



EAGLE MOUNTAIN CITY
City Council Staff Report

OCTOBER 6, 2015

Project: Development Code Amendment: Chapter 17.58 (Historical Preservation)
Applicant: City Staff
Type of Action: Action Item (Recommendation to the City Council); Public Hearing

Planning Commission Recommendation

On September 22nd the Development Code Amendment for chapter 17.58 (Historical Preservation) was presented to the Eagle Mountain City Planning Commission. The planning Commission voted 4-0 (one commissioner was absent) to recommend approval to the City Council as recommended by Staff.

Background

There are many sites of Historical and Archaeological Significance within the boundaries of Eagle Mountain which provide unique educational and cultural opportunities for the city. Recent development applications have brought up the need for a code to both protect unique archeological and historic resources and to allow developers adequate flexibility to protect these sites by transferring density or building rights to other areas if possible, or receiving open space credits for protecting historic sites.

Proposed Amendments

Staff recommends that a code be adopted to provide for Historic Preservation. The proposed code has been formulated after extensive review by staff of Historical Preservation codes in St. George, Moab, Springdale, and Albuquerque New Mexico. Here is the proposed amendment:

Chapter 17.58
HISTORICAL PRESERVATION

Sections:

- 17.58.010 Purpose.**
- 17.58.020 Definitions.**
- 17.58.030 Identification of potential important historical or archaeological sites.**
- 17.58.040 Criteria for designating important historical or archaeological sites.**
- 17.58.050 Review of important historical or archaeological sites.**
- 17.58.060 Permits.**
- 17.58.070 Establishment of a historic preservation board.**
- 17.58.080 Classification as protected records.**

17.58.010 Purpose.

- A. The purpose of this chapter is to designate important historical and archaeological sites in Eagle Mountain City, encourage the preservation of important historical and archaeological site locations, and avoid the unnecessary or inadvertent disturbance of these sites including prehistoric or historic human remains;
- B. The establishment of a city register listing designated sites, structures, signs, and districts; and,
- C. The provision for educational opportunities to increase public appreciation of Eagle Mountain's unique heritage.

17.58.020 Definitions.

"Ancient human remains" means all or part of a physical individual that is historic or prehistoric or any object on or attached to the physical individual that is placed on or attached to the physical individual as part of the death rite or ceremony of a culture.

"Important historical or archaeological site" means any geographic area that may include ancient human remains or items or improvements of a cultural or historic significance, including petroglyphs, pictographs, historical buildings or structures, historical artifacts, historic gravesites, historic mines or wells, or historic trails. An important historical or archaeological site can include sites that have been determined eligible for the National and State Registers of Historic Places or would be determined eligible if they were evaluated by the Utah State Historic Preservation Office.

17.58.030 Identification of potential important historical or archaeological sites.

Any person may provide the location of a possible important historical or archaeological site to the City. Private land owners are encouraged to provide information regarding a possible important historical or archaeological site on land owned by the private land owner. Once a location of a potential important historical or archaeological site has been identified, the City should contact the land owner and attempt to obtain written permission to access the property to evaluate whether the site should be designated as important historical or archaeological site.

17.58.040 Criteria for designating an important historical or archaeological site.

To be designated as an important historical or archaeological site, the location must include all of the criteria listed in subsections 1 through 3 and at least one of the criteria listed in subsections 4 through 8 below:

REQUIRED:

1. The site is located within the boundaries of Eagle Mountain City.
2. The items that contribute to the important historical or archaeological site are a minimum of one hundred (100) years old (either by record or by the determination of experts or state historic preservation officers).
3. The site retains its integrity in that there are no major alterations that have obscured or destroyed the significant archaeological features.

AT LEAST ONE (1) REQUIRED:

4. The site is currently listed in the National Register of Historic Places, or it has been officially determined eligible for listing in the National Register under the provisions of 36 CFR 60.6(s).
5. The site is associated with events that have made a significant contribution to the broad patterns of the prehistory or history of the city, state, or nation.
6. The site is associated with lives of persons significant in the prehistory or history of the city, state, or nation.
7. The site embodies the distinctive characteristics of a rare or unique type, period or method of construction, or that it represents the work of a master, or that it recognizes high artistic values or style, or that it represents a significant and distinguishable entity whose components may lack individual distinction.
8. The site has yielded or may be likely to yield information important in prehistory or history.

