



**CITY OF EDGEWOOD
PLANNING COMMISSION MEETING AGENDA**

Mon. March 6, 2017 – 6:00 p.m. • Edgewood City Hall – 2224 104th Ave. East

I. CALL TO ORDER:

II. SUMMARY APPROVAL:

None

III. PUBLIC HEARING:

None

IV. STAFF UPDATES:

TBD

V. PUBLIC COMMENTS:

Note: This portion of the agenda is reserved for the public to comment on items not on the agenda. As a reminder, the Planning Commission may invite additional public comment on agenda items noted for discussion later in the meeting, in the order they are reviewed.

VI. NEW BUSINESS:

None

VII. OLD BUSINESS:

TC, C, MUR Meridian Avenue Mixed Use Requirements (*Possible Action Item*)

Public Participation Plan Pamphlet (*Possible Action Item*)

Development Agreements (*Discussion Continued*)

VIII. COMMISSIONER COMMENTS:

A. Chairman Report

B. Commissioner Comments

IX. NEXT MEETING: March 20, 2017, 6:00 p.m.

X. ADJOURN



**CITY OF EDGEWOOD
STAFF REPORT
PLANNING COMMISSION AGENDA ITEM:**

Date: March 6, 2017

Title: TC, C, MUR Code Update

Attachments: DRAFT revised code attached

Submitted By: Kevin Stender, Community Development Director

Approved For Agenda By: Daryl Eiding, Mayor

Discussion: In 2015, the City Council directed Staff to establish an interim ordinance regarding development within the Town Center, Commercial and MUR zones. Since that time the Planning Commission, Council and Staff along with help from Three Square Blocks and Community Attributes Inc. (CAI) have met for different occasions on the topic between 7 and 10 times to discuss direction. Most recently Staff prepared a MEMO for the Planning Commission outlining options for changes to the code.

Planning Commission gave the Staff direction to bring back those options inserted into a redlined code update for review. Before you tonight is that redlined version with an additional handout that could represent some other changes that could be accomplished that one may consider more or less intense in change to the code.

At the February 13th meeting there was discussion to bring this forward in three distinct versions, however as we started to draft those versions we found a common theme in that there really is no high, medium and low version. All of the updates would in essence make some significant changes to the EMC as it sits now to focus on the Council's desired outcome of Mixed Use Development and preserved space for commercial to develop in our desired location.

At the February 27, 2017 meeting the Planning Commission made suggested revisions. Those revisions are before you tonight. If they look satisfactory, the Planning Commission should set a date for a public hearing to make a formal recommendation for adoption to the City Council.

Recommendation: Review REVISED DRAFT at the meeting for final review and set public hearing (March 20, 2017) followed by a Planning Commission recommendation to occur at the March 20, 2017 regular Planning Commission meeting.

Fiscal Impact: N/A

EMC 18.80.080 DRAFT Code Update Option 1

18.80.080 Town Center, Commercial, Mixed Use Residential and Business Park zoning districts.

A. Applicability. This section establishes development standards for the Town Center, Commercial, Mixed Use Residential and Business Park zoning districts. All standards contained in other chapters of the Edgewood Municipal Code shall apply unless specifically modified by the standards contained in this section. Where a conflict exists between code standards, the specific standards contained in this section shall control.

B. Purpose.

1. The Town Center (TC) zoning district is envisioned as the heart of Edgewood, reflecting a unique local character and rural roots. Borrowing from traditional town development patterns and forms, the TC is envisioned as the most walkable area of the city, with a mix of multistory and single story buildings framing the street and other public spaces. The TC zone accommodates a range of compatible uses emphasizing a variety of vertical and horizontal mixed use development, pedestrian-oriented retail, multifamily residential, senior housing and civic uses. The TC zone complements local traffic, bicycle, and pedestrian circulation and provides connectivity to public open spaces.

2. The Commercial (C) zoning district accommodates a wide range of commercial development, including large format retail, auto-oriented uses, and regional scale commercial uses. Light industrial uses are also allowed. Development standards seek to balance the needs of the pedestrian with those of the automobile and are flexible to accommodate a wide range of uses and forms. This area provides a visual and functional transition to the Town Center and adjacent zones and assures that there is ample area to accommodate potential economic development opportunities. While commercial development is emphasized, this zone also allows multifamily housing with a mix of uses.

3. The Mixed Use Residential (MUR) zoning district accommodates a range of medium density residential housing types to meet consumer preferences, changing household sizes and market demands. A mix of land uses is allowed including some commercial uses and professional office uses to provide diverse economic development opportunities, while maintaining neighborhood compatibility. This zone provides a visual and functional transition to areas of more intensive development and adjacent residential neighborhoods. Within the Meridian Corridor, achieving a

high level of connectivity with streets, pedestrian and bicycle routes both within this district and to the adjoining TC district is a major goal.

4. The Business Park (BP) zoning district accommodates a wide range of employment and commercial uses, including professional office, senior housing and apartments, light industrial and retail uses. Development standards seek to accommodate a wide range of business, while ensuring an urban design that is compatible with adjacent zones. Significant landscaping is emphasized in this zone, both for aesthetic appeal and as a tool to ensure greater compatibility between a wide range of uses. Residential use, except multifamily, is not allowed in the BP zoning district.

C. Permitted Uses. The following use regulations shall apply to the Town Center, Commercial, Mixed Use Residential and Business Park zoning districts. Please see Chapter 18.20 EMC for all land use definitions that apply to these zones.

The following table establishes uses that are Permitted (P), Conditional (C) or Not Permitted (NP). Please see Chapter 18.20 EMC, Definitions, for use definitions. Note: (#) indicates permit use notes listed below.

Table 1: Permitted Use Table

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	TC	C	MUR	BP
Use Categories				
Residential (1)				
Dwelling Unit, Accessory	NP	NP	P (1a)	NP
Dwelling Unit, Single-Family Attached	NP	C	P	NP
Dwelling Unit, Single-Family Detached or Cottage Housing	NP	NP	P	NP
Dwelling Unit, Multifamily	P	P	P	C (1c)
Senior Citizen Assisted Housing	P	P	P	C (1c)
Commercial (2)				
Day Care Center or Home	P	P	P	P
Drive-Through Use	C	P	P	P
Gambling and Card Rooms	NP	P	NP	NP
Home Business	P	P	P	NP

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Table 1: Permitted Use Table

	TC	C	MUR	BP
Personal and Beauty Services	P	P	P	P
Professional Office	P	P	P	P
Retail Trade and Services – less than 50,000 sq. ft. for all structures (5)	P (4)	P	P (3)(4)	P (3)
Retail Trade and Services – over 50,000 sq. ft. for all structures	C (4)	P	NP	C
Storage/Self-Storage	NP	P(11)	C(11)	P
Temporary Lodging, Hotel, Motel and Bed and Breakfast	P	P	C	C
Recreation/Cultural				
Cinema, Performing Arts and Museums	P	P	P	NP
Group Assembly/Meeting Hall	P	P	C	P
Private Recreation, Indoor or Outdoor	C	P	P	P
Religious	C	P	C	P
Health Services				
Hospital or Emergency Care Facility	C	C	NP	C
Medical Office/Outpatient Clinic	P	P	P	P
Nursing and Personal Care Facility	C	P	C	P
Group Home – Type I (1b)	P	P	P	NP
Group Home – Type II and III (1b)	NP	C	NP	NP
Agriculture (5)				
Animal or Crop Processing	NP	NP	NP	C
Family Farm	C	P	P	P
Industrial/Manufacturing (6)				
Light Industrial and Light Manufacturing	NP	C (7)	C (7)	P (7)

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Table 1: Permitted Use Table

	TC	C	MUR	BP
Heavy Industrial and Heavy Manufacturing	NP	NP	NP	NP
Civic and Other (8)				
Administrative Government Facilities	P	P	P	P
Essential Public Facilities	NP	P	C	P
Major Utility Facility	NP	C	C	C
Minor Utility Facility	P (9)	P	P	P
Public Park	P	P	P	P
Schools: Compulsory, Vocational and Higher Education	P	P	P	P
Wireless Communication Facilities (10)	C	C	C	C

1. Permit Use Conditions. (Use notes from Table 1 above.)

(1) Residential uses subject to the requirements of EMC Title [16](#), Subdivisions.

a. Accessory unit is only allowed in association with a single-family detached unit.

b. Subject to the provisions of EMC [18.70.050](#)(D), (E) or (F).

c. Provided that multifamily use in BP zone is subject to the development standards contained in Chapter [18.95](#) EMC.

