



# CITY OF MEDINA

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**Date:** November 14, 2022  
**To:** Honorable Mayor and City Council  
**Via:** Stephen R. Burns, City Manager  
**From:** Steven R. Wilcox, Development Services Department Director  
**Subject:** Development Services Department Monthly Report

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## **Permit Activity**

Please see the two permit activity reports provided with this report. Interestingly, permit valuation (the value Medina assigns to a project) comparing 2021 to 2022 year to date is similar to what we expect for year-end revenues although they are two different metrics. 2022 will likely end with permit value total lower than 2021 by about 25% to 30%. 2022 Development Services revenues to date have been an unwelcomed surprise considering the budgeting performed in Summer of 2021.

Late Autumn typically is the slowest time of year for permitting so we do not anticipate a surge of revenue at year end. However, we do know of several new development projects (demolition with a new home) which may arrive as completed applications in early 2023.

## **Planning Commission**

By Stephanie Keyser, Planning Manager

Planning Commission will hold a public hearing on their annual code amendments on November 15<sup>th</sup>. The amendments include housekeeping items, a clean-up of repealed sections, and adjustments that will make the code conform to not-so-recent legislation. These amendments will be brought to Council for a first review during the November 14<sup>th</sup> meeting and will be brought back for a public hearing during the December 12<sup>th</sup> meeting.

## **Comp Plan:**

Planning Commission will attend the first hour of Council's December 12<sup>th</sup> meeting for a kickoff presentation by the City's Comprehensive Plan consultants, CREA Affiliates. This is an opportunity to learn about the process, the roles that Council and Planning Commission will have, and to ask questions. Staff has been working with CREA on filling out the GMA Checklist (this is a mandatory item and the first task due under our GMA Grant) and formalizing the engagement strategy. The first community visioning workshop will be January 19, 2023, from 5-8PM at (tentatively) Medina Elementary's gym. Once Staff has received confirmation from Bellevue School District of the gym's reservation, community notifications of the meeting will be sent out.

## Construction Activity and General Medina Municipal Code Enforcement

Please see the Code Enforcement Report for October 2022 provided with this report. Our two tree code consultants will be adding their enforcement items to this report so that everything is tracked in one location. We continue to improve our new tree activity reports.

Code enforcement in October involved construction parking, work without permits, commercial signs on city owned property, vacant property condition, tree removal without permit, work performed outside of allowed hours, damage to the right of way, and bins (garbage, recycle) left out in city owned property too long.

Most of our code enforcement is based on reaction to immediate issues that are brought to our attention. Construction parking violations are the most common enforcement actions that we respond to as a reaction. Proactive code enforcement is most commonly applied through our permitting process where we provide education at different stages.

Development Services field staff have been asked to make inspection of garbage bins and recycle bins a scheduled weekly routine. Our Medina Municipal Code Section 12.28.020 (I) states: *“Garbage, yard waste, and/or recycling bins placed in the right-of-way for a total maximum period not longer than 24 hours surrounding the designated date and collection or pickup time of the bin owner's municipal waste service.”* For some time we have been attaching reminder tags to bins that have been left out too long. There has been some positive effect, but the tags do not solve the problem. Our field staff are also investigating who the owners of the bins are, and attempting to speak directly with them.

It is not typical for us to issue citations with fines and fees to residents who leave their bins out for more than 24 hours. We have worked at education rather than enforcement the same as we would apply to other matters. Because the matter of bins has not resolved and has recently again been brought to our attention as a problem we will take a more direct enforcement approach. Provided we are able to identify which property the bin(s) belong with we will:

- Confirm that the bin is located on Medina property.
- Attach a reminder tag to each bin left out more than 24 hours. Staff have discretion to issue more than one reminder.
- Send the bin owner a formal warning notice.
- Attempt to contact the bin owner and then try to meet to discuss alternate locations for the bins.
- Issue the bin owner a Citation. At this point a new Citation will be issued for each additional violation of MMC 12.28.020 (I). Fines are compounding.