Designation of important historical or archaeological sites will be a "check list" item to be reviewed by Community Development and/or Planning Department staff as well as the Planning Commission and Design Review Committee. Staff and committees will consult experts and/or state historic preservation officers as to the possibility of historic or archaeological sites on parcels considered for development.

17.58.050 Review of important historical or archaeological sites.

Prior to the approval of any preliminary plat that includes areas that have been designated as important historical or archaeological site, the planning staff shall evaluate the impact of the development on the important historical or archaeological site, and any options to mitigate the impact of such development. If possible, density or building rights transfer or open space credits will be used as a planning measure to avoid disturbing important historical or archaeological sites. In addition, inclusion of important historical or archaeological sites in open space or other set-aside areas and measures to protect and preserve such areas shall be utilized when density and building rights transfers or open space credits can be used to preserve these sites.

17.58.060 Permits.

Prior to issuing a conditional use permit, excavation permit or construction permit for a parcel containing an important historical or archaeological site, the applicant shall provide a detailed plan describing measures that will be taken by the applicant to protect any ancient human remains or items or improvements of a cultural or historic significance, including petroglyphs, pictographs, historical buildings or structures, historical artifacts, historic gravesites, historic mines or wells, or historic trails.

17.58.070 Establishment of a Historic Preservation Board.

1. The City Council may create a historic preservation board to assist the city with the identification, preservation and education of significant historical or archaeological sites. The board may consist of as many members as the City Council feels is reasonable and necessary to achieve the purpose of the board.
2. Members appointed to the historic preservation board (if created) shall have demonstrated interest, competence, or knowledge in historic preservation.

17.58.080 Classification as protected records.

In accordance with Utah Code Ann. § 63G-2-305(26) (2015), any records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information shall be classified as "Protected Records."

ORDINANCE NO. O- -2015

**AN ORDINANCE OF EAGLE MOUNTAIN CITY, UTAH
AMENDING CHAPTER 17.58 OF
THE EAGLE MOUNTAIN CITY MUNICIPAL CODE
FOR HISTORICAL PRESERVATION**

WHEREAS, the Eagle Mountain City Council (the “Council”) met in regular meeting on October 6th, 2015, to consider, among other things, amending a section of the Eagle Mountain Municipal Code, as set forth more specifically on Exhibit A;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Eagle Mountain City, Utah:

1. The City Council finds that all required public hearings have been held and all legal requirements have been met to amend the section of the Municipal Code which is attached to this Ordinance as Exhibit A.
2. Chapter 17, Section 17.58 of the Eagle Mountain Municipal Code is hereby amended as set forth more specifically on Exhibit A.
3. This Ordinance shall take effect upon its first posting or publication.

ADOPTED by the City Council of Eagle Mountain City, Utah, this 6th day of October, 2015.

EAGLE MOUNTAIN CITY, UTAH

Chris Pengra, Mayor

ATTEST:

Fionnuala B. Kofoed, MMC
City Recorder

CERTIFICATION

The above ordinance was adopted by the City Council of Eagle Mountain City on this 6th day of October, 2015.

Those voting aye:

- Adam Bradley
- Donna Burnham
- Ryan Ireland
- Richard Steinkopf
- Tom Westmoreland

Those voting nay:

- Adam Bradley
- Donna Burnham
- Ryan Ireland
- Richard Steinkopf
- Tom Westmoreland

Fionnuala B. Kofoed, MMC
City Recorder

EXHIBIT A



EAGLE MOUNTAIN CITY
City Council Staff Report

OCTOBER 6, 2015

Project: Development Code Amendment: Chapter 17.56.060 (Outdoor Lighting Standards by type)
Applicant: City Staff
Type of Action: Action Item (Recommendation to City Council); Public Hearing

Planning Commission Recommendation

On September 22nd the Development code Amendment to chapter 17.56.060 (outdoor lighting standards by type) was presented to the Eagle Mountain City Planning Commission. Planning commissioners clarified that the 30' Standard included any base that may be added to a light post, and that the approval would only allow a maximum height of 30' above grade. The Planning Commission voted to recommend approval to the City Council by a vote of 3-1 (one commissioner was absent) The Dissenting Commissioner indicated he felt the 17' Light Poles were preferable in regards to maintaining the Dark Skies.

