

TOQUERVILLE CITY PLANNING COMMISSION

April 23, 2024 at 6:00 p.m.

212 N. Toquer Blvd.
Toquerville, Utah 84774

NOTICE OF PUBLIC HEARING

A PUBLIC HEARING WILL BE HELD ON THE FOLLOWING ITEMS DURING THE REGULAR PLANNING COMMISSION MEETING APRIL 23, 2024 CONVENING AT 6:00 P.M.:

1. Public input is sought on Ordinance 2024.XX – Amending and restating Toquerville City Code 10-17-3: Nightly Rental to modify the application process.
2. Public input is sought on Ordinance 2024.XX – Amending and restating Toquerville City Code 10-5-4: Penalty to modify the penalty for land use violations.
3. Public input is sought on Ordinance 2024.XX – Amending and restating Toquerville City Code 10-2-1: General Definitions to establish a definition for the term ‘Tavern’.

Copies of applications and ordinance drafts are available for review at the Toquerville City Office (212 North Toquer Boulevard)

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Daisy Fuentes at the City Office 635-1094, at least 48 hours in advance. This Notice will be posted on the State website at <http://pmn.utah.gov>, posted on the Toquerville City website at www.toquerville.org, and the City Office Board this April 12, 2024, by Toquerville City Recorder, Daisy Fuentes.

TOQUERVILLE CITY ORDINANCE 2024.XX

AN ORDINANCE AMENDING AND RESTATING IN ITS ENTIRETY TITLE 10, CHAPTER 17, SECTION 3 OF THE TOQUERVILLE CITY CODE TO ADDRESS FIRE INSPECTIONS, CERTIFICATES OF OCCUPANCY, PARKING REQUIREMENTS AND ENFORCEMENT.

RECITALS

WHEREAS Toquerville City (“the City”) is a Utah municipal corporation and political subdivision of the State of Utah and as such, holds the delegated police powers under the Utah Constitution to act as the Land Use Authority within its municipal boundaries - with the power to regulate those items set forth in Utah Code Ann. § 10-9a-102(2).

WHEREAS the City, by and through its legislative body, the Toquerville City Council (“City Council”), is required to enact all necessary land use regulations as required by Utah Code Ann. § 10-9a-501.

ORDINANCE

NOW THEREFORE, be it ordained by the City Council of Toquerville City, State of Utah as follows:

1. AMENDMENT AND RESTATEMENT. Title 10, Chapter 17 of the Toquerville City Code is hereby amended and restated in its entirety as follows:

10-17-3: NIGHTLY RENTAL:

Nightly rentals shall occur only within the City upon the meeting of the following requirements:

A. Nightly Rental License Application:

1. An applicant must apply for and obtain a “Nightly Rental License”, which is a special license and not a conditional use permit and is approved and otherwise regulated by this Section. The Nightly Rental License is non-transferable to another owner or another Dwelling.

2. The Nightly Rental License application shall include the name, address and phone number of the owner and/or other person designated by the owner as the property manager/emergency contact who shall be responsible for ensuring compliance with the rules and regulations specified in this section.

3. The Nightly Rental License application must include a detailed drawing to standard engineering scale, a site plan for the lot showing additional parking stalls, existing and proposed buildings, existing streets, and a floor plan of the dwelling. The site plan must identify the required off-street parking to be used in connection with the Nightly Rental License.

4. *The Nightly Rental License application must include the property tax ID number for the parcel upon which the Nightly Rental will occur, ~~as well as their social security number (if the Applicant will operate the Nightly Rental as a sole proprietor) or Federal Tax Identification Number (TIN) or Federal Employer Identification Number (EIN) (if the Applicant will operate the Nightly Rental as a business entity).~~*

5. *Fire Inspection: To receive an initial license, the nightly rental must pass a fire inspection. The Fire inspection shall be scheduled with the Hurricane Valley Fire District and be ~~performed within 30 days of the application.~~ completed within 45 days of submitting a complete application. Failure to do so will result in the denial of the Nightly Rental License application and the license will become available to the next applicant on the waiting list.*

6. *All structures on the property that are used for nightly rental purposes must have a Certificate of Occupancy. An application will not be considered complete without a Certificate of Occupancy.*

67. *Notification: Applicant must pay for and provide notification to neighboring property owners within three hundred feet (300') from all exterior boundaries of the lot on which the nightly rental is to be located. This notice shall indicate, and the City's Planning Commission shall conduct, a public hearing on the application. To comply with this requirement the applicant must submit self-addressed, stamped envelopes for the required notification along with a printed list of the lot owners in the designated notification area.*

B. Nightly Rental License Application Review Process: A complete Nightly Rental License application will be reviewed by City staff at the next regularly scheduled City staff meeting. City staff shall review the application and forward their recommendation to the Planning Commission. The Planning Commission will hear the application at their next regularly scheduled meeting where adequate notice is appropriate and conduct a public hearing on the same. After said public hearing the Planning Commission will forward their recommendation to the City Council for a final determination on the Nightly Rental License application. The City Council may deny, approve or approve with special conditions the Nightly Rental License application.

