

# **TOQUERVILLE CITY**

## **ORDINANCE 2020.XX**

AN ORDINANCE AMENDING AND RESTATING TITLE 4, CHAPTER 1, SECTION 2 OF THE TOQUERVILLE CITY CODE TO INCLUDE THE DEFINITION AND ENUMERATION OF LIGHT TRESPASS AS A NUISANCE PER SE.

### RECITALS

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

WHEREAS, the City is authorized pursuant to Utah Code Annotated, Title 10, Chapter 8, Section 60 to declare what is a nuisance, how the same can be abated, and impose fines upon persons who may create, continue or suffer nuisances to exist.

WHEREAS, pursuant to Utah Code Annotated, Title 10, Chapter 3b, Section 301, the Toquerville City Council (“City Council”) is designated as the governing body of the City.

WHEREAS, the City has observed phenomenal growth within the City over the last several years including a significant increase in its population and complaints regarding nuisances including the destruction of the night sky.

WHEREAS, the City Council has determined that it is in the best interest of the health, safety and general welfare of the City and its residents to further augment its definition of nuisance in Title 4, Chapter 1, Section 2 of the Toquerville City Code to include the commission of continued light trespass as a nuisance *per se* and to clean up and streamline certain other enumerated nuisances..

### ORDINANCE

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

1. AMENDMENT AND RESTATEMENT OF TITLE 4, CHAPTER 1, SECTION
2. Toquerville City Code 4-1-2 is hereby amended and restated in its entirety as follows:

#### ***4-1-2: ENUMERATION OF NUISANCES:***

***A. Dead Animals: The failure by an owner to bury or otherwise dispose of a deceased animal within two (2) days of its death shall constitute a nuisance within the meaning of this Chapter.***

***B. Refuse In Public Streets: The act of intentionally or carelessly throwing, casting, putting into, dropping or leaving 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: i) interferes 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 ii) shall constitute a fire hazard in the opinion of a fire official shall constitute a nuisance within the meaning of this Chapter.

C. *Offensive Condition Or Refuse On Private Property:* The keeping of 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 shall constitute a nuisance within the meaning of this Chapter.

D. *Slaughterhouses:* The allowance of a place where swine, cattle, sheep or other animals are slaughtered, 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 constitute a nuisance within the meaning of this Chapter.

E. *Water Pollution:* The 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 & Disease Carrying Animals & Insects:* To maintain a condition within the City which unreasonably promotes through lack of care and cleanliness, or encourages the breeding of flies, mosquitoes, insects, rats or other form of animal life which may be disease carriers constitutes a nuisance within the meaning of this Chapter.

G. *Loud and Continuous Noises:* 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 shall constitute a nuisance within the meaning of this Chapter. 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. *Garbage, Improper Placement:* Debris, dross, rubbish, or other garbage outside of garbage cans or outside of bags Placement of garbage at curbside or in ~~other than a protected area~~ shall constitute a nuisance within the meaning of this Chapter. ~~D, except~~ during the period of twenty four (24) hours preceding scheduled collection of such debris, dross, rubbish or other garbage, ~~On garbage collection days, garbage and waste they must be 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.

I. Nuisance Animals: The keeping of "Nuisance Animals" as that term is defined in section 5-1-7, of this code shall constitute a nuisance within the meaning of this Chapter.

J. Light Trespass: The allowance of Light Trespass to continue which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others. Light Trespass means (1) any light emitted by an outdoor luminaire that shines directly beyond the property on which the luminaire is installed, or (2) indirectly shines beyond the property on which the luminaire is installed at a brightness (illuminance) that ~~exceeds 0.1 foot candles~~ exceeds 1 Lux at the property line. Any directional luminaire facing a residential property line must be shielded to a level that the illuminating source is not visible at the property line.

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.

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

PASSED AND APPROVED THIS \_\_\_\_ DAY OF FEBRUARY, 2020.

John 'Chuck' Williams	Aye ___	Nay ___
Keen Ellsworth	Aye ___	Nay ___
Justin Sip	Aye ___	Nay ___
Gary Chaves	Aye ___	Nay ___
Ty Bringhurst	Aye ___	Nay ___

CITY OF TOQUERVILLE  
a Utah Municipal Corporation

\_\_\_\_\_  
Lynn Chamberlain, Mayor

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Ruth Evans, City Recorder