

**APPLE VALLEY
ORDINANCE O-2024-71**

NOW THEREFORE, be it ordained by the Council of the Apple Valley, in the State of Utah, as follows:

SECTION 1: **REPEAL** “10.42.1 Purpose Of Chapter” of the Apple Valley Land Use is hereby *repealed* as follows:

REPEAL

10.42.1 Purpose Of Chapter

~~The purpose of this Chapter is to control the rate and distribution of residential development on a year-to-year basis in the interest of advancing the public welfare by ensuring that the Town is maintained as a healthy, spacious, clean, well balanced, carefully controlled community primarily by preserving its small town atmosphere and character and avoidance of uncontrolled and rapid growth and to accomplish that purpose by:~~

- ~~A. Maintaining the Town separate and distinct geographically from other communities;~~
- ~~B. Emphasizing the preservation of existing open spaces and agricultural land;~~
- ~~C. Maintaining a balance and mix of housing and building types and values and thus providing a range of prices and rents in order to accommodate a variety of housing needs;~~
- ~~D. Providing and maintaining parks and recreational areas; and~~
- ~~E. Maintaining and augmenting as needed public utilities and services without detriment to existing dwellings.~~

SECTION 2: **REPEAL** “10.42.2 Definitions” of the Apple Valley Land Use is hereby *repealed* as follows:

REPEAL

10.42.2 Definitions

~~All terms used in this Chapter are intended to have standard definitions, meanings and connotations, and are intended to be consonant with the meanings ascribed to them in other chapters of this Code, but unless otherwise required by the context, the following terms shall have the specific meanings stated in this Section:~~

~~ALLOTMENT: The assignment or grant by the Town Council of a share or portion of the aggregate number of dwelling units permitted to be constructed in any designated construction year, pursuant to the provisions of this Chapter.~~

~~CONSTRUCTION YEAR: A period of time consisting of one year commencing at the date the Town Council passes this ordinance.~~

~~DEVELOP: To construct a dwelling or alter a dwelling so that an increase in the number of dwellings results.~~

~~DEVELOPER: The legal or beneficial owners of real property proposed as a development or project in which one or more dwellings are constructed by the same contractor, person or entity for the sale to or use of persons or entities other than the legal or beneficial owner of the real property.~~

~~DEVELOPMENT: The act of developing a lot or subdividing a parcel of land for residential development.~~

~~DEVELOPMENT CONTROL PLAN: The scheme, program or method provided in this Chapter for construction of a dwelling.~~

~~DWELLING OR UNIT: A building, or portion thereof, designed or intended to be used exclusively for residential purposes, including "single-family", "two-family", and "multiple-family dwellings". Each dwelling is a unit.~~

~~ENTITY: A distinct unit other than a natural person, such as a partnership, corporation, limited liability company or any other type of organization.~~

~~EXCEPTION: Developments not subject to this Chapter.~~

~~LEAPFROG DEVELOPMENTS: Development of a tract of land which is separated from developed land by one or more undeveloped tracts, requiring extension of the Town's utility services and facilities beyond planned augmentation.~~

~~LOT: Any lot, parcel, tract of land, or combination thereof, shown on a plot of record or recorded by metes and bounds that is occupied or intended for occupancy by a use permitted in this Title, and having its principle frontage upon a street or upon an officially approved place.~~

~~OWNER/BUILDER: A person or entity, who is the owner of record of real property, and proposes to construct or constructs a single-family dwelling on that real property for the~~

~~occupancy and use of that person or entity.~~

~~PARCEL: Any real property improved or unimproved or portions thereof shown on the preceding tax roll as a unit or as continuous units, which is subject to or may be divided for the purpose of sale, lease or transfer of all or any part thereof, whether immediate or future, into two (2) or less lots or parcels.~~

SECTION 3: **REPEAL** “10.42.3 Initial Construction Year” of the Apple Valley Land Use is hereby *repealed* as follows:

REPEAL

10.42.3 Initial Construction Year

~~The initial construction year shall be the fiscal year beginning at the date the Town Council passes this ordinance.~~

SECTION 4: **REPEAL** “10.42.4 Applicability” of the Apple Valley Land Use is hereby *repealed* as follows:

REPEAL

10.42.4 Applicability

~~The provisions of this Chapter shall apply to the development of all lots, and houses within the Town limits.~~

SECTION 5: **REPEAL** “10.42.5 Development Allotments Required” of the Apple Valley Land Use is hereby *repealed* as follows:

REPEAL

10.42.5 Development Allotments Required

~~Notwithstanding the provisions of any other ordinance or resolution, no dwelling shall be constructed, and no building permit shall be issued, unless an allotment, if required, has been~~

~~obtained therefore in accordance with this Chapter.~~

SECTION 6: **REPEAL** “10.42.6 Number Of Allotments For Construction Year” of the Apple Valley Land Use is hereby *repealed* as follows:

R E P E A L

10.42.6 Number Of Allotments For Construction Year

~~A. The total number of allotments for dwellings for each construction year shall be limited to twenty (20) dwellings.~~