(2) Sexually oriented business is only allowed in the BP district with a conditional use permit.

(3) This use is further restricted to a maximum of 20,000 gross square feet within the MUR and BP districts.

(4) Services, sales, storage and operations other than customer parking and "sidewalk" style merchandise display and outdoor seating must be fully contained within a structure. Gasoline service stations are not permitted in the Town Center.

(5) Farmer's markets, farm stands and public markets are permitted in all districts. If such a market is temporary, then it requires a temporary use permit.

(6) The director shall determine whether a use is classified as light industrial or heavy industrial based on the industrial classification and its potential to cause negative impacts on residential, civic and commercial uses.

(7) All structures for light industrial uses must meet the required setbacks, landscaping and all other standards contained in this chapter. Equipment storage and manufacturing activities shall be enclosed in a structure or fully screened with Type I landscaping from Meridian Avenue. Warehouse and distribution uses require a conditional use permit in the Commercial district.

(8) Maintenance yards, substations and solid waste transfer stations are not permitted outside of the BP district and must be fully screened with 20 feet of Type IV landscaping.

(9) Minor utility facilities, such as telecom, fiber optics, Internet and similar facilities, shall be located within a fully enclosed structure, unless the director determines this is not feasible.

(10) Please see EMC [18.100.110](#), Personal wireless communications facilities, for additional requirements. In the event of a conflict between the requirements of that section and the requirements of this chapter, the standards contained in EMC [18.100.110](#) shall apply.

(11) Storage/Self Storage project proposals within the C, and MUR zones must develop or retain the front 150 feet as a retail- or office- commercial type use on at least one arterial in order to proceed.

2. Use Determination Process. An administrative use determination process shall be applied to any proposed use that does not clearly fit within the uses listed in the above table and the related definitions in Chapter [18.20](#) EMC, or contains an accessory use that is not a permitted use and comprises 25 percent or more of the floor area. In those cases where the director determines that a use determination process is necessary, the request for a use determination shall be submitted and acted on prior to submittal of any underlying permit, or if a permit has already been submitted, prior to a determination of completeness on the underlying permit. The director shall require information describing the use or uses on the site, their location and operational characteristics. A use shall be permitted within any of the Meridian Corridor zoning districts if it meets the following criteria:

a. The primary use is determined by the director to be reasonably similar and related to one of the permitted use categories and all of the below criteria are met for both the primary and any secondary uses;

- b. The use is not inconsistent with the zoning district's purpose statement and the comprehensive plan policies;
- c. The use or uses can be accommodated in the existing structure in which it is proposed without requiring substantial exterior modification to the form of the structure;
- d. The use does not have noxious impacts (excessive noise, odor, vibration, dust, etc.) on other nearby properties and uses; and
- e. The use will not result in significant transportation impacts that would not be addressed by the required development standards.

3. Decision Authority. A use determination made by the director may be appealed to the hearing examiner following a Process II decision process as set forth in Chapter [18.40](#) EMC.

D. Development Standards. This subsection establishes the development standards that apply to the zones described. Please note that the provisions below include both minimum and maximum standards, as well as certain standards, such as height and floor area ratio, that may be modified up to the limits stated herein if certain development intensity bonus options elements (as provided for in Table 3) are included in the proposal.

Table 2: Development Standards Table

	TC	C	MUR	BP
Standards (+)				
Maximum Height (without any bonus) (21)	45 feet	35 feet	35 feet	35 feet
Maximum Height (with FAR Bonus) (21)	55 feet (minimum 3:1 FAR)	45 feet (minimum 1.5:1 FAR)	35 feet	35 feet
Maximum Residential Net Density – Single Use Project (2)(3)(5)(14)	48-24 D.U./acre	48-D.U./acre N/A and controlled by location N/A	24 D.U./acre	N/A(21)

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Table 2: Development Standards Table

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	TC	C	MUR	BP
Maximum Residential Net Density – If Part of a Mixed Use Project (3)(4)(5)(14)	Controlled by maximum height, FAR and Building Code	48 D.U./acre	48 D.U./acre	N/A (21)
Minimum Residential Net Density (5)(6)(4)(15)	16 D.U./acre	N/A	10 D.U./acre	N/A
Minimum Lot Frontage Occupied by a Building (57)	50%	35%	35%	None
Minimum Setback to TC, C, MUR or BP Zones (68)	None	None	None (79)	None, except 20 feet for light industrial
Minimum Setbacks to Zones Other Than TC, C, MUR or BP (810)	25 feet	25 feet	20 feet	25 feet
Maximum Floor Area Ratio (FAR) with Bonus Features (911)	4:1	3:1	2:1 (4012)	2:1
Maximum Floor Area Ratio (FAR) without Bonus Features (4413)	1:1	0.5:1	0.5:1 (4012)	0.5:1
Maximum Hard Surface Area (Including Lot Coverage)	90%	85%	75%	80%
Maximum Effective Impervious Surface	75%	70%	60%	65%

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Table 2: Development Standards Exceptions and Notes.

~~(1) Mixed Uses. Commercial and residential uses shall be developed in the same project site either in the same building (preferred) or separate buildings. Commercial uses shall constitute a minimum~~

~~of 10 percent of the gross floor area of the development, not including garage or service areas. Sixty percent of the building's street facing facades, not including parking entrances and loading areas, shall be developed with retail, restaurant or personal service uses.~~

(21) Multifamily use in BP zones requires a CUP and is limited to multifamily as allowed. Residential use only allowed in Commercial zone if part of mixed use project.

(32) To qualify for mixed use bonus, uses must be developed in same project either as vertical or horizontal mixed use.

(3) Residential single-use project proposals within the TC, and C zones must develop or retain the front 150 feet as a commercial type use on at least one arterial in order to proceed.

(4) Mixed use development projects demonstrating a mix (30% commercial to 70% residential minimum) of residential and commercial within the same design may be located throughout the property and not limited to any portion of any specific property.

(5) Vertical mixed-use projects with first-floor commercial space may be constructed as fully residential projects with the requirement that the first floor must be converted to a commercial use with 5 years of building occupancy.

(64) Minimum density only applies for single use residential projects.

(57) For building lots fronting directly on Meridian the minimum lot frontage occupied by a building in all zones is 35 percent.

(68) Setbacks may be necessary to accommodate utility easements or to accommodate required landscaping.

(79) Setbacks for single-family detached dwellings shall be as follows:

- (a) Front yard/street setback: 15 feet.
- (b) Garage setback: 20 feet.
- (c) Principal arterial and state highway setback: 25 feet.
- (d) Rear yard setback: 10 feet.

(e) Interior setback: five feet or shall meet the minimum fire separation required per the International Fire Code (IFC) as adopted by the city of Edgewood.

~~(810)~~ Twenty-foot setback required from any public property other than a street.

~~(911)~~ See Table 3: Development Intensity Bonus Options necessary to achieve maximum FAR.

~~(4012)~~ FAR does not apply to single-family detached dwelling or cottage housing.

~~(4413)~~ There is no minimum FAR in the TC, C, MUR or BP zones.

~~(4214)~~ Director and city engineer may establish administrative rules for allowing partial credit for pervious paving materials.

(15) Project proposals 1 acre or less in size may request relief from the mixed use requirements above to the Community Development Director prior to application.

The following optional features may be used alone or in combination to increase the allowed height and floor area ratio (FAR) up to the maximum limits identified in Table 2 (subsection (D) of this section). Table 3 below identifies the allowed FAR bonus and any additional requirements pertaining to the described bonus feature.

