



**TOQUERVILLE CITY
ORDINANCE 2019.XX
ALTERNATE PC, NIGHTLY RENTAL,
BUILDING PERMIT PROCESS,
SUBDIVISION APPROVAL PROCESS**

An Ordinance amending Title 10, Chapter 3, Section 3 - Planning Commission Membership, Appointment and Quorum: to add an additional alternate Planning Commissioner position to the commission; amending Title 10, Chapter 17-3 - Nightly Rentals: to clarify primary residence ownership; amending Title 10, Chapter 18A Building Permits: to streamline the building permit process; and amending Title 10-19C-7 - Summary of Subdivision Review and Approval Process: to remove two public hearing requirements from the simple subdivision process.

RECITALS

WHEREAS, Toquerville City (“City”) is an incorporated municipality duly organized under the laws of the State of Utah; and

WHEREAS, the City believes it would be beneficial to appoint two alternate Planning Commissioners to the Commission for efficiency and availability factors; and

WHEREAS, Toquerville wanted to preserve the original spirit of the law regarding nightly rentals by clarifying residing owner requirements; and

WHEREAS, pursuant to Utah State Code 15A-1-202, the State of Utah recognizes the City of Toquerville as a local regulator that is empowered to engage in the regulation of construction, alteration, remodeling, building, repair and other activities to the code; and

WHEREAS, Toquerville is responsible for providing a process to obtain a building permit; and

WHEREAS, the amendments proposed will be consistent with the current practices of the building permit process and requirements; and

WHEREAS, the city would like to stay consistent with Utah State Code 10-9a-602 which calls out the notifications requirements and subdivision process for the Planning Commission and City Council.

ORDINANCE

NOW THEREFORE, BE IT HEREBY ORDAINED by the City Council of Toquerville City, State of Utah, as follows:

10-3-1: PLANNING COMMISSION:

- A. Membership, Appointment And Quorum: The City Planning Commission consists of five (5) members and two alternate members. Members are appointed by the Mayor with the advice and consent of the City Council. Three (3) members of the five (5) shall be sufficient to constitute a quorum. The alternate member shall attend all meetings.
- B. Alternate Members: The alternate members shall attend all meetings and serve and vote in the absence of a member of the Planning Commission under rules established by the commission.

10-17-3: NIGHTLY RENTAL:

- F. Owner Living Within City Requirement: A nightly rental of a dwelling may occur only during a time when the owner of the dwelling is residing within the Municipal boundaries of the City. For purposes of this chapter, the term "owner" shall mean:
1. A natural person who owns the controlling interest of the dwelling wherein the nightly rental occurs, or
 2. A business entity of which a natural person principal holding a controlling interest of at least fifty one percent (51%) of the entity shall have a primary residence within the City.

10-18A-1: PURPOSE AND INTENT:

10-18A-2: CONFORMANCE WITH PERMIT REQUIREMENTS:

10-18A-3: FINAL BUILDING PERMIT REVIEW:

10-18A-4: ACCEPTANCE OF IMPROVEMENTS AND OCCUPANCY:

10-18A-5: DEMOLITION PERMITS:

10-18A-1: PURPOSE AND INTENT:

The purpose and intent of the building permit review process is to secure the general purposes and objectives of this title and the city general plan, and to ensure that the general appearance and public safety of buildings, structures and development complement and are harmonious with the neighborhood, are consistent with the city master plan, zoning map and city design guidelines, and meet applicable health, safety and public welfare standards. See [chapter 6](#) of this title for information required to be included in or with the application. **10-18A-2:**

CONFORMANCE WITH PERMIT REQUIREMENTS:

- A. Building Permit Required: Construction, alteration, repair or removal of any building or structure, or any part thereof, in excess of two hundred (200) square feet of floor area, or if the work costs exceed one thousand dollars (\$1,000.00), or involved, as provided for or restricted in this title and the international codes, shall not be commenced without a valid building permit.

B. Permitted Use; Occupancy Permit Required: Land, buildings or premises in any zoning district shall be used only for the purposes permitted in such district and in accordance with an occupancy permit issued by the building department. The use, building or premises must conform to the provisions of the occupancy permit and all related ordinances, regulations, resolutions and requirements of this title. A new occupancy permit must be obtained prior to a change in use or character of any building or land.

C. Special Accommodation For Temporary Occupancy: The owner-builder of a single-family residence may request special accommodation from the city to live on the residential premises during the construction of the permanent dwelling. The building permittee may only request one special accommodation/temporary living quarters. Such accommodation may include living in the following types of structures:

1. Mobile home.
2. Motor home.
3. Camper trailer.

In order to receive accommodation, the owner-builder must have submitted application for a building permit and paid all necessary fees, including all connection fees for utilities on the lot. This special accommodation will have a primary expiration date of six (6) months and be eligible for one 6-month extension, contingent upon progress toward completion of the single-family dwelling for occupancy. Temporary living quarters must be vacated and disconnected from all utilities prior to the issuance of a certificate of occupancy.

10-18A-4: BUILDING PERMIT REVIEW:

A. Single-Family Residential Projects:

1. Application: Building permits for a single-family dwelling shall require review by the building official. Application shall be made to the building official for final building permit review. See [chapter 6](#) of this title for information required to be included in or with the application.

2. Residential Plan Submittal Requirements:

- a. Residential Plan Packet: A residential plan packet shall be obtained from the city building staff and shall be completed, which shall include all submittals required under [chapter 6](#) of this title, together with such other additional submittals as are outlined in the residential plan packet. The residential plan packet requirements may be amended from time to time by the city as construction requirements necessitate.

- b. Swimming Pools: A separate pool plan will be required, which shall include a site plan showing the location of the pool and proximity to any other structures. All

pools shall require either a detailed fencing plan and shall be completely enclosed by a fence, or an automatic pool cover and meet all international building code standards.

3. City Staff Review:

a. For all projects, except single-family residential, the city staff, upon receipt of a completed application and all fees, shall review the application and shall approve, approve with conditions or deny the final building permit application.

b. For single-family residential applications, apply the following standards:

(1) Review for complete application, together with all documents as required under [chapter 6](#) of this title.

(2) Apply the same standards and review as designated under subsection A4 of this section.

(3) Determine whether a variance, conditional use or zone amendment is required. If so, the application shall be returned to the applicant with notice that application for variance, conditional use or zone amendment must be pursued prior to building permit review.

(4) The residential review staff may approve the completed application, approve with conditions, or deny.

(5) The approval or denial by the residential review staff shall constitute a final action by a zoning officer for purposes of appeal as provided under this land management code.

4. Standards For Review:

a. The proposed uses, structures and site improvements conform to the following:

(1) City master plan.

(2) Zoning regulations, general design standards and other relevant sections of this title.

(3) International building code (IBC).

(4) Any city design guidelines as may be adopted by the city council.

b. The design is sensitive to the constraints of topography, soil types, geologic hazards, watercourses and floodplains, visual impacts and preservation of views.

c. Services are available and adequate to meet the needs of the proposed structure and use, including sewer, water, roads, gas, electric, telephone, mail, police and fire protection, schools and recreation.

d. The complete final building plans and drawings have been reviewed and approved by the building department/building inspector. (Ord. 2012.04, 1-18-2012)

e. The installation of curbs, gutters, sidewalks and improvements of streets to centerline, if street is already improved with asphalt or centerline, plus ten feet (10') where the street is not improved with asphalt, as approved by the city in accordance with its ordinances and specifications, shall be required on any existing or proposed street adjoining a lot on which a building permit application for construction is made. Street improvements are required for new home construction or remodel for change of use or commercial use. Such curbs, gutters, sidewalks and street improvements shall be required as a condition of obtaining a building permit. The city may require a property owner to make an equivalent payment for the labor and materials necessary to install curb, gutter, sidewalk and asphalt, as calculated by the city engineer, in lieu of requiring the property owner to install the requisite improvements. Any required dedication of property for such improvements shall be conveyed to the city by quitclaim deed for immediate installation or for such future time as it becomes prudent for the city to install the said improvements.

f. All building pads are required to be one (1) foot higher than the road centerline, measured at the center of the pad. If this requirement conflicts with the IBC this requirement will govern.

B. Commercial Buildings:

1. Application: Upon conceptual approval by the planning commission and as a precondition to the construction, alteration, improvement, demolition or other repairs in accordance with this title, application shall be made to the building department for final building permit review. See [chapter 6](#) of this title for information required to be included in or with the application.

2. City Staff Review: The city staff, upon receipt of a completed application and all fees, shall review the application and shall approve, approve with conditions, or deny the final building permit application.

3. Standards For Review:

a. The proposed uses, structure and site improvements conforms to the following:

(1) City master plan.

(2) Zoning regulations, general design standards and other relevant sections of this title.

(3) International building code (IBC).

- (4) Any city design guidelines as may be adopted by the city council.
- b. The design is sensitive to the constraints of topography, soil types, geologic hazards, watercourses and floodplains, visual impacts and preservation of views.
 - c. Services are available and adequate to meet the needs of the proposed structure and use, including roads, gas, electric, telephone, mail, police and fire protection, schools and recreation.
 - d. The complete final building plans and drawings have been reviewed and approved by the building department/building inspector.
 - e. Every commercial building will require a final site plan approval before a building permit is issued.

C. Expiration:

1. Every permit issued by a building department official pursuant to this article shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within one hundred eighty (180) calendar days from the date of issuance of such permit. Unless, prior to expiration of the permit, the permittee submits a written request for extension, which is reviewed and approved by the building department, the building department may grant only one such extension not to exceed an additional one hundred eighty (180) days. Only one such extension may be granted by the building department. Additional extensions shall be treated and reviewed as an original application for building permit.
2. Once a final building permit is granted and construction commenced, the approval shall continue until the building permit expires under the provisions of the international building code or until occupancy permits are granted for the project.

10-18A-5: ACCEPTANCE OF IMPROVEMENTS AND OCCUPANCY:

- A. Occupancy Permit: An occupancy permit shall be issued only for a single building (a single permit may not be issued for multiple buildings) upon compliance with the following conditions:
1. A notice of completion has been issued by the building department verifying that the building project is completed and in compliance with all applicable codes for occupancy, including all site improvement work, unless the city grants special consideration pursuant to section [10-5-3](#), "Security For Completion", of this title and related provisions.
 2. A set of "as built" drawings has been filed with the building department.
 3. Three (3) trees have been planted.

- B. Inspection: The building official, the fire chief of the Hurricane Valley fire district or state fire marshal shall, upon presentation of evidence of authority, have the right of access to any premises at any reasonable hour for the purpose of inspecting all buildings, structures and other construction projects during the course of their construction, modification or repair, and to inspect land uses to determine compliance with the provisions of this title. The building department, from time to time, may require special inspections by inspectors certified in areas not common to regular construction. The expense of such inspections will be borne by the builder.
- C. Acceptance Of Improvements: On or off site improvements shall be deemed accepted by the city only after complete inspection by the appropriate city official and/or city engineer; for buildings and structures, the issuance of an occupancy permit; and for on or off site improvements other than building, upon the issuance of a certificate of acceptance by the mayor.
- D. Review Fees And Costs: All professional fees, including engineers, planners and inspectors, incurred for review by the city planner and city engineer in the review process for any building permit shall be assessed to the applicant and shall be paid in full as a prerequisite to issuance of a final building permit.

10-18A-6: DEMOLITION PERMITS:

- A. Conditions Requiring Permit: A demolition permit shall be required prior to the removal of any building or structure containing any of the following: concrete, electrical systems, heating and air conditioning systems, reinforced steel, or any hazardous material, such as asbestos, lead or lead based paints.
- B. Exemptions: Agricultural outbuildings of a single-story construction on a footprint not exceeding two hundred (200) square feet shall be exempt from a demolition permit requirement.
- C. Permit Review Procedure: Demolition permits shall be reviewed under the final building permit review procedures set forth in section [10-18A-4](#) of this article. See [chapter 6](#) of this title for information required to be included in or with the application.

10-19C-3: PRELIMINARY PLAT:

- 2. Planning Commission Public Hearing:
 - a. Once all application requirements have been met, redline corrections made, revised plans submitted and the staff report completed, the Planning Commission Chairperson or Planning and Zoning Administrator shall schedule the application on the Planning Commission agenda for a public hearing. Notice of the time, date and place of the public hearing shall be mailed not less than ten (10) days prior to the public hearing to all property owners of record in the Washington County Recorder's Office within three hundred feet (300') of the property line of the proposed subdivision (list of names to be furnished by applicant as required in section [10-1-8](#) of this title).

b. Notice shall also be posted not less than ten (10) days prior to the public hearing, on the property proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passersby. The Planning Commission shall receive public comment at the public hearing regarding the proposed subdivision.

3. Planning Commission Review And Recommendation To City Council: If the Planning Commission finds that the proposed plat complies with the requirements of this chapter and is satisfied with the preliminary plat of the subdivision, it shall approve the plat, or approve the plat with conditions. If the Planning Commission finds that the proposed plat does not meet the requirements of this chapter or other applicable ordinances, it shall deny such plat.

4. City Council Review: After the Planning Commission has approved the preliminary plat and after holding a public hearing on the Planning Commission approval of the plat, the City Council shall approve the plat, or approve the plat with conditions, if the City Council finds that the proposed plat complies with the requirements of this chapter. If the City Council finds that the proposed plat does not meet the requirements of this chapter or other applicable ordinances, it shall deny such plat.

10-19C-7:SUMMARY OF REVIEW AND APPROVAL PROCESS:

REVIEW/APPROVAL PROCESS

Concept Plan	Preliminary Plat	Final Plat	Simple Subdivision	Master Planned Development	Phased Subdivision
.Staff review & recommendation	.Staff review & recommendation	.Staff review & recommendation	.Staff review & recommendation	.Staff review & recommendation	.Staff review & recommendation
. Report to PC	. PC public hearing	. Development agreement	. PC recommendation	. Concept plan	. Master plan
. PC review & recommendation	. PC review & recommendation	. PC review & recommendation	. CC vote	. Preliminary plat	. PC public hearing
. Report to CC	5. CC vote	. CC vote		. Development agreement	. PC review & recommendation
				. Final plat	. CC vote
					. Preliminary plat
					. Development agreement
					. Final plat

REPEALER. This Ordinance shall repeal and supersede all prior ordinances and resolutions governing the same.

SAVINGS CLAUSE: If any provision or clause in this Ordinance or the application thereof to any person or entity or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications hereof which can be implemented without the invalid provision, clause, or application hereof, and to this end the provisions and clauses of this Ordinance are declared to be severable.

EFFECTIVE DATE. This Ordinance shall take effect immediately upon approved by the City Council.

PASSED AND APPROVED THIS ____ DAY OF _____ 2019.

Justin Sip	Aye ____	Nay ____	Abstain/Absent ____
Ty Bringhurst	Aye ____	Nay ____	Abstain/Absent ____
Keen Ellsworth	Aye ____	Nay ____	Abstain/Absent ____
Alex Chamberlain	Aye ____	Nay ____	Abstain/Absent ____
Paul Heideman	Aye ____	Nay ____	Abstain/Absent ____

CITY OF TOQUERVILLE
a Utah Municipal Corporation

Lynn Chamberlain, Mayor

Date _____

Attest: Dana McKim, City Recorder