

**TOQUERVILLE CITY
PLANNING COMMISSION MEETING AGENDA
April 23, 2024, at 6:00 p.m.
212 N. Toquer Blvd, Toquerville Utah**

This meeting will also be broadcast via YouTube live on the Toquerville City YouTube channel at <https://www.youtube.com/channel/UCOn3wYhjwc2gKbc91YPRIAA>

A. CALL TO ORDER:

1. Call to Order – Chairman Stacey Eaton
2. Pledge of Allegiance – Commissioner Chamberlain
3. Statement of Belief/Opening Prayer – Commissioner Preslar

B. APPROVAL OF AGENDA:

1. Approval of agenda order
2. Disclosures and Declaration of conflicts from Commission Members.

C. CONSENT AGENDA:

1. Review and possible approval of meeting minutes from April 10th, 2024 Planning Commission Meeting.

D. REPORTS:

1. Planning Chairman, Stacey Eaton
2. Planning Commissioners
3. Planning and Zoning Administrator, Ryker Steglich
4. Assistant City Manager, Darrin LeFevre
5. City Manager, Afton Moore
6. City Attorney, Matt Ekins

E. BUSINESS ITEM(S):

1. Discussion and possible recommendation on Ordinance 2024.XX – Amending and restating Toquerville City Code 10-17-3: Nightly Rental to modify the application process.
 - A. Public Hearing: Public input is sought on Ordinance 2024.XX – Amending and restating Toquerville City Code 10-17-3: Nightly Rental to modify the application process. *Limit 3 minutes per person; please speak into the microphone and state full name.*
 - B. Possible recommendation to City Council.
2. Discussion and possible recommendation on Ordinance 2024.XX – Amending and restating Toquerville City Code 10-5-4: Penalty to modify the penalty for land use violations.
 - A. Public Hearing: 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. *Limit 3 minutes per person; please speak into the microphone and state full name.*
 - B. Possible recommendation to City Council.
3. Discussion and possible recommendation on Ordinance 2024.XX – Amending and restating Toquerville City Code 10-2-1:General Definitions to establish a definition for the term ‘Tavern’.
 - A. Public Hearing: 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’. *Limit 3 minutes per person; please speak into the microphone and state full name.*
 - B. Possible recommendation to City Council.

4. Discussion of the creation of Planning Commission by-laws and policies.
5. Discussion of possible changes to the Grading Ordinance.

F. ADJOURN:

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify the City Office 435.635.1094, at least 48 hours in advance. This Agenda will be posted on the State website at <http://pmn.utah.gov>, posted on the Toquerville City website at www.toquerville.org, and at the City Office Building at 212 N Toquer Blvd. Posted April 19, 2024, by Toquerville City Recorder, Daisy Fuentes.

TOQUERVILLE CITY
PLANNING COMMISSION MEETING MINUTES
April 10, 2024 at 6:00 pm
212 N. Toquer Blvd, Toquerville Utah

Present: Chairman Stacey Eaton; Commissioners: Val Preslar, Gary Tomsik, Jenny Chamberlain, Planning Commission Alternates: Angela Harrison, Tyley Perkins; Staff: Assistant City Manager Darrin LeFevre, Planning & Zoning Administrator Ryker Steglich, City Attorney Matt Ekins, City Recorder Daisy Fuentes; Absent: City Manager Afton Moore, Commissioner Dean Haymore

A. CALL TO ORDER:

Chairman Stacey Eaton called the meeting to order at 6:00 p.m. Commissioner Tomsik led the Pledge of Allegiance.

<https://www.youtube.com/live/adAn4vG6P1g?si=TdhfhOvkyPG1IsvQ&t=2>

There were no disclosures or declarations of conflicts from Commission Members.

B. APPROVAL OF AGENDA:

<https://www.youtube.com/live/adAn4vG6P1g?si=pI7C-4WZVBliJ-Ip&t=22>

Commissioner Preslar made a motion to approve the agenda order. Commissioner Tomsik seconded the motion. Motion carried, 5-0. Stacey Eaton – aye, Val Preslar – aye, Gary Tomsik – aye, Jenny Chamberlain – aye, Angela Harrison – aye.

