

EMIGRATION CANYON CITY COUNCIL

Ordinance No. _____

Date: _____

AN ORDINANCE ENACTING TITLE 19.84 OF THE EMIGRATION CANYON CODE FOR CONDITIONAL USES

RECITALS

WHEREAS, Emigration Canyon (the “City”) is a municipality and has authority to adopt land use ordinances pertaining to Development Agreements pursuant to Utah Code §§ 10-20-101(2) and 10-20-508 of the Municipal Land Use, Development, and Management Act, Title 10, Section 20, Utah Code (“MLUDMA”); and

WHEREAS, the Council deems it necessary to update its land use ordinances to comply with current law and as the City determines appropriate and for the protection and preservation of public health, safety and general welfare; and

WHEREAS, the Emigration Canyon Planning Commission held a public hearing on [insert date of hearing] to consider [insert description of proposed code change or action] in accordance with Utah Code §§ 10-20-205 and 10-20-502 [or identify other statute or ordinance that provides authority]; and

WHEREAS, the Planning Commission has recommended that the Council enact Title 19.84 of the Emigration Canyon Code.

BE IT ORDAINED BY THE EMIGRATION CANYON COUNCIL as follows:

1. Title 19.84 is hereby adopted as set forth in Exhibit A.
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; (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; and (c) to renumber the enacted ordinance in Municode as proper organization dictates.

4. Effective Date. This ordinance will take effect immediately upon posting pursuant to Utah Code § 10-3-712.

PASSED AND ADOPTED this ____ day of _____ [Month] 202__.

EMIGRATION CANYON CITY COUNCIL

By: Mayor Brems

ATTEST

Diana Baun, Recorder

Voting:

Council Member _____ voting ____
Council Member _____ voting ____
Council Member _____ voting ____
Council Member _____ voting ____
Council Member _____ voting ____

(Complete as Applicable)

Date ordinance summary was posted to the [insert name] website, the Utah Public Notice website, and in a public place within [insert name] per Utah Code §10-3-711: _____
Effective date of ordinance: _____

EXHIBIT A

19.84 Conditional Uses

1. Initiation.

1. A property owner, or other person expressly authorized in writing by the property owner, may file for a conditional use permit for that property. In addition to the request for land use approval, a conditional use application may include a request for land development plan approval.
2. The Planning Commission is the land use authority and shall take formal action on requests for conditional use permits. When a land development plan is submitted in conjunction with a conditional use application, the land development plan shall be included in the materials presented to the Planning Commission. In rendering an approval, conditions of approval may be imposed by the Planning Commission that necessitate changes to the land development plan.
3. As administrator of this Ordinance, the Director is responsible for reviewing conditional use applications following the land use application review process outlined in section 19.02.130 to ensure the land development plan not only complies with the applicable codes and ordinances, but also that the final plan complies with the conditions of approval imposed by the Planning Commission. If, during the course of land development plan review, the Director finds changes are made to the site plan not in harmony with the conditions imposed by the Planning Commission, the Director may, at their discretion, refer the land development plan to the Planning Commission for review.

2. Land Use Approval.

1. Approval Process.

1. The Planning Commission shall consider applications for a conditional use permit in a public meeting and shall make a decision on the proposed conditional use, evaluating the application in accordance with the standards in Subsection D below.
2. The Planning Commission shall take action in the form of approval, modified approval or denial on applications for conditional uses. Unless otherwise designated, a decision by the Planning Commission approving a conditional use application authorizes the Director to proceed with approval of the land development plan.

