

TOQUERVILLE CITY
ORDINANCE 2022.03



AN ORDINANCE OF THE CITY COUNCIL OF TOQUERVILLE, UTAH, CREATING AND DEFINING THE POSITION OF ZONING ADMINISTRATOR WITHIN THE CITY; AMENDING AND RESTATING ARTICLE B (GRADING PERMITS) OF CHAPTER 16 (PERMITS REQUIRED) OF TITLE 10 (LAND USE REGULATIONS) OF THE TOQUERVILLE CITY CODE AND AMENDING AND RESTATING SECTION 2.2.7 OF THE CITY'S SPECIFICATION AND STANDARDS FOR PUBLIC IMPROVEMENTS REGARDING GRADING PLANS.

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, the City has determined that it is in the best interests of the health, safety and general welfare of the City to include within the regulations of the MPDO Zone a methodology for converting Equivalent Residential Units ("ERU") which is essentially a single family detached residential standard, into various types of commercial, multi-family and industrial uses that might occur in a MPDO Zone and which have more or less burden on the City's public infrastructure systems than a traditional ERU.

ORDINANCE

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

1. CREATION AND DEFINITION OF THE POSITION OF ZONING ADMINISTRATOR. Section 1, Chapter 2 (Definitions), Title 10 (Land Use Regulations) of the Toquerville City Code is hereby amended to include the following definition:

ZONING ADMINISTRATOR: the employee of the City authorized to administrate and oversee all aspects of new development within the City including compliance with all zoning and land use regulations set forth in this Title.

2. AMENDMENT AND RESTATEMENT OF ARTICLE B (GRADING PERMITS) OF CHAPTER 18 (REQUIRED PERMITS) OF TITLE 10 (LAND USE REGULATIONS) OF THE

TOQUERVILLE CITY CODE. Article B, Chapter 18 of Title 10 of the Toquerville City Code is hereby amended and restated in its entirety as follows:

10-18B-1: PERMIT REQUIRED; EXCEPTIONS:

A. General Requirement: No person shall commence or perform any grading, excavation, filling or clearing of land without first having obtained a permit from the Zoning Administrator and ascertaining the existence and location of any underground utilities. No grading permit shall be issued except in connection with a permitted use allowed within the zoning district in which the property that is to be graded, filled or cleared is located. Any such permitted use that requires a building permit or other approval as provided by this title, such as home construction or a commercial site or a subdivision, must obtain either site plan approval, or preliminary plat approval as provided under this title before a grading permit may be issued. All plans submitted for approval must be prepared by a professional engineer licensed in the State of Utah.

1. The bond will need to cover 125% of the grading cost. Staff and City Engineer will need to approve the cost breakdown for the proposed bond prior to the city accepting a bond. Once the city approves the cost breakdown, the developer will be required to provide the city either a cash bond or a letter of credit in the amount shown on the approved spreadsheet.

B. Exemptions:

1. Agricultural: Grading, excavation, filling or clearing for agricultural purposes within an agricultural zone shall be exempt from a grading permit. Grading, excavation, etc., associated with nonagricultural uses or construction, in an agricultural zone, shall require a grading permit.

2. Residential Landscaping: Minor grading, excavation, filling or clearing associated with landscaping projects for single-family residential uses shall be exempt from a permit requirement.

3. Nondisturbance of Natural Grade: Grading, excavation, filling or clearing that does not disturb the natural grade of more than two thousand (2,000) square feet or result in a change to the natural grade exceeding four percent (4%), shall be exempt from permit requirements.

4. Public Facility Projects: Grading required to construct Public Facilities including roadways and utility improvements approved by the City Council.

C. Scope of Permit: A grading permit and the approved grading plan is intended to be utilized for grading purposes only and is not to be used for the

purpose of constructing on-site or off-site improvements. Issuance of a grading permit based on an approved grading plan does not constitute approval of driveway locations or sizes, parking lot structural sections or layout of any structure, ADA-related requirements, building locations or foundations, walls, curbing, off-site drainage facilities or other items not related directly to the basic grading operation. On-site and off-site improvements shall be constructed from construction plans and drawings approved by the City.