SECTION 7: **REPEAL** “10.42.7 Reservation For Future Year Allotments” of the Apple Valley Land Use is hereby *repealed* as follows:

R E P E A L

10.42.7 Reservation For Future Year Allotments

~~The commitment of the Town Council to grant future allotments (reservations) for dwellings to developers is limited to a total of fifty percent (50%) of the allotments or ten (10) units for one (1) year beyond the current construction year. Applications for reservations will be reviewed by the Planning Commission at the time of current year allotments and awarded by the Town Council on the basis of the recommendation by the Planning Commission pursuant to Section 10.42.10 of this Chapter. Award of reservations shall be for a specific construction year(s) and constitute allotments only for that construction year(s). Reservations are subject to cancellation by the Town Council for any reason the Town Council sees fit.~~

SECTION 8: **REPEAL** “10.42.8 Development Allotment Applications” of the Apple Valley Land Use is hereby *repealed* as follows:

R E P E A L

10.42.8 Development Allotment Applications

~~An application for an allotment for dwelling(s) shall be made to the Planning Commission on a~~

Town application form and shall include the following documents:

~~A. Site utilization map, including:~~

- ~~1. Vicinity map to show the relationship of the surrounding areas and the Town which may consist of a small inset map; and~~
- ~~2. The site use layout map showing the extent, locations and type of proposed dwellings, the nature and extent of open space and any other proposed uses.~~

~~B. Site development plan showing:~~

- ~~1. Location of proposed building on lot or parcel;~~
- ~~2. Topography;~~
- ~~3. Lot or parcel size;~~
- ~~4. Existing and proposed building, trees, landscaping areas;~~
- ~~5. Street alignments showing coordination with the City street system; and~~
- ~~6. Open space, bicycle paths, equestrian trails or paths.~~

~~C. Preliminary architectural plans showing:~~

- ~~1. Typical architectural elevations;~~
- ~~2. Types and numbers of dwellings structure.~~

~~D. Public facilities plans showing:~~

- ~~1. Needed public facilities to be provided, if any, such as critical linkages to the major street system, schools; or~~
- ~~2. Other vital public facilities as identified by the Master Plan, capital improvement program or special facilities plan.~~

~~E. Development schedule showing:~~

- ~~1. Proposed calendar schedule of development including phasing, if any;~~
- ~~2. All applicable processes such as tentative and final subdivision maps, prezoning or rezoning, site design review and similar matters.~~

~~F. Financial information schedule showing financial information sufficient to enable the Town to determine if the developer is capable of undertaking and completing the development. Financial information may be submitted on a confidential basis to the Mayor.~~

~~G. Applications for required rezoning, rezoning or variances for the development must also be filed, and all filing fees shall be returned if allotments are not awarded.~~

~~H. Such other information as may be reasonably required by the Planning Commission.~~

SECTION 9: **REPEAL** “10.42.9 Planning Commission Evaluation” of the Apple Valley Land Use is hereby *repealed* as follows:

R E P E A L

10.42.9 Planning Commission Evaluation

~~The Planning Commission shall determine whether the proposed development conforms to the development control plan and the provisions of this Title.~~

~~A. If the Planning Commission determines that a proposed development does not conform to the development control plan, the application shall be rejected. The applicant shall be given a written notice of such rejection within ten (10) days after the Commission's determination of the application.~~

~~B. The applicant may appeal the decision of the Planning Commission to the Town Council.~~

SECTION 10: **REPEAL** “10.42.10 Planning Commission Evaluation” of the Apple Valley Land Use is hereby *repealed* as follows:

R E P E A L

10.42.10 Planning Commission Evaluation

~~Proposed developments determined by the Planning Commission or the Town Council to conform to the development control plan shall be evaluated and given a recommendation by the Planning Commission.~~

~~A. All applicants for allotments or their representatives must appear before the Planning~~

~~Commission at the meeting at which their application is being evaluated and rated:~~

~~B. Each proposed development shall be examined by the Planning Commission to determine its effect upon Town facilities and services. If the development is found to be inadequately served by public facilities or services, the application shall be rejected in writing and the reasons therefor.~~

~~C. A review of the applications by the Planning Commission shall consist of the following factors:~~

- ~~1. The capacity of the water system to provide for the requirements of the proposed development, without system extensions beyond those which the developer agrees to provide.~~
- ~~2. The capacity of the sewer system to handle the wastes of the proposed development without system extensions beyond those which the developer agrees to provide.~~
- ~~3. The capacity of the proposed drainage facilities to adequately dispose of the surface runoff of the proposed development without system extensions beyond those which the developer agrees to provide.~~
- ~~4. The ability of the fire and police departments to provide protection according to the response standards of the city without the necessity of establishing additional stations or equipment.~~
- ~~5. The capacity of major street linkages to provide for the traffic needs of the proposed development without substantially altering existing traffic patterns or overloading the existing street system and the availability of other public facilities (such as parks and playgrounds) to meet the additional demands for vital public services, without system extensions beyond those which the developer agrees to provide.~~

