

TOQUERVILLE CITY
ORDINANCE 2021.XX



AN ORDINANCE OF THE CITY COUNCIL OF TOQUERVILLE, UTAH, AMENDING AND RESTATING ARTICLE C-1 thru C-12 (MPDO MASTER PLANNED DEVELOPMENT OVERLAY ZONE) OF CHAPTER 15 (OVERLAY ZONES) WITHIN TITLE 10 (LAND USE REGULATIONS) OF THE TOQUERVILLE CITY CODE FURTHER CLARIFYING, DESIGNATING AND REGULATING ELIGIBILITY TO APPLY FOR AND OBTAIN MPDO OVERLAY ZONING AND THE METHODOLOGY FOR CALCULATING AND AWARDED DENSITY BONUSES WITHIN THE MPDO ZONE.

RECITALS

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

WHEREAS, the City is authorized and required pursuant to Utah Code Annotated, Title 10, Chapter 9a, Section 501 to create and enforce regulations regarding the use of land within the City’s municipal boundaries;

WHEREAS, pursuant to Utah Code Annotated, Title 10, Chapter 9a, Section 103 and Title 10, Chapter 3b, Section 301, the Toquerville City Council (“City Council”) is designated as the governing body of the City and the primary Land Use Authority;

WHEREAS, currently the City has within its land use regulatory scheme an overlay zoning designation known as the Master Planned Development Overlay (MPDO) Zone (“MPDO Overlay Zone”) wherein persons seeking to develop property in compliance with the requirements of Article C, Chapter 15 of Title 10 (MPDO Overlay Zone) may obtain additional “bonus” residential density if the persons provides certain amenities, property and/or resources to the City and the general public within their approved development.

WHEREAS, the City has determined that it is in the best interests of the health, safety and general welfare of the City to amend and restate all of Article C, Chapter 15, Title 10 (MPDO Overlay Zone) to better clarify, designate and regulate the ability of a land owner to utilize the MPDO Overlay Zone and better clarify and regulate the methodology to be utilized by the City in calculating and awarding density bonuses.

ORDINANCE

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

1. AMENDMENT AND RESTATEMENT OF ARTICLE C, CHAPTER 15, TITLE 10 (MPDO OVERLAY ZONE). Chapter 15, Article C of Title 10 of the Toquerville City Code is hereby amended and restated in its entirety as follows:

*ARTICLE C. MPDO MASTER PLANNED DEVELOPMENT OVERLAY ZONE
SECTION:*

10-15C-1: Purpose And Intent

10-15C-2: Interpretation

10-15C-3: Coordination With Other Land Use Documents

10-15C-4: Vested Rights

10-15C-5: Requirements And Standards

10-15C-6: Density

10-15C-7: Approval Process

10-15C-8: Conceptual Approval

10-15C-9: Preliminary Approval

10-15C-10: Final Approval

10-15C-11: Adherence To Approved Plan; Modifications

10-15C-12: Expiration Of Master Planned Approval

10-15C-1: PURPOSE AND INTENT:

A. A master planned development overlay zone is intended to provide an alternative to the conventional zoning and land development approaches to encourage the most creative and innovative development of land. This overlay zone may allow the standards of this article to be applied to all areas of the city. It is the intent of this article to assure that the character of the underlying zones and surrounding districts is maintained in harmony with the city general plan and to satisfy the requirements of applicable design guidelines and design standards and specifications for construction.

B. It is further the intent of this article to:

1. Promote economical and efficient use of the land.
2. Promote the clustering of dwelling units.
3. Enhance and blend development with the unique natural character of the city.
4. Promote creative architecture that blends with the character of the land.
5. Provide a harmonious variety of housing types.
6. Encourage a higher level of project amenities.
7. Preserve the unique scenic qualities of open space.

