

ORDINANCE NO. 2023-08

**AN ORDINANCE AMENDING A PORTION OF ARTICLE G OF
CHAPTER 6, TITLE 10, OF THE LaVERKIN CITY CODE, REGARDING
PERMITTED USES IN GENERAL COMMERCIAL ZONES OF THE
CITY, WITH REGARDS TO EXISTING LIMITATIONS ON OUTDOOR
STORAGE UNITS; AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, Title 10 of the LaVerkin City Code (“LVCC”) “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” [Section 10-1-2.A, The LaVerkin City Code (“LVCC”)]; and

WHEREAS, “[t]o accomplish the purposes of [that] title, the city may enact ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that it considers necessary or appropriate for the use and development of land within the city”; and

WHEREAS, “[u]ses of land which are not expressly permitted within a zone [as set forth in that Title] are . . . declared to be expressly prohibited therein, except as may be permitted by action of the planning commission or city council, pursuant to express authority given under terms of” the LVCC [Sections 10-1-3.B and 10-6G-3, LVCC]; and

WHEREAS, Section 10-1-6, LVCC, defines the term “aesthetics” as “[t]he nature of the appearance of a land use, property or building, in respect to whether it would be considered attractive and pleasing to the eye, or visually displeasing, or a blemish . . . [having] an impact on economic and property values” and

WHEREAS, Section 10-6G-2, LVCC, lists storage units as permitted uses within the General Commercial (C) zone (“C zone”), and currently limits such uses to “facilities of not more than one thousand five hundred (1,500) square feet per one-half (1/2) acre minimum commercial lot”; and

WHEREAS, there are or appear to be one or more parcels of property within the current C zone (or future expansion thereof) that, because of special underlying conditions, are or may be less safe or suitable for uses other than outdoor storage units, and such a limitation would unduly burden and make unusable or less usable a significant portion of the property;

WHEREAS, currently situated within the C zone is a parcel of property with special conditions—due to its past use as a gas station and the associated disposal, leaking, or leaching into the soil of gasoline and/or other potentially toxic fluids or substances, contaminating the soil and making it subject to extensive cleanup efforts, and state and federal oversight and monitoring, over a period of several years; and

ORDINANCE NO. 2023-08

WHEREAS, said property (as identified hereinbelow) has recently been given clearance (by the State and Federal environmental agencies charged with its oversight and monitoring) for development and use, although there may be residual toxicity in or emanating from the soils that could pose or develop into hazards or potential harm to individuals residing or working on the property; and

WHEREAS, there is currently a proposal before the City to have the property developed as an Outdoor Storage Units facility/yard, where the property could be placed in use with minimal hazard or potential harm to workers or residents caused by long-time exposure; and

WHEREAS, the property is situated in the heart of the City's downtown corridor district (close to the elementary school, post office, and an upscale restaurant), and it is the desires of the City Council that it be put to beneficial use rather than have it remain a site prone to weeds and/or potential visual or other blight along or near the SR-9 / State Street corridor; and

WHEREAS, the Planning Commission and City Council are of the informed position that a well-designed and managed Outdoor Storage Unit facility/yard—if subject to visual screening and the suppression of dust and noise, and allowing for storage units throughout the entire or a large portion of the property notwithstanding the current square-footage limitations set forth in Section 10-6G-2—is a good and proper use of said property and should be a permitted use thereon, subject to an approved site plan; and

WHEREAS, other properties may, in the future, be found to have site-specific limitations or conditions for which such an exception to the general limitation on outdoor storage units may be deemed by the City Council to be appropriate; and

WHEREAS, since such an extensive use or concentration of storage units is not presently permitted by Section 10-6G-2 (and is therefore prohibited), the LVCC must be amended to allow such a deviation to the general limitation; and

WHEREAS, this Ordinance has been prepared by City Staff (with input and direction from the Planning Commission) to address such needed Code amendment; and

WHEREAS, a public hearing was duly advertised ("noticed up") and held on the 24th day of May, 2023, and public input was taken with regards to the proposed amendment of the LVCC with regards to the C zone; and

WHEREAS, upon consideration of such public input as was received and further discussion of the members of the Planning Commission, the Planning Commission recommended that the City Council approve the proposed amendments to Article G of Chapter 6 of Title 10 of the LVCC ("Article G"), as herein set forth; and

ORDINANCE NO. 2023-08

WHEREAS, the City Council, having considered the matter, deems the following proposed amendments to Article G 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 AMENDMENT OF THE PERMITTED USE KNOWN AS “STORAGE UNITS” (AS A PERMITTED USE) IN SECTION 10-6G-2, OF THE LaVERKIN CITY CODE:

The permitted use “storage units,” as listed in Section 10-6G-2, LVCC, which currently reads as follows:

Storage units: facilities of not more than one thousand five hundred (1,500) square feet per one-half ($\frac{1}{2}$) acre minimum commercial lot.

