CITY OF MEDINA, WASHINGTON

Ordinance No. 1039

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MEDINA, WASHINGTON, RELATING TO PROJECT PERMIT PROCEDURES AND TIMELINES, AMENDING SECTIONS 16.80.030, 16.80.050, 16.80.060, 16.80.090, 16.80.100, 16.80.120, 16.80.130, 16.80.210, 16.80.220, AND 16.80.240 OF THE MEDINA MUNICIPAL CODE, PROVIDING FOR SEVERABILITY AND CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Medina is a code city operating under Title 35A RCW, among other laws; and

WHEREAS, in Title 16 of the Medina Municipal Code, the City Council has established the City's development regulations, which include procedures and timelines for the review and processing of project permits in Chapter 16.80 MMC, in accordance with Chapter 36.70B RCW; and

WHEREAS, in 2023, the Washington State legislature enacted SSSB 5290, which amends certain provisions in Chapter 36.70B RCW relating to the review and processing of project permit applications, including the timelines for issuing decisions on project permits, and these amendments will take effect on January 1, 2025; and

WHEREAS, on October 3, 2024, the City's SEPA official issued a determination of nonsignificance for the proposed amendments, which was published and provided to the public in accordance with WAC 197-11-340 and the comment period ended on October 17, 2024; and

WHEREAS, the City has determined that it is necessary to amend the provisions of Chapter 16.80 of the Medina Municipal Code as stated in this Ordinance, to make the City Code consistent with Chapter 36.70B RCW, as amended by SSSB 5290; and

WHEREAS, this Ordinance was submitted to the Department of Commerce for expedited review on September 11, 2024, and expedited review was granted on September 27, 2024; and

WHEREAS, the Planning Commission conducted a public hearing on the substance of this Ordinance on November 6, 2024 and recommended adoption by the City Council; and

WHEREAS, the City Council, after careful consideration of the recommendation from the Planning Commission, all public comment, and the Ordinance, finds that this Ordinance is consistent with the City's Comprehensive Plan and development regulations, the Growth Management Act, Chapter 36.70A RCW, and that the amendments herein are in the best interests of the residents of the City and further advance the public health, safety and welfare; **NOW, THEREFORE,**

THE CITY COUNCIL OF THE CITY OF MEDINA, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 16.80.030 of the Medina Municipal Code is hereby amended to read as follows:

16.80.030. General provisions.

A. *Exemptions.* The following project permits are exempt from this chapter:

1. Landmark designations;
2. Street and utility property vacations;
3. Development agreements; and
4. Legislative actions, such as those set forth in Chapters 16.81 through 16.83 MMC.

B. *Standard of review.* The land use regulations in effect on the date an application vests will be the standard of review.

C. *Vesting.* Building permit applications shall vest in accordance with RCW 19.27.095. Subdivision applications shall vest in accordance with RCW 58.17.033. Other ~~A~~ project permit applications shall not result in vesting for the project; however, all permits shall be processed under ~~in~~ the development regulations in effect at the time of submission of a completed ~~project~~ permit application as defined herein and all application fees are paid. In addition, vesting for a project only includes vesting to land use control ordinances and does not apply to fees, procedural regulations, or stormwater regulations.

D. *Conflict with other regulations.* When any provisions of this chapter conflict with provisions of other city regulations, ordinances or resolutions, the more restrictive shall apply.

Section 2. Section 16.80.050 of the Medina Municipal Code is hereby amended to read as follows:

16.80.050. Project permit procedures.

The procedures for processing a project permit application may include a determination of completeness, notice of application, notice of hearing, and notice of decision. The following tables establish the decision type, the person or body authorized to make the decision, the general review procedures, and notice requirements that are applicable to each project permit application.

A. Table 16.80.050(A) sets forth project permits that are categorized as Type 1 decisions with the applicable corresponding review procedures.