C. REPORTS:

<https://www.youtube.com/live/adAn4vG6P1g?si=IxYwfxQRmzujrZLL&t=38>

1. Planning Chairman, Stacey Eaton
Chairman Eaton reported on trainings attended and what was learned, Stacey asked the City Recorder to review the process for Planning Commission documents moving forward.
2. Commissioners
Nothing to report.
3. Planning and Zoning Administrator, Ryker Steglich
Ryker Steglich reported on a variety of Toquerville City ordinances and maps being modified by the Planning & Zoning department.
4. Assistant City Manager, Darrin LeFevre
Darrin updated the commissioners on current projects within the city.
5. City Manager, Afton Moore
Excused
6. City Attorney, Matt Ekins

D. BUSINESS ITEM(S):

1. Discussion on a conditional use application submitted by Robert Lewis to exceed the permitted height of an accessory building. Tax ID # T-AHP-A-53. Current zoning is R-1-20 Single Family Residential.

<https://www.youtube.com/live/adAn4vG6P1g?si=YNUd3-rqgKpr6Ae4&t=880>

Ryker gave a brief report on this item and the applicant Kyle Lewis, spoke about his application.

A. Public Hearing: Public input is sought on a conditional use application submitted by Robert Lewis to exceed the permitted height of an accessory building. Tax ID # T-AHP-A-53. Current zoning is R-1-20 Single Family Residential. *Limit 3 minutes per person; please speak into the microphone and state full name.*

Chairman Eaton opened the public hearing.

https://www.youtube.com/live/adAn4vG6P1g?si=A0Sr_e49YkWTaCyf&t=1135

Randy Scott spoke during the public hearing and had a question. Commissioner Tomsik read an email submission letter from Deborah Adam opposing this application.

Commissioner Preslar made a motion to close the public hearing on business item D1. Commissioner Chamberlain seconded the motion. Motion carried, 5-0. Stacey Eaton – aye, Val Preslar – aye, Gary Tomsik – aye, Jenny Chamberlain – aye, Angela Harrison – aye.

B. Possible recommendation to City Council.

<https://www.youtube.com/live/adAn4vG6P1g?si=0DQI7o8YRagATcUM&t=1335>

The commissioners discussed this item.

Commissioner Chamberlain made a motion to recommend approval of this application to the City Council. Commissioner Preslar seconded the motion. 5-0. Stacey Eaton – aye, Val Preslar – aye, Gary Tomsik – aye, Jenny Chamberlain – aye, Angela Harrison – aye.

2. Discussion on a zone change application submitted by Troy Wall. Tax ID: # T-91-A-1-A-2. Current zoning is R-1-20 Single Family Residential. Requested zoning is R-1-12 Single Family Residential.

<https://www.youtube.com/live/adAn4vG6P1g?si=e9i6y5iCKDYOkpce&t=1365>

Chairman Eaton spoke with the public regarding the procedure for the public hearing. Ryker gave a brief report on this item. The applicant Troy Wall, spoke about his application and answered questions from the commissioners.

A. Public Hearing: Public input is sought on a zone change application submitted by Troy Wall. Tax ID: # T-91-A-1-A-2. Current zoning is R-1-20 Single Family Residential. Requested zoning is R-1-12 Single Family Residential. *Limit 3 minutes per person; please speak into the microphone and state full name.*

Chairman Eaton opened the public hearing.

<https://www.youtube.com/live/adAn4vG6P1g?si=s623akvUxr511hvq&t=1687>

The following were opposed to the application and raised their concerns: Al Lipper, Ron Schulfer, Lonnie Christensen, Lynn Olds, Mark Fahrenkamp, Juliene Killoran, Daniel Seelye, Jay Callaway, Bruce Tkoch, Randy Scott, Brigham Darger, Matt Farmer, Sophia Meehleib, Tonya English, Tony Szemereta, Jack Lions; Commissioner Chamberlain read an email submission letter from Robbie Elison; Wayne Olsen, Jayne Scott;

Kyle Lewis was not for or against this application. He mentioned his concerns.

