

**APPLE VALLEY
ORDINANCE O-2022-49**

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

SECTION 1: AMENDMENT “14.06.010 Permit And Approval Required” of the Apple Valley Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

14.06.010 Permit And Approval Required

A. Access: It shall be unlawful for any person to construct a new access upon any county right of way within the county, without first obtaining a permit and approval from the board of county commissioners.

B. Improvements: It shall be unlawful for any person to place any power line, water line, sewage line or other improvements upon any county right of way without first obtaining a permit agreement with the county commissioners.

AFTER AMENDMENT

14.06.010 Permit And Approval Required

A. Access: It shall be unlawful for any person to construct a new access upon any ~~town~~county right of way within the ~~town~~county, without first obtaining a permit and approval from the ~~town council~~~~board of county commissioners~~.

B. Improvements: It shall be unlawful for any person to place any power line, water line, sewage line or other improvements upon any ~~town~~county right of way without first obtaining a permit agreement with the ~~town~~county commissioners.

SECTION 2: AMENDMENT “14.06.020 Plan Presented” of the Apple Valley Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

14.06.020 Plan Presented

Before any permit shall be issued for any encroachment upon any county right of way, the party requesting the permit must first present a plan indicating where the encroachment will be and the method of construction.

AFTER AMENDMENT

14.06.020 Plan Presented

Before any permit shall be issued for any encroachment upon any ~~town~~~~county~~ right of way, the party requesting the permit must first present a plan indicating where the encroachment will be and the method of construction.

SECTION 3: **AMENDMENT** “14.06.030 Denial Of Request” of the Apple Valley Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

14.06.030 Denial Of Request

Any request for a permit may be denied is said request does not meet all requirements of the board of county commissioners, and if the board of county commissioners shall deem that said encroachment will not be in the best interest, or be in the health, safety or welfare of the residents of the count.

AFTER AMENDMENT

14.06.030 Denial Of Request

Any request for a permit may be denied is said request does not meet all requirements of the ~~town council~~~~board of county commissioners~~, and if the ~~town council~~~~board of county commissioners~~ shall deem that said encroachment will not be in the best interest, or be in the health, safety or welfare of the residents of the count.

SECTION 4: **AMENDMENT** “14.06.040 Cost For Replacement; Bond” of the Apple Valley Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

14.06.040 Cost For Replacement; Bond

Upon application for a permit, said application shall set forth the cost to be incurred for replacing the right of way back to its original condition and a bond posted in the amount approved and required by the board of county commissioners.

AFTER AMENDMENT

14.06.040 Cost For Replacement; Bond

Upon application for a permit, said application shall set forth the cost to be incurred for replacing the right of way back to its original condition and a bond posted in the amount approved and required by the town council~~board of county commissioners~~.

SECTION 5: **AMENDMENT** “14.06.050 Penalty” of the Apple Valley Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

14.06.050 Penalty

A. Criminal: Any person who violates or encroaches upon county right of way without first obtaining the permit as required by this chapter shall be guilty of a class B misdemeanor and, upon conviction, subject to penalty as provided in section 1.08.010 of this code.

B. Civil: In the event any person violates this chapter, in addition to all criminal remedies, the board of county commissioners may request the county attorney to enjoin any encroachment upon the county right of way and/or file suit for damages related to trespass and any damage to the county right of way caused by violating this chapter. In the event the county is successful, the party is liable for all costs incurred by the county, including costs of court and reasonable attorney fees.

AFTER AMENDMENT

14.06.050 Penalty

A. Criminal: Any person who violates or encroaches upon county right of way without first obtaining the permit as required by this chapter shall be guilty of a class B misdemeanor and, upon conviction, subject to penalty as provided in section 1.08.010 of this code.

B. Civil: In the event any person violates this chapter, in addition to all criminal remedies, the town council~~board of county commissioners~~ may request the town~~county~~ attorney to enjoin any encroachment upon the town~~county~~ right of way and/or file suit for damages related to trespass and any damage to the county right of way caused by violating this chapter. In the event the town~~county~~ is successful, the party is liable for all costs incurred by the town~~county~~, including costs of court and reasonable attorney fees.

SECTION 6: REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 7: 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 8: EFFECTIVE DATE This Ordinance shall be in full force and effect from October 19, 2022.

PASSED AND ADOPTED BY THE APPLE VALLEY COUNCIL

_____.

	AYE	NAY	ABSENT	ABSTAIN
Mayor Frank Lindhardt	_____	_____	_____	_____
Council Member Andy McGinnis	_____	_____	_____	_____
Council Member Barratt Nielson	_____	_____	_____	_____
Council Member Kevin Sair	_____	_____	_____	_____
Council Member Robin Whitmore	_____	_____	_____	_____

Attest

Presiding Officer

Jenna Vizcardo, Town Clerk, Apple Valley

Frank Lindhardt, Mayor,, Apple Valley