

**TOQUERVILLE CITY**  
**ORDINANCE 2019.06**



AN ORDINANCE TO AMEND TITLE 10 – LAND USE REGULATIONS, CHAPTER 18 PERMITS REQUIRED, ARTICLE B GRADING PERMIT TO OMIT THE BUILDING DEPARTMENT AS THE RESPONSIBLE ENTITY FOR MANAGING GRADING PERMITS AND TO ASSIGN THE ZONING ADMINISTRATOR OR AUTHORIZED PERSONNEL AS THE GRANTING AUTHORITY AND MANAGEMENT OF GRADING APPLICATIONS.

**RECITALS**

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

**WHEREAS**, the City Council is committed to the principles of good governance; and

**WHEREAS**, the building department would not be a viable or appropriate entity to grant and manage grading permits; and

**WHEREAS**, the city believes it would be more efficient and effective to designate the Zoning Administrator or an authorized city employee to ascertain and grant grading permits.

**ORDINANCE**

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

**ARTICLE B. GRADING PERMIT**

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

A. General Requirement: No person shall commence or perform any grading, excavation, filling or clearing without first having obtained a permit from the Zoning Administrator or authorized city personnel to ascertain 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 final site or final plat approval as provided under this title before a grading permit may be issued.

**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. City Approved Projects: Projects receiving city council approval.

#### **10-18B-2: REVIEW PROCESS:**

- A. Application Form: Application forms are available from and shall be submitted to the Zoning Administrator or authorized city personnel. See [chapter 6](#) of this title for information required with the application. A list of additional information that may be required may be obtained from the Zoning Administrator or authorized city personnel. Included shall be:
  1. A plan showing surface drainage flow patterns and a report of subsurface investigation if it appears that landslide or erosion will be caused by the proposed grading or filling.
  2. Proof of land ownership in the form of a recorded deed or grant, recorded plat or title insurance policy will be required before grading permits will be issued.
- B. City Review: The Zoning Administrator or authorized city personnel 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 Zoning Administrator or authorized city personnel. Zoning Administrator or authorized city personnel 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 or authorized city personnel 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 or authorized city personnel 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.
- D. Performance Bond: If the work specified under the permit is not completed in accordance with the approved plans and specifications when occupancy permit is requested, the city may require a performance bond or other security in such form and amounts as may be deemed necessary to assure the work will be corrected to eliminate hazardous conditions. In lieu of a performance bond, the applicant may file a cash bond or instrument of credit 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.

#### **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.

**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 or authorized city personnel.
  - 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 or authorized city personnel must approve dust control methods. All dust control measures must meet state and federal standards.

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

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

**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 or authorized city personnel 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: 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 Zoning Administrator or authorized city personnel shall determine what precautions should be taken to preserve the historic artifacts.

Severability. If any section, clause or portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

Conflicts/Repealer. This Ordinance repeals and restates all provisions of Title 3, Chapter 1 of the Toquerville City Code and the provisions of any prior City ordinance in conflict herewith.

Effective Date. This Ordinance shall become effective immediately upon passage and the Mayor's execution hereof.

ADOPTED AND APPROVED BY THE TOQUERVILLE CITY COUNCIL this 10<sup>th</sup> day of ~~August~~, 2019, based upon the following vote:  
October

Justin Sip	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Abstain/Absent <input type="checkbox"/>
Ty Bringhurst	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Abstain/Absent <input type="checkbox"/>
Keen Ellsworth	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Abstain/Absent <input type="checkbox"/>
Alex Chamberlain	Aye <input type="checkbox"/>	Nay <input type="checkbox"/>	Abstain/Absent <input checked="" type="checkbox"/>
Paul Heideman	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Abstain/Absent <input type="checkbox"/>

TOQUERVILLE CITY

a Utah municipal corporation

  
Lynn Chamberlain, Mayor

ATTEST:

  
Dana McKim, City Clerk/Recorder

