



# MEDINA, WASHINGTON

## AGENDA ITEM 6.4

Wednesday September 11, 2023

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**Subject:** Tree Management Code Amendment Proposal

**Planning Commission Action:** Discussion, and Council Recommendation

**Public Hearing Required - Noticed**

**Staff Contact:** Steven Wilcox, Development Services Director

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### **A. Background - 2024 Council Workplan**

There are two parts to this topic of amending Medina Municipal Code Chapter 16.52. First, there are proposed amendments within various existing sections of MMC 16.52 which were requested by Council and are intended to solve some existing issues discovered by our arborists. Second, is the proposed addition of a completely new violations section, also requested by Council, which would be placed within MMC 16.52 where there was previously none.

Our Tree Management Code was amended in 2015. Since 2015 there have been few amendments to 16.52. The 2015 amendments were significant and as with new codes, it needed to be used to see how it performed.

This code amendment proposal before you combines the completely new MMC 16.52 violations section with the additional amendments intended to solve some existing issues. I apologize in advance if this is confusing.

Part 1. In 2022 Medina had two new consulting arborists. Our two arborists are very experienced in local government work and were able to compare our Tree Management Code with other jurisdiction's similar codes. After working several months with our code, our arborists expressed several concerns. As concerns arose while using our code, we would work through them one by one and record potential solutions. On January 23, 2023 our two arborists presented their findings on the use of MMC 16.52 to City Council. The result of the January 23, 2023 presentation was direction by Council to amend the tree code with six short-term solutions. These solutions were never implemented, but they are now included in this proposal. The Agenda Bill for the January 23, 2023 Council meeting is provided to you for background as Exhibit 7.

Part 2. Our 2015 Tree Management Code MMC 16.52 amendments did not include a separate violations section. Currently MMC 16.52 relies on a consolidated MMC Ch. 1.15 to address violations. MMC 1.15 has basic process defined, but very little fines for violating the code. You will find MMC Table 1.15.330 within the draft ordinance provided under Exhibits provided. The question about applicable tree fines became a Council topic in late March 2023 when there was a significant public tree removal violation. Council directed staff to create a new approach to tree code violations which is the proposed MMC 16.52.250 you have in the Exhibits.

## **B. Part 1 – “Short-Term Solutions”**

Short-term solutions implies that our MMC 16.52 Tree Management Code may need to have a more advanced review in the future, but until that time there are amendments that can be made to improve the existing code according to the stated purposes and intent within MMC 16.52.010. Six short-term solutions were proposed by our two consulting arborists to Council in January 2023. These six short-term solutions will improve the effectiveness of the code considering MMC 16.52.010. Council directed that these six short-term solutions be drafted into ordinance which did not happen until now.

These additional amendments are intended to correct and update certain areas of the existing tree code that our arborists had identified as important. On January 23, 2023 our two city arborists presented to Council concepts for quick improvements to our Tree Management Code. The concepts could be drafted into ordinance and implemented without a complete review of the entirety of our existing MMC 16.52. There were six “Short-Term Solutions” suggested by our arborists as part of an overall discussion on the effectiveness of our Tree Management Code.

Exhibit 2 and Exhibit 3 are draft ordinance produced by our city attorney depicted in two ways for you. Exhibit 2 is the draft with our city attorney’s underlined changes and highlighted by me. Exhibit 3 is the same as Exhibit 2, but with no highlights. Exhibit 3 is exactly how our city attorney drafted the language.

Proposed code amendments found within Exhibit 2 and Exhibit 3 associated with the six short-term solutions are:

- 16.52.060 Designation of significant tree species
- 16.52.080 Legacy and landmark tree protection measures
- 16.52.090 Minimum preservation standards for land under development
- 16.52.170 Tree preservation plan

You will see the six Tree Management Code short-term solutions listed within Exhibit 4. The list is the first draft text taken from the January 2023 Council meeting. These six items were then taken by our city attorney and drafted into ordinance language which you now have in Exhibits provided to you.