10-15C-2: INTERPRETATION:

By its nature and purpose, the master planned development overlay zone is intended to provide flexible land development approaches and regulations. Insofar as the application of the regulations and concepts contained herein conflict with the strict

construction requirements and provisions of this article and/or other provisions of this title, or other land use ordinances, the provisions of the regulations provided under this article shall control. For example, the application of clustering, in the setback and building separation provisions in this article, may conflict with the setback and building separation provisions of the underlying zone as specified in this title. However, uses, including both permitted and conditional uses, specified for each zoning district in this title shall not be modified by the application of the regulations in this article. **It is not the intent of the MPDO to replace the simple, conventional, or phased subdivisions as described in section 10-19. The MPDO is intended for subdivision with such size, geographic challenges or complexity that could not be facilitated in a subdivision specified in section 10-19.**

10-15C-3: COORDINATION WITH OTHER LAND USE DOCUMENTS:

This article, together with chapter 19 of this title, the city general plan, this title and the zoning map, and applicable city design guidelines, shall guide the use and development of all land within the corporate boundaries of the city. However, in order to accomplish the purpose and intent of this article, conflicts and regulations provided in other city ordinances as they apply to land use and development, shall be construed in such a way as to allow the more flexible approach of the master planned development overlay zone.

10-15C-4: VESTED RIGHTS:

There shall be no vested right to bonus incentives or other flexible design treatments, including clustering, merely by virtue of filing an application under this article. The planning commission and city council have discretion to approve or deny any amenities proposed for the purposes of calculating density based on the desirability of the proposed amenity and its consistency with overall purposes and intent of this article and uses in design of the applicant project and surrounding properties. Application under this article shall be treated as an application for a subdivision approval under chapter 19, article D of this title, for purposes of vesting the application of this title, regulations and standards to any given application. At any time in the review process under this article, a developer may elect to opt out and have the application reviewed as a traditional subdivision application under chapter 19, article D of this title.

10-15C-5: REQUIREMENTS AND STANDARDS:

A. Conformance With General Plan: The land uses and design of the proposed MPDO shall be consistent with the city general plan.

B. Minimum Qualifications:

1. A master planned development overlay zone shall be required for developments in excess of a minor partition of a parcel ~~five (5)~~ **one hundred (100)** acres in size or greater, characterized by slopes in excess of fifteen percent (15%).
2. On parcels less than ~~five (5) acres~~ **one hundred (100)**, an MPDO may be authorized if one or more of the following conditions exist:

a. Unusual physical features of the property or the surrounding area prohibit development under the standard provisions of this title while preserving a physical or terrain feature, or view corridor of importance to the neighborhood.

b. The property cannot be feasibly developed under the standard provisions of this title, particularly in the case of small undeveloped parcels surrounded or partially surrounded by developed property.

c. The development under the MPDO regulations is more creative, unique and desirable to the community.

d. The property/parcel proposed for development is under unified title with one unified description.

C. Uses In Master Planned Development Overlay Zone:

1. Any use or combination of uses may be allowed in an MPDO, provided such uses are consistent with the city general plan and underlying zone regulations.

2. Mixed uses, including limited neighborhood commercial and multi-family residential, may be allowed within one project. However, the development shall be a harmonious variety of building types within one project and in keeping with the objectives of this article.

D. Development Standards: The MPDO shall be designed and developed in a manner consistent to chapter 19, articles D and E of this title, the design standards and specifications for construction, capital facilities plan and general design guidelines and approved by the planning commission.

E. Lot Sizes: The minimum lot and siting requirements of the zoning district in which the MPDO lies shall not dictate the strict guidelines for development within the MPDO, but shall serve to inform the developer of the importance of developing a project that will be in harmony with the character of the surrounding neighborhood. An MPDO shall not be subject to the lot width and lot area requirements of the underlying zone. The lot width and size will be shown on the approved site plan as approved by the planning commission. **Notwithstanding the preceding, if a perimeter of a proposed MPDO is adjacent to an established residential area or approved plat that is zoned R-1-20 or larger, the MPDO conceptual and final plan shall indicate perimeter lots with residential density no less than R-1-20 zoning density unless the applicant can provide evidence that this would make it impossible to develop the ERU's established in their base density. If the applicant desires density bonuses thru the MPDO process, the applicant should designate, at a minimum, a buffer of adjacent lots of at least the size requirements of the R-1-20 zone or alternative transition buffers such as parks or open space.**

F. Single Housing Type Not Inconsistent With Intent: An MPDO which only involves one type of housing, such as all detached or all attached units, shall not be inconsistent with the stated purposes and objectives of this article and shall not be the sole basis for denial.

