

# TOQUERVILLE CITY



## ORDINANCE # 2020.15

AN ORDINANCE AMENDING AND RESTATING SECTION 10-16A-5 AND SUBSECTION 10-16A-6.A. TO ALLOW AREAS WITH SLOPES GREATER THAN 30% TO BE USED FOR PURPOSES OF CALCULATING PROJECT DENSITY IN LARGE MASTER PLANNED DEVELOPMENTS RECEIVING MPDO OVERLAY ZONING DESIGNATIONS AND MEETING CERTAIN CRITERIA.

### 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 9A, to enact ordinances necessary or appropriate for the use of land within the City’s municipal boundaries;

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

WHEREAS, pursuant to Utah Code Annotated Title 10, Chapter 9a, Section 503(1) the City Council is the only body designated as the City’s Land Use Authority who may legislatively create or amend any land use regulation within the City.

WHEREAS, utilizing its powers as the City’s Land Use Authority, the City Council adopted an ordinance, codified as Article A, of Title 10, Chapter 16 (Sensitive Lands) of the Toquerville City Code known as Hillside Development Overlay Zone (“Hillside Ordinance”).

WHEREAS, pursuant to the Hillside Ordinance, specifically Section 10-16A-5 and Subsection 10-16A-6.A., the City is prohibited from using land within any development containing slopes greater than 30% for purposes of calculating overall density for said development.

WHEREAS, while not wanting to allow actual development upon hillsides with slopes greater than 30%, the City has determined that, in certain instances, it would be in best interest of the health, safety and general welfare of the City and its residents to create an incentive for developers to develop their property in a master planned manner which includes steep hillsides inside of their development protected by private covenants and conservation easements that restrict such building.

WHEREAS, presently the Toquerville City Code allows property owners to master plan their property an obtain a Master Planned Development Overlay Zoning designation via compliance with Article C, Chapter 15 of Title 10 (“MPDO Overlay Zone”) which allows them to have more dense developments thru clustering of residences and commercial structures and density bonuses so long as the developer reserves a certain percentage of their overall



development as unbuildable open space.

WHEREAS, in order to incentivize smart and environmentally minded development, the City has determined that in instances where a developer with a development of significant size is willing to set aside additional open space above and beyond that required by the MPDO Overlay Zone that they should be allowed to have their overall base project density determined by utilizing all property within the development (including those areas with greater than 30% slope) for density calculation purposes.

**ORDINANCE**

NOW THEREFORE be it ordained by Toquerville City, Washington County, State of Utah, acting by and through the City Council:

1. Amendment and Restatement of Portion of the City's Hillside Ordinance. Section 10-16A-5 and Subsection 10-16A-6.A. are hereby amended and restated as follows:

***10-16A-5: DENSITY STANDARDS:***

*A. In furtherance of the purposes set forth in this article, lot size and density within the hillside development overlay zone shall comply with the following schedule. Except as permitted by subsection 10-16A-5.C. below, Any portion of a development parcel having a slope greater than thirty percent (30%) shall not be included in the calculation of the area of such parcel for the purposes of determining conformity with the minimum lot parcel size and density requirements below:*

| <i>Percent Natural Slope</i> | <i>Minimum Lot Size For Single-Family Residential And Commercial</i> | <i>Maximum Number Of Dwelling Units Per Acre In Zones R-1-12, R-1-20 And A-1</i> |
|------------------------------|--|--|
| <i>0 - 10</i>                | <i>See existing zone</i>   |  |
| <i>11 - 16</i>               | <i>20,000 square feet</i>  | <i>2 if zoning permits</i>   |
| <i>17 - 23</i>               | <i>40,000 square feet</i>  | <i>1 if zoning permits</i>   |
| <i>24 - 30</i>               | <i>5 acres</i>   | <i>1 per 5 acres if permitted</i>  |
| <i>30+</i>                   | <i>Development not permitted</i>                                     |  |



B. The contour intervals, maps and calculations required in section 10-16A-6 of this article shall be prepared in a report by a professional civil engineer, which shall be submitted with applications for permits or subdivision approvals. Each report shall bear said engineer's verification as to the accuracy of the report.

C. If MPDO Overlay Zoning is applied for pursuant to section 10-15C-1 of this Title and the proposed MPDO plan: a) contains gross total acreage in excess of 400 acres, and b) proposes open space 75% or more in addition to that which is minimally required by section 10-15C-5.I., then base density for the area shall be calculated using the gross total acreage regardless of whether any portion of the area contains slopes greater than 30%.

**10-16A-6: SLOPE AND SLOPE AREAS DETERMINED:**

A. *Applicability:* Slope shall be determined on an individual development parcel basis as an average percent natural slope for purposes of density limitations. Except as permitted by subsection 10-16A-5.C. of this Title, all property with a slope greater than thirty percent (30%) shall be excluded from the calculation of the development parcel area for purposes of determining density limitations.

2. 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.
3. Conflicts/Repealer. This Ordinance repeals and supersedes the provisions of any prior ordinance in conflict herewith.
4. Effective Date. This Ordinance shall become effective immediately upon adoption by the City Council and execution by the Toquerville City Mayor.

ADOPTED AND APPROVED BY THE TOQUERVILLE CITY COUNCIL this 16<sup>th</sup> day of July, 2020 based upon the following vote:

Council Member:

|                       |   |   |
|-----------------------|---|---|
| John 'Chuck' Williams | Aye <input checked="" type="checkbox"/> | Nay <input type="checkbox"/>            |
| Keen Ellsworth        | Aye <input checked="" type="checkbox"/> | Nay <input type="checkbox"/>            |
| Justin Sip            | Aye <input checked="" type="checkbox"/> | Nay <input type="checkbox"/>            |
| Gary Chaves           | Aye <input type="checkbox"/>            | Nay <input checked="" type="checkbox"/> |
| Ty Bringhurst         | Aye <input checked="" type="checkbox"/> | Nay <input type="checkbox"/>            |



TOQUERVILLE CITY  
A Utah municipal Corporation

ATTEST:

  
Lynn Chamberlain, Mayor

  
Ruth Evans, City Clerk