Table 3: Development Intensity Bonus Options

Bonus Feature	FAR Bonus	Description, Additional Requirements and Limitations
1. Parallel Road Network	1.5	Dedication and construction of those portions of the adopted parallel road network that are within or adjacent to the subject property. Design shall be consistent with the adopted street standards, including, but not limited to, travel lanes, on-street parking, landscaping and sidewalk.
2. Significant Public Plaza or Public Green Space	1.0	Available in the Town Center district only, and at the discretion of the director. Location and design shall be consistent with Town Center and Meridian Avenue Corridor master plan, and, if possible, complementary to any planned public plaza or development. Must be a minimum of five percent of the interior floor area of the development and no less than 1,500 square feet. This bonus must

Table 3: Development Intensity Bonus Options

Bonus Feature	FAR Bonus	Description, Additional Requirements and Limitations
		be in addition to any pedestrian-oriented space as required in subsection (F) of this section and EMC 18.95.030 or as required by any underlying land use approval. Plazas and green spaces shall incorporate LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).
3. Through Block Connection or Alley Enhancement	1.0	A pedestrian walkway and accompanying landscaping that shall be at least 15 feet wide and extend along a property line or through a site to allow the public to pass from one street to another street or an alley. The surface shall consist of stone, unit pavers, textured concrete, permeable pavement, or other material approved by the community development director or designee, with pedestrian scale lighting at least every 50 feet. Walkways and landscaping shall incorporate LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).
4. Mixed Use Development	1.0	Ground floor commercial with minimum of 12 feet in height measured from finished floor to finished ceiling and residential uses on upper floors at or above minimum residential density. Note additional required standards for pedestrian-oriented ground floor commercial in No. 8 below shall also apply.
5. Structure Parking, Below Grade	1.0	At least 80 percent of the parking shall be contained within a structure that is below grade.
6. Affordable Housing	1.0	For all new development within the Town Center, total square footage may be increased by two square feet for every one square foot of affordable housing (for a maximum of 1.0 FAR in bonus) provided an affordable housing plan (AHP) is developed and submitted to the director for review and approval. The developer shall commit to implementing the AHP as a part of a signed comprehensive development agreement with the city. This

Table 3: Development Intensity Bonus Options

Bonus Feature	FAR Bonus	Description, Additional Requirements and Limitations
		agreement shall be reviewed by a housing consultant or nonprofit group at the expense of the applicant with recommendations made to the director prior to any city commitment to that agreement.
7. Other Public Plaza or Public Green Space	0.75	Location and design shall be consistent with Town Center and Meridian Avenue Corridor master plan and any planned public plaza or development. Must be a minimum of two percent of the interior floor area of the development and no less than 500 square feet. This bonus must be in addition to the minimum pedestrian-oriented space requirement in subsection (F) of this section and EMC 18.95.030 . Plazas and green spaces shall incorporate LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).
8. Ground Floor Pedestrian-Oriented Commercial	0.75	Ground floor commercial with minimum of 12 feet in height measured from finished floor to finished ceiling. Buildings shall include windows with clear vision glass on at least 50 percent of the area between two and 12 feet above grade for all ground floor building facades that are visible from an abutting street. Weather protection with a minimum of six feet in depth shall be provided over sidewalks and pedestrian connections on 80 percent of the length of the building frontage. This bonus feature may not be used in conjunction with No. 3 above.
9. Structured Parking, At Grade or Above Grade	0.75	At least 80 percent of the parking shall be contained within a structure. The structure may be part of the building or a separate structure. The structure shall be designed to minimize visibility of the parking area from the street. The street level floor shall be mixed use.
10. LEED Gold Certification (or Better)	0.75	As certified by the USGBC. Applicant is responsible for providing LEED precertification submittal documentation and annotated checklist to the city. City will review documentation at the applicant's

Table 3: Development Intensity Bonus Options

Bonus Feature	FAR Bonus	Description, Additional Requirements and Limitations
		expense. If accepted, the city will make this a condition of approval of the subsequent building permit.
11. Multi-Modal Pathway	0.5	A pathway for the movement of pedestrians and bicyclists that is consistent with the Town Center and Meridian Avenue Corridor master plan, transportation plan, and city's parks and recreation plan and approved by city staff. Pathways shall incorporate LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).
12. Public Meeting Room	0.5	Available in the Town Center district only. A room available to the community for meetings and events. The size shall be a minimum of 500 square feet, with windows on at least one side and shall be directly accessible from the outside or by a controlled lobby that allows public access.
13. LEED Silver Certification	0.5	As certified by the USGBC. Applicant is responsible for providing LEED precertification submittal documentation and annotated checklist to the city. City will review documentation at the applicant's expense. If accepted, the city will make this a condition of approval of the subsequent building permit.
14. Water Feature	0.25	A decorative water feature shall be equivalent to at least one percent of the project's construction cost and shall be directly accessible and visible to the public by being adjacent to a plaza, sidewalk, pathway or through-block connection. Documentation shall be provided of construction value and the cost of the water feature.
15. Exterior Art Element	0.25	Exterior art element shall be equivalent to at least one percent of the total value of the project's construction cost. Such elements include but are not limited to sculptures, bas-reliefs, metalwork and murals. Documentation shall be provided of the construction value and the value of the art as appraised by an art appraiser. Art

Table 3: Development Intensity Bonus Options

Bonus Feature	FAR Bonus	Description, Additional Requirements and Limitations
		elements shall be visible to the public at all times and will be reviewed and approved by an arts body designated by the city.

E. Design Standards.

1. Site and Building Design. Site and building design standards shall be required for all development as set forth in Chapter [18.95](#) EMC. Where the standards in Chapter [18.95](#) EMC conflict with the standards in this section, the development standards contained in this section shall control.

2. Street Design. Location, design and configuration of all streets shall be in accordance with the adopted street standards contained in EMC Title [12](#), Streets, Sidewalks and Public Spaces.

F. Open Space Requirements.

1. Applicability. New development within the Town Center (TC), Business Park (BP), Commercial (C), and Mixed Use Residential (MUR) zoning districts shall be required to meet the open space requirements in this subsection.

2. Numeric Standards. All new development shall provide accessible public space equivalent to one and one-half percent of the gross floor area of all structures. The design and location of public spaces shall consider the design and location of public spaces on adjacent properties and if feasible shall be oriented and connected to those spaces pursuant to the concepts presented in the Town Center and Meridian Corridor master plan.

3. If it can be demonstrated by the applicant to the satisfaction of the director that a required public space is adjacent to, integrated with and can be accessed from a public space on an adjoining property, this requirement may be reduced to one percent of gross floor area.

4. All required public spaces shall be oriented towards, and have direct connections (both physical and visual) to, a public street.

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5. Where public spaces are integrated into new development, or where new development abuts an existing or planned public plaza, the primary building entrance shall be oriented towards or connected to that plaza.

G. Landscaping.

1. Applicability. The requirements of EMC [18.90.090](#) shall apply to the TC, C, MUR and BP zones, except as provided in this subsection. Please also see Chapter [18.95](#) EMC for applicable design standards. Where landscape regulations in this section conflict with the provisions in EMC [18.90.090](#) or Chapter [18.95](#) EMC, the regulations in this subsection shall control. Please note: where this section is silent on a specific requirement, such as irrigation requirements or minimum standards for plantings, the standards contained in EMC [18.90.090](#) and [18.95.050](#) shall apply. The standards contained in EMC [18.90.090](#)(G) (Landscaping Types) are specifically modified by this subsection and the standards contained in EMC [18.90.090](#)(H) (Landscaping Requirements by Zoning District) do not apply to TC, C, MUR and BP zones.

2. Street Frontages. In addition to landscape standards contained below, five percent of the total area between the building facade and the curb shall be landscaped. Within the BP zoning district 10 percent of the total area between the building facade and curb shall be landscaped. This shall be in addition to street trees and landscaping provided in public spaces and parking lots that are required in other subsections.

a. Required landscaping may be planted within planting areas surrounding trees, in raised planters, and on vegetative walls mounted to the ground-level building facade. Landscaping shall incorporate LID systems to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).

b. Where a building or portion of a building is located more than 10 feet from a public sidewalk or usable public space, all area between the building and the public sidewalk that is not used for vehicle or pedestrian access, circulation, parking or seating shall be landscaped.

c. Potted landscape material may be substituted for required landscaping in areas designed for outdoor eating with the approval of the department.

