

Ordinance XXX

MEDINA CITY COUNCIL

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MEDINA, WASHINGTON, ADOPTING NEW SECTIONS 20.21.060 AND 20.22.070 OF THE MEDINA MUNICIPAL CODE (MMC); AND AMENDING VARIOUS SECTIONS OF CHAPTERS 2.78, 20.12, 20.16, 20.21, 20.22, 20.23, 20.30, 20.80 AND 20.81 MMC REGARDING HOUSEKEEPING AMENDMENTS TO PROVIDE CLARITY, RESOLVE CONFLICTS WITHIN THE REGULATIONS, AND TO REDUCE ADMINISTRATIVE BURDENS IN THE PERMITTING PROCESS**

WHEREAS, the City of Medina is classified as a non-charter code City under title 35A RCW; and

WHEREAS, the City Council adopted regulations set forth in Chapter 2.78 MMC pertaining to the establishment of a hearing examiner system; and

WHEREAS, the City Council created a “Unified Development Code” under Title 20 MMC consistent with the goals of creating development regulations that are:

- User-friendly and more easily understood by non-professionals;
- Compliant with state and federal law, including consistency with Medina’s comprehensive plan; and
- Clear and void of conflicting regulations; and

WHEREAS, Land Use Policy LU-P1 provides that the city shall minimize changes to existing zoning and land use patterns except as necessary to meet land use goals, such as maintaining Medina’s high-quality residential setting and character, when deemed necessary by its citizens; and

WHEREAS, consistent with Land Use Policy LU-P1, housekeeping amendments to the Unified Development Code were initiated to improve the clarity and consistency of the development regulations and to resolve internal conflicts within the regulations; and

WHEREAS, the Planning Commission invited public comments and discussion at their September 22, October 27 and November 24, 2015 regular meetings and voted to forwarded a recommendation to the City Council regarding the housekeeping amendments to the development regulations; and

WHEREAS, the City Council held a public hearing on March 14, 2016, to receive testimony for and against the proposal with public notice for the hearing published in *The Seattle Times* newspaper on February 16, 2016, and posted at the City’s notice boards and on the City’s website on February 11, 2016; and

WHEREAS, pursuant to RCW 36.70A.106(3)(b), an expedited review was transmitted to the Washington State Department of Commerce (Material # 21838) on November 18, 2015; and expedited review was granted on December 7, 2015; and

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1 WHEREAS, a State Environmental Policy Act (SEPA) threshold Determination of  
2 Nonsignificance (DNS) for the proposal was issued on November 24, 2015, pursuant to WAC  
3 197-11-340(1); and  
4

5 WHEREAS, the City Council makes the following findings of fact in support of its  
6 decision:  
7

- 8 A. A SEPA threshold Determination of Nonsignificance (DNS) was issued on November  
9 24, 2015, determining that the proposed code amendments would not have a  
10 probable significant adverse impact on the environment.
- 11 B. The City provided appropriate opportunity for the public to participate in the code  
12 amendment process. The code amendment is minor in its effects as the proposal  
13 resolves internal conflicts and clarification to existing code provisions. Public noticing  
14 for the public hearing was posted on the City's notice boards and by sending  
15 electronic notices to interested parties. Notice also was posted on the City's website  
16 and a notice of the public hearing was published in a newspaper of general  
17 circulation.  
18
- 19 C. The City Council received a recommendation from the Planning Commission on a  
20 proposed list of housekeeping code amendments.  
21
- 22 D. The proposed code amendment is consistent with the goals and policies of the  
23 Medina Comprehensive Plan to preserve the community's high quality residential  
24 setting and its informal and natural character.  
25
- 26 E. The proposed code amendment bears a substantial relation to the public health,  
27 safety and welfare. The code amendments provide clarity in that they refine various  
28 regulations pertaining to walls and fences, the measurement of structural coverage  
29 and height, the number of dwellings on a lot, applying the designation of property  
30 lines to curved property lines; they resolve internal conflicts regarding appeal  
31 periods, and they reduce administrative burdens by capping the distance for public  
32 noticing and allowing administrative appeals to be waived when certain conditions  
33 are met.  
34
- 35 F. The proposed amendment advances the public interest of the community by making  
36 the regulations clearer and by reducing unnecessary administrative burdens in the  
37 permitting process.  
38