G. Architectural Style, Appearance:

1. While there should be some flexibility for individuality, homes within a development should be of similar character and style to promote harmony within the project.
2. The exterior color and materials of all buildings, structures, walls and fences shall comply with general design guidelines and approved by the planning commission.
3. Architectural style of buildings shall not solely be a basis for denial of the plan. However, the overall appearance and compatibility of individual buildings to other site elements or to surrounding development will be primary consideration during the MPDO review.

~~H.~~ 4. Street Utilities, Services And Public Facilities: The uniqueness of each proposal for an MPDO may allow specifications and standards for streets, utilities and services to be subject to minor modifications. The plans and specifications and profiles of all streets, utilities and services shall be reviewed by the city staff and the city engineer prior to final approval. Approval of infrastructure plans is required before final approval for an MPDO may be granted.

~~H.~~ H. Open Space, Parks, Park Strips, Medians, Trails And Others:

1. Purpose: The purpose of open space is to provide areas within developed parcels of land that are restricted from development and reserved for uses such as parks, trails, floodway areas, landscaping and topographic features worthy of protection. Open space does not include streets, driveways, parking areas or setback areas. It is the intent of open space requirements to promote a more clustered development land use and encourage the preservation of undeveloped land for a healthier environment.

2. General Requirements: The following general requirements pertaining to open space shall be incorporated into the development design and implemented by the developer in compliance with city design standards and specifications and other applicable city design guidelines:

a. Where parks, trails and other open space are mastered, planned by the city, proposed by the developer, or required on a parcel or parcels, the developer shall incorporate said open space into the design concept plan for the project and submit the concept plan with suggested improvements, funding and maintenance mechanisms for approval.

b. Trails, parkways, and common areas shall be dedicated to the city or retained as private property, at the discretion of the city. On all trails, parkways and other common area retained as private, the developer shall grant an easement to the city and other agencies for access or maintenance on and over the area. Such easements shall not necessarily give the general public access.

c. All open space not specifically dedicated to the city, or accepted for ownership or maintenance by the city, shall be perpetually owned by and maintained by the

owners or their agents through a special taxing district or homeowners' association with the power to collect fees for maintenance.

d. Open space shall be clearly designated on the preliminary and final development plans as to the use and improvements, and may include the following:

- (1) Dedicated park sites.
- (2) A dedicated right of way for bike paths, ATV trails, equestrian and hiking trails.
- (3) Private park and recreation sites.
- (4) Streetscape areas.
- (5) Floodway and wash areas.
- (6) Perimeter landscaping.
- (7) Detention basins, when appropriately improved to accommodate recreation activities.
- (8) Natural geographic and topographic features, such as rock formations, washes, wetlands, lava rock and unique vegetation.

e. Open space may be left in its natural state, if natural features are worthy of preservation. Natural features shall be protected during construction, kept free of litter and at no time are allowed to constitute a threat to health, safety, fire or flood.

f. Adequate guarantees must be provided by the applicant to ensure that open space will be permanent. Guarantees may include deeds for easements, transfers by deed or irrevocable covenants incorporated into conditions, covenants and restrictions.

g. All or part of the common space may be reserved for use in common by the residents of the subdivision.

3. Open Space Design: The following design requirements pertaining to parks, park strips, medians, trails and open space shall be incorporated into the development design and implemented by the developer in compliance with the city design guidelines:

- a. All parks approved for public use shall abut at least one public street.
- b. Parks and open spaces shall be planned, where appropriate, in conjunction with flood detention.
- c. Park strips and medians along collector streets adjoining the project shall be landscaped by the developer according to the city standards and specifications and design guidelines.
- d. Buffers are required along all public streets that form the perimeter of a subdivision and all public streets within the subdivision where homes will not front that street. The minimum area for buffer strips, as required by this title, shall be in force.

e. Open space buffers may be required to separate the subdivision from other subdivisions or projects where conflicting uses or congested uses may occur.