Please see the “City of Medina Reminder” bin tag and example photo of its use provided with this report.

One of the owners of recycle bins that we recently gave a reminder tag called to say that pick-up is “sporadic” and not always the same day. This is a reason this owner was leaving his bins out within city owned property.

## **Pre-School**

We are investigating a complaint about a pre-school being operated out of a Medina home. There may be several code applications pending the investigation result. Once there is more information Council will be informed.

## **Tree Management Code Enforcement**

Please see the two reports by our Tree Management Code consultants. The “Tree with Building and Development” report is by Sean Dugan and addresses permitted development sites and the associated tree work in city owned property. The “City of Medina Arborist Monthly Report” is by Andy Crossett and reflects general tree code enforcement, and non - development project (individuals) tree permits. Enforcement of tree removals in violation of our Tree Management Code are most commonly reactive by Development Services staff. Education is one proactive approach to enforcement. Regular inspections of permitted development projects is also an important enforcement method.

At the December 12<sup>th</sup> Council meeting we intend on providing a draft proposal for an increase in fines associated with non-permitted tree removals. With the Town of Hunts Point Municipal Code Ch. 8.25.120 as a starting point we will be addressing tree removal as a single event, and separately when several trees are removed. Our Tree Management Code consultant Sean Dugan assisted Hunts Point in drafting their tree removal penalty code. This will be a significant change if adopted by Council.

Medina Municipal Code Table 1.15.330 addresses various monetary penalties based on types of code violations. This table will be completely revised with an amendment coming to Council in 2023. The tree removal penalty is being addressed separately. Existing Table 1.15.330 “Failure to obtain a tree removal permit” has a penalty which starts at \$300 with an upper limit of \$750 for a third and subsequent violations.

The new penalty proposal will include a fine of \$1,000 plus \$1,000 per inch of diameter for a significant tree removal. When more than one significant tree has been removed the fines are proposed to be doubled. A cap of \$25,000 per removed significant tree (per violation) will be part of the proposal. In addition to fines we will also assess actual costs of city staff and our consultants including our attorney’s time that is part of code enforcement. Working with consultants we are developing means for tracking costs associated with code enforcement so that the actual costs can be recovered.

## **Small Wireless Facility Building Permit Applications**

We have been contacted by T-Mobile regarding building permit applications. These permit applications will follow the franchise agreement. The building permit applications have not yet been submitted to us. One of the locations has a separate remote underground vault. The vault contains equipment necessary for operation of the wireless facility.

More information will be provided to Council once we have building permit applications submitted and vested with us.

## Development Services Fund Concepts

We are initiating new concepts regarding the Development Services Fund. There are questions regarding the Development Services Fund's long-term sustainability and transparency that should be resolved. For various reasons Development Services was separated from the General Fund beginning this year. The following are two reasons why the Development Services Fund was created:

- Considering the levy passage, city administration wanted to assure transparency in showing that development pays for itself. It was felt that a separate fund would accomplish this.
- The Development Services Fund is a way to manage the year-to-year highs and lows of permitting revenues and expenses while not adversely impacting the needed stability of the General Fund.

Very generally, much of Development Services Fund expense accounts, and some revenues can be thought of as more predictable and less predictable. It is the "less predictable" budget accounts that cause trouble with forecasting. The less predictable expenses are the ones which rise and fall with development activity. More predictable expenses are that portion of the Development Services Fund which are similar to other departments. For the most part, staff wages (benefits, etc.), insurance, software and hardware costs, travel/training, dues and subscriptions, etc. can be accurately forecasted and are more predictable. Increases and decreases in development activity parallel professional consultant services activity and associated costs. Consultant activity directly corresponds with the portion of the Development Services Fund which can be most difficult to forecast.