Is amended to read as follows:

Outdoor storage units: Except as set forth in Section 10-6G-2.2 below, facilities or yards utilized for outdoor storage use, *provided that* there shall be not more than one thousand five hundred (1,500) square feet dedicated to said use per one-half ($\frac{1}{2}$) acre [on a commercial lot not smaller than one-half ($\frac{1}{2}$) acre].

SECTION II: AN AMENDMENT OF ARTICLE G OF TITLE 10 OF THE LaVERKIN CITY CODE BY ADDING A NEW SECTION TO BE IDENTIFIED AS SECTION 10-6G-2.2:

There is hereby added to Article G (of Title 10 of the LaVerkin City Code) a new section to be identified as Section 10-6G-2.2 and entitled “Commercial Outdoor Storage Exception Area(s) [Limited Permitted Use]”

Section 10-6G-2.2: Commercial Outdoor Storage Exception Area(s) [Limited Permitted Use].

ORDINANCE NO. 2023-08

- A. Subject to an approved site plan and any additional site-specific conditions placed thereon to effectuate the purpose and intent of this Section, an “outdoor storage units” facility/yard (not subject to the general square-footage limitations specified in Section 10-6G-2, LVCC) may be a permitted use for and on commercial properties of _____ or more acres subject to special conditions limiting their safe use for other commercial uses permitted in the zone, as determined and designated by the City Council, upon recommendation of the Planning Commission, and subject to the terms, conditions, and limitations of this section.
- B. Scope, Purpose, and Intent:
1. This section establishes the requirements for the outdoor storage of goods and materials.
 2. The purpose of these regulations is to provide adequate and convenient areas for semi- or fully-covered storage of goods and materials; open, uncovered storage is not allowed.
 3. It is the intent of these regulations to minimize visual impacts to adjacent properties and public rights-of-way and to protect the public health, safety, and welfare.
- C. Definitions. For purposes of this Article, the following words and phrases shall be defined as follows:
1. “Outdoor storage use”: Covered or fully enclosed area, room, or space that is primarily intended for the storage of personal property.
 2. “Covered only” areas: Areas (a) designated for the storage of boats, recreational vehicles (RVs), campers, trailers, etc., but (b) not to be used for the storage of boxes, appliances, decorations, electronics, furniture, clothing, or other items that would typically be stored in an enclosed storage unit.
- D. Allowances
1. Storage units or facilities shall not be used for manufacturing, retail or wholesale selling, office functions, other business or service uses, any use proscribed by law, and/or human or animal habitation.

ORDINANCE NO. 2023-08

2. The following shall not be stored in any storage unit or facility:
 - a. Hazardous, flammable, or explosive materials
 - b. Hazardous or extremely hazardous waste; and
 - c. Any material which creates obnoxious dust, odor, or fumes.

E. Development Standards; Site and Architectural Design Standards.

1. Surfacing of outdoor storage areas:
 - a. All access, parking, and outdoor storage areas shall be paved with asphalt, concrete, True Grid (an eco-friendly permeable paving alternative to concrete and asphalt that provides stability and storm water detention), or other product of similar quality and useful life, as approved by the Director of Operations, or his or her designee.
 - b. No certificate of occupancy shall issue until all areas of the developed site have been finished with a permanent surface or permanent landscaping materials and irrigation.
2. Sufficient space:
 - a. No queuing, stacking, loading, unloading, or parking of vehicles will be allowed on city streets.
 - b. On-site overflow areas shall be provided to provide for and accommodate all necessary maneuvering, queuing, stacking, loading, unloading, and parking of owner-, employee-, customer-, patron-, or guest-owned or operated vehicles.
3. Parking shall be provided, installed, maintained, and regulated in accordance with the provisions of Chapter 10 of this Title.
4. Specific access and turnaround requirements shall be addressed in the site plan provided to and approved by the City Council to the property being developed for the use provided for herein.

ORDINANCE NO. 2023-08

5. Signage:

- a. Directional guidance for vehicles entering and exiting the outdoor storage facility/yard shall be provided on-site.
- b. All other signage shall be provided, installed, maintained, and regulated in accordance with the provisions of Chapter 11 of this Title.