Commissioner Preslar made a motion to close the public hearing on business item D2 the application submitted by Troy Wall. Commissioner Chamberlain seconded the motion. Motion carried, 5-0. Stacey Eaton – aye, Val Preslar – aye, Gary Tomsik – aye, Jenny Chamberlain – aye, Angela Harrison – aye.

B. Possible recommendation to City Council.

https://www.youtube.com/live/adAn4vG6P1g?si=AIRE_732R116MNqA&t=3815

The commissioners discussed this item and brought up their concerns. The staff answered questions from the commissioners.

Commissioner Preslar made a motion to recommend denial for a zone change on business item D2 submitted by Troy Wall because it doesn't fulfill the requirements of our standards for review. There are several things that have been brought up tonight such as traffic congestion, noise pollution – it doesn't fit in the neighborhood with the adjacent homes and there's too many things it does not adhere to. Commissioner Harrison seconded the motion. Motion carried, 4-1. Stacey Eaton – nay, Val Preslar – aye, Gary Tomsik – aye, Jenny Chamberlain – aye, Angela Harrison – aye.

E. ADJOURN:

<https://www.youtube.com/live/adAn4vG6P1g?si=oFcSqiewPe1UOC9D&t=4880>

Commissioner Chamberlain motioned to adjourn. Commissioner Preslar seconded the motion. Motion carried, 5-0. Stacey Eaton – aye, Val Preslar – aye, Gary Tomsik – aye, Jenny Chamberlain – aye, Dean Haymore – aye.

Chairman Eaton adjourned the meeting at 7:23 pm.

Planning Chairman – Stacey Eaton

Date

Attest: 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

DRAFT



TOQUERVILLE CITY **ORDINANCE 2024.03**

AN ORDINANCE AMENDING AND RESTATING IN ITS ENTIRETY OF ARTICLE B, CHAPTER 18, OF TITLE 10 OF THE TOQUERVILLE CITY CODE ELIMINATING THE MULTIPLE USE ZONING DISTRICT AS A POSSIBLE ZONING DISTRICT WHERE AN EXTRACTION INDUSTRIES OVERLAY ZONING DESIGNATION COULD BE APPLIED FOR AND PERMITTED.

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 OF ARTICLE B, CHAPTER 18, TITLE 10 OF THE TOQUERVILLE CITY CODE. Article B (Grading Permit) of Chapter 18 (Permits Required) of Title 10 (Land Use Regulations) of the Toquerville City Code is hereby amended and restated in its entirety as follows:

ARTICLE B. GRADING PERMIT SECTION:

- 10-18B-1: Permit Required; Exceptions***
- 10-18B-2: Review Process***
- 10-18B-3: Standards For Review***
- 10-18B-4: Discharge Prohibitions***
- 10-18B-5: Dust Control***
- 10-18B-6: Disposal Of Cleared Vegetation***
- 10-18B-7: Nonconstruction Areas Protected***
- 10-18B-8: Underground Public Utilities Protected***
- 10-18B-9: Grading Operations***
- 10-18B-10: Historic Or Prehistoric Ruins***
- 10-18B-11: Expiration/Annual Review***
- 10-18B-12: Enforcement***

10-18B-1: PERMIT REQUIRED; EXCEPTIONS:

A. General Requirement: No person shall commence or perform any grading, excavation, filling or clearing of land without first having obtained a permit from

the Zoning Administrator or City Designee and ascertaining the existence and location of any underground utilities. No grading permit shall be issued except in connection with a permitted use allowed within the zoning district in which the property that is to be graded, filled or cleared is located. Any such permitted use that requires a building permit or other approval as provided by this Title, such as home construction or a commercial site or a subdivision, must obtain approval as provided under this Title before a grading permit may be issued. All grading plans submitted for approval must be prepared by a professional engineer licensed in the State of Utah.