4. Open Space Minimum Requirement: There shall be a minimum amount of area dedicated or reserved as open space as set forth below:

Land Use	Minimum Open Space
Single-family residential (lots less than 8,000 square feet)	15%
Single-family residential (lots 8,001 - 10,000 square feet)	12.5%
Single-family residential (lots 10,001 - 12,500 square feet)	10%
Single-family residential (lots 12,501 - 25,000 square feet)	7.5%
Single-family residential (lots 25,001 - 40,000 square feet)	5%
Single-family residential (lots greater than 40,000 square feet)	0%
Multi-family residential	20%
Nonresidential uses	20%

If the development includes a mixture of land uses, the percentage of open space required shall be the average based on the collective percentage of each land use as to the total acreage.

~~—J. Water Conservation Plan (Density Bonus Option):~~

~~—1. A water conservation plan is not a requirement of this article, but rather, an option for which the developer/owner may receive additional density bonuses.~~

~~—2. A water conservation plan shall include a detailed quantification of proposed water savings. Water savings may be based upon the following:~~

~~—a. Water saving technology, such as irrigation mat systems, evaporative transfer systems, etc.~~

~~—b. Landscaping materials, such as hybrid grasses, drought tolerant desert vegetation.~~

~~—c. Other water conservation techniques.~~

~~—3. The water conservation plan shall compare all water savings based upon the 0.9 acre-feet per year per unit as described in the city water capital facilities plan. The water~~

~~conservation plan shall be included in the project CCRs and the development agreement, and shall include the project water budget and the penalty assessment for water use above the water budget.~~

~~K.~~ **I.** Additional Standards: Additional standards and conditions may be attached to the master planned development overlay zone, which may include, but are not limited to, the following:

1. Use limitation.
2. Screen planting.
3. Paving, location of drives and parking areas.
4. Storm drainage and stormwater detention.
5. Sidewalk design.
6. Construction criteria.
7. Shape of lots.
8. Grouping and use of buildings.
9. Maintenance of grounds.
10. Signage.
11. Adequacy of vehicular and pedestrian circulation and access.

~~L.~~ **J.** Waiving Of Construction Standards And Design Criteria: This article is intended to provide an alternative to the conventional use of land and provide for flexibility in design standards. Construction standards and design criteria may be reviewed on a case by case basis for the use of approved alternatives.

~~M.~~ **K.** Affordable Housing: Each MPDO project shall address the placement of community residential setting facilities, group homes and affordable housing in a manner consistent with state law, the federal fair housing act and the city affordable housing plan.

~~N.~~ **L.** Professional Design Team:

1. The developer of all proposed ~~master planned~~ MPDO developments shall certify that the talents of the following professionals shall be utilized in the planning and construction for the development:

- a. An architect licensed ~~by the state.~~ in the State of Utah.
- b. A landscape architect licensed ~~by the state.~~ in the State of Utah.
- c. A registered ~~civil~~ engineer licensed ~~by the state.~~ in the State of Utah.
- d. A land surveyor licensed ~~by the state.~~ in the State of Utah.

- e. An attorney- ~~licensed and authorized to practice law in the State of Utah.~~
2. One of these professional consultants chosen by the applicant shall be designated to be responsible for conferring with the city staff.

10-15C-6: DENSITY:

A. General Requirements:

1. Master planned developments may provide for a variety of housing types allowed in any one of the basic residential zoning districts. In addition, the number of dwelling units allowed may be flexible relative to the number of units per acre that would be permitted by the zoning regulations otherwise applicable to the site.

2. In determining the densities in the MPDO, the planning commission and city council shall consider increased efficiency in the provision of public facilities and services based, in part, upon:

- a. The location, amount and proposed use of common open space;
- b. The location, design and type of dwelling units;
- c. The physical characteristics of the site;
- d. Particular distinctiveness and excellence in arrangement, design and landscaping;
- e. Other upgrades provided by the developer that are determined to be significant for the community.

