

TOQUERVILLE CITY
PLANNING COMMISSION MEETING AGENDA
July 10, 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 – Chair Val Preslar
2. Pledge of Allegiance – Commissioner Haymore
3. Disclosures and Declaration of conflicts from Commission Members.
4. Oath of Office – Angela Harrison, Lonnie Christensen & Glenn Leavitt

B. APPROVAL OF AGENDA:

1. Approval of agenda order

C. CONSENT AGENDA:

1. Review and possible approval of meeting minutes from June 12, 2024 Planning Commission Meeting.

D. REPORTS:

1. Planning Chair – Val Preslar
2. Planning Commissioners
3. Assistant City Manager, Darrin LeFevre
4. City Attorney, Matt Ekins

E. PRESENTATION:

1. Derek Hall – IME Automation

F. BUSINESS ITEM(S):

1. Discussion and possible recommendation on Ordinance 2024.XX – Amending and restating Toquerville City Code 5-1-4: Care and Keeping of Animals and Livestock to establish standards for the keeping of chickens.
 - A. Public Hearing: Public input is sought on Ordinance 2024.XX – Amending and restating Toquerville City Code 5-1-4: Care and Keeping of Animals and Livestock to establish standards for the keeping of chickens.
 - B. Possible recommendation to City Council.
2. Discussion and possible recommendation on Ordinance 2024.XX – Amending and restating Toquerville City Code 10-10A: R-1 Single-Family Residential District to create an allowed use table and modify permitted and conditional uses.
 - A. Public Hearing: Public input is sought on Ordinance 2024.XX – Amending and restating Toquerville City Code 10-10A: R-1 Single-Family Residential District to create an allowed use table and modify permitted and conditional uses.
 - B. Possible recommendation to City Council.
3. Discussion and possible recommendation on a zone change application submitted by Ronald Duerksen. Tax ID #: T-3-0-27-411. The current zoning is H-C Highway Commercial, the proposed zoning is M-1 Light Industrial.

- A. Public Hearing: Public input is sought on a zone change application submitted by Ronald Duerksen. Tax ID #: T-3-0-27-411. The current zoning is H-C Highway Commercial, the proposed zoning is M-1 Light Industrial.
- B. Possible recommendation to City Council.

4. Discussion on the Grading Ordinance.
5. Discussion on the Planning Commission Policies and Procedures Manual.

G. 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 July 8, 2024, by Toquerville City Recorder, Daisy Fuentes.

TOQUERVILLE CITY
PLANNING COMMISSION MEETING MINUTES
June 12, 2024 at 6:00 pm
212 N. Toquer Blvd, Toquerville Utah

Present: Chair Pro Temp: Valerie Preslar; Commissioners: Dean Haymore, Jenny Chamberlain, Gary Tomsik, Angela Harrison; Staff: Assistant City Manager Darrin LeFevre, City Attorney Matt Ekins, City Recorder Daisy Fuentes; Absent: City Manager Afton Moore, Planning & Zoning Administrator Ryker Steglich;

A. CALL TO ORDER:

Chair Pro Temp Preslar called the meeting to order at 6:02 p.m. Commissioner Chamberlain led the Pledge of Allegiance.

Commissioner Preslar disclosed that she met with Jenny Chamberlain and former commissioner Stacey Eaton to discuss the bylaws.

B. APPROVAL OF AGENDA:

https://www.youtube.com/live/Cz5_Nakw3q8?si=iy0kKiF4k4n4XZyL&t=74

Commissioner Tomsik made a motion to accept the agenda order as published. Commissioner Chamberlain seconded the motion. Motion carried, 5-0. Val Preslar – aye, Gary Tomsik – aye, Jenny Chamberlain – aye, Dean Haymore – aye, Angela Harrison – aye;

C. CONSENT AGENDA:

https://www.youtube.com/live/Cz5_Nakw3q8?si=0DLNRm7Oj6W2Tq4J&t=180

1. Review and possible approval of meeting minutes from March 13, 2024 Planning Commission Meeting and April 23, 2024 Planning Commission Meeting.

Attorney Matt Ekins arrived at 6:07 p.m.

Commissioner Haymore made a motion to approve the minutes from March 13, 2024 as posted. Commissioner Tomsik seconded the motion. Motion carried, 4-1. Val Preslar – aye, Gary Tomsik – aye, Jenny Chamberlain – abstain, Dean Haymore – aye, Angela Harrison – aye;

Commissioner Chamberlain made a motion to approve the minutes from the April 23rd Planning Commission Meeting. Commissioner Haymore seconded the motion. Motion carried, 4-1. Val Preslar – aye, Gary Tomsik – aye, Jenny Chamberlain – aye, Dean Haymore – aye, Angela Harrison – abstain;

D. REPORTS:

https://www.youtube.com/live/Cz5_Nakw3q8?si=o7o7vPGtZWYmdkAi&t=268

1. Planning Chair Pro-Tempore Preslar
Val gave an update on the Planning Commission vacancies.

2. Planning Commissioners
Jenny Chamberlain disclosed that on June 11th she met with Val and former Planning Commission Chair Stacey Eaton and reported on that discussion.
3. Assistant City Manager, Darrin LeFevre
Darrin updated the commissioners on current projects within the city, ordinances ready for public hearings and staff changes. He answered questions from the commission.
Commissioner Haymore shared his thoughts on two possible modifications to the Planning Commission agenda.
4. City Manager, Afton Moore
Excused.
5. City Attorney, Matt Ekins
Attorney Ekins gave a brief report regarding current city projects and the policies and procedure manual.

E. BUSINESS ITEM(S):

1. **Discussion and possible appointment** of Planning Commission Chairperson for 2024.
https://www.youtube.com/live/Cz5_Nakw3q8?si=vBqY1D_frvZP2jHX&t=1126
The commissioners discussed this item.
Commissioner Haymore made a motion to appoint Valerie Preslar as Chairperson. Commissioner Chamberlain seconded the motion. Motion carried, 5-0. Val Preslar – aye, Gary Tomsik – aye, Jenny Chamberlain – aye, Dean Haymore – aye, Angela Harrison – aye;
2. **Discussion and possible appointment** of Planning Commission Pro Tempore for 2024.
https://www.youtube.com/live/Cz5_Nakw3q8?si=vqNSZHyp4mLNEAyg&t=1209
The commissioners discussed this item.
Commissioner Preslar made a motion to nominate Dean Haymore as Planning Commission Pro Temp. Commissioner Harrison seconded the motion. Motion carried, 5-0. Val Preslar – aye, Gary Tomsik – aye, Jenny Chamberlain – aye, Dean Haymore – aye, Angela Harrison – aye;
3. **Discussion and possible recommendation** on Resolution 2024.XX – Modifying the Toquerville City Planning Commission Annual Meeting Schedule to meet once a month.
https://www.youtube.com/live/Cz5_Nakw3q8?si=ck2Tm36hicz4pPCE&t=1248
The commissioners and staff discussed this item.

Commissioner Haymore made a motion to approve the new Resolution 2024.XX with the new planning commission dates – eliminating the second meetings throughout the year – and always be open. Commissioner Chamberlain seconded the motion. Motion carried, 5-0. Val Preslar – aye, Gary Tomsik – aye, Jenny Chamberlain – aye, Dean Haymore – aye, Angela Harrison – aye;
4. **Discussion and possible recommendation** on a Final Plat Application submitted by Firelight Development, Inc. for Sun River Firelight – Phase 2. Tax ID #: T-128-PV1.
https://www.youtube.com/live/Cz5_Nakw3q8?si=skn0t6ilqTaRAt14&t=2069
Darrin introduced this item to the commissioners. The commission discussed this application and addressed their concerns.

Commissioner Haymore made a motion to approve the phase two site as it has complied with all requirements of the City code and staff's recommendations that it is in compliance and that they are fulfilling the responsibilities to the city and to the fire department and different public utility departments that they are in compliance with that. Commissioner Chamberlain seconded the motion. Motion carried, 5-0. Val Preslar – aye, Gary Tomsik – aye, Jenny Chamberlain – aye, Dean Haymore – aye, Angela Harrison – aye;

5. **Discussion** of possible changes to the Grading Ordinance.

https://www.youtube.com/live/Cz5_Nakw3q8?si=huHTIpV4qzMEGISt&t=3058

Attorney Ekins introduced this item to the commission. The commissioners and staff discussed this item.

6. **Discussion** on the Planning Commission Policies and Procedures Manual.

https://www.youtube.com/live/Cz5_Nakw3q8?si=S4q5ghveyFyX3mYl&t=4068

Darrin introduced this item to the commission. The commissioners and staff discussed this item.

F. ADJOURN:

https://www.youtube.com/live/Cz5_Nakw3q8?si=sRcjN-5PLh499J2&t=4760

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

Chair Preslar adjourned the meeting at 7:22 pm.

Planning Chair – Valerie Preslar

Date

Attest: City Recorder – Daisy Fuentes

BUSINESS AND MANUFACTURING ZONE APPLICATION

“The purpose of the BMP Zone is to provide aesthetically attractive planned developments having a mix of office, research and development, [and] light manufacturing ... Typical uses in this zone include offices, clean indoor manufacturing facilities, ... and research facilities. “

IME Automation
President [Leo Wright](#)
2417 W. 350 N. Unit #2
Hurricane, UT 84737
435-414-1194

At IME Automation, our vision for this Toquerville location is to establish a dynamic and innovative hub dedicated to improving manufacturing efficiencies for local and national customers. We strive to be the premier automation partner for small businesses in southern Utah and across the nation, empowering them to transform their operations through cutting-edge automation solutions. Recognizing the scarcity of automation services tailored to smaller enterprises, we are committed to filling this gap by providing affordable, high-quality automation support. Our operations started in 2021 with 3 employees and have grown to 17. We have customers in 4 states and currently negotiating with potential customers in additional states and international markets including Europe and Australia.

Our partnerships and customers including industry giants like Berkshire Hathaway, Hewlett-Packard, Domino Printers, and our status as authorized FANUC integrators underscore our capability and dedication. Our mission is to elevate our customers, enabling them to compete with industry leaders and thrive in their markets. Together, we will foster growth, innovation, and success for the small businesses that form the backbone of our community.

DETAILS

- Hours of operation: Flexible for our employees, they come and go between the hours of 7:00 am and 6:00 pm Weekdays.
- Expected Occupancy: We have 15 local employees with plans to double over the next 2 years. We will provide a parking lot for them as well as minimal visitors.
- We will have a loading bay for large truck deliveries and provide parking and easy turn around for those larger vehicles, so as not to congest the main road.
- Our facility will not impact traffic. We are not a retail facility and do not expect “customers” on a regular basis.
 - We tend to have visitors about twice a week.
- Our building will be simple, clean and new.
- Our current landscape plan includes a desert scape with trees and vegetation to look simple and pleasing. The existing trees on the property will remain with the exception of the area to be built out.

BENEFITS TO TOQUERVILLE

- Providing high paying and high quality jobs.
 - Bringing residents with higher incomes.
- Improving taxable value of this specific property.
 - Improving taxable value of neighboring properties.
- “Build it and they will come.” Encouraging commercial growth of the Anderson Junction area.

IME Automation has had some amazing breakthroughs, including 2 patents and more pending.

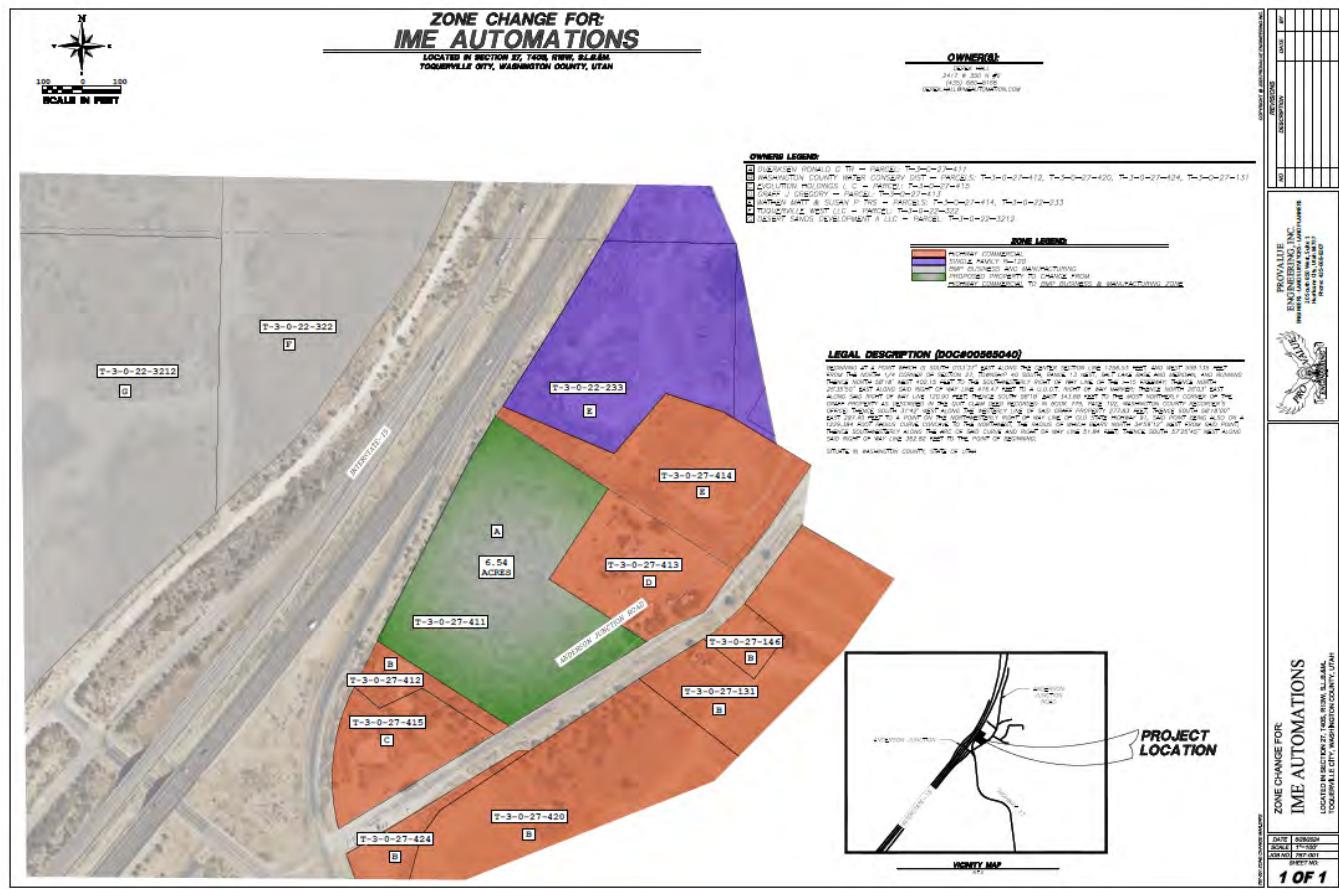
A few of our systems:

<https://www.youtube.com/watch?v=4KrfVITmKqY>

<https://www.youtube.com/watch?v=AKB4mekU4I>

<https://youtube.com/shorts/RjtYXHrFxQA?si=9cp2Mp2I1asMHQNY>

https://youtu.be/dvGbYC_PR1g?si=3C14x_MdcqhK0xP3



IME AUTOMATIONS METAL BUILDING



TOQUERVILLE CITY,
WASHINGTON COUNTY, UTAH

MAY 28, 2024
SCHEMATIC DEVELOPMENT

ABBREVIATIONS	DEFERRED SUBMITTALS	ARCHITECT
		DESERT EDGE ARCHITECTURE 201 S. 400 E., SUITE 100 TOQUERVILLE, UTAH 84743 800.825.0000 www.desertheadge.com info@desertheadge.com
		CIVIL
		PRO VALUE ENGINEERING 201 S. 400 E., SUITE 100 TOQUERVILLE, UTAH 84743 800.825.0000 www.pveinc.com
		STRUCTURAL
		ARM ENGINEERS 201 S. 400 E., SUITE 100 TOQUERVILLE, UTAH 84743 800.825.0000 Contact: ZACH HANSEN www.armengineeringworks.com
		MECHANICAL
		ELECTRICAL
		VAN BEEKER & FRAZER ASSOCIATES 210 N. MAIN, SUITE 100 TOQUERVILLE, UTAH 84743 800.825.0000 Email: info@vba.com
		NOT FOR CONSTRUCTION



DESERT EDGE
architecture

DESIGN. BUILD. LEARN.