B. Exemptions:

1. Agricultural: Grading, excavation, filling or clearing for agricultural purposes within an agricultural zone, that does not negatively impact adjacent property in regards to drainage, shall be exempt from a grading permit. Grading, excavation, etc., associated with nonagricultural uses or construction, in an agricultural zone, shall require a grading permit.

2. Residential Landscaping: Minor grading or clearing associated with landscaping projects for single-family residential uses, that do not negatively impact adjacent property in regards to drainage, shall be exempt from a permit requirement.

3. Non-disturbance of Natural Grade: Minor Grading (residential), excavation, filling or clearing that does not disturb the natural grade of more than two thousand (2,000) square feet or result in a change to the natural grade, shall be exempt from permit requirements.

4. Public Facility Projects: Grading required to construct Public Facilities including roadways and utility improvements approved by the City Council shall be exempt from permit requirements.

C. Scope of Permit: A grading permit and the approved grading plan is intended to be utilized for grading purposes only and is not to be used for the purpose of constructing on-site or off-site improvements. Issuance of a grading permit based on an approved grading plan does not constitute approval of driveway locations or sizes, parking lot structural sections or layout of any structure, ADA-related requirements, building locations or foundations, walls, curbing, off-site drainage facilities or other items not related directly to the basic grading operation. On-site and off-site improvements shall be constructed from construction plans and drawings approved by the City.

D. Stockpiling of material is prohibited under the exclusive use of this Article.

10-18B-2: REVIEW PROCESS:

A. Application and Review Process: Grading permit application forms may be obtained from the City and shall be submitted to the Zoning Administrator or City Designee. Applications must be signed by the property owner. If an agent is applying for the grading permit, an Affidavit from the owner that gives the agent the authority to apply for the grading permit is required. The following must be included in the grading permit application:

1. Minor Grading: "Minor Grading" is defined as grading, excavation, filling, or clearing that disturbs the natural grade of more than two thousand (2,000) square feet but not more than one thousand (1,000) cubic yards. Prior to the commencement of any Minor Grading, an applicant will submit a "Minor Grading Plan and Drainage Plan" consisting of the following:

- a. *Location of the site.*
 - b. *Name of the owner/applicant.*
 - c. *A statement of the credentials of the person who prepared the plan.*
 - d. *Date the plan was prepared.*
 - e. *A general vicinity of the proposed site.*
 - f. *Limiting dimensions and depth of cut and fill.*
 - g. *Location of any buildings or structures where work is to be performed and the location of any buildings or structures within 30 feet of the proposed grading.*
 - h. *Typical cross-section of the cuts/fills resulting from excavation and grading work.*
 - i. *Retaining walls greater than 4 ft in height or creating slopes steeper than 2 horizontal to 1 vertical must be engineered.*
 - j. *Additional items as required by the city.*
2. *Engineered Grading: “Engineered Grading” is defined as grading, excavation, filling, or clearing that disturbs the natural grade of more than one thousand (1,000) cubic yards. Prior to the commencement of any Engineered Grading, an applicant must submit an “Engineered Grading Plan and Drainage Plan” consisting of the following:*
- a. *All submitted plans and specifications must be stamped and signed by a professional civil engineer licensed in the State of Utah.*
 - b. *Anticipated schedule of commencement of proposed excavation and grading.*
 - c. *Plans shall indicate the nature and extent of the work to be performed and that the work will conform to the most current version of the Uniform Building Code, the details outlined in the most current version of the International Building Code, and all relevant laws, ordinances, rules, and regulations and shall contain the following:*
 - i. *The first sheet of each set of the plans shall indicate the location of the work, name and address of the owner, a statement of the credentials of the engineer who prepared the plans and the date the plan was prepared including revision dates.*
 - ii. *General vicinity of the proposed site.*
 - iii. *Property limits and accurate contours of existing ground and details of terrain.*
 - iv. *Existing Ground Slope Map for the proposed site.*
 - v. *Limiting dimensions, elevations, or finish contours to be achieved by the grading and proposed drainage channels and related construction.*
 - vi. *Typical cross-sections of cuts/fills resulting from excavation and grading work.*
 - vii. *Details of surface and subsurface drainage devices, retaining walls, cribbing, dams, etc. to be constructed with or as a part of the proposed work.*
 - viii. *A Drainage Study.*
 - ix. *Location of any existing buildings or structures on the site and the location of any buildings or structures on adjacent property which is within 30 feet of the site or which may be affected by the proposed grading.*