39  
40 **NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MEDINA, WASHINGTON, DO**  
41 **ORDAIN AS FOLLOWS:**  
42

43 **Section 1. Amend MMC 2.78.090.** Section 2.78.090 of the Medina Municipal Code is  
44 amended to read:  
45

- 46 A. Any aggrieved party may file a ~~((motion))~~ request for reconsideration of a decision of the  
47 hearing examiner. Such request for reconsideration shall be in writing and filed within 14  
48 days of the date ~~((of))~~ the notice of decision is issued pursuant to Chapter 20.80 MMC.  
49 ~~((The hearing examiner shall consider the request for reconsideration at its next regular~~  
50 ~~meeting.))~~ The request shall provide facts and argument to establish the applicability of one

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- 1 or more of the following ~~((Such requests shall be granted if one or more of the following~~
- 2 ~~elements are established))~~:
- 3 ~~((A-))~~1. The application has been substantially modified. Modifications which address
- 4 concerns expressed by the hearing examiner in denying an application shall be given
- 5 special consideration;
- 6 ~~((B-))~~2. Irregularity in the hearing of the reviewing agency preventing a party from having
- 7 a fair hearing;
- 8 ~~((C-))~~3. Newly discovered, material evidence which the party applying for
- 9 reconsideration could not have discovered and produced at the hearing with reasonable
- 10 diligence;
- 11 ~~((D-))~~4. Errors in law objected to at the time by the party filing the request for
- 12 reconsideration.
- 13 B. Within seven days following the closing date for accepting requests for reconsideration, the
- 14 City staff shall forward the request for reconsideration to the hearing examiner.
- 15 C. Prior to issuing a decision, the Hearing Examiner may convene a hearing or continue a
- 16 proceeding in such manner as the Hearing Examiner deems appropriate to ensure a fair,
- 17 timely, and reasoned decision.
- 18 D. In response to a request for reconsideration, within 14 days following receipt by the Hearing
- 19 Examiner, the Hearing Examiner may deny the motion, modify its decision, or set a date to
- 20 convene or reopen a hearing.
- 21 E. A Hearing Examiner order on a request for reconsideration is not subject to a request for
- 22 reconsideration.
- 23 F. Upon the filing of a ~~((motion))~~ request for reconsideration, the time for appeal shall not
- 24 commence to run until such request is denied or until notification of the issuance of a
- 25 decision following the grant of a request for reconsideration.

27 **Section 2. Amend MMC 2.78.100.** Section 2.78.100 of the Medina Municipal Code is  
28 amended to read:

30 The decision of the examiner may be appealed ~~((by filing a land use petition in King County~~  
31 ~~superior court. Such petition must be filed within 21 days from the date of decision))~~ as set forth  
32 in MMC 20.80.220.

34 **Section 3. Amend MMC 20.12.070.** Section 20.12.070 of the Medina Municipal Code is  
35 amended to modify or add the following definitions:

- 36 ...
- 37
- 38 “Fence” means a manmade freestanding wall or barrier constructed for the purpose of enclosing
- 39 space or separating parcels of land.
- 40 ...
- 41
- 42 “Freestanding wall” means a wall structure standing alone or on its own foundation free of
- 43 support or attachment or affiliation with other structures in close proximity. See definition of
- 44 “fence” set forth in MMC 20.12.070.
- 45 ...

47 **Section 4. Amend MMC 20.12.080.** Section 20.12.080 of the Medina Municipal Code is  
48 amended to add the following definition:

- 49 ...
- 50
- 51 “Gutter” depending on its context means:

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- 1 1. A shallow trough fixed to the edge of a roof or eave for the carrying off of rain water; or
- 2 2. A channel for draining off water at the edge of a street or road.

