

**APPLE VALLEY
ORDINANCE O-2023-13**

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

SECTION 1: **AMENDMENT** “10.07.090 Conditional Use Permit” of the Apple Valley Land Use is hereby *amended* as follows:

BEFORE AMENDMENT

10.07.090 Conditional Use Permit

A. *Purpose.* This section sets forth procedures for considering and approving conditional use permits for Industrial, Open Space and RV Park Zones..

B. *Authority.*

1. The Planning Commission is authorized to issue conditional use permits for the following uses **for Industrial, Open Space and RV Park Zones:**

Industrial- Concrete, Gravel, Asphalt, Mining, Agricultural, Sewage, Wood, Recycling

Open Space- Farm and Buildings, Livestock, ATV Trails, Building Height

RV Park- Sales, Clubhouse, Dwelling

C. *Initiation.* A property owner, or the owner's agent, may request a conditional use permit as provided in subsection D1 of this section.

D. *Procedure.* An application for a conditional use permit shall be considered and processed as provided in this subsection.

1. A complete application shall be submitted to the office of the Zoning Administrator in a form established by the administrator along with any fee established by the Town's schedule of fees. The application shall include at least the following information:

- a. The name, address and telephone number of the applicant and the applicant's agent, if any;
- b. The address and parcel identification of the subject property;
- c. The zone, zone boundaries and present use of the subject property;

- d. A description of the proposed conditional use;
 - e. A plot plan showing the following:
 - (1) Applicant's name;
 - (2) Site address;
 - (3) Property boundaries and dimensions;
 - (4) Layout of existing and proposed buildings, parking, landscaping, and utilities; and
 - (5) Adjoining property lines and uses within 100 feet of the subject property;
 - f. Traffic impact analysis, if required by the Town Engineer or the Planning Commission;
 - g. A statement by the applicant demonstrating how the conditional use permit request meets the approval standards for the conditional use desired; and
 - h. Such other and further information or documentation as the Zoning Administrator may deem necessary for proper consideration and disposition of a particular application.
2. After the application is determined to be complete, the Zoning Administrator shall schedule a public meeting before the Planning Commission as provided in [section 10.07.040](#) of this chapter or shall review the application to determine if it meets the standards for an administrative conditional use permit.
3. A staff report evaluating the application shall be prepared by the Zoning Administrator for a conditional use permit that will be reviewed by the Planning Commission.
4. The Planning Commission shall hold a public meeting and shall thereafter approve, approve with conditions, or deny the application pursuant to the standards set forth in subsection E of this section. A conditional use shall be approved if reasonable conditions are proposed or can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with the applicable standards, the conditional use may be denied.

5. After the Planning Commission or Zoning Administrator makes a decision, the Zoning Administrator shall give the applicant written notice of the decision.

6. A record of all conditional use permits shall be maintained in the office of the Zoning Administrator.

E. *Approval standards.* The following standards shall apply to the issuance of a conditional use permit:

1. A conditional use permit may be issued only when the proposed use is shown as conditional in the zone where the conditional use will be located, or by another provision of this title.

2. Standards for each use must be reviewed. Specific standards are set forth for each use in subsections E2a through E2h of this section:

a. *Standards for a reception center.*

(1) Hours of operation must be compatible with adjoining uses and comply with Town noise regulations.

(2) Parking must be provided.

(3) The use of on street parking to provide up to 40 percent of the required parking may be permitted if adjoining uses are not residential uses and the street is fully improved.

(4) The center must have an approved site plan.

(5) If beer, wine, or other alcoholic beverages are served, the center must be licensed by the state alcohol control board.

b. *Standards for an agricultural industry.*

(1) Adequate fencing and/or enclosures must be provided to ensure animals and fowl are confined safely and in conformance with acceptable animal husbandry standards.

(2) Applicant must provide a plan for how manure will be handled to prevent it becoming a nuisance and must follow the plan.

(3) Evidence must be provided on how the applicant will maintain control of flies and vermin.

(4) Animal enclosures used for intensive animal feeding operations must be at least 25 feet from any adjacent parcel that, at the time the applicant first seeks the conditional use, is zoned residential or residential-agricultural pursuant to chapters 13 or 14 of this title.