~~B.~~ **3. Density Bonus:** An applicant for a master planned development may be eligible for a density bonus based on additional amenities and creative land use. An applicant may include one or more of the following amenities in the design of the project and be considered for a density bonus. Each amenity is assigned a percentage increase in the total project density for providing that amenity. The bonus increase listed is the maximum allowed, and the planning commission may approve less than the maximum allowed. The sum total of all bonuses allowed may not exceed ~~forty thirty~~ percent ~~(40%)~~ **(30%)** of the base total density:

Amenity Provided	Maximum Density Bonus
Open space: Increase in open space above base requirements of subsection 10-15C-5I of this article	0 percent to 2 percent for each 1 percent increase in open space above minimum. Up to 15 percent
Water conservation plan: Implementation of water conservation plan per subsection 10-15C-5J of this article	0 percent to 1 percent for each 1 percent reduction of culinary water use below 0.9 acre feet per year per unit. Up to 15 percent
Parks: Playground and leisure areas	Up to 10 percent

Irrevocable reservation of property for public purposes	Up to 10 percent	
Trails: Pedestrian, bicycle and/or other recreational trails that are separated from vehicular traffic, within or outside the project	Up to 5 percent	
Active recreation facilities: Facilities which are provided for residents of the MPDO or citizens of the city, such as swimming pools, playgrounds, spas, etc.	Up to 5 percent	
Special features: Architectural features, design features, dramatic entryways, etc.	Up to 5 percent	
Example of density bonus calculations: A 20-acre parcel that has an approved base density of 2.5 units per acre and includes open space, parks and a water conservation plan:		-
-	Open space	Up to 15 percent
-	Parks	Up to 10 percent
-	Water conservation plan	Up to 15 percent
-	Maximum bonus	40 percent
Calculation: 2.5 base x 40 percent bonus = maximum 3.5 units/acre		

Table A.3.

AMENITY	BASE REQUIREMENT OR LEVEL OF SERVICE (LOS)		MAX BONUS	REQUIREMENTS
Open Space	As provide in 10-15C-5 (4)	<u>Min.</u> <u>Open</u> <u>Space</u>	up to 5%	As provide in 10-15C-6 Any undeveloped open space dedicated to the Public except for Parks, Trails, Bike Paths, Irrevocable reservation of property for public use, or Active recreation facilities that are separately being used for additional bonuses. Each 2% increase above the minimum base requirement/LOS will achieve 1% density bonus.
	<u>Land Use</u>			
	Single-family residential (lots less than 8,000 sq ft)	15%		
	Single-family residential (lots 8,001 - 10,000 sq ft)	12.5%		
	Single-family residential (lots 10,001 - 12,500 sq ft)	10%		
	Single-family residential (lots 12,501 - 25,000 sq feet)	7.5%		
	Single-family residential (lots 25,001 - 40,000 square feet)	5%		
	Single-family residential (lots greater than 40,000 square feet)	0%		
	Multi-family residential	20%		
	Nonresidential uses	20%		

<i>Parks</i>	<i>Current LOS is 9.2 acres/1000 population. Minimum LOS pavilion with tables seating for 50, restrooms, drinking fountain, playground, trashcans. All parks must be open to full public use to qualify for density bonus.</i>	<i>up to 10%</i>	<i>For each 1% of additional acreage or features ie: splashpad, tennis/pickleball courts. Must include the amenities to meet current LOS requirements</i>
<i>Irrevocable Reservation of Property for Public Use</i>	<i>As proposed by Developer</i>	<i>up to 10%</i>	<i>As proposed by the Developer on a case by case basis and approved by the City</i>
<i>Trails: Pedestrian, bike or other trails that re separate from vehicular traffic both inside and outside the development. Street sidewalks will not be considered as trails.</i>	<i>Minimum LOS: As identified in the Toquerville City Trails Master Plan.</i>	<i>up to 10%</i>	<i>1% bonus for each 1% above current LOS As identified in the Toquerville City Trails Master Plan.</i>
<i>Active recreation facilities provide for the public such as playgrounds equipped with a full complement of playground equipment, Tennis/Pickleball courts, etc.</i>	<i>Minimum LOS: Tennis/Pickleball courts (must have exterior fencing, gates, lighting, hard surface courts, etc.)</i>	<i>up to 10%</i>	<i>Would be determined on a case by case basis as proposed by the Developer and approved by the City. Consideration for percentage of populations served & long-term benefit to the city & its residents will determine the 1-10% achieved.</i>
<i>Notes:</i> <ol style="list-style-type: none"> <i>Each amenity is assigned a percentage increase in the total project density for providing that amenity.</i> <i>Density bonuses will only be allowed for amenities open to full public use.</i> <i>The density bonus increase listed in Table A.3. is the maximum allowed. The City Council may approve less than the maximum allowed.</i> <i>The sum total of all bonuses allowed may not exceed thirty percent (30%) of the base total density.</i> <i>Density bonuses will only be allowed for master planned development projects whose base underlying zoning requires 20,000 sq. ft. lots (R-1-20) or larger.</i> 			

