

# TOQUERVILLE CITY ORDINANCE #ORD.2008.04

Adopted July 17<sup>th</sup>, 2008, City Council Mtg

## AN ORDINANCE ESTABLISHING CRITERIA AND PROCEDURES FOR ANNEXATION OF REAL PROPERTY INTO TOQUERVILLE CITY.

### RECITALS

- A. WHEREAS, the State of Utah pursuant to Utah Code Ann. § 10-2-401.5 has mandated that no municipality in the State may annex an unincorporated area unless the municipality has adopted an annexation policy plan; and
- B. WHEREAS, Toquerville City finds that it may be necessary to annex unincorporated areas to achieve the long-term plans for the City and to support the continued growth of the City; and
- C. WHEREAS, Toquerville City finds that establishing criteria and procedures for the annexation of property will facilitate the growth of the City and promote the health, safety and welfare of the residents, tourists and general public residing or visiting the City.

### ORDINANCE

THEREFORE, BE IT HEREBY ORDAINED by the City Council of Toquerville City, that the attached Ordinance will be known as the Toquerville City Annexation Policy Plan; and hereby adopted and incorporated in to the City's Municipal Code.

I. GENERAL ANNEXATION CRITERIA OF TOQUERVILLE CITY. In accordance with the provisions of 10-2-401.5, Utah Code Annotated, Toquerville City hereby adopts the following criteria for consideration of petition for possible annexation. This Annexation Policy is intended to incorporate all of the criteria required and suggested by Section 10-2-401.5 et. seq., Utah Code Annotated.

A. Future Expansion/Annexation Areas. As part of the ongoing effort to plan and prepare for responsible growth within the municipal boundaries of Toquerville City ("City"), the City has identified territory adjacent to its present boundaries that may be petitioned for annexation to the City in the future. The areas proposed for possible future annexation may or may not be bordered by other municipalities. Areas petitioned for annexation must fall within the areas designated for future annexation in the adopted Annexation Policy Plan of the City and shown on the Future Expansion Area Map, attached hereto, marked Exhibit A and incorporated herein by this reference. All areas of possible future annexation shall be delineated on the Future Expansion Area Map ("Future Expansion Areas")

B. Continued Character of the City. The current and future character of the City, as identified in the City's General Plan, is mixed residential, agricultural, recreational and commercial. It is anticipated that light industry and more business will begin to move into the area with the approval of and benefit of the City. Areas to be annexed should be compatible with the needs of the City and its residents. Applicants for annexations shall show the City that annexation of their property will assist in the retention of the City's current and anticipated character. If property proposed for annexation is located within a Future Expansion Area, there is no guarantee that the annexation petition will be approved or accepted by the City.

C. Contiguousness. Areas to be annexed must be contiguous to the corporate limits of the City at the time of submission of an annexation petition. Areas to be annexed shall not be located within the corporate limits of another incorporated city or be a part of a previously filed annexation petition that has not been denied, accepted, or approved.

D. Input From Affected Entities. The City is concerned about the interests of all residents and especially neighboring property as well as all “Affected Entities”, as that term is defined in Utah Code Annotated, § 10-2-401, and will ensure applicants and its own staff will comply with notice requirements to said persons or entities. The City will further consider all written comments from any such persons before approving any annexation petition by ordinance.

E. Public Infrastructure. When feasible, the City favors annexation where services can be incorporated into the existing City utilities. The City is in support of annexation of property that may be developed to allow utility and transportation systems to be incorporated into a comprehensive plan for the entire area including any and master plans developed by the City as well as the City’s General Plan. Consideration will also be given to support the Ash Creek Special Service District in its efforts to supply sewer services to the City and other areas within its service area. The City does not favor the annexation of areas for which it does not have the capability or intention of providing basic municipal services, such as transportation, culinary and secondary water, wastewater (sewer) removal, storm water retention and removal, public safety services, parks and recreation services, phone, audio and video services, electrical services, and natural gas service

F. Miscellaneous Considerations. The City, in considering the approval or denial of an annexation petition shall consider the following principals of the municipal planning and urban/rural development:

1. Eliminating and/or not creating islands or peninsulas of unincorporated territory;
2. Consolidating overlapping functions of government entities such as Ash Creek Special Service District and the Washington County Water Conservancy District;
3. Promoting efficient delivery of services;
4. Encouraging the equitable distribution of community resources and obligations;
5. Consideration of tax consequences to property owners within the area to be annexed, as well as the property owners within the municipality in order to prevent double taxation and to ascertain that the annexation will not result in a tax liability to the taxpayers within the municipality.