10-18B-2: REVIEW PROCESS:

A. Application Form: Grading permit application forms are available from the City and shall be submitted to the Zoning Administrator. Included in the grading permit application shall be:

- 1. A detailed grading plan showing, at a minimum, the details outlined in 2018 International Building Code, Appendix J Grading. In addition, the grading plan shall contain an estimate of the volumes, in cubic yards, of cut and/or fill and area of site to be graded as well as a statement concerning the ultimate disposition of any excess dirt. Excess dirt moved outside the city limits shall comply with the applicable standards of the area it is moved to. Any location within the city limits used for disposal of excess dirt shall require a separate grading permit application and issuance of a separate grading permit for the receiving site;*
- 2. A Soils Engineering Report and Geology Study Report addressing the adequacy of the native soil to be graded for applicant's intended use.*
- 3. Proof of land ownership in the form of a recorded deed or grant, recorded plat or title insurance policy not older than 60 days at time of application;*
- 4. Additional information that may be required by the Zoning Administrator for complex grading projects such as, but not limited to drainage studies, storm water pollution protection plans, dust control plans and restoration plans;*
- 5. Payment of the required grading plan review and permit fees in accordance with the City's Consolidated Uniform Fee Schedule.*

B. City Review: The Zoning Administrator shall determine the adequacy of the application and may require the submission of further information where necessary.

C. Inspections: All construction or work for which a permit is required shall be subject to inspection at all reasonable times by the Zoning Administrator and

Public Works inspector. The Zoning Administrator and Public Works Inspector may make any inspections of any construction work deemed necessary to ascertain compliance with the provisions of this article and other ordinances which are applicable. The permittee shall notify the Zoning Administrator and Public Works inspector when grading reaches completion and prior to being covered or concealed by additional work. Whenever any work on which inspections are required is covered or concealed by additional work without first having been inspected, the Zoning Administrator may require, through written notice, that such work be exposed for examination. The work of exposing and recovering shall be an expense of the permittee requiring the inspection.

Grading Bond: In reviewing a grading permit application, the Zoning Administrator may require the applicant/permittee to post a grading bond, a cash bond or letter of credit, from a licensed and insured lender, with the city in an amount equal to that which would be required for a performance bond and in conformance with section 10-5-3, "Security For Completion", of this title. If one of the following instances are present:

- 1. Grading that is to occur within any area that is designated as part of the City's Hillside Development Overlay Zone will need to comply with (10-16A-1 et seq of this Title);*
- 2. Any off-site grading will require the written permission of adjacent property owner.*
- 3. Any project in which on-site drainage structures/storm drain system connects to a City storm drain and drainage facilities are constructed in concurrence with grading plan;*
- 4. Any grading plan in which the scope of work increases the potential to transport silt/sediment into public right of way and/or City's storm drain system;*
- 5. Any grading plan in which the scope of work would create a public safety risk in event of work stoppage; and/or*
- 6. Any grading plan in which the Zoning Administrator reasonably determines would create an increased risk of possible damage or injury to residents or Public Facilities of the City.*

10-18B-3: STANDARDS FOR REVIEW:

All grading, filling and clearing operations which are allowed under this Article shall be consistent with section 10-21-9 of this title, and shall be designed to:

- A. Minimize cuts and fills on steep or hazardous terrain.*

B. Eliminate scars from cuts and fills, and preserve the natural scenic beauty of the area, such as by rounding off sharp angles at the top, toe and sides of cut and fill slopes to preserve, match or blend with the natural contours and undulation of the land, and by retaining trees, brush and other native vegetation where possible.

C. Limit clearing of vegetation or disturbances of the soil to those areas of proven stability, taking into consideration geologic hazards and soil conditions.

D. Assure that the natural runoff capacity of hillsides, slopes, graded areas, cleared areas, filled areas or streams will not be exceeded, causing flooding, erosion or silting greater than that which would have occurred if the land had been left in its natural state.

E. Applicant must submit a grading permit application and checklist with Toquerville City and adhere to all fees, and conditions found within the application along with any conditions found in this ordinance.

10-18B-4: DISCHARGE PROHIBITIONS:

A. Scope: No solid or liquid waste materials, including soil, silt, clay, sand and other organic or earthen materials shall be discharged, either during the course of the grading process or as a result of changes created by the grading process covered under the permit into any creeks or streams, onto lands below the high-water level of the same, or onto adjoining property.

B. Control Devices: In order to prevent such discharges from occurring, approved erosion and siltation control devices may be required for all grading and filling. Control devices and measures which may be required include, but are not limited to, the following:

- 1. Energy absorbing devices to reduce the velocity of runoff water.*
- 2. Sedimentation controls, such as desilting basins and catch basins. (Any trapped sediment shall be removed to a disposal site approved by the Zoning Administrator.)*
- 3. Dissipation or discharge of water runoff from developed areas into drainage fields to dissipate the runoff into the subsoil.*
- 4. Multiple discharge points to reduce the volume of runoff over localized discharge areas.*
- 5. Physical erosion control devices, e.g., culverts, rock banks, etc.*

6. *Approved temporary erosion and sedimentation control devices, facilities and measures shall be required during construction.*

10-18B-5: DUST CONTROL:

Whenever the native ground cover is removed or disturbed, or whenever fill material is placed on the site, the exposed surface shall be treated to eliminate dust arising from the exposed material. The Zoning Administrator must approve dust control methods. All dust control measures must meet local, state, and federal standards.