3. The Planning Commission shall take action on a complete conditional use permit application within a reasonable time frame, not to exceed ninety (90) days from the date the application was first heard by the Planning Commission unless a further extension of time is requested by the applicant.
 4. Failure by the applicant to provide information that has been requested by the Planning Commission or the Director to resolve conflicts with the standards in Subsection C may result in an application being denied.
 2. The Director, under authority of the Planning Commission, shall grant final approval of conditional use permit applications after all of the conditions and requirements of the preliminary approval have been met. Applications with a land development plan element shall not receive final conditional use approval until the land development plan has been approved by the Director. As a condition of preliminary approval, the Planning Commission may require that final land development plan be brought before the Planning Commission for final approval.
 1. Final approval of a conditional use permit application is in the form of a letter to the applicant, which, together with the approved land development plan if required, constitutes the conditional use permit. Final approval shall not modify or invalidate any of the conditions or terms imposed by the Planning Commission.
3. Approval Standards. The Planning Commission shall review the site plan and other information submitted to evaluate the impacts of the proposed conditional use. The Planning Commission may impose conditions to mitigate the reasonably anticipated detrimental impacts of the proposed use. A conditional use permit shall be approved unless the imposition of conditions cannot mitigate reasonably anticipated detrimental effects in accordance with the following standards:
 1. The proposed site development plan complies with all applicable provisions of the zoning ordinance, including specific use standards, parking, building setbacks, and building height;
 2. The proposed use and site development plan complies with all other applicable laws and ordinances;
 3. The proposed use and site development plan does not present a serious traffic hazard or create anticipated traffic increases on the nearby road system which

exceeds the amounts called for under the adopted transportation engineering standards;

4. The proposed use and site development plan do not pose a serious threat to the safety of occupants or residents or properties in the vicinity by failure to adequately address the following issues: fire safety, geologic hazards, soil or slope conditions, liquefaction potential, site grading/topography, storm drainage/flood control, high ground water, environmental health hazards, or wetlands; and
 5. The proposed use and site development plan do not adversely impact properties in the vicinity of the site through lack of compatibility with adopted community general plan standards.
4. Rules for Approved Conditional Uses. The following general rules apply to all approved conditional uses:
 1. Approval of a conditional use authorizes only the particular use for which the conditional use is issued;
 2. No use authorized by a conditional use may be enlarged, extended or relocated, unless an application is made for approval of a new conditional use in accordance with the procedures set forth in this section; and
 3. Development of the property shall not commence until the applicant has secured all the permits and approvals required by municipal ordinances and any permits required by regional, state, and federal agencies.
 5. Expiration and Extension of Time.
 1. A conditional use expires twelve (12) months from the date of final approval by the Director, unless a building permit is obtained within such period and substantial construction is started or the use is commenced within such period in compliance with all required conditions and this Ordinance.
 2. One twelve (12) month extension may be granted upon the payment of an additional filing fee equal to the original filing fee. Such extension shall be filed before the end of the initial twelve (12) month period.
 6. Revocation of Conditional Use.
 1. The Planning Commission may revoke a conditional use permit upon a finding of failure to comply with the terms and conditions of the original approval or for any violation of this Ordinance or other applicable law.

2. The Planning Commission shall hold a public hearing prior to taking action on revocation. Notice of the hearing and the grounds for consideration of revocation shall be mailed to the permittee and affected entities at least ten (10) days prior to the hearing.

7. Amendments to Conditional Uses. Applications may be submitted for amendments to previously approved conditional uses or to sites for which conditional uses have been approved. Applications for amendment will be reviewed and approved in harmony with the provisions of Subsection D above but shall be evaluated for the anticipated impacts that will result from the specific amendment being requested. Approval authority for conditional use amendments is as follows:
 1. Director Approval
 1. The Director has the authority to approve the following conditional use amendments:
 1. Changes of use from one conditional use to another, where no site modifications are proposed or required, and where no significant additional impact will result;
 2. Amendments to the site plan that do not involve changing the land use and that also meet the following criteria:
 1. The building footprint is not increased by more than twenty percent (20%);
 2. The site acreage is not increased;
 3. No dwelling units are being added; and
 4. No significant additional impact will result.
 3. Amendments to the conditions of approval imposed upon a conditional use that the Director previously approved if the proposed change in conditions is the result of a clear change in the circumstances of the property, and the change is in harmony with Subsection C above; and
 4. Approval of a use that is listed as a conditional use in the zone, but which is clearly accessory to another land use on the property, and no significant additional impact will result.
 2. Planning Commission Approval. The Planning Commission has the authority to approve:
 1. All other amendments to conditional uses, and
 2. Amendments that may meet the criteria for Director approval outlined above, but for which the Director determines the public interest is better served by referring the application to the Planning Commission.

 8. Appeals. Appeals may be made to the Land use hearing officer within ten (10) days of the date of the decision of the Planning Commission or Director, as applicable.