

TOQUERVILLE CITY
ORDINANCE 2023-XX



AN ORDINANCE AMENDING AND RESTATING IN ITS ENTIRETY SECTION 3, CHAPTER 17 OF TITLE 10 OF THE TOQUERVILLE CITY CODE REGULATING THE ACT OF NIGHTLY RENTING DWELLINGS WITHIN THE CITY TO INCLUDE ADDITIONAL LIMITATIONS SUCH A MAXIMUM CAP ON THE TOTAL NUMBER OF NIGHTLY RENTAL LICENSES ISSUED AND WITHIN THE CITY AND TO INCLUDE DISTANCING REQUIREMENTS BETWEEN DWELLINGS USED AS A NIGHTLY RENTAL.

RECITALS

WHEREAS Toquerville City (“the City”) is a Utah municipal corporation and political subdivision of the State of Utah and as such, holds the delegated police powers under the Utah Constitution to act as the Land Use Authority within its municipal boundaries - with the power to regulate those items set forth in Utah Code Ann. § 10-9a-102(2) .

WHEREAS the City, by and through its legislative body, the Toquerville City Council (“City Council”), is required to enact all necessary land use regulations as required by Utah Code Ann. § 10-9a-501.

WHEREAS presently the City has chosen to allow and regulate the act of renting a Dwelling or portion thereof for a period of 30 days or less via a permitting process and not through the City’s traditional zoning regulations (such as making it a permitted or conditional use within certain zoning districts).

WHEREAS the requirements and conditions for issuance and use of a Nightly Rental Permit are found in Section 3 of Chapter 17 (Supplemental Use Regulations) of Title 10 (Land Use Regulations) of the Toquerville City Code (“the Code”).

WHEREAS of recent the City has experienced a significant increase in the number of Nightly Rental Permits being applied for and issued.

WHEREAS presently Section 10-17-3 of the Code does not have any sort of limitation on the total number of, or percentage of, Dwellings within the City that can be utilized as a Nightly Rental nor does it contain any sort of spacing requirements between Dwellings being utilized as a Nightly Rental.

WHEREAS the City Council has, upon recommendation from the City’s Staff and the Toquerville City Planning Commission, determined that it is necessary and appropriate for the City to fully amend and restate Section 10-17-3 of the Code to provide better regulation of Nightly Rentals within the City’s residential zones thru a) a licensing process with the City Staff performing an initial review first before it is placed before the Planning Commission for a public hearing and recommendation and then final approval by the City Council, b) a cap on the total number of Nightly Rentals that can exist within the City at a given time, and c) the insertion of a physical spacing requirement between Dwellings where Nightly Rental Licenses have been issued so that the neighborhoods of the City can retain their rural, small town feel and so that Nightly Rentals do not permeate and monopolize the City.

ORDINANCE

NOW THEREFORE, be it ordained by the City Council of Toquerville City, State of Utah as follows:

1. AMENDMENT AND RESTATEMENT OF SECTION 3, CHAPTER 17, TITLE 10 OF THE TOQUERVILLE CITY CODE. Section 3 (Nightly Rental) of Chapter 17 (Supplemental Use Regulations) of Title 10 (Land Use Regulations) of the Toquerville City Code is hereby amended and restated in its entirety as follows:

10-17-3: NIGHTLY RENTAL:

Nightly rentals shall occur only within the City upon the meeting of the following requirements:

A. Nightly Rental License Application:

1. An applicant must apply for and obtain a “Nightly Rental License”, which is a special license and not a conditional use permit and is approved and otherwise regulated by this Section. The Nightly Rental License is non-transferable to another owner or another Dwelling.

2. The Nightly Rental License application shall include the name, address and phone number of the owner and/or other person designated by the owner as the property manager/emergency contact who shall be responsible for ensuring compliance with the rules and regulations specified in this section.

3. The Nightly Rental License application must include a detailed drawing to standard engineering scale, a site plan for the lot showing additional parking stalls, existing and proposed buildings, existing streets, and a floor plan of the dwelling. The site plan must identify the required off-street parking to be used in connection with the Nightly Rental License.

4. The Nightly Rental License application must include the applicants state tax ID number for remittance of transient lodging taxes.

5. Fire Inspection: To receive an ~~annual renewal~~ initial license, the nightly rental must pass an annual fire inspection. The Fire inspection shall be scheduled with the Hurricane Valley Fire District and be performed within 30 days prior to the renewal.

6. Notification: Applicant must pay for and provide notification to neighboring property owners within three hundred feet (300’) from all exterior boundaries of the lot on which the nightly rental is to be located. This notice shall indicate, and the City’s Planning Commission shall conduct, a public hearing on the application. To comply with this requirement the applicant must

submit self-addressed, stamped envelopes for the required notification along with a printed list of the lot owners in the designated notification area.

