



TOQUERVILLE CITY

ORDINANCE 2023.03



AN ORDINANCE ESTABLISHING A LIMITED MORATORIUM PROHIBITING THE RECEIPT, PROCESSING AND APPROVAL OF ALL NEW APPLICATIONS FOR NIGHTLY RENTAL PERMITS IN TOQUERVILLE CITY.

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 pursuant to Utah Code Ann. §10-9a-504(1)(a)(i) the City Council “may, without prior consideration of, or recommendation from the planning commission, enact an ordinance establishing a temporary land use regulation for any part or all of the area within a municipality” if the legislative body “makes a finding of compelling countervailing public interest”.

WHEREAS Section 10-2-1 of the Toquerville City Code defines the term “Nightly Rental” 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 pursuant to Title 10, Chapter 17, Section 3 of the Toquerville City Code, Nightly Rentals can occur anywhere within the City so long as the property owner obtains a Nightly Rental Permit from the City for each Dwelling being utilized, the owner is a resident of the City and the property owner does not own and operate more than two (2) Dwellings as a Nightly Rental within the City.

WHEREAS presently the City’s statutory scheme of regulating Nightly Rentals does not require any sort of spacing or sequencing between Dwellings that are being used as a Nightly Rental.

WHEREAS in some instances there are now multiple Dwellings in a row or in immediate proximity to each other that are being used as a Nightly Rental within the City.

WHEREAS presently the City’s statutory scheme of regulating Nightly Rentals does not limit the total number of Nightly Rental Dwellings that can occur at a given time within the City as a whole or within segments of the City.

WHEREAS between January 1, 2020 and January 1, 2023 (three years) the City has seen the number of active Nightly Rental Permits rise from 2 to 14 - an increase of seven hundred percent (700%) in three years.

WHEREAS in recent studies conducted by the University of Utah - Kem C. Gardner Policy Institute (within the State of Utah) and by the J. Ronald Terwilliger Center for Housing Policy

(performed nationally), empirical data indicates that the recent influx of short term rental dwellings in traditional neighborhoods has negatively impacted the affordability of housing (both ownership affordability and long-term rental affordability) – with Utah experiencing a 27% increase in home prices (and similar escalation in long term rents) between 2019 and 2021.

WHEREAS the City has also been advised by its City Attorney, that the owner residency requirement for a Nightly Rental Permit likely runs afoul of the “Equal Protection” clause of the Utah and US Constitutions and should probably be eliminated.

WHEREAS based upon the aforementioned Recitals, the Town Council has determined that the City staff, the Toquerville City Planning Commission as well as itself need to further analyze and likely amend the City’s current statutory scheme of regulating the Nightly Rental of Dwellings throughout the City and that while such analysis, research and revisionary drafting is being conducted, that the number of Nightly Rental Permits issued in the City not increase.

ORDINANCE

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

1. Finding of Compelling and Countervailing Public Interest. The Toquerville City Council finds there is compelling, countervailing public interest to have the City enact a temporary regulation prohibiting the receipt, processing and approval of applications for any new Short-Term Rental Permits pursuant to Section 10-17-3 of the Toquerville City Code. This finding is based on clear and credible evidence that:

- a. The use of Dwellings as a Nightly Rental within the City has dramatically increased over the last 3 years,
- b. That act of using one’s Dwelling as Nightly Rental in traditional residential areas of the City has a negative effect on the affordability of housing, especially low and moderate income housing, within the City, and
- c. That the City’s current statutory scheme of regulating the Nightly Rental of Dwellings within the City lack appropriate guidelines and limitations, contain questionable provisions and are in need of significant revision.

2. Imposition of Immediate Temporary Land Use Regulation (Limited Moratorium). There is hereby adopted an immediate, temporary land use regulation pursuant to Utah Code §10-9a-504(1) regarding Nightly Rental Permits in the City as follows:

a. The Section 10-17-3 (Nightly Rentals) of the Toquerville City Code is hereby temporarily amended and suspended to prohibit the receipt, processing or approval of any new application for a Nightly Rental Permit for a Dwelling within the City (“Limited Moratorium”).

b. The Limited Moratorium does not apply to applications set forth in subsection 2.a. above where a complete application (including the payment of necessary fees) has been submitted prior to the date and time this Ordinance is enacted. In said instance the land use application shall be receipted and processed.



- c. The Limited Moratorium does not include the renewal of an existing Nightly Rental Permit (pursuant to Section 10-17-3(K)) that are active and not lapsed prior to the date and time this Ordinance is enacted.
- d. This Limited Moratorium shall be effective for a period of time not exceeding six (6) months from the date and time this Ordinance is enacted.
- e. This Limited Moratorium may be rescinded or amended prior to the end of said six (6) month period, upon a finding by the City Council (adopted in the form of an ordinance) that the compelling and countervailing public interests giving rise to the Limited Moratorium has been satisfied and/or sufficiently addressed.
3. 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.
4. 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.
5. Effectiveness. This Ordinance shall become effective immediately upon approval by the City Council.

ADOPTED AND APPROVED BY THE TOQUERVILLE CITY COUNCIL this 1st day of February 2023 based upon the following vote:


Councilmember:

Ty Bringhurst	AYE	<input checked="" type="checkbox"/>	NAE	<input type="checkbox"/>	ABSTAIN	<input type="checkbox"/>	ABSENT	<input type="checkbox"/>
Joey Campbell	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 type="checkbox"/>	NAE	<input type="checkbox"/>	ABSTAIN	<input checked="" type="checkbox"/>	ABSENT	<input type="checkbox"/>
Todd Sands	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, Toquerville City Mayor

Attest:


Daisy Fuentes, Toquerville City Recorder