Background

Currently the City's dark sky ordinance limits the height of parking lot poles to 17' (seventeen feet). Recent applicants have indicated this is quite a bit shorter than the standard of 30' (thirty feet) and have indicated conforming to this standard could increase the cost of development by tens of thousands of dollars, presenting a burden to locating within Eagle Mountain. The city see's real benefits in maintaining its dark sky standards, but also recognizes that in order to attract economic development, regulations cannot be too onerous. The proposed code amendment balances these two competing values by allowing 30' (thirty foot) poles in parking lots, provided the poles have built in motion sensor dimmers that reduce light levels by 50% when no motion has been detected for 30 minutes.

Proposed Amendments

Staff recommends that parking lot lighting poles be allowed to a height of 30' (thirty feet) above adjacent grade provided full-cut-off light fixtures with built in motion sensor dimmers which reduce light output by 50% if no motion is detected for thirty minutes are provided. The changes are included below:

17.56.060 Outdoor Lighting Standards by Type

Parking Lot Standards. Parking lot lighting poles shall be sized in such a manner that the top of any fixture does not exceed 17 feet above adjacent grade. Parking area lights are encouraged to be greater in number, lower in height and lower in light level, as opposed to fewer in number, higher in height and higher in light level. Low pressure sodium (LPS) lamps are encouraged. **Alternatively, parking lot lighting poles may be allowed to a height of (thirty feet) 30' above adjacent grade provided full-cut-off light fixtures with built in motion sensor dimmers for each pole are used. Motion sensor dimmers must reduce the light level to 50% when no motion is detected for 30 minutes.**

ORDINANCE NO. O- -2015

**AN ORDINANCE OF EAGLE MOUNTAIN CITY, UTAH
AMENDING CHAPTER 17 OF THE
EAGLE MOUNTAIN CITY MUNICIPAL CODE FOR OUTDOOR LIGHTING**

WHEREAS, the Eagle Mountain City Council (the “Council”) met in regular meeting on October 6th, 2015, to consider, among other things, amending a section of the Eagle Mountain Municipal Code, as set forth more specifically on Exhibit A;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Eagle Mountain City, Utah:

1. The City Council finds that all required public hearings have been held and all legal requirements have been met to amend the section of the Municipal Code which is attached to this Ordinance as Exhibit A.
2. Chapter 17, Section 17.56.060 of the Eagle Mountain Municipal Code is hereby amended as set forth more specifically on Exhibit A.
3. This Ordinance shall take effect upon its first posting or publication.

ADOPTED by the City Council of Eagle Mountain City, Utah, this 6th day of October, 2015.

EAGLE MOUNTAIN CITY, UTAH

Chris Pengra, Mayor

ATTEST:

Fionnuala B. Kofoed, MMC
City Recorder

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Fionnuala B. Kofoed, MMC
City Recorder

EXHIBIT A

**EAGLE MOUNTAIN CITY
CITY COUNCIL MEETING
OCTOBER 6, 2015**

TITLE:	An Ordinance Amending and Supplementing Assessment Ordinance No. 19-2013 Adopted on September 17, 2013 to Amend the Assessment List in Assessment Ordinance No. 19-2013		
FISCAL IMPACT:	\$0		
APPLICANT:	Eagle Mountain City		
GENERAL PLAN DESIGNATION N/A	CURRENT ZONE N/A	ACREAGE N/A	COMMUNITY

NOTICES:

- Posted in 2 public places
- Posted on City webpage
- Public Notice Webpage

REQUIRED FINDINGS:

**Public Works Board
Recommendation**

Vote: N/A

Prepared By:
Jeremy Cook

NOTES/COMMENTS:

RECOMMENDATION:

That the City Council approves the Ordinance Amending the Assessment List for Assessment Area 2013-1.

