

## ORDINANCE 2025-O-05

Ordinance No. 2025-O-05

Date: August 26<sup>th</sup>, 2025

### **AN ORDINANCE OF THE EMIGRATION CANYON COUNCIL ELIMINATING THE AGRICULTURAL EXEMPTION TO THE REQUIREMENTS FOR BUILDING AND LAND USE PERMITS IN SUBSECTION 19.02.090 AND REPEALING AND REPLACING CHAPTER 19.02 GENERAL PROVISIONS AND ADMINISTRATION.**

#### RECITALS

**WHEREAS**, Emigration Canyon is a municipality and has authority to adopt land use regulations, pursuant to Utah Code § 10-9a-501 in accordance with the Municipal Land Use, Development, and Management Act, Title 10, Section 9a, Utah Code; and

**WHEREAS**, the Council deems it necessary to amend its land use ordinances to consolidate and update its General Provisions and Administration into Chapter 19.02 of the Zoning Ordinance; and

**WHEREAS**, the Emigration Canyon Planning Commission held a public hearing on July 10<sup>th</sup>, 2025, to consider a land use ordinance eliminating the Agricultural Exemption to the Building and Use Permit requirement in Subsection 19.02.090; and

**WHEREAS**, the Emigration Canyon Planning Commission held a public hearing on July 10<sup>th</sup>, 2025, to consider a land use ordinance to consolidate and update its General Provisions and Administration into Chapter 19.02 of the Zoning Ordinance; and

**WHEREAS**, the agricultural exemption to be eliminated is part of Chapter 19.02 and can be adopted as part of the action to repeal and replace the General Provisions and Administration; and

**WHEREAS**, the Planning Commission has recommended that the Council repeal the existing Chapter 19.02 General Provisions and Administration and replace it with the Chapter 19.02 General Provisions and Administration that includes the elimination of the agricultural exemption to building and use permits attached to this ordinance as Attachment A for the protection and preservation of the public health, safety and general welfare.

**BE IT ORDAINED BY THE EMIGRATION CANYON CITY COUNCIL** as follows:

1. Chapter 19.02 General Provisions and Administration is repealed and replaced with the language in **Attachment A** to this Ordinance.
2. Severability. If a court of competent jurisdiction determines that any part of this Ordinance is unconstitutional or invalid, then such portion of this Ordinance, or

specific application of this Ordinance, shall be severed from the remainder, which shall continue in full force and effect.

3. Direction to Staff. Staff are authorized and directed to take such steps as may be needed: (a) for this ordinance to become effective under Utah law, including but not limited to compliance with the requirements of Utah Code § 10-3-711; and (b) to finalize and post the ordinance to Municode, including but not limited to making non-substantive edits to correct any scrivener's, formatting, and numbering errors.
4. Effective Date. This Ordinance will take effect immediately upon posting pursuant to Utah Code § 10-3-712.

**PASSED AND ADOPTED** this 26<sup>th</sup> day of August 2025.

EMIGRATION CANYON CITY COUNCIL



By: Joe Smolka, Mayor

ATTEST

  
Diana Baun, Recorder

Voting:

Mayor Smolka	voting	<u>aye</u>
Council Member Hawkes	voting	<u>aye</u>
Council Member Brems	voting	<u>aye</u>
Council Member Harris	voting	<u>aye</u>
Council Member Pinon	voting	<u>aye</u>

*(Complete as Applicable)*

Date ordinance summary was published on the Utah Public Notice Website per Utah Code §10-3-711: August 29, 2025

Effective date of ordinance: August 29, 2025

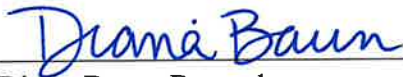
**SUMMARY OF**  
**EMIGRATION CANYON CITY**  
**ORDINANCE NO. 2025-O-05**

On August 26<sup>th</sup>, 2025, the Emigration Canyon Council enacted Ordinance No. 2025-O-05, repealing and replacing Chapter 19.02 General Provisions and Administration.



By: Joe Smolka, Mayor

ATTEST



Diana Baun, Recorder

Voting:

Mayor Smolka	voting	<u>aye</u>
Council Member Hawkes	voting	<u>aye</u>
Council Member Brems	voting	<u>aye</u>
Council Member Harris	voting	<u>aye</u>
Council Member Pinon	voting	<u>aye</u>

A complete copy of Ordinance No. 2025-O-05 is available in the office of the Emigration Canyon Recorder, 860 Levoy Drive, Suite 300 Taylorsville, UT 84123.

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By: Joe Smolka, Mayor

ATTEST

  
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Voting:

Mayor Smolka	voting	<u>aye</u>
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## ATTACHMENT A

### Chapter 19.02: General Provisions and Administration

#### 19.02.010 - Title For Citation

This Title is known as "The Zoning Ordinance of the Emigration Canyon City" and is referred to herein as "the Ordinance" or "this Ordinance."