C. One Structure: Each nightly rental must occur within and under one roof of a dwelling and not in a structure that is temporary. Accessory structures can create multi-family zoning and shall not be used as nightly rentals. More specifically, a detached casita, garage, workshop, mother-in-law building, etc. cannot be used exclusively as a nightly rental without the simultaneous use of part or all of the dwelling as well.

D. Parking: A minimum of four (4) nine feet by 18 feet (9' x 18') parking spaces are required. Two of those spaces must be available exclusively for nightly rental use.

Parking spaces designated for nightly rentals shall not hinder the entry or exit of vehicles or disrupt the routine access to the main garage. A minimum of 25 feet clear space, measured perpendicular to the front of the garage door, must be maintained. Tandem parking may be permitted for nightly rentals, but it must not force the regular occupants to do the same.

There shall be no overnight on-street parking by guests or residents.

E. Maximum Guests: *The maximum number of occupants per dwelling being used for nightly rental shall be the lesser of ten (10) (including the owner and his/her family), or that which is allowed by any Safety Code adopted by the City.*

F. Response Time: *The owner or other person designated as the property manager/emergency contact shall respond to complaints and/or concerns within thirty (30) minutes of any phone call or other notification and be on site within one (1) hour if necessary. Failure of the owner or property manager to respond may result in a violation and possible fines to the business license holder and property owner.*

G. Nightly Rental Ownership Limitation: *Neither a natural person applicant nor a principal of a business entity applying for a Nightly Rental License shall have an ownership interest in more than one (1) dwelling wherein nightly rentals occur within the City. One person residing in the same dwelling shall not have ownership interest in more than one (1) dwelling wherein nightly rentals occur within the City.*

H. Limit on Total number of Nightly Rental Licenses:

1. The maximum number of nightly rental business licenses issued will be set at 5 percent (5%) of the total number of “Eligible Culinary Connections” within Toquerville City limits. For purposes of this Subsection, the term “Eligible Culinary Connections” is defined as all residential culinary connections within the City except for those residential culinary connections located within a development in an MPDO Zone where the developer has elected to allow a Nightly Rental Development in their commercial planning areas.

2. The total number of Nightly Rental Licenses available shall be continually updated as the number of new culinary connections increase.

3. Once the maximum number of Nightly Rental Licenses have been issued, any new application that meets all of the application requirements shall be placed on a waiting list in order of the date of receipt. The waiting list shall be capped at ten (10) applications. No fees will be due until a license becomes available. When a license becomes available, the first applicant on the waiting list shall be notified of the license availability. From the date of notification, the applicant shall have fifteen (15) days to resubmit a complete application and pay the required application fee. The applicant must complete the licensing process within sixty (60) days thereafter. If the applicant fails to resubmit a complete application within fifteen (15) days, or fails to complete the licensing process within sixty (60) days, the application will be deemed

expired. The next applicant will then be notified of the license availability and shall then follow the same procedure.

I. Minimum Distance: Properties used for nightly rentals shall have a minimum separation of five hundred feet (500'). This will be measured in a straight line from the closest point of one nightly rental Dwelling to the closest point of the other.

J. Dwelling Modifications: Any modifications to the appearance and size of a Dwelling to accommodate and facilitate a nightly rental should be in keeping with the residential character of the neighborhood within which the Dwelling is located.

K. Penalties: Upon finding a violation under this Chapter and Section, the following penalties and requirements shall apply:

1. First Violation: Two Hundred Fifty Dollars (\$250.00).

2. Second Violation: One Thousand Dollars (\$1,000.00).

3. Third Violation: Two Thousand Dollars (\$2,000.00).

4. Fourth Violation: Nightly rental license automatically revoked.

5. Review: Upon the second or subsequent violation of this Section, there shall be a mandatory review conducted before the City's Planning Commission, who shall have the ability and right to revoke the Nightly Rental License in its sole and absolute discretion. Revocation of a Nightly Rental License, for any reason shall result in a minimum twelve (12) month waiting period before any new application. Revocation shall run with the land. Upon revocation, there is no guarantee of any future issuance of a Nightly Rental License and all applications will be processed under the then current ordinances. Failure to pay the fine within thirty (30) days of its issuance shall constitute grounds for automatic revocation of the owner's Nightly Rental License.

