

**TOQUERVILLE CITY**  
**ORDINANCE 2022-XX**



AN ORDINANCE OF THE CITY COUNCIL OF TOQUERVILLE, UTAH, ADDING THE DEFINED TERM “NIGHTLY RENTAL DEVELOPMENT” TO THE GENERAL DEFINITIONS CONTAINED IN SECTION 10-2-1 OF THE TOQUERVILLE CITY CODE (“CODE”); AMENDING AND RESTATING THE PREAMBLE OF SECTION 10-17-3 TO EXCLUDE NIGHTLY RENTAL DEVELOPMENTS; ADDING “NIGHTLY RENTAL DEVELOPMENT” AS A PERMITTED USE (WITH RESTRICTIONS) IN COMMERCIAL AREAS OF A MASTER PLANNED DEVELOPMENT AREA; AND CREATING THE MANDATORY REQUIREMENTS FOR NIGHTLY RENTAL DEVELOPMENTS.

**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 only allows an individual “Dwellings” to be rented on a nightly basis upon the owner of that Dwelling receiving and maintaining a “Nightly Rental Permit” pursuant to Section 10-17-3 of the Toquerville City Code.

WHEREAS, the City Council finds that its current regulation of “Nightly Rentals” within existing developments of the City pursuant to 10-17-3 is well thought out and has been effective in assuaging the reasonable expectations of both existing residents and the property rights of others seeking to utilize Dwellings as a Nightly Rental on a “one off” basis.

WHEREAS, the City Council also finds that there is a benefit to allowing Nightly Rentals in a portion of a new development in one or more commercially areas designated areas as a commercial planning area within a development obtaining a Final that has obtained final approval of Master Planned Development Overlay Zone approval (plan pursuant to §10-15C-10) of the Toquerville City Code (“Nightly Rental Development”) so long as said development meets certain threshold requirements to insure that possible detrimental effects on existing or future residential areas are minimized or fully mitigated.

WHEREAS, accordingly, the City Council has determined that it is in the best interests of the health, safety and general welfare of the City to adding the defined term “nightly rental development” to the general definitions contained in section 10-2-1 of the Toquerville City Code (“code”); amending and the Master Planned Development Overlay zone to add Nightly Rental

Developments as a permitted use under limited conditions; and creating the mandatory requirements for Nightly Rental Developments.

## ORDINANCE

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

1. ADDITION OF THE TERM “NIGHTLY RENTAL DEVELOPMENT” TO SECTION 10-2-1 (GENERAL DEFINITIONS) OF THE TOQUERVILLE CITY CODE. Section 10-2-1 of the Code is amended to include the following defined term:

***NIGHTLY RENTAL DEVELOPMENT:** a new development containing Dwellings or commercial structures with Dwellings located therein ~~in which~~ where each and every Dwelling in the entire development is allowed to be rented, under the terms Section 10-15C-13 of Ordinance—the Toquerville City Code on a short-term basis—“Short term basis” meaning for a period of less than thirty (30-days in any) consecutive 30-day period days.*

2. AMENDMENT AND RESTATEMENT OF THE PREAMBLE TO SECTION 10-17-3 OF THE TOQUERVILLE CITY CODE. The preamble of Section 10-17-3 of the Toquerville City Code is hereby amended and restated as follows:

***NIGHTLY RENTAL.** Except within approved Nightly Rental Developments in commercial areas of the City’s Master Planned Development Overlay zone, Nightly Rentals shall occur only within the City upon meeting the requirements in Section 3, below:*

~~1. In addition to any other uses allowed within the Master Planned Develop Overlay Zone, one or more Nightly Rental Development areas, with a commercial designation, are allowed upon the following requirements:~~

3. ~~10-12(-)~~ ADDITION OF SECTION 13 TO ARTICLE C, OF CHAPTER 15, TITLE 10 OF THE TOQUERVILLE CITY CODE. Article C (MPDO Overlay Zone) of Chapter 15 (Overlay Zones), Title 10 (Land Use Regulations) of the Toquerville City Code is hereby amended to add Section 13 as follows.

**10-15C-13. NIGHTLY RENTAL DEVELOPMENT MINIMUM REQUIREMENTS:**

- A. ~~per Nightly Rental Development~~ Minimum 30 detached or 60 attached Dwellings and a ~~Maximum number of 200 detached or 300 attached Dwellings equal to (3-5%) of the base ERU’s for the whole MPDO development~~ per Nightly Rental Development

- B. Primary Access to a Night Rental Development ~~is~~ directly from the Toquerville Parkway.

C. Written consent from one hundred percent (100%) of the property owners within the Nightly Rental Development, at the time of approving a final plat for the Nightly Rental said Development.

D. All final plats and covenants, conditions and restrictions (CC&Rs) which have been recorded final plats for a Nightly Rental Development shall include a note indicating that Dwellings may be rented on a short-term basis (less than 30 consecutive days).

