

TOQUERVILLE CITY
ORDINANCE 2022.09



AN ORDINANCE OF THE CITY COUNCIL OF TOQUERVILLE, UTAH, AMENDING AND RESTATING SECTION 10-17-3 OF THE TOQUERVILLE CITY CODE TO CLARIFY: A) THAT NIGHTLY RENTALS MAY NOT OCCUR WITHIN ACCESSORY BUILDINGS AND CASITAS, B) THAT HOTELS, MOTELS AND RV PARKS ARE EXEMPT FROM THE REGULATORY SCHEME SET FORTH IN THIS SECTION, AND C) THAT NIGHTLY RENTAL OF DWELLINGS WITHIN AN RV PARK MAY OCCUR WITH LIMITATIONS.

RECITALS

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

WHEREAS, pursuant to Utah Code Annotated Title 10, Chapter 9a, Section 102, the City has the delegated police power to regulate land uses and development occurring within its municipal boundaries.

WHEREAS, pursuant to Utah Code Annotated, Title 10, Chapter 9a, Section 103, Subsection 30 and Title 10, Chapter 3b, Section 301, the Toquerville City Council (“City Council”) is designated as the governing body of the City and City’s “Land Use Authority”;

WHEREAS, in Section 10-2-1 of the Toquerville City Code, a “Nightly Rental” is defined as “[t]he act of leasing a Dwelling, or any part thereof, by a person or entity to another for a consecutive period of thirty (30) calendar days or less in exchange for direct or indirect remuneration.”

WHEREAS, the City presently regulates the ability of landowners to conduct Nightly Rentals via Section 10-17-3 of the Toquerville City Code.

WHEREAS, under Section 10-17-3 of the Toquerville City Code, landowners are required to obtain a Nightly Rental Permit from the City and comply with various requirements set forth in that Section.

WHEREAS, the City has received input and feedback (both good and bad) from residents and other stakeholders within the City that Section 10-17-3 is ambiguous as to whether a Nightly Rentals can and should occur solely within an accessory building such as detached garages, casitas, workshops and storage buildings and not the actual Dwelling.

WHEREAS, the City has also received input and feedback that Section 10-17-3 erroneously appears to have application to the construction and operation of hotels, motels and RV Parks as well as model homes within new residential developments that allow interested buyers to stay short term therein for the purpose of determining their interest in purchasing a similar Dwelling within the Development.

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 amend and restate Section 10-17-3 of the Toquerville City Code to: a) prohibit Nightly Rentals which occur solely within Accessory Buildings, Casitas and similar structures, b) exempt Hotels, Motels and RV Parks from the regulatory scheme set forth in 10-17-3, and c) and limit/condition Nightly Rentals within an RV Park.

ORDINANCE

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

1. AMENDMENT AND RESTATEMENT OF SECTION 10-17-3. Section 10-17-3 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 Permit Application:

- 1. An applicant must apply for and obtain a nightly rental permit, which is a special permit and not a conditional use permit and is approved and otherwise regulated by this subsection and chapter. The nightly rental permit is non-transferable to another owner or another dwelling.*
- 2. The nightly rental permit application must include a detailed drawing to standard engineering scale site plan for the lot showing additional parking stalls existing & 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 permit.*

B. Nightly Rental Permit Application Review Process: A complete nightly rental permit 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 permit application. The City Council may deny, approve or approve with special conditions the nightly rental permit 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: Applicant must have sufficient off-street parking spaces for all guests and residents. 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. Owner Residency: The City's intent of a nightly rental is to keep the residential feel throughout the community and hold the nightly rental owner (resident) accountable for their occupants. Nightly rental owners (residents) that are absent from Toquerville for periods of times, exceeding fourteen (14) days every calendar month during which nightly rentals are available for occupancy or occurring, and/or do not meet the residency requirement of the city, shall be subject to revocation of their nightly rental permit and/or denied the renewal of their nightly rental permit at annual review. Owner must have an emergency contact on file of a Toquerville resident, in the event that the owner is unavailable or absent. For purposes of this chapter, the term "owner" shall mean:
 - 1. A natural person who owns the controlling interest of the dwelling wherein the nightly rental occurs, or*
 - 2. A business entity of which a natural person principal holding a controlling interest of at least fifty one percent (51%) of the entity shall have a primary residence within the city.**
- G. Nightly Rental Ownership Limitation: Neither a natural person applicant nor a principal of a business entity applying for a nightly rental permit shall have an ownership interest in more than two (2) dwellings wherein nightly rentals occur within the City.*
- H. Modifications: Any modifications to the appearance and size of the dwelling in order to accommodate and facilitate a nightly rental should be in keeping with the residential character of the neighborhood within which the dwelling is located.*
- I. 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 (\$1,500.00).*
 - 3. Third Violation: Four Thousand Dollars (\$4,000.00).**