Table 16.80.050(A)—Type 1 Decisions

Project Permit	Decision Authority	Procedure Requirements			
		DOC[1]	NOA	NOH	NOD
Building, reroof and construction permits not listed/no SEPA	BO	Yes	No	No	~~Yes~~No
Mechanical permit	BO	Yes	No	No	~~Yes~~No
Demolition permit/no SEPA	BO	Yes	No	No	~~Yes~~No
Grading and drainage permit/no SEPA	BO	Yes	No	No	~~Yes~~No
Fence permit	BO	Yes	No	No	~~Yes~~No
Final short subdivision	D	No	No	No	~~Yes~~No
Administrative tree activity permit	D	Yes	No	No	~~Yes~~No
Hazardous tree designation	D	Yes	No	No	~~Yes~~No
Right-of-way permit	~~E~~D	Yes	No	No	~~Yes~~No
Lot line adjustment	D	Yes	No	No	~~Yes~~No
Zoning code interpretation	D	No	No	No	~~Yes~~No
Accessory dwelling units	D	Yes	No	No	~~Yes~~No
Administrative sign approval	D	Yes	No	No	~~Yes~~No
Construction activity permit for projects ≤ $499,000.00	D	Yes	No	No	~~Yes~~No
SEPA letter of exemption	D[12]	No	No	No	~~Yes~~No
Shoreline letter of exemption	D	No	No	No	~~Yes~~No

Shoreline master program interpretation	D	No	No	No	~~Yes~~No
Temporary use permit	D	No	No	No	~~Yes~~No

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
"BO" means building official has authority to make the decision
"D" means the director has authority to make the decision
~~"E" means the city engineer or designee has authority to make the decision~~
[1] DOC as set forth in MMC 16.80.100 is waived and will not be issued for over the counter permits and/or when the permits are issued prior to the expiration of the 28 days period.
[2] "Director" here means the person designated as the responsible official.

B. Table 16.80.050(B) sets forth project permits that are categorized as Type 2 decisions with the applicable corresponding review procedures.

Table 16.80.050(B)—Type 2 Decisions

Project Permit	Decision Authority	Procedure Requirements			
		DOC	NOA	NOH	NOD
Building permit/with SEPA	BO/D[1]	Yes	Yes	No	Yes
Demolition permit/with SEPA	BO/D[1]	Yes	Yes	No	Yes
Grading and drainage permit/with SEPA	BO/D[1]	Yes	Yes	No	Yes
Administrative right-of-way tree activity permit	D	Yes	Yes	No	Yes
Administrative special use permit	D	Yes	Yes	No	Yes
Administrative substantial development	D	Yes	Yes	No	Yes
Administrative variance	D	Yes	Yes	No	Yes
Minor deviation	D	Yes	Yes	No	Yes
SEPA threshold determination	D[1]	Yes	Yes[2]	No	Yes
Preliminary short subdivision	D	Yes	Yes	No	Yes
Construction activity permit for projects ≥ $500,000.00 and/or on	D	Yes	Yes[3]	No	Yes

a private lane or joint driveway					
Final subdivision	CC	No	No	No	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
"BO" means building official has authority to make the decision
"D" means the director has authority to make the decision
"CC" means the city council makes the decision
~~"E" means the city engineer or designee has authority to issue a decision~~
[1] "Director" here means the person designated as the responsible official
[2] A NOA is not required for a SEPA threshold determination issued pursuant to WAC 197-11-340(1)
[3] The NOA for a construction activity permit for projects greater than or equal to $500,000.00 and/or projects on a private lane or joint driveway shall include the date and time of the open house pursuant to MMC 20.75.070 and MMC 20.75.080

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	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 3. Section 16.80.060 of the Medina Municipal Code is hereby amended to read as follows:

16.80.060. Meetings prior to submitting a project permit application.

A. There are two types of meetings that may occur before an application is submitted and processed. Predevelopment meetings are for owners to obtain input from city prior to submitting an application. Development information meetings are for parties other than owners to obtain information from the city about zoning and development limitations that may apply to a particular parcel of property.

B. *Predevelopment meeting.* Predevelopment meetings are not required but are encouraged to assist the owner with streamlining applications, particularly if a project is large or complex. The purpose of a predevelopment meeting is to acquaint the ~~applicant~~owner with the processes of the city and to discuss issues involving development, an application, or a project.