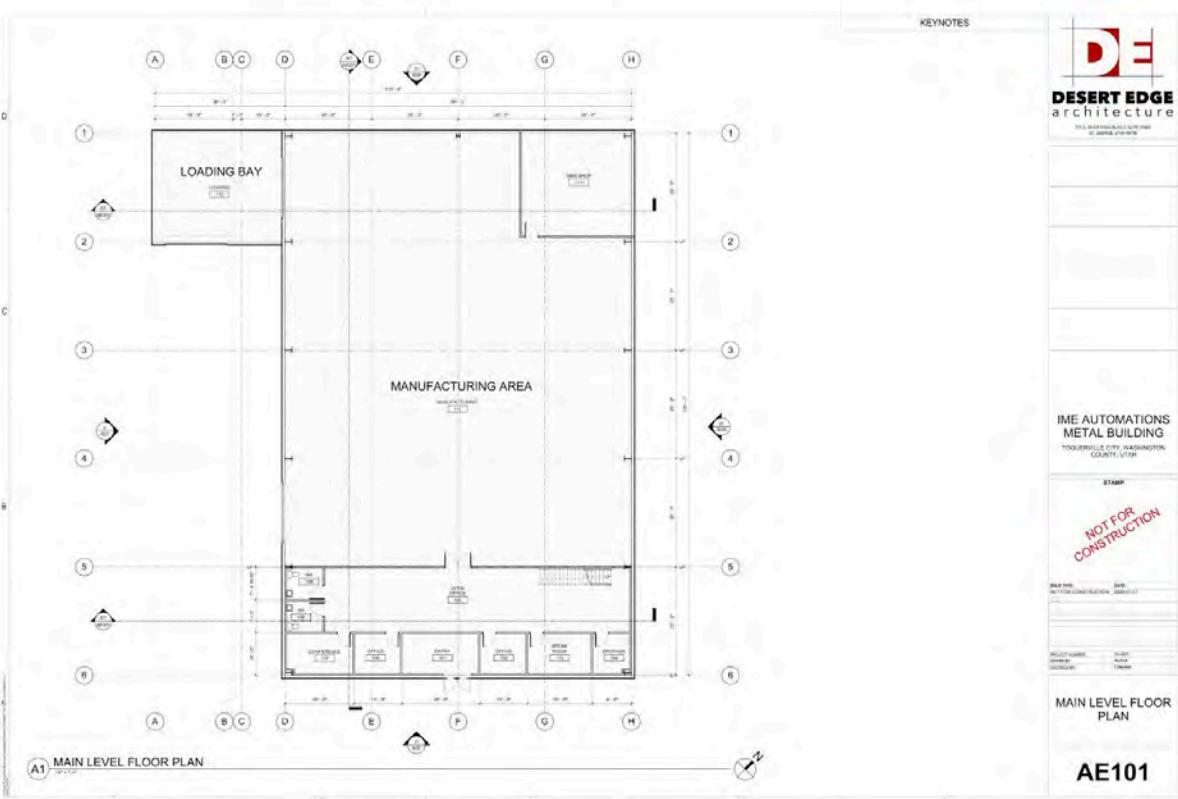
IME AUTOMATIONS
METAL BUILDING
TOQUERVILLE CITY, WASHINGTON
COUNTY, UTAH

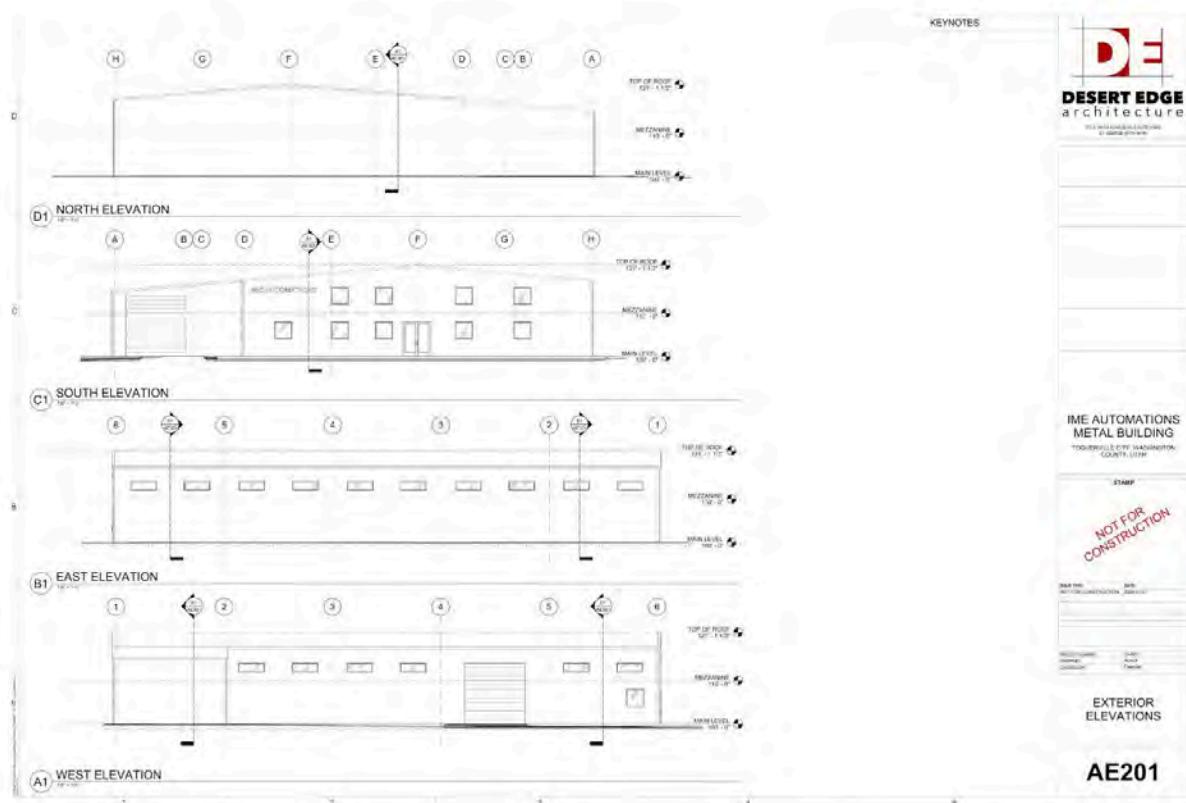
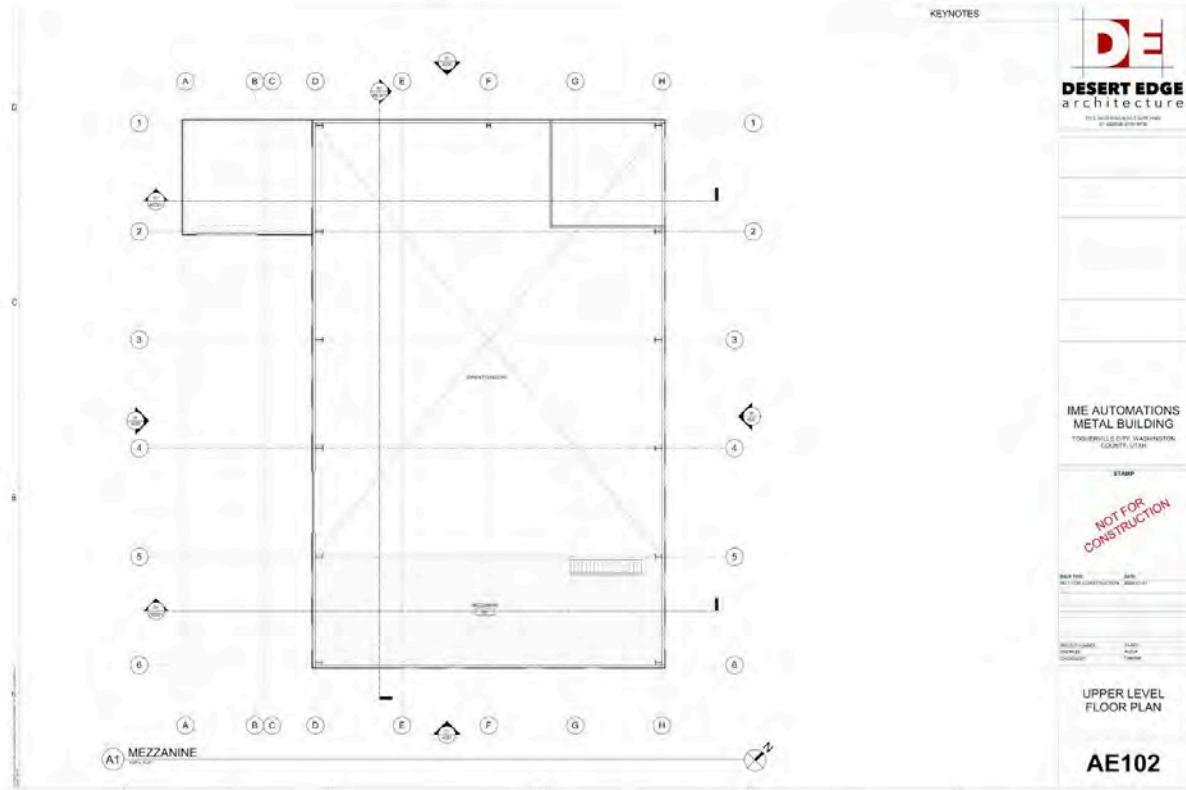
STAMP



COVER SHEET

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KEYNOTES



DESERT EDGE

DESERT EDGE ARCHITECTURE

DESERT EDGE ARCHITECTURE

IME AUTOMATIONS
METAL BUILDING

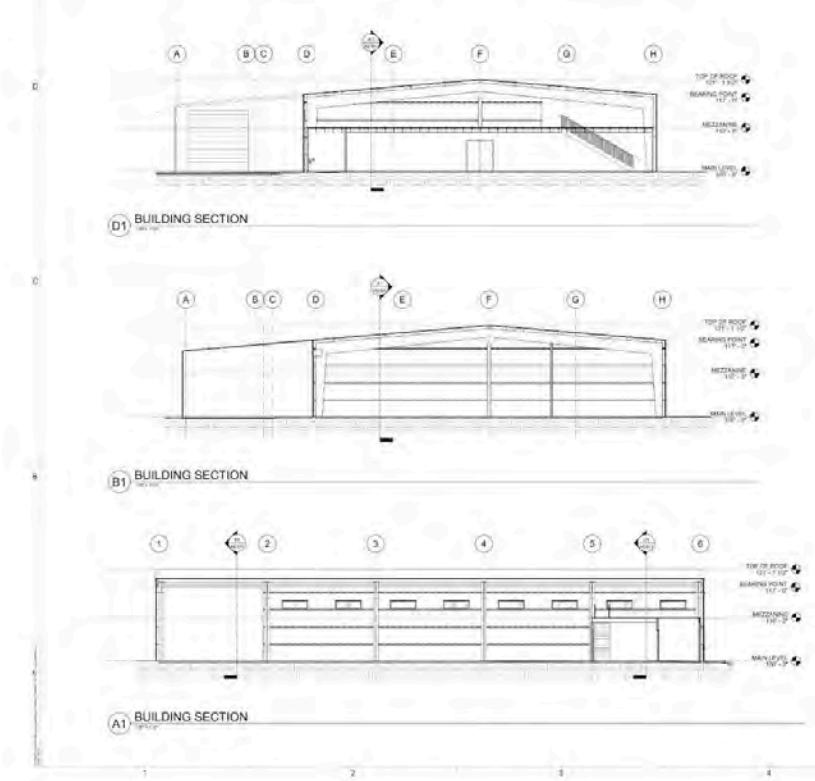
TODD RIVER, IDAHO, USA

STAMP

NOT FOR
CONSTRUCTION

BUILDING SECTIONS

AE301



Toquerville Planning Commission Meeting

Agenda Item Sheet

Commission Meeting Date: 7/10/2024

Department: Planning & Zoning

Agenda Item Title: 5-1-4 Care and Keeping of Animals and Livestock to establish standards for the keeping of chickens.

Presented By: Assistant City Manager Darrin LeFevre

Previous Action:

This Ordinance was drafted at the request of the Planning & Zoning Commission at a meeting held on December 13, 2023.

Background:

In the meeting held on December 13, 2023, the Planning Commission gave directions to staff to draft an ordinance addressing the use of chickens in residential zones. Toquerville City Code currently requires a conditional use livestock permit based on a points system for the keeping of all livestock. This ordinance draft removes the use of chickens from the conditional use requirement and creates standards for the permitted use of chickens within all residential zones. This ordinance coincides with an ordinance draft amending the allowed uses in the Single-Family Residential District. This section of the Toquerville City Code is found under Title 5 but deals with land uses directly affected by Title 10.

Proposed Changes:

- Modifying section B under 5-1-4 Care and Keeping of Animals and Livestock to establish standards in which the keeping of chickens within the Single-Family Residential District shall apply.
- Removing 'Chickens' from section D. Chickens standards are mentioned in section B.
- Modifying 5-1-4D6 to remove the sentence stating, "Chickens must not be in the front yard; No rooster or peafowl in all residential zones;" This is addressed under 5-1-4B.

Exhibits/Handouts/Audio/Visualization: *(Supporting documents required for review)*

Current City Code

Current State Code

Requested Redlines

Additional Documents

Commission Recommendation Requested:

For Information/Review Only

For Commission Recommendation

Sheet prepared by: Darrin LeFevre

Date Submitted: 7/5/2024

Sheet reviewed by:

Staff Comments for Care and keeping of Animals and Livestock

7-5-2024

Planning and Zoning Administrator:

In the December 13, 2023 meeting, the Planning Commission gave directions to staff to draft an ordinance addressing the use of chickens in residential zones. Toquerville City Code currently requires a conditional use livestock permit based on a points system for the keeping of all livestock.

This ordinance draft removes the use of chickens from the conditional use requirement and creates standards for the permitted use of chickens within all residential zones. This ordinance coincides with an ordinance draft amending the allowed uses in the Single-Family Residential District. This section of the Toquerville City Code is found under Title 5 but deals with land use directly affected by Title 10.

TOQUERVILLE CITY
ORDINANCE 2024.XX

AN ORDINANCE AMENDING AND RESTATING **TITLE 5 CHAPTER 1 SECTION 4 OF THE TOQUERVILLE CITY CODE TO ESTABLISH STANDARDS FOR THE KEEPING OF CHICKENS.**

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 5 CHAPTER 1 SECTION 4** of the Toquerville City Code is hereby amended and restated in its entirety as follows:

5-1-4: CARE AND KEEPING OF ANIMALS AND LIVESTOCK:

- A. *The keeping of livestock shall be a permitted use in the Agricultural District or Zone. The keeping of livestock shall be a conditional use in the Single-Family Residential Districts as specified in section 10-10A-3 of this Code.*
- B. *For the keeping of chickens in the Single-Family Residential Districts, the following standards shall apply:*
 - a. *Chickens may only be kept on lots that are 12,000 square feet or larger.*
 - b. *No roosters in Single-Family Residential Districts.*
 - c. *No more than 20 chickens may be kept on a qualifying lot.*
 - d. *Chickens shall be housed in a secure outdoor enclosure, equipped with a covered, well-ventilated, and predator-resistant coop, pen, or cage. This enclosure shall be restricted to the rear or backyard of the dwelling, maintaining a minimum distance of 20 feet from any neighboring lot line. The structure shall not exceed 8 feet in height or occupy an area larger than 120 square feet.*
 - e. *All coops, pens, or cages, along with their surrounding areas, shall be kept in a condition that prevents the excessive buildup of waste or debris, or any conditions that could result in unpleasant odors, thereby ensuring the health, safety, and comfort of adjoining properties.*
- BC.** *For the keeping of livestock in the Single-Family Residential Districts, a conditional use permit, with payment of required fees, must be reviewed and approved by the city staff. A conditional use applicant dissatisfied*

with the determination or interpretation by the city staff may appeal that determination and/or interpretation of this Code to the Planning Commission. Permits may be reviewed annually for Code compliance.

C.D. Number:

1. *The number of domesticated animals which may be maintained on the property shall be determined on the basis of point. No parcel of property shall exceed one hundred (100) points per acre (or a fractional share thereof) based on the following or a proportionate combination thereof, considering the size of the parcel or set of parcels concerned (e.g., 0.25 acre x 100 = 25 animal points). 1 Acre = 43,560 square feet. .5 acre = 21,780 square feet.*
2. *Type of animal or fowl/number of points per animal:*
 - a. *Cow (bovine), horse (equine), donkey, mule, or similar large animal (25 points).*
 - b. *Miniature horses, ponies, goats, llamas, alpacas, and/or similar medium size animals (12 points).*
 - c. *Ostriches or other similar large fowl (12 points).*
 - d. *Turkeys, geese, pheasants, and similar medium size fowl (4 points).*
 - e. *Chickens, ~~d~~Ducks, pigeons, doves, or similar small fowl (3 points).*
 - f. *Rabbits or similar small domesticated or farm animals (3 points).*
 - g. *For animals not specified above, the Planning Commission shall determine the type and number of points per animal. A property owner dissatisfied with the determination or interpretation of the Planning Commission may appeal that determination and/or interpretation of this Code to the appeal authority in accordance with the procedures and provisions of chapter 4 of this title.*
3. *The unweaned offspring of a residing animal or fowl, under six (6) months of age, shall be excluded from consideration for the purpose of determining compliance with this section.*
4. *Residential Beekeeping shall be limited to not more than three (3) hives and in accordance with the Utah Bee Inspection Act set forth in Title 4, Chapter 11 of the Utah Code, as amended. Beehives are to be kept in side or rear yard and at least ten (10) feet away from any adjoining property line.*
5. *For residentially zoned properties (one or more adjacent lots under the same ownership or tenancy and referring to usable acreage vs. deeded acreage):*
 - a. *That are less than one-half (1/2) acre in size, no large or medium size animals or large or medium sized fowl shall be allowed.*
 - b. *That are ten thousand (10,000) square feet in size, or smaller, a maximum number of animals and/or fowl equivalent to a total of twelve (12) points under the terms of this section are allowed, subject to the following:*
 - (1) *No medium size animals or medium sized fowl shall be allowed on the property; and*
 - (2) *No animals other than household pets shall be allowed on properties that are six thousand (6,000) square feet or smaller in size.*
6. *The following animals may not be maintained on the property: exotic*

animals, wild animals, dangerous animals, pigs (porcine), mink, and peacocks.

7. *Adequate containment of the animal(s) shall be provided by the applicant.*
8. *Manure shall be cleaned at least weekly and odors shall be controlled.*
9. *~~Chickens must not be in the front yard; No rooster or peafowl in all residential zones;~~ in Agricultural Zones roosters and peafowl are allowed.*

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

5-1-4: CARE AND KEEPING OF ANIMALS AND LIVESTOCK:

A. The keeping of livestock shall be a permitted use in the Agricultural District or Zone. The keeping of livestock shall be a conditional use in the Single-Family Residential Districts as specified in section 10-10A-3 of this Code.