#### 19.02.020 - Reserved

#### 19.02.030 - Purpose

A. The Ordinance is intended to promote and support the goals and policies of the Emigration Canyon City's General Plan, and for the following purposes:

1. To promote the general health, safety and welfare of the present and future inhabitants, businesses, and visitors of Emigration Canyon,
2. To support small-scale economic opportunities and business that promote outdoor recreation, community services for residents, environmental preservation, or sustainable transportation,
3. To support sustainable and responsible recreation and tourism,
4. To regulate responsible alteration and development of land that promotes safety for people, wildlife, water, and the natural landscape.
5. To provide for well-planned commercial and residential centers, safe and efficient traffic and pedestrian circulation, preservation of night skies and efficient delivery of municipal services,
6. To secure safety from fire and other dangers, and
7. To regulate housing and development to reduce impacts on the environment.

#### 19.02.040 - Applicability

A. Territorial Application. All land and parcels of real property within the jurisdictional limits of the Emigration Canyon City are covered by the provisions of this Ordinance.

B. General Applicability.

1. The regulations contained in this Ordinance apply to all uses, structures, and parcels of real property, including those recorded prior to the enactment of this Ordinance.
2. Every dwelling shall be located and maintained on a lot, as defined in this Ordinance. Except for dwelling groups, not more than one (1) dwelling structure may occupy one (1) lot.

C. General Prohibition. No portion or whole of any structure or land may be used, occupied, constructed, moved, enlarged, or structurally altered except as provided by this Ordinance. Land needed to meet

the width, yard, area, coverage, parking or other requirements of this Title for a lot or building shall not be sold or conveyed away from such lot or building.

- D. Private Agreements. This Ordinance is not intended to enforce any private agreement or covenant. If this Ordinance is more restrictive than a private agreement or covenant, this Ordinance prevails.
- E. Other Laws and Regulations. This Ordinance supersedes less restrictive State or municipal statutes, ordinances, or regulations.

#### **19.02.050 - Transition Rules**

- A. In those instances where this Ordinance conflicts with previously applicable zoning regulations, the following rules apply:
  - 1. Division of Consolidated Lots. Previously platted lots consolidated into one taxable parcel may not be re-divided into lots smaller than the minimum area required in the underlying zone.
  - 2. Previously Issued Building Permits. If a building permit for a structure was lawfully issued prior to the effective date of this Ordinance or any amendments to this Ordinance, and if construction has begun within one hundred and eighty (180) days of the issuance of that permit, the structure may be completed in accordance with the plans on the basis of which the building permit was issued and upon completion may be occupied under an occupancy permit for the use originally intended.
  - 3. Previously Granted Approvals.
    - a. All approvals granted prior to the effective date of this Ordinance remain in full force and effect. The recipient of the approval may proceed to develop the property in accordance with the approved plans and any applicable conditions.
    - b. If the recipient has failed to act on an approval before the approval expires, including any periods of extension granted, the provisions of this Ordinance control.

#### **19.02.060 - Inactive Applications**

Applications for property development and/or use permits shall be actively pursued to a final decision by the town. If no activity such as plan submittals, reviews, meetings, or communication by the applicant has occurred on an application for one hundred eighty (180) days, the application will be deemed as inactive, and the file closed. The applicant may submit a written request to maintain the application as active, wherein upon finding that there is good cause and reasonable belief that the application will be pursued to completion, the Director, or their designee may grant a one-time ninety (90) day extension. Once a file is closed, an applicant will be required to reapply for permits or development.

#### **19.02.070 - Severability**

If any provision of this Ordinance is adjudged by any court of competent jurisdiction to be invalid, that judgment does not affect, impair, invalidate or nullify the remaining provisions of this Ordinance. The effect of the judgment is confined to the provision immediately involved in the controversy in which the judgment or decree was rendered.

### **19.02.080 - Vesting**

- A. An Applicant is entitled to a substantive review and approval of a land Use Application if the Application conforms to the requirements of the Town's Land Use and Zoning Maps, the municipal specification for public improvements application to a Subdivision or Development, and the applicable land Use ordinance in effect when a Complete Application is submitted and all fees have been paid, unless:
  - 1. the land Use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the Application; or
  - 2. before the Application is submitted, the municipality has formally initiated proceedings by publicly noticing an amendment to its ordinances in a manner that would prohibit approval of the Application as submitted.
- B. The municipality shall process an Application without regard to proceedings initiated to amend the municipality's ordinances if:
  - 1. 180 days have passed since the proceedings were initiated; and
  - 2. The proceedings have not resulted in an enactment that prohibits approval of the Application as submitted.
- A. An Application for a Land Use approval is considered, submitted and complete when the Application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.
- B. The continuing validity of an approval of a land Use Application is conditioned upon the Applicant proceeding after approval to implement the approval with reasonable diligence.
- C. A municipality is bound by the terms and standards of applicable land Use ordinances and shall comply with mandatory provisions of those ordinances.