- x. *A soils engineering report with the recommendations incorporated in the plans and specifications. Soils engineer shall acknowledge that plans are in accordance with the soils report by stamping and signing the plan or by letter.*
 - xi. *An erosion control plan stamped and signed by a professional civil engineer licensed in the State of Utah.*
 - xii. *SWPPP prepared by a stormwater inspector certified in the State of Utah.*
 - xiii. *A permanent erosion control plan addressing the final conditions of the site in accordance with the current maintenance policy.*
 - xiv. *State of Utah – NOI.*
 - xv. *A fugitive dust plan implementing best management practices for permanent and ongoing dust control including the installation of an air quality index monitor whose data is readily accessible to the City.*
 - xvi. *A detailed narrative containing:*
 - A. *An estimate of the volumes, in cubic yards, of cut and/or fill and the area of the site to be graded.*
 - B. *A statement regarding the phasing and timing of any grading activities. If the applicant/permittee needs to grade materially out of sequence, or fails to grade in sequence, as identified in the narrative and the Engineered Grading Plan, the City reserves the ability to invoke its enforcement rights as set forth in 10-18B-12.*
 - C. *A statement concerning the ultimate disposition of any excess dirt that shall remain within City limits. Any location within the City limits used for the disposal of excess dirt shall require a separate grading permit application and issuance of a separate grading permit for the receiving site.*
 - D. *A description of equipment and methods to be employed in the grading process.*
 - xvii. *Any additional information reasonably deemed necessary by the City.*
- d. *In addition, the grading plan shall contain an estimate of the volumes, in cubic yards, of cut and/or fill and area of site to be graded.*
 - e. *Any location within the city limits used for import of excess dirt shall require a separate grading permit application and issuance of a separate grading permit for the receiving site.*
- 3. *Proof of land ownership in the form of a recorded deed or grant, recorded plat or title insurance policy not older than sixty (60) days at time of application.*
 - 4. *Payment of the required grading plan review and permit fees in accordance with the City's Consolidated Uniform Fee Schedule.*
 - B. *Multiple Engineered Grading Sites: For any grading which shall require export or import of materials from or to other non-contiguous sites within City limits, a grading permit shall be obtained for each grading site.*
 - C. *City Review: The Zoning Administrator or City Designee shall determine the adequacy of the application and may require the submission of further information where necessary.*
 - D. *Inspections: All construction or work for which a permit is required shall be subject to inspection at all reasonable times by the Zoning Administrator and*

Public Works inspector. The Zoning Administrator and Public Works Inspector may make any inspections of any construction work deemed necessary to ascertain compliance with the provisions of this article and other ordinances which are applicable. The permittee shall notify the Zoning Administrator and Public Works inspector when grading reaches completion and prior to being covered or concealed by additional work. Whenever any work on which inspections are required is covered or concealed by additional work without first having been inspected, the Zoning Administrator or City Designee may require, through written notice, that such work be exposed for examination. The work of exposing and recovering shall be an expense of the permittee requiring the inspection.

E. Grading Bond: In reviewing a grading permit application, the Zoning Administrator or City Designee may require the applicant/permittee to post a grading bond, in the form of (i) a cash deposit or (ii) an irrevocable letter of credit, from a licensed and insured financial institution in favor of the City in an amount sufficient to cover ten percent (10%) of the cost to perform the grading identified in the grading and drainage plan. The cost of grading shall be determined by either an approved engineer's estimate of cost or an accepted bid from a licensed and bonded contractor who will be performing the grading work. The purpose of the grading bond is to ensure that the graded area maintains a level of appearance and stability as determined by the City. The City will approve the cost breakdown for the proposed bond prior to the City accepting said bond. Once the City approves the cost breakdown, the applicant will be required to provide the bond in the amount shown. Said bond must also comply with any applicable provisions in Section 10-5-3, "Security For Completion" of this Title. Further, if one or more of the following instances are present, a grading bond in the form described above shall be mandatory:

- 1. Grading that is to occur within any area that is designated as part of the City's Hillside Development Overlay Zone will need to comply with (10-16A-1 et seq of this Title);*
- 2. Any off-site grading will require the written permission of one or more adjacent property owners;*
- 3. Any project in which on-site drainage structures/storm drain system connects to a City storm drain and drainage facilities are constructed in concurrence with grading plan;*
- 4. Any grading plan in which the scope of work increases the potential to transport silt/sediment into a public right of way and/or the City's storm drain system;*
- 5. Any grading plan in which the scope of work would create a public safety risk in event of work stoppage;*
- 6. Any grading plan in which the Zoning Administrator or City Designee reasonably determines would create an increased risk of possible damage or injury to residents or Public Facilities of the City; and/or*
- 7. Grading that shall require any export or import of materials from any source.*

10-18B-3: STANDARDS FOR REVIEW:

All grading, filling and clearing operations which are allowed under this Article shall be consistent with Section 10-21-9 of this Title, and shall be designed to:

- A. Minimize cuts and fills on steep or hazardous terrain.*
- B. Eliminate scars from cuts and fills, and preserve the natural scenic beauty of the area, such as by rounding off sharp angles at the top, toe and sides of cut and fill slopes to preserve, match or blend with the natural contours and undulation of the land, and by retaining trees, brush and other native vegetation where possible.*
- C. Limit clearing of vegetation or disturbances of the soil to those areas of proven stability, taking into consideration geologic hazards and soil conditions.*
- D. Assure that the natural runoff capacity of hillsides, slopes, graded areas, cleared areas, filled areas or streams will not be exceeded, causing flooding, erosion or silting greater than that which would have occurred if the land had been left in its natural state.*
- E. Whether or not the proposed grading will occur within a designated flood plain which will require a separate permit from the City's Certified Flood Plain Administrator.*

10-18B-4: DISCHARGE PROHIBITIONS:

- A. Scope: No solid or liquid waste materials, including soil, silt, clay, sand and other organic or earthen materials shall be discharged, either during the course of the grading process or as a result of changes created by the grading process covered under the permit into any creeks or streams, onto lands below the high water level of the same, or onto adjoining property.*
- B. Control Devices: In order to prevent such discharges from occurring, approved erosion and siltation control devices may be required by the Zoning Administrator or City Designee for all grading and filling.*

10-18B-5: DUST CONTROL:

Whenever the native ground cover is removed or disturbed, or whenever fill material is placed on the site, the exposed surface shall be treated to eliminate dust arising from the exposed material. The Zoning Administrator or City Designee must approve dust control methods. All dust control measures must meet local, state, and federal standards.

10-18B-6: DISPOSAL OF CLEARED VEGETATION:

Vegetation removed during clearing operations shall be disposed of in a manner approved by the Zoning Administrator or City Designee.

10-18B-7: NONCONSTRUCTION AREAS PROTECTED:

- A. There shall be no excavation on the site before the Zoning Administrator or City Designee has approved the location (stakeout) of the drives, parking sites, building sites and other areas to be graded or filled.*
- B. Construction equipment shall be limited to the actual area to be graded according to the approved plans. No vehicle of any kind shall pass over areas to be left in their natural state according to the approved plans.*
- C. Appropriate barriers around all native vegetation proposed for retention may be required to be erected during construction.*
- D. The permittee shall be fully responsible for any damage caused to existing trees or other vegetation. The permittee shall carry the responsibility both for his own employees and for any and all subcontractors from the first day of*

construction until the notice of completion is filed.

10-18B-8: UNDERGROUND PUBLIC UTILITIES PROTECTED:

The contractor shall ascertain and verify the location of any public underground utilities that may be on the property before doing any grading excavation, and once located, he shall take reasonable care to protect and avoid damage to any such underground utilities by allowing forty eight (48) hours for such utilities to be located. Any and all damage caused to public utilities by any act or negligence of the contractor's employees shall be repaired at the contractor's expense to the satisfaction of the utility company and/or the City.

