

TOQUERVILLE CITY
ORDINANCE #ORD2009.01, February 12th, 2009
SECONDARY WATER CONNECTION REQUIREMENT

AN ORDINANCE REQUIRING CONNECTION TO TOQUERVILLE SECONDARY WATER SUPPLY FOR ALL PROPERTY CAPABLE OF BEING CONNECTED TO SAID SYSTEM AND FOR THE ASSESTMENT OF A CONNECTION FEE.

RECITALS

WHEREAS, the City of Toquerville, Utah (“City”) has determined it is to the benefit of the City to enter into the Regional Water Supply Agreement dated April 23, 2006 (“RWSA”) with the Washington County Water Conservancy District (the “District”) of which other municipalities within the County are members; and

WHEREAS, the City specifically finds that the RWSA will allow the City to address its anticipated water needs in the future and thus to address the anticipated water needs of the City and thus promote the health, safety and general welfare of the City’s residents

WHEREAS, on or about December 28, 1998 the District and the City entered into the Agreement for Joint and Cooperative Action to create the Toquerville Secondary Water System (the “TSWS”) to extend the use of the City’s culinary water system; and

WHEREAS, in an effort to minimize its costs and maximize its existing water rights and the use thereof pursuant to the RWSA and a possible addendum thereto which may be entered into between the City and the District, the Town finds that it is in the best interests of the health, safety and general welfare of the City, and its residents, to require each parcel of property within the City’s municipal boundaries to make a connection to the TSWS and the time of development activity is commenced on said parcel.

ORDINANCE

THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Toquerville, Utah, that the attached Ordinance will be known as the Toquerville City Secondary Water System Connection Ordinance; and hereby adopted and incorporated in to the City’s Municipal Code.

1. Requirement to Connect To Toquerville Secondary Water System: Unless waived as prescribed below, it is hereby required that at the time any new development activity occurs on any parcel of real property located within the City’s municipal boundaries, the property owner shall be required to physically connect such real property to the TSWS as described in this Toquerville City Secondary Water System Connection Ordinance. If the new development activity is to occur on a single parcel of real property, which is to remain a single parcel of real property following such development activity, the owner of such real property shall be required to make at least one connection to the TSWS for such parcel of real property. If the new development activity is to occur on real property which is a proposed or existing subdivision, then the owner of each parcel of real property or each lot within the proposed or existing subdivision shall be required to make at least one connection to the TSWS for each parcel of real property or each lot within the proposed or existing subdivision.

2. Performance of Connections. All connections shall be performed by the District, unless otherwise agreed to in writing by the District, which consent shall be granted or withheld by the District pursuant to its standard operating procedures or guidelines. All connections to the TSWS shall be made in compliance with all construction and design standards relating to the TSWS adopted by the District.

3. If property owner has the District make the connection to the TSWS the property owner shall pay to the District any connection or impact fees or charges required by the District at the time specified by the District. If the physical connection to the TSWS is being performed by persons or entities other than the District, said connection shall be inspected and approved by the District or its designee pursuant to the District's operating procedures or guidelines.

4. Definition of Development Activity. For purposes of this Ordinance the term "development activity" shall mean any construction or expansion of a building, structure or use or any change in the use of a building, structure, or any changes in the use of land that creates additional demand upon, or effect, the City's culinary water system or the TSWS.

5. Waiver of Mandatory Connection Requirement. The requirements for mandatory connection to the TSWS under Section 1 of this Ordinance may be waived with respect to a specific parcel or parcels as provided herein. Any property owner seeking such a waiver of the requirements to connect to the TSWS may file a written request for a waiver of such requirements with the City. Any such request should include such information as may be necessary for the City Council to determine if it is feasible (physically and financially) for the particular parcel or parcels in question to connect to the TSWS. All such written requests shall be reviewed by the City's Engineer and all applications which are confirmed by the City's Engineer shall be forwarded to the City Council for review. If, after review and written confirmation by the City's Engineer, it is determined by the City Council that it is not feasible (physically and/or financially) for a particular parcel or parcels of real property to connect to the TSWS, the City Council may waive the requirement for mandatory connection set forth in Section 1 above as to a specific parcel or parcels. Nothing in this section shall be construed as an implied waiver and such a waiver may only be granted if specifically requested by the property owner as set forth herein.

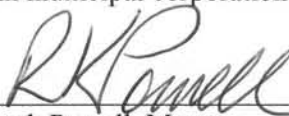
6. Remedies for Non-Compliance. Persons commencing development activity without complying with this Ordinance shall be guilty of a Class B, Misdemeanor and subject to a fine of up to \$1,000.00.

7. Savings Clause. If any section, subsection, paragraph, item, provision, regulation, sentence, clause or phrase of this Ordinance is declared by a court of competent jurisdiction to be invalid, such findings shall not affect the validity of the Ordinance as a whole or any part thereof other than the part found invalid. Likewise, if any specific provision of this Ordinance is found to contradict a general or more general provision of the City's Municipal Code or its Land Management Code or the other Ordinances of the City, the more specific provision shall control and all provisions shall be interpreted and construed in such a manner so as to provide meaning to as many provisions as possible.

8. Effective Date. This Ordinance shall become effective immediately upon adoption by the Toquerville City Council.

PASSED AND ORDAINED this 12th day of February, 2009 by the Toquerville City Council.

TOQUERVILLE CITY
a Utah municipal corporation



Kenneth Powell, Mayor

ATTEST:



Carol Pogue, Recorder