3  
4 **Section 5. Amend MMC 20.12.170.** Section 20.12.170 of the Medina Municipal Code is  
5 amended to add the following definition:

6  
7 “Planting bed boxes, raised” means a series of walls fit closely together, each wall one-foot wide  
8 or less, used to frame soils elevated above the finished grade for the planting of landscaping  
9 and gardens. Walls may be built of timber, stone, brick, concrete and similar types of framing  
10 materials.

11 ...  
12  
13 **Section 6. Amend MMC 20.16.010.** Section 20.16.010 of the Medina Municipal Code is  
14 amended to read:

- 15
- 16 A. This title shall be enforced for the benefit of the health, safety, and welfare of the general
- 17 public, and not for the benefit of any particular person or class of persons.
- 18 B. It shall be unlawful for any person, firm or corporation to erect, construct, alter, repair, move,
- 19 remove, convert, demolish, use, occupy, or maintain any structure or use of land, or any
- 20 portion, in violation of the provisions of this title. The violation shall exist until the unlawful
- 21 act and/or unlawful use has been remedied or abated.
- 22 C. It shall be unlawful for any person, firm or corporation to erect, construct, alter, repair, move,
- 23 remove, convert, demolish, use, occupy, or maintain any structure or use of land within the
- 24 City of Medina in any manner that is not permitted by or consistent with the terms of any
- 25 permit or authorization issued under this title or previous codes, provided that the terms or
- 26 conditions are explicitly stated on the permit, approved plans or authorization.

27  
28 **Section 7. Adopt MMC 20.21.060.** A new Section 20.21.060 of the Medina Municipal  
29 Code titled “Maximum dwelling units on a lot” is adopted to read:

30  
31 **20.21.060 Maximum dwelling units on a lot.**

32  
33 Where Table 20.21.030 authorizes dwelling uses, only one dwelling unit per lot is allowed,  
34 except additional dwelling units may be allowed on the same lot for the following:

- 35 A. Accessory dwelling units meeting the requirements set forth in MMC 20.34.020;
- 36 B. Detached single-family dwellings provided:
  - 37 1. The minimum net lot area is equal to or greater than the minimum net lot area set forth in
  - 38 Table 20.22.020 of the zoning district where the dwellings are located multiplied by the
  - 39 number of detached single-family dwellings on the lot; and
  - 40 2. All development regulations and limitations applicable to buildings in the zoning district
  - 41 where such dwellings are located are followed.

42  
43 **Section 8. Amend MMC 20.22.040.** Section 20.22.040 of the Medina Municipal Code is  
44 amended to read:

45  
46 The following structures may be located within a setback area, excluding setbacks from Lake  
47 Washington, which are subject to Chapter ((47.38)) 20.63 MMC:

- 48 ...
- 49
- 50 D. Fences and freestanding walls which comply with the requirements set forth in MMC
- 51 20.30.010;

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1 ...

2

3 L. Swimming pools, spas and hot tubs as provided for in MMC 20.34.040((-));

4 M. Raised planting bed boxes, which do not exceed 30 inches above the existing or finished  
5 grade, whichever grade is lower.

6

7 **Section 9. Adopt MMC 20.22.070.** A new Section 20.22.070 of the Medina Municipal  
8 Code titled "Curved property lines" is adopted to read:

9

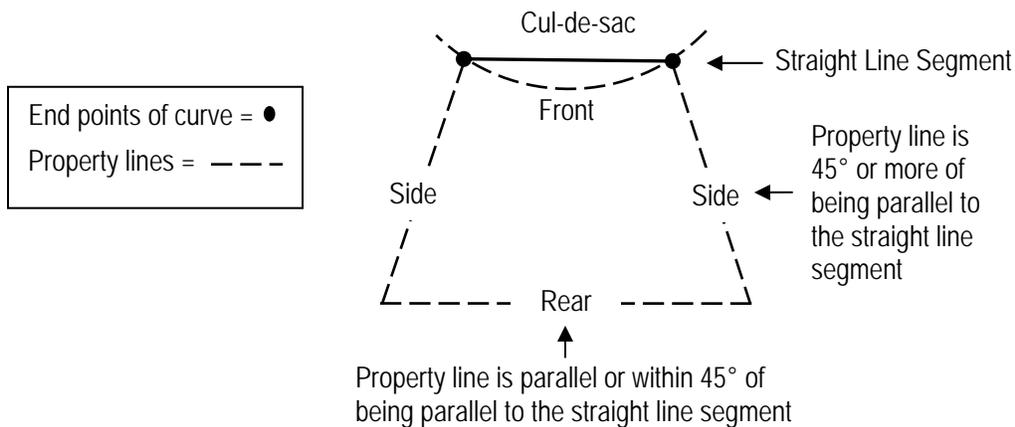
10 **20.22.070 Curved property lines.**

11

12 Where a curved property line exists, a straight line segment shall be established that intersects  
13 each of the two end points of the curved property line. The straight line segment shall be used in  
14 lieu of the curved property line to apply the definitions of front, rear and side property lines set  
15 forth in MMC 20.12.170 to the property lines of the lot. See Figure 20.22.070.

16

17 Figure 20.22.070 Curved Property Line



28

29 **Section 10. Amend MMC 20.23.030.** Section 20.23.030 of the Medina Municipal Code  
30 is amended to read:

31

32 A. Structural coverage is the total surface area of a lot covered by or beneath buildings and  
33 structures including but not limited to buildings, roof eaves including gutters, patios, decks,  
34 sports courts, swimming pools and spas, gazebos, gateways, and trellises.

35 ...

36

37 C. When calculating the structural coverage on a lot, the following are excluded from the  
38 structural coverage limits:

39 1. Any pervious surface areas beneath roof eaves including gutters such as areas with  
40 living vegetation, but not including areas with pervious surfaces containing gravel, rocks  
41 or other similar hardscape materials wherever such materials cover more than 25  
42 percent of the area directly below the roof eaves;

43 2. Areas beneath the roof eaves including gutters containing water features;

44 3. Areas beneath the roof eaves including gutters containing driveway surface that  
45 provides access to a nonpedestrian garage door entrance provided:

46 a. The roof eave excluding gutters does not project more than two feet from the exterior  
47 wall of the building; and  
48

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b. The driveway surface area not counted as structural coverage does not extend more than two feet in each direction horizontally from the outer edges of the garage door;

...

8. Garden-type structures, such as ~~((gazebos,))~~ arbors, bowers, pergolas, trellises and similar open structures, provided the aggregate footprint of all such garden-type structures does not exceed one percent of the lot area; and

...

**Section 11. Amend MMC 20.23.050.** Section 20.23.050 of the Medina Municipal Code is amended to add the following provision:

...

F. Eligibility for the bonus height standard in MMC 20.23.050(A)(3) shall not apply where the total structural coverage on the lot exceeds 13 percent, excluding structural coverage that qualifies for the bonus under MMC 20.23.040.

**Section 12. Amend MMC 20.23.060.** Section 20.23.060 of the Medina Municipal Code is amended to read:

A. Where multiple buildings and structures are located on the same lot, and are detached from each other, the height of each building or structure shall be measured independently from the others, except:

...

2. If buildings are connected by a breezeway or similar above ground types of structures, the buildings shall be considered attached for purposes of measuring height.

...

G. The following shall be excluded as part of the outside exterior wall/side of a building or structure for purposes of measuring height:

...

4. Areas under roof eaves including gutters and areas under balconies provided they extend 24 inches or less from the exterior wall. Gutters extending six inches or less from the outer edge of the roof eaves shall be excluded from counting towards the 24-inch limit.

**Section 13. Amend MMC 20.30.010.** Section 20.30.010 of the Medina Municipal Code is amended to read:

A. General Provisions.

1. Walls, as referred to in this section, include freestanding walls meeting the definition in MMC 20.12.070, and retaining walls and rockeries meeting the definitions in MMC 20.12.190.

