

# TOQUERVILLE CITY



## ORDINANCE # 2021.06

AN ORDINANCE AMENDING, AUGMENTING, RESTATING CHAPTER 7, TITLE 1 OF THE TOQUERVILLE CITY CODE REGARDING THE ORGANIZATIONAL STRUCTURE OF THE CITY, THE CREATION OF OFFICES AND COMMITTEES, THE APPOINTMENT OF OFFICERS AND COMMITTEE MEMBERS INCLUDING THE OFFICE OF A CITY MANAGER AS WELL AS THE DUTIES AND COMPENSATION OF ALL ELECTED OFFICIALS, OFFICERS AND EMPLOYEES OF THE CITY.

### RECITALS

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

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 8, Section 84 the City Council is vested with the authority to pass all ordinances, rules and regulations necessary and proper to provide for the health, safety and general welfare of the City and its inhabitants and to protect the property of the City.

WHEREAS, the City Council has the authority by ordinance to appoint a manager (“City Manager”) to perform executive and administrative duties or functions that the City Council by ordinance delegates to the City Manager pursuant to Utah Code Annotated §10-3b-303(1)(b)(iii); and

WHEREAS, the Mayor, with the advice and consent of the City Council, also appoints qualified persons to serve in the offices of City Recorder, City Treasurer, City Engineer and City Attorney pursuant to Utah Code Annotated § 10-3b-202(1)(c)(iii).

WHEREAS, unlike the offices of City Recorder, City Treasurer, City Engineer and City Attorney (which are created and contain duties defined by state statutes), pursuant to Utah Code Annotated § 10-3b-202(2)(b) the Mayor must propose and the City Council must adopt, an ordinance defining functions and duties of each department of the City and specifically the office of the City Manager prior to one being appointed.

WHEREAS, after careful consideration of the astronomical growth occurring within the City and the proliferation of additional duties and responsibilities being placed upon the Mayor and members of the City Council to administrate the activities and policies of the various departments, bodies, officers and employees of the City, the Mayor and the City Council have determined that it is in the best interest of the health, safety and general welfare of the City and its residents and landowners (present and future) that Chapter 7 of Title 1 of the Toquerville Municipal code be amended, augmented and restated to more clearly set forth the organizational structure of the City, identify the general duties and powers of the Mayor and City Council, identify



the statutorily required offices within the City, create the office of City Manager, identify the generally the duties and methods of compensation of all elected and appointed officials, officers and employees of the City.

### ORDINANCE

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

1. Amendment, Augmentation and Restatement of Chapter 7 of Title 1 of the Toquerville City Code. Chapter 7 of Title 1 of the Toquerville City Code is hereby amended and restated as follows:

#### ***1-7-1: CREATING OFFICES; FILLING VACANCIES:***

*A. Offices Created by Council: The City Council may create any office deemed necessary for the government of the City and provide for filling vacancies in elective and appointive offices. Specifically, the City Council shall appoint a City Manager to hold all powers and duties set forth in Section 1-7-6 below.*

*B. Mayor Appointments:*

*1. The Mayor, with the advice and consent of the City Council, shall appoint qualified individuals to serve as a "City Recorder" (also known herein as the "City Clerk/Recorder") and "City Treasurer".*

*2. The Mayor, with the advice and consent of the City Council, may appoint qualified individuals to serve as the "City Attorney", the "City Engineer", the "Deputy Recorder", and/or the "Deputy Treasurer".*

*3. The Mayor, with the advice and consent of the City Council, may appoint qualified individuals to serve in operations and public works.*

#### ***1.7.2: CITY ORGANIZATIONAL STRUCTURE:***

*A. The "Officers" of the City shall include:*

*1. The six (6) member council, one of whom is the Mayor, with all the powers, authority, duties, functions, and responsibilities provided for said offices by the Utah constitution and title 10 of the Utah Code Annotated (including, but not limited to, sections 10-3b-101 et seq., and 10-3b-301 et seq., Utah Code Annotated, except as otherwise provided herein.*

*2. The City Recorder (who shall answer to the Mayor and be a part of the City's administrative services division).*

*3. The City Treasurer (who shall answer to the Mayor and be a part of the City's administrative services division).*



*B. The Officers of the City may also include the following personnel:*

*1. Contract or exempt service personnel:*

- a. City Manager,*
- b. City Attorney, and*
- c. City Engineer.*

*2. Contract or nonexempt service personnel:*

- a. Deputy City Recorder, and*
- b. Deputy City Treasurer.*

**1-7-3: CONTINUANCE IN OFFICE:**

*Except as otherwise specifically provided in this Chapter, all appointed Officers shall continue in office until their successors have been appointed and taken their oath of office.*