BACKGROUND:

In 2013, the City established Assessment Area 2013-1 for the purpose of funding certain improvements in the Spring Run development area, including the construction of Ranches Parkway extension to the North of SR73. The assessments were originally allocated to three different zones on a per acre basis. The developer is subdividing the property and desires to have the assessment in Zone C allocated to each lot in order to allow for the assessments on individual lots to be paid and released at the time the lot is sold. This type of allocation is common with assessment areas and was specifically addressed in the Original Assessment Ordinance.

ORDINANCE NO. O- -2015

**FIRST AMENDED ASSESSMENT ORDINANCE NO. 2013-19
ASSESSMENT AREA 2013-1**

AN ORDINANCE AMENDING AND SUPPLEMENTING ASSESSMENT ORDINANCE NO. 19-2013 ADOPTED ON SEPTEMBER 17, 2013 TO AMEND THE ASSESSMENT LIST IN ASSESSMENT ORDINANCE NO. 19-2013 AND REAFFIRM THE LEVYING OF ASSESSMENTS AGAINST CERTAIN PROPERTIES IN ASSESSMENT AREA 2013-1; ESTABLISHING THE EFFECTIVE DATE OF THIS AMENDED ASSESSMENT ORDINANCE; AND RELATED MATTERS.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Eagle Mountain City, Utah:

Section 1. Approval of Amended Assessment List; Findings. Pursuant to Section 6(d) of Assessment Ordinance 19-2013 (the “Original Assessment Ordinance”) adopted by the City Council of Eagle Mountain City, Utah (the “Issuer”) on September 17, 2013, the Issuer hereby elects to allocate the assessments originally assessed against the assessed properties in Zone C only pursuant to the initial assessment list attached to the Original Assessment Ordinance in accordance with the amended assessment list, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference (the “Amended Assessment List”), and hereby confirms that the Amended Assessment List is just and equitable; that each piece of property to be assessed within the District will be benefited in an amount not less than the assessment to be levied against said property; and that no piece of property listed in the Amended Assessment List will bear more than its proportionate share of the cost of the Improvements. The Amended Assessment List shall not alter or amend the assessments in Zones A or B of the Original Assessment Ordinance.

Section 2. All Necessary Action Approved. The officials of Eagle Mountain City are hereby authorized and directed to take all action necessary and appropriate to effectuate the provisions of this Amended Assessment Ordinance.

Section 3. Repeal of Conflicting Provisions. All ordinances or parts thereof in conflict with this Amended Assessment Ordinance are hereby repealed.

Section 4. Contestability. No assessment shall be declared void or set aside in whole or in part in consequence of any error or irregularity which does not go to the equity or justice of the assessment or proceeding. Any party who has not waived his objections to same as provided by statute may commence a civil action against the Issuer to enjoin the levy or collection of the assessment or to set aside and declare unlawful this Supplemental Assessment Ordinance. Such action must be commenced and summons must be served on the Issuer not later than 30 days after the effective date of this Amended Assessment Ordinance. This action shall be the exclusive remedy of any aggrieved party. No court shall entertain any complaint which the party

was authorized to make by statute but did not timely make or any complaint that does not go to the equity or justice of the assessment or proceeding.

ADOPTED by the City Council of Eagle Mountain City, Utah, this 6th day of October, 2015.