- A) Land use violation according to the uniform fee schedule.*
- B) If disturbed area is one acre or greater, a dust control permit must be obtained from the state of Utah, air quality control and provisions of the air quality regulations will be in effect.*

10-18B-6: DISPOSAL OF CLEARED VEGETATION:

Vegetation removed during clearing operations shall be disposed of in a manner approved by the Zoning Administrator.

10-18B-7: INTERCEPTORS:

Diverters may be required at the top of all cut and filled slopes where there is a surface runoff potential.

10-18B-8: NONCONSTRUCTION AREAS PROTECTED:

- A. There shall be no excavation on the site before the Zoning Administrator has approved the location (stakeout) of the drives, parking sites, building sites and other areas to be graded or filled.*
- B. Construction equipment shall be limited to the actual area to be graded according to the approved plans. No vehicle of any kind shall pass over areas to be left in their natural state according to the approved plans.*
- C. Appropriate barriers around all native vegetation proposed for retention may be required to be erected during construction.*
- D. The permittee shall be fully responsible for any damage caused to existing trees or other vegetation. The permittee shall carry the responsibility both for his own employees and for any and all subcontractors from the first day of construction until the notice of completion is filed.*

10-18B-9: UNDERGROUND PUBLIC UTILITIES PROTECTED:

The contractor shall ascertain and verify the location of any public underground utilities that may be on the property before doing any grading excavation, and once located, he shall take reasonable care to protect and avoid damage to any such underground utilities by allowing forty-eight (48) hours for such utilities to be located. Any and all damage caused to public utilities by any act or negligence of the contractor's employees shall be repaired at the contractor's expense to the satisfaction of the utility company and/or the city.

10-18B-10: GRADING OPERATIONS:

- A. Hours of operation shall not begin before seven 7:00 AM, and shall not continue after the hour of seven (7:00) PM. No operations shall take place on Sunday or legal holidays.*
- B. All grading shall comply with standard engineering specifications for slope stabilization in accordance with the geotechnical recommendations included with the application, and all other applicable City ordinances. Slopes shall be maintained in a manner that will prevent erosion damage on adjacent properties.*
- C. The grading operation cannot exceed the boundary of the approved preliminary plat.*

10-18B-11: HISTORIC OR PREHISTORIC RUINS:

- A. No grading, filling, clearing of vegetation, operation of equipment or disturbance of the soil shall take place in areas where any historic, prehistoric ruins, monuments or objects of antiquity are present.*
- B. The grading plan shall indicate all such historic or prehistoric areas on the site and shall indicate the measures that will be taken to protect such areas. Should excavation uncover or discover any historic or prehistoric ruins or monuments or object of antiquity which were not known at the time of the submittal of the grading plan, all work in the immediate area shall cease until the building department shall determine what precautions should be taken to preserve the historic artifacts.*

3. **AMENDMENT AND RESTATEMENT OF SECTION 2.2.7. (GRADING PLAN) OF THE TOQUERVILLE CITY SPECIFICATIONS AND STANDARDS (For Public Improvements).** Section 2.2.7 of the City's Specifications and Standards is hereby amended and restated as follows:

2.2.7 GRADING PLAN. *All development projects and projects requiring installation of public and private improvements are required to obtain a grading*

permit. A grading plan shall be submitted showing, at a minimum, the details outlined in 2018 International Building Code, Appendix J Grading. The grading plan should be included with the Construction Drawings when submitted to the City Representative for review. A Soils Engineering Report and an Engineering Geology Report addressing the adequacy for the intended use of the proposed development shall be submitted with the grading plan. In complex grading projects, City Representatives may require grading plans to include a drainage study, a storm water pollution protection plan, a dust control plan and a restoration plan. When Construction Drawings, including the grading plan, are approved by the City's Representative, a grading permit will be issued upon payment of the required grading plan review and permit fees in accordance with the City's Consolidated Uniform Fee Schedule.

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

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 18 day of April, 2022.

Council Person:

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|-----------------------|-----|-------------------------------------|-----|--------------------------|---------|--------------------------|--------|--------------------------|
| 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

4/19/22
Date

Attest:


Daisy Fuentes, City Recorder