

## **ORDINANCE NO. 2023-05**

**AN ORDINANCE AMENDING AND MAKING A TECHNICAL CORRECTION TO ORDINANCE NO. 2023-02 (THE “HEIGHT OF TOURIST TRANSIENT LODGING FACILITIES” ORDINANCE); AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on February 1, 2023, the City Council adopted **Ordinance No. 2023-02**, modifying certain building height limitations within the City, as contained in Title 10 of *The LaVerkin City Code* (“LVCC”); and

**WHEREAS**, subsequent to that date, the codifiers of the LVCC contacted the City Recorder with questions regarding some possible missing or incorrect language in the final text of Section III of the above-mentioned Ordinance [*i.e.*, an incorrect LVCC Section Number (which differed from the introductory verbiage of said Ordinance Section, and conflicted—as written—with Section I thereof), and Subsection B of Section 10-6G2-4 (which was “missing” from the Ordinance”]; and

**WHEREAS**, the City Attorney has confirmed that the two issues raised above are errors in the text of Ordinance 2023-02:

1. Appear to be confusing, ambiguous, contradictory, and/or otherwise problematic, and are likely to result in misunderstanding; and
2. Were inadvertent, unintended, and contrary to any discussions in either the Planning Commission or City Council in their review of the Ordinance, and the public hearing held thereon; and
3. Should be corrected; and

**WHEREAS**, it is desirable to have the above-referenced Ordinance (and the respective Code provision) be correct and to not be confusing, ambiguous, contradictory, and/or otherwise problematic; and

**WHEREAS**, the City Attorney has prepared a corrective ordinance to clarify, correct, and/or amend the provisions of Ordinance No. 2023-02 and the LVCC to address and resolve the above-referenced issue; and

**WHEREAS**, the City Council deems it to be in the best interests of the City and its residents, guests and businesses to amend the LVCC to make the requested corrections to its adopted Ordinance and City Code.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF LaVERKIN, UTAH:**

**SECTION I:** AMENDMENT OF THE SECTION III OF ORDINANCE NO. 2023-02:

## ORDINANCE NO. 2023-05

Section III of Ordinance No. 2023-02, which currently reads as follows:

**SECTION III:** AMENDMENT OF THE CODE OF THE LaVERKIN CITY CODE, BY REVISING THE PROVISIONS OF SECTION 10-6G2-4:

Section 10-6G2-4 of *The LaVerkin City Code* ("LVCC") is hereby amended to read as follows:

**10-6G-4: HEIGHT REGULATIONS:**

- A. Except as provided in Subsection B below, or as permitted in an approved development agreement under the terms and conditions of Section 10-12-5 of this Code, no building shall be erected to a height greater than thirty-five feet (35') as measured from its tallest side or point, except that facades, rooflines and other non-occupied building improvements may be constructed to a maximum height of forty-five feet (45') inclusive of the underlying building structure. However, the City shall not impose or restrict the height of a structure in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the City demonstrates that imposition of the burden on that person, assembly or institution:
1. Is in furtherance of a compelling governmental interest; and
  2. Is the least restrictive means of furthering that compelling governmental interest.
  3. Except as permitted in an approved development agreement under the terms and conditions of Section 10-12-5 of this Code, no hotels, motels, inns, and lodges (sometimes known as tourist transient lodging facilities) shall be erected to a height greater than fifty-five feet (55'), as measured from its tallest side or point, except that facades, rooflines, and other non-occupied building improvements may be constructed to a maximum height of sixty-six feet (66'), inclusive of the underlying building structure.

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Is, by this Ordinance, hereby amended to read as follows:

**SECTION III:** AMENDMENT OF THE CODE OF THE LaVERKIN CITY CODE, BY REVISING THE PROVISIONS OF SECTION 10-6G2-4:

Section 10-6G2-4 of *The LaVerkin City Code* ("LVCC") is hereby amended to correct the Section Citation/Reference and add back in the verbiage of the previous Subsection B, to read as follows:

**10-6G2-4: HEIGHT REGULATIONS:**

- A. Except as provided in Subsection B below, or as permitted in an approved development agreement under the terms and conditions of Section 10-12-5 of this Code, no building shall be erected to a height greater than thirty-five feet (35') as measured from its tallest side or point, except that facades, rooflines and other non-occupied building improvements may be constructed to a maximum height of forty-five feet (45') inclusive of the underlying building structure. However, the City shall not impose or restrict the height of a structure in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the City demonstrates that imposition of the burden on that person, assembly or institution:
1. Is in furtherance of a compelling governmental interest; and
  2. Is the least restrictive means of furthering that compelling governmental interest.
  3. Except as permitted in an approved development agreement under the terms and conditions of Section 10-12-5 of this Code, no hotels, motels, inns, and lodges (sometimes known as tourist transient lodging facilities) shall be erected to a height greater than fifty-five feet (55'), as measured from its tallest side or point, except that facades, rooflines, and other non-occupied building improvements may be constructed to a maximum height of sixty-six feet (66'), inclusive of the underlying building structure.

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- B. Modification: Modification of height restrictions may be made through a development agreement as outlined in chapter 12 of this title.

**SECTION II: REPEAL OF CONFLICTING PROVISIONS.**

All ordinances or resolutions, or parts or provisions thereof, in conflict with the provisions of this Ordinance, are hereby repealed to the extent that they conflict herewith.

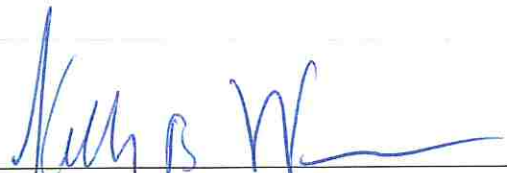
**SECTION III: SEVERABILITY.**

The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such section, paragraph, sentence, clause, or phrase shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

**SECTION V: EFFECTIVE DATE.**

In the opinion of the City Council of LaVerkin City, it is necessary for the preservation of the peace, welfare, health, and safety of the inhabitants of LaVerkin City that this Ordinance take effect as soon as possible. This Ordinance, therefore, shall take effect immediately upon its passage and first publication as provided by law.

**PASSED AND ADOPTED** by the City Council of LaVerkin City this 5<sup>th</sup> day of April, 2023.

  
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KELLY WILSON, Mayor

ATTEST:

  
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CHRISTY BALLARD, City Recorder