6. Lighting: All lighting shall conform to and be provided, installed, maintained, and regulated in accordance with the City's night sky ordinance (i.e., Chapter 11 of Title 4 of this Code).

7. Setbacks: Except as specifically required and provided for in the approved site plan, all setbacks shall comply with Section 10-6G-5.

8. Residence above office space: A single residence shall be allowed above the office to (a) accommodate access to the storage facility and (b) provide for property security.

F. Screening Standards (Commercial/Residential Zone interface).

1. Areas abutting residential zones shall have, as a minimum, an eight-foot (8') block wall for screening. No building erected in place of or adjacent to this block wall shall exceed twelve feet (12') in height.
2. Areas abutting commercial zones can use the metal of the storage units as the barrier if it contains a constant flow, style, and color, and does not exceed a height of eighteen feet (18').
3. All buildings or structures situated on or against the property line shall be completely enclosed to provide sufficient screening from public view (including oblique views).
4. Access gates and doors may be constructed of open wrought iron if a perforated metal screen or other durable material is incorporated into the design that obscures views through the gate.

G. Landscape Standards. A landscaping strip containing a combination of trees, shrubs, groundcover, decorative rock, and boulders for and along the length of the property frontage (minus access points), eight feet (8') wide from the back of sidewalk, will be required.

ORDINANCE NO. 2023-08

H. Maintenance.

1. All areas of the storage unit yard/facility shall be maintained in good repair, and in a clean, neat, and orderly condition.
2. The storage area shall be kept free and clear of weeds and debris of all kinds, both inside and outside the fence or wall.
3. Any graffiti shall be removed within twenty-four (24) hours of occurrence.
4. Diseased, damaged, and/or dead shrubs and vines shall be replaced in a timely manner.

SECTION III: DESIGNATION OF PROPERTY FOR WHICH SECTION II EXCEPTION TO THE GENERAL RULE [WITH REGARDS TO STORAGE UNITS IN GENERAL COMMERCIAL (C) ZONES] APPLIES. *[Not an amendment to the Code]*

The following property is designated and approved as a Commercial Outdoor Storage Exception Area(s) [Permitted Use] for purpose of this Ordinance and subject to the conditions, limitations, and regulations set forth in Section II hereof (*i.e.*, Section 10-6G-2.2, LVCC):

Real property located north of Center Street and behind the commercial uses fronting on State Route 9 ("SR-9"), and legally described as follows:

LA VERKIN FIELD SUR LOT 39 (LV) BEG SW COR LOT 39
LVFS TH N0*14' W ALG L/L 676.50 FT TO NW COR LOT 39;
TH N89*46' E ALG L/L 359.70 FT; TH S0*14' E 257.62 FT; TH
S89*46' W 98.20 FT; TH S0*14' E 418.88 FT TO PT ON S L/L
LOT 39; TH S89*46' W 261.50 FT TO POB.

Subject to the following provisions specific to this property:

A. Access and Turnaround Requirements:

1. All access to the storage units shall come off Center Street.
2. An emergency opening of twenty-six feet (26), with a gate and a Knox box for emergency access off 160 West shall be required.

ORDINANCE NO. 2023-08

3. An Asphalt paved hammer head 20' wide, 60' East and West for a total of 120' will be required at the end of 160 W in front of the wall and emergency access gate.

B. Setbacks:

1. The setback off-Center Street for any outdoor storage unit shall be thirty-five feet (35').
2. All other setbacks shall comply with Section 10-6G-5, LVCC.

- ### **C.**
- Prior to construction, contact with the Environmental Protection Agency (EPA) and/or Utah Division of Environmental Quality (DEQ) will be required.¹

SECTION III: 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.

SECTION IV: 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.

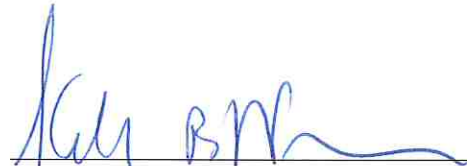
SECTION V: EFFECTIVE DATE.

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.

¹ The EPA contact: **Mike Pecorelli (801) 536-4100** (the DERR project manager over this project).

ORDINANCE NO. 2023-08

PASSED AND ADOPTED by the City Council of LaVerkin City this 7th day of June 2023.



KELLY WILSON, Mayor

ATTEST:



CHRISTY BALLARD, City Recorder