**1-7-4: BOND REQUIREMENTS:**

*A. In accordance with Utah State Money Management Council Policy, every Public Treasurer shall secure a fidelity bond or crime insurance in an amount provided by the Money Management Council. Bonds or crime insurance must be issued by a corporate surety licensed to do business in the State of Utah and having a current A.M. Best rating of "A" or better. Crime insurance may be issued by an inter-local agency operating as a Joint Self-Insurance Fund. Such Joint Self-Insurance Fund providing crime coverage under this section must maintain a restricted account in the State PTIF equal to fifty percent (50%) of the per occurrence limit of coverage.*

*B. Bonds should be effective as of the date the Treasurer assumes the duties of the office or is sworn in.*

*C. The basis for the amount of coverage required shall be the budgeted gross revenue for the previous accounting year. Budgeted gross revenue includes all funds collected or handled by the Public Treasurer, and shall be in the amount as currently required by the Money Management Council.*

*D. The bond or insurance shall be superseded by any rules, regulation or directive of the State Money Management Council when such would be binding on this Municipality.*

*E. Any premium charged for bond or insurance required in this Chapter shall*



*be paid by the City.*

**1-7-5: DUTIES GENERALLY:**

*It shall be the duty of all Officers of the City to:*

- A. Deliver to their successor within one week after the change of office all records, documents and property which belong to the City.*
- B. Deliver to the City Treasurer within one week after receipt of such funds all funds of the City which the Officer receives.*
- C. Sign within a reasonable time all papers, documents and records received by them which require his/her signature.*
- D. Perform all duties imposed on him/her by virtue of the Office held.*
- E. Give receipts on forms provided by the City Recorder for all sums of money received, collected or paid them or their assistants.*

**1-7-6: COMPENSATION:**

*A. Mayor and City Council. The monthly compensation for members of the City Council and Mayor shall be set by ordinance and reviewed no less than once every three (3) years. The present compensation paid to the Mayor and members of the Council are as follows:*

<i>Mayor</i>	<i>\$500.00</i>
<i>Council members</i>	<i>\$200.00</i>

*B. Payment of Mayor and City Council Compensation. The City Treasurer shall pay the Mayor and the City Council as noted above prior to the second Thursday of each month for work performed the previous month. These payments will be made by delivery of a check drawn on a City checking account to those persons entitled to compensation.*

*C. Appointed Officials And Employees. The monthly or twice monthly compensation and listed range/rate for appointed officials or employees shall be set by resolution and reviewed no less than once every three (3) years.*

*D. Payment of Appointed Official and Employee Compensation. The City shall issue payment to each employee or appointed Official on the individually designated twice monthly or once monthly pay schedule of each month for the work performed, by delivery of a check drawn on a City checking account for the person to which the monies are entitled.*

*E. Per Diem. Each elected and appointed Official and employee of the City shall receive mileage and per diem for all trips approved by the Mayor or City*



*Administrator according to schedules adopted by the Utah Department of Finance.*

*F. Benefits. In addition to the salary paid the Officers and Employees of the City, they shall receive those benefits as set forth in the City's Policies and Procedures for Employees, as may be amended from time to time.*

*G. Compensation Limited for Multiple Positions. Whenever any person serves in two (2) or more positions, either as Officers or employees of the City, unless otherwise specifically provided in an employment agreement or by ordinance, the person shall receive the salary or compensation of the Office or employment paying the greater amount.*

**1-7-6: OFFICE OF THE CITY MANAGER:**

*A. Establishment. The office of City Manager is hereby established.*

*B. Appointment. The City Council, with input from the Mayor, shall hire and appoint a City Manager, who shall qualify by taking, subscribing, and filing the constitutional oath of office.*

*C. Classification. The City Manager position shall be classified as an exempt position with at will status, pursuant to and in accordance with all guidelines set forth in the Fair Labor Standards Act and other applicable laws and regulations.*

*D. Supervision. The City Manager shall work under and be answerable to the City Council and the Mayor.*

*E. ProTem & Vacancy in Office. The Mayor shall function as, and have all of the duties, functions, responsibilities, and authority of, the City Manager: a) until one is initially hired and appointed, b) at any time that there is a vacancy in the City Manager's office, c) during the absence or disability of the City Manager, and/or d) during such periods when the City Council has determined that it is not necessary or prudent to fill a vacancy in the position of City Manager; provided that, while so serving, the Mayor shall not be entitled to receive or be paid any additional compensation for such service (beyond that established and provided for the office and duties of Mayor).*

