

# TOQUERVILLE CITY

## ORDINANCE # 2022-XX

AN ORDINANCE AMENDING TOQUERVILLE CITY’S OFFICIAL ZONING MAP BY RE-ZONING APPROXIMATELY 173.76 ACRES OF REAL PROPERTY OWNED BY FIRELIGHT DEVELOPMENT, INC. (“DEVELOPER”), SRC LAND HOLDINGS, LLC AND T-VILLE DREAMZ, LLC (COLLECTIVELY “DEVELOPER AFFILIATES”) IN THE NORTHWEST AREA OF THE CITY FROM ITS PRESENT ZONING DISTRICT DESIGNATION OF R-1-20 TO THE ZONING DISTRICT DESIGNATION OF MPDO WITH USES AND DENSITIES PRESCRIBED BY A RECORDED DEVELOPMENT AGREEMENT.

### 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 9A, to enact ordinances necessary or appropriate for the use of land within the City’s municipal boundaries;

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

WHEREAS, pursuant to Utah Code Annotated Title 10, Chapter 9a, Section 503(1) the City Council is the only body designated as the City’s Land Use Authority who may designate or amend “(a) the number, shape, boundaries, area, or general uses of any zoning district; (b) any regulation of or within the zoning district; or (c) any other provision of a land use regulation.

WHEREAS, pursuant to Utah Code Annotated Title 10, Chapter 9a, Sections 502 thru 505, the City Council may only amend the City’s Official Zoning Map to rezone properties within the City after the proper notice is given in compliance with Utah Code Annotated Title 10, Chapter 9a, Section 205 and Section 10-1-8-4 of the Toquerville City Code, and an ordinance on the subject receives a recommendation from the City’s Planning Commission “City Planning Commission” after a public hearing is held.

WHEREAS, the City has received a request submitted by Developer and the Developer Affiliates seeking approval of a new zoning district designation for 173.76 acres of real property described and depicted in Exhibits “A” and “B” owned by them and currently designated as R-1-20 (“Subject Property”) to that of MPDO with its uses and densities being prescribed by a recorded development agreement (“Zone Change Request”).

WHEREAS, pursuant to Title 10, Chapter 15C of the Toquerville City Code, the rezoning of property to the MPDO zoning district designation is accomplished thru a three step process wherein a “Conceptual Approval”, a “Preliminary Approval” and a “Final Approval” of a submitted and subsequently refined “MPDO Plan” is granted.

WHEREAS, on the 19<sup>th</sup> day of January, 2022, after receiving a recommendation from the Toquerville City Planning Commission (“Planning Commission”) who conducted public hearings over a period of 2 months, the Toquerville City Council (“City Council”) granted “Conceptual Approval” of Developer’s MPDO Plan as it relates to the Subject Property (“Firelight MPDO Plan”).

WHEREAS, on the 6<sup>th</sup> day of July, 2022, after receiving a recommendation from the Planning Commission and input from City staff and the City’s conflict counsel, the City Council granted “Preliminary Approval” of the Firelight MPDO Plan.

WHEREAS, on the 13<sup>th</sup> day of July, 2022, the Planning Commission reviewed and made a recommendation for “Final Approval” of the Firelight MPDO Plan, the Zone Change Request and a draft of this Ordinance effectuating the same and forwarded these matters to the City Council.

WHEREAS, on the 20<sup>th</sup> day of July, 2022 after receiving a recommendation from the Planning Commission, the City Council finds it to be in the best interest of the health, safety and general welfare of the City to have “Final Approval” of the Firelight MPDO Plan and the Zone Change Request granted – with the City’s Official Zoning Map being amended accordingly to reflect said changes.

## ORDINANCE

NOW THEREFORE be it ordained by Toquerville City, Washington County, State of Utah, acting by and through the City Council:

1. Zone Change. The Subject Property described and depicted in Exhibit “A”, located within Toquerville City, Washington County, State of Utah, previously zoned Residential (“R-1-20”) as shown on the City’s Official Zoning Map is hereby re-classified and re-zoned to Master Planned Development Overlay (“MPDO”). Under the MPDO zoning designation, the uses and densities allowed within the Subject Property are authorized and defined in a written development agreement approved concurrently with this ordinance which shall be executed and recorded in the Official Records on file in the Office of the Recorder of Washington County, State of Utah against the Subject Property (“Development Agreement”).
2. Amendment of Toquerville City Official Zoning Map. The City’s Official Zoning Map is hereby amended and restated/redrawn to reflect the zone change set forth in Section 1, above.
3. Future Amendment of Toquerville City Official Zoning Map. Subject to the terms set forth in Section 15 of the Development Agreement, as the Developer or a Developer Affiliate acquires certain real property and records a Transfer Declaration making the after acquired property subject to the Development Agreement, said property shall automatically be reclassified with the MPDO zoning district designation and the City’s Official Zoning Map will be deemed amended and restated/redrawn to reflect the zone change, *sua sponte*.
4. Severability. If any Section, clause or portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

5. Conflicts/Repealer. This Ordinance repeals and supersedes the provisions of any prior ordinance in conflict herewith.

6. Effective Date. This Ordinance shall become effective immediately upon adoption by the City Council and execution by the Toquerville City Mayor.

ADOPTED AND APPROVED BY THE TOQUERVILLE CITY COUNCIL this 20<sup>th</sup> day of July, 2022 based upon the following vote:

Council Member:

John 'Chuck' Williams	Aye ___	Nay ___
Racheal Peart	Aye ___	Nay ___
Justin Sip	Aye ___	Nay ___
Gary Chaves	Aye ___	Nay ___
Ty Bringhurst	Aye ___	Nay ___

TOQUERVILLE CITY  
A Utah municipal Corporation

ATTEST:

\_\_\_\_\_  
Keen Ellsworth, Mayor

\_\_\_\_\_  
Daisy Fuentes, City Clerk

**EXHIBIT “A”**  
to Toquerville City Ordinance 2020-XX

(Owner Last Name, Parcel Number & Acreage Table)

<b>Landowner</b>	<b>Parcel #</b>	<b>No of acres</b>	<b>Previous Zoning Designation</b>
SRC Land Holdings, LLC			
	T-3-1-11-341		R-1-20
	T-3-1-10-231-PV1		R-1-20
	T-3-1-10-232-PV2		R-1-20
	T-3-1-10-233-PV3		R-1-20
	T-3-1-10-234-PV4		R-1-20
	T-3-1-10-235-PV5		R-1-20
	T-3-1-10-236-PV6		R-1-20
	T-127-PV1		R-1-20
	T-128-PV1		R-1-20
	T-129-PV1		R-1-20
	T-191-PV1		R-1-20
	T-195-PV1		R-1-20
	T-199-PV1		R-1-20
	T-190		R-1-20
	T-192		R-1-20
	T-193		R-1-20
	T-1231		R-1-20
	T-1232		R-1-20
	T-1233		R-1-20
	T-1234		R-1-20
	T-1235		R-1-20
	T-1236		R-1-20
	T-1237		R-1-20
T-Ville Dreamz, LLC			
	T-3-1-11-340		R-1-20
	T-3-1-11-342		R-1-20
Firelight Development, Inc.			
	T-141-PV1		R-1-20
	<b>TOTALS</b>	<b>173.76</b>	

Total number of acres:	173.76
Total number of acres changing to MPDO:	173.76
Total number of acres staying R-1-20:	0.00

**EXHIBIT “B”**  
to Toquerville City Ordinance 2020-XX

(Legal Description)

*\*\*\*To Be Inserted\*\*\**