6. Enforcement: In addition to the fines set forth in this subsection, all violations of this chapter and section may constitute a Class B misdemeanor as per 1-4-1 of the Toquerville City Code and may be enforced in compliance with Chapter 5 of this Title.

L. Revocation of License: The Nightly Rental License may be revoked at any time, upon notice and a hearing conducted by the Planning Commission, should the use of a dwelling for nightly rental become a nuisance per Title 4, Chapter 1 of this Code.

M. Annual Renewal of Nightly Rental License:

1. Application: A Nightly Rental License has a duration of one year and must be renewed annually. For renewal, an applicant must submit a renewal application in a form set by the city staff.

2. Fire Inspection: To receive an annual renewal, the nightly rental must pass an annual fire inspection. The Fire inspection shall be scheduled with the Hurricane Valley Fire District and be performed within 30 days prior to the renewal.

N. Action on Renewal Application: Each renewal application shall be approved, approved with additional conditions, or denied by the city's zoning administrator. If the city has received more than two (2) complaints from neighbors or others regarding a nightly rental during the previous twelve (12) months, the zoning administrator shall defer the decision of renewal to the planning commission who shall hear the matter at their next regularly scheduled meeting where adequate notice is appropriate, allowing the applicant/license holder to be present and speak in defense of why the Nightly Rental License should be renewed.

O. Log: The holder of the Nightly Rental License shall maintain and provide, upon request, the name, and phone number of all renters.

P. Business License Required; Room Tax: Applicant must apply for and obtain a business license pursuant to Title 3, Chapter 1 of this Code and pay the current Transient Room Tax applicable to motels and hotels within the City.

1. The business license must be displayed in a prominent location within the nightly rental.

2. Operating a nightly rental without a business license shall constitute a Class B misdemeanor and shall be enforced in compliance with chapter 5 of this Title.

Q. Fees: Applicant must pay all applicable fees including an annual Nightly Rental License fee to maintain their license. The amount of said annual Nightly Rental License fee shall be set and adjusted by the City and set forth in the City's Uniform Fee Schedule.

R. Health Requirements: Applicants/license holders shall ensure that the dwellings in which nightly rentals occurs complies with all local, State and Federal Health Codes, regulations, and requirements.

S. Signage: Signs for nightly rentals shall conform to the requirements of Chapter 22 of this Title.

T. Exclusions: Hotels, Motels and RV Parks shall not be held to the requirements of this section. RV Parks shall conform to the requirements of Section 10-29-1 (RV Parks).

U. Exceptions: The Nightly Rental of model homes located within a subdivision or which sales will be made, will be allowed with the following conditions:

1. The subdivision shall be planned for more than one hundred (100)

dwelling.

2. No more than ten (10) model homes used as a Nightly Rentals shall be allowed per subdivision. Once the development has been sold out at 90% then the exception shall be voided within 2 years.

3. All other requirements of this Section 10-17-3 shall be met except for 10-17-3(G), (H) and (I).

4. A conditional use permit is issued by the Planning Commission.

2. REPEALER. All ordinances, resolutions and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency and only for the period of time this Ordinance remains effective. This Repealer shall not be construed as reviving any law, order, resolution or ordinance or part thereof.

3. SEVERABILITY. Should any provision, clause or paragraph of this Ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this Ordinance or the Toquerville City Code to which these amendments apply. The valid part of any provision, clause or paragraph of this Ordinance shall be given independence from the invalid provisions or applications and to this end the parts, sections and subsections of this Ordinance, together with the regulations contained therein, are hereby declared to be severable.

4. EFFECTIVENESS. This Ordinance shall become effective immediately upon approval by the City Council.

ADOPTED AND APPROVED BY THE TOQUERVILLE CITY COUNCIL this _____ day of _____ 2024, based upon the following vote:

Councilmember:

Gary Chaves	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
John 'Chuck' Williams	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Joey Campbell	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Todd Sands	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Wayne Olsen	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____

TOQUERVILLE CITY
a Utah Municipal Corporation

Attest:

Justin Sip, Toquerville City Mayor

Daisy Fuentes, Toquerville City Recorder

TOQUERVILLE CITY
ORDINANCE 2024.XX

AN ORDINANCE AMENDING AND RESTATING **TITLE 10, CHAPTER 5, SECTION 4 OF THE TOQUERVILLE CITY CODE TO MODIFY THE PENALTY FOR LAND USE VIOLATIONS.**

RECITALS

WHEREAS Toquerville City (“the City”) is a Utah municipal corporation and political subdivision of the State of Utah and as such, holds the delegated police powers under the Utah Constitution to act as the Land Use Authority within its municipal boundaries - with the power to regulate those items set forth in Utah Code Ann. § 10-9a-102(2).

