

Meeting Body: Emigration Canyon Planning Commission

Meeting Date: September 26, 2024

File Number: OAM2024-001247

Subject: Proposed amendment to the Emigration Canyon Subdivision Ordinance, Title 18 of the Emigration Canyon Municipal Code, to comply with review timeframes, review cycle limits, land use authority designations and other amendments mandated by SB 174 and HB 476. P (Public Hearing)

Applicant: Emigration Canyon Council

Planner: Brian Tucker, Planning Manager

Project Type:

Subdivision Ordinance Text Amendment

Areas Affected: All of Emigration Canyon

Recommendation: Motion to recommend approval of the proposed amendments to Title 18 Subdivisions to comply with enrolled Senate Bill 174 of the 2023 General Session and House Bill 476 of the 2024 General Session of the Utah State Legislature.



GREATER SALT LAKE
**Municipal Services
District**

SUMMARY & BACKGROUND

The Utah State Legislature adopted Senate Bill 174 (SB 174) in 2023 and House Bill 476 (HB 476) in 2024, which amend various land use and development requirements for municipalities and counties, including subdivision review procedures. The "effective date" of the amended subdivision review procedures for SB 174 is December 31, 2024.

ATTACHMENTS

The following attachments are included as supplementary materials to the end of this staff report:

1. Proposed revisions to Title 18, Subdivisions

STAFF ANALYSIS

Issue before the Commission:

SB 174 includes sweeping changes and definitional changes that previously were not imposed. HB 476 includes both practical and definitional changes. Many of our existing policies, procedures, and provisions are already compliant, but Emigration Canyon has been advised by legal consultant, Jay Springer, attorney with Smith Hartvigsen, PLLC, that to ensure clarity, consistency, and compliance with State Code, several text amendments to Title 18 are warranted.

Legislative Mandate:

The primary effects of **Senate Bill 174** are:

- Requires cities and counties to identify an administrative land use authority for subdivision review and preliminary subdivision application approval for single-family dwellings, two-family dwellings, and townhomes;
- Prohibits city and county councils from acting as an administrative land use authority for subdivision plats or plat amendments—except for plat amendments or vacations that seek to reduce or remove dedicated public rights-of-way;
- Establishes subdivision review procedures for cities and counties, including defining review cycles and permitted requests, and establishes timelines and noticing requirements;
- Requires that a pre-application meeting be available to any interested applicant; and
- Requires certain administrative and processing standards be made publicly available on the municipal website.

The primary effects of **House Bill 476** are:

- Establishes that a subdivision improvement plan may be submitted with either a preliminary or final subdivision application but may not be required for both;
- Clarifies that a municipality may not require more than four review cycles for a subdivision improvement plan review and this applies to either the preliminary or final stage of the process depending on when the municipality requires a subdivision improvement plan be submitted;
- Establishes that a municipality may not engage in a substantive review outside the review cycle; and
- Adjusts the timelines for application review to include additional days for municipalities with a population of 5,000 or less.

Notice:

Notice of the public hearing before the Planning Commission has been given in accordance with Utah Code 10-9a-205 and Emigration Canyon Code 19.16.080. Notice was mailed to each affected entity. Physical notice was posted at the meeting location 10 days prior to the public hearing. Notice was posted on the Utah Public Notice Website, and Emigration Canyon's official website.

Review Procedure and Criteria:

The Emigration Canyon Council is the legislative authority for subdivision ordinance text amendments. The Council cannot amend the subdivision ordinance without first submitting the amendment to the Emigration Canyon Planning Commission for the Planning Commission's recommendation. The Planning Commission must hold a public hearing and review and

recommend an action to the Council. The Council must then hold a public meeting after which it may adopt, adopt with revisions, or reject the proposed text amendments recommended by the Planning Commission.

A text amendment can be approved if it is reasonably debatable that the decision could promote the public welfare. It is not necessary to show that the decision actually promotes the public welfare, or is the best alternative, as long as it is reasonably debatable that the public could benefit from the decision. Similarly, a text amendment can be denied if it is reasonably debatable that the decision could detrimentally impact the public welfare.

STAFF RECOMMENDATION

Planning Staff finds that:

1. In accordance with Utah Code, the proposed ordinance establishes that a municipality may now require a subdivision improvement plan to be submitted with a subdivision application but cannot require that the improvement plan be submitted with both the preliminary AND the final plan;
2. In accordance with Utah Code, the proposed ordinance establishes the review cycle requirements apply to whichever subdivision plan (either preliminary or final) that the subdivision improvement plan is submitted with;
3. In accordance with Utah Code, the proposed ordinance prohibits substantive review to occur outside the review cycle;
4. The proposed ordinance complies with the time period requirements in accordance with House Bill 476;
5. In accordance with House Bill 476, the proposed ordinance does not require a completion assurance bond for or dictate who installs or is responsible for the cost of the landscaping of residential lots or the equivalent open space surrounding single-family attached homes, whether platted as lots or common area.
6. The proposed amendment improves clarity and does not alter the subdivision process to any greater extent than mandated by SB 174 and HB 476 or as requested by Emigration Canyon; and
7. The proposed amendment does not affect any specific land use or property within Emigration Canyon, applying only to future applications to subdivide land within Emigration Canyon.

Given the above findings, staff recommends the following action:

Motion to recommend approval of the proposed amendments to Title 18 Subdivisions to comply with Senate Bill 174 (2023) and House Bill 476 (2024) of the Utah State Legislature and improve overall clarity of Title 18.

POTENTIAL PLANNING COMMISSION ACTIONS

The Planning Commission's role in the text amendment process is to provide a recommendation to the Emigration Canyon Council. After taking public comment, the Planning Commission could take any of the following actions, among others:

- Option 1. Recommended approval of the attached ordinance to the Emigration Canyon Council subject to staff and legal counsel's non-substantive and technical changes.
- Option 2. Recommended approval of the attached ordinance to the Emigration Canyon Council with changes subject to staff and legal counsel's non-substantive and technical changes.
- Option 3. Recommend that the Council deny the proposed ordinance.