F. *Appeal of decision.* Any person adversely affected by a decision of the Planning Commission regarding the transfer, issuance, or denial of a conditional use permit may appeal such decision to the Appeals Board by filing written notice of appeal stating the grounds therefor within 14 days from the date of such decision.

G. *Appeal of decision by Zoning Administrator.* Any decision of the Zoning Administrator regarding the issuance or denial of a conditional use permit, shall, upon request by the applicant within ten days after a determination by the Zoning Administrator, be submitted for a de novo review and decision by the Planning Commission at their next available meeting.

H. *Effect of approval.* A conditional use permit shall not relieve an applicant from obtaining any other authorization or permit required under this title or any other title of this Code.

1. A conditional use permit may be transferred so long as the use conducted thereunder conforms to the terms of the permit.
2. Unless otherwise specified by the Planning Commission and subject to the provisions relating to amendment, revocation or expiration of a conditional use permit, a conditional use permit shall be of indefinite duration and shall run with the land.

I. *Amendment.* The procedure for amending any conditional use permit shall be the same as the original procedure set forth in this section.

J. *Revocation.* A conditional use permit may be revoked as provided in [section 10.20.100](#) of this title.

1. In addition to the grounds set forth in [section 10.20.100](#) of this title, any of the following shall be grounds for revocation:
 - a. The use for which a permit was granted has ceased for one year or more;
 - b. The holder or user of a permit has failed to comply with the conditions of approval or any Town, state, or federal law governing the conduct of the use;

c. The holder or user of the permit has failed to construct or maintain the site as shown on the approved site plan, map, or other approval materials; or

d. The operation of the use or the character of the site has been found to be a nuisance or a public nuisance by a court of competent jurisdiction in any civil or criminal proceeding.

2. No conditional use permit shall be revoked against the wishes of the holder or user of the permit without first giving such person an opportunity to appear before the Planning Commission and show cause as to why the permit should not be revoked or the conditions amended. Revocation of a permit shall not limit the Town's ability to initiate or complete other legal proceedings against the holder or user of the permit.

K. *Expiration.* A conditional use permit shall expire and have no further force or effect if the building, activity, construction, or occupancy authorized by the permit is not commenced within one year after approval.

AFTER AMENDMENT

10.07.090 Conditional Use Permit

A. *Purpose.* ~~This section sets forth procedures for considering and approving conditional use permits for Industrial, Open Space and RV Park Zones.~~ The purpose of this chapter is to establish standards for certain land uses which, because of their unique characteristics or potential impacts on the town, surrounding residential neighborhoods, or other adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required which mitigate or eliminate the detrimental impacts. The standards for the issuance of a conditional use permit are established to ensure compatibility with surrounding land uses, conformity with the Apple Valley general plan, consistency with the characteristics and purposes stated for the zone, and protection, preservation and promotion of the public interest, health, safety, convenience, comfort, prosperity and general welfare.

B. *Authority.*

1. The Planning Commission is authorized to issue conditional use permits for the following uses ~~for Industrial, Open Space and RV Park Zones:~~

~~Industrial- Concrete, Gravel, Asphalt, Mining, Agricultural, Sewage, Wood, Recycling Open Space- Farm and Buildings, Livestock, ATV Trails, Building Height RV Park- Sales, Clubhouse, Dwelling~~

Animal specialties.

Animals and fowl for recreation and family food production.

Clubhouse.

Sales or registration office.

On-site manager dwelling.

kennel.

Assisted living facility.

Greater heights than permitted by this Code.

Greater size than permitted by this Code.

Greater heights accessory buildings than permitted by this Code.

Greater size accessory buildings than permitted by this Code.

Metal building in commercial and residential zones.

Public stable.

Reception center.

Recreation and entertainment, outdoor.

C. Permit Required. An approved conditional use permit shall be required for each conditional use listed in this title. No building permit or other permit or license shall be issued for a use requiring conditional use approval until a conditional use permit shall first have been approved by the planning commission.

D. Initiation. A property owner, or the owner's agent, may request a conditional use permit as provided in subsection ~~E~~**D**1 of this section.

~~D~~E. ***Procedure.*** An application for a conditional use permit shall be considered and processed as provided in this subsection.