3. Public Spaces. A minimum of 15 percent of the total area of a public space, such as a courtyard or plaza, shall be landscaped.

4. Surface Parking Areas. Surface parking areas shall be landscaped as set forth in EMC [18.90.090](#).

5. Street Frontages. Street frontage design and landscaping shall be provided as contained in Chapter [18.95](#) EMC and EMC Title [12](#), Streets, Sidewalks and Public Places.

6. Landscape Buffers – Standards and When Required.

a. Development in the TC, C and MUR zoning districts shall provide a minimum 20-foot Type IV landscape buffer where they abut Single-Family zoning districts or 15 feet of Type I landscaping where they abut Mixed Residential or Public zoning districts. The director may waive or modify this requirement for pedestrian-oriented development adjacent to the Public zoning district where consistent with the purpose of this section.

b. Development in the BP zoning district shall provide a minimum 25-foot Type IV landscape buffer where it abuts Single-Family or Public zoning districts. In addition, 15 feet of Type I landscaping shall be provided between adjacent BP zoned properties.

c. Commercial or light industrial development in the C and MUR zoning districts shall provide a minimum 10-foot-wide Type I landscape buffer adjacent to the TC zoning district. The director may waive this requirement for pedestrian-oriented commercial development that includes a minimum of 50 percent of the lot frontage occupied by a building. Landscaping for surface parking areas shall still apply.

d. A minimum of a 10-foot Type I landscape buffer shall be provided between more intensive zones and the MUR, and along abutting properties in the MUR district. The director may waive or modify this requirement for pedestrian-oriented commercial development that includes a minimum of 50 percent of the lot frontage occupied by a building or for abutting residential development in the MUR zone in common ownership. Required landscaping for surface parking areas is required in accordance with EMC [18.90.090](#) and Chapter [18.95](#) EMC.

7. Special Landscaping in the Business Park (BP) Zone. In order to achieve the urban design intent and provide an environment suitable to a wide range of employment uses, a minimum of 20 percent of the total site area in the BP zone shall be landscaped.

8. Tree Preservation and Protection Standards.

a. Significant tree identification and preservation and/or replacement shall be required as set forth in EMC [18.90.180](#). Tree preservation, provided mixed use development shall be considered commercial development for the purposes of the tree retention standard contained in EMC [18.90.180\(C\)\(2\)\(c\)\(iv\)](#).

b. The director shall have the authority to reduce the required tree replacement ratio where such requirement would conflict with the urban design intent of this section and applicable design provisions of Chapter [18.95](#) EMC.

c. If the standards contained in Chapter [18.95](#) EMC are modified, the director shall at a minimum ensure that representative native vegetation is retained or replanted totaling at least five percent of the site area and that such landscaping is provided in excess of the requirements contained in this section.

H. Parking, Access and Circulation.

1. Applicability. Parking facilities and access drives shall be designed in accordance with EMC [18.90.130](#), except as provided below.

a. Where a conflict exists between the standards contained in EMC [18.90.130](#) and the standards contained in this section, the standards contained in this section shall control.

b. If this subsection does not specify a parking requirement for a land use, the director shall establish the minimum requirement based on a study of anticipated demand as provided in EMC [18.90.130\(C\)\(8\)](#).

2. Purpose. The purpose of this subsection is to provide adequate parking for all allowed uses; to reduce demand for parking by encouraging alternative transportation such as rideshare, public transit, bikes and pedestrian mobility; to promote a “park once and walk” strategy and to ensure the location and design of parking facilities is consistent with urban design and economic development goals.

3. Parking Location.

a. Site design, including parking lot and building location, shall comply with the minimum lot frontage requirements in subsection (D) of this section.

b. A parking lot shall not be located on a corner where two streets intersect.

c. Within the TC zone, a parking lot shall not be located between the principal building and the street, adjacent to a park or open space or at a street terminus.

d. Within the TC zone, parking structures shall contain ground level commercial uses.

e. Within the C, MUR and BP zones, parking structures that front on a street that are not part of a residential or mixed use building shall contain ground level commercial uses.

4. Parking Facility Design and Integration. It is the city's intent to encourage the integration and connection of parking facilities, including shared parking and physical connections between parking facilities in adjoining developments. Applicants shall demonstrate how they meet this objective, including shared parking, or document why it is not feasible to do so. Please see Chapter [18.95](#) EMC, Design Standards, for additional urban design requirements for parking facilities.

5. Minimum Parking Requirements. Except as provided in subsection (H)(9) of this section, off-street parking areas shall contain the minimum number of parking spaces as stipulated in the following table. Off-street parking ratios expressed as number of spaces per square feet means the usable or net square footage of floor area, exclusive of nonpublic areas. Nonpublic areas include but are not limited to building maintenance areas, storage areas, closets or restrooms. If the formula for determining the number of off-street parking spaces results in a fraction, the number of off-street parking spaces shall be rounded to the nearest whole number with fractions of 0.50 or greater rounding up and fractions below 0.50 rounding down. Please note that maximum parking requirements as contained in subsection (H)(10) of this section also apply.

Table 4: Minimum Parking Requirements

Land Use	Minimum Parking Spaces Required
Residential	
Dwelling unit, multifamily:	
Studio and one-bedroom units	1 per dwelling unit*
Two-bedroom units	1.5 per dwelling unit*
Three-bedroom units	2 per dwelling unit*
Dwelling unit, single-family:	

Table 4: Minimum Parking Requirements

Land Use	Minimum Parking Spaces Required
Dwelling unit, single-family attached	2 per dwelling unit (tandem spaces allowed)
Dwelling unit, single-family detached	2 per dwelling unit
Dwelling unit, accessory or cottage housing	1 per dwelling unit
Retail/Wholesale Trade and Services	
Retail trade and services (nonfood) other than listed below	3 per 1,000 square feet**
Nonfood retail in mixed use development, less than 5,000 square feet and less than 40% of the gross floor area of the development	No off-street parking required**
Food stores, in mixed use development, less than 15,000 square feet and less than 40% of the gross floor area of the development	3 per 1,000 square feet**
Food stores, other than above	4 per 1,000 square feet, plus additional parking as provided below for restaurant portion if applicable
Restaurants	1 per 100 square feet in dining, lounge and customer ordering area
Gasoline service stations	3 per facility plus 1 per 300 square feet of store
General Services	
General services	3 per 1,000 square feet
Professional office	3 per 1,000 square feet
Exceptions:	
Hotel/motel	1.1 per bedroom
Home occupation, including live/work	1 stall in addition to requirement for

Table 4: Minimum Parking Requirements

Land Use	Minimum Parking Spaces Required
	primary use
Industrial/Manufacturing	
Light industrial/manufacturing	1 per 1,000 square feet, plus additional parking for office or retail areas as noted elsewhere in this table
Culture/Recreation/Religious	
Performing arts/museum/theater	1 per 3 fixed seats, plus 2 spaces for every 3 employees
Church or group assembly	1 per 5 fixed seats, plus 1 per 50 square feet of gross floor area without fixed seats used for assembly purposes
Outdoor recreation/indoor recreation/health club	Director determines based on a parking study
Health Services	
Hospital	1 per bed
Medical office or emergency care facility	5 per 1,000 square feet
Nursing and personal care facility	1 per 4 beds
Other	
Government office	3 per 1,000 square feet
All others not specifically listed	Director determines based on a parking study
*Plus guest parking amounting to one extra space for every 10 dwelling units rounded upward to the nearest multiple of 10.	
**The applicant may demonstrate through a traffic study that on-street parking is adequate to wholly or partially fulfill this parking requirement. Off-street parking may be required based on the review of this study.	

6. Loading Areas. Please see EMC [18.90.130](#)(D).

7. Disabled Parking. Please see Chapter [19.27](#) RCW, State Building Code, and Chapter [70.92](#) RCW, Public Buildings – Provisions for Aged and Disabled.