B. Nightly Rental License Application Review Process: A complete Nightly Rental License application will be reviewed by City staff at the next regularly scheduled City staff meeting. City staff shall review the application and forward their recommendation to the Planning Commission. The Planning Commission will hear the application at their next regularly scheduled meeting and conduct a public hearing on the same. After said public hearing the Planning Commission will forward their recommendation to the City Council for a final determination on the Nightly Rental License application. The City Council may deny, approve or approve with special conditions the Nightly Rental License application.

C. One Structure: Each nightly rental must occur within and under one roof of a dwelling and not in a structure that is temporary. Accessory structures can create multi-family zoning and shall not be used as nightly rentals. More specifically, a detached casita, garage, workshop, mother-in-law building, etc. cannot be used exclusively as a nightly rental without the simultaneous use of part or all of the dwelling as well.

D. Parking: A minimum of four (4) nine feet by 18 feet (9' x 18') parking spaces are required. Two of those spaces must be available exclusively for nightly rental use. There shall be no overnight on-street parking by guests or residents.

E. Maximum Guests: The maximum number of occupants per dwelling being used for nightly rental shall be the lesser of ten (10) (including the owner and his/her family), or that which is allowed by any Safety Code adopted by the City.

F. Response Time: The owner or other person designated as the property manager/emergency contact shall respond to complaints and/or concerns within thirty (30) minutes of any phone call or other notification and be on site within one (1) hour if necessary. Failure of the owner or property manager to respond may result in a violation and possible fines to the business license holder and property owner.

G. Nightly Rental Ownership Limitation: Neither a natural person applicant nor a principal of a business entity applying for a Nightly Rental License shall have an ownership interest in more than one (1) dwelling wherein nightly rentals occur within the City. One person residing in the same dwelling shall not have ownership interest in more than one (1) dwelling wherein nightly rentals occur within the City.

H. Limit on Total number of Nightly Rental Licenses:

1. The maximum number of nightly rental business licenses issued will be set at 5 percent (5%) of the total number of "Eligible Culinary Connections" within Toquerville City limits. For purposes of this Subsection, the term

“Eligible Culinary Connections” is defined as all residential culinary connections within the City except for those residential culinary connections located within a development in an MPDO Zone where the developer has elected to allow a Nightly Rental Development in their commercial planning areas.

2. The total number of Nightly Rental Licenses available shall be continually updated as the number of new culinary connections increase.

3. Once the maximum number of Nightly Rental Licenses have been issued, any new application that meets all of the application requirements shall be placed on a waiting list in order of the date of receipt. No fees will be due until a license becomes available. When a license becomes available, the first applicant on the waiting list shall be notified of the license availability. From the date of notification, the applicant shall have fifteen (15) days to resubmit a complete application and pay the required application fee. The applicant must complete the licensing process within ninety (90) days thereafter. If the applicant fails to resubmit a complete application within fifteen (15) days, or fails to complete the licensing process within ninety (90) days, the application will be deemed expired. The next applicant will then be notified of the license availability and shall then follow the same procedure.

I. Minimum Distance: Properties used for nightly rentals shall have a minimum separation of five hundred feet (500’). This will be measured in a straight line from the closest point of one nightly rental Dwelling to the closest point of the other.

J. Dwelling Modifications: Any modifications to the appearance and size of a Dwelling to accommodate and facilitate a nightly rental should be in keeping with the residential character of the neighborhood within which the Dwelling is located.

K. Penalties: Upon finding a violation under this Chapter and Section, the following penalties and requirements shall apply:

1. First Violation: Two Hundred Fifty Dollars (\$250.00).

2. Second Violation: One Thousand ~~Five Hundred~~ Dollars (\$1,000.00).

*3. Third Violation: ~~Four~~ **Two** Thousand Dollars (\$2,000.00).*

4. Fourth Violation: Nightly rental license automatically revoked.

5. Review: Upon the second or subsequent violation of this Section, there shall be a mandatory review conducted before the City’s Planning Commission, who shall have the ability and right to revoke the Nightly Rental License in its sole and absolute discretion. Revocation of a Nightly Rental License, for any

reason shall result in a minimum twelve (12) month waiting period before any new application. Revocation shall run with the land. Upon revocation, there is no guarantee of any future issuance of a Nightly Rental License and all applications will be processed under the then current ordinances. Failure to pay the fine within thirty (30) days of its issuance shall constitute grounds for automatic revocation of the owner's Nightly Rental License.