1. A predevelopment meeting may be held at any time before an application is submitted.

2. ~~The city may require a predevelopment meeting when a proposal is determined by the director to be of a size or complexity to necessitate such a meeting.~~

~~3.~~ A predevelopment meeting is not intended to be an exhaustive review of all potential issues and the discussion shall not be binding or prohibit the enforcement of applicable laws. Failure to provide all pertinent information may prevent the city from identifying all of the issues or providing the most effective predevelopment meeting.

~~B~~C. *Development information meeting.* This meeting type is for parties other than owners who may desire to meet with the city to discuss zoning and development limitations that may apply to a particular parcel of property. The cost for a development information meeting shall be set by the city council.

The purpose of a development information meeting is to acquaint the applicant with the processes of the city and to discuss issues involving development, an application, or a project specific to a parcel or property.

1. A development information meeting may be held at any time before an application is submitted.

2. A development information meeting is not intended to be an exhaustive review of all potential issues and the discussion shall not be binding or prohibit the enforcement of applicable laws. Failure to provide all pertinent information may prevent the city from identifying all of the issues or providing the most effective predevelopment meeting.

~~*Intake meeting.* This is the first formal step in the project permit review process.~~

~~1. An intake meeting is mandatory for all project permit applications prior to submittal. The director may waive this requirement if it is determined to be unnecessary.~~

~~2. The purpose of the meeting is to determine the adequacy of the project permit application for submission.~~

~~3. An intake meeting is not a determination of a complete project permit application as set forth in MMC 16.80.100 and does not vest the application.~~

Section 4. Section 16.80.090 of the Medina Municipal Code is hereby amended to read as follows:

16.80.090. Optional consolidated permit review.

A. An application~~,~~ which involves two or more ~~project~~ permits for a single project, may have the review processes consolidated under the procedures for the highest category of a type of decision. Except as specified in subsection C below, t~~T~~he applicant shall specify whether they

want the project permit applications consolidated under a single review process or separately.

B. Only one open-record hearing and no more than one closed-record appeal shall be allowed under a consolidated review process. If a predecision hearing is provided prior to the decision on a project permit application, a subsequent open-record appeal hearing shall not be allowed.

C. The city may require an applicant to submit project permit applications under a consolidated review process if it is found necessary to comply with the one open-record hearing rule.

D. If multiple permits for a project are processed separately, the highest type of decision shall be final before subsequent permits can be issued. The director may waive this requirement when a project permit is not dependent on the higher type of decision for its justification or implementation.

E. If two or more authorities are designated to decide project permits under the highest category of consolidated review, except for applications involving subdivisions, which must be decided by the city council, the director shall designate which of the authorities shall decide the consolidated project permit applications.

Section 5. Section 16.80.100 of the Medina Municipal Code is hereby amended to read as follows:

16.80.100. Determination of completeness.

When the tables in MMC 16.80.050 identify a requirement for a determination of completeness, the following shall apply:

A. Within 28 days of accepting the project permit application, the city shall provide a written notice to the applicant that:

1. The application is complete; or
2. The application is incomplete and what is necessary to make the application complete.

B. To the extent known by the city, the determination of completeness shall identify other agencies of local, state or federal government that may have jurisdiction over some aspect of the application.

C. Failure to provide the written notice within 28 days shall automatically deem the application as complete.

D. A project permit application is determined complete when it meets the submittal requirement established in MMC 16.80.070 and is accepted by the city. A determination of completeness shall not

preclude the city from requesting additional information or studies as a condition to continue review of a project permit application.

E. When a notice for an incomplete application is issued, the applicant shall have 90 days from the date of the written determination to submit the necessary information. If the city does not receive the information within 90 days, the application shall lapse. The director may grant a time extension to submit additional information, if the applicant makes such a request in writing prior to expiration of the 90 days.

F. When an applicant submits information pursuant to subsection (E) of this section, the city shall provide written notice to the applicant within 14 days of receipt as to whether the application is complete or if additional information is required. Failure to notify the applicant within the 14 days will automatically deem the application as complete.

G. When a permit is issued prior to the expiration of the 28 day period set forth in A above, the city need not issue a determination of completeness for the issued permit.