As part of this concept, revenues from permit fees should not pay for our professional consultants. Considering the development project sizes we often see, we charge fairly modest permit fees. These fees do not cover our consultant expenses. A cash deposit system is being used where an "Advanced Deposit" (AD) is initially paid by a permit applicant and then drawn from as actual consultant costs rise above fees charged. If the AD amount becomes low, the developer is required to add cash.

To create a sustainable, and much more transparent Development Services Fund a concept is being considered where more predictable expenses are associated with more predictable revenues. Less predictable expenses would then be associated with a revenue stream that parallels fluctuation in development activity. The actual operation of the Development Services Fund would not be much different than it is now, but it would be easier to understand and forecast. An argument could be made that this concept is more equitable too.

Under this new concept permit fees would pay the more predictable expenses. This could allow for easier evaluation of fee amounts needed to pay for a service level that Council prefers.

To pay for the less predictable expenses which typically involve professional consultants, this fund concept would expand the use of the existing Advanced Deposit system and would also consolidate it. Development will be confirmed to pay for itself. A service level as decided by Council will be funded through permit fees. None of this will impact the General Fund while adding transparency.

As part of this concept is that the Development Services Fund should include some additional changes. Due to the recent implementation of the Development Services Fund we have only recently been looking at how staff, and some other expenses are allocated between funds. Traditionally, the Development Services Fund has charged fees which cover expenses for services that can include benefits to the entire city, not just for the permitting work of the Department. An example is our Planning Manager who spends a significant portion of her time on Planning Commission projects, or other state mandated projects with city-wide benefit. But, the Development Services Fund pays our Planner's full salary and benefits. If the Development Services Fund truly is separate and required to balance its own budget, then it may be a logical extension that work with city-wide benefit be allocated to other funds.

## **2021 Washington State Building Code**

The 2021 Washington State Building Code ("State Code") adoption cycle is underway. We are currently under the 2018 State Code as adopted by Medina. The decision to adopt the 2021 State Code will be made by the Washington State Building Code Council by December 1, 2022. Adoption by Medina will then be mandatory. Building code adoptions are typically on a 3-year cycle. The 2021 State Code adoption into the Medina Municipal Code is something we will be talking about at times during the first half of 2023. Please see the "Washington State Building Codes Review and Adoption Process" provided with this report.

The Washington State Building Code is comprised of a list of codes such as the commercial building code (IBC), residential building code (IRC), fire code (IFC), mechanical code (IMC), gas piping codes (NFPA, UPC), Washington State Energy Code and others. There are many 100's (maybe 1000's) of references applicable to each mandated code adoption. Typically, the Energy Code has most impact on the type of construction common to Medina. The fundamental reason for these codes is safety of building occupants, although there are other benefits such as improved construction quality.

The Development Services Director is also Medina's Building Official. Each jurisdiction in our state has one building official who has authority to administer the State Code. Assuming the State Building Code Council adopts the 2021 codes, you will be asked to approve of the State Code for use in Medina. Implementation of new buildings codes is typically July 1st as mandated by the state.

It is likely that we will have certain amendment proposals needed to match our Fire Code (a part of the State Code) to what the City of Bellevue adopts. The City of Bellevue amends the State Fire Code and because we under contract with their Fire Department for suppression and prevention services it is important to assure our codes match.

Chapter 1 of the State Codes is administrative. The state allows jurisdictions to amend Ch.1 without State Building Code Council approval. There will be some house-keeping amendments proposed to Council, as well as amendments necessary to match the Medina Municipal Code such as Chapter 1.15 Code Enforcement. There may be other house-keeping amendments proposed such as swimming pool safety, property maintenance standards, and others, but some of this depends upon the final result of the state's adoption.

The Washington State Building Codes Review and Adoption process is provided with this report.

I would enjoy talking with you individually about anything in this report. The best way to contact me is at [swilcox@medina-wa.gov](mailto:swilcox@medina-wa.gov). Also 206-235-9137 or 425-233-6409.