G. Compliance With the City’s Municipal Code and Land Management Code. It is the policy of the City to require development in annexed areas to comply with City standards and regulatory laws. This requirement includes the City’s Land Management Code, Construction and Design Standards for Public Utilities and other Uniform Codes adopted by the City by ordinance (such as the Uniform International Building Code and International Fire Codes) as amended from time to time.

H. Sensitive Lands. It is the policy of the City to avoid development of wetlands, hillsides, critical environmental habitat areas, expansive soils, or any other environmental conditions that threaten the integrity of the City infrastructure unless, in the annexation agreement, the developer can show how they will mitigate these issues in conformance with the City Ordinances, City Code and Federal and State Regulations.

I. Motives for Annexation. It is not City’s intent to annex property for the sole purpose of

acquiring revenues or retard another municipality's ability to annex the same property.

J. Compliance With State Annexation Law. Any annexation petition must comply with the requirements of Section 10-2-403 Utah Code Annotated.

II. PROCEDURE FOR SUBMISSION OF ANNEXATION PETITION. The following steps reflect a general summary of the requirements and procedures for processing an annexation request to the City:

A. Annexation Petition and Annexation Plat. An Annexation Petition accompanied by an Annexation Plat must be submitted to the City Recorder. Such petition shall:

1. Be signed by: 1) private property owners of record representing both a majority of the area to be annexed and at least one-third (1/3) of the assessed valuation of the all private property in the proposed annexation, as reflected on the last assessment roles of Washington County; or 2) the owner of all public, non-federal land in the proposed annexation area.
2. Represent an area contiguous to the existing corporate limits of Toquerville City and shown to be within the areas designated for annexation in the Annexation Policy Plan of the City.
3. Include an annexation plat prepared by a surveyor licensed in the State of Utah.
4. If seeking a zoning designation other than the default designation set forth in Article III, below, identify the target zoning designation he/she/it desires.
5. Designate up to five (5) of the signers as sponsors, one of which shall be designated as the contact sponsor. Each sponsor's mailing address shall be included.
6. Comply with any other applicable provisions of § 10-2-403, Utah Code Annotated, not stated within.

B. The City Recorder, upon receipt of a properly documented proposed Annexation Petition accompanied by the proper plat shall impose such fees as established by the City Council to recover the costs of processing such Petition. The Petition shall then be placed for consideration on the agenda of the next regularly scheduled meeting of the City Council that is at least fourteen (14) days after the date the Petition was filed.

C. The City Council will review the Annexation Petition and shall accept or deny the Petition.

D. If accepted, the City Recorder shall within thirty (30) days, certify that it meets the above requirements and send the required notices, including a written notice of certification to the City Council. If denied, the City Recorder shall send the required notices of denial.

D. City Council, within ten (10) days after receipt of Recorder's notice of certification, shall publish a notice of the proposed annexation in a newspaper of local circulation at least once a week for three (3) consecutive weeks. Within twenty (20) days after the receipt of the Recorder's notice of certification, the City Council must mail written notice of the proposed annexation to each Affected Entity. The notice shall explain how a written protest is to be filed within thirty (30) days after the date of the City Council's receipt of the Recorder's certification notice.

E. If a protest is NOT filed during the designated protest period prescribed by Utah Code Ann. § 10-2-407, the City Council may hold a Public Hearing, after a minimum of seven (7) days notice, and consider an ordinance to grant the proposed annexation.

F. If a protest IS filed, the County Boundary Commission shall hold a hearing on the protest within thirty (30) days. If a protest is pending, the City Council may deny the proposed annexation at its next regularly scheduled meeting. Required notices will be sent if the petition is denied.

G. Upon receipt of the County Boundary Commission's decision, the City Council may deny or approve the proposed annexation subject to the Boundary Commission's decision.

III. ZONING/DENSITY OF ANNEXED PROPERTY. Upon successful completion of all annexation procedures set forth in Article II above and Utah Code Ann. § 10-2-401 *et seq.* the annexed property shall possess the zoning designation of Multiple Use 20 (MU-20). If the applicant for annexation desires to have a different zoning designation instantly upon the City adoption of an ordinance granting the requested annexation, they must they must follow the following procedure:

A. Identification of Requested Zoning/Density. Applicants seeking a zoning designation other than MU-20 must identify in its Annexation Petition the target zoning designation he/she/it is seeking.

