

TOQUERVILLE CITY
ORDINANCE 2022.08



AN ORDINANCE OF THE CITY COUNCIL OF TOQUERVILLE, UTAH, AUGMENTING THE DEFINITION OF NUISANCE IN SECTION 4-1-1 OF THE TOQUERVILLE CITY CODE TO INCLUDE “HABITUAL NUISANCES” AND THE TERM “DRUG HOUSES” IN THE ENUMERATION OF PER SE INSTANCES OF NUISANCE.

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 103 and Title 10, Chapter 3b, Section 301, the Toquerville City Council (“City Council”) is designated as the governing body of the City;

WHEREAS, pursuant to Utah Code Annotated Title 10, Chapter 8, the City has the delegated police power to regulate and abate various forms of nuisances which occur within the City’s municipal boundaries.

WHEREAS, presently the Washington County Sherriff’s Office (“Sheriff’s Department”) provides law enforcement services within the City including limited enforcement of City Ordinances such as the citation and abatement of significant or aggravated cases of public nuisance within the City.

WHEREAS, based upon the types of “call outs” and incidents which the Sheriffs Department are encountering and responding to on an increased basis throughout Washington County and the City, the Sheriff’s Department has requested that the City augment its definition of nuisance to include the concept of “Habitual Nuisance” in the City’s Nuisance Ordinance (Title 4, Chapter 1 of the Toquerville City Code) and add the term “Drug House” the list of *per se* nuisances in Section 4-1-2.

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 augment its nuisance ordinances (Title 4, Chapter 1) as requested by the Sheriff’s Department.

ORDINANCE

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

1. AUGMENTATION OF SECTION 4-1-1 (NUISANCE DEFINED) OF THE TOQUERVILLE CITY CODE TO INCLUDE SECTION D “HABITUAL NUISANCE”. Section 4-1-1 of the Code is amended to include the following Section:

D. Habitual Nuisance. Any premises or property located within the city that generates repeated responses from public safety officials because of nuisance

related activities, including calls for drug or party houses, any premises or property that generates three (3) or more calls for nuisance related activities within an eighteen (18) month time period shall be deemed a "habitual nuisance". Any premises or property that generates two (2) or more calls for nuisance related activities within an eighteen (18) month time period to abate any drug or party conditions as set forth in this chapter shall be deemed a "habitual nuisance".

2. ADDITION OF SUB-SECTION "L" (DRUG HOUSE) TO SECTION 4-1-2 (ENUMERATION OF NUISANCES). A new subsection "L" is hereby added to Section 4-1-2 of the Toquerville City Code as follows:

L. Drug House: Every building or premises where the unlawful sale, manufacture, service, storage, distribution, dispensing or acquisition of any controlled substance, precursor or analog specified in Utah Code Annotated title 57, chapter 37 (Utah controlled substances act) occurs.

3. REPEALER. This Ordinance shall repeal and supersede all prior ordinances and resolutions governing the same.

4. 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.

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

PASSED AND APPROVED this 3rd 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 Bringham	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 checked="" type="checkbox"/>	NAE	<input type="checkbox"/>	ABSTAIN	<input type="checkbox"/>	ABSENT	<input 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


Keen Ellsworth, Mayor


Date

Attest:


Daisy Fuentes, City Recorder