B. For the keeping of livestock in the Single-Family Residential Districts, a conditional use permit, with payment of required fees, must be reviewed and approved by the city staff. A conditional use applicant dissatisfied with the determination or interpretation by the city staff may appeal that determination and/or interpretation of this Code to the Planning Commission. Permits may be reviewed annually for Code compliance.

C. Number:

1. The number of domesticated animals which may be maintained on the property shall be determined on the basis of point. No parcel of property shall exceed one hundred (100) points per acre (or a fractional share thereof) based on the following or a proportionate combination thereof, considering the size of the parcel or set of parcels concerned (e.g., 0.25 acre x 100 = 25 animal points). 1 Acre = 43,560 square feet. .5 acre = 21,780 square feet.

2. Type of animal or fowl/number of points per animal:

- a. Cow (bovine), horse (equine), donkey, mule, or similar large animal (25 points).
- b. Miniature horses, ponies, goats, llamas, alpacas, and/or similar medium size animals (12 points).
- c. Ostriches or other similar large fowl (12 points).
- d. Turkeys, geese, pheasants, and similar medium size fowl (4 points).
- e. Chickens, ducks, pigeons, doves, or similar small fowl (3 points).
- f. Rabbits or similar small domesticated or farm animals (3 points).

g. For animals not specified above, the Planning Commission shall determine the type and number of points per animal. A property owner dissatisfied with the determination or interpretation of the Planning Commission may appeal that determination and/or interpretation of this Code to the appeal authority in accordance with the procedures and provisions of chapter 4 of this title.

3. The unweaned offspring of a residing animal or fowl, under six (6) months of age, shall be excluded from consideration for the purpose of determining compliance with this section.

4. Residential Beekeeping shall be limited to not more than three (3) hives and in accordance with the Utah Bee Inspection Act set forth in Title 4, Chapter 11 of the Utah Code, as amended. Beehives are to be kept in side or rear yard and at least ten (10) feet away from any adjoining property line.

5. For residentially zoned properties (one or more adjacent lots under the same ownership or tenancy and referring to usable acreage vs. deeded acreage):

a. That are less than one-half (1/2) acre in size, no large or medium size animals or large or medium sized fowl shall be allowed.

b. That are ten thousand (10,000) square feet in size, or smaller, a maximum number of animals and/or fowl equivalent to a total of twelve (12) points under the terms of this section are allowed, subject to the following:

(1) No medium size animals or medium sized fowl shall be allowed on the property; and

(2) No animals other than household pets shall be allowed on properties that are six thousand (6,000) square feet or smaller in size.

6. The following animals may not be maintained on the property: exotic animals, wild animals, dangerous animals, pigs (porcine), mink, and peacocks.

7. Adequate containment of the animal(s) shall be provided by the applicant.

8. Manure shall be cleaned at least weekly and odors shall be controlled.

9. Chickens must not be in the front yard; No rooster or peafowl in all residential zones; in Agricultural Zones roosters and peafowl are allowed. (Ord. 2017.11, 9-7-2017; amd. Ord. 2020.12, 6-11-2020)

Toquerville Planning Commission Meeting

Agenda Item Sheet

Commission Meeting Date: 7/10/2024

Department: Planning & Zoning

Agenda Item Title: 10-10A: R-1 Single-Family Residential District

Presented By: Assistant City Manager: Darrin LeFevre

Previous Action:

This Ordinance was drafted at the request of the Planning & Zoning Commission at a meeting held on December 13, 2023.

Background:

In the meeting held on December 13, 2023, the Planning Commission gave direction to staff to draft an ordinance addressing the use of chickens in residential zones. This ordinance draft adds the use of chickens as a permitted use. This ordinance coincides with an ordinance draft amending 5-1-4 Care and Keeping of Animals and Livestock. Additionally, this ordinance clarifies the use of single-family dwellings, consolidates the permitted and conditional uses into an allowed-use table, and removes home occupations from the permitted uses.

Proposed Changes:

- Creating an allowed use table containing permitted and conditional uses.
- Revising the use “Single-unit dwellings and other uses customarily incidental and accessory to single-family residential uses and necessary for the operation thereof (garages, carports, play equipment, etc.)” to read as follows, “Single-family dwellings (one per lot/parcel)”
- The addition of the use for “the keeping of chickens (hens only) per 5-1-4B” as permitted uses within the district.
- The removal of “Home occupations” from the permitted uses.

Exhibits/Handouts/Audio/Visualization: (Supporting documents required for review)

Current City Code

Current State Code

Requested Redlines

Additional Documents

Commission Recommendation Requested:

For Information/Review Only

For Commission Recommendation

Sheet prepared by: Darrin LeFevre

Date Submitted: 7/5/2024

Sheet reviewed by:

**Staff Comments for
Single-Family Residential District
7-5-2024**

Planning and Zoning Administrator:

In the meeting held on December 13, 2023, the Planning Commission gave direction to staff to draft an ordinance addressing the use of chickens in residential zones. This ordinance draft adds the use of chickens as a permitted use.

This ordinance coincides with an ordinance draft amending 5-1-4 Care and Keeping of Animals and Livestock. Additionally, this ordinance clarifies the use of single-family dwellings, consolidates the permitted and conditional uses into an allowed-use table, and removes home occupations from the permitted uses.

TOQUERVILLE CITY ORDINANCE 2024.XX

AN ORDINANCE AMENDING AND RESTATING IN ITS ENTIRETY **TITLE 10, CHAPTER 10, ARTICLE A** OF THE TOQUERVILLE CITY CODE TO CREATE AN ALLOWED USE TABLE AND MODIFY PERMITTED AND CONDITIONAL USES.

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 10, ARTICLE A** of the Toquerville City Code is hereby amended and restated in its entirety as follows:

ARTICLE A. R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT SECTION:

10-10A-1: Purpose

10-10A-2: Permitted Uses Allowed Use Table

10-10A-3: Conditional Uses

10-10A-43: Physical Restrictions

10-10A-4-1 3-1: R-1-12 District (12,000 Square Feet)

10-10A-4-1 3-2: R-1-15 District (15,000 Square Feet)

10-10A-4-3 3-3: R-1-20 District (20,000 Square Feet)

10-10A-1: PURPOSE:

The R-1 District is intended to provide sites for low density single-family residential uses, together with such public facilities as may appropriately be located in the same district. The R-1 District regulations are intended to ensure adequate light, air, open space for each dwelling, commensurate with single-family occupancy, and, to maintain the desirable residential qualities of such sites by establishing appropriate site development standards. Certain nonresidential uses may be permitted as conditional uses, and where approved, are intended to blend harmoniously with the residential character of the district. (Ord. 2012.04, 1-18-2012)

10-10A-2: ALLOWED USE TABLE:

Only the following uses set forth in the table below are allowed in Planned Commercial Residential Districts. Any use not specified as permitted, conditional, or conditional with standards/permit is deemed prohibited.

USE	
Accessory buildings and uses customarily and incidental to the permitted and conditional uses allowed herein.	P
Home occupations (with current home occupation <u>permit</u> license).	P
Household pets, as allowed under Title 5, Chapter 1, "Animal Control", of this Code.	P
Rentals of single-family residences in excess of ninety (90) consecutive days.	P
Single-family dwellings (one per lot/parcel)	P
Tilling of the soil, raising crops, horticulture, and gardening.	P
The keeping of chickens (hens only) per 5-1-4B.	P
Public or quasi-public building for essential public services.	P
Public utility uses.	P
Child daycare or nursery	C
Churches	C
Model homes	C
Private recreational grounds and facilities not open to the general public and to which no admission charge is made.	C
Public or private schools.	C
Residential facility for persons with a disability (see 10-17-2)	CS
Single-family and multi-family dwellings located above commercial space.	C

The keeping of livestock in accordance with section 5-1-4.	CS
Other uses similar to the permitted uses above and judged to be in harmony with the character and intent of this zone.	C
Legend:	

P = Permitted Use, C = Conditional, CS = Conditional with Standards or Permit, NA = Not Allowed

10-10A-2: PERMITTED USES:

~~Accessory buildings and uses customarily and incidental to the permitted and conditional uses allowed herein.~~

~~Home occupations (with current home occupation permit).~~

~~Household pets, as allowed under title 5, chapter 1, "Animal Control", of this Code.~~

~~Rentals of single-family residences in excess of ninety (90) consecutive days.~~

~~Single-unit dwellings and other uses customarily incidental and accessory to single-family residential uses and necessary for the operation thereof (garages or carports, play equipment, etc.).~~

~~Tilling of the soil, raising crops, horticulture and gardening.~~

~~Public or quasi-public building for essential public services.~~

~~Public utility uses. (Ord. 2019.03, 5-9-2019; and. Ord. 2021.13, 7-21-2021)~~

10-10A-3: CONDITIONAL USES:

~~Child daycare or nursery.~~

~~Churches.~~

~~Model homes.~~

~~Private recreation grounds and facilities not open to the general public and to which no admission charge is made.~~

~~Public or private schools.~~

~~Residential facility for persons with a disability 1. This use shall require a permit under section 10-17-2 of this title.~~

~~Single-family and multi-family dwellings located above commercial space.~~

~~The keeping of livestock in accordance with section 5-1-4 of this Code.~~

~~Other uses similar to the permitted uses above and judged to be in harmony with the character and intent of this zone. (Ord. 2019.03, 5-9-2019; and. Ord. 2021.13, 7-21-2021)~~

Notes

1 1. UCA § 10-9a-520.

10-10A-4-1 3-1: PHYSICAL RESTRICTIONS:

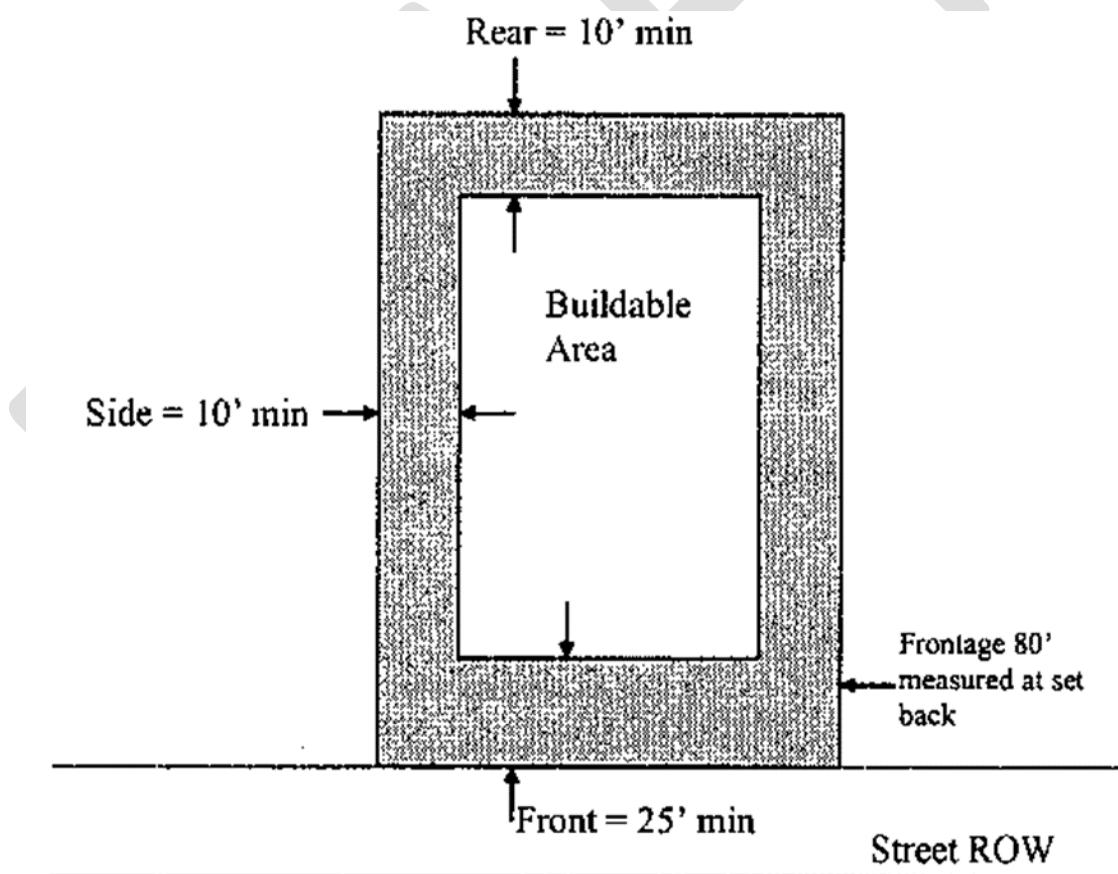
10-10A-4-1 3-1: R-1-12 DISTRICT (12,000 SQUARE FEET):

Minimum lot area 12,000 square feet

Minimum frontage 80 feet (except corner lots 90 feet). Minimum

<i>Minimum setbacks</i>	<i>frontage may be reduced by 30% on a cul-de-sac lot, as measured along the line that follows the minimum front setback for the lot and as long as the total lot area exceeds 12,000 square feet</i>
<i>Setback exception</i>	<i>Front: 25 feet</i>
<i>Maximum height</i>	<i>Side: 10 feet</i>
<i>Parking</i>	<i>Rear: 10 feet</i>
<i>Minimum road setback</i>	<i>Driveway, walkway</i>
<i>Secondary structure height</i>	<i>35 feet (see definition of building height, section 10-2-1 of this title) (exception - church steeples)</i>
<i>Secondary structure setback</i>	<i>In accordance with section 10-21-13 of this title</i>
	<i>25 feet from any dedicated street or highway</i>
	<i>Up to 18 feet - permitted</i>
	<i>18 feet to 35 feet - conditional</i>
	<i>Above 35 feet - not allowed</i>

(Ord. 2018.08, 12-13-2018)

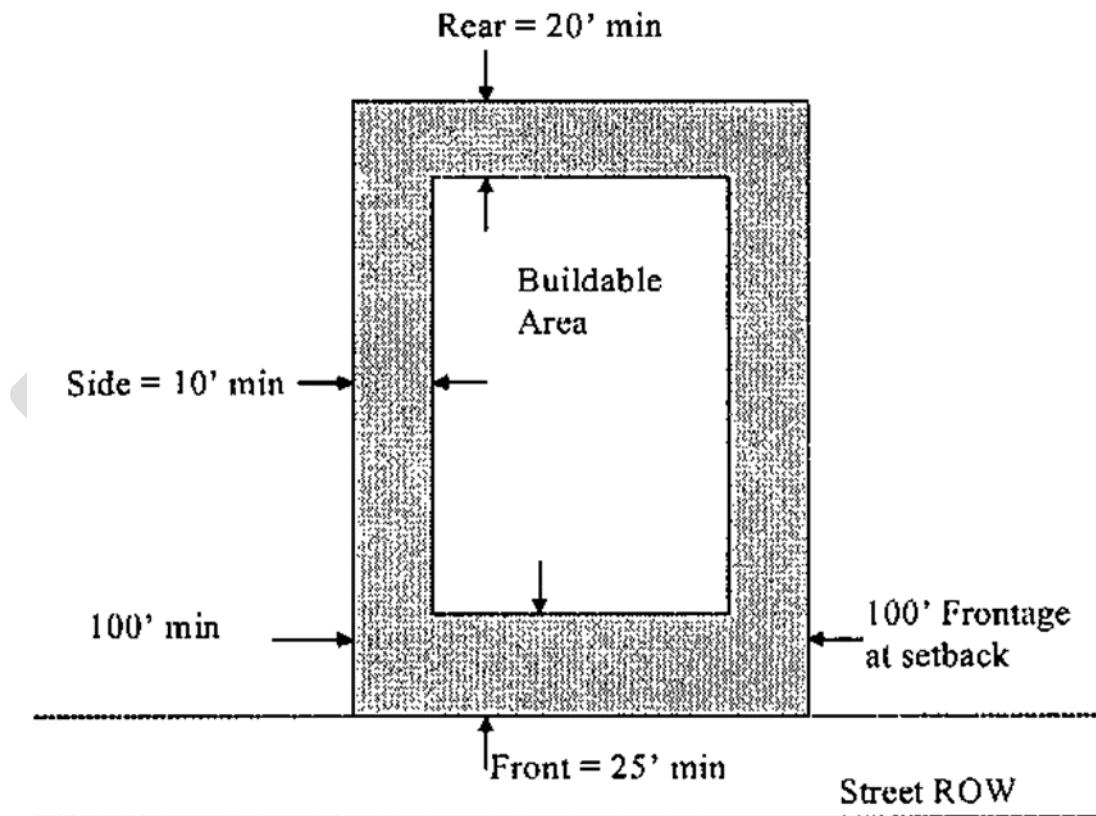


(Ord. 2012.04, 1-18-2012)

10-10A-4-1 3-2: R-1-15 DISTRICT (15,000 SQUARE FEET):
Minimum lot area *15,000 square feet*

<i>Minimum frontage</i>	<i>90 feet (except corner lots 100 feet) measured at setback</i>
<i>Minimum setbacks</i>	<i>Front: 25 feet Side: 10 feet Rear: 15 feet</i>
<i>Setback exception</i>	<i>Driveway, walkway</i>
<i>Maximum height</i>	<i>35 feet (see definition of building height, section 10-2-1 of this title)</i>
<i>Parking</i>	<i>In accordance with section 10-21-13 of this title</i>
<i>Minimum road setback</i>	<i>25 feet from any dedicated street or highway</i>
<i>Secondary structure height</i>	<i>Up to 18 feet 18 feet to 35 feet conditional Above 35 feet not allowed</i>
<i>Secondary structure setback</i>	<i>Front: 25 feet Side: 5 feet Rear: 5 feet</i>