8. Bike Parking. In any development required to provide six or more parking spaces, bicycle parking shall be provided. Bicycle parking shall be bike rack or locker-type facilities unless otherwise specified.

a. One bicycle parking space shall be provided for every 12 motor vehicle parking spaces, except as follows:

i. The director may reduce bike rack parking facilities for patrons when it is demonstrated that bicycle activity will not occur at that location.

ii. The director may require additional spaces when it is determined that the use or its location will generate a high volume of bicycle activity. Such a determination shall include but not be limited to the following uses: park, library, museum, school, sports club or retail business located along a developed trail or designated bicycle route.

b. Bicycle parking shall be located within 100 feet of the principal building and directly adjacent to a sidewalk or pedestrian walkway that connects directly to building entrance(s).

c. Bicycle frame or wheels to be locked to a structure attached to the pavement.

d. All bicycle parking and storage shall be located in safe, visible areas that do not impede traffic flow and shall be well lit for nighttime use.

e. When more than 15 people are employed on site, bicycle storage facilities for employees shall be provided. The director shall allocate the required number of parking spaces between bike rack parking and enclosed locker-type facilities.

f. One secured bicycle storage space shall be provided for every two dwelling units in attached single-family and multifamily units, unless individual garages are provided for every unit. The director may reduce the number of bike rack parking spaces if indoor storage facilities are available to all residents.

9. Parking Reductions. The amount of off-street parking required by subsection (H)(5) of this section may be reduced by an amount determined by the director pursuant to the provisions below.

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a. Car Share Parking. Required parking for multifamily residential developments (or the residential portion of mixed use developments) containing more than 30 units may be reduced by three spaces for each one dedicated car share space. A signed agreement between the property owner and car share provider must be submitted for approval of the parking reduction.

b. Shared-Use Parking. Developments may receive a reduction in required parking of up to 20 percent of the minimum parking requirements, provided:

i. The total parking area exceeds 5,000 square feet;

ii. The parking facilities are designed and developed as a single on-site common parking facility, or as a system of on-site and off-site facilities, if all facilities are connected with improved pedestrian facilities and no building or use involved is more than 800 feet from the most remote shared facility;

iii. The total number of parking spaces in the common parking facility is not less than the minimum required spaces for any single use;

iv. The director may increase the reduction where compelling evidence is provided in a parking study submitted by the applicant that the proposed reduction is warranted. See criteria in EMC [18.90.130](#);

v. A covenant or other contract for shared parking between the cooperating property owners is approved by the director. This covenant or contract must be recorded with the Pierce County auditor's office as a deed restriction on both properties and cannot be modified or revoked without the consent of the director; and

vi. If any requirements for shared parking are violated, the affected property owners must provide a remedy satisfactory to the director or provide the full amount of required off-street parking for each use, in accordance with the requirements of this chapter, unless a satisfactory alternative remedy is approved by the director.

c. Transit Availability. The director may reduce the number of required off-street parking spaces when one or more scheduled transit routes provide service within 750 feet of the site. The amount of the reduction shall be based on the number of scheduled transit runs between 7:00 to 9:00 a.m. and 4:00 to 6:00 p.m. each weekday up to a maximum reduction of two percent for each transit run up to a maximum of 20 percent.

10. Maximum Parking Requirements. Parking for a specific use in zones covered by this section shall be limited to no more than 50 percent greater than the minimum parking requirement required above. Exceptions to this parking maximum include:

- a. Parking spaces are provided above/below grade.
- b. If the director determines additional off-street parking spaces are warranted based on a parking study. In making such a decision, the director shall also consider whether the proposal is consistent with the stated purposes, objectives, goals or policies established in this section and the design standards. The director shall also have the authority to restrict parking for a specific use to an amount that is less than the maximum amount allowed in this section if the proposal would substantially conflict with the stated purposes, objectives, goals or policies contained in the Edgewood comprehensive plan and similar plans and policy documents as adopted by the city of Edgewood.

11. Transit Facilities. All development shall provide transit facilities as provided in EMC [18.90.130\(E\)\(2\)](#).

12. Parking Stall and Aisle Design and Access. Please see EMC [18.90.130\(C\)\(5\)](#). (Ord. 16-482 § 2 (Exh. F); Ord. 14-426 § 2 (Exh. A); Ord. 14-414 § 2 (Exh. A); Ord. 13-397 § 2 (Exh. A); Ord. 11-359 § 6 (Exh. C); Ord. 10-346 § 7; Ord. 09-323 § 4; Ord. 08-305 § 2; Ord. 08-301 § 3; Ord. 07-284 § 1; Ord. 06-268 § 1; Ord. 03-203 § 1



**CITY OF EDGEWOOD
STAFF REPORT
PLANNING COMMISSION AGENDA ITEM:**

Date: March 6, 2017

Title: Public Participation Plan (PPP) Handbook

Attachments: Edgewood Specific Handbook DRAFT based on Carol Morris Model

Submitted By: Kevin Stender, Community Development Director

Approved For Agenda By: Daryl Eiding, Mayor

Discussion: The City's public participation planning efforts at this time are outlined within the text of the Development Standards. By GMA requirements, the City shall adopt a Public Participation Plan. Planning Commission met on this on February 27, 2017 and made recommendations to insert into the Edgewood version of the model code. Included in this packet is that revised PPP handbook for discussion.

Recommendation: Review Edgewood DRAFT Handbook format and determine method for delivery to the Public to recommend to the City Council after Public Hearing at March 20, 2017 regular Planning Commission meeting.

Fiscal Impact: N/A

GROWTH MANAGEMENT ACT (GMA)
COMPLIANT
PUBLIC PARTICIPATION PLAN
HANDBOOK*



THANK YOU AND IF YOU HAVE ANY
QUESTIONS PLEASE FEEL FREE TO CONTACT
CITY HALL AT (253) 952-3299 FOR
ADDITIONAL INFORMATION

*The City's program includes citizen involvement meeting the legal public notification requirements found in chapter 35A.63 RCW – Planning and Zoning in Code Cities, chapter 36.70A - Growth Management Act, chapter 43.21C RCW -- State Environmental Policy Act, and supplements chapter 42.30 RCW -- the Open Public Meetings Act, and chapter 42.56 RCW the Public Records Act.

Introduction

The City of Edgewood plans our Community consistent with the Growth Management Act and as such has developed this handbook to help the Public understand and get involved with the planning process in Edgewood.

The comprehensive plan development and amendment process, as well as the development and amendment of implementation regulations should be a "bottom up" effort, involving early and continuous public participation. The City's methods and basic framework for achieving an interactive dialogue between local decision-makers, City staff, and the public will be formed through this handbook and will apply throughout the local planning process leading to adoption of the comprehensive plan, development regulations to implement the plan, and legislative amendments to both.

The City's Community Development Department will oversee the public involvement in the local GMA planning process, but it is the City Council that decides on the direction and content of policy documents or regulations that they find to be in the community's best interest. The text that follows is intended to guide and form the basis for public participation programs related to GMA and the City's local planning process.*

This pamphlet is broken into the following sections:

1. Communication and Information
2. Availability of Proposals and Alternatives
3. Public Meetings, Workshops & Hearings
4. Opportunity for Open Discussion
5. Opportunity for Written Comments
6. Consideration of and Response to Public Comment

*RCW 36.70A.140, states that "... errors in exact compliance with the established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed."

1. Communication and Information

The City will develop, implement and maintain communication programs and information services for the purpose of involving the broadest cross-section of the community in the planning process. To ensure the overall success of the GMA planning process, there are several things that must occur:

- a. The public should understand the basic concepts of the GMA, local planning and how their own participation can affect local plans and regulations.
- b. The public needs to know how and when to get involved.
- c. The public needs to understand how their input is used.