6. Enforcement: In addition to the fines set forth in this subsection, all violations of this chapter and section may constitute a Class B misdemeanor and may be enforced in compliance with Chapter 5 of this Title.

L. Revocation of License: The Nightly Rental License may be revoked at any time, upon notice and a hearing conducted by the Planning Commission, should the use of a dwelling for nightly rental become a nuisance per Title 4, Chapter 1 of this Code.

M. Annual Renewal of Nightly Rental License:

1. Application: A Nightly Rental License has a duration of one year and must be renewed annually. For renewal, an applicant must submit a renewal application in a form set by the city staff.

2. Fire Inspection: To receive an annual renewal, the nightly rental must pass an annual fire inspection. The Fire inspection shall be scheduled with the Hurricane Valley Fire District and be performed within 30 days prior to the renewal.

N. Action on Renewal Application: Each renewal application shall be approved, approved with additional conditions, or denied by the city's zoning administrator. If the city has received more than two (2) complaints from neighbors or others regarding a nightly rental during the previous twelve (12) months, the zoning administrator shall defer the decision of renewal to the planning commission who shall hear the matter at their next regularly scheduled meeting, allowing the applicant/license holder to be present and speak in defense of why the Nightly Rental License should be renewed.

O. Log: The holder of the Nightly Rental License shall maintain and provide, upon request, the name, and phone number of all renters.

P. Business License Required; Room Tax: Applicant must apply for and obtain a business license pursuant to Title 3, Chapter 1 of this Code and pay the current Transient Room Tax applicable to motels and hotels within the City.

1. The business license must be displayed in a prominent location within the nightly rental.

2. *Operating a nightly rental without a business license shall constitute a Class B misdemeanor and shall be enforced in compliance with chapter 5 of this Title.*

Q. Fees: Applicant must pay all applicable fees including an annual Nightly Rental License fee to maintain their license. The amount of said annual Nightly Rental License fee shall be set and adjusted by the City and set forth in the City's Uniform Fee Schedule.

R. Health Requirements: Applicants/license holders shall ensure that the dwellings in which nightly rentals occurs complies with all local, State and Federal Health Codes, regulations, and requirements.

S. Signage: Signs for nightly rentals shall conform to the requirements of Chapter 22 of this Title.

T. Exclusions: Hotels, Motels and RV Parks shall not be held to the requirements of this section. RV Parks shall conform to the requirements of Section 10-29-1 (RV Parks).

U. Exceptions: The Nightly Rental of model homes located within a subdivision or which sales will be made, will be allowed with the following conditions:

1. The subdivision shall be planned for more than one hundred (100) dwellings.

2. No more than ~~ten (10)~~ five (5) model homes used as a Nightly Rentals shall be allowed per subdivision. Once ~~the model homes have been sold this exception shall be voided~~ the development has been sold out at 90% then the exception shall be voided within 2 years.

3. All other requirements of this Section 10-17-3 shall be met except for 10-17-3(G), (H) and (I).

4. A conditional use permit is issued by the Planning Commission.

2. REPEALER. All ordinances, resolutions and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency and only for the period of time this Ordinance remains effective. This Repealer shall not be construed as reviving any law, order, resolution or ordinance or part thereof.

3. SEVERABILITY. Should any provision, clause or paragraph of this Ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this Ordinance or the Toquerville City Code to which these amendments apply. The valid part of any provision, clause or paragraph of this Ordinance shall be given independence from the invalid provisions or applications and to this end the parts, sections and subsections of this Ordinance, together with the regulations contained therein, are hereby declared to be severable.

4. EFFECTIVENESS. This Ordinance shall become effective immediately upon approval by the City Council.

ADOPTED AND APPROVED BY THE TOQUERVILLE CITY COUNCIL this _____ day of _____, 2023, based upon the following vote:

Councilmember:

| | | | | | | | | |
|-----------------------|-----|-------|-----|-------|---------|-------|--------|-------|
| Ty Bringhurst | AYE | _____ | NAE | _____ | ABSTAIN | _____ | ABSENT | _____ |
| Joey Campbell | AYE | _____ | NAE | _____ | ABSTAIN | _____ | ABSENT | _____ |
| John 'Chuck' Williams | AYE | _____ | NAE | _____ | ABSTAIN | _____ | ABSENT | _____ |
| Gary Chaves | AYE | _____ | NAE | _____ | ABSTAIN | _____ | ABSENT | _____ |
| Todd Sands | AYE | _____ | NAE | _____ | ABSTAIN | _____ | ABSENT | _____ |

TOQUERVILLE CITY
a Utah Municipal Corporation

Attest:

Justin Sip, Toquerville City Mayor

Daisy Fuentes, Toquerville City Recorder