



EAGLE MOUNTAIN CITY
City Council Staff Report

MAY 17TH, 2016

Project: Development Code Amendments: Chapter 17.60 (Landscaping Buffering, Fencing, and Transitioning)
Applicant: City Staff
Type of Action: Action Item

Background

Staff has been reviewing the Eagle Mountain Municipal Code (EMMC) and making changes to ensure it is consistent, easy to understand, and useful.

Proposed Amendments

Staff recommends that the code be amended to require fencing between commercial and residential developments be Masonry or Stamped Concrete Walls. The proposed code amendment is provided below:

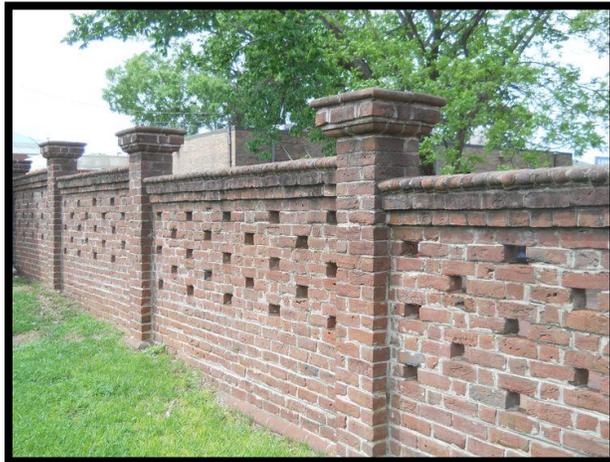
Chapter 17.60
LANDSCAPING, BUFFERING, FENCING AND TRANSITIONING

17.60.110 Required buffer widths and improvements.

B. Walls or Fences. Where required, screening walls or fences shall not be less than six feet in height, unless approved by the city council after recommendation of the planning commission as part of site plan review. Masonry or decorative concrete is the suggested type of wall/fence, and is required where a commercial development borders a Residential or Agricultural zone or development. Such wall, fence and landscaping shall be maintained in good condition with no advertising thereon. Decorative concrete and Masonry walls shall be subject to approval of the Planning Commission.

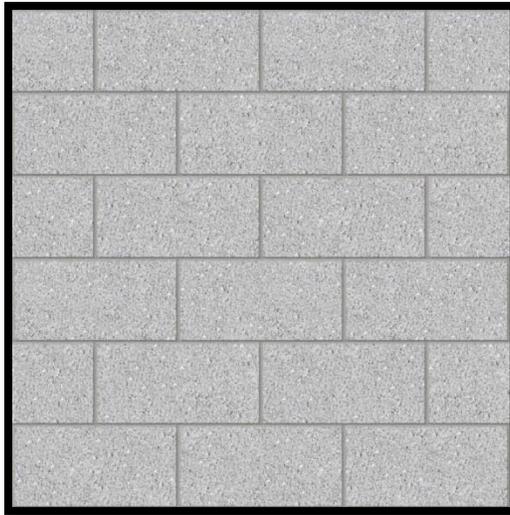
Examples of appropriate decorative concrete and masonry walls are provided below:







Examples of inappropriate Concrete and Masonry Walls are provided below:





EAGLE MOUNTAIN CITY
City Council Staff Report

MAY 17TH, 2016

Project: Development Code Amendment: Chapter 17.100.040 (Master Site Plans)
Applicant: City Staff
Type of Action: Action Item

Background

Staff has been reviewing the Eagle Mountain Municipal Code (EMMC) and making changes to ensure it is consistent, easy to understand, and useful.

Proposed Amendments

Staff recommends that the code be amended to allow Master Site Plans to serve as Preliminary Plats for commercial developments as well as industrial developments. The proposed Code amendment is provided below:

17.100.040 Master site plans.

When development proposals are larger than five acres in size, proposed to be developed in phases or sold in separate parcels, a master site plan ~~and final master plat~~ approval by the city council ~~are is~~ required prior to approving the individual sites within the project. The master site plan application shall address the following issues for the entire site: land use, open space and landscaped areas, architectural guidelines, buildable square footage, parking requirements, access and circulation ~~requirements, phasing and timing of improvements, project monument sign locations~~, storm drainage and all preliminary calculations for infrastructure improvements and traffic impact mitigation related to a traffic impact study, if required. The proposal and accompanying documents shall be reviewed using the same procedure as any site plan application, ~~except that the development agreement shall include provisions that address phasing and timing of improvements. Commercial Master site plan master plats may be resubdivided upon the application of the property owner after approval of the planning commission and city council.~~

A. Waiving Previously Reviewed Materials. All new construction in master site plans shall be required to go through a ~~separate~~ site plan review. To the extent that site plan requirements such as storm drainage, traffic circulation, parking, lighting, or other provisions have been met through the master site plan process, such information may not be required.

