

When Recorded, Mail To:

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NOTE: THIS ORDINANCE DOES NOT VACATE ANY PUBLIC RIGHT OF WAY, RATHER IT INDEFINITELY CLOSES THE AREA DEFINED IN THIS ORDINANCE AS “THE RIM VIEW DRIVE EXTENSION”. AS SUCH, THIS ORDINANCE DOES NOT VEST TITLE IN ½ OF SAID RIM VIEW DRIVE EXTENSION TO ADJACENT PROPERTY OWNERS PURSUANT TO UTAH CODE ANN. § 72-5-105(2)(a).

TOQUERVILLE CITY **ORDINANCE 2022-11**

AN ORDINANCE REVOKING AND RESCINDING TOQUERVILLE ORDINANCE 2021.23 AND CLOSING INDEFINITELY A PORTION OF RIM VIEW DRIVE PURSUANT TO UTAH CODE ANN. § 72-5-105(7) AND AUTHORIZING DISPOSITION OF THE SAME TO ADJACENT PROPERTY OWNER PARTIALLY IN EXCHANGE FOR A PARCEL OF LAND TO BECOME A PORTION OF THE TOQUERVILLE PARKWAY.

RECITALS

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

WHEREAS, Utah Code Annotated, Title 10, Chapter 9a, Subsection 102(2) states "... municipalities may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls ...";

WHEREAS, pursuant to Utah Code Annotated § 10-3b-301, the Toquerville City Council (“City Council”) is designated as the governing body of the City and the “land use authority” with regards to the approval and regulation of roads, utilities, subdivisions and land uses within the City;

WHEREAS, the City is a “Local Highway Authority” as that term is defined and used in the Utah Rights-of-way Act (Utah Code Annotated § 72-5-101 *et seq.*

WHEREAS, pursuant to Utah Code Annotated § 72-5-105(7)(a) a Local Highway Authority may close to vehicular travel and convert to another public use or purpose a highway, road, or street over which the Local Highway Authority has jurisdiction, for an indefinite period of time.

WHEREAS, pursuant to Utah Code Annotated § 72-5-105(7)(c) an indefinite closure of a highway, road or street by a Local Highway Authority “is not an abandonment” and fee title remains vested with the Local Highway Authority.

WHEREAS, at the confluence of Rim View Drive, Chaparell Drive and Ash Creek Drive within the Toquerville Estates Subdivision there is a section of Rim View Drive that has been dedicated to the City as part of the Amended Final Plat for said subdivision recorded on June 30, 1972 as Instrument 00149598 in the Official Records on file in the Office of the Recorder of Washington County, State of Utah, yet said

section of Rim View Drive was never improved as it would dead end into private land that was yet to be developed (“Rim View Drive Extension”);

WHEREAS, to this date, the Rim View Drive Extension has yet to be improved and the City has acquired land, and made plans to construction a limited access by-pass road to be known as Toquerville Parkway and eventually transition said road into being the re-aligned Utah SR-17 directly to the North of Toquerville Estates Subdivision and the Rim View Drive Extension;

WHEREAS, the City Council expressly finds that, in conformance with Utah Code Annotated § 72-5-105(7)(a)(i), except for a northernmost section of the unimproved Rim View Drive Extension (comprising of approximately 0.04 acres that will become part of Toquerville Parkway), the remaining portion of the Rim View Drive Extension described and depicted in *Exhibit “A”* (“Sale Parcel”) is not necessary for vehicular travel or proper traffic circulation, and does not contain an existing utilities or utility easements;

WHEREAS, the owner of Lot 17 of the Toquerville Estates Subdivision (which is adjacent to the Rim View Drive Extension) has expressed his interest and willingness to purchase the Sale Parcel from the City in exchange for certain cash consideration and the conveyance of a small portion of his Lot 17 that needs to be included in the roadway dedicatory plat for the Toquerville Parkway which is acceptable and desirable to the City;

WHEREAS, in order to fully effectuate the purposes and intent set forth above, the City Council now desires to adopt the following Ordinance.

ORDINANCE

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

1. FINDINGS. The City Council finds that grounds exist pursuant to Utah Code Annotated § 72-5-105(7)(a)(i) for the indefinite closure of the Rim View Drive Extension and its conversion to another public use – to wit: a trade/exchange parcel for nearby undedicated portions of the Toquerville Parkway as set forth in the Recitals above.

2. INDEFINITE CLOSURE OF THE SALE PARCEL. The portion of the Rim View Drive Extension described herein as the Sale Parcel and described/depicted more fully in *Exhibit “A”* attached hereby indefinitely closed to vehicular travel and converted to another public use pursuant to Utah Code Annotated 72-5-105(7)(a).

3. AUTHORIZATION TO DISPOSE OF THE SALE PARCEL. The City Council hereby authorizes the City, by and through the Mayor to enter into a land exchange agreement whereby the City agrees to convey the Sale Parcel to the adjacent property owner in exchange for said property owner conveying a portion of his lot to the City for dedication as part of the Toquerville Parkway and his payment of certain cash consideration in an amount to be set forth in the land exchange agreement and previously agreed to by the City Council.

4. RECORDING OF ORDINANCE. Upon approval, execution and official attestation of this Ordinance, a certified copy of this Ordinance shall be: a) attached as an addendum to the deed conveying title to the Sale Parcel from the City to the adjacent property, and b) said deed shall be recorded in the Official Records on file in the Office of the Recorder of Washington County, State of Utah.

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

6. 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.

7. EFFECTIVE DATE. This Ordinance shall take effect immediately upon approved by the City Council.

PASSED AND APPROVED this 7 day of September, 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 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

10-5-22
Date

Justin Sip

Attest:



Daisy Fuentes, City Recorder

EXHIBIT "A"
TO TOQUERVILLE ORDINANCE 2022.xx



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TOQUERVILLE CITY TO JACK R. KOHLER LLC
(July 13, 2021)

Commencing at the North ¼ corner of Section 14, Township 41 South, Range 13 West, Salt Lake Base and Meridian, thence South 1899.34 feet and East 62.36 feet to the point of beginning, said point being on the easterly line of Lot 17, Toquerville Estates Amended Subdivision as recorded in the Office of the Washington County Recorder as Document #149598, and running thence South 82°50'44" East 51.32 feet to a point on a non-tangent curve concave to the Northeast, having a radius of 311.54 feet of which the radius point lies North 83°07'47" East; thence Southeasterly 201.81 feet along said curve through a central angle of 37°06'56" and a chord bearing of South 25°25'41" East 198.30 feet; thence West 65.50 feet to a point on the easterly line of Lot 17, Toquerville Estates Amended Subdivision as recorded in the Office of the Washington County Recorder as Document #149598 and the beginning of a non-tangent curve concave to the East, having a radius of 361.54 feet of which the radius point lies North 53°14'31" East; thence Northerly 201.03 feet along said curve and the easterly line of said Lot 17 through a central angle of 31°51'32" and a chord bearing of North 20°49'43" West 198.45 feet to the point of beginning.

Contains 10,053 square feet or 0.23 acres, more or less.

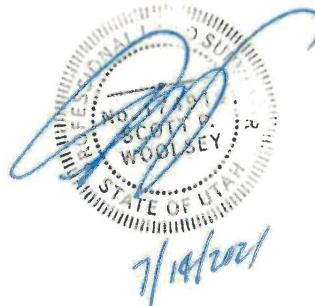


EXHIBIT "B"
TO TOQUERVILLE ORDINANCE 2022.xx