E. At a minimum, Nightly Rental Developments shall provide usable amenities in a central location, as follows:

1. One thousand (1,000) square feet of recreation or playground area for the first five (5) Dwellings;

2. An additional two hundred (200) square feet for each Dwelling over five (5) Dwellings;

3. The average width and length of each usable recreation or playground area shall not be less than twenty feet (20'); ~~and~~

4. All of the required area shall be usable common space accessible to the entire Nightly Rental Development;

5. All required amenities shall be fully constructed prior to construction of fifty percent (50%) of the total project units, or in accordance with an executed development agreement with terms acceptable to the City;

~~5.6.~~ The number of amenities required depends on the size of the Nightly Rental Development. All amenities shall be provided in accordance with the following:

<b>Dwellings</b>	<b>Amenities</b>
30 – 60	1
51 – 121	2
121 – 200	3
201 – 300	4

~~6.7.~~ The type of amenities required depends on the nature, size, and density of the Nightly Rental Development. If multiple amenities are required, the type shall vary. All amenities shall conform to the following and such amenities and shall not entitle the development to additional density bonuses;

~~+~~

8. The following is a table of acceptable recreation and enrichment amenities within a Nightly Rental Development:

<u>Amenities</u>	<u>Notes</u>
<u>Pool</u>	<u>400 sq ft minimum</u>
<u>Health and/or Fitness Facility</u>	<u>Indoor</u>
<u>Secured &amp; Programmed Children Play Area</u>	
<u>In Ground Hot Tub</u>	
<u>Community Garden</u>	
<u>Perimeter Trail</u>	
<u>Sport Court</u>	
<u>Keyed Bicycle Storage</u>	<u>Indoor</u>
<u>Community Library</u>	
<u>Office or Meeting/Social (Kitchen) Facilities</u>	<u>Indoor</u>
<u>Social Area</u>	<u>Outdoor, 400 sq ft minimum</u>

F. All required amenities shall be fully constructed prior to fifty percent (50%) of the Dwellings in the Nightly Rental Development receiving a certificate of occupancy;

G. In addition to amenities, a minimum of thirty percent (30%) of the lot area shall be maintained in landscaped area, and at least fifty percent (50%) of the front setback area shall be maintained as landscaped area;

H. There shall be at least the following number of personnel for each Nightly Rental Development to administer the Nightly Rental Development on a 24 hour a day, 7 day a week basis:

1. An onsite manager ~~for at least~~ **24** hours per day, ~~7 days a week~~ with rights to access a Dwelling at any time.

2. In addition to an onsite manager ~~(s)~~, at least one handyman stationed within 30 minutes' drive of the Nightly Rental Development that is available 24/7.

I. The Nightly Rental Development ~~to~~ shall have an Owners Association and governing documents containing recorded restrictive covenants which:

1. Expressly authorizes and discloses the ability to ~~use all Dwellings as rent~~ a ~~Nightly Rental Dwelling~~ on the basis of thirty consecutive (30) days or less.

2. Includes all the requirements of ~~A-I, above~~ Subsections A-L, herein.

3. Requires each owner of a Dwelling utilizing the same as a Nightly Rental to have all marketing, maintenance, cleaning and renting of their Dwelling to be performed by a singular third party, licensed and bonded, property management company ~~chosen in a manner set for in the Covenants ("Property Manager")~~, separate and distinct from a property management company that may manage the Owners Association for the Nightly Rental Development.

4. Designates that the property management company performing the marketing, maintenance, cleaning and renting of Dwellings on a basis of less than thirty (30) consecutive days for owners must be selected by the affirmative vote of the Owners Association as required by its governing documents.

J. Dwellings within a Nightly Rental Development may not possess more than 4 bedrooms and shall provide off street parking for at least 4 vehicles.

K. Dwellings within a Nightly Rental Development, if being rented on a basis of less than 30 consecutive days, shall have a maximum occupancy of no more than ten (10) persons.

~~J.L.~~ The property ~~Manager shall obtain and at all times~~ management company providing the consolidated services of marketing, maintenance, cleaning and renting of Dwellings on a basis of less than thirty (30) consecutive days for owners shall maintain a license under ~~Ordinance No. —~~ Section of the Toquerville City Code to operate and manage a Nightly Rental Development.

M. If a developer opts for a Nightly Rental Development, the culinary water connections within that MPDO shall not be considered "Eligible Culinary Connections" and shall not be used in determining the maximum number of nightly rental business licenses within Toquerville City limits.

4. REPEALER. This Ordinance shall repeal and supersede all prior ordinances and resolutions governing the same. For clarification, however, this Ordinance does not repeal Ordinance 10-17-3 as it applies to properties outside of a Nightly Rental Development.

5. 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.

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

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, ~~2022.~~ January,  
2023.

COUNCILMEMBER:

Ty Bringhurst	<u>AYE</u>	_____	<u>NAE</u>	_____	<u>ABSTAIN</u>	_____	<u>ABSENT</u>	_____
Joey Campbell	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
John 'Chuck' Williams	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
Gary Chaves	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____
<u>Todd Sands</u>	AYE	_____	NAE	_____	ABSTAIN	_____	ABSENT	_____

TOQUERVILLE CITY

a Utah Municipal Corporation \_\_\_\_\_ Attest:

\_\_\_\_\_  
Justin Sip, Toquerville City Mayor

\_\_\_\_\_  
Daisy Fuentes, Toquerville City Recorder