Exhibit 5 is the PowerPoint presentation given by our two arborists to Council on January 23, 2023 which was the basis for the six short-term solutions now in the draft ordinance.

### **C. Part 2 New Violations Section MMC 16.65.250**

Currently, violations of MMC 16.52 are processed through MMC Chapter 1.15. This proposal involves eliminating the tree removal process and fines within MMC 1.15, and then replacing that with an entirely new section within existing MMC 16.52. The new violations section is proposed as “16.52.250. – Violations”.

Prompting the need for this new approach to Tree Management Code violations was a significant removal of publicly owned trees in early 2023. The investigation of this violation caused Council to direct a change be made to our code enforcement fines associated with illegal tree removals.

Because the new proposed MMC 16.52.250 is comprehensive and specific to the Tree Management Code, it was determined that it is best to be separated from the general provisions of our existing code enforcement Chapter 1.15.

A comparison of methods and fine amounts was performed with a look at Medina vs. other local jurisdictions. A summary of this comparison is in Exhibit 6.

Exhibit 8 is a September 2023 PowerPoint presentation by me to Council with examples of application of the fine proposal. There were no changes to this required by Council.

#### Summary

- Fines for Tree Management Code violations would now be among the highest in our local area as compared to currently being among the lowest.
- Fines are considered separately in two parts. Private property and City owned (public property and ROW).
- Private property owners may qualify for a one-time exemption from fines.
- Private property owners may petition the hearing examiner for a hardship which could potentially reduce fines. ‘Hardship’ is now defined by our city attorney.
- Hearing examiner discretion and procedures involving hardship petitions are defined.
- Public tree removals are not given exemptions or ability to petition for a hardship.
- All city costs of the code enforcement action are reimbursed.
- Public tree canopy is to be restored.

- Development project tree protection is now defined as a code violation.

#### **D. Next Steps**

- Council supports the MMC 16.52 Tree Management Code amendment proposal detailed in draft ordinance Exhibit 3.
- Council directed that the MMC 16.52 Tree Management Code amendment proposal be reviewed by the Planning Commission.
- Currently, the draft ordinance is under review by the Department of Commerce.
- Our planning consultant, LDC, is also evaluating the draft ordinance for SEPA compliance, with Jonathan Kesler providing final confirmation.
- A notice of the public hearing scheduled for September 11, 2024, regarding this proposed code amendment was published. The comment period has closed with no feedback received.
- The Planning Commission will need to consider any comments from the public notice or the public hearing.

Planning Commission is requested to approve the proposed amendments to the Medina Municipal Code Chapter 16.52 Tree Management Code as described within Exhibit 3. Upon receiving the Planning Commission's approval, the proposal will be presented to the Council for final approval.

#### **Attachments**

Exhibit 1. MMC Ch. 16.52 Tree Management Code. These are the sections within the existing code for you to use in comparison with proposed changes.

Exhibit 2. Draft Ordinance with City Attorneys underlined changes highlighted by me.

Exhibit 3. Draft Ordinance with City Attorneys underlined changes. No changes by me.

Exhibit 4. Six "Short-Term Solutions" (initial draft) Council directed to be drafted into Ordinance.

Exhibit 5. Arborist's presentation to Council January 23, 2023 regarding the proposed six short-term solutions.

Exhibit 6. An example comparison of existing Tree Management Code violations vs. other local jurisdictions.

Exhibit 7. Agenda Bill from January 23, 2023 Council presentation. This is intended to give you additional background into the six short-term amendments.

Exhibit 8. PowerPoint presentation to Council in September 2024 giving examples of the proposed fine amounts.

**Proposed Planning Commission Motion:**

“I move to direct staff to forward the Medina Municipal Code Chapter 16.52 Tree Management Code draft ordinance, as detailed in Exhibit 3, to the City Council for their review and approval.”