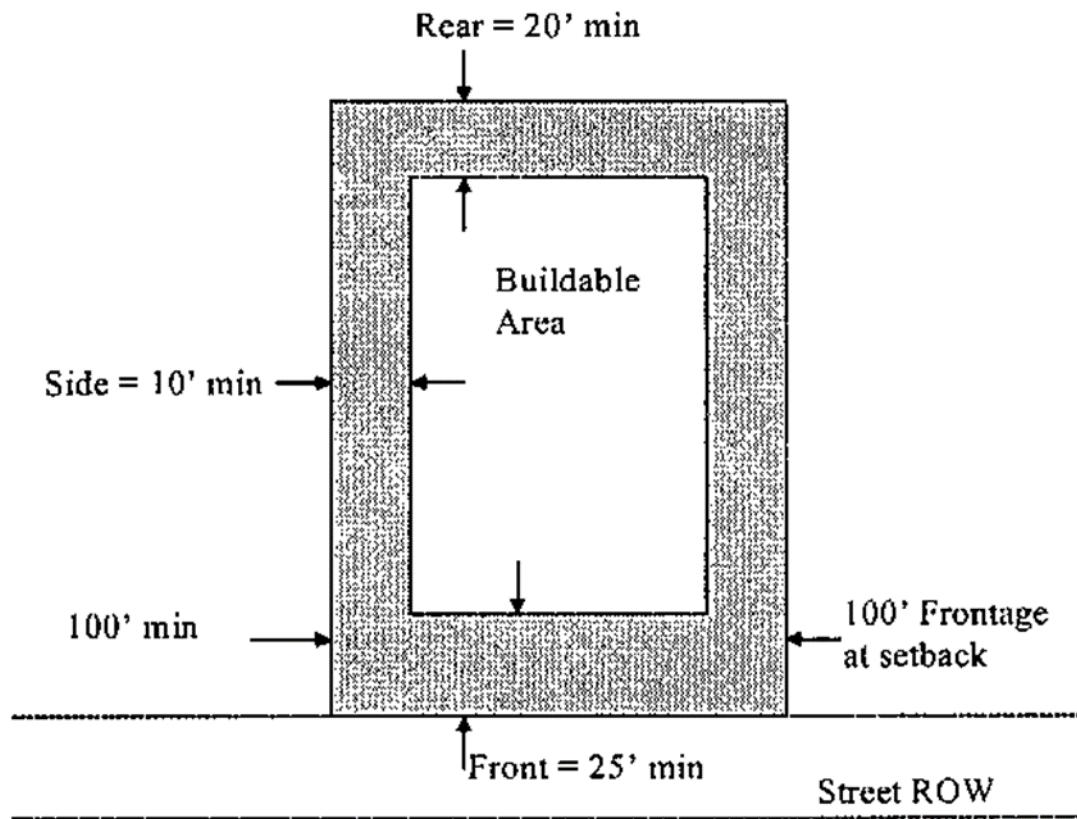
(Ord. 2012.04, 1-18-2012)



10-10A-4-3 3-3: R-1-20 DISTRICT (20,000 SQUARE FEET):

<i>Minimum lot area</i>	<i>20,000 square feet</i>
<i>Minimum frontage</i>	<i>100 feet (except corner lots 110 feet) measured at setback</i>

<i>Minimum setbacks</i>	<i>Front: 25 feet</i> <i>Side: 10 feet</i> <i>Rear: 20 feet</i>
<i>Setback exception</i>	<i>Driveway, walkway</i>
<i>Maximum height</i>	<i>35 feet (see definition of building height, section 10-2-1 of this title)</i>
<i>Parking</i>	<i>In accordance with section 10-21-13 of this title</i>
<i>Minimum road setback</i>	<i>25 feet from any dedicated street or highway</i>
<i>Secondary structure height</i>	<i>Up to 18 feet</i> <i>18 feet to 35 feet conditional</i> <i>Above 35 feet not allowed</i>
<i>Secondary structure setback</i>	Front: 25 feet Side: 5 feet Rear: 5 feet



(Ord. 2012.04, 1-18-2012)

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

ARTICLE A. R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

SECTION:

10-10A-1: Purpose

10-10A-2: Permitted Uses

10-10A-3: Conditional Uses

10-10A-4: Physical Restrictions

10-10A-4-1: R-1-12 District (12,000 Square Feet)

10-10A-4-2: R-1-15 District (15,000 Square Feet)

10-10A-4-3: R-1-20 District (20,000 Square Feet)

10-10A-1: PURPOSE:

The R-1 District is intended to provide sites for low density single-family residential uses, together with such public facilities as may appropriately be located in the same district. The R-1 District regulations are intended to ensure adequate light, air, open space for each dwelling, commensurate with single-family occupancy, and, to maintain the desirable residential qualities of such sites by establishing appropriate site development standards. Certain nonresidential uses may be permitted as conditional uses, and where approved, are intended to blend harmoniously with the residential character of the district. (Ord. 2012.04, 1-18-2012)

10-10A-2: PERMITTED USES:

Accessory buildings and uses customarily and incidental to the permitted and conditional uses allowed herein.

Home occupations (with current home occupation permit).

Household pets, as allowed under title 5, chapter 1, "Animal Control", of this Code.

Rentals of single-family residences in excess of ninety (90) consecutive days.

Single-unit dwellings and other uses customarily incidental and accessory to single-family residential uses and necessary for the operation thereof (garages or carports, play equipment, etc.).

Tilling of the soil, raising crops, horticulture and gardening.

Public or quasi-public building for essential public services.

Public utility uses. (Ord. 2019.03, 5-9-2019; amd. Ord. 2021.13, 7-21-2021)

10-10A-3: CONDITIONAL USES:

Child daycare or nursery.

Churches.

Model homes.

Private recreation grounds and facilities not open to the general public and to which no admission charge is made.

Public or private schools.

Residential facility for persons with a disability¹. This use shall require a permit under section 10-17-2 of this title.

Single-family and multi-family dwellings located above commercial space.

The keeping of livestock in accordance with section 5-1-4 of this Code.

Other uses similar to the permitted uses above and judged to be in harmony with the character and intent of this zone. (Ord. 2019.03, 5-9-2019; amd. Ord. 2021.13, 7-21-2021)

Notes

¹ 1. UCA § 10-9a-520.

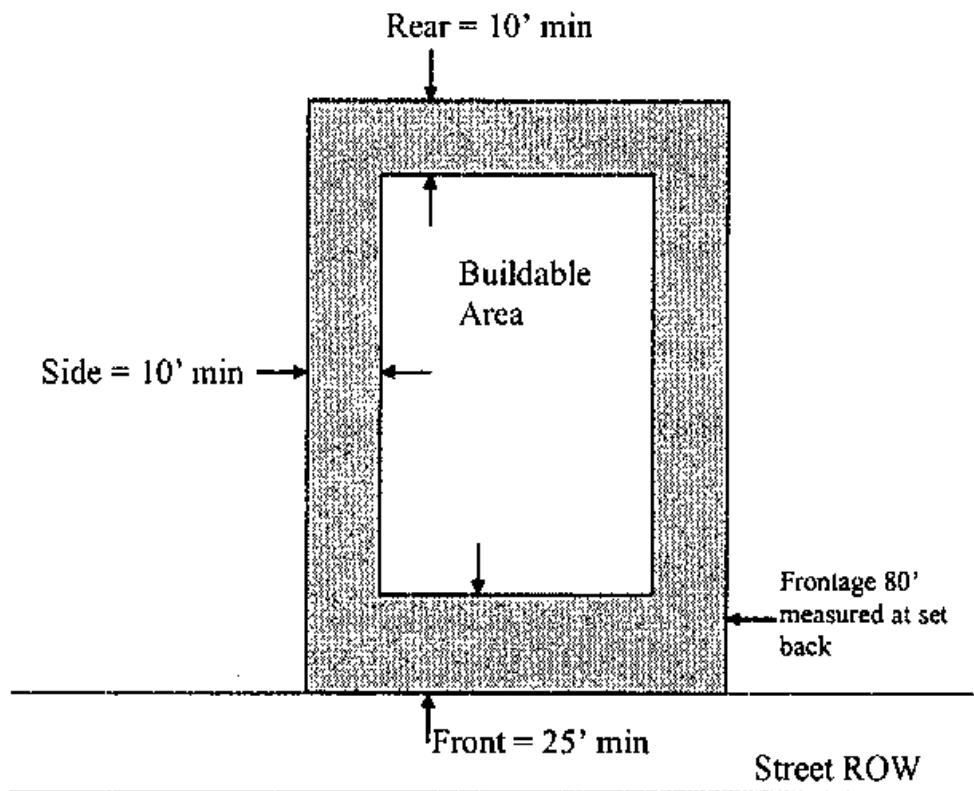
10-10A-4: PHYSICAL RESTRICTIONS:

10-10A-4-1: R-1-12 DISTRICT (12,000 SQUARE FEET):

Minimum lot area	12,000 square feet
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Minimum frontage	80 feet (except corner lots 90 feet). Minimum frontage may be reduced by 30% on a cul-de-sac lot, as measured along the line that follows the minimum front setback for the lot and as long as the total lot area exceeds 12,000 square feet
Minimum setbacks	Front: 25 feet Side: 10 feet Rear: 10 feet
Setback exception	Driveway, walkway
Maximum height	35 feet (see definition of building height, section 10-2-1 of this title) (exception - church steeples)
Parking	In accordance with section 10-21-13 of this title
Minimum road setback	25 feet from any dedicated street or highway
Secondary structure height	Up to 18 feet - permitted 18 feet to 35 feet - conditional Above 35 feet - not allowed
Secondary structure setback	Front: 25 feet Side: 5 feet Rear: 5 feet

(Ord. 2018.08, 12-13-2018)



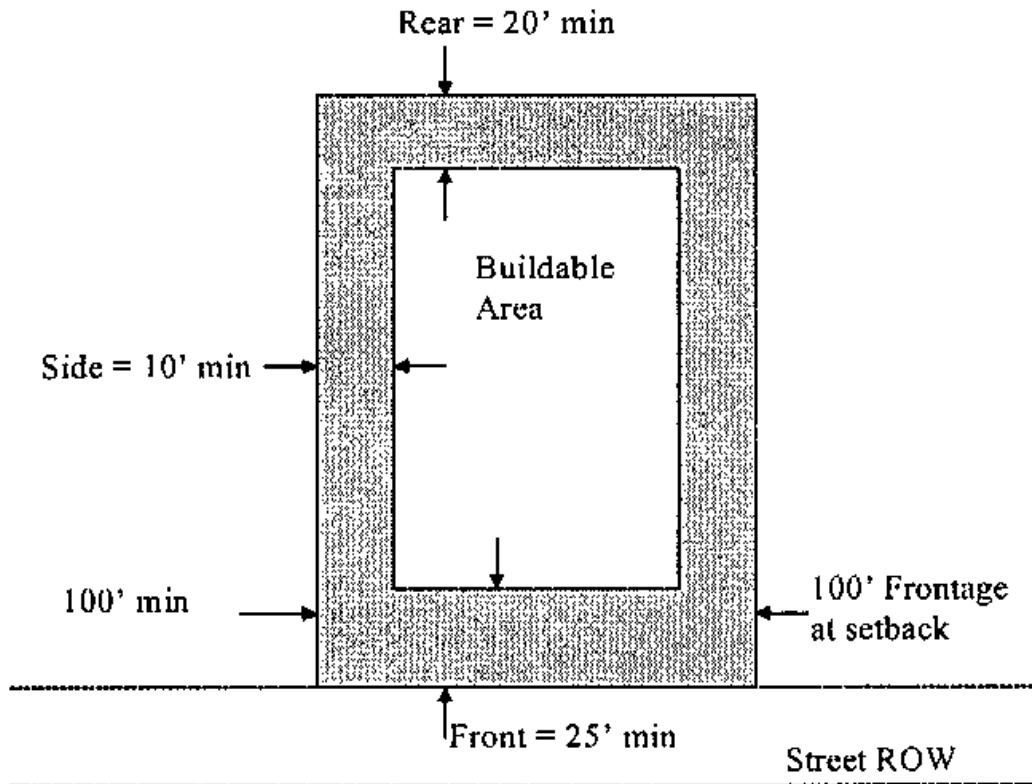
(Ord. 2012.04, 1-18-2012)

10-10A-4-2: R-1-15 DISTRICT (15,000 SQUARE FEET):

Minimum lot area	15,000 square feet
Minimum frontage	90 feet (except corner lots 100 feet) measured at setback
Minimum setbacks	Front: 25 feet Side: 10 feet Rear: 15 feet
Setback exception	Driveway, walkway
Maximum height	35 feet (see definition of building height, section 10-2-1 of this title)
Parking	In accordance with section 10-21-13 of this title

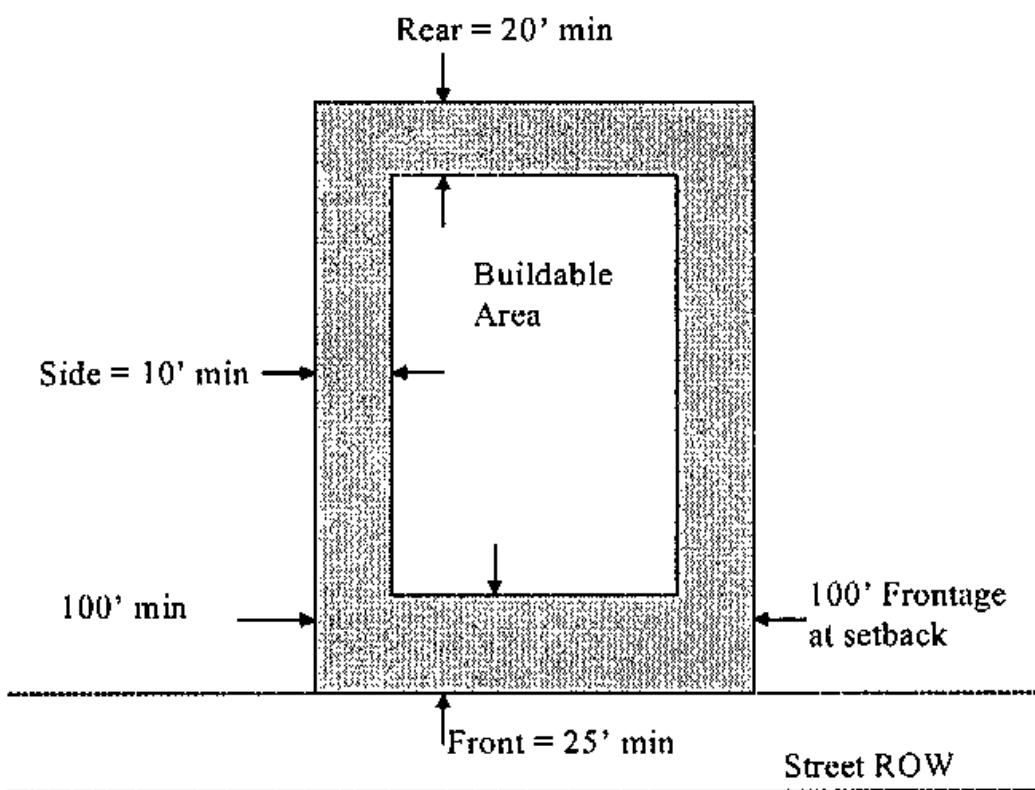
Minimum road setback	25 feet from any dedicated street or highway
Secondary structure height	Up to 18 feet 18 feet to 35 feet conditional Above 35 feet not allowed
Secondary structure setback	Front: 25 feet Side: 5 feet Rear: 5 feet

(Ord. 2012.04, 1-18-2012)



10-10A-4-3: R-1-20 DISTRICT (20,000 SQUARE FEET):

Minimum lot area	20,000 square feet
Minimum frontage	100 feet (except corner lots 110 feet) measured at setback
Minimum setbacks	Front: 25 feet Side: 10 feet Rear: 20 feet
Setback exception	Driveway, walkway
Maximum height	35 feet (see definition of building height, section 10-2-1 of this title)
Parking	In accordance with section 10-21-13 of this title
Minimum road setback	25 feet from any dedicated street or highway
Secondary structure height	Up to 18 feet 18 feet to 35 feet conditional Above 35 feet not allowed
Secondary structure setback	Front: 25 feet Side: 5 feet Rear: 5 feet



(Ord. 2012.04, 1-18-2012)

**Staff Comments for
Ronald Duerksen
Zone Change Application
6-4-2024**

Planning and Zoning Administrator:

Brandon Price has submitted a Zone Change Application for Tax ID #: T-3-0-27-411 on behalf of Ronald Duerksen. City Staff has reviewed this application, and it has been deemed complete as per Title 10, Chapter 6, of the Toquerville City Code. This application was deemed complete on June 26, 2024.

This parcel is currently zoned Highway Commercial. The applicant has requested a change to the BMP Business and Manufacturing zone. The General Plan designates this area as Commercial. The commercial is defined in the General Plan in the following words.

“This area supports a variety of commercial enterprises. This may include the HC Highway Commercial, PC Planned Commercial, M-1 Light Industrial, or Business and Manufacturing zones, or any other similar commercial-oriented zone.”

Based on the definition provided by the General Plan, this application would not require a General Plan Amendment.

Toquerville City
ZONE CHANGE APPLICATION

Fee: \$1,200.00



Name: Ronald Duerksen Telephone: [REDACTED]

Address: 3670 South 2140 East Fax No. [REDACTED]

Agent (If Applicable): Brandon Price Telephone: (435) 272-7751

Email: bprice@naiexcel.com, derek.ball@imeautomation.com

Address/Location of Subject Property: Anderson Junction

Tax ID of Subject Property: T-3-0-27-411 Existing Zone District: Highway Commercial

Proposed Zoning District and reason for the request (Describe, use extra sheet if necessary):

BMP Business and Manufacturing zone

Submittal Requirements: The zone change application shall provide the following:

- a. The name and address of every person or company the applicant represents;
- b. An accurate property map showing the existing and proposed zoning classifications;
- c. All abutting properties showing present zoning classifications;
- d. An accurate legal description of the property to be rezoned;
- e. Stamped envelopes with the names and addresses of all property owners within 300 feet of the boundaries of the property proposed for rezoning;
- f. Warranty deed or preliminary title report or other document (see attached Affidavit) showing evidence that the applicant has control of the property.

Additional fees may include the cost of amending the official zoning map, County recording fees, Attorney and engineering fees, General Plan and other city plan amendments.

Note: It is important that all applicable information noted above along with the fee is submitted with the application. An incomplete application will not be scheduled for Planning Commission consideration. Once your application is deemed complete, it will be put on the agenda for the next Planning Commission meeting. A deadline missed or an incomplete application could result in a month's delay.

Pd Check# [REDACTED] (Office Use Only)

DATE RECEIVED: 5/30/2024 80 COMPLETE: YES NO

DATE APPLICATION DEEMED TO BE COMPLETE: 6-3-2024 6-26-24

COMPLETION DETERMINATION MADE BY: Rick Wright Mr. Dan LL
Signature

ZONE CHANGE APPLICATION (General Information)

PURPOSE

All lands within the City are zoned for a specific type of land use (single family residential, multi-family, commercial, industrial, etc). Zoning occurs as a means to provide for a relationship between various types of land uses which promotes the health, safety, welfare, order, economics, and aesthetics of the community. Zoning is one of the main tools used to implement the City's General Plan.

WHEN REQUIRED

A zone change request is required any time a property owner desires to make a significant change to the use of his/her land. The change may be from one zone density (say 1 acre lots) to smaller lots (10,000 square foot lots). Or, it may be to an entirely different type of use, such as a change from single family zoning to multiple family or commercial zoning. Since the zone applied to your land limits what you can do, a rezoning application is typically the first step toward a change.

REQUIRED CONSIDERATIONS TO APPROVE A ZONE CHANGE

When approving a zone change the following factors should be considered by the Planning Commission and City Council:

1. Whether the proposed amendment is consistent with the Goals, Objectives and Policies of the City's General Plan;
2. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;
3. The extent to which the proposed amendment may adversely affect adjacent property; and
4. The adequacy of facilities and services intended to serve the subject property, including, but not limited to roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.

PROCESS

Contact the Planning Department for when the deadline for submission is. After it is deemed complete, staff will review the request, and prepare a report and recommendation for the Planning Commission. This will be reviewed at a public hearing where the applicant should attend, present the project, and respond to questions from the Planning Commission. Since it is a public hearing, members of the public may also have questions or comments. At the public hearing the Planning Commission will review the application and staff's report, and forward a recommendation to the City Council of approval, approval with modifications, or denial the zone change application.

Upon receipt of the Planning Commission recommendation, typically 1-2 weeks after the Planning Commission action, the City Council will consider and act on the Commission's recommendation. The action of the City Council is final. If denied, a similar application generally cannot be heard for a year.

**AFFIDAVIT
PROPERTY OWNER**

STATE OF UTAH

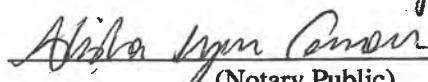
COUNTY OF *Salt Lake* ^{iss}

I (we), Ronald Duerksen, being duly sworn, depose and say that I (we) am (are) the owner(s) of the property identified in the attached application and that the statements herein contained and the information provided identified in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge. I (we) also acknowledge that I have received written instructions regarding the process for which I am applying and the Toquerville City Planning staff have indicated they are available to assist me in making this application.

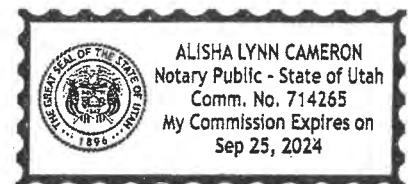


(Property Owner)

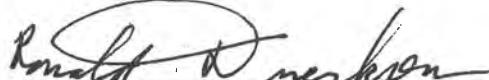
(Property Owner)

Subscribed and sworn to me this 29th day of May 2024.


(Notary Public)

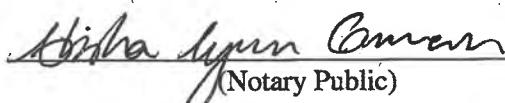
Residing in: UtahMy Commission Expires: 09/25/2024Agent Authorization

I (we), Ronald Duerksen, the owner(s) of the real property described in the attached application, do authorize as my (our) agent(s) Brandon Price to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the City considering this application and to act in all respects as our agent in matters pertaining to the attached application.

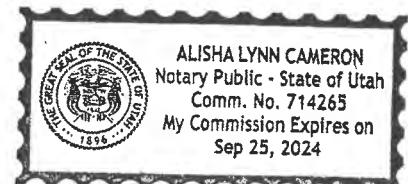


(Property Owner)

(Property Owner)

Subscribed and sworn to me this 29th day of May 2024.


(Notary Public)

Residing in: UtahMy Commission Expires: 09/25/2024

PROFESSIONAL FEES AGREEMENT WITH TOQUERVILLE CITY

This agreement is entered into this 29th day of May 2024, between
Ronald D. Nelson (name/s)
 of Salt Lake County of Utah (State) (hereinafter referred to
 as "Applicant"), and Toquerville City, a municipal corporation of the State of Utah, located in
 Washington County (hereinafter referred to as the "City"). Subdivider, on behalf of it/himself, its/his
 heirs, successors and assigns, hereby acknowledges, covenants, and agrees that:

- 1) Applicant is aware of the City Code website application page and shall in all respects comply with the provisions contained therein.
- 2) All on-site and off-site improvements required to be constructed in connection with said application shall be constructed and installed in accordance with current construction requirements and comply with the Toquerville Standards and Specifications.
- 3) In the event that action is required to be taken by Toquerville to enforce, approve, or double check the terms of this agreement, Applicant agrees that it/he shall be liable to pay all such costs and expenses incurred by Toquerville City.
- 4) Applicant agrees to pay all fees associated with this application as outlined in the current Land Use Fee Schedule and fees accrued to Toquerville City.

DATED this 29th day of May 2024

Ronald D. Nelson
 Applicant

 Applicant

City Representative

Title

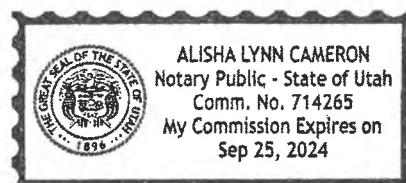
STATE OF UTAH

Salt Lake : ss.
 COUNTY OF WASHINGTON)

On the 29th day of May 2024, personally appeared
 before me, the signer(s) of the above instrument, who duly acknowledged to me that he/she executed the
 same on behalf of the Subdivider.

Alisha Lynn Cameron
 NOTARY PUBLIC

(SEAL)



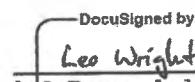
ADDENDUM NO. 2
TO
REAL ESTATE PURCHASE CONTRACT

THIS IS AN ADDENDUM COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of April 16, 2024, including all prior addenda and counteroffers, between IME Automations and/or assigns as Buyer, and Ronald G Duerkson Trust as Seller, regarding the Property located at 6.54 acres Anderson Junction. The following terms are hereby incorporated as part of the REPC:

1. Seller to cooperate with Buyer on rezone from Highway Commercial to Light Industrial. This to be solely at Buyer's expense.
2. Once Re-Zoning is approved, the Buyer will deposit and additional \$10,000 Earnest money and all Earnest Money will immediately be released to Seller.
3. All Earnest Money will go toward purchase price.

BUYER AND SELLER AGREE THAT THE CONTRACT DEADLINES REFERENCED IN THE REPC ABSTRACT (CHECK APPLICABLE BOX): REMAIN UNCHANGED ARE CHANGED AS FOLLOWS:

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same. Seller Buyer shall have until **5:00 PM** in the time zone where the property is located on **June 5, 2024** (Date), to accept the terms of this ADDENDUM. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse and previous terms still apply.

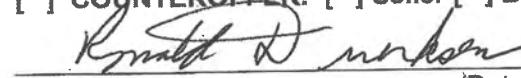
DocuSigned by:
 Leo Wright May-23-2024 | 18:26 PDT
 Buyer Seller Signature (Date) (Time) Buyer Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

ACCEPTANCE: Seller Buyer hereby accepts the terms of this ADDENDUM.

COUNTEROFFER: Seller Buyer presents as a counteroffer the terms of attached ADDENDUM NO. _____.

 Ronald G Duerkson 29 May 24 6:13
 (Signature) (Date) (Time) (Signature) (Date) (Time)

REJECTION: Seller Buyer rejects the foregoing ADDENDUM.

(Signature) (Date) (Time) (Signature) (Date) (Time)

IME Automation
2417 West 350 North #2
Hurricane, UT 84737

Derek Hall
315 West 900 North
La Verkin, UT 84745

Leo Wright
310 West 600 North
La Verkin, UT 84745

APCO
710 South Redwood Rd.
North Salt Lake City, UT 84054

Eric Smith
39 Florentine Ln
Centerville, UT 84014

Warranty Deed Page 1 of 2
Russell Shirts Washington County Recorder
08/28/2020 01:19:39 PM Fee \$40.00 By US TITLE
INSURANCE AGENCY

WHEN RECORDED MAIL TO
AND MAIL TAX NOTICE TO:
Ronald G. Duerksen, MD, as Trustee of the
Ronald G. Duerksen, MD, PC Profit Sharing
Plan, Pension Plan and Trust
Vacant
UT

WARRANTY DEED

File No.: 011271
APN: 4225-F-HV

Ronald G. Duerksen, MD, as Trustee of the Ronald G. Duerksen, MD, PC Profit Sharing Plan,
Pension Plan and Trust, dtaed April 11, 1981

Grantor(s), of , Washington County, State of Utah, hereby convey(s) and warrant(s) to

Ronald G. Duerksen, MD,

Grantee(s), of , Washington County, State of Utah, for the sum of ten dollars and other good and valuable
consideration, the following tract of land located in Washington County, Utah, to wit:

See Exhibit A attached hereto and made a part hereof.

Subject to easements, restrictions, reservations and rights of way appearing of record.

Witness the hand(s) of said Grantor(s) this 22 day of July ²⁰²⁰, 2019.

Ronald G. Duerksen, MD, as Trustee of the
Ronald G. Duerksen, MD, PC Profit Sharing
Plan, Pension Plan and Trust

BY: Ronald G. Duerksen
Ronald G. Duerksen, MD as Trustee

STATE OF Utah

:ss)

COUNTY OF Washington

The foregoing instrument was acknowledged before me the 22 day of July,
2020, by Ronald G. Duerksen, MD, as Trustee of the Ronald G. Duerksen, MD, PC Profit Sharing Plan,
Pension Plan and Trust, dated April 11, 1981

Notary Public

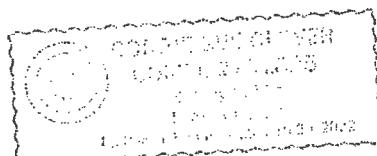


EXHIBIT "A"

Parcel 1:

The North One-half of the Northeast Quarter of the Northeast Quarter (N1/2 NE1/4 NE1/4) of Section 20, Township 43 South, Range 14 West, Salt Lake Base and Meridian.

Parcel 2:

A 29.00 foot right-of-way for ingress, egress and utilities, and rights incidental thereto, over the West 29.00 feet of the South One-half of the Northeast Quarter of the Northeast Quarter (S1/2 NE1/4 NE1/4) and Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4), lying North of the existing county road.

Situated in Washington County, State of Utah



ZONE CHANGE FOR: IME AUTOMATIONS

LOCATED IN SECTION 27, T40S, R13W, S.L.B.M.
TOQUERVILLE CITY, WASHINGTON COUNTY, UTAH

OWNER(S):

DEREK HALL
2417 W 350 N #2
(435) 680-8168
DEREK.HALL@IMEAUTOMATION.COM

COMPLETED & ISSUED BY PROVALUE ENGINEERING, INC.	
REVISIONS	DATE

PROVALUE
ENGINEERING, INC.
ENGINEERS - LAND SURVEYORS - LAND PLANNERS
20 South 150 West, Suite 1
Hurricane, UT 84737
(435) 688-8168



ZONE CHANGE FOR:
IME AUTOMATIONS
LOCATED IN SECTION 27, T40S, R13W, S.L.B.M.
TOQUERVILLE CITY, WASHINGTON COUNTY, UTAH

DATE 6/28/2024
SCALE 1"=100'-0"
JOB NO. 767-001
SHEET NO. 1 OF 1

OWNERS LEGEND:

- [A] DUERKSEN RONALD G TR - PARCEL: T-3-0-27-411
- [B] WASHINGTON COUNTY WATER CONSERV DIST - PARCELS: T-3-0-27-412, T-3-0-27-420, T-3-0-27-424, T-3-0-27-131
- [C] EVOLUTION HOLDINGS L C - PARCEL: T-3-0-27-415
- [D] GRAFF J GREGORY - PARCEL: T-3-0-27-413
- [E] WATHEN MATT & SUSAN P TRS - PARCELS: T-3-0-27-414, T-3-0-22-233
- [F] TOQUERVILLE WEST LLC - PARCEL: T-3-0-22-322
- [G] DESERT SANDS DEVELOPMENT II LLC - PARCEL: T-3-0-22-3212

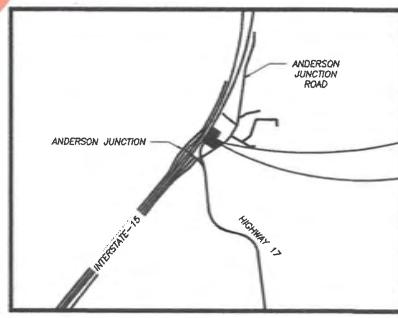
ZONE LEGEND:

- HIGHWAY COMMERCIAL
- SINGLE FAMILY R-120
- BMP BUSINESS AND MANUFACTURING
- PROPOSED PROPERTY TO CHANGE FROM
HIGHWAY COMMERCIAL TO BMP BUSINESS & MANUFACTURING ZONE

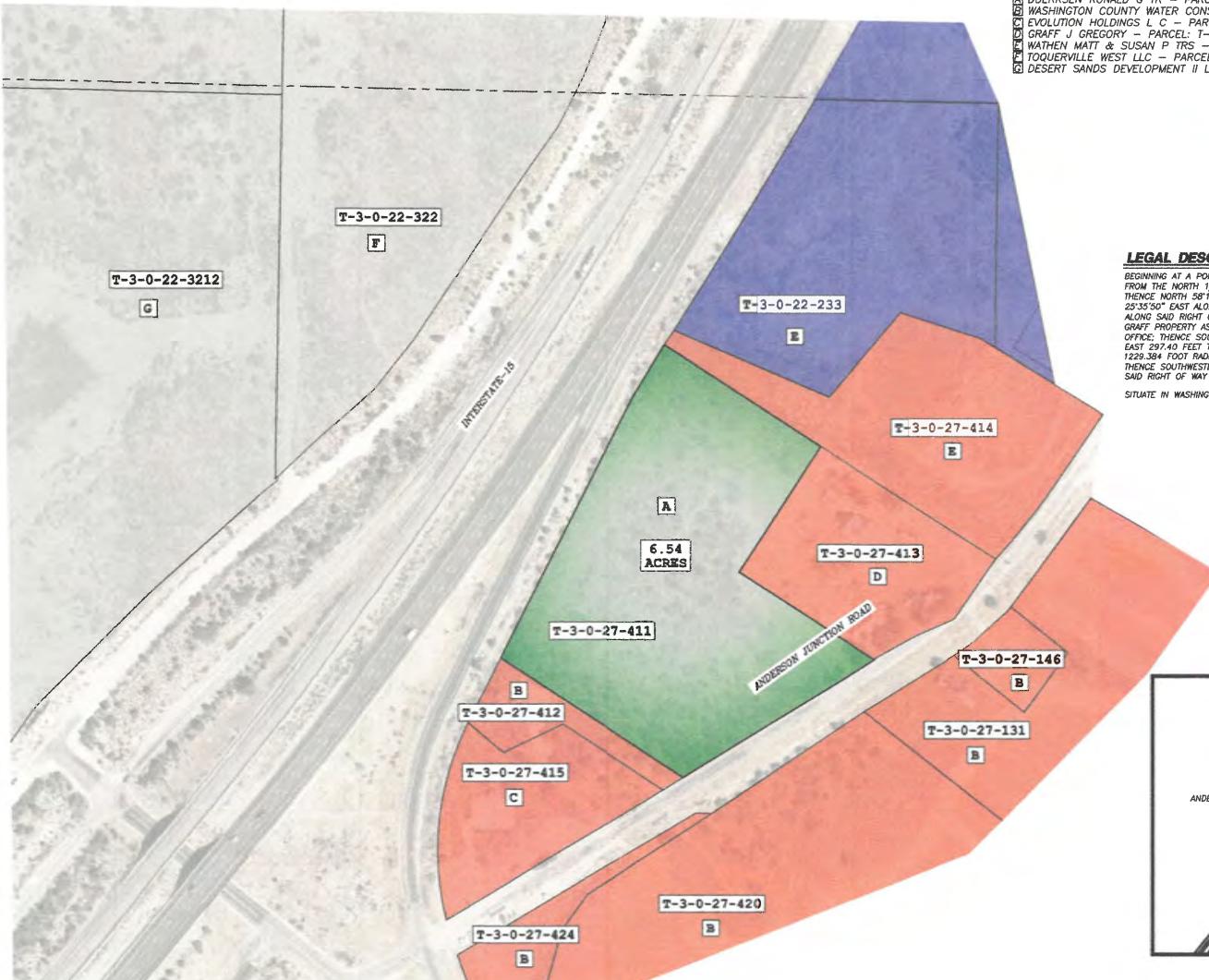
LEGAL DESCRIPTION (DOC#00565040)

BEGINNING AT A POINT WHICH IS SOUTH 0103.37" EAST ALONG THE CENTER SECTION LINE 1284.83 FEET, AND WEST 559.135 FEET FROM THE NORTH 1/4 CORNER OF SECTION 27, TOWNSHIP 40 SOUTH, RANGE 13 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE NORTH 5818' WEST 402.15 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE I-15 FREEWAY; THENCE NORTH 23-35.50" EAST ALONG SAID RIGHT OF WAY LINE 416.47 FEET TO A U.D.O.T. RIGHT OF WAY MARKER; THENCE NORTH 2603' EAST ALONG SAID RIGHT OF WAY LINE 120.50 FEET, THENCE NORTH 3818' EAST 343.68 FEET TO THE MOST NORTHERLY CORNER OF THE GRAFF PROPERTY AS DESCRIBED IN THE QUIT CLAIM DEED RECORDED IN BOOK 1, PAGE 1, HURRICANE LAND REORDERS OFFICE; THENCE SOUTH 3142' WEST ALONG THE WESTERLY LINE OF SAID GRAFF PROPERTY 277.83 FEET, THENCE SOUTH 5818'00" EAST 297.40 FEET TO A POINT ON THE NORTHWESTERLY RIGHT OF WAY LINE OF OLD STATE HIGHWAY 91, SAID POINT BEING ALSO ON A 122.33' DIAMETER RADIUS CURVE CONCAVE TO THE NORTHWEST, THE RADIUS OF WHICH BEARS NORTH 3439'12" WEST FROM SAID POINT; THENCE SOUTH 5818'00" EAST ALONG THE NORTHWESTERLY RIGHT OF WAY LINE 51.84 FEET; THENCE SOUTH 5726.45' WEST ALONG SAID RIGHT OF WAY LINE 362.82 FEET TO THE POINT OF BEGINNING;

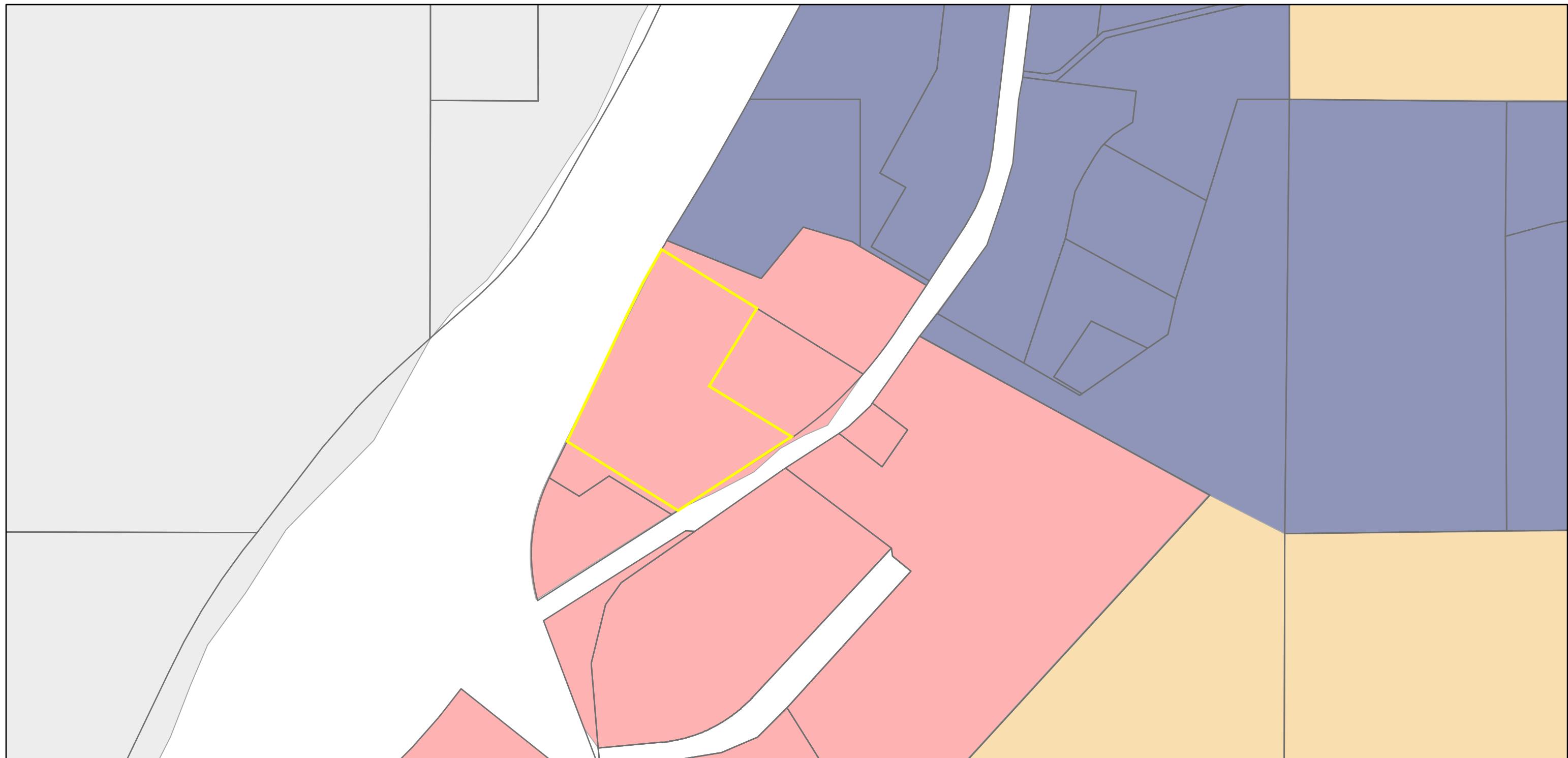
SITUATE IN WASHINGTON COUNTY, STATE OF UTAH



**PROJECT
LOCATION**



Current Zoning Map



6/4/2024, 8:57:25 AM

Municipalities

Washington County Parcels

Zoning Districts

BUSINESS AND MANUFACTURING

HIGHWAY COMMERCIAL

R-1-20 SINGLE-FAMILY RESIDENTIAL (20,000 sq. ft. Minimum lot size)

MULTIPLE USE

1:4,514

0 0.04 0.08 0.16 mi
0 0.05 0.1 0.2 km

General Plan Map



6/4/2024, 9:20:18 AM

 Municipalities

 Washington County Parcels

General Plan

 Commercial

 Residential

1:2,257

0 0.02 0.04 0.08 mi
0 0.03 0.07 0.13 km

ARTICLE B. H-C HIGHWAY COMMERCIAL ZONE

SECTION:

10-12B-1: Purpose

10-12B-2: Permitted Uses

10-12B-3: Conditional Uses

10-12B-4: Physical Restrictions

10-12B-1: PURPOSE:

The purpose of this zone is to provide commercial areas on major highways for the location of travel, service and highway oriented commercial uses. (Ord. 2012.04, 1-18-2012)

10-12B-2: PERMITTED USES:

The following uses in buildings under five thousand (5,000) square feet shall be permitted uses:

Accessory uses and buildings customarily incidental to these permitted uses.

Automobile service, repair, gas stations, auto accessory outlets.

Commercial nursery.

Drugstore.

Grocery store.

Motels.

Other retail stores.

Overnight camping facilities.

Public or quasi-public uses for essential public services.

Public utility uses.

Recreational vehicle parks.

Restaurant or fast food establishments.

Roadside stand for sale of agricultural produce and related items.

Other uses similar to the above and judged by the planning commission to be in harmony with the character and intent of this zone. (Ord. 2012.04, 1-18-2012; amd. Ord. 2021.17, 7-21-2021)

10-12B-3: CONDITIONAL USES:

All uses listed under section 10-12B-2 of this article in buildings greater than five thousand (5,000) square feet.

Commercial kennel.

Multiple separate commercial uses located on a single parcel.

The extraction industries uses, as defined in chapter 15, article D of this title.

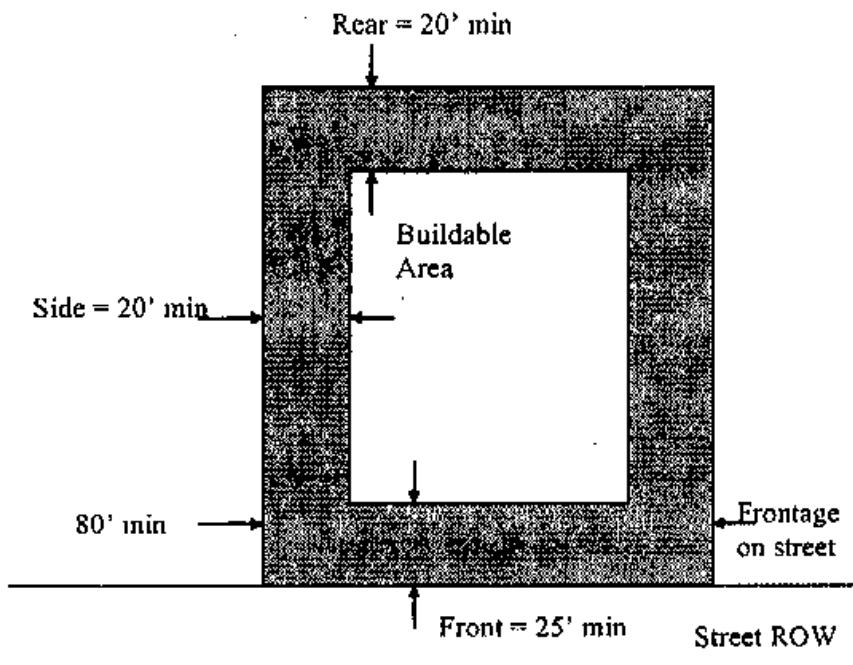
Other uses similar to the above judged by the planning commission to be in harmony with the character and intent of this zone. (Ord. 2012.04, 1-18-2012; amd. 2014 Code; Ord. 2021.17, 7-21-2021)

10-12B-4: PHYSICAL RESTRICTIONS:

The restrictions below shall be considered minimum, and more restrictive standards may be prescribed as conditions of a conditional use permit for any use:

Minimum frontage	80 feet
Minimum setbacks	Front: 25 feet Side and rear: 20 feet
Maximum height	35 feet (no more than 2 stories)
Minimum finished landscaping	15 percent of the total lot/parcel area
Parking and loading	In accordance with section 10-21-13 of this title

Screening	All outdoor storage, vehicles, machinery and equipment shall be screened and/or out of public view as seen from state highways or interstate freeways and any roadway fronting or driveway providing access to the property on which it is stored
Gasoline and oil storage	All fuel storage tanks shall be completely buried beneath the surface of the ground or bermed and shall comply with all applicable state and federal regulations. All gasoline pumps, lubrication or similar devices, and other service facilities, shall not be located within minimum setbacks. All servicing of vehicles, except for the sale of gas and oil services customarily provided in connection therewith, shall be conducted completely within a structure



(Ord. 2012.04, 1-18-2012)

CHAPTER 13

BUSINESS, MANUFACTURING ZONES

ARTICLE A. BMP BUSINESS AND MANUFACTURING ZONE

SECTION:

10-13A-1: Purpose

Animal hospital.

Bank.

Business equipment, sales, rental, supplies.

Car wash.

Club or service organization.

Construction sales and service.

Convenience store.

Cultural services.

Daycare center.

Funeral home.

Garden center.

Gasoline service station.

General manufacturing (light and clean manufacturing).

Golf course.

Hospital.

Hostel.

Hotel.

Laundry and dry cleaning.

Operations center.

Post office.

Public or quasi-public uses for essential public services.

Public utility uses. (Ord. 2017.07, 6-8-2017; amd. Ord. 2021.19, 7-21-2021)

10-13A-3: CONDITIONAL USES:

Agricultural industry.

Bus terminal.

Commercial kennel.

Convalescent care facility.

Liquor store.

Pawnshop.

Reception center.

Recreation, outdoor.

Rehabilitation facility.

Residential facility for persons with a disability¹. This use shall require a permit under section 10-17-2 of this title.

Residential facility for troubled youth.

Transitional housing facility. (Ord. 2012.04, 1-18-2012; amd. 2014 Code; Ord. 2016.04, 6-9-2016; Ord. 2021.19, 7-21-2021)

Notes

¹ 1. UCA § 10-9a-520.

10-13A-4: PHYSICAL RESTRICTIONS:

Minimum lot area	5 acres
Maximum height - main building	35 feet
Maximum height - accessory	20 feet
Front yard setback	25 feet
Rear yard setback	10 feet
Interior side yard setback	10 feet
Street side yard setback	20 feet

(Ord. 2012.04, 1-18-2012)

10-13A-5: SPECIAL REGULATIONS:

A. Increased Height: Notwithstanding the height limitations shown in section 10-13A-4 of this article a greater building height may be allowed in a business or industrial zone pursuant to a conditional use permit to a maximum height of one hundred feet (100'). Provided, however, that within one hundred feet (100') of the boundary of an adjoining agricultural, residential, or commercial zone, no building shall exceed the greater of:

1. The height limit established by such zone; or
2. The height limit permitted by a conditional use permit for a building on an abutting lot within such zone.

B. Processing Within An Enclosed Building: All processing and/or assembly of goods shall be conducted completely within an enclosed building, unless otherwise specified in this section.

C. Outdoor Storage: Outdoor storage of materials, or finished or semifinished goods shall be located at least one hundred feet (100') from any residential zone boundary. (Ord. 2016.04, 6-9-2016)



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	✓	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


Justin Sip, Toquerville City Mayor

Attest:


Daisy Fuentes, Toquerville City Recorder

Policies and Procedures Manual

Toquerville Utah Planning Commission

April 2024

FOREWORD

In the course of serving as a public official, you will be involved with numerous issues. This Handbook attempts to centralize information on common issues related to Toquerville City's form of government and your role as an Appointed Official.

The issues addressed are often complex and sometimes subjective. Thus, this Handbook is intended only as a guide and is not a substitute for the counsel, guidance, or opinion of City Staff or the City Attorney, nor is it intended to supersede any City ordinance or other applicable law. Any failure to follow a procedure described in this Handbook shall not invalidate any action taken by the Commission, except as may be otherwise provided by law.

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1. Toquerville City's Form of Government

1.1 Power and Authority

As a political subdivision of the state, the powers of the City spring from the Utah Constitution and from powers specifically given it by the State Legislature. The State of Utah's enabling acts are generally found in Title 10 (the Utah Municipal Code) of the Utah Code (UCA). One of those powers, commonly known as the "police power" is the power to "pass all ordinances and rules . . . as are necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of the city and its inhabitants, and for the protection of property in the city." See UCA 10-8-84. The Utah Supreme Court has held that this power is to be broadly interpreted unless specifically preempted or limited by state law. *State v. Hutchinson*, 624 P.2d 1116 (Utah Sup.Ct. 1980).

1.2 Form of Municipal Government

Toquerville City operates under the six (6) member Council, one of whom is the Mayor, with all the powers, authority, duties, functions, and responsibilities provided for said offices by the Utah Constitution and Title 10 of the Utah Code Annotated (including, but not limited to, Sections 10-3b-101 et seq., and 10-3b-301 et seq., Utah Code Annotated, except as otherwise provided herein.) Toquerville City Code 1-7-2.

1.3 Fifth Class City

With a population greater than 1,000 and less than 10,000 residents, Toquerville City is classified by state law as a city of the fifth class.

2. The Planning Commission and Chairman

2.1 Appointing of the Chairman

The Planning Commission Chairman is appointed for terms of one year. Appointment by the Planning Commission will take place at the last meeting of the calendar year to take effect January 1 of the following year in accordance with Toquerville City Code 10- 3-1.

2.2 Appointing of Planning Commission Members

Planning Commission members are appointed for terms of five years, which are staggered. One term expires each year on December 31st. One seat is appointed each year in accordance with Toquerville City Code 10-3-1.

2.3 Commission Integrity

All Commission Members should abide by the following standards:

- Demonstrate honesty, integrity, and courtesy in every action, statement, and meeting.
- Remarks made should only apply to the item under debate.
- Avoid reference to personalities, and refrain from questioning motives of other members of staff or personnel.
- Comply with both the letter and spirit of the laws and policies affecting the operations of government.
- Serve as a model of leadership and civility to the community.
- Inspire public confidence in City government.
- Work for the common good, not personal interest.
- Prepare in advance of Commission meetings and be familiar with issues on the agenda.
- Fully participate in Commission meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others.
- Review the Planning Commission Policy & Procedures at least annually.
- Be responsible for the highest standards of respect, civility, and honesty in ensuring the effective maintenance of intergovernmental relations.
- Respect the proper roles of Elected and Appointed officials and City staff in ensuring open and effective government.
- Provide contact information to the City Recorder in case an emergency or urgent situation arises.

2.4 Commission Members Represent the City and Act as a Body

Planning Commission members represent the Commission and may represent the City through public appearances, speaking engagements, and through media communications. Commission members should always clarify whether they are acting in a Commission capacity or as private individuals. Official Commission positions should be communicated by the Commission Chair after they have been approved by a majority of the Commission.

In addition, when a Commission member is responding to a question, it is important to publicly note that a Commission majority is required for any Commission action. When discussing the enforcement or interpretation of an existing City ordinance, good judgment would include a referral to the appropriate administrative staff for the final word.

No individual Commission member may occupy or use an office within city facilities. Commission Members wishing to utilize other spaces on city property must have that space scheduled prior to its utilization.

2.5 Powers and Duties

2.5.1 Planning Commission Chairman

In addition to the stated in Toquerville City Code 10-3-1 and Utah State Code 10-9a-302 the Planning Commission Chairman's powers and duties are:

- Preside at all meetings of the Planning Commission.
- Review and make recommendations to the legislative body.
- Keep the peace and enforce the laws of the municipality.
- Execute the policies adopted by the City Council.
- Maintain the dignity of Commission meetings.
- Call the meeting to order and confine the discussion to the agenda.
- Recognize Commission members for motions and statements and may allow audience and staff participation at appropriate times.
- Ensure the Utah Open and Public Meetings Act is complied with.
- Know how to courteously discourage Commission members who talk too much or too often.

- Know how to courteously ensure those who have the floor are not interrupted and to rule out of order those not following meeting procedures.
- Recognizes the Commission member offering in the motion, restates the motions, presents it to the Commission for consideration, calls for the vote, announces the vote, and then announces the next order of business.

2.5.2 Planning Commission Members

Utah Code 10-9a-302 describes the role of the Planning Commission and, as of this writing, states that the Commission:

- Elect one of its members to be the Chair of the Commission;
- Review and make recommendations to the legislative body for
 - General Plan and amendments to the General Plan
 - land use regulations
 - an appropriate delegations of power to at least one designated land use authority to hear and act on land use applications
 - an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from decision of the land use authority
- Hold a public hearing in accordance with section 10-9a-404 before making a recommendation to a legislative body

Toquerville City Code Section 10-3-1 also sets forth powers and responsibilities of the Commission and states:

“The Planning Commission shall have all necessary powers conferred on Planning Commission pursuant to Utah Code Annotated title 10, chapter 9a as amended.”

2.6 Relationship to City Staff

Every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community. Staff will respond to requests from Commissioners in consideration of Office priorities. Commission member requests that could require extensive research or extensive staff time should be made to the City Manager who will decide how to best facilitate the Commission member's request.

Questions of City staff should be directed only to the City Manager, City Attorney, or Department Heads. The City Manager should be copied on any request to Department

Heads. Commission Members should not set up meetings with department staff directly but work through Department Heads. When in doubt about what staff contact is appropriate, Commission Members should ask the City Manager for direction.

Commission Members should not get involved in administrative functions. Avoid any staff interactions that may be construed as trying to shape staff recommendations. Commission Members shall refrain from coercing staff in making recommendations to the Commission as a whole.

Never publicly criticize an individual employee, including fellow Commissioners, Elected Officials, or Appointed Officers. Criticism is different from questioning facts or the opinion of Staff. All critical comments about staff performance should only be made to the City Manager through private correspondence or conversation.

2.7 Relationship with the City Attorney

Toquerville City Code 1-7-1 establishes the office of a City Attorney which is responsible for the proper administration of the legal affairs of the respective executive and legislative branches of City government. The City Attorney serves as counsel for the City to:

- furnish legal advice, counsel and assistance to the Planning Commission in relation to their duties and the business of the City;
- direct and/or coordinate as determined by the Planning Commission respectively all legal services performed by special counsel for the City who may be employed from time to time to provide legal services for the City;

When articulated to the City Attorney, Commission Members have a right to request and expect attorney/client confidentiality, unless said confidentiality violates legal and ethical standards as determined by the City Attorney.

2.8 Compensation

Planning Commission Members and Chairman are classified as volunteers and receive no compensation.

3. Social Media, Electronics & GRAMA

3.1 Application

This policy applies to all information technology resources, including electronic media, social media accounts, and services which are: a) accessed on or from City premises, b) accessed from remote locations using City computer equipment, or via City-paid access methods, and/or c) used in a manner which can fairly be said to associate elected officials with the City as representatives of the City.

Any messages or information sent via the City's informational technology resources through an electronic network (i.e., bulletin board, online service or Internet) are statements that may be identifiable and attributable to the City. Use of personal disclaimers in an electronic communication will not relieve any user under this policy and users shall be held responsible for any communication which they initiate. All communications sent via a network must comply with this and other City policies and shall not disclose any confidential or proprietary City information or other information protected by law or policy.

3.2 Email Policy

All Appointed Officials are required to use a Toquerville.org email address while conducting official City business. As part of the onboarding process, a toquerville.org email will be provided, and every Appointed Official will be expected to use this email for all City business.

3.2 Records

The Commission must preserve records for the required retention period in a format that preserves the integrity of the original record and is easily accessible. Any removal or deletion of comments or posts by the public must be considered public records and must be preserved pursuant to GRAMA. The Commission must also work with the City Recorder to ensure the records are properly retained.

Planning Commission packets will be uploaded to Sharepoint for the current month only. Previous months records can be found either on the Utah Public Notice website or by written request made through the City Recorder's Office. All public records can be

viewed at the City Offices During regular business hours. If a Commissioner makes a records request, all members of the Commission will be notified of the request.

3.3 GRAMA

The Government Records Access and Management Act (GRAMA) provides every person the right to request records from any governmental entity in Utah (Utah Code Section 63 G-2-201(1)).

All Appointed Officials are subject to GRAMA when conducting city business on any electronic device (whether city owned or personally owned) including open meetings law and accessibility to information required to be searched.

3.4 Social Media Policy

The Social Media Policy of the City shall include but not be limited to:

- Always conduct yourself as a representative of the City and in accordance with all appropriate City policies and standards.
- Avoid making posts related to your official duties or governmental bodies.
- Redirect political dialogue requests to an alternative means of communication.
- Avoid making posts and/or comments on behalf of the City.
- Use a clarifier such as: "These comments and opinions reflect my position as one member of the Planning Commission."
- Avoid responding to inappropriate comments or personal attacks on social media.
- If your account is deemed public, do not block accounts, delete, or hide comments.
- Do not use social media to carry out your duties.
- Do not use public assets or staff to run your account(s).
- Do not use social media to make announcements about your official responsibilities, action, activities or views on organizational matters, ordinances, or policies.
- Do not solicit the public's views on political issues you may be engaged in.
- Include a social media policy on your page.

3.5 Electronics

Appointed Officials wishing to use city owned computers, laptops, or other electronic devices to conduct city business must agree to the following:

- The device(s) will be used only at the City Office building and may not be taken off the premises.
- The device(s) will be checked out from and returned to the City Recorder.
- The device(s) will be used for city business only, and not for personal use.
- No inappropriate, illegal, obscene, pornographic, or sexually explicitly material shall be accessed, stored, or viewed on City owned computer equipment.
- All activity will be monitored by the City's IT Department.

4. Development Process Policy

4.1 Establishment

Under the advice, direction, and counsel of the City Attorney, this Development Process Policy and Procedure for current and future development is hereby established: It shall be the policy of Toquerville City that all development will follow an established meeting order of first, PSR (Planning Staff Review); second, JUC (Joint Utility Commission); third, Planning Commission; and fourth, City Council.

This policy further establishes PSR (Planning Staff Review) as the first step in the development process in Toquerville City and will be comprised of the City Manager, the Planning & Zoning Administrator, and the Planning Commission Chairman. Those who wish to develop in the City or apply for any type of land use will need to schedule a PSR meeting through the Planning & Zoning Administrator.

4.2 Development Meeting Schedule

The meeting schedule will be as follows:

- PSR meetings are held on Thursdays as needed.
- JUC meetings are held on the 2nd and 4th Wednesday or as needed.
- Planning Commission Meetings are held the 2nd and 4th Wednesdays of the month.
- City Council Meetings are held the 1st and 3rd Wednesdays of the month.

4.3 Proper Procedures

In order for the City to maintain proper and professional procedures and to avoid perceived favoritism or bias, it is imperative all elected and appointed officials follow the Development Process Policy and Procedure as outlined above.

If any elected or appointed official of the City is contacted by any person(s) wishing to develop in the City, they shall refer the developer back to the City Office so they may schedule a PSRmeeting, thereby following the established order of approval for development.

Elected and Appointed Officials must adhere to the Municipal Officers' and Employees' Ethics Act to avoid misconduct or conflicts of interest.

5. Ethics Rules

The Ethics Act (Utah State Code 10-3-13) applies to all Elected and Appointed City Officers and employees (both full and part-time). This includes persons serving on special, regular, or full-time committees, agencies, or boards whether or not they are compensated for their services. This state law does two things. It establishes standards of conduct for municipal officers and employees and it requires disclosure of certain actual or potential conflicts of interest between one's public duties and personal interests.

5.1 Compliance

Elected or appointed officers and employees are required to comply with the disclosure requirements of the Municipal Officers' and Employees' Ethics Act (the Ethics Act) with regard to actual and potential conflicts of interest. (The requirements of the Ethics Act are discussed in more detail below.) To facilitate this compliance, the

City has required annual completion of a Conflict-of-Interest Disclosure Form. The purpose of this procedure is to avoid conflict of interest problems.

The Municipal Officers' and Employees' Ethics Act (Utah Code §10-3-1301 et seq.), applies to appointed officers, elected officers, and municipal employees of the city. The City Council considers it a best practice to revisit and remind the Councilors, Commissioners and City staff of the limits and responsibilities of our unique positions. It is the policy of Toquerville City that the Mayor, every Council member, Commission member, the City Manager, Assistant City Manager, all City Officers, and all full-time employees of the City to complete and retain on file annually the Conflict-of-Interest Disclosure forms provided by the Administration.

While the City seeks to assist its officers and employees in disclosing actual or potential conflicts of interest, the duty of disclosure falls on the individual. If an actual or potential conflict of interest arises during the year, a Commission Member should use the Disclosure Form to disclose the matter in accordance with the Act's requirements as soon as possible and not wait for the City's annual disclosure process to occur.

5.2 Withdrawal Due to Conflict of Interest

In addition to meeting disclosure requirements, in certain circumstances a Commission Member may also be required to recuse (or disqualify) himself or herself from deliberating, deciding, and/or voting on an issue where a conflict of interest exists.

Other instances may not require recusal, but a Commission Member may elect to recuse himself or herself from deliberating, deciding, or voting on an item whenever this seems appropriate to avoid any appearance of impropriety.

However, another section of state law does allow the Commission to expel a member from a meeting if the member has a direct or indirect financial conflict of interest with the matter at issue. Utah Code 10-3-607.

5.3 Ethics Review Commission

Toquerville City will refer all complaints of violations of the Ethics Act to the Political Subdivisions Ethics Review Commission as provided for in Utah Code Section 10-3-1311(2)(b)(ii).

5.4 Standards of Conduct

The Ethics Act makes it a crime for an Elected or Appointed Official to do any of the following:

- Disclose or improperly use private, controlled, or protected information acquired as the result of your official position or duties in order to substantially further your personal economic interest or to secure special privileges or exemptions for

yourself or others. Private, controlled or protected information is information classified as such under the Government Records Access and Management Act;

- Use or attempt to use your official position to substantially further your personal economic interests secure special privileges for yourself or others;
- Knowingly receive, accept, take, seek, or solicit, directly or indirectly, for yourself or another, a gift of substantial value, or a substantial economic benefit tantamount to a gift
-
- (i) that would tend to improperly influence a reasonable person holding your position to depart from the faithful and impartial discharge of your public duties; or
- (ii) that you know, or a reasonable person in your position should know under the circumstances, is primarily for the purpose of rewarding you for official action taken.
- Receive compensation for assisting any person or entity in any transaction with the Citywithout making a written and oral disclosure to the Chairman and the public. This rule does not apply to an occasional non pecuniary gift having a value of less than \$50, an award publicly presented in recognition of public service, a loan made in the ordinary course of business, or apolitical campaign contribution actually used in a political campaign. An economic benefit tantamount to a gift includes loans at substantially less than commercial rates and compensation for services at a rate substantially higher than fair market value.

In addition to any penalty contained in any other provision of law, a person who knowingly and intentionally engages in any of the above must be removed from office and is guilty of:

- A second degree felony if the total value of the compensation, conflict of interest, or assistance exceeds \$1,000.
- A third degree felony if (i) the total value of the compensation, conflict of interest, or assistance is more than \$250 but less than \$1,000, or (ii) the elected or appointed officer of municipal employee has been convicted twice before of violating the Ethics Act and the value of the conflict of interest, compensation or assistance was \$250 or less.
- A class A misdemeanor if the value of the compensation or assistance was more than \$100but less than \$250.

- A class B misdemeanor if the value of the compensation or assistance was \$100 or less.

5.5 Disclosure Requirements

The Ethics Act requires that a Commission Member disclose any of the following:

- Receiving or agreeing to receive compensation for assisting any person or business entity in any transaction involving the City. Disclosure must be provided by filing a sworn statement with the Chairman giving your name and address, the name and address of the person being assisted, and a brief description of the transaction and service to be performed. The statement must be filed 10 days before the date of agreement or receipt of compensation. Commission members must make the disclosure in an openCommission meeting before the matter is discussed. City staff must make the disclosure to his or her immediate supervisor and any other person who may evaluate or approve the activity.
- Being an officer, director, agent, employee, or owner of a substantial interest of a business entity regulated by Toquerville City. A "substantial interest" means legal or equitable ownership by an individual, spouse, or minor children, of at least 10% of the outstanding shares of a corporation or a 10% interest in any other business entity. Disclosure must be provided upon election, appointment, or employment by filing a sworn statement with the Mayor disclosing the position held, and the nature and value of the interest. Disclosure is required again if the position changes or the interest value increases significantly. Within 30 days of receipt, the Mayor must report the substance of the disclosure to the Council or give the Council a copy of it. Two exceptions apply. First, an interest valued at less than \$2,000 is not required to be disclosed. Second, life insurance policies or annuities do not need to be considered in determining the value of an interest.
- Being an officer, director, agent, employee, or owner of a substantial interest of a business doing business with Toquerville City. Disclosure must be made to the Commission in a public meeting prior to any discussion involving the entity and must be entered into the meeting minutes.
- Any personal interest or investment which creates a conflict between your personal interests and your public duties. Disclosure must be made to the Commission in a public meeting in the manner described above.

The Ethics Act requires that a person who knowingly and intentionally violates any of the above-listed activities be removed from office. A related contract or transaction may be voided.

6. City Vehicle Policy

Planning Commissioners do not have approval for use or access to City owned or leased vehicles.

7. Public Meetings

7.1 Public Meetings

All official meetings of the Commission (except where State or local law allows for closed sessions) shall be open to the public "Open and Public Meetings Act" pursuant to Section 52-4-101 of UtahCode Ann. The Commission shall give at least twenty-four (24) hours advanced notice of its meetings unless an exception for shorter notice is provided under state law. The approved and corrected minutes of the proceedings of these open meetings shall be available for public inspection.

7.2 Location

The location of all regular, special, emergency and work session meetings, unless publicly noticed differently, shall be in the Municipal Chambers in the Toquerville City Hall located at 212 North Toquer Boulevard, Toquerville, Utah 84774.

7.3 Quorum

Three members of the Commission shall constitute a quorum. A minimum of three votes shall be necessary to take any action, except where more votes are required by Section 11.2.

8. Types Of Meetings

8.1 Regular Meetings

The Planning Commission shall conduct at least one regular meeting per month. Regular meetings will be held the 2nd and 4th Wednesdays of each month.

8.2 Special Meetings

The Chairman or Planning and Zoning Official or any two (2) members of the Planning Commission may order a special meeting of the Planning Commission by delivering a written notice of the special meeting signed by him or them to each member who did not join in the order, leaving a copy of the notice at the member's usual place of abode at least three (3) hours prior to such meeting. The personal appearance by a member of the Planning Commission at any specially called meeting constitutes a waiver of the notice required by this subsection. The written notice required in this subsection shall state the time and place the special meeting is to be held and the purpose for which the special meeting is being called, and shall comply with all applicable provisions of the Utah Open and Public Meetings Act, Utah Code Annotated section 52-4-101 et seq.

8.3 Record Of Proceedings

The City Recorder shall keep a record of the proceedings of the meetings of the Planning Commission, except that minutes of the executive session shall not be available to the public until such time as the Planning Commission, shall make them public or by an order of court.

8.4 Conduct Of Meetings And Order Of Business

All meetings will follow the current policy and procedure practices adopted by resolution.

8.5 Electronic Meetings

The Planning Commission may conduct Electronic Meetings pursuant to the requirements of Utah Code Annotated § 52-4-207, as such may be amended from time to time. As required by the Utah law, the following shall apply to Electronic Meetings.

1. **Definitions.** For purposes of conducting Electronic Meetings, the following are defined terms:
 - a. "Anchor Location" means the physical location from which the electronic meeting originates and where interested persons and the public may attend, monitor and participate in open portions of a Planning Commission meeting.
 - b. "Electronic Meeting" means a public meeting of the Planning Commission, convened and conducted by means of a telephonic, telecommunications or computer device or other electronic means, allowing each member of the Planning Commission, to be in contact with the anchor location and participate concurrently with all other members of the Planning Commission, in the conduct of such meeting.
2. **Anchor Location.** The only Anchor Location for Electronic Meetings of the Planning Commission shall be the Meeting Chambers in the City offices at 212 N. ToquerBoulevard, Toquerville, Utah. Other Anchor Locations for an electronic meeting may be approved as required by circumstances. Public participation in an Electronic Meeting is limited to an Anchor Location.
3. **Facilities at Anchor Location.** Space and facilities must be provided at the AnchorLocation so that all interested persons may attend and monitor the open portions of the meeting. In addition, if comments from the public will be accepted during the Electronic Meeting, space and facilities must be provided at the Anchor Location so that interested persons and the public may attend, monitor and participate in the open portions of the meeting.
4. **Member Arrangements for Electronic Participation.** A member of the PlanningCommission, must give the City Recorder notice of his or her intent to attend a PlanningCommission, meeting electronically at least forty-eight (48) hours prior to the meeting to allow for arrangements to be made for the Electronic Meeting. Such notice by the Planning Commission, member must include the electronic means the Planning Commission member intends to utilize to attend the meeting.

5. General Requirements. A quorum of the Planning Commission need not be present at the Anchor Location, so long as all other requirements of this Utah Code Annotated § 52-4-207 for an Electronic Meeting is satisfied. No meeting of the Planning Commission may be held electronically unless at least one member of the Planning Commission is present at the Anchor Location. The meeting shall be conducted from the Anchor Location by the Chairman or the Pro Tempore. If neither the Chairman or the Pro Tempore is present at the Anchor Location, the Planning Commission shall select from its membership present at the Anchor Location a Pro Tempore for the sole purpose of conducting the Electronic Meeting.

6. Attendance and Participation. Any member of the Planning Commission participating in a meeting of the Planning Commission by electronic means shall be considered present at the meeting for all purposes, including counting toward a quorum. A member of the Planning Commission participating in a meeting via electronic means shall be afforded every opportunity to participate in the discussion of the items on the agenda and may make, second and vote on all motions.

7. Notice of Electronic Meeting. Public notice of an Electronic Meeting of the Planning Commission shall be given not less than twenty-four (24) hours prior to the meeting by: (i) posting written notice of the meeting at the Anchor Location, (ii) by providing written or electronic notice to at least one newspaper of general circulation in Washington County or a local media correspondent, and (iii) by posting the notice on the Utah Public Notice Website created under Utah Code Annotated § 63F-1-701. In addition, the City Recorder shall provide notice of the Electronic Meeting to members of the Planning Commission at least twenty-four (24) hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present. The notices of the Electronic Meeting shall describe how the members of the Planning Commission will be connected to the Electronic Meeting.

8. Communication. For each Electronic Meeting of the Planning Commission, a speakerphone, or similar amplifying electronic device with or without video capabilities will be connected in such a manner that comments made by the members participating electronically will be broadcast at the Anchor Location. Opportunities for each member present at that Anchor Location and those participating electronically will be given to make inquiries and participate in the discussion. Discussion of motions will take place in accordance with the usual procedures of the Planning Commission with the exception that those present electronically must declare their intent verbally with their accompanying name(s). Votes taken in Electronic Meetings shall be roll call methods, with each member audibly verbalizing their vote. If a member participating in a meeting

electronically withdraws from the meeting, the rest of the meeting may be completed provided there is still a quorum present, counting all members still participating in the meeting whether at the Anchor Location or participating electronically.

9. Minutes. Minutes of an Electronic Meeting shall designate the name of each Planning Commission member who participated electronically, the nature of the electronic communication and the duration of the member's participation in the meeting. The roll call for members present will be taken verbally and recorded, during the meeting.

10. Limitations. Electronic Meetings may be prohibited or limited based on budget, public policy or logistical circumstances.

8.6 Force Majeure Exception

In instances where conducting a regular meeting, workshop or executive session is not practicable or reasonable due to causes outside of the control of the Planning Commission, including acts of God, civil commotion, war, terrorism, governmental regulations or control and health pandemics, the Planning Commission may cancel the meeting, close the meeting, or conduct it in an alternative location or choose to conduct the meeting, workshop or executive session as an Electronic Meeting without the requisite advanced notice due to the emergency or extraordinary circumstances pursuant to Utah Code Annotated §§ 54-2-201(2)(b) and 54-2-202(5).

9. Order Of Business

9.1 Order of business

The general rule as to the order of business in regular and special meetings shall be as follows:

- A. CALL TO ORDER - by the Chairman.
- B. OPENING CEREMONY - Opening Comments and Pledge of Allegiance:
 -

Opening Comments - as assigned by the Chairman from the members of Planning Commission or any Enterprise resident who has submitted a request in writing prior to the meeting.

- Pledge of Allegiance - as assigned by the Chairman from the members of the Planning Commission.
- Call for Statement of Beliefs from the public present – made by the Chairman. Statement of belief may include but is not limited to prayer.

C.

APPROVAL OF AGENDA - The Chairman can revise the order of the agenda items during this time in order to accommodate the Commission or to more efficiently handle the business at hand. During this part of the Agenda, members of the Commission shall declare any conflicts of interest, and the nature of the conflict of interest, in relation to any matter which is before the Commission for action, prior to any discussion of that matter. If a member of the Commission realizes a conflict of interest, they may abstain from voting on the matter. If the conflict of interest is in the nature of a financial or economic interest, members of the Commission are encouraged to abstain from voting on the matter. No action shall be taken on any items, not on the published agenda.

D. APPROVAL OF MINUTES – The Commission shall consider for approval any preceding meetings' minutes through the date of the meeting. The

Commission may make any such adoption conditional upon corrections being made to the minutes.

E. STAFF REPORTS – Reports from Staff Personnel and other various entities involved with Toquerville City Government.

F. PROCEED WITH THE APPROVED AGENDA – The Chairman will then follow the approved agenda as outlined.

The Agenda shall consist of:

- A. Public Hearing(s) and/or
- B. General Business.

G. ADJOURNMENT – The Commission shall adjourn the meeting by motion, requiring a second and a majority of affirmative votes.

9.2 Emergency Meetings

Emergency Meetings may be called, and notice given pursuant to Section 52-4-202, subsection(5), of the Utah Code. The general rule as to the order of business in Emergency Meetings shall be as follows:

- A. Call to order - by the Chairman
- B. Opening Comments
- C. Vote by Commission members present to approve the Emergency Meeting
- D. Meeting Items
- E. Adjournment

In the event that fewer than three (3) of the Commission members vote to approve the Emergency Meeting, the Chairman or the Pro Tempore shall immediately close the meeting without further discussion or action.

9.3 Placing Items on the Agenda

The Planning and Zoning Administrator is responsible for the Planning Commission Agenda. The general rule as to when to place an item on the agenda for consideration is as follows:

- A. The Chairman may request items on the agenda for consideration, discussion, or action subject to approval of the Planning & Zoning Administrator.
- B. Any Commission Member may request items on the agenda for consideration, discussion, or action subject to approval of the Planning & Zoning Administrator.
- C. The Planning and Zoning Official, City Recorder, City Manager, or other City Staff may place items on the agenda for consideration, discussion, or action, subject to approval of the Planning & Zoning Administrator.
- D. Residents, vendors, suppliers, partners, governmental entities, and service providers may request an item be placed on the agenda, provided they identify relevance, pertinence, or timeliness of the topic, subject to approval by the Planning and Zoning Administrator.
- E. Non-residents may request items be placed on the agenda, such requests shall be in writing, and they shall identify relevance, pertinence, or timeliness of the topic, subject to approval by the Planning and Zoning Administrator.

The Planning & Zoning Administrator shall have broad discretion in determining when to schedule any item, both in terms of agenda order and meeting date, to ensure timely and efficient use of meeting time and to avoid overloading meeting agendas.

9.4 Items for the Agenda Deadline

Persons requesting items be placed on the agenda shall submit their request to the City Recorder, with any related supporting documentation, by 4:30 pm the Thursday prior to the Planning Commission Meeting. Requests made after the deadline may be considered on a subsequent agenda, as determined the Planning & Zoning Administrator.

10. Presiding Officer And Duties

10.1 Chairman as the Presiding Officer

The Chairman, if present, shall act as Presiding Officer at all meetings of the Commission. In the absence of the Chairman the Chairman Pro Tempore shall preside. In the absence of both the Chairman and the Pro Tempore the Commission shall elect a temporary Pro Tempore who will then preside at that meeting. All references to the Chairman, in these Policies and Procedures shall also generally mean and refer to the Pro Tempore duly elected by the Commission and serving pursuant to section 10.6 below.

10.2 Call to Order

Meetings of the Commission shall be called to order by the Chairman, or in the Chairman's absence, by the Pro Tempore. In the absence of both the meeting shall be called to order and the attending Commission members will elect a temporary Pro Tempore.

10.3 Preservation of Order

The Chairman shall preserve order and decorum, prevent attacks on personalities or the impugning of member's motives, and confine any debate to the question under discussion.

10.4 Points of Order

The Chairman shall determine all points of order.

10.5 Time Limits

The Chairman shall have the power to set time limits on input and discussions at the Chairman's discretion.

10.6 Substitution for Chairman

The Commission shall elect a member of the Commission to serve as Pro Tempore to preside at meetings and perform the duties of the Chairman in the event that the Chairman is unable, through absence, disability, or refusal to act, to fulfill his or her duties as set forth herein and in applicable state and local law. The Pro Tempore term will be for two years. Should the Pro Tempore not be present, any other member of the Pro Tempore will be elected to temporarily preside at the meeting in order to cover an absence of the Pro Tempore. The Pro Tempore, as a member of the Pro Tempore shall, while conducting any meeting, continue to act as a voting member of the Commission.

10.7 Motion to be Clear

The Chairman shall ensure that all motions submitted for a vote are clearly understood.

10.8 Call for Vote

The Chairman shall call for a vote. The Chairman shall announce the result of the vote.

10.9 Input from Public in Absence of Public Hearing

The Chairman may, of his own volition or at the request of any Commission member, request input from members of the public present on any item before the Commission for discussion or consideration, even in the absence of a scheduled public hearing as set forth in section 12 below. The Chairman shall have no obligation to request such public input. The Chairman shall only receive such input in a manner consistent with the other provisions of this section.

11. Types Of Motions And Reconsideration

11.1 Motions Require a Second

All motions require a second before they can be discussed or acted upon. In the Chairman's discretion, questions for clarification of a motion may be allowed of the non-moving members present, prior to a second on the motion.

11.2 Motions Requiring A Two-thirds Vote

A motion to adjourn to a closed meeting shall require a motion, a second, and a two-thirds (2/3) vote of the Commission members present, or as otherwise required by state law.

11.3 Motion to Approve

All motions shall require a second and majority affirmative votes to be approved.

11.4 Amendments to Pending Motion

Any motion being considered by the Commission may be amended by permission of the maker of the motion and concurrence of the second.

11.5 Motions to Continue

The Commission may approve a motion to continue any item for further discussion or consideration. Public Hearings and Show Cause Hearings must be continued to a specific date and time and may not be continued beyond forty-five (45) days from the date for which it was first noticed without resetting and re-noticing the hearing.

When the applicant for an agenda item makes a request for a continuance, the following policy will be used:

- A. A request to continue the agenda item will be granted if the applicant makes the request at least seven (7) days in advance of the meeting, in which the item was scheduled to be heard. The applicant has the responsibility to notify the affected property owners (those who are required by State law, City ordinance, or City noticing policy to be notified) of the continuance and the date and, if applicable, the time when the item is scheduled to be on the City Commission agenda.
- B. If the request is made less than seven (7) days in advance of the meeting in which the item was scheduled to be heard, the Planning and Zoning Official, Chairman and/or the Pro Tempore or their designees, will determine whether or not there is good cause to continue the item.
 1. If the Commission determines that there is not good cause to continue the item, the item will remain on the agenda and be considered by the Planning Commission.
 2. If the Commission determines that there is good cause to continue the item to a future agenda, staff will notify the applicant of the decision. During the meeting in which the item was scheduled to be heard the City Commission, by motion, will select the date, and if applicable, the time to which the item is to be rescheduled. The applicant shall have the responsibility to notify the affected residents (those who are required by City ordinance to be notified) of the continuance and the date and, if applicable, the time when the item is scheduled to be on the Commission agenda..

- C. If the applicant requests a continuation during the meeting for which the item is scheduled, the Commission will make the determination if there is good cause to continue the item to a later date.
- D. If the applicant requests a continuation and it is determined that there is not good cause to continue the item, and the applicant withdraws the application in lieu of proceeding, the application will not be considered by the Planning Commission until the applicant files a new application and pays the required fees. The new application must follow the same process as any new application.

11.6 Motions to Table

Not including Public Hearings and Good Cause Hearings, the Commission may table an issue, without scheduling it for future consideration, with a motion, second and a majority of affirmative votes.

11.7 Motions which do not receive at least three votes on either side

Motions which do not receive at least three votes for or against the proposition being voted upon are considered to be a tied vote. The Chairman will then vote to cast the tie-breaking vote. However, should the Chairman not be present to break the tied vote, or should the Chairman's vote not serve to break the tie (such as when there are two votes on one side, and one on the other, and the Chairman votes with the side having only one vote) the applicant or any Planning Commission Member may request that the item be brought back to the Commission at a subsequent meeting to be decided by sufficient members to get three votes one way or the other. The subsequent action is not considered a reconsideration. In the event that neither the applicant nor a Commission Member requests a subsequent vote, then the item shall be considered to have been voted down.

11.8 Motions to Reconsider a Decision

Any two Commission members who voted in the majority on a motion approved or denied may request a reconsideration of the action. The request may be made by making a motion to reconsider at the same meeting in which the original motion was

approved or denied or by requesting within seven days of that meeting that there be a motion to reconsider being heard at the next regularly scheduled Commission meeting. If a properly made motion to reconsider passes, the actual reconsideration of the item shall take place only after appropriate legal notice is given. After a motion for reconsideration has been acted on, no other motion for reconsideration on that issue shall be allowed within a twelve (12) month period without unanimous consent of the entire Commission. Following the twelve (12) months, the item may be considered as a new item.

11.9 Question on the Motion

After a motion and a second, any member of the Commission may request a discussion on the motion. Once a question has been answered and discussion is completed, the Chairman shall call for a vote on the motion.

11.10 Withdrawal or Substitution of Motion

At any time prior to the Chairman's call for a vote on the Motion, the moving Commissionmember may voluntarily withdraw the motion or make a new motion which shall be considered to have superseded his or her prior motion. A new motion shall require a new second.

11.11 Minutes of Action on Motion

Unless a vote of the Commission is unanimous, the minutes of each action taken on any motion shall reflect the vote of each individual Commission member.

12. Public Hearings

12.1 Purpose of Public Hearings

The purpose of public hearings is to provide for public input to the Planning Commission on issues on a specific day and time in order for the Planning Commission to be better informed prior to making a decision on the issue.

12.2 Before the Public Hearing

- A. Notification will be given well in advance and comply with applicable state and local law.

12.3 Order of Public Hearings

- A. The Chairman or Pro Tempore shall conduct all Public Hearings. The Chairman should review the rules and procedures for conducting public hearings at the start of the public hearing.
- B. The public hearing shall first be opened to the appropriate staff member who will present and discuss with the Commission the issue at hand.
- C. Upon completion of the staff member's report, and questions from the Commission, the Chairman invites the applicant to discuss with the Commission the issue at hand and present additional or more specific information.
- D. Following staff and the applicant's discussion and any questions from the Commission, the Chairman shall open the hearing to the public for comments. The Chairman must first recognize any person desiring to address the Commission. The Chairman shall try to provide equal time to those favoring and opposing the issue.
- E. The Chairman should courteously limit repetition. The Chairman should retain flexibility for additional comments but only on new information.
- F. At the Chairman's discretion, staff and/or the applicant may address any questions or clarify any matter raised during the comment period.
- G. At the discretion of the Chairman, the public hearing shall be closed once the applicant has the opportunity to clarify any concerns, which had been previously discussed. No further remarks by the public will be heard.

- H. The Commission may by motion: (i) close a public hearing in order to consider and take action on the issue; (ii) re-open a public hearing during the same meeting at which the public hearing was originally closed, and prior to taking action on the issue; or (iii) continue a public hearing, also continuing consideration of and action on the issue to another specific date and time. A public hearing may not be continued for longer than forty-five (45) days from the date for which it was first noticed without re-noticing and reconvening the hearing.
- I. Upon completion of the public hearing and of any further discussion and/or deliberation of the Commission, the Commission shall take appropriate action on the issue.

12.4 Manner of Addressing the Planning Commission

Each person addressing the Commission shall use the microphone and shall state their name and address of residence in an audible tone of voice for the record. All remarks shall be addressed to the Commission as a body, and not to any member thereof. Commission members should be addressed using their formal title followed by the individual's last name. No person shall be permitted to enter into any discussion, either directly or through the members of the Commission unless first recognized by the Chairman. No questions will be asked of the Commission Members except through the Chairman.

12.5 Questions from Planning Commission members

The Commission members may at any time during a public hearing request clarification or additional input from the staff members, applicants, or the general public.

13. Rules Of Conduct During Public Meetings

13.1 Disorderly Citizens

Any person, including staff, making personal, impertinent, or slanderous remarks, or who shall become boisterous, while addressing the Commission, or who otherwise continues to violate the decorum, order, or procedure of any meeting after a reasonable warning or admonishment, may be considered disorderly by the Commission and may be expelled by a two-thirds vote of the Commission as pursuant to Section 10-3-608 of Utah State Code, as amended.

13.2 Disorderly Planning Commission members or Chairman

Any member of the Commission, or the Chairman, making personal, impertinent, or slanderous remarks, or who shall become boisterous, while addressing the Commission, or who otherwise continues to violate the decorum, order, or procedure of any meeting after a reasonable warning or admonishment, may be considered disorderly by the Commission and may be expelled by a two-thirds vote of the Commission as pursuant to Section 10-3-607 of Utah State Code, as amended.