



**TOQUERVILLE CITY
ORDINANCE 2019.XX
NOISE NUISANCE MODIFICATION**

AN ORDINANCE AMENDING TITLE 4, CHAPTER 1, ARTICLE A, SECTION 2
ENUMERATION OF NUISANCES TO ADD CONSTRUCTION AND CONCRETE
POURING SPECIFICATIONS.

RECITALS

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

WHEREAS, the residents of Toquerville have a reasonable expectation of peace during regular night time hours; and

WHEREAS, the ordinance will provide a standard and enforcement mechanism for nuisance violations.

NOW, THEREFORE BE IT ORDINATED BY THE CITY OF TOQUERVILLE:

4-1-2: ENUMERATION OF NUISANCES:

- A. **Dead Animals:** It is the responsibility of the owner or other person responsible for any domestic animal which dies to bury or otherwise dispose of it within two (2) days after death. If the person shall fail to do so within the time herein provided, such omission shall be deemed a nuisance. If the owner or other person responsible for such an animal cannot be found, it is the duty of an animal control officer to bury the dead animal. In such event, the city shall be entitled to reimbursement of said burial from the owner of the dead animal.
- B. **Refuse In Public Streets:** It shall be unlawful for any person intentionally or carelessly to throw, cast, put into, drop or leave in any street, gutter, sidewalk or public place any stones, gravel, sand, dirt, debris, garbage, leaves, lawn or tree clippings, paper material, handbills, ashes, rubbish of any kind, or any other item, material or substance which shall either constitute a nuisance, as designated herein, shall interfere with the free and unobstructed use and movement of either traffic or water on a public street or right of way, in the opinion of a law enforcement official or city enforcement officer, or shall constitute a fire hazard in the opinion of a fire official.
- C. **Offensive Condition Or Refuse On Private Property:** Whenever there shall be found uncovered, stored openly or uncontained on or about any lot or parcel of property, whether vacant or occupied, any garbage, refuse, junk, business related equipment, materials, supplies and merchandise, effluvia, kitchen waste, trash, inoperable motor vehicles, broken machinery, rank and noxious weeds, or other unsightly or deleterious objects or conditions that are offensive to the order and economy of the city, as designated in this chapter, they shall be deemed a nuisance.
- D. **Slaughterhouses:** If the owner of any state regulated slaughterhouse or other place wherein any swine, cattle, sheep or other animals are slaughtered, shall permit the same to remain unclean to the unnecessary annoyance of the citizens of the city, or in any state or condition detrimental to

the public health, the same shall be deemed a nuisance and enforceable by the city ordinance abatement procedures.

- E. Water Pollution: Any pollution of the waters of this city, as defined in Utah Code Annotated section 19-5-102, shall constitute a nuisance within the meaning of this chapter.
- F. Breeding Places For Flies: It shall be unlawful for any person, upon notification from the city, to maintain a condition within the city which unreasonably promotes through lack of care and cleanliness, or encourages the breeding of flies, mosquitoes, rats or other form of animal life which may be disease carriers or which otherwise constitutes a nuisance to adjoining property owners, as designated in this chapter. The city encourages use of fly bait and traps for aid and containment of flies.
- G. Noises: It shall be unlawful for any person to make, continue, or cause to be made or continued, any loud, unnecessary or unusual noise, or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the city. The following acts, when prolonged, unusual and unnatural in their time, place and use, may be a detriment to the public health, comfort, convenience, safety, welfare and prosperity: horns, radios, stereos, loudspeakers, yelling or shouting, exhausts, motor vehicles, drums or musical instruments, construction equipment, commercial vehicles, large diesel vehicles with refrigeration units, airplanes or blasting.

H. Construction and Concrete Pouring: Work shall not proceed on Saturday, Sunday or on any legal holidays without prior approval from the Mayor or Public Works Director. Contractors with construction or concrete requests scheduled between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. shall provide written request no less than forty eight (48) hours to Toquerville City and notify all residents within a 300 foot radius of the scheduled work site.

I. H. Garbage, Improper Placement: Placement of garbage at curbside or in other than a protected area shall be considered a nuisance within the meaning of this chapter, except during the period of twenty four (24) hours preceding scheduled collection of such garbage. On garbage collection days, garbage and waste placed at curbside must be contained within bags, cans or other receptacles, unless the trash material is of such size and nature that it would not be practical to fully enclose it.

J± Applicability Of Nuisance Animals: The provisions of section [5-1-7](#), "Nuisance Animals", of this code, shall be included in this enumeration of nuisances. (Ord. 03-09-06, 3-9-2006; amd. 2014 Code)

4-1-3: MAINTENANCE OF NUISANCE PROHIBITED:

It shall be unlawful for any person to maintain or permit to remain or be maintained upon his premises any nuisance as in this chapter designated. (Ord. 03-09-06, 3-9-2006)

4-1-4: ENFORCEMENT:

It shall be the duty of a law enforcement official, a fire official, an animal control officer and any

other city officer charged or entrusted with the duty of enforcing those laws intended to protect the public health, safety and well being, to enforce the provisions of this chapter. The city, by and through its agents, have authority within those areas, by themselves or by their agents, in the daytime, to enter upon any lot or other premises, or any building or structure, in order to inspect and examine the same for the purpose of determining whether or not any conditions or nuisances exist which are prohibited by this chapter. (Ord. 03-09-06, 3-9-2006; amd. 2014 Code)

4-1-5: ABATEMENT PROCEDURES:

- A. Notice To Abate: The city may notify in writing the owner or occupant of any property within the city upon which a nuisance may be found, or it may notify such other person who causes or permits a nuisance to exist, advising that there is a nuisance, describing the same, and requiring the nuisance to be abated in a manner described in the notification within ten (10) days after receipt thereof, unless some other time is specified therein. However, failure to give notice as provided herein shall not relieve the author of a nuisance from the obligation to abate such nuisance, or from the penalty provided herein for the maintenance of that nuisance.
- B. Refusal To Abate: Upon the failure, neglect or refusal of any person to abate a nuisance after notice in writing has been given, the city is hereby authorized and empowered to order the disposal of the nuisance or to pay for the disposing of the same. When the city effects removal of a nuisance or pays for such removal, the actual cost thereof, plus accrued interest at the rate of ten percent (10%) per annum from the date of the completion of the work, shall be charged to the owner of the property on which the nuisance existed. The city may cause a sworn statement to be recorded in the office of the county recorder showing the cost and expense incurred for the work, the date the work was done, and the location of the property on which the work was done. Such recordation of sworn statement shall constitute a lien on the property and shall remain in full force and effect for the amount due in principal and interest, plus collection costs, if any, until final payment has been made. A sworn statement recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily, and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectible as provided by law. (Ord. 03-09-06, 3-9-2006)

4-1-6: PENALTY:

Every nuisance shall be removed or abated as herein provided, and unless otherwise provided, any person who shall be the author or keeper of a nuisance or otherwise guilty of a violation of any of the provisions of this chapter shall be guilty of a class B misdemeanor and, upon conviction, subject to penalty as provided in section [1-4-1](#) of this code. (Ord. 03-09-06, 3-9-2006; amd. 2014 Code)

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

3. 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 FEBRUARY 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