

# TOQUERVILLE CITY



## ORDINANCE 2021.03

AN ORDINANCE AMENDING AND EXPANDING THE DEFINITION OF “ENGAGING IN BUSINESS” FOUND IN SECTION 3-1-2 OF THE TOQUERVILLE CITY CODE (BUSINESS LICENSES) AND AMENDING SECTION 3-1-11 TO CLARIFY THAT RECIPROCAL RECOGNITION OF BUSINESS LICENSES ISSUED BY OTHER JURISDICTIONS WITHIN WASHINGTON COUNTY ONLY APPLIES TO DELIVERY OF PRODUCTS AND MATERIALS SOLD BY THE BUSINESS AT A LOCATION OUTSIDE OF THE CITY WHERE THEY HOLD A VALID BUSINESS LICENSE.

### RECITALS

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

WHEREAS, the City is authorized pursuant to Utah Code Annotated, Title 10, Chapter 8 to fix the amount, terms and manner of issuing licenses;

WHEREAS, the City is authorized pursuant to Utah Code Annotated, Title 10, Chapter 1 to license for the purpose of regulating any business within the limits of the City by ordinance and imposing fees on businesses to recover the City’s costs of regulation;

WHEREAS, pursuant to Utah Code Annotated, Title 10, Chapter 3b, Section 301, the Toquerville City Council (“City Council”) is designated as the governing body of the City;

WHEREAS, there are presently various businesses operating in the corporate limits of the City and the City anticipates a surge in new businesses commencing and operating within the corporate limits of the City;

WHEREAS, in July of 2020 the City adopted a new and comprehensive business licensing ordinance and scheme now found in Title 3, Chapter 1 of the Toquerville City Code replacing a series of antiquated ordinances relating to business licenses having their origins in the late 1970s (“New City Business Licensing Ordinances”).

WHEREAS, since adopting and beginning to implement the New City Business Licensing Ordinances, City staff have discovered that several business owners within the City believe they are exempt from having to obtain a Toquerville City business license because they have a branch location or even a principally designated location in another city or in the unincorporated area of Washington County and hold a valid business license in that jurisdiction.

WHEREAS, many of the business owners asserting said exemption have cited to Section 3-1-11 of the New City Business Licensing Ordinances as the basis for their belief even though many of branch locations in Toquerville have business operations consisting of the parking and storage of vehicles, equipment and inventory; the cleaning, repair and maintenance of vehicles and equipment of the business and the administration of the business.

WHEREAS AND ACCORDINGLY, in order to provide for the health, safety and general



welfare of the City and its residents by appropriately regulating businesses operating within the corporate limits of the City, the City, acting by and through the City Council, desires to amend and expand the definition of “engaging in business” and clarify the limited nature of reciprocal exemption found in Section 3-1-11.

ORDINANCE

NOW THEREFORE BE IT HEREBY ORDAINED by Toquerville City, Washington County, State of Utah, acting by and through the City Council as follows:

1. Amendment and Restatement of a Portion of Section 3-1-2. The definition of “Engaging In Business” found in Title 3, Chapter 1, Section 2 of the Toquerville City Code is hereby amended and restated as follows:

**3-1-2: DEFINITIONS:**

....

*ENGAGING IN BUSINESS: Includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property, the storage of vehicles, equipment, inventory or supplies, the rendering of administrative services of business including billing, collection and customer support and the rendering of personal services for others for a consideration by persons engaged in any vocation, occupation, profession, trade or other calling; provided, however, that the rendering of personal services by an employee to his employer under any contract of personal employment, express or implied, shall not constitute "engaging in business", as herein defined.*

....

2. Amendment and Restatement of Section 3-1-11. Title 3, Chapter 1, Section 11 of the Toquerville City Code is hereby amended and restated as follows:

**3-1-11: RECIPROCAL RECOGNITION; DELIVERY OF GOODS:**

A. *No Business License shall be required for operation of any vehicle or equipment in the City when:*

- i. Such vehicle is merely passing through the City.*
- ii. Such vehicle is used exclusively in intercity or interstate commerce.*

B. *No Business License shall be required by this Title of any person whose only business activity in the City is the mere delivery in the City of property sold by him/her/it at a regular Place of Business maintained outside the City where:*

- i. Such person's Business is at the time of such delivery licensed by the Utah municipality or county in which such Place of Business*



is situated; and

ii. The authority licensing such Business grants to licensees of the City making deliveries within its jurisdiction the same privileges, upon substantially the same terms, as are granted by this Section; and

iii. Neither the property delivered nor any of the facilities by which it was manufactured, produced, processed or stored are located within the City or are subject to inspection by authority of the City for compliance with health or sanitary standards prescribed by the City.

C. The License Officer shall, at the request of any person, certify a copy of this Section to any municipality or county of the state to which a copy has not previously been certified.

3. 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.

4. Conflicts/Repealer. This Ordinance repeals the provisions of any prior ordinance in conflict herewith.

5. Effective Date. This Ordinance shall become effective immediately upon the signing of the Toquerville City Council.

ADOPTED AND APPROVED BY THE TOQUERVILLE CITY COUNCIL this 17th day of February, 2021 based upon the following vote:

Council Member:

John 'Chuck' Williams  
Keen Ellsworth  
Justin Sip  
Gary Chaves  
Ty Bringhurst

Aye  Nay \_\_\_\_\_  
Aye  Nay \_\_\_\_\_  
Aye  Nay \_\_\_\_\_  
Aye  Nay \_\_\_\_\_  
Aye  Nay \_\_\_\_\_

TOQUERVILLE CITY  
a Utah municipal corporation

  
\_\_\_\_\_  
Lynn Chamberlain, Mayor

2/17/2021  
\_\_\_\_\_  
Date

ATTEST:

  
\_\_\_\_\_  
Ruth Evans, City Recorder