*F. Compensation. The City Manager shall receive compensation at the rate and in a form to be determined by the City Council and established by resolution and/or contract. Where a contract is used, the City Attorney shall assist in drafting and approving a contract mutually agreed upon and properly executed by the Mayor (with approval from the City Council) and the prospective City Manager.*

*G. Powers, Duties, Functions, and Responsibilities. In addition to any powers, duties, functions, and responsibilities set forth or referenced in other provisions of this code, other ordinances and resolutions of the City Council, and the City's Personnel Policies for the positions variously described or entitled city administrator, city manager, manager, and full time chief administrative officer,*



*the City Manager shall have and exercise the following powers, duties, functions, and responsibilities:*

- 1. Discharge the duties of City Manager with fidelity,*
- 2. Oversee and direct the operations, services, and activities of City business,*
- 3. Make recommendations to the Mayor and City Council on positions to be filled, a description of the position, duties, and eligibility requirements, and offers recommendations to the Mayor and City Council on the top candidates to fill each position,*
- 4. Represent and advocate for City staff (individually and collectively),*
- 5. Plan, organize, and direct the work of the City staff,*
- 6. Ensure that public services of the City are delivered in an efficient and effective manner,*
- 7. Provide administrative support and serves as a resource to the Mayor and City Council,*
- 8. Respond to complaints or inquiries and explains regulations and procedures to the public,*
- 9. Assist City staff at the front desk as needed and is available for "face to face" public comment,*
- 10. Attend and participate in professional and governmental group meetings,*
- 11. Acts as the City's Planning and Zoning Administrator,*
- 12. Oversee and supervise the maintenance of all City infrastructure.*
- 13. Implement City goals, objectives and policies as directed by the Mayor and City Council.*
- 14. Coordinate the code enforcement program and efforts of the City.*
- 15. Coordinate with the Mayor and City Treasurer on budget development and issues.*
- 16. Coordinate and supervise the dissemination of all public information and social media relating to the City.*
- 17. Act as the point of contact for all professional staff and services.*



*rendered on behalf of the City,*

18. *Coordinates Capital Improvement Projects approved by the City Council, and*

19. *Represents the City in discussions and negotiations with potential and current developers.*

H. *Term. The term of the initial City Manager appointed on or after the effective date hereof shall run until January 31 following the next municipal general election of the City. Each succeeding appointment shall run for 2 years (until January 31 of each succeeding municipal general election of the City) ("Appointment Term"). Unless a notice of non-renewal is provided by the City Council or the City Manager at least thirty (30) days in advance of the expiration of the current Appointment Term, said term shall automatically renew for another 2 years.*

I. *Removal, Termination & Resignation. The City Council, by majority vote, may dismiss, remove, or otherwise terminate the services of the City Manager at any time during an Appointment Term, subject to the provisions of Subsection K, below. The City Manager may resign his or her position with the City upon not less than thirty (30) days' written notice to the Mayor and City Council. The City Manager and City may mutually agree, in writing, to terminate the services of the City Manager.*

J. *Probation Period. The first six (6) months of the initial Appointment Term shall be a probationary period for the City Manager. During said probation the City Manager may be terminated with or without cause, in which case, he or she shall not be entitled to any Severance Pay as set forth in Section K.2 below.*

K. *Severance Pay.*

1. *In the event that the services of the City Manager are terminated for cause, including, but not limited to, malfeasance in office and/or the commission of a crime of moral turpitude, the City shall have no obligation to pay any severance pay to the City Manager. He/she shall only be entitled to receive such earned pay and allowances as that of other employees of the City who are ending their employment with the City, including, but not limited to, any unpaid wages and accrued and unused vacation leave.*

2. *In the event that the services of the City Manager are otherwise terminated by the City, the City shall pay to the City Manager a lump sum payment equal to three (3) month's salary, plus one additional month's salary for each full year of service as City Manager, up to a maximum sum total of six (6) months' salary, plus accrued and unpaid pay and benefits ("Severance Pay").*

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.



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 Mayor.

ADOPTED AND APPROVED BY THE TOQUERVILLE CITY COUNCIL this 21<sup>st</sup> day of April, 2021 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 checked="" type="checkbox"/>	Nay <input 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