1. A complete application shall be submitted to the office of the Zoning Administrator in a form established by the administrator along with any fee established by the Town's schedule of fees. The application shall include at least the following information:

- a. The name, address and telephone number of the applicant and the applicant's agent, if any;
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 - (5) Adjoining property lines and uses within 100 feet of the subject property;
 - f. Traffic impact analysis, if required by the Town Engineer or the Planning Commission;
 - g. A statement by the applicant demonstrating how the conditional use permit request meets the approval standards for the conditional use desired; and
 - h. Such other and further information or documentation as the Zoning Administrator may deem necessary for proper consideration and disposition of a particular application.
2. After the application is determined to be complete, the Zoning Administrator shall schedule a public meeting before the Planning Commission as provided in [section 10.07.040](#) of this chapter or shall review the application to determine if it meets the standards for an administrative conditional use permit.
3. A staff report evaluating the application shall be prepared by the Zoning Administrator for a conditional use permit that will be reviewed by the Planning Commission.

4. The Planning Commission shall hold a public meeting and shall thereafter approve, approve with conditions, or deny the application pursuant to the standards set forth in subsection **EE** of this section. A conditional use shall be approved if reasonable conditions are proposed or can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with the applicable standards, the conditional use may be denied.

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6. A record of all conditional use permits shall be maintained in the office of the Zoning Administrator.

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a. *Standards for a reception center.*

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- (1) Adequate fencing and/or enclosures must be provided to ensure animals and fowl are confined safely and in conformance with acceptable animal husbandry standards.
- (2) Applicant must provide a plan for how manure will be handled to prevent it becoming a nuisance and must follow the plan.
- (3) Evidence must be provided on how the applicant will maintain control of flies and vermin.
- (4) Animal enclosures used for intensive animal feeding operations must be at least 25 feet from any adjacent parcel that, at the time the applicant first seeks the conditional use, is zoned residential or residential-agricultural pursuant to chapters 13 or 14 of this title.

~~F~~G. ***Appeal of decision.*** Any person adversely affected by a decision of the Planning Commission regarding the transfer, issuance, or denial of a conditional use permit may appeal such decision to the Appeals Board by filing written notice of appeal stating the grounds therefor within 14 days from the date of such decision.

~~G~~H. ***Appeal of decision by Zoning Administrator.*** Any decision of the Zoning Administrator regarding the issuance or denial of a conditional use permit, shall, upon request by the applicant within ten days after a determination by the Zoning Administrator, be submitted for a de novo review and decision by the Planning Commission at their next available meeting.

~~H~~I. ***Effect of approval.*** A conditional use permit shall not relieve an applicant from obtaining any other authorization or permit required under this title or any other title of this Code.

1. A conditional use permit may be transferred so long as the use conducted thereunder conforms to the terms of the permit.
2. Unless otherwise specified by the Planning Commission and subject to the provisions relating to amendment, revocation or expiration of a conditional use permit, a conditional use permit shall be of indefinite duration and shall run with the land.

~~I~~J. ***Amendment.*** The procedure for amending any conditional use permit shall be the same as the original procedure set forth in this section.

~~J~~K. ***Revocation.*** A conditional use permit may be revoked as provided in [section 10.20.100](#) of this title.

1. In addition to the grounds set forth in [section 10.20.100](#) of this title, any of the following shall be grounds for revocation:

- a. The use for which a permit was granted has ceased for one year or more;
- b. The holder or user of a permit has failed to comply with the conditions of approval or any Town, state, or federal law governing the conduct of the use;
- c. The holder or user of the permit has failed to construct or maintain the site as shown on the approved site plan, map, or other approval materials; or
- d. The operation of the use or the character of the site has been found to be a nuisance or a public nuisance by a court of competent jurisdiction in any civil or criminal proceeding.

2. No conditional use permit shall be revoked against the wishes of the holder or user of the permit without first giving such person an opportunity to appear before the Planning Commission and show cause as to why the permit should not be revoked or the conditions amended. Revocation of a permit shall not limit the Town's ability to initiate or complete other legal proceedings against the holder or user of the permit.

KL. ***Expiration.*** A conditional use permit shall expire and have no further force or effect if the building, activity, construction, or occupancy authorized by the permit is not commenced within one year after approval.

SECTION 2: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: **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 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from January 18, 2023.

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