The City will inform the public through various techniques including but not limited to, the following:

- **Prepare** and make available through the City's website, at City Hall, and at public workshops and hearings, this Public Participation Program Handbook and **Ordinance No. 17-XXXX (on the subject of comprehensive plan and legislative development regulation adoption/amendment)**, notices to the public meetings and public hearings regarding comprehensive plan development and amendment process, application forms for amendments to the comprehensive plan and development regulations, etc.; Notice procedures should be reasonably calculated to provide notice to property owners and other affected and interested individuals, government agencies, businesses and organizations.
- **Design, display and distribute** other printed and visual material as needed to inform the public about the local planning process and engage them in relevant discussion;
- **Provide public legal notices** for upcoming special workshops and hearings in our official City newspaper, and through the City's website site, at least **2 weeks** prior to the meeting/hearing date; and
 - **Regular meetings** - Post agendas for on the City's website at least 5 working days prior to the meeting.
 - **Special meetings** – Post agendas for special meetings on the City's website, at the public library, at City hall, **and at the Community Center**, as required by RCW 42.30.080 (min. 48 hours in advance)

- Interested parties – compile, on an ongoing basis, a list of parties interested in GMA and local planning issues. Names should come from meeting and hearing sign-in sheets, written correspondence, and known community groups as well as specific requests to be included. The list should be used for mailing of public notices as appropriate, or emails to those who have signed up for email notification.

2. Availability of Proposals and Alternatives

The City will maintain documents so that they are readily available to distribute in a timely manner to all who want to review them. Documents that contain or describe proposed plans, policies, maps, regulations, or the amendment of those, as well as supporting documents such as reports, analysis, recommendations, or environmental reviews should be easily accessible. All documents must be available for review in advance of the opportunities for public discussion or testimony at least 5 days prior to a public hearing or public workshop in the following ways:

- Through** the City’s website or by email upon request;
- Hard copies** will be available for review or reproduction at City Hall or as appropriate, through other agencies;
- Hearing and workshop notices** should state the availability and location of documents describing proposals and alternatives or other supporting documents under consideration;

At the City’s discretion, additional notice may be provided in the following ways:

- Posting** the property for site-specific purposes;
- Notifying** public or private groups with known interest in certain proposals or in the type of proposal being considered;
- Placing** notices in appropriate regional, neighborhood, ethnic, or trade journals; and
- Publishing** notice in agency newsletters or sending notice to agency mailing lists, including general lists or lists for specific proposals or subject areas.

3. Public Meetings, Workshops, and Hearings

The City will provide public notice of public workshops and hearings to ensure that the community is made aware of the opportunities to become involved in the planning process. At a minimum, the requirements of Chapter 35A.63 RCW, Chapter 3670A RCW, Chapter 43.21C RCW and **Ordinance No 17-XXXX** (pertaining to public hearings and notification), will always be met. However, the City may go beyond the legal minimums to ensure the public is aware of meetings or hearings and of their opportunity to be involved in local planning efforts.

- Public meetings, workshops, open houses, and design forums** are opportunities for open discussion between the public, staff and decision-makers that do not normally involve public testimony.
 - As appropriate, given the specific proposal public workshops should be hosted prior to public hearing(s) as a means to involve and educate the public and solicit their opinions, reactions, or suggestions. The number of workshops should be based on the specific circumstances of the case;
- Public hearings** are more formalized, legal proceedings, where public testimony is presented to a decision-maker for consideration. The result of a public hearing generally consists of an official recommendation in the case of the Planning Commission or a legislative decision by the City Council.
 - At least one public hearing will be conducted prior to making either a recommendation or an official decision on a comprehensive plan, a development regulation implementing the plan, or an amendment to either;
- The public** shall also have the opportunity to attend regular or special meetings to observe and aid in discussion topics before the Council and its various boards and commissions.
- Working subgroup meetings** may deviate from the above techniques due to the unique circumstances associated with their function. These include the rapid, high volume, recurring meetings of technical committees, subcommittees, or work groups which focus their efforts on specific issues or limited supporting tasks (as opposed to meetings of a quorum of the Planning Commission or City Council in which they

consider complete draft plans, regulations, or amendment proposals meant to result in a formal recommendation or official decision.

4. Opportunity for Open Discussion

The City will ensure that public meetings allow for an open discussion of the relevant issues and that hearings allow for appropriate public testimony. When public meetings, workshops, or hearings are conducted, the City will ensure that those who choose to participate in the planning process have the opportunity to take part and have their opinions heard. To ensure participation opportunities, the following actions will be implemented:

- **Establish** an agenda that clearly defines the purpose of the meeting or hearing, the items to be considered, and actions that may be taken. If available early, the agenda should be included or summarized in the notice(s);
- **The scheduled** date, time, and place should be convenient so as to encourage the greatest number of people to attend;
- **A Clearly** identifiable facilitator or chair will conduct the meeting or hearing in an orderly fashion to ensure that all attendees have an opportunity to discuss issues, offer comments, or provide testimony;
- **The facilitator** or chair should provide introductory remarks outlining the purpose of the meeting or hearing and describing how the attendees can best participate and how their input may be used;
- **As appropriate**, City staff may provide a brief overview of any documents or proposals to be considered;
- **All persons** desiring to participate should be allowed to do so. However, specific factors, such as the purpose of the meeting, size of attendance, time factors, or other opportunities to participate, may suggest some appropriate constraints to be applied. Rules of order for the meeting or hearing should be set forth clearly by the chair or facilitator.
- **All attendees** will be encouraged to identify themselves on a sign-in sheet;
- **All meetings** and hearings should be recorded;

- **Written** findings, decisions, and minutes should be prepared and available as soon as possible following a hearing;
- **Special** arrangements for meetings or hearings will be made under the provisions of the Americans with Disabilities Act (ADA) with advance notice;
- **If the City Council** chooses to consider a change to an amendment to the comprehensive plan or development regulation, and the change proposed after the opportunity for review and comment has passed under the City's procedures, an opportunity for public review and comments on the proposed change shall be provided before the City Council votes on the proposed change (per RC 36.70A.035(2)); and
- **As set forth in RCW 36.70A.035(2)(b)**, an additional opportunity for public review and comment is not required if:
 - An environmental impact statement has been prepared under Chapter 43.21C RCW for the pending resolution or ordinance and the proposed change is within the range of alternatives considered in the environmental impact statement;
 - The proposed change is within the scope of the alternatives available for public comment;
 - The proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;
 - The proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or
 - The proposed change is to a resolution or ordinance enacting a moratorium or interim control adopted under RCW 36.70A.390.

5. Opportunity for Written Comments

The City will encourage submission of written comments or written testimony throughout the planning process. In many instances, detailed, technical, or personal comments can be best expressed and understood in written format. The following steps should be taken to encourage written comments:

- **As appropriate**, notices for meetings, workshops, and hearings should include the name and address of the person(s) to whom written comments should be sent, along with the deadline for submitting comments;
- **Persons** speaking or testifying should be encouraged to concisely express their comments verbally and provide specific details in written format;
- **The deadline** for submitting written comments, if allowed subsequent to a meeting or hearing, should be clearly announced by the facilitator or chair;
- **Comment** sheets for written public input should be available at all workshops with the deadline for submitting the completed sheets to City Hall noted;
- **Innovative** techniques, as appropriate to a specific planning task, should be developed and implemented to solicit and document the public's concerns, suggestions, or visions for the community. Techniques may include, but are not limited to, surveys, interactive displays, or the innovative use of electronic communication technologies.

6. Consideration of and Response to Public Comments

The City will consider relevant public comments and public testimony in the decision-making process. Various methods for informing and involving the public, providing public notice of proposals, and soliciting public opinion or comments have been established above. Many of those represent the initial steps for bringing public comments into the decision-making process. Other guidelines set the stage for decision-makers to consider those comments. (For example, tape recording meetings or hearings and soliciting written comments allow decision-makers the opportunity to review and consider relevant information in detail before a decision is actually made.)

Additional steps will be taken so that comments and recommendations from the public are reviewed by the decision-makers for relevancy. Those would include the following:

- **Time** should be reserved subsequent to the close of a hearing or comment deadline and prior to an actual decision so that the decision maker(s) can adequately review all relevant material or comments. Reconvening a hearing for the purpose of addressing comments is an option that the decision maker(s) may use on a case-by-case basis;
- **Substantive** comments pertaining to studies, analyses, or reports, along with necessary responses, should be included in the published document itself (such as occurs in the SEPA process of developing a Draft Environmental Impact Statement (EIS) and then a Final EIS with comments and responses);
- **The record** (such as tape recordings, written comments or testimony, documents, summaries, etc.) will be compiled and maintained by the City. That record will be made available to the decision maker(s) for their consideration and review prior to a decision. Relevant comments or testimony should be addressed through the findings-of-fact portion of the decision maker's written decision or recommendation.