B. Compliance With Normal Procedures for Seeking an Amendment to the City's Zone District Map. Once an Annexation Petition has been accepted (thus triggering all notice and contest periods – but before approval of an ordinance granting annexation) the City shall follow all normal procedures required by Chapter 5 of its Land Management Code for the modification of the City's Zone District Map. Although the property to be annexed is not technically part of the incorporated area of the City, said compliance shall include, but is not limited to:

1. Payment of all Zone Change application Fees
2. A Public Hearing and recommendation for approval or denial of requested zoning designation by the City's Planning Commission.
3. A Public Hearing and finding by the City Council that the requested zoning designation complies with the standards set forth in Section 5.3.2 of the City's Land Management Code meets with spirit of the City's General Plan and the policies set forth in this Plan.

C. Findings Warranting Differing Zoning Designation. After conducting a public hearing, but prior to adopting any ordinance granting an annexation, the City Council shall make a finding that the requested zoning designation other than MU-2 is acceptable or unacceptable or any new modification acceptable to the City Council. Applicants shall retain all rights to withdraw their annexation petition if they are unwilling to stipulate to the City Council's findings as to zoning designation. If the City Council finds in favor of granting a zoning designation other than MU-20 they shall expressly designate in their ordinance granting the annexation, which zoning designation the property shall possess upon incorporation.

IV. EXTENSION OF NEEDED MUNICIPAL SERVICES IN DEVELOPED AND DEVELOPING UNINCORPORATED AREAS AND PAYMENT OF THE SAME. In areas where municipal services are not presently extended, service will be extended on an as-needed basis at the developer's expense. All extensions of municipal services must comply with all City ordinances and policy criteria. An

Annexation Agreement will be prepared between the City and future developers outlining specific requirements relating to water, sewer, transportation, electricity, telecommunications, fiber optic, and other specific improvements prior to annexation approval. Agreements will also be made prior to annexing property that has already been developed and being serviced by Ash Creek Special Service District and the Washington County Water Conservancy District. An approved Annexation Petition will allow developers of the annexed property to connect to City facilities provided all infrastructures proposed to be connected meet City specifications and comply with all applicable development and land use ordinances. The manner in which these infrastructure additions are developed will have a bearing on how they are financed. The increased valuation of property and the subsequent increase in property and sales tax revenues will help increase contributions to the City General Fund. This increase will help defray the added cost of providing services to the annexed areas. The costs of capital improvements such as utilities, streets, curb, gutter and sidewalks, storm drain systems, and other improvements as shall be deemed necessary in the annexed area to be borne by the Developer as development within the areas occurs.

V. SERVICES TO BE PROVIDED UPON ANNEXATION. When annexation is approved, the newly annexed area shall receive the following available services:

- A. Fire protection,
- B. Police protection,
- C. Planning and zoning,
- D. Maintenance of dedicated City streets,
- E. Other municipal and utility services provided by the City at the time of annexation

VI. GENERAL FINDINGS AND CONCLUSIONS REGARDING ANNEXATION. The City, after public input and research finds the following with regard to annexation:

- A. It is not anticipated that an annexation will cause any adverse consequences to the residents currently living within the City or living within the area annexed except that there may be temporary and/or slight reductions in general service available to current residents as a result of expansion of services into the newly annexed territory.
- B. It is anticipated that the residents in the newly annexed territory will experience an increase in their property taxes due to the difference in certified tax rates between the City and the County.
- C. It is further anticipated that as the City receives the property tax revenue from the newly annexed territory, the level of services for the entire community will be increased.
- D. It is further anticipated that property owners in the newly annexed territory may experience reductions in fire and property insurance rates.
- E. As the area continues to grow and becomes more populated, additional development planning may occur. Incorporation and consideration of these plans and development in compliance with the City's General Plans, Public Infrastructure Master Plans, the City's Land Management Code and the City's Construction and Design Standards for Public Improvements will allow a comprehensive system of infrastructure to serve future growth and development in the annexed areas.

VII. SEVERABILITY. The provisions of this Ordinance is severable and if any provision, clause, sentence, section, word or part thereof is held illegal, invalid or unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts of the article or their application to other persons or circumstances.

It is hereby declared to be the legislative intent that the article would have been adopted if such illegal, invalid or unconstitutional provisions, clauses, sentences, sections, words or parts had not been included therein, and if the person or circumstances to which the article or part thereof is inapplicable had been specifically exempted therefrom.

VIII. EFFECTIVE DATE. This Ordinance No. #ORD.2008.06 shall be effective immediately upon the City Council's passage and approval.

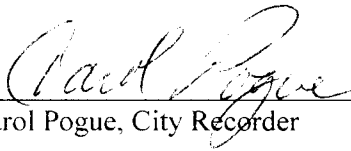
PASSED this 17th day of July, 2008.