EAGLE MOUNTAIN CITY, UTAH

Chris Pengra, Mayor

ATTEST:

Fionnuala B. Kofoed, MMC
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Fionnuala B. Kofoed, MMC
City Recorder

EXHIBIT A

AMENDED ASSESSMENT LIST

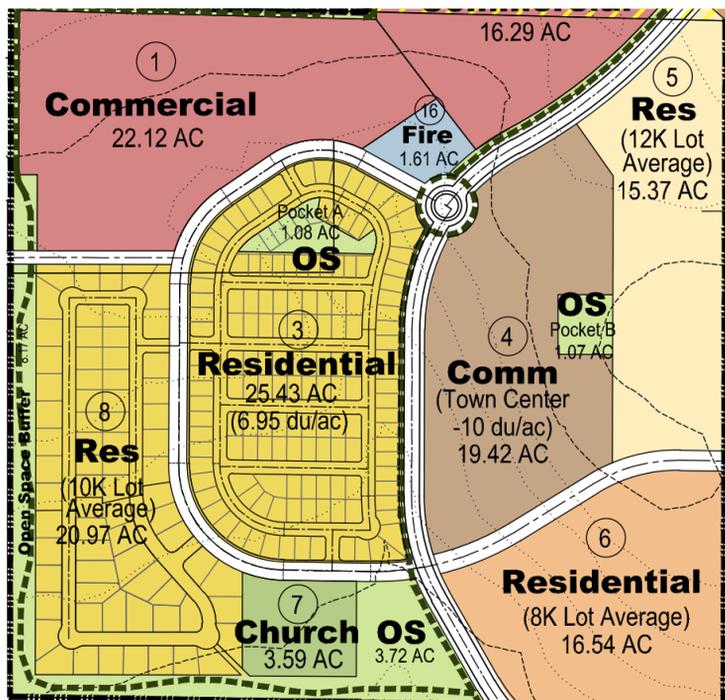
EAGLE MOUNTAIN SAA 2013-1
SPRING RUN SUBDIVISION: ASSESSMENT ALLOCATION

Original	Parcel/Lot No.	Zone	Actual Acres	Assessed Acres	Adjusted Assessed Acres	Outstanding Assessment Principal
Ralph B. Johnson	58:033:0281	C	27.99	27.00	27.00	\$ 253,687.30
Two A LLC	58:033:0282	C	132.77	128.00	128.00	1,202,665.70
Total			160.76	155.00	155.00	\$ 1,456,353.00

Proposed Subdivision	Parcel/Lot No.	Zone	Actual Acres	Assessed Acres	Adjusted Assessed Acres	Outstanding Assessment Principal
	58:033:0281 - Remaining ¹	C	0.00	0.00	0.00	\$ -
	58:033:0282 - Remaining	C	0.00	0.00	0.00	-
Phase 8	Lot 101	C	0.21	0.27	0.29	2,741.71
	Lot 102	C	0.24	0.30	0.33	3,133.38
	Lot 103	C	0.25	0.32	0.35	3,263.94
	Lot 104	C	0.34	0.43	0.47	4,438.96
	Lot 105	C	0.34	0.43	0.47	4,438.96
	Lot 106	C	0.21	0.27	0.29	2,741.71
	Lot 107	C	0.21	0.27	0.29	2,741.71
	Lot 108	C	0.24	0.30	0.33	3,133.38
	Lot 109	C	0.30	0.38	0.42	3,916.73
	Lot 110	C	0.29	0.37	0.40	3,786.17
	Lot 111	C	0.25	0.32	0.35	3,263.94
	Lot 112	C	0.25	0.32	0.35	3,263.94
	Lot 113	C	0.30	0.38	0.42	3,916.73
	Lot 114	C	0.24	0.30	0.33	3,133.38
	Lot 115	C	0.23	0.29	0.32	3,002.82
	Lot 116	C	0.24	0.30	0.33	3,133.38
	Lot 117	C	0.24	0.30	0.33	3,133.38
	Lot 118	C	0.24	0.30	0.33	3,133.38
	Lot 119	C	0.27	0.34	0.38	3,525.05
	Lot 120	C	0.29	0.37	0.40	3,786.17
	Lot 121	C	0.23	0.29	0.32	3,002.82
	Lot 122	C	0.24	0.30	0.33	3,133.38
	Lot 123	C	0.24	0.30	0.33	3,133.38
	Lot 124	C	0.24	0.30	0.33	3,133.38
	Lot 125	C	0.24	0.30	0.33	3,133.38
	Lot 126	C	0.25	0.32	0.35	3,263.94
	Lot 127	C	0.27	0.34	0.38	3,525.05
	Lot 128	C	0.25	0.32	0.35	3,263.94
	Lot 129	C	0.37	0.47	0.51	4,830.63
	Lot 130	C	0.25	0.32	0.35	3,263.94
	Lot 201	C	0.22	0.28	0.31	2,872.27
	Lot 202	C	0.22	0.28	0.31	2,872.27
	Lot 203	C	0.17	0.22	0.24	2,219.48
	Lot 204	C	0.20	0.25	0.28	2,611.15
	Lot 205	C	0.17	0.22	0.24	2,219.48
	Lot 206	C	0.20	0.25	0.28	2,611.15
	Lot 207	C	0.17	0.22	0.24	2,219.48
	Lot 208	C	0.20	0.25	0.28	2,611.15
	Lot 209	C	0.17	0.22	0.24	2,219.48
	Lot 210	C	0.19	0.24	0.26	2,480.59
	Lot 211	C	0.19	0.24	0.26	2,480.59
	Lot 212	C	0.17	0.22	0.24	2,219.48
	Lot 213	C	0.20	0.25	0.28	2,611.15
	Lot 214	C	0.17	0.22	0.24	2,219.48
	Lot 215	C	0.20	0.25	0.28	2,611.15