**CITY OF EDGEWOOD
STAFF REPORT
PLANNING COMMISSION AGENDA ITEM:**

Date: March 6, 2017

Title: Development Agreement Code Revisions

Attachments: DRAFT Development Agreement Ordinance

Submitted By: Kevin Stender, Community Development Director

Approved For Agenda By: Daryl Eiding, Mayor

Discussion: Continued Discussion from February 27, 2017. The City's code outlines development agreements as an option within EMC Title 18.50.090 and EMC Section 18.90.015. The development agreement process outlined within the EMC has some areas of concern that need revisions. Staff has been reviewing this section with our legal counsel and together have prepared the attached DRAFT ordinance for review at the 2/27 meeting. The biggest issue is that a development agreement by State law (RCW 36.70b.170) cannot modify the municipal code and must be consistent with the code in place.

Recommendation: Review DRAFT Development Agreement Ordinance, set a Public Hearing Date, March 20, 2017 prior to forming a recommendation to the City Council.

Fiscal Impact: N/A

DRAFT – 2/22/17

ORDINANCE NO. 17-XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, RELATING TO LAND USE AND ZONING, ADOPTING PROCEDURES FOR THE EXECUTION OF DEVELOPMENT AGREEMENTS WITH PROPERTY OWNERS, REQUIRING CONSISTENCY WITH EXISTING DEVELOPMENT REGULATIONS AS REQUIRED BY RCW 36.70B.170, IDENTIFYING THE ELEMENTS OF A COMPLETE APPLICATION FOR A DEVELOPMENT AGREEMENT, DESCRIBING THE PROCEDURE FOR PROCESSING DEVELOPMENT AGREEMENTS, CLARIFYING THE EFFECT, FORMAT, REQUIREMENTS FOR PUBLIC HEARING ON DEVELOPMENT AGREEMENTS, RECORDING, APPEALS AND REVISIONS TO APPROVED DEVELOPMENT AGREEMENTS; ADOPTING A NEW CHAPTER __. __ TO THE EDGEWOOD MUNICIPAL CODE, REPEALING SECTIONS 18.50.090 AND 18.90.015 OF THE EDGEWOOD MUNICIPAL CODE, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Edgewood desires to amend its procedures allowing the City to enter into development agreements with property owners, so that such procedures are consistent with RCW 36.70B.170 through RCW 36.70B.200; and

WHEREAS, the City’s existing code provisions are incomplete and inconsistent with law, because they allow modifications of development regulations through a development agreement; and

WHEREAS, the City further desires to add provisions in its code relating to development agreements that will add provisions better enabling the City to evaluate and approve development agreements, such as a list of materials needed to process a development agreement; and

WHEREAS the SEPA Responsible Official has determined that this Ordinance is categorically exempt from SEPA as affecting only procedural and no substantive standards, pursuant to WAC 197-11-800(19); and

WHEREAS, after providing the requisite public notice, the Planning Commission held a public hearing on _____, 201_, to consider this Ordinance, together with public testimony, and forwarded its recommendation to the City Council; and

WHEREAS, the City Council consider this Ordinance during its regular City Council meeting on _____, 201_; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, ORDAINS
AS FOLLOWS:

Section 1. Section 18.50.090 of the Edgewood Municipal Code is hereby repealed.

Section 2. Section 18.90.015 of the Edgewood Municipal Code is hereby repealed.

Section 3. A new Chapter ___ is hereby added to the Edgewood Municipal Code, which shall read as follows:

Chapter ___
DEVELOPMENT AGREEMENTS

Sections:

- ___ .010 Intent and Purpose.**
 - ___ .020 Form of Agreement, Effect and General Provisions.**
 - ___ .030 Application Requirements.**
 - ___ .040 Public Notice of Public Hearing.**
 - ___ .050 SEPA.**
 - ___ .060 Phasing.**
 - ___ .070 Processing Procedures and Appeals.**
 - ___ .080 Revisions to Approved Development Agreements.**
-

___ .010 Intent and Purpose.

The purpose of this chapter is to authorize the use of development agreements, consistent with RCW 36.70B.170 through RCW 36.70B.210. The City may, but

under no circumstances is required to, enter into a development agreement with a person having ownership or control of real property within the City (or real property lying outside the City limits but within the urban growth area). The development agreement may address such project elements as those set forth in RCW 36.70B.170B(3). The development agreement shall be consistent with the applicable portions of the comprehensive plan as well as the development regulations of the City. The consideration provided by the property owner for the City's decision to enter into the development agreement may vary, depending on the benefit the development agreement will provide to the City and/or the public in general.

___.020 Form of Agreement, Effect and General Provisions.

A. **Form.** All development agreements shall be on the standard form approved in advance by the City Attorney for this purpose.

B. **Effect.** Development agreements are not project permit applications and are not subject to the permit processing procedures in Chapter 36.70B RCW and Title __ of the Edgewood Municipal Code. A development agreement shall constitute a binding contract between the City and the property owner and the subsequent owners of any later-acquired interests in the property identified in the development agreement. A development agreement governs the project identified in the development agreement during the term of the development agreement, or for all or that part of the build-out period specified in the development agreement, and may not be subject to an amendment to a zoning ordinance or development standard adopted after the effective date of the agreement. A permit or approval issued/granted by the City after execution of a valid development agreement must be consistent with the development agreement.

C. **Limitations.** Any provision of the development agreement which requires the City to: (1) forego adoption of any development regulations affecting the property identified in the agreement; and/or (2) allow vesting beyond the applicable deadlines for a phased development; shall be limited to a period of () years.¹ The development agreement shall also reserve authority to impose new or different regulations during the term of the development agreement, to the extent required by a serious threat to public health and safety. This proviso shall clearly state that the City may, without incurring any liability, engage in action that would otherwise be a breach if the City adopts findings of fact to support a determination on the record that the action is necessary to avoid a

¹ The reason this is blank is so that the City Council can add a number which is their outside limit on the length of time that the Council will allow for vesting in any development agreement. Most development agreements are for the purpose of allowing a large project to be constructed in phases, and the developer usually asks for an extended vesting period so that the entire project may be constructed under the same code provisions. While the length of the vesting period allowed in an individual development agreement may vary on the public benefits provided by the subdivision, there should be an outside limit in the code so that all developers are treated equally.

serious threat to public health and safety, or if the action is required by federal or state law.

D. Developer's Compliance. The development agreement shall include a clause stating that the City's duties under the agreement are expressly conditioned upon the property owner's substantial compliance with each and every term, condition, provision and/or covenant in the development agreement, all applicable federal, state and local laws and regulations and the property owner's obligations as identified in any approval or project permit for the property identified in the development agreement.

E. No Third Party Rights. Except as otherwise provided in the development agreement, the development agreement shall create no rights enforceable by any party who/which is not a party to the development agreement.

F. Liability. The development agreement shall include clause providing that any breach of the development agreement by the City shall give rise only to damages under state contract law and shall not give rise to any liability under chapter 64.40 RCW, the Fifth and Fourteenth Amendments to the U.S. Constitution or similar state constitutional provisions.

G. Termination. Every development agreement shall have an identified, specific termination date. Upon termination, any further development of the property shall conform to the development regulations applicable to the property.

___.__.030 Application Requirements. A complete application for a development agreement shall consist of the following:

A. Name, address, telephone number and e-mail address of the property owner. If the applicant is not the property owner, the applicant must submit a verified statement from the property owner that the applicant has the property owner's permission to submit the application. Only the property owner has authority to sign the development agreement;

B. Address, parcel number and legal description of the property proposed to be subject to the development agreement;

C. Recent title report confirming that the property identified in the application is owned by the applicant-property owner;

D. Identification of any application (project permit application, comprehensive plan amendment application, development regulation amendment application) that is related to the proposed development agreement;

E. SEPA Checklist;

F. A completed application form and the application fee established by the City for this purpose;

G. Description of the purpose of the development agreement, or the proposed language to be included in the development agreement, and how it complies with both the City's comprehensive plan and development regulations; and

H. Any other information requested by the Community Development Director relevant to the processing of the development agreement.²

___.__.040 Public Notice of the Public Hearing.

A. Project Permit Applications. Public notice of the public hearing on a development agreement associated with an underlying project permit application shall be provided consistent with Section [REDACTED] EMC.

