

ORDINANCE NO. 2023-01

AN ORDINANCE AMENDING AND CLARIFYING SECTION XII OF ORDINANCE NO. 2022-10, WHICH REVISED THE PARAGRAPH OF 10-6G2-2, OF THE LaVERKIN CITY CODE, BEGINNING WITH THE PHRASE “TOURIST SUPPORT”; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Title 3 of *The LaVerkin City Code* (“LVCC”) defines what constitutes a business in the community of LaVerkin and sets forth the City’s regulations thereof, including the regulation of vacation rentals as defined in Section (Sec.) 10-1-6, LVCC (*cf.*, Sec. 3-1-1, re the terms: business, engaging in business, place of business, and each separate place of business) ; and

WHEREAS, Title 10 of LVCC (the “Zoning Title of LaVerkin City”) “is designed and enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants, and to promote and provide for the peace and good order, comfort, convenience, and aesthetics of the present and future inhabitants and businesses of the city, including, among other things, the lessening of congestion in the streets or roads, securing safety from fire and other dangers, providing adequate light and air, classifying land uses and land development and protecting the tax base, securing economy in governmental expenditures, fostering agricultural and other industries, protecting urban and nonurban development, and protecting property values” (Sec. 10-1-2.A, LVCC); and

WHEREAS, “to accomplish the purposes of [said] title, the city may enact ordinances, resolutions, and rules . . . that it considers necessary or appropriate for the use and development of land within the city, including ordinances . . . governing uses, density, open spaces, structures, buildings, . . . street and building orientation and width requirements, . . . unless expressly prohibited by law” (Sec. 10-1-2.); and

WHEREAS, “[u]ses of land which are not expressly permitted within a zone are . . . declared to be expressly prohibited therein,” (Sec. 10-1-3.B, LVCC); and

WHEREAS, the City Council adopted Ordinance No. 2022-10, in September 2022, significantly restricting vacation rentals (“VRs”) as a permitted use in the City, eliminating the use from residential zones and restricting the use in Tourist/Resort Commercial (Comm-T) zones; and

WHEREAS, there was some question, at the time that said Ordinance was adopted, as to the meaning and breadth of a portion of the Ordinance as it applied to Comm-T zones (the “15% limitation”); and it was determined that—subsequent to the adoption of the Ordinance—that portion of the Ordinance would be clarified and revised; and

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WHEREAS, the Planning Commission worked on the matter and developed a clarification or revision of said Ordinance; and

WHEREAS, a public hearing was duly advertised ("noticed up") and held on the 25th day of January, 2023, and public input was taken with regards to the abovementioned clarification or revision; and

WHEREAS, upon consideration of said public input and further discussion of the members of the Planning Commission, the Planning Commission recommended that the City Council approve the proposed changes to Section 10-6G-4, LVCC, as herein set forth; and

WHEREAS, the City Council, having considered the matter, deems the following proposed changes, amendments, and/or deletions to Section 10-6G-4, LVCC, to be in the best interests of the City and its residents, guests, and businesses.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF LaVERKIN, UTAH, THAT THE FOLLOWING CHANGES, AMENDMENTS, AND DELETIONS BE MADE TO TITLE 10 OF THE LaVERKIN CITY CODE:

SECTION I: AN ORDINANCE AMENDING AND CLARIFYING SECTION XII OF ORDINANCE NO. 2022-10, WHICH REVISED THE PARAGRAPH OF 10-6G2-2, OF THE LaVERKIN CITY CODE, BEGINNING WITH THE PHRASE "TOURIST SUPPORT:

The paragraph of Section 10-6G2-2, LVCC, beginning with the phrase "Tourist support" is (as found in Ordinance No. 2022-10 and the LVCC) hereby amended to read as follows:

Tourist support, including:

- A. Hotels, motels, inns, lodges, and bed and breakfast facilities.
- B. Tourist information, curio and souvenir shops, camera and photo shops.
- C. Condominiums and timeshare units, with a development agreement.
- D. Recreational vehicles (RVs), and small transient living quarters not specified hereinabove (including, but not limited to, cabins and yurts), subject to the provisions of section 10-6G2-2-5 of this article.

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- E. Vacation rentals (VRs), subject to the following:
1. With an approved site plan and development agreement; and
 2. Limited to developments:
 - a. That are at least two (2) acres in size; and
 - b. For which VRs and their private and limited public space do not cumulatively occupy more than fifteen percent (15%) of the acreage of such development; and
 3. Within the developable area of the acreage referenced and described in Subsection E.2. hereof:
 - a. Landscaping: Landscaping is required in the front and sides of the buildings, and shall follow the City's currently-adopted landscaping requirements.
 - b. Construction and Setbacks of VRs: VRs units shall not front on SR9 or SR17, and buildings containing such units shall be constructed in conjunction with or after, and located behind, the development's main building(s) fronting on SR9 and/or SR17
 - c. Hillside: The VR development area of 15% cannot include any portion of a hillside as defined in the City hillside ordinance codified at Chapter 7A of this Title.
 - d. Parking: Parking areas shall adhere to the requirements of Chapter 10 of this Title, and may (i) be situated totally within the 15% development area or (ii) totally or partially situated within the remainder of the 2+ acreage referenced in Subsection E.2.a above. Shared parking is allowed if the criteria in chapter 10-10-5-G of this are met.
 - e. Height: *Notwithstanding any other provision of this Code to the contrary*, the height of no VR shall exceed forty-five feet (45') in height.

SECTION II: REPEAL OF CONFLICTING PROVISIONS.

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

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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 IV: 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 1 day of February, 2023.



KELLY WILSON, Mayor

ATTEST:



CHRISTY BALLARD, City Recorder