Section 6. Section 16.80.120 of the Medina Municipal Code is hereby amended to read as follows:

16.80.120. Notice of hearing.

When the tables in MMC 16.80.050 identify a requirement for a notice of hearing, the following shall apply:

A. A notice of hearing is required for all predecision hearings and shall be subject to the following:

1. The city shall provide the notice of hearing at least 15 days before the hearing date; and
2. In setting the hearing date, the city shall consider the time necessary for comment and appeal periods on any related SEPA threshold determination, and for the city to conduct the hearing and issue a decision within the ~~120-day~~ time period prescribed in MMC 16.80.210.

B. The content of the notice of hearing shall include the following information:

1. Project description, list of project permits in the application, assigned city file number, and the city contact person;
2. The date, time, and place for the hearing;
3. The right of any person to participate in the hearings and request a copy of the decision;

4. If applicable, the SEPA threshold determination and the deadline (date, time and place) for submitting a SEPA appeal, including a statement that any timely SEPA appeal shall be heard at the scheduled predecision hearing; and
5. Any other information determined appropriate by the city.

C. The notice of hearing shall be posted, mailed, and published in accordance with the general notice requirements in MMC 16.80.140.

D. Continuation of a hearing does not require additional notice.

Section 7. Section 16.80.130 of the Medina Municipal Code is hereby amended to read as follows:

16.80.130. Joint public hearing.

A. When requested by the applicant, the city may allow a predecision hearing to be combined with any other hearing that may be held by another local, state, regional, federal, or other agency for the same project; provided, that:

1. The hearing is held within the geographic boundary of the city;
2. The hearing is held within ~~120 days as the~~ time period specified in MMC 16.80.210, unless the time period is waived by the applicant;
3. Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements; and
4. Each agency participating in the hearing has received the necessary information from the applicant about the proposed project to hold the combined hearing.

B. In all cases, appeals and hearings shall be combined in a manner which retains applicable city procedures. The city may combine its notice requirements with other agencies' notices, and the hearing examiner shall have the discretion to decide the procedures for conducting the hearing when there are conflicting procedures.

Section 8. Section 16.80.200 of the Medina Municipal Code is hereby amended to read as follows:

16.80.200. Notice of decision.

A notice of decision is issued at the conclusion of the project permit review.

A. The notice of decision may be a copy of the report or decision on the project permit application, or it may be a separate written notice.

B. The city shall provide a notice of decision that includes the following:

1. A statement of any SEPA threshold determination, if notice was not previously given;
2. The administrative appeal process and time period for filing an appeal, if any;
3. Information on requesting reconsideration of a hearing examiner's decision, if applicable; and
4. A statement that affected property owners may request a change in valuation for property tax purposes notwithstanding any program or revaluation.

C. The notice of decision shall be mailed by first class postage and/or provided by personal service to the following:

1. The applicant;
2. Parties of record; and
3. Any person submitting a written request to the city to receive the decision;.
4. ~~King County assessor's office; and~~
5. ~~Any other party determined appropriate by the city.~~

Section 9. Section 16.80.210 of the Medina Municipal Code is hereby amended to read as follows:

16.80.210. Processing timelines.

A. A decision on a project permit application shall be issued within the processing timelines set forth in subsection B below.~~120 days~~ All processing timelines shall be counted from the date the application is determined to be complete pursuant to MMC 16.80.100, except as ~~follows~~ set forth in subsection E below.:

~~1. The city makes written findings that a specified amount of additional time is needed for processing the application; or~~

~~2. A project permit or approval involves public facilities, utilities or related uses of public areas or facilities if the director determines special circumstances warrant a longer process.~~

B. Processing timelines by application type.

1. Type 1 applications shall have a processing time of 65 days from the date the application is determined to be complete pursuant to MMC 16.80.100.

2. Type 2 applications shall have a processing time of 100 days from the date the application is determined to be complete pursuant to MMC 16.80.100.

3. Type 3 applications shall have a processing time of 170 days from the date the application is determined to be complete pursuant to MMC 16.80.100.

4. If the city is undertaking consolidated review in accordance with MMC 16.80.090, then the processing time shall be the time period for the highest permit type that is being processed.