B. Planning Commission Final Approval of Phases. The city council may elect to delegate to the planning commission the final approval responsibilities for each site plan phase. This shall be stated in the development agreement for the master site plan. However, if one or more of the following conditions exists,

final site plan approval must be obtained from the city council, upon recommendation from the planning commission:

1. The site plan deviates from the approved master site plan.
2. Previous phases have created unforeseen impacts requiring the reevaluation of site standards for subsequent phases with respect to such impacts.

C. Industrial Master Site Plans – Special Conditions. The planning director may waive certain requirements of the master site plan that may not be necessary for an industrial proposal larger than five acres in size. The following requirements cannot be waived: land use, open space and landscaped areas, architectural guidelines, access and circulation requirements, and traffic impact study, if required.

D. ~~Industrial~~ Master Site Plans Serving as Preliminary Plat. The preliminary plat process described in Chapter [16.20](#) EMMC may not be required if an ~~industrial~~ master site plan, while going through the initial approval process, complies with the following criteria:

1. A preliminary arrangement of larger blocks of land – later to be subdivided during the final plat process – is included.
2. All required utilities, storm drainage, landscaping, access and circulation requirements, and other aspects of the eventually built-out project are addressed sufficiently with the master site plan.
3. The city is not responsible if, over time, the ~~industrial~~ project is unable to service a possible user due to undersized utilities, roadways, or other infrastructure. If upgrades to such facilities are necessary, they will be borne solely by the applicant. [Ord. O-16-2010 § 3 (Exh. B); Ord. O-18-2008 § 2 (Exh. A § 20.4); Ord. O-11-2008 § 2 (Exh. A § 20.4); Ord. O-23-2005 § 3 (Exh. 1(1) § 20.4)].

ORDINANCE NO. O- -2016

**AN ORDINANCE OF THE CITY COUNCIL OF EAGLE MOUNTAIN CITY, UTAH
AMENDING CHAPTER 17 OF THE EAGLE MOUNTAIN MUNICIPAL CODE
FOR MASTER SITE PLANS AND
LANDSCAPING, BUFFERING, FENCING AND TRANSITIONING**

WHEREAS, the Eagle Mountain City Council (the “Council”) met in regular meeting on May 17, 2016, to consider, among other things, amending sections of the Eagle Mountain Municipal Code;

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 sections of the Municipal Code which are attached to this Ordinance as Exhibit A.
2. Chapter 17.100.040 of the Eagle Mountain Municipal Code for Master Site Plans and Chapter 17.60 for Landscaping, Buffering, Fencing and Transitioning are 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 17th day of May, 2016.

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 17th day of May, 2016.

Those voting aye:

- Adam Bradley
- Colby Curtis
- Stephanie Gricius
- Benjamin Reaves
- Tom Westmoreland

Those voting nay:

- Adam Bradley
- Colby Curtis
- Stephanie Gricius
- Benjamin Reaves
- Tom Westmoreland

Fionnuala B. Kofoed, MMC
City Recorder

EXHIBIT A

Chapter 17.10 DEFINITIONS

17.10.030 Definitions.

“Clear vision triangle” means a clear line of sight provided at intersections by delineating triangular areas adjacent to all intersections, within which no parking, building, structure, berming, or landscaping over three feet in height above the street shall be permitted. Single-trunk trees may be planted within such areas, but only where the tree will be pruned to eliminate all branches and foliage below eight feet (8’). Driveways are prohibited within the clear vision triangle of local streets unless there is no other feasible placement of a driveway on a lot. Clear vision triangles may not be required if an approved chain link or other non-sight-obscuring fence is used. See Chapter 17.60EMMC for more information.

“Conditional Use” A conditional use allows certain structures in zones which may be acceptable under special conditions and in specific locations within the zoning district. Conditional uses require a special permit that is approved subject to the use meeting standards contained in this title.

“Constrained land” means all land with a slope greater than twenty-five percent (25%) or encumbered by floodplains.

“Day care center – child, large” means an establishment providing care and maintenance to fifty (50) or more children separate from their parents or guardians, and as licensed by the Office of Licensing of the Utah State Department of Human Services.

“Day care center – child, small” means an establishment providing care and maintenance to more than twelve (12), but fewer than fifty (50), children separate from their parents or guardians, and as licensed by the Office of Licensing of the Utah State Department of Human Services.

“Day care establishment – family, child” means an establishment providing care and maintenance to four (4) or more, but fewer than twelve (12), children separate from their parents or guardians, and as licensed by the Office of Licensing of the Utah State Department of Human Services to be provided within a single-family residence.

“Degree of nonconformity” means the measured extent to which an existing use or building fails to comply with a requirement of this title. For example, the degree of nonconformity of a parking lot that has four (4) spaces, but serves a commercial use requiring nine (9), is five (5) parking

spaces. No change in the nonconforming use that would reduce the number of parking spaces could be permitted, because that would increase the degree of nonconformity.

“Development” means any activity or construction, excluding normal agricultural activities, that changes the basic character or use of the land, including the division of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any regulated mining, excavation, landfill, or substantial land disturbance; and any use or extension of the use of land. The following operations or uses shall not be taken to be development for the purposes of this title:

1. Work by a highway or road agency for the maintenance of a road, if the work is carried out on land within the boundaries of the right-of-way;
2. Utility installations;
3. Landscaping for residential uses; and
4. Work involving the maintenance of existing landscaped areas and existing rights-of-way such as setbacks and other planted areas.

“Family” is defined as follows:

1. One (1) or more persons related by blood, marriage, adoption or legal guardianship, including foster children, living together as a single housekeeping unit in a dwelling unit;
or
2. A group of not more than three (3) persons not related by blood, marriage, adoption, or legal guardianship living together as a single housekeeping unit in a dwelling unit; or
3. Two (2) unrelated persons and their children living together as a single housekeeping unit in a dwelling unit.

“Garden court” means a detached housing development consisting of a courtyard or park surrounded on two (2) or three (3) sides by homes. These homes are generally facing/fronting the courtyard, are located on small lots or areas of common open space, and are accessed from a residential alley behind the homes.

“Group home” means a residential facility established as a single housekeeping unit and shared by no more than eight (8) unrelated persons, exclusive of staff, who require assistance and

supervision. A group home is licensed by the state of Utah and provides counseling, therapy and specialized treatment through this temporary living arrangement, along with habilitation or rehabilitation services for physically or mentally disabled persons. See Chapter 17.75 EMMC for regulations concerning group homes.

“Interior lot” means any lot that is bordered by only one (1) street.

“Kitchen” means any room and/or other place used, or intended or designed to be used for cooking or the preparation of food that is at a minimum comprised of a set of fixed cooking facilities other than hot plates or other portable cooking units, includes kitchenettes, and wet bars. Second Kitchens in a single family dwelling are only allowed with a recorded deed restriction, or an approved accessory apartment permit. Outdoor cooking facilities shall be excluded from second kitchen restrictions.

“Land Use Application” See “Application.”

“Main Entrance” means the entranceway of a residence or other building closest to the public street or sidewalk or one which would be reasonably perceived to be the entrance to the structure.

“Manufacturing, light” means the assembly, fabrication or processing of goods and materials using processes that ordinarily do not create noise, dust, smoke, fumes, odors, glare or health or safety hazards outside of the building or lot where such activities take place, where such uses are housed entirely within a building or where the area occupied by outdoor storage of goods and materials used in such processes does not exceed twenty-five percent (25%) of the floor area of all buildings on the property. Light manufacturing generally includes processing and fabrication of finished products, predominantly from previously prepared materials. This term shall include uses such as electronic equipment production and printing plants.

“Motel” See “Hotel.”

“Multifamily dwelling” means all attached housing products and types, including condominiums, apartments, townhomes, and twin homes. All multifamily dwellings shall be considered Tier III or Tier IV residential. Multifamily dwellings may include dwelling units intended to be rented and maintained under central ownership or management, or cooperative apartments, condominiums and the like. Any multifamily dwelling in which dwelling units are available for rental or lease for periods of less than one (1) month shall be considered a hotel/motel. See also “Family.”

“Office use” means a type of business use, which may or may not offer services to the public that is engaged in the processing, manipulation or application of business information or professional expertise. An office use is not materially involved in fabrication, assembly or warehousing of physical products for the retail or wholesale market, nor is an office engaged in the repair of products or retail services. Examples include accounting, investment services, architecture, engineering, legal services and real estate services.

“Setback” means the minimum required distance between the property line and the building, excluding porches, window wells, verandas, uncovered decks, and other similar structures. Currently recorded or approved subdivisions at the time of enactment of the ordinance codified in this title by the City Council shall continue to be subject to side setback requirements of the development code of Eagle Mountain City adopted on September 28, 1999.

1. For interior lots:

- a. Front. The front setback is the distance, at the nearest point, from the street right-of-way to the outer foundation wall of the principal building, or to any projection that extends more than two feet (2') beyond the outer foundation wall, including basement stairwells.
- b. Rear. The rear setback is the distance, at the nearest point, from the alley right-of-way or the property line that is parallel, or more or less parallel, to the street, to the outer foundation wall of the principal building, or to any projection that extends more than two feet (2') beyond the outer foundation wall, including basement stairwells.
- c. Side. The side setback is the distance, at the nearest point, from a property line that is perpendicular, or more or less perpendicular, to the street, to the outer foundation wall of the principal building, or to any projection that extends more than two feet (2') beyond the outer foundation wall, including basement stairwells.

2. For corner lots:

- a. Front. The front setback is the distance, at the nearest point, from the street right-of-way on which the principal building has its address to the outer foundation wall of the principal building, or to any projection that extends more than two feet (2') beyond the outer foundation wall, including basement stairwells.

b. Rear. The rear setback is the distance, at the nearest point, from the property line opposite the street on which the principal building has its address to the outer foundation wall of the principal building, or to any projection that extends more than two feet (2') beyond the outer foundation wall, including basement stairwells.

c. Side. The side setback is the distance, at the nearest point, from a property line that is perpendicular, or more or less perpendicular, to the street on which the building has its address, or to any projection that extends more than two feet (2') beyond the outer foundation wall, including basement stairwells.

“Single-family detached dwelling” means any detached single-family residence that averages Twenty (20') or more feet in width as measured across the front of the foundation, is attached to a permanent foundation, is permanently connected to the municipal utilities (where available), and is clearly designed, with one (1) front door entrance, for occupancy by one (1) family related by blood or marriage. This specifically includes manufactured homes that meet the foregoing definition and comply with the National Manufactured Home Construction and Safety Standards Act (40USC 1504) and the International Building Code or the International Residential Code. Manufactured homes that do not comply with the standards set forth above, such as recreational vehicles and travel trailers, are multifamily dwellings. See also “Family.”

“Slope” Slope shall be determined before any site clearing, excavation, ~~or~~ grading, and expressed as a percentage (rise/run x 100). Measurement shall be made perpendicular to the contours of the land, between natural (changes in slope as landforms change) or manmade (road cuts and similar breakpoints) breakpoints.

“Subdivision” means any land that is divided, resubdivided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms and conditions for the purposes of sale or development. The following are not considered subdivisions where no new streets or public infrastructure is created or is required to be created: (1) divisions of land for agricultural purposes where the resulting parcels are in excess of one-hundred and sixty (160) acres in size; (2) divisions of property by testamentary provisions; (3) divisions of property by court order; (4) consolidation of existing properties by deed or other recorded instrument; (5) a legally approved lot split as defined in this title.

“Temporary use” means a land use that is less than thirty (30) days in duration and is most commonly related to specific events such as Pony Express Days, festivals, special sales or other activities.

“Unbuildable land” means land with slopes in excess of twenty-five percent (25%), land restricted by power lines, utility corridors, canyons and washes, streams, alluvial discharge areas, storm drain retention/detention areas, floodplains and floodways, geologically sensitive areas that require special engineering considerations for safe habitation, and wetlands. For the purpose of determining what land may qualify as improved open space only, unbuildable land is any land with slopes in excess of fifteen percent (15%).

“Uplighting” means where a landscape feature, sign, building, or architectural feature is illuminated by a luminary that is directed upward at an angle of more than fifty (50) degrees.

“Variance” Variances provide relief for landowners who, because of some unique physical characteristic of their property, would have no beneficial use of that property if the provisions of this title are strictly enforced. A variance is a deviation from the basic land use requirements that apply to the property and its structures.

Chapter 17.25

RESIDENTIAL ZONE

17.25.110 Base density residential development standards

C. Setbacks

1. Guidance regarding allowed projections into setbacks outlined in section 17.25.180

17.25.120 Tier I residential development standards

D. Setbacks

3. Guidance regarding allowed projections into setbacks outlined in section 17.25.180

17.25.130 Tier II residential development standards

C. Setbacks

6. Guidance regarding allowed projections into setbacks outlined in section 17.25.180

17.25.140 Tier III residential development standards

- D. Setbacks - Primary Structures. Setbacks shall only apply to structures that require a city permit or approval. No structure which cannot be removed shall be constructed across an easement. Up to a 10 percent variation in setbacks may be approved by the planning director and building official if the variation is appropriate due to an issue with slope, unique lot configuration, or other unique circumstance. Home design is not considered a unique circumstance.

1. Guidance regarding allowed projections into setbacks outlined in section 17.25.180

17.25.150 Tier IV residential development standards

- A. Projection into setbacks – Guidance regarding allowed projections into setbacks outlined in section 17.25.180

17.25.180 Projection into Setbacks

17.25.180 Projection into Setbacks

A) Residential Setbacks

The minimum distance measured from the property line to the outer foundation wall of a structure. Setbacks are defined in chapter 17.10 (Definitions) and Tier level setback requirements are found in chapters 17.25 (Residential Zone) & 17.30 (Residential Bonus Density Entitlements).

Table 17.25.180 (A) Residential Setbacks

| Setbacks | | | | |
|--|---|--------------------------|--------------------------|---------------------------------|
| Tier Level | Minimum Front Yard | Minimum Rear Yard | Minimum Side Yard | Minimum Street Side Yard |
| Base | 50' * | 50' | 25' | 25' |
| Tier I | 50' * | 50' | 25' | 25' |
| Tier II | 15' / 22' ** | 20' | 5' Min 15' Total | 15' |
| Tier III (Single Family) | 15' / 22' ** | 20' | 5' Min 15' Total | 15' |
| Distance between Multi-Family Housing Structures | | | | |
| Tier III (Multi-Family) | 20' Council may approve a standard that differs | | | |
| Tier IV | 20' Council may approve a standard that differs | | | |
| * Front setback may be reduced to 35' on lots that range from .5 AC to .75 AC if road is constructed with curb, gutter, and a trailway | | | | |
| ** If accessed from the front, garage shall have a minimum front setback of 22' | | | | |

B) Allowed Projection into setbacks

- 1. Awnings and Canopies:** Over the windows, no wider than 12” beyond edges of window or door



| | Allowed Projection into Setbacks | | | | | | |
|--------------------|----------------------------------|----------------------------|----------------------------|-----------------------------|----------------------------|-----------------------------|--------------------------|
| Projecting Feature | Base & Tier I Front Yard | Base & Tier I Rear Yard | Base & Tier I Side Yard | Tier II & III Front Yard | Tier II & III Rear Yard | Tier II & III Side Yards | Nearest Property line |
| Awnings/Canopies | 5' | 5' | 5' | 3' | 3' | 2' | 3' * |

2. Balconies: Open and unenclosed



| | Allowed Projection into Setbacks | | | | | | |
|-------------------------|----------------------------------|----------------------------|----------------------------|-----------------------------|----------------------------|-----------------------------|--------------------------|
| Projecting Feature | Base & Tier I Front Yard | Base & Tier I Rear Yard | Base & Tier I Side Yard | Tier II & III Front Yard | Tier II & III Rear Yard | Tier II & III Side Yards | Nearest Property line |
| Balconies unenclosed | 2' | 2' | 2' | 2' | 2' | 2' | 3' * |

3. **Bay Windows:** Width of window shall not exceed 10' in front or rear yards, or 7' in side yards



| Allowed Projection into Setbacks | | | | | | | |
|----------------------------------|--------------------------|-------------------------|-------------------------|--------------------------|-------------------------|--------------------------|-----------------------|
| Projecting Feature | Base & Tier I Front Yard | Base & Tier I Rear Yard | Base & Tier I Side Yard | Tier II & III Front Yard | Tier II & III Rear Yard | Tier II & III Side Yards | Nearest Property line |
| Bay Windows | 3' | 3' | 2' | 3' | 3' | 2' | 3' * |

4. **Cantilevered Building Projections:** Also known as micro-additions, or pop-outs. Shall not exceed 8' in length.



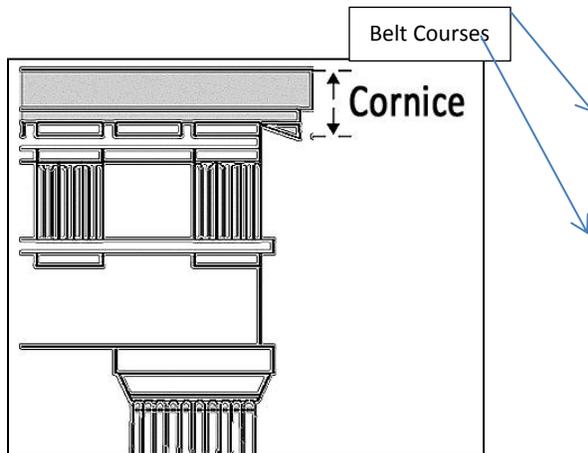
| Allowed Projection into Setbacks | | | | | | | |
|----------------------------------|--------------------------|-------------------------|-------------------------|--------------------------|-------------------------|--------------------------|-----------------------|
| Projecting Feature | Base & Tier I Front Yard | Base & Tier I Rear Yard | Base & Tier I Side Yard | Tier II & III Front Yard | Tier II & III Rear Yard | Tier II & III Side Yards | Nearest Property line |
| Cantilever | 2' | 2' | 2' | 2' | 2' | 2' | 3' * |

5. Chimney or Fireplace



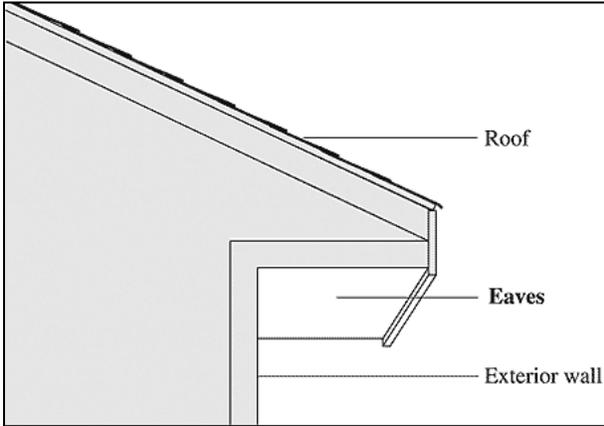
| Projecting Feature | Allowed Projection into Setbacks | | | | | | |
|--------------------|----------------------------------|----------------------------|----------------------------|-----------------------------|----------------------------|-----------------------------|--------------------------|
| | Base & Tier I Front Yard | Base & Tier I Rear Yard | Base & Tier I Side Yard | Tier II & III Front Yard | Tier II & III Rear Yard | Tier II & III Side Yards | Nearest Property line |
| Chimney/Fireplace | 2.5' | 2.5' | 2.5' | 2.5' | 2.5' | 2.5' | 2.5' * |

6. Cornices, Belt Courses: and similar architectural features.



| Projecting Feature | Allowed Projection into Setbacks | | | | | | |
|---------------------------|----------------------------------|----------------------------|----------------------------|-----------------------------|----------------------------|-----------------------------|--------------------------|
| | Base & Tier I Front Yard | Base & Tier I Rear Yard | Base & Tier I Side Yard | Tier II & III Front Yard | Tier II & III Rear Yard | Tier II & III Side Yards | Nearest Property line |
| Cornices, Belt Courses | 1' | 1' | 1' | 1' | 1' | 1' | N/A |

7. Eaves, roof overhangs



| Projecting Feature | Allowed Projection into Setbacks | | | | | | |
|--------------------|----------------------------------|-------------------------|-------------------------|--------------------------|-------------------------|--------------------------|-----------------------|
| | Base & Tier I Front Yard | Base & Tier I Rear Yard | Base & Tier I Side Yard | Tier II & III Front Yard | Tier II & III Rear Yard | Tier II & III Side Yards | Nearest Property line |
| Eaves | 3' | 3' | 3' | 3' | 3' | 3' | N/A |

8. Porch, Deck, Landing

a. – Uncovered



b. Porch, Deck, Landing – Covered



| Projecting Feature | Allowed Projection into Setbacks | | | | | | |
|------------------------------|----------------------------------|-------------------------|-------------------------|--------------------------|-------------------------|--------------------------|-----------------------|
| | Base & Tier I Front Yard | Base & Tier I Rear Yard | Base & Tier I Side Yard | Tier II & III Front Yard | Tier II & III Rear Yard | Tier II & III Side Yards | Nearest Property line |
| Uncovered Porch/Deck/Landing | 10' | 10' | 10' | 5' | 5' | - | N/A |
| Covered Porch/Deck/Landing | 6' | 6' | 6' | 5' | 5' | - | N/A |

Allowed projections into Setbacks

| Projecting Feature | Base & Tier I Front Yard | Base & Tier I Rear Yard | Base & Tier I Side Yards | Tier II & III Front Yard | Tier II & III Rear Yard | Tier II & III Side Yards | Minimum distance of projection from Property Line |
|--|-----------------------------|----------------------------|-----------------------------|-----------------------------|----------------------------|-----------------------------|---|
| Awnings, canopies, Only over windows, no wider than 12" beyond edges of window or door | 5' | 5' | 5' | 3' | 3' | 2' | 3' * |
| Balconies, open and unenclosed. | 2' | 2' | 2' | 2' | 2' | 2' | 3' * |
| Bay windows (Width of window shall not exceed 10' in front and rear yards, or 7' in side yard) | 5' | 5' | 2.5' | 5' | 5' | 2' | 3' * |
| Cantilevered building projections (shall not exceed 8' in length) | 2' | 2' | 2' | 2' | 2' | 2' | 3' * |
| Chimney or fireplace | 2.5' | 2.5' | 2.5' | 2.5' | 2.5' | 2.5' | 2.5' * |
| Cornices, belt courses, and similar architectural features | 1' | 1' | 1' | 1' | 1' | 1' | N/A |
| Eaves, roof overhangs | 3' | 3' | 3' | 3' | 3' | 3' | N/A |
| Porch, deck, landing - covered | 6' | 6' | 6' | 5' | 5' | - | N/A |
| Porch, deck, landing - uncovered | 10' | 10' | 10' | 5' | 5' | - | N/A |
| * At least 5' wide access must be maintained from front yard to rear yard through one side yard. | | | | | | | |

Chapter 17.90
REZONING OF PROPERTY

Sections:

- 17.90.010 What this chapter does.**
- 17.90.020 Purpose of rezoning of property.**
- 17.90.030 Property eligibility for rezoning.**
- 17.90.040 Application.**
- 17.90.050 Approval process.**
- 17.90.060 Criteria for approval.**
- 17.90.070 Conditions of approval.**
- 17.90.080 Disapproval/Denial of rezoning applications.**

17.90.010 What this chapter does.

This chapter establishes the application requirements and approval process for rezoning of property. [Ord. O-23-2005 § 3 (Exh. 1(1) § 18.1)].

17.90.020 Purpose of rezoning of property.

The use of property shall comply with the permitted or conditional uses allowed in the zoning districts of this title. Property owners may apply to rezone their property in accordance with the process outlined in this chapter when a master development plan is not required. [Ord. O-23-2005 § 3 (Exh. 1(1) § 18.2)].

17.90.030 Property eligibility for rezoning.

The zoning designations of property in Eagle Mountain City may be changed through the master development plan or rezoning of property processes. The master development plan process approves a range of land uses and densities within a specified area by obtaining zoning approval, evaluates off-site utilities, and identifies funding mechanisms to provide for all off-site utilities and other public infrastructures (see EMMC 16.10). The zoning designations may be changed for property through the rezoning of property process that meets the following criteria:

A. Parcel Size. Any property that is less than 160 acres in size. Property that is proposed for development and contiguous to other parcels that are all held in common ownership shall be considered the same property for the purpose of this requirement. All property in a rezone application must be contiguous, but may be separated by a public street. Property shall not be divided in order to circumvent the size requirements with respect to the submittal of master development plans.

B. Incorporated Property. Property that is included in the incorporated boundaries of the city or is part of a pending annexation petition.

C. Significant Issues. In certain cases, the planning director or city engineer may recommend and the planning commission require that property be subject to the master development plan process when significant issues related to land use planning or utilities exist, regardless of the parcel size. [Ord. O-23-2005 § 3 (Exh. 1(1) § 18.3)].

17.90.040 Application.

Only property owners or their duly authorized agent shall make application for a rezoning of property on forms prepared by the planning director. No rezoning of property shall be processed without the submission of the application, all the supporting materials required by this chapter, and the processing fee. Incomplete applications shall not be processed under any circumstance.

A. Supporting Materials. The rezoning of property application shall be submitted with the materials listed in this section. The planning director and planning commission may determine and require that additional items not listed herein be submitted in order to evaluate the proposed rezoning application. If the applicant believes that some of the required supporting materials are not applicable, then they may submit a written statement to identify and clarify why they believe these materials are not needed for review of the project. Upon review of this statement, the planning director may approve the waiving of certain materials that are not found to be applicable to the project. The following materials must be submitted with a complete application, unless otherwise waived as allowed herein. The number of hard copies and electronic copies, as well as the appropriate format of each, will be determined by the planning director.

1. Legal Description. A legal description of the property.
2. Vicinity Map. A vicinity map showing the approximate location of the subject parcel with relation to the other major areas of the city.
3. Existing Conditions. A map showing the existing physical characteristics of the site including waterways, geological information, fault lines, general soil data, and contour data at two-foot intervals.
4. Land Use Map. A map together with a general description of the proposed development indicating the general development pattern, land uses, densities, intensities, open spaces, parks and recreation, trails and any other important elements of the project.