### **19.02.090 - Building and Use Permits Required**

Construction, alteration, repair or removal of any building or structure, or any part thereof, as provided or as restricted in this title, shall not be commenced or proceeded with except after the issuance of a written permit for the same by the Building Official. The use of the land shall not be commenced or proceeded with except upon the issuance of a written permit for the same by the Director or designee.

### **19.02.100 - Time Computation**

- A. In computing any period of time prescribed or allowed by this title, the day of the act, event or decision after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day, which is neither a Saturday, Sunday or a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays

shall be excluded in the computation. A half-holiday shall be considered as other days and not as a holiday.

- B. The date of a decision or recommendation of the planning commission shall be the date of the public meeting or hearing such decision or recommendation is made. If the decision is made by the development services director, the date of the decision shall be the date specified on the property owner's notification letter in the application file.

#### **19.02.110 - Interpretation as Minimum Requirements**

In interpreting and applying the provisions of this title, the requirements contained herein are declared to be the minimum requirements for the purposes set forth.

#### **19.02.120 – Permit and Licensing Requirements**

All departments, officials and public employees of the City which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title and shall issue no permits or licenses for use, building or purpose where the same would be in conflict with the provisions of this title, and any such permit or license, if issued in conflict with the provisions of this title, shall be null and void.

#### **19.02.130 - Land Use Applications**

The Director of Planning and Development Services ("the Director") or the director's designee shall be the administrator of the Emigration Canyon City zoning ordinance. In order to assure that each proposed land use or proposed amendment to an existing land use is handled consistently and fully complies with the provisions of this title, the director or director's designee shall administer application and review procedures as outlined herein unless specific procedures are otherwise provided in the zoning ordinance. Applications shall be diligently prosecuted to completion by the applicant to ensure that any action taken to approve or deny an application is based on current information. An application shall not be considered complete until all application fees have been paid and all required materials have been submitted. The payment of a partial fee and preliminary plans for a pre-submittal review does not constitute a complete application. The land use application process shall consist of the following:

- A. An application procedure, which shall include:
  - 1. Submission of an application form, as designed by the Director or designee, which clearly indicates the type and purpose of the application, property address, and applicant information;
  - 2. Submission of a legal description of the property plat, a designated number of site plans, building elevations, and mailing labels (if required) for notifications;
  - 3. Payment of fees, as required under Title 3, Revenue and Finance.
- B. A review procedure, which may include:
  - 1. The creation of a planning file by which the applicant, staff, and the public can refer to the proposed land use;

2. An on-site review by the Director or designee as allowed in Utah Code 10-9a-303;
  3. Review of the submitted site plan and elevations for compliance with the zoning ordinance;
  4. Referral of the application and site plans to those government agencies and/or affected entities necessary to protect the health, safety, and welfare of the public and to ensure the project's compliance with all applicable ordinances and codes;
- C. An approval procedure, which shall include:
1. The integration of the recommendations from the other government agencies and affected entities involved in subsection (B)(4) of this section into the final site plan and/or elevations;
  2. An approval letter or other written document indicating the approval or denial of the application with appropriate conditions as needed to ensure compliance with all applicable codes, ordinances, and regulations;
  3. Provision of the approved site plan and approval letter or denial letter to the applicant in a timely manner.

#### **19.02.140 - Improvements--Performance Bonds**

- A. Any improvements required under this title or by the planning commission, including but not limited to walkways, fences, landscaping, streets, fire hydrants and parking, shall be satisfactorily installed prior to the City authorizing electrical service being provided; or, if no electrical service is required, prior to issuance of any occupancy permit for the land being developed. In lieu of actual completion of such improvements, or in the case of landscaping, in addition to, except where seasonal considerations reasonably preclude installation of live plant materials, and prior to electrical service being provided or occupancy permit, a developer may file with the Director or designee a cash or surety bond or escrow agreement or letter of credit, in an amount specified by the Director or designee, to ensure completion of improvements within one year. Ten percent (10%) of the bond amount for public improvements, such as walkways, road surfacing and fire hydrants, shall extend for a one-year period beyond the date the improvements are completed, to guarantee replacement of such defective public improvements. Ten percent (10%) of the bond amount for live plant materials shall extend for a one-year period beyond the date of planting to guarantee replacement of diseased or dead plants. Upon completion of the improvements for which a bond or escrow agreement has been filed, the developer shall call for inspections of the improvements by the Director or designee.
- B. If the Director or designee determines that the required improvements should be completed in a specified sequence and/or in less than a one-year period in order to protect the health, safety and welfare of the City or its residents from traffic, flood, drainage or other hazards, the Director or designee may require in approving the bond that the improvements be installed in a specified sequence and period which may be less than one year and shall incorporate such requirements in the bond.

- C. Such bonds shall be processed and released in accordance with the procedures set forth in Chapter 3.56 of this code.
- D. When the developer is a school district, municipality, service area, special-purpose district or other political subdivision of the state, the Mayor may waive the bond and accept a letter from the governing body guaranteeing installation of the improvements. Before approving any such waiver, the Mayor shall receive a recommendation from the Municipal Engineer.