10-15C-7: APPROVAL PROCESS:

There shall be a three (3) stage review process for all master planned developments, consisting of a conceptual conference and approval, a preliminary site plan approval and a final site plan approval.

10-15C-8: CONCEPTUAL APPROVAL:

A. Preapplication: The applicant is encouraged to meet with the appropriate city staff prior to making application for MPDO approval to discuss the development concept, the review and approval process, and the submittal requirements.

B. Information Required: The developer shall provide the following information, together with ten (10) copies, at the preapplication conference:

1. Written Statement: A written statement providing:

- a. Proposed name of the MPDO development.
- b. Location and legal description.
- c. Name and address of owners.
- d. Current title policy on property.
- e. Name and address and qualifications of design team.
- f. Type and number of residential and nonresidential uses.
- g. Buildings/facilities involved with these uses.
- h. Tentative operation and maintenance data (landscaping, etc.).
- i. Existing and proposed utilities.
- j. Existing and proposed public and/or private streets.
- k. Location of nearest commercial shopping centers.
- l. General timetable for development.
- m. Density per net acre.

2. Schematic Drawings: Schematic drawings at a minimum scale of one inch equals one hundred feet (1" = 100') showing:

- a. Existing natural features, such as watercourses, rock outcroppings, wetlands, wood areas and greenways.
- b. Location of existing utilities and drainageways.
- c. Location and names of all prior platted streets, parks and utility rights of way.
- d. General location of existing and/or proposed buildings and structures and their uses, parking, open space and ownership pattern.
- e. A traffic flow map showing circulation patterns within and adjacent to the proposed development, including trails, sidewalks, streets, parking lots, loading areas, etc. A traffic study, done by a registered professional, may be required.

3. Staff Response: Staff shall provide written comments to the applicant on the information provided at the preapplication conference.

4. Recommendation Of Planning Commission: After receiving a completed application and after reviewing the comments made by city staff, the planning commission will recommend approval, approval with modifications or denial of the proposed conceptual plan for the MPDO application to the city council.

5. City Council Decision: After reviewing the planning commission recommendation, the city council will approve, approve with modifications or deny the conceptual plan for the proposed master planned development overlay zone.

10-15C-9: PRELIMINARY APPROVAL:

A. Application: Following approval of the conceptual plan by the city council, the applicant shall make application to the planning commission for a master planned development preliminary site plan/preliminary plat approval. Following the application submittal, the planning commission shall hold a public hearing, or any continuance thereof, on the proposed master planned development. Following the public hearing, the planning commission will recommend to the city council approval, approval with modifications or denial of the adoption of master planned development overlay district.

B. Information Required: The following information shall be provided at the application stage as an addition to any information required as part of the preapplication review:

1. A written statement providing:

a. Written consent to the final development and program of all persons owning any interest in the real property within the MPDO.

b. A time schedule showing construction commencement, rate of development and approximate completion date for each phase of construction.

c. The stages of development of private and public facilities.

d. Drafts of proposed covenants and all other documents providing for the maintenance of any public open spaces and recreational areas not dedicated to the city, including agreements by property owners' associations, dedicatory deeds or reservations of public open space.

e. Draft of the proposed development agreement.