	Lot 216	C	0.17	0.22	0.24	2,219.48
	Lot 217	C	0.20	0.25	0.28	2,611.15
	Lot 218	C	0.17	0.22	0.24	2,219.48
	Lot 219	C	0.20	0.25	0.28	2,611.15
	Lot 220	C	0.18	0.23	0.25	2,350.04
	Lot 221	C	0.24	0.30	0.33	3,133.38
	Lot 222	C	0.24	0.30	0.33	3,133.38
	Lot 223	C	0.24	0.30	0.33	3,133.38
	Lot 224	C	0.24	0.30	0.33	3,133.38
	Lot 225	C	0.24	0.30	0.33	3,133.38
	Lot 226	C	0.24	0.30	0.33	3,133.38
	Lot 227	C	0.24	0.30	0.33	3,133.38
	Lot 228	C	0.24	0.30	0.33	3,133.38
	Lot 229	C	0.29	0.37	0.40	3,786.17
	Lot 230	C	0.26	0.33	0.36	3,394.50
	Lot 231	C	0.22	0.28	0.31	2,872.27
	Lot 232	C	0.19	0.24	0.26	2,480.59
	Lot 233	C	0.22	0.28	0.31	2,872.27
	Lot 234	C	0.32	0.41	0.44	4,177.84
	Lot 235	C	0.26	0.33	0.36	3,394.50
	Lot 236	C	0.22	0.28	0.31	2,872.27
	Lot 237	C	0.22	0.28	0.31	2,872.27
	Lot 238	C	0.22	0.28	0.31	2,872.27
	Lot 239	C	0.23	0.29	0.32	3,002.82
	Lot 240	C	0.23	0.29	0.32	3,002.82
	Lot 241	C	0.23	0.29	0.32	3,002.82
Phase 8	Roads, etc.	C	4.42	0.00	0.00	-
Phase 7	Church (proposed)	C	3.59	3.59	3.94	36,991.00
Phase 6	Commercial	C	16.54	16.54	18.14	170,426.48
Phase 5	Commercial	C	15.37	15.37	16.86	158,370.92
Phase 4	Community	C	19.42	19.42	21.30	200,101.71
Phase 3	Residential (150 lots)	C	25.43	25.43	27.89	262,028.14
Phase 1 & 16	Commercial/Fire	C	40.02	40.02	43.89	412,362.01
Phase 1-7	Open Space, Roads, Parks Etc. ²	C	19.42	13.66	0.00	-
Total			160.76	155.00	155.00	\$ 1,456,353.00

Note 1: Acreage in open space, roads, etc. has been allocated across the phases on a pro rata basis, indicated by a higher "assessed acre" than "actual acre".



LEWIS & YOUNG
ROBERTSON & BURNINGHAM, INC.