

TOQUERVILLE CITY
RESOLUTION 2023.XX



A RESOLUTION SETTING FORTH THE POLICY OF TOQUERVILLE CITY REGARDING THE ESTABLISHMENT OF NEW PUBLIC INFRASTRUCTURE DISTRICTS WITHIN THE CITY'S MUNICIPAL BOUNDARIES.

RECITALS

WHEREAS Toquerville City ("City"), a Utah municipal corporation is a political subdivision of the State of Utah and a city of the 5th Class.

WHEREAS the City is governed by the Toquerville City Council consisting of five City Councilmembers and the Mayor who is a non-voting member and the chair of said body ("City Council").

WHEREAS in 2020 the Utah State Legislature adopted Utah Senate Bill 28 (codified as Utah Code Ann. 17D-4-101 *et seq* – the "PID Act") which effective May 5, 2021, allowed municipalities and counties to create Public Infrastructure Districts ("PIDs") for the purpose of funding and constructing public infrastructure thru the issuance of bonds that are repayable from property tax or special assessment revenues of that District.

WHEREAS although debt obligations of PIDs are not liabilities of the municipality or county that created them, they do create a long-term additional property tax obligation for individual property owners within the PIDs and have other effects upon the City and its residents generally.

WHEREAS currently within the City there have been established six different PIDs with service areas and boundaries generally located on the undeveloped west side of the City known as Pineview Public Infrastructure Districts 1 through 6.

WHEREAS as the real estate and development market (both residentially and commercially) has slowed gradually and interest rates for conventional financing has increased drastically, the City has received numerous inquiries from property owner and prospective developers regarding the City's willingness to sponsor the establishment of new PIDs that would fund the construction of public infrastructure in areas the City that are generally unimproved or need significant public infrastructure to be installed before meaning for development can occur.

WHEREAS pursuant to Utah Code Ann 17D-4-201(8) the creation of PIDs is subject to the sole discretion of the creating entity responsible for approving or rejecting a petition for the creation of said PID and the creating entity bears no liability to a petitioner for rejecting a petition.

WHEREAS pursuant to Utah Code Ann 17D-4-201(7) a municipality or county may establish criteria for determining whether to approve or disapprove PID petitions and the eventual establishment of new PIDs within the City.

WHEREAS in an effort to treat all property owners fairly and uniformly the City Council has determined it necessary to adopt a formal policy of the City regarding the establishment of new PIDs within the City and how new petitions are evaluated and acted upon.

RESOLUTION

NOW THEREFORE, BE IT HEREBY RESOLVED by the Toquerville City Council as follows:

1. FINDINGS IN SUPPORT OF POLICY. In adopting the general policy regarding the acceptance of petitions for the eventual establishment of new PIDs, the City Council expressly finds as follows:

a. Although PIDs can provide necessary large scale financing for area wide public infrastructure, it creates a long-term burden on future property owners within a PID to pay additional property tax or special assessments that property owners in other areas of the City do not have to pay for nearby public infrastructure of similar quality and level of service.

b. Although PIDs are separate from the City and have separate debt obligations, their creation does have an effect and burden upon the City in that, once funded and constructed, the public infrastructure is generally dedicated and conveyed to the City for perpetual maintenance and replacement – an expense that, if not held in check, can outpace general revenues of the City and the ability of the City fund personnel and equipment necessary for said maintenance and the creation of adequate reserves for eventual replacement of said infrastructure.

c. Should the City be financially unable or unwilling to accept dedication and conveyance of newly constructed public infrastructure, ownership and maintenance of said infrastructure will remain with the PID and create scenarios in certain situations where PIDs are operators of public infrastructure systems providing disparate levels of service for the same service in other areas of the City.

d. Should the City be financially unable or unwilling to accept dedication and conveyance of newly constructed public infrastructure, ownership and maintenance of said infrastructure will remain with the PID and create scenarios in certain situations where PIDs are operators of public infrastructure systems who adopt policies regarding connection fees, usage fees, usage limitations that are different than the City's and policies that have the effect of partially regulating land use and development within the PIDs boundaries, when the City should be the sole land use authority within its municipal boundaries pursuant to Utah Code Ann §§ 10-9a-102(2) and 10-9a-103(30).

2. GENERAL POLICY REGARDING ESTABLISHMENT OF NEW PIDS. Based upon the findings set forth in Section 1 above, the policy of the City is that the establishment of new PIDs within the City should generally be discouraged and that petitions for the establishment of a new PID should be rejected.

3. **SPECIAL CIRCUMSTANCES ALLOWING FOR DEVIATION FROM GENERAL POLICY.** Notwithstanding the general policy of the City regarding the non-establishment of new PIDs within the City set forth in Section 2 above, the City Council may deviate from the general policy if it finds that the following circumstances exist:

- a. The PID will serve to construct needed and vital public infrastructure to support development plans of the PID applicant that is in compliance with the City's General Plan for that area of the City;
- b. Clear and unequivocal historical examples of the PID applicant which evidence said applicant's experience and technical ability to perform on its development plans which are the basis for the PID creation;
- c. Financial means and credit worthiness of the PID applicant necessary to perform on its development plans which are the basis for the PID creation;
- d. The maximum burden and length of burden that will be placed on future property owners within the PID will be minimal;
- e. The public infrastructure that will be funded and constructed by the PID (and eventually dedicated to the City) will not create a maintenance and replacement burden upon the City that would likely require Truth in Taxation and a raise in the City's certified property tax rate paid by all property owners in the City;
- f. The public infrastructure that will be funded and constructed by the PID will clearly facilitate development of the type and nature that benefits all residents of the City and surrounding areas; and
- g. The long-term plan of the PID applicant is to have public infrastructure owned, operated, maintained and replaced by the PID.

4. **REPEALER.** This Resolution shall repeal and supersede all prior resolutions governing the same that are in direct contradiction hereto.

5. **SEVERABILITY.** If any provision or clause of this Resolution or application thereof to any person or entity or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses or applications hereof which can be implemented without the invalid provision(s), clause(s) or application(s) hereof, and to this end the provisions and clauses of this Resolution are declared to be severable.

6. **EFFECTIVE DATE.** This Resolution shall become effective immediately upon adoption by the City Council.

ADOPTED AND APPROVED this _____ day of September, 2023, based upon the following vote:

Councilmember:

Ty Bringhurst	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Joey Campbell	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
John 'Chuck' Williams	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Gary Chaves	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Todd Sands	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____

TOQUERVILLE CITY
a Utah municipal corporation

Attest:

Justin Sip, Mayor

Daisy Fuentes, City Recorder