~~((4))~~2. Fences, walls and gates may be located within a setback area provided the fence, wall or gate does not exceed the maximum height requirements set forth in ~~((subsection))~~ MMC 20.30.010(B) ~~((of this section))~~. ~~((Walls, as referred to in this chapter, include freestanding walls, retaining walls, rockeries and similar types of structures.))~~

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- 1 ((2))3. Fences, walls and gates shall be located entirely inside the property lines of a lot,
- 2 unless both property owners agree the wall or fence may be placed on a common
- 3 property line.
- 4 ((3))4. The property owner is responsible for confirming all fences, walls and/or gates are
- 5 placed inside the property lines on their property.
- 6 ((4))5. Gates located near an opened street right-of-way shall be set back from the edge of
- 7 the pavement pursuant to MMC 20.40.125.
- 8 ((5))6. All lighting devices shall be subject to the height limitations prescribed by this section.
- 9 ((6))7. Where a permit is required pursuant to ((subsection)) MMC 20.30.010(G) ((of this
- 10 section)), the ((city)) director may require the property owner to have a land survey
- 11 performed to identify the property boundaries if:
- 12 a. The fence, wall or gate is adjacent to a street right-of-way; or
- 13 b. In the opinion of the director, it is not clear the proposed fence or wall is located
- 14 entirely within the property lines on the owner's property.
- 15 B. Height (see Figures 20.30.010(B)(1), (B)(2) and (D)).
- 16 1. The maximum height of a fence, wall, combination of fence and wall, or gate shall not
- 17 exceed four feet if the structure is located:
- 18 a. Within a horizontal distance of five feet from a front property line that adjoins a public
- 19 street not designated as a collector or minor arterial street pursuant to Chapter 10.08
- 20 MMC; and
- 21 b. Within a horizontal distance of five feet from any property line that intersects a front
- 22 property line that adjoins a public street as described in ((subsection)) MMC
- 23 20.30.010(B)(1)(a) ((of this section)) and extending 30 feet from the front property
- 24 line.
- 25 2. Except as provided in ((subsection)) MMC 20.30.010(B)(1) ((of this section)), the
- 26 maximum height of a fence, wall, combination of fence and wall, or gate shall not exceed
- 27 six feet in all other setback areas.
- 28 3. Fences, walls and gates not located within setback areas may be constructed to the
- 29 height limitations of other buildings and structures in the zoning district in which the
- 30 fence, wall or gate is located ((same zone)).
- 31 ...

32  
33 **Section 14. Amend MMC 20.80.140.** Section 20.80.140 of the Medina Municipal Code  
34 is amended to read:

35  
36 The notice requirements of this chapter are intended to meet or exceed those required by state  
37 law. Notices shall meet the following:

- 38 ...
- 39
- 40 B. When mailing is required, the following shall apply:
- 41 1. Written notice shall at a minimum be sent by first class postage to the following:
- 42 a. The applicant and/or the property owner;
- 43 b. Any state, federal or local agencies with jurisdiction related to the project;
- 44 c. Any person who writes to the city requesting such notice;
- 45 d. The Washington State Department of Transportation when a proposed subdivision or
- 46 short subdivision is located adjacent to a state highway right-of-way.
- 47 2. Notice shall be mailed to the addresses of all properties located within a distance of 300
- 48 feet or three parcels, whichever distance is greater, but not required to exceed a
- 49 distance of 1,000 feet. Distance shall be measured from all portions of the subject
- 50 property including any contiguous property owned, controlled or under the option of
- 51 purchase by the same property owner and/or applicant.

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- 3. The address of the property owner and/or taxpayer of record on file with King County assessor tax records shall serve as the official record where notice shall be mailed.
- 4. Any mailed notice required by this chapter shall be adequate when a good-faith effort has been made to identify and mail notice to the address of property owners or taxpayers of record on file with the King County assessor.
- 5. Notice mailed to persons at their known address shall be judged to have been received by those persons if those persons and their addresses are named in a declaration of mailing. The failure of any person to actually receive the notice shall not invalidate any permit or approval.

...

**Section 15. Amend MMC 20.80.190.** Section 20.80.190 of the Medina Municipal Code is amended to read:

The decision authority specified in the tables in MMC 20.80.060 shall decide the corresponding project permit application. Decisions shall be subject to the following:

- A. The decision authority for a Type 1 or Type 2 decision may approve, approve with conditions, or deny a project permit application based on the appropriate decision criteria.
- B. The decision authority for a Type 3 decision may approve, approve in part, approve with conditions, deny, deny in part, or deny with conditions based on the appropriate decision criteria.
- C. Decisions shall be issued within the time period prescribed in MMC 20.80.210.
- D. Notice of decision shall be provided pursuant to MMC 20.80.200.
- E. A decision issued under this chapter shall be given the effect of a final decision. However, action is not authorized until:
  - 1. Expiration of the administrative appeal period; or
  - 2. If an appeal is filed, ~~((not until))~~ the decision on the administrative appeal is final~~((;))~~; or
  - 3. The administrative appeal period is waived. The director may grant a waiver of an administrative appeal period only if the following conditions are satisfied:
    - i. The decision is a Type 1 or Type 2 decision, excluding appeals relating to the Medina shoreline master program; or the decision is a Type 3 decision by the Medina Planning Commission; and
    - ii. Only parties with standing to initiate an appeal are the applicant, property owner, and City; and
    - iii. A written request for waiver, signed by the applicant and property owner, is submitted to the director; and
    - iv. The decision is fully compliant with the Medina Municipal Code.
- F. Type 2 and Type 3 decisions shall include written findings based upon the record and conclusions which support the decision.
- G. Issuance of decisions.
  - 1. A final decision issued by a hearing body shall be issued within 14 days after the conclusion of a predecision hearing, unless a longer period is mutually agreed to between the applicant and the hearing body.
  - 2. When the decision authority on a Type 3 decision is the Planning Commission or City Council, a written decision issued within 14 days after the conclusion of a predecision hearing, or such a longer period as is mutually agreed to between the applicant and the City, shall constitute the final decision.
- H. A party of record may file a motion for reconsideration of a hearing examiner's decision pursuant to the provisions set forth in MMC 2.78.090.

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1           **Section 16. Amend MMC 20.81.070.** Section 20.81.070 of the Medina Municipal Code  
2 is amended to read:

- 3
- 4 A. Published notice of a public hearing shall be given in a newspaper of general circulation
- 5 within the city boundaries at least 15 calendar days prior to the hearing date. However,
- 6 subsequent hearing dates on the same proposal being considered by the same hearing
- 7 body do not require additional publication of notice.
- 8 B. Posted notice shall be given in the same manner as planning commission and city council
- 9 regular meetings.
- 10 C. The content of the notice shall include:
  - 11 1. The time and place of the public hearing;
  - 12 2. A purpose statement which succinctly describes the proposal;
  - 13 3. A statement of the right of any person to submit written comments and to appear at the
  - 14 public hearing and give comments orally; and
  - 15 4. A statement of the availability of the official file.
- 16 D. Notice of the text amendment shall be transmitted to state agencies consistent with RCW
- 17 36.70A.106.
- 18 E. If the text amendment imposes a requirement to inform a buyer or tenant of real property
- 19 pursuant to Chapter 64.06 RCW, the ordinance containing the text amendment must be
- 20 transmitted to the Municipal Research and Services Center for posting in accordance with
- 21 RCW 43.110.030(2)(e), as amended hereafter.

22

23           **Section 17. Severability.** Should any section, paragraph, sentence, clause or phrase of  
24 this ordinance, or its application to any person or circumstance, be declared unconstitutional or  
25 otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or  
26 federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining  
27 portions of this ordinance or its application to other persons or circumstances.

28

29           **Section 18. Effective Date.** A summary of this ordinance shall be published in the official  
30 newspaper of the City, and the ordinance shall take effect and be in full force five (5) days after the  
31 date of publication.

32

33 **ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE \_\_\_ DAY**  
34 **OF \_\_\_\_\_, 2016.**

\_\_\_\_\_  
Alex Morcos, Mayor

Approved as to form:

Attest:

\_\_\_\_\_  
Kathleen Haggard, City Attorney  
Porter Foster Rorick LLP

\_\_\_\_\_  
Aimee Kellerman, City Clerk

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