4. *Fourth Violation: Nightly rental permit automatically revoked.*
5. *Review: Upon the second or subsequent violation of this chapter and 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 permit in its sole and absolute discretion. Revocation of a nightly rental permit, for any reason, shall result in a minimum twelve (12) month waiting period prior to any new application, which revocation shall run with the land. Upon revocation, there is no guarantee of any future issuance of a nightly rental permit and all applications will be processed under the then current ordinances. Failure to pay a fine within thirty (30) days of its issuance shall constitute grounds for automatic revocation of the owner's nightly rental permit.*
6. *Enforcement: In addition to the fines set forth in this subsection I, all violations of this chapter and section shall constitute a Class B misdemeanor and shall be enforced in compliance with Chapter 5 of this Title.*
- J. *Revocation Of Permit: The nightly rental permit 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.*
- K. *Annual Renewal of Nightly Rental Permit - Site Approval: A nightly rental permit has the 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 along with an updated site plan and floor plan for the lot and dwelling indicating where the nightly rental will occur is limited to. 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 permit 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, giving the applicant/permit holder the opportunity to be present and speak in defense of why the nightly rental permit should be renewed.*
- L. *Log: The holder of the nightly rental permit shall maintain and provide, upon request, the name, address and phone number of all renters.*
- M. *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.*
- N. *Fees: Applicant must pay all applicable fees including an annual nightly rental permit fee to maintain their permit. The amount of said annual nightly rental permit fee shall be set and adjusted by the City and set forth in the City's uniform*

fee schedule.

- O. Health Requirements: Applicants/permit holders shall ensure that the dwellings in which a nightly rental occurs complies with all local, State and Federal Health Codes, regulations, and requirements.*
- P. 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.*
- Q. Signage: Signs for nightly rentals shall conform to the requirements of Chapter 22 of this Title.*
- R. 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).*
- S. 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 100 Dwellings.*
 - 2. No more than 10 model homes used a Nightly Rental shall be allowed per subdivision.*
 - 3. All other requirements of this Section (10-17-3) shall be met except for 10-17-3(F) and (G).*
 - 4. A conditional use permit is issued by the Planning Commission.*

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 25th day of August, 2022.

Council Person:

Justin Sip	AYE	<input checked="" type="checkbox"/>	NAE	<input type="checkbox"/>	ABSTAIN	<input type="checkbox"/>	ABSENT	<input type="checkbox"/>
Ty Bringhurst	AYE	<input checked="" type="checkbox"/>	NAE	<input type="checkbox"/>	ABSTAIN	<input type="checkbox"/>	ABSENT	<input type="checkbox"/>
Rachel Peart	AYE	<input checked="" type="checkbox"/>	NAE	<input type="checkbox"/>	ABSTAIN	<input type="checkbox"/>	ABSENT	<input type="checkbox"/>
John 'Chuck' Williams	AYE	<input type="checkbox"/>	NAE	<input type="checkbox"/>	ABSTAIN	<input type="checkbox"/>	ABSENT	<input checked="" type="checkbox"/>
Gary Chaves	AYE	<input checked="" type="checkbox"/>	NAE	<input type="checkbox"/>	ABSTAIN	<input type="checkbox"/>	ABSENT	<input type="checkbox"/>

TOQUERVILLE CITY
a Utah Municipal Corporation


Justin Sip, Mayor

10-11-22
Date

Attest:


Daisy Fuentes, City Recorder