10-18B-9: GRADING OPERATIONS:

A. Hours of operation shall not begin before seven (7:00) AM, and shall not continue after the hour of seven (7:00) PM. No operations shall take place on Sunday or holidays recognized by the State of Utah. Upon request, the Zoning Administrator or City Designee may approve modifications to the date and hours of operation.

B. All grading shall comply with standard engineering specifications for slope stabilization in accordance with the geotechnical recommendations included with the application, and all other applicable City ordinances. Slopes shall be maintained in a manner that will prevent erosion damage on adjacent properties.

C. The grading operation cannot exceed the boundary of the approved Minor Grading Plan or Engineered Grading Plan (as applicable). No grading may occur on any site for which there is no approved Minor Grading Plan, Engineered Grading Plan, or qualified exemption.

10-18B-10: HISTORIC OR PREHISTORIC RUINS:

A. No grading, filling, clearing of vegetation, operation of equipment or disturbance of the soil shall take place in areas where any historic, prehistoric ruins, monuments or objects of antiquity are present.

B. The grading plan shall indicate all such historic or prehistoric areas on the site and shall indicate the measures that will be taken to protect such areas. Should excavation uncover or discover any historic or prehistoric ruins or monuments or object of antiquity which were not known at the time of the submittal of the grading plan, all work in the immediate area shall cease until the building department shall determine what precautions should be taken to preserve the historic artifacts.

10-18B-11: ANNUAL REVIEW/EXPIRATION:

A. The Zoning Administrator or City designee shall review approved grading permits annually from the date of approval.

B. Approval of a grading permit shall be valid for one (1) year from the date of approval. If the approved grading on the site is not completed within one (1) year of the date of approval, the City reserves the ability to invoke its enforcement rights as set forth in 10-18B-12.

C. An applicant may request a one (1) year extension prior to the expiration of the grading permit approval. The grading permit approval cannot be extended beyond a total of (5) years.

10-18B-12: ENFORCEMENT:

A. If an applicant/permittee fails to comply with any requirement of the approved grading plan, the Zoning Administrator or City designee shall have the right to:

- 1. Order the applicant/permittee to cease and desist from all further grading activities.*
- 2. Require applicant/permittee to submit a new Engineered Grading Plan or any element thereof before they are allowed to recommence grading activities.*
- 3. Call upon the Grading Bond to accomplish completion or reclamation of the grading activities or the grading site.*

B. A violation of this Article shall constitute a land use violation and shall be enforced according to Section 10-5-4 of this Title.

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 6th day of March 2024, based upon the following vote:


Councilmember:

| | | | | | | | | |
|-----------------------|-----|-------------------------------------|-----|-------------------------------------|---------|--------------------------|--------|--------------------------|
| Gary Chaves | AYE | <input checked="" type="checkbox"/> | NAE | <input type="checkbox"/> | ABSTAIN | <input type="checkbox"/> | ABSENT | <input type="checkbox"/> |
| John 'Chuck' Williams | AYE | <input checked="" type="checkbox"/> | NAE | <input type="checkbox"/> | ABSTAIN | <input type="checkbox"/> | ABSENT | <input type="checkbox"/> |
| Joey Campbell | AYE | <input type="checkbox"/> | NAE | <input checked="" type="checkbox"/> | ABSTAIN | <input type="checkbox"/> | ABSENT | <input type="checkbox"/> |
| Todd Sands | AYE | <input checked="" type="checkbox"/> | NAE | <input type="checkbox"/> | ABSTAIN | <input type="checkbox"/> | ABSENT | <input type="checkbox"/> |
| Wayne Olsen | AYE | <input type="checkbox"/> | NAE | <input checked="" type="checkbox"/> | ABSTAIN | <input type="checkbox"/> | ABSENT | <input type="checkbox"/> |

TOQUERVILLE CITY
a Utah Municipal Corporation

Attest:


Justin Sip, Toquerville City Mayor


Daisy Fuentes, Toquerville City Recorder