Yes	Yes
Nonadministrative tree activity permit	HE	Yes	Yes	Yes	Yes
Site plan review	PC HE	Yes	Yes	Yes	Yes
Preliminary subdivision	HE/CC ²	Yes	Yes	Yes	Yes
Shoreline substantial development permit	HE	Yes	Yes	Yes	Yes
Shoreline variance	HE ³	Yes	Yes	Yes	Yes
Shoreline conditional use permit	HE ³	Yes	Yes	Yes	Yes

Notes:

"DOC"—determination of completeness required pursuant to MMC 16.80.100

"NOA"—notice of application required pursuant to MMC 16.80.110

"NOH"—notice of hearing required pursuant to MMC 16.80.120

"NOD"—notice of decision required pursuant to MMC 16.80.200

"HE" means the hearing examiner has authority to make the decision

"PC" means the Medina planning commission has authority to make the decision

"CC" means the city council makes the decision

¹ The planning commission holds the open-record hearing and makes a recommendation to the city council. The city council decides the rezone at a closed-record meeting.

² Hearing examiner holds the open-record hearing and makes a recommendation to the city council. The city council decides the preliminary subdivision at a closed-record meeting.

³ If the hearing examiner's action on shoreline variances and shoreline conditional use permits is to approve the application, the approval shall be submitted to the Washington State Department of Ecology for approval, approval with conditions, or denial pursuant to WAC 173-27-200.

Section 10. Corrections. The City Clerk and codifiers of the ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 11. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 12. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after publication.

Passed by the Medina City Council and approved by the Mayor this 12th day of December 2022.

Jessica Rossman, Mayor

Approved as to form:
Ogden Murphy Wallace, PLLC

Attest:

Office of the City Attorney

Aimee Kellerman, City Clerk

PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.: 1017