CITY OF TOQUERVILLE  
a Utah corporation

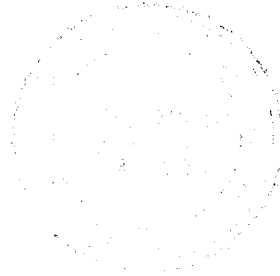


\_\_\_\_\_  
Kenneth Powell, Mayor

Attest;



\_\_\_\_\_  
Carol Pogue, City Recorder



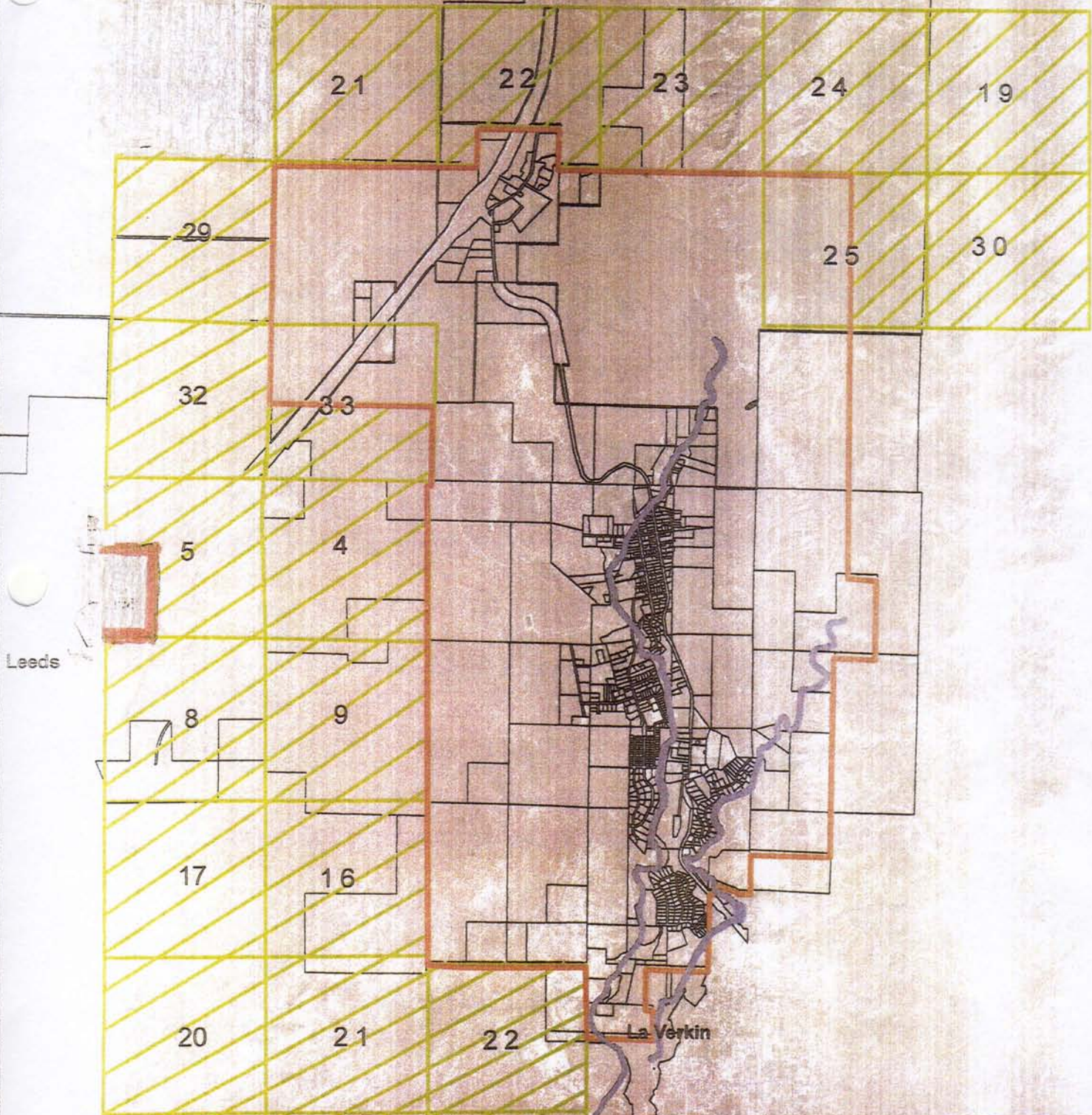
**EXHIBIT A**  
To Annexation Policy Plan

(Future Expansion Area Map)

# Proposed Annexation for Toquerville City






Scale: 1" = 450'



Leeds

**Legend**

-  City\_boundary
-  Future Expansion / Annexation Areas
-  Rivers