

AN ORDINANCE OF THE CITY COUNCIL OF LAVERKIN, UTAH, AMENDING TITLE 9 CHAPTER 1 SECTION 15 OF THE LAVERKIN CITY CODE PERTAINING TO ISSUANCE OF A BUILDING PERMIT IN AREAS WHERE GEOLOGICAL HAZARDS EXIST.

WHEREAS the City Council of LaVerkin, Utah acknowledges the existence of areas within the City that are characterized by the presence of subsurface water, groundwater, unstable soils and other geological hazards which carry an increased risk of damage to, diminution in value of, and the likelihood of additional costs and expenses for maintenance, repair and replacement of homes, structures or other improvements constructed or maintained in these areas; and

WHEREAS said City Council desires to eliminate or minimize for both the property owner and the City the increased risks of damage to and/or additional costs associated with maintenance, repair and replacement of homes, structures or other improvements constructed or maintained in these areas; and

WHEREAS said City Council deems it necessary and desirable for the preservation and protection of the health, safety and welfare of the residents of LaVerkin that Title 9 Chapter 1 Section 15 of the LaVerkin City Code be amended,

BE IT HEREBY ORDAINED by the City Council of LaVerkin, Utah that Section 9-1-15. D. be enacted to read as follows:

D. In addition to any other requirement in this Chapter, issuance of a building permit for any structure or improvement in any area characterized by the presence of subsurface water, groundwater, unstable soils or other identifiable geological hazard shall be subject to the following:

1. Any person or entity desiring to obtain a building permit in any area characterized by the presence of subsurface water, groundwater, unstable soils or other identifiable geological hazard, shall, as a condition of obtaining a building permit for any structure or improvement in these areas:
 - a. obtain a geotechnical report from a qualified engineer, stating that such structure or improvement can be safely constructed and inhabited, or used for its intended purpose,
 - b. be responsible for strictly following all recommendations contained in said geotechnical report, and
 - c. be required to sign an acknowledgment, waiver, and release in substantially the following form:

When Recorded Return to:
LaVerkin City
435 North Main Street
LaVerkin, Utah 84745

Parcel ID#: LV-_____

Acknowledgement, Waiver, and Release

In consideration of the agreement by LaVerkin City to issue the undersigned property owner a building permit for the construction of a structure or other improvement upon the real property described below, the undersigned acknowledges, covenants and agrees as follows:

- 1. I am aware that subsurface water, high groundwater, unstable soil conditions, or other geological hazards have been found to exist in areas of LaVerkin City, which may include the property described below.*
- 2. I acknowledge that I have obtained from a competent engineer a geotechnical report which analyzes subsurface water, groundwater, soil conditions and seismic conditions on my property described below.*
- 3. I acknowledge that it is my responsibility to cause the construction of my structure or improvement to be completed in strict compliance with the recommendations of any such geotechnical report, I agree to strictly comply with the recommendations of such geotechnical report, and I understand and agree that the inspections performed by LaVerkin City will not include inspection for compliance with such geotechnical report.*
- 4. In view of the foregoing, I agree on behalf of myself, my heirs, successors, and assigns to waive any and all claims as against LaVerkin City, and, further, do hereby release LaVerkin City from any and all liability for damages to, diminution in value of, and payment of all costs and expenses for maintenance, repair or replacement of any home, structure or improvement which is in any way attributable or related to subsurface water, groundwater, unstable soil conditions and/or any other geological hazards upon or under the property described below, or by reason of my own or my agent's or contractor's violation of any applicable laws, ordinances, or City standards.*

The covenants and agreements contained herein shall run with the land and shall be binding upon the heirs, successors, and assigns of the undersigned.

THE REAL PROPERTY AFFECTED BY THIS AGREEMENT IS DESCRIBED AS:

(Insert Legal Description)

Address: _____

Subdivision: _____ Phase: _____ Lot: _____

Dated this _____ day of _____, 20____.

Property Owner Signature

STATE OF UTAH

COUNTY OF WASHINGTON

On the ____ day of _____, 20____, personally appeared before me _____, the signer(s) of the foregoing instrument, who did say that he/she/they is/are the owner(s) of the above-described property and that he/she/they has/have signed the foregoing instrument for the reasons stated therein.

Notary Public
My commission expires: _____

2. Property owners applying for a building permit to: (1) construct an accessory building on a developed lot or (2) remodel an existing building shall not be required to obtain a geotechnical report or enter into the above agreement, except as may be required by the City Building Official on a case-by-case basis.

3. The issuance of a building permit by the City is not, and should not in any way be interpreted or construed as, a guarantee, representation, warranty, or assurance of any kind: (1) as to the lack of geological hazards on the property; (2) as to the reliability or soundness of any geotechnical report obtained by the owner; or (3) that any structure or other improvement constructed on the property in accordance with any such geotechnical report will be free from damages, diminution in value, and/or increased costs and expenses for maintenance, repair and replacement because of subsurface water, groundwater, unstable soils or other geological hazards.

4. The City shall not be responsible or liable for mitigation of any damage to, diminution in value of, and payment of any costs and expenses for maintenance, repair or replacement of any structure or other improvement constructed or maintained on property resulting from the presence of subsurface water, groundwater, unstable soil, or any other geological hazard.

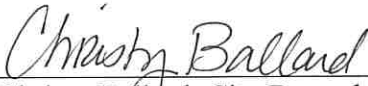
BE IT FURTHER ORDAINED that this Ordinance shall take effect at the earliest possible date allowed by law after publication and posting and shall supersede all other ordinances in conflict with the terms and conditions contained herein.

APPROVED AND ADOPTED on this 21 day of February 2024.

CITY OF LAVERKIN


Kelly B. Wilson, Mayor

Attest:


Christy Ballard, City Recorder



The foregoing Ordinance was presented at a regular meeting of the LaVerkin City Council held in the LaVerkin City Council Chambers, located at 111 South Main Street, LaVerkin, Utah, on the 21 day of February, 2024, whereupon, a motion to adopt said Ordinance was made by Patricia Wise and seconded by Blair Gubler.

A roll call vote was then taken with the following results:

NAME	VOTE
<u>Darren Prince</u>	<u>Aye</u>
<u>Richard Hirschi</u>	<u>Aye</u>
<u>Patricia Wise</u>	<u>Aye</u>
<u>Blair Gubler</u>	<u>Aye</u>
<u>Micah Gubler</u>	<u>Absent</u>


Christy Ballard, Recorder