~~D. The town staff shall review the application with regard to architectural continuity and appropriateness of the area and other existing construction. This review will include, but is not limited to, color usage, landscaping, building placement and all other considerations as are deemed necessary to assure an overall conformance with purposes of this chapter.~~

~~E. The Planning Commission shall examine each application for dwellings and give a recommendation to the Town Council, who will make the final decision regarding the applicant's award of allotments.~~

SECTION 11: REPEAL “10.42.11 Award Of Allotments” of the Apple Valley Land Use is hereby *repealed* as follows:

REPEAL

10.42.11 Award Of Allotments

~~A. Following the recommendation from the Planning Commission, the Town Council shall review the application for the allotments and the Planning Commission's recommendation and make a decision.~~

~~B. Allotments shall not be awarded for more than five (5) dwellings for a single development in a construction year. A "single development" is defined to include two (2) or more real properties adjacent to each other and owned, legally or beneficially, by a person or entity, or any combination thereof, which has a common ownership interest, legal or beneficial, of more than ten percent (10%) in each such property. In addition, the developer(s) must demonstrate that the developments in question are distinct and separate from each other in terms of density, housing types and design. The developer(s) shall also have the burden of proof of establishing the absence of common owner legal or beneficial interests described herein, and that said proposed developments do not violate the intent of this section.~~

~~C. If an applicant desires reservation of future years' dwelling allotments, the applicant may apply to the Planning Commission for such reservations subject to sections 10.42.6 and 10.42.7 of this chapter. The reserved dwellings shall be considered allotments for the construction year for which the reservations are granted and subject to such other conditions as the Town Council may impose. No developer may obtain more than a total of five (5) dwelling units or reservations for dwellings or a combination thereof.~~

~~D. If no applicant is eligible for an allotment award, the available allotments shall be rescinded.~~

~~E. An application containing misleading, disguised, or erroneous information with an intent to circumvent this chapter shall be rejected.~~

SECTION 12: **REPEAL** "10.42.12 Appeals To Town Council" of the Apple Valley Land Use is hereby *repealed* as follows:

REPEAL

10.42.12 Appeals To Town Council

~~The town clerk shall place the appeals to the Town Council on the agenda for the next regular Town Council meeting. The decision of the Town Council shall be final and conclusive. Following an appeal, an applicant may not apply again for a year unless there are substantial changes to the application.~~

SECTION 13: **REPEAL** “10.42.13 Review Of Progress” of the Apple Valley Land Use is hereby *repealed* as follows:

R E P E A L

10.42.13 Review Of Progress

~~The Planning Commission and Planning Department shall review each proposed development having an allotment award to determine whether satisfactory progress is being made with the implementation of the approved plans. Allotments awarded will be automatically rescinded if the building permit for the proposed development expires, or if no building permit is applied for and issued within six months of the award of the allotments.~~

SECTION 14: **REPEAL** “10.42.14 Exceptions” of the Apple Valley Land Use is hereby *repealed* as follows:

R E P E A L

10.42.14 Exceptions

~~The following proposed developments are exempt from the provisions of this Chapter:~~

~~A. Dwellings proposed to be constructed for or constructed by owner/builders are exempt from the application and allotment process, but each such dwelling upon issuance of a building permit shall be counted as part of the total allotment awarded for the construction year involved. This exception shall be limited to one dwelling by each owner/builder for a three (3) year period commencing from the issuance of the building permit. Ten (10) allotments for dwellings shall be reserved for owner/builders for the first six (6) months of each construction year. The remainder of these ten (10) allotments, in the second half of the construction year, may be allotted to developers at Town Council’s discretion. Owner/builder applications which exceed the ten (10) units reserved, or which are filed in the second half of the construction year, shall receive an allotment if any are available. If no allotments are available for that construction year, the owner/builder will receive a reservation for the next construction year.~~

SECTION 15: **REPEAL** “10.42.15 Severability” of the Apple Valley Land Use is hereby *repealed* as follows:

R E P E A L

10.42.15 Severability

~~Should any word, phrase, paragraph or other portion of this Chapter be found by any competent judicial or other authority to be illegal or invalid, that portion shall be severed and the remainder of the Chapter will remain valid and in full force and effect.~~

SECTION 16: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 17: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 18: **EFFECTIVE DATE** This Ordinance shall be in full force and effective immediately after the required approval.

PASSED AND ADOPTED BY THE APPLE VALLEY COUNCIL

_____.

	AYE	NAY	ABSENT	ABSTAIN
Mayor Michael Farrar	_____	_____	_____	_____
Council Member Kevin Sair	_____	_____	_____	_____
Council Member Janet Prentice	_____	_____	_____	_____
Council Member Annie Spendlove	_____	_____	_____	_____
Council Member Scott Taylor	_____	_____	_____	_____

Attest

Presiding Officer

Jenna Vizcardo, Town Clerk, Apple Valley

Michael Farrar, Mayor, Apple Valley