B. Legislative Action. Public notice of the public hearing on development agreements associated with an underlying legislative action or application shall be provided consistent with Section [REDACTED] EMC.

C. No Underlying Application or Action. Public notice of the public hearing on development agreements for which there is no underlying application or action, such as revisions to development agreements, shall be provided consistent with both Sections [REDACTED] EMC.

___.__.050 SEPA. The City shall comply with SEPA, chapter [REDACTED] EMC in order to process a development agreement to a final decision. Appeals of the City's SEPA threshold decision shall be consolidated with the public hearing on the underlying project permit application or legislative application/action and addressed as set forth in chapter [REDACTED] EMC (SEPA).

___.__.060. Phasing.

A. In order to phase a development, and to extend the vested rights associated with an underlying project permit application, a development agreement is required. This ensures the availability of public facilities and services to all of the property in the identified individual phases, allows tracking of the available capacity of public facilities and utilities during each phase of construction, and with the extension of the vested rights associated with the project, provides certainty to the developer in the subsequent development approval process.

B. The deadlines in the City's code relating to each type of project permit application must be consulted to establish the baseline vesting period. The City is not required to extend the vesting period. If the City decides to do so through a development agreement, it must be in exchange for the property owner's

² Development agreements are not subject to RCW 36.70B.080.

provision of corresponding benefits to the City in the form of, for example, contributions to public facilities and amenities over and above what would normally be required. In any event, the City shall not allow vesting to extend beyond the established () year period in Section _____.020(C) after approval of the project permit application.

C. A development agreement for a phased development (such as a subdivision) shall include (in addition to all of the information in Section _____.030), all of the following:

1. identification of the phasing schedule;
2. identification of the number of phases and all lots included in each phase;
3. identification of the approximate dates for construction of public streets, public utilities and other improvements in each phase;
4. identification of the approximate dates for commencement of development of each lot, lot sales and building occupancy;
5. identification of the benefits that the property owner will provide to the City in exchange for permission to phase the development according to the proposed schedule;
6. establishment of the deadline for the property owner to submit development applications, including building permit applications, for each phase;
7. a description of the manner in which each phase is designed such that all site requirements are satisfied independently of phases yet to be given final approval and constructed;
8. a description of the manner in which the property owner will ensure that adequate public facilities are available when the impact of development occurs. The property owner shall acknowledge in the development agreement that if the demand for public facilities or services needed to accommodate a subsequent development phase increases following the issuance of a development permit for a prior phase in the approval process, or if public facilities or services included in a concurrency or SEPA determination are not constructed as scheduled in the City's capital facilities plan, final development approval may have to be delayed for future phases pending the achievement of the adopted levels of service.

____.070 **Processing Procedures and Appeals.** Development agreements are not defined as "project permit applications," in RCW 36.70B.020 and are not subject to the permit processing procedures in chapter 36.70B RCW.

A. Project Permit Applications. Development agreements associated with project permit applications shall be processed as follows.

1. *Consolidation.* Whenever possible, the development agreement shall be consolidated for processing with an underlying project permit application or other application for approval. If the development agreement is consolidated

with a project permit application, the property owner must agree to waive the deadline in RCW 36.70B.080 and EMC Section ____ for issuance of a final decision on the underlying application, as well as the prohibition on no more than one open record hearing and one closed record hearing on the underlying project permit application in RCW 36.70B.060(3) and EMC Section ____.

2. *Recommendation, Public Hearing and Final Decision.*

a. Hearing Examiner makes final decision. If the final decision on the underlying project permit application is made by the hearing examiner, then he/she shall consider both the project permit application and the proposed development agreement together, during the public hearing. The hearing examiner shall make a recommendation to the council on the development agreement, and his/her decision on the underlying permit application shall be held in abeyance until the city council considers the proposed development agreement in a public hearing. If the city council approves the development agreement, the council shall, by resolution or ordinance, authorize the mayor to execute the development agreement on behalf of the city. At this point, the hearing examiner may issue his/her final decision on the underlying project permit application. Nothing in this section obligates the hearing examiner to forward a recommendation to the city council on the development agreement if the hearing examiner denies the underlying project permit application.

b. Staff makes final decision. If the final decision on the underlying project permit application is made by the city administrative staff, then the city staff shall consider both the project permit application and the proposed development agreement together. The city staff shall make a recommendation to the city council on the development agreement, and the city staff's decision on the underlying project permit application shall be held in abeyance until the city council considers the proposed development agreement in a public hearing. If the city council approves the development agreement, the council shall, by resolution or ordinance, authorize the mayor to execute the development agreement on behalf of the city. At this point, the city staff may then issue its final decision on the underlying project permit application. Nothing in this section obligates the city staff to forward a recommendation to the city council on the development agreement if the city staff denies the underlying project permit application.

B. Legislative Applications. A development agreement associated with a legislative action such as a comprehensive plan amendment or area-wide rezone shall be processed in accordance with the procedures established for legislative actions. The planning commission shall make its recommendation to the city council on any development agreement relating to legislative action. A public hearing shall be held on the development agreement (and underlying legislative action) and if consistent with this chapter, the council may pass a resolution or ordinance authorizing the mayor to execute the development agreement on behalf of the city.

C. Appeal.

1. A development agreement associated with an underlying project permit application may be judicially appealed in the same manner and within the same deadline as the underlying project permit application.

2. A development agreement associated with a legislative approval, such as a comprehensive plan amendment, may be appealed in the same manner and within the same deadline as the legislative approval. Appeals may be directed to the Growth Management Hearings Board, the Shoreline Hearings Board or to the Superior Court, but there is no further administrative appeal before the City.

D. Recording Against the Property. The City shall record the development agreement against the property (at the property owner's cost) in the real property records of the Pierce County Auditor.

___.080 Revisions to Approved Development Agreements. All of the provisions of EMC Section _____.020 shall apply to revisions to approved development agreements. A complete application for a revision to an approved development agreement shall consist of the materials described in EMC Section ___.030.

A. Criteria for Approval. The proposed revision to the Development Agreement must be consistent with: (1) the applicable portions of the Comprehensive Plan in effect at the time the revision application is submitted; (2) the applicable portions of the development regulations at the time the revision application is submitted; (3) the decision in the underlying project permit application or the underlying legislative decision. If the revision involves an extension of the termination date, the City Council must make findings and conclusions after evaluation of all of the information in subsection (B) below. The City Council shall not approve any revision of an approved development agreement involving an extension of the termination date for purposes of extension of the applicant's vested rights, unless the Council makes a finding that the extension is in the public interest.

B. Extension of Termination Date. If the applicant requests an extension of the termination date in order to extend his/her vested rights with regard to phasing of the development, the application materials submitted by the applicant shall provide the following additional information for the Council to review:

1. A list of the development regulations that have been amended by the City since the development agreement was originally approved;

2. A comparison of the effect of the amended development regulations (identified in subsection B(1) above) with the development regulations used to approve the original development agreement; and

3. An up-to-date concurrency evaluation of the City's water rights, sewer capacity and transportation system as applied to the proposed revision, and the effect that approval of the proposed revisions to the development agreement would have on the City's water availability, sewer capacity and transportation concurrency.

C. Public Hearing. In order to revise an approved development agreement, the City must follow the procedures associated with approval of the original development agreement. *See*, EMC Section __.__.050(A).

D. Recording Against the Property and Appeals. Appeals of a revised development agreement shall follow the procedures in EMC Section __.__.050(C). The development agreement shall be recorded against the property as set forth in EMC Section __.__.070(D).

Section 4. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 5. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 6. Effective Date. This Ordinance shall become effective five days after publication as provided by law.

PASSED by the Council and approved by the Mayor of the City of Edgewood, this ____th day of _____, 201_.

CITY OF

Mayor

ATTEST/AUTHENTICATED:

City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO: