



## EAGLE MOUNTAIN CITY

### City Council Meeting

SEPTEMBER 6<sup>TH</sup> 2016

**Title:** Temporary Moratorium – Extractive Industries Overlay  
**Applicant:** City  
**Type of Action:** Ordinance

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#### **Recommendation**

We recommend that the City Council approve a six-month temporary moratorium on new permits or approvals for mining operations or concrete or asphalt facilities in the Spring Run and Talon Cove Extractive Industries Overlay Zone to allow time to perform a study of the existing and potential impacts of these uses to the health, safety, and welfare of residents within the city.

#### **Background**

Many residents, as well as the City Council members and Mayor, have expressed concerns for the potential health and safety impacts of the existing and contemplated extractive industries operations on neighboring residents and drivers within the city limits. Concerns have included air pollution (including dust), traffic and safety concerns, impacts on the City's water and stormwater infrastructure, impacts on development, light pollution, noise, and others. Unfortunately, with its current resources, the City has not been able to adequately study the full extent of these impacts on the health, safety, and welfare of residents, as well as determining the most appropriate measures for mitigating such impacts.

The City will partner with property owners, residents, State Government, and consultants to complete the study. The study will focus on good land use principals, including public safety, health and welfare, protecting the tax base, securing economy in governmental expenditures, and protecting the urban environment for existing and future residents.

Utah Code Ann. § 10-9a-504(1) allows the City Council to enact a temporary land use regulation, including a moratorium, for a maximum of six months if the Council makes a finding of compelling, countervailing public interest, or if the area is unregulated.

See the attached ordinance for more information.

**ORDINANCE NO. O-\_\_\_\_-2016**

**AN ORDINANCE OF THE CITY COUNCIL OF EAGLE MOUNTAIN CITY, UTAH,  
ESTABLISHING A TEMPORARY MORATORIUM ON NEW PERMITS OR  
APPROVALS FOR MINING OPERATIONS OR CONCRETE OR ASPHALT  
FACILITIES IN THE SPRING RUN AND TALON'S COVE EXTRACTIVE  
INDUSTRIES OVERLAY ZONE**

WHEREAS, in 2012, the City adopted Ordinance No. O-07-2012, establishing zoning regulations on approximately 240 acres of land commonly known as the Spring Run Annexation, which designated certain property within the overlay zone (the "Spring Run Property"); and

WHEREAS, in 2012, the City adopted Ordinance O-08-2012, establishing the Extractive Industries Overlay Zone designation, and adopting provisions that regulate mining and asphalt or concrete production on properties that are within the Extractive Industries Overlay Zone; and

WHEREAS, in 2013, the City adopted Ordinance O-03-2013, adding approximately 95 acres of property commonly known as Talon's Cove to the Extractive Industries Overlay Zone (the "Talon's Cove Property"); and

WHEREAS, multiple mining, concrete and asphalt facilities and operations are currently approved within the Spring Run Property and Talon's Cove Property (together the "Overlay Area"); and

WHEREAS, the City is in the process of studying and evaluating the impacts of the existing and contemplated uses within the Overlay Area as well as measures for mitigating such impacts (the "Study"); and

WHEREAS, the impacts to be studied include traffic and safety concerns; impacts on the City's water and stormwater infrastructure; impacts on future and existing roads; impacts on residential, commercial and economic development; and other potential harmful impacts including, but not limited to, light pollution, noise and dust; and

WHEREAS, the Study will focus on good land use principals, including public safety, health and welfare, protecting the tax base, securing economy in governmental expenditures, and protecting the urban environment for existing and future residents; and

WHEREAS, the Study will be conducted by the City in partnership with property owners, residents, the City Council and the Planning Commission.

NOW THEREFORE, be it ordained by the City Council of Eagle Mountain City, Utah, as follows:

(1) **Finding of Countervailing Interest.** Pursuant to Utah Code Ann. § 10-9a-504(1)(a), the City Council expressly finds that that restricting land use requests with respect to approved uses under the Extractive Industry Overlay Zone, as provided in this Ordinance, while the City completes the Study to address the cumulative impacts of the existing and contemplated projects and uses, is in the best interest of the City. The Study is necessary to address the impacts and potential impacts of additional or modified mining operations, concrete production operations, or asphalt operations within the Overlay Area, including the potential for increased traffic, noise, dust and the potential burden on City infrastructure and resources.

(2) **Balancing of Public versus Private Interests.** The City Council finds further that any harm to private interests from the temporary land use regulations is *de minimis*, and is outweighed by the City's interests in receiving, reviewing, and adopting the recommendations of the Study. The City Council finds that no new development or other proposed land use, the completed application, plans, and fees for which were not submitted prior to 4:30 p.m. on August 16, 2016, in full compliance with existing zoning regulations, has any right to be prosecuted under existing regulations. Further, any land use request submitted prior to 4:30 p.m. on August 16, 2016, that the City has disapproved due to incompleteness, inaccuracies, or non-compliance is specifically determined to have no vested right to be prosecuted under existing regulations. The City will not accept any re-submittal of these disapproved requests during the period of prohibition under this Ordinance.

(3) **Temporary Regulations.** Temporary zoning and building regulations are hereby adopted as follows:

(A) The Extractive Industries Overlay Zone on the Overlay Area is suspended and removed during the moratorium.

(B) No excavation permits, building permits, site plan or other approvals related to a mining, concrete or asphalt operation within the Overlay Area will be accepted.

(C) No operation, construction, reconstruction, alteration, or other development activity related to mining, concrete or asphalt operations will be permitted, except as otherwise allowed by applicable development agreement and state law, including Utah Code Ann. § 10-9a-513.

(D) These temporary regulations will expire six (6) months from the date of adoption of this Ordinance, unless repealed earlier by action of the City Council.

(4) **Relief from Temporary Regulations.**

(A) A property owner, lessee, or occupant may petition the Planning Commission for relief from these temporary regulations. Such petition must be in writing and contain the following information:

- (i) Scope of relief desired;
- (ii) Explanation of why the relief is necessary; and
- (iii) Explanation of work to be performed.

(B) The Planning Commission may grant relief from the temporary regulations under the following conditions:

- (i) The relief sought is to protect the structural integrity of a building;
- (ii) The relief sought is for minor changes to existing structures or buildings;
- (iii) The relief sought is to enable the repair of electrical, plumbing, or similar systems; or
- (iv) The relief sought is to remedy a violation of safety codes or environmental regulations for which a land use or building permit application is required (no relief being necessary if the remedy would not otherwise require a land use or building permit application).

(C) The Planning Commission's decision on a petition submitted under this Ordinance may be appealed to the City Council.

(5) **Effective Date.** This Ordinance shall become effective upon adoption, signature, and posting.

ADOPTED by the City Council of Eagle Mountain City, Utah, this 6<sup>th</sup> day of September, 2016.

EAGLE MOUNTAIN CITY, UTAH

ATTEST:

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Chris Pengra, Mayor

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Fionnuala B. Kofoed, MMC  
City Recorder

**CERTIFICATION**

The above ordinance was adopted by the City Council of Eagle Mountain City on the 6<sup>th</sup> day of September, 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

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Fionnuala B. Kofoed, MMC  
City Recorder