C. Determination of processing time. Days in processing time shall be counted as calendar days.

D. If the city is unable to issue its final decision on a project permit application within the time limits provided for in this section, it shall provide written notice of this fact to the parties of record. The notice shall include a

statement of reasons why the time limits were not met, and an estimated date for issuance of the notice of decision.

~~C~~E. In calculating the ~~120-day~~ processing time period, the following days shall be excluded:

1. Any period in which the city asks the applicant to correct plans, perform required studies, or provide additional information and the applicant takes to provide the additional information.
2. Any period where the city determines that submitted information is insufficient or incorrect, and has requested the applicant provide the necessary information.
3. Any period, not to exceed 30 days, during which a code interpretation pursuant to MMC 16.10.050 is processed in conjunction with an underlying project permit application.
4. Any period during which an environmental impact statement is being prepared.
5. Any period of time for an administrative appeal or reconsideration of the hearing examiner's decision.
6. Any period during which the applicant has requested in writing a temporary suspension of the review;
7. Any period of time after an applicant requests in writing that the city pause permit processing. The processing time will not begin again until the applicant requests in writing the city to re-commence processing.
~~6~~8. Any period of time a project permit application requires approval of an amendment to the comprehensive plan or development regulation in order to receive permit approval.

~~7. Any period of time on a project permit application that is substantially revised by the applicant, in which case a new 120-day time period shall start from the date at which the revised project application is determined to be complete.~~

9.~~8.~~ Any extension of time mutually agreed upon by the applicant and the city.

F. The following shall result in a change to the applicable number of processing days:

1. Whenever the applicant suspends the application in writing for a period of more than 60 days, or the applicant has been non-responsive for more than 60 consecutive days after a city request for additional information, an additional 30 days shall be added to the processing time. Non-responsive means that there is no demonstrable progress on providing the additional information, or there is no ongoing

communications from the applicant to the city on the willingness or ability to provide the additional information.

2. If the applicant proposed a change of use from the original application, then the processing time period will revert to Day 1 from the date the changed application is determined to be complete pursuant to MMC 16.80.100.

3. If the applicant removes commercial or residential elements from the original application such that it makes the application fail to meet the determination of completeness for the new use, then the processing time period will revert to Day 1 from the date the changed application is determined to be complete pursuant to MMC 16.80.100.

~~D~~G. All excluded periods are calculated from the date the city notifies the applicant to when the information satisfies the city's requirement.

~~E. If the city is unable to issue a decision within the time period prescribed by this section, the city shall notify the applicant in writing. The notice shall include a statement of reasons why the time limits have not been met and an estimated date of issuance of a decision.~~

~~F~~H. Failure to comply with the required timelines specified by this chapter shall not create a liability for damages.

Section 10. Section 16.80.240 of the Medina Municipal Code is hereby amended to read as follows:

16.80.240. Development agreements.

A. The city may enter into a development agreement with a person having ownership or control of real property within its jurisdiction or outside its boundaries as part of a proposed annexation or a service agreement. A development agreement sets forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement.

B. A determination of completeness, notice of hearing and a notice of decision are required pursuant to the provisions of this chapter. The ~~120-day~~ processing time limit for the notice of decision shall not apply to a development agreement.

C. The city council may approve a development agreement by ordinance or resolution only.

Section 11. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent

jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance.

Section 12. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 13. Corrections. Upon the approval of the city attorney, the city clerk, and/or the code publisher is authorized to make any necessary technical corrections to this ordinance, including but not limited to the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

Section 14. Effective Date. This ordinance shall take effect five days after publication as provided by law.

PASSED BY THE CITY COUNCIL ON THIS 9th DAY DECEMBER, 2024 BY A VOTE OF 6 FOR, 0 AGAINST, AND 0 ABSTAINING, AND IS SIGNED IN AUTHENTICATION OF ITS PASSAGE ON THE 9TH DAY DECEMBER, 2024.

Jessica Rossman, Mayor

Approved as to form:
Inslee Best Doezie & Ryder, P.S.

Charlotte Archer, Assistant City Attorney

Attest:

Aimee Kellerman, City Clerk

PUBLISHED: 12/13/2024
EFFECTIVE DATE: 12/18/2024
ORDINANCE NO.: 1039