2. Maps and drawings at a minimum scale of one inch equals one hundred feet (1" = 100') showing the precise location of the following:

a. Existing contours (due to steep slopes, a 3-D model may be required).

b. Contours after development.

c. Location and size of proposed storm drainage system, sewer, water, power, natural gas, phone and cable television utilities.

d. A street system and lot design with appropriate dimensions. A subdivision plat if the land is to be subdivided shall comply with this requirement.

e. Location and dimensions of pedestrian walkways, paths and trails within the site and connecting to surrounding neighborhood, including horse and bike trails.

f. Location, arrangement, number and dimensions of off street parking and bike parking as required.

g. Location, arrangement and dimensions of truck loading zones.

h. Location of existing and/or proposed buildings and structures and their uses, open space and dedicated or reserved properties.

i. Preliminary architectural plan depicting the general height, bulk and type of construction and their approximate location on lots.

j. Preliminary landscaping plan, including trees, screen planting, walls, fences, etc.

k. Location, character and types of signs.

l. Preliminary set of construction plans for civil improvements in multiples of ten (10) copies, showing the design of roadways, water lines, sewer lines, gas lines, power and phone lines, along with roadway cross sections and construction details.

10-15C-10: FINAL APPROVAL:

A. Determination Of Consistency: At the time of request for final approval, the planning commission shall determine whether the proposal is consistent with the conditions and requirements set forth by the city. This determination will include, but not be limited to, the following:

1. Completed and approved development agreement.
2. Completed and approved civil improvement construction plans (plans bearing the signatures of all required utilities, the city engineer and the planning and zoning administrator).
3. Final plat/final site plan drawing~~—~~**for the initial phase of the development.**
4. Other conditions imposed by the planning commission or city council.

B. Planning Commission Public Hearing; Recommendation: After review and determination, the planning commission will hold a public hearing on the final approval for all MPDO zones and, after such public hearing, will make a recommendation to the city council for approval, approval with changes, or denial of the proposed MPDO zone.

C. City Council Review: After receiving the recommendation from the planning commission, the city council may or may not hold a public hearing on the proposed MPDO zone, but will review the proposed MPDO zone for compliance with the criteria of this article. Any MPDO approved by the city council shall be adopted by ordinance as an amendment to the city official zoning map.

D. Ordinance Content: The ordinance shall include schedules for development, conditions of approval, requirements for modifications to the approved plan and an expiration date.

10-15C-11: ADHERENCE TO APPROVED PLAN; MODIFICATIONS:

A. All persons and parties, their successors, heirs or assigns, who own, have or will have, by virtue of purchase, inheritance or assignment, any interest in the real property within an approved master planned development, shall be bound by the conditions of the master planned development conditions. Failure to comply with such conditions shall be grounds for a repeal or revision of the master planned development.

B. The approved final plan and stage developments schedule shall restrict the nature, location and design of all land uses.

C. Minor changes in the approved final plan, including extension or revision of the stage development schedule, may be approved by the planning commission, if such changes are consistent with the purposes and general character of the plan.

D. All other modifications shall be processed in the same manner as the original application and shall be subject to the same procedural requirements.

10-15C-12: EXPIRATION OF MASTER PLANNED APPROVAL:

Within two (2) years of ordinance adoption, if substantial construction or development of the master planned development has not occurred in accordance with the approved final development plan and program, the planning commission shall initiate a review of master planned development overlay zone at a public hearing to determine whether or not its continuation in whole or part is in the public interest, and if found not to be, shall recommend to the city council that the master planned development adoption ordinance be repealed.

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 approval by the City Council.

PASSED AND APPROVED THIS _____ DAY OF _____, 2021.

John 'Chuck' Williams
Keen Ellsworth

Aye ___Nay ___ Absent/Abstain ___
Aye ___Nay ___ Absent/Abstain ___

Justin Sip
Gary Chaves
Ty Bringhurst

Aye __Nay __ Absent/Abstain ____
Aye __Nay __ Absent/Abstain ____
Aye __Nay __ Absent/Abstain ____

TOQUERVILLE CITY
a Utah Municipal Corporation

Lynn Chamberlain, Mayor

Date

Attest:

Ruth Evans, City Recorder

DRAFT