

**TOQUERVILLE CITY**  
**ORDINANCE 2018.07 APPEAL AUTHORITY REVISIONS**



AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE TOQUERVILLE CITY CODE TO PROPERLY REFER TO THE BOARD OF ADJUSTMENT AS THE “APPEAL AUTHORITY” AS DEFINED AND REQUIRED BY PART 7 OF CHAPTER 9A, TITLE 10 OF THE UTAH CODE AND THE NEWLY ADOPTED SECTION 2, CHAPTER 3 OF TITLE 10 OF THE TOQUERVILLE CITY CODE.

RECITALS

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

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; and

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; and

WHEREAS, the City Council passed Toquerville Ordinance 2018-05 which amended and restated all of Section 2, Chapter 3, Title 10 of the Toquerville City Code (“Toquerville Code”) which prescribes the creation, powers and procedures for a single member appeal authority to be known as the “Toquerville Appeal Authority” or “Appeal Authority” instead of a multi-member panel formerly known as the Toquerville Board of Adjustment to hear administrative appeals of various types of land use decisions and variance requests as required by Part 7, Chapter 9A, Title 10 of the Utah Code; and

WHEREAS, notwithstanding the passage of Toquerville Ordinance 2018-05, City Staff has determined that there are still numerous sections and subsections within the Toquerville Code which refer to the body holding jurisdiction to hear specific types of administrative appeals and variance requests as being the “Board of Adjustment”; and

WHEREAS, the City Council has determined that it is in the best interest of the health, safety and general welfare of the City to have the Toquerville Code uniformly designate the Toquerville Appeal Authority, not the obsolete body known as the “Board of Adjustments” as the City’s body to hear certain designated types of land use appeals and variance requests.

ORDINANCE

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

1. AMENDMENT. The following sections (or subsections) of Title 10 of the Toquerville Code are amended as follows:



**10-15A-8: SIGN REGULATIONS:**

**D. Request For Permit Or Appeal:** Requests for a permit to place a sign in the historic district must be submitted to the historic commission for their approval. The applicant for a permit may make an appeal of such decision to the Appeal Authority. The decision of the Appeal Authority will be final.

**10-15A-10: REVIEW AND PERMIT PROCEDURE:**

**F. Denial; Request For Exemption, Appeal:** In the event of a denial of a permit by the planning commission, an applicant may request an exemption as provided in subsection G of this section, or may appeal to the Appeal Authority for approval. On appeal to the Appeal Authority, its decision shall be final.

**10-15D-11: APPROVAL PROCESS:**

**G. Appeal:** The applicant may appeal the final action of the city council to the Appeal Authority pursuant to Utah Code Annotated section 10-9a-703 and pursuant to the procedures set forth in chapter 3 of this title.

**10-16A-12: APPEALS:**

12. In the event that the city staff makes requirements which are not acceptable to the developer, the developer may request a hearing of the matter by the hillside review board. In the event of disagreement with any request or requirement imposed by the hillside review board in connection with this article, an applicant may request in writing consideration by the city council within ten (10) days thereafter. The city council shall then hear and make final determination of the issue, subject in any event to an appeal to the Appeal Authority as permitted by Utah Code Annotated.

**10-18A-4: FINAL BUILDING PERMIT REVIEW:**

4. **Planning Commission Review:** Within a reasonable time after submission of a final building permit application, and after the city engineer and building official have determined that the application complies with the conceptual approval and the applicable ordinances as set forth herein, the planning commission shall review the final building permit application and act thereon. If the planning commission finds that the proposed plan complies with the requirements of this title and is satisfied with the proposed improvements set forth in the detailed site plan, it shall approve, or approve with conditions, the building permit. If the planning commission finds that the proposed building permit and detailed site plan and/or improvement incorporated therein does not meet the requirements of this title or other applicable ordinances, it shall deny such building permit application. The planning commission's decision shall be a "final decision" for purposes of review by the Appeal Authority.

**10-19A-10: APPEALS:**



A. Appeal Authority: Pursuant to Utah Code Annotated section 10-9a-701(1)(b), the city council has established the Toquerville Appeal Authority to act as the appeal authority for decisions applying land use ordinances.

10-20-6: ADDITIONAL CONDITIONS:

S. A variance from the Appeal Authority, if applicable.

10-20-14: APPEAL:

Any person shall have the right to appeal the decision to grant, grant with conditions or deny a conditional use permit. Such appeal shall be made to the Toquerville Appeal Authority which shall act as the "appeal authority" in that situation pursuant to Utah Code Annotated section 10-9a-701. All appeals shall be made to the Appeal Authority within thirty (30) days of the date a "final decision" is rendered. For purposes of this chapter, a "final decision" shall be deemed to be rendered when that body issues a written decision, which may include findings of fact and conclusions of law, if requested by the applicant.

10-22-9: VARIANCES:

Any person or entity desiring a waiver or modification of the requirements of this chapter as applied to a sign that person owns, leases or in which such person holds some other beneficial interest, may apply to the Appeal Authority for a variance of this chapter.

10-22-11: APPEAL:

Any person who has been ordered by the planning commission to alter or remove any sign, or any person whose application for a sign permit has been refused, may appeal to the Appeal by serving a written notice to the city recorder within ten (10) days of the order or decision of the planning commission. Such notice of appeal shall be considered by the Appeal Authority at hearing prescribed by Section 2, Chapter, 3, title 10 of the Toquerville Code. Upon filing of said notice of appeal, the Planning Commission shall take no further action with regard to any removal of the sign involved until the final decision of the Appeal on the appeal is known, unless the planning commission finds that the sign involved, by reason of its condition, presents an immediate and serious danger to the public, or comes within the provisions of subsection 10-22-10E of this chapter, in which case the Planning Commission shall proceed immediately as provided in this chapter.

10-24-5: PROCEDURE FOR APPROVAL:

D. For all other exterior lighting which must conform to the requirements of this chapter, the lighting administrator shall issue a decision whether the exterior lighting complies with the standards of this chapter. All such decisions may be appealed to the Appeal Authority within thirty (30) days of the decision.

11-4-4: VARIANCE PROCEDURES:



A. The Appeal Authority shall be the "appeal board" established by the city and shall hear and render judgment on requests for variances from the requirements of this title.

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

3. 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.

4. EFFECTIVE DATE. This Ordinance shall take effect immediately upon approved by the City Council.

PASSED AND APPROVED THIS 13TH DAY OF DECEMBER, 2018.

Councilperson:	Keen Ellsworth	AYE <input checked="" type="checkbox"/> NAE <input type="checkbox"/> ABSTAIN <input type="checkbox"/> ABSENT <input type="checkbox"/>
	Ty Bringhurst	AYE <input checked="" type="checkbox"/> NAE <input type="checkbox"/> ABSTAIN <input type="checkbox"/> ABSENT <input type="checkbox"/>
	Paul Heideman	AYE <input checked="" type="checkbox"/> NAE <input type="checkbox"/> ABSTAIN <input type="checkbox"/> ABSENT <input type="checkbox"/>
	Justin Sip	AYE <input checked="" type="checkbox"/> NAE <input type="checkbox"/> ABSTAIN <input type="checkbox"/> ABSENT <input type="checkbox"/>
	Alex Chamberlain	AYE <input type="checkbox"/> NAE <input type="checkbox"/> ABSTAIN <input type="checkbox"/> ABSENT <input checked="" type="checkbox"/>

CITY OF TOQUERVILLE  
a Utah Municipal Corporation

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

12/13/2018  
Date

Attest:

  
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Dana McKim, City Recorder