5. Zoning Districts. A compatibility statement in an acceptable format that demonstrates compliance with the zoning district that exists on the subject property or the zoning district that is being proposed for the subject property.

6. Public Notice. Addressed and stamped envelopes (the city's address will be the return addresses on the envelopes) of property owners located within 600 feet of the proposed preliminary plat area (including a minimum of at least 25 adjacent property owners).

7. Fee. The processing fee required by the current consolidated fee schedule approved by the city council. [Ord. O-23-2005 § 3 (Exh. 1(1) § 18.4)].

17.90.050 Approval process.

The rezoning of property shall not be construed as right upon submission of an application and does not require the approval body to take action based upon findings of facts. The planning commission and city council shall review and take action on proposed rezoning applications in accordance with the following procedure:

A. Planning Commission Public Hearing. Upon receipt of a complete application, the planning director shall schedule the application for a public hearing before the planning commission. The planning director shall cause all property owners within 600 feet of the boundaries of the proposed application area (including a minimum of at least 25 adjacent property owners and affected entities if there be any) to be notified by first class mail of the time and place of the public hearing at least 10 days prior to the planning commission meeting. The city recorder shall cause that this hearing is advertised in accordance with the requirements of any applicable state statutes. A copy of the public notice of the hearing shall also be posted in three public places (including the city offices) within the city at least 10 days prior to the hearing.

B. City Council Public Hearing. The city council, after receiving a recommendation from the planning commission, shall also conduct a public hearing. The notice requirements for this hearing are identical to the planning commission hearing. The city recorder shall cause that this hearing is advertised in accordance with the requirements of any applicable state statutes.

C. Additional Development Processes. Approval of a rezoning of property does not constitute approval to proceed with development. A developer will still be required to obtain development approvals, as provided by this title and EMMC Title 16. Approval to grade property, excavate, install utilities, subdivide or otherwise improve property must still obtain appropriate permits and approval of infrastructure design as required by state statutes and the city's ordinances. [Ord. O-23-2005 § 3 (Exh. 1(1) § 18.5)].

17.90.060 Criteria for approval.

There is no minimum parcel size or diversity of ownership required for rezoning of property. Rezoning of property shall be evaluated using the following criteria, and may ~~shall~~ be approved ~~only~~ if the requirements below are met:

A. Compliance with General Plan. The requested zones are consistent with the land uses shown on the general plan's future land use and transportation corridor map, and complies with the policies and provisions of the City General Plan.

B. Compatibility Determination. The proposed uses and densities will be reasonably compatible with adjacent land uses and the pattern of proposed uses and densities will appropriately buffer potentially incompatible uses from others based on the assumption that the proposed uses and densities will comply with this title, including the performance standards designed to help ensure land compatibility.

C. City Services. The proposed use can be accommodated with public services and will not overburden the City's service capacity.

D. Traffic Generation. Traffic generation by the proposed use is within capabilities of streets serving the property.

E. Property Values. The proposed use is not expected to have a significant negative impact on surrounding property values.

17.90.070 Conditions of Approval

In order to ensure that future development is compatible with surrounding neighborhoods, and to provide notice to property owners of limitations and requirements for development of property, conditions may be attached to any rezone application approval which restrict or specifically designate the land uses, dwelling unit density, building square footage, lot sizes, or height of structures. The approved conditions will be on record at the City Recorder's office. Any deletion of or change to a zoning condition shall be considered a rezone application and shall be subject to the requirements of this chapter.

17.90.080 Disapproval/Denial of Rezoning Applications

Disapproval or denial of an application to amend the zoning of a property shall preclude the filing of another application to amend the zoning or to reclassify the same parcel of property, or

any portion thereof, to a different zoning classification, to a different residential density tier, or if the application is for a commercial classification to the same or any other commercial classification, within one (1) year of the date of the final disapproval of the application, unless the City Council finds that there has been a substantial change in the circumstances or sufficient new evidence since the disapproval of the application to merit consideration of a second application within the one-year time period. Prior to the City accepting a new rezone application within the one (1) year period, the City Council must approve a request to resubmit rezone application, clearly stating the new evidence and/or substantial changes in circumstances. An applicant is not entitled to have a request to resubmit rezone application considered by the City Council, and such a request shall only be included on the City Council agenda in accordance with EMMC Section 2.15.030.