WHEREAS the City, by and through its legislative body, the Toquerville City Council (“City Council”), is required to enact all necessary land use regulations as required by Utah Code Ann. § 10-9a-501.

ORDINANCE

NOW THEREFORE, be it ordained by the City Council of Toquerville City, State of Utah as follows:

1. AMENDMENT AND RESTATEMENT. **Title 10, Chapter 5, Section 4** of the Toquerville City Code is hereby amended and restated in its entirety as follows:

10-5-4: PENALTY:

Any person, firm or corporation, as principal, agent, employee or otherwise, violating, causing or permitting violation of the provisions of this title shall be guilty of a Class **BC** misdemeanor, subject to penalty as provided in section 1-4-1 of this Code. In addition, the City may bring an action to enjoin the continuation of the violation. Each day a violation continues shall be considered a separate violation and offense.

2. REPEALER. All ordinances, resolutions and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency and only for the period of time this Ordinance remains effective. This Repealer shall not be construed as reviving any law, order, resolution or ordinance or part thereof.

3. SEVERABILITY. Should any provision, clause or paragraph of this Ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this Ordinance or the Toquerville City Code to which these amendments apply. The valid part of any provision, clause or paragraph of this Ordinance shall be given independence from the invalid provisions or applications and to this end the parts, sections and subsections of this Ordinance, together with the regulations contained therein, are hereby declared to be severable.

4. EFFECTIVENESS. This Ordinance shall become effective immediately upon approval by the City Council.

ADOPTED AND APPROVED BY THE TOQUERVILLE CITY COUNCIL this ____day
of _____ 2024, based upon the following vote:

Councilmember:

Gary Chaves	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
John 'Chuck' Williams	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Joey Campbell	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Todd Sands	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Wayne Olsen	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____

TOQUERVILLE CITY
a Utah Municipal Corporation

Attest:

Justin Sip, Toquerville City Mayor

Daisy Fuentes, Toquerville City Recorder

TOQUERVILLE CITY
ORDINANCE 2024.XX

AN ORDINANCE AMENDING AND RESTATING **TITLE 10, CHAPTER 2, SECTION 1 OF THE TOQUERVILLE CITY CODE TO CREATE A GENERAL DEFINITION FOR TAVERN.**

RECITALS

WHEREAS Toquerville City (“the City”) is a Utah municipal corporation and political subdivision of the State of Utah and as such, holds the delegated police powers under the Utah Constitution to act as the Land Use Authority within its municipal boundaries - with the power to regulate those items set forth in Utah Code Ann. § 10-9a-102(2).

WHEREAS the City, by and through its legislative body, the Toquerville City Council (“City Council”), is required to enact all necessary land use regulations as required by Utah Code Ann. § 10-9a-501.

ORDINANCE

NOW THEREFORE, be it ordained by the City Council of Toquerville City, State of Utah as follows:

1. **ADDITION OF THE TERM “TAVERN” TO SECTION 10-2-1 (GENERAL DEFINITIONS) OF THE TOQUERVILLE CITY CODE.** Section 10-2-1 of the Code is amended to include the following defined term:

TAVERN: A business establishment as defined in Utah Code Annotated 32B-1-102, as amended.

2. **REPEALER.** All ordinances, resolutions and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency and only for the period of time this Ordinance remains effective. This Repealer shall not be construed as reviving any law, order, resolution or ordinance or part thereof.

3. **SEVERABILITY.** Should any provision, clause or paragraph of this Ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this Ordinance or the Toquerville City Code to which these amendments apply. The valid part of any provision, clause or paragraph of this Ordinance shall be given independence from the invalid provisions or applications and to this end the parts, sections and subsections of this Ordinance, together with the regulations contained therein, are hereby declared to be severable.

4. **EFFECTIVENESS.** This Ordinance shall become effective immediately upon approval by the City Council.

ADOPTED AND APPROVED BY THE TOQUERVILLE CITY COUNCIL this ____ day of _____ 2024, based upon the following vote:

Councilmember:

Gary Chaves	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
John 'Chuck' Williams	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Joey Campbell	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Todd Sands	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Wayne Olsen	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____

TOQUERVILLE CITY
a Utah Municipal Corporation

Attest:

Justin Sip, Toquerville City Mayor

Daisy Fuentes, Toquerville City Recorder

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