

**TOWN OF APPLE VALLEY  
ORDINANCE O-2022-25**

**AN ORDINANCE ENACTING A TEMPORARY LAND USE REGULATION ESTABLISHING A  
RESTRICTION ON ALL WATER WELL DRILLING AND REQUIRING ALL DEVELOPMENT  
APPLICATIONS TO ACKNOWLEDGE WATER SUPPLY CONDITIONS**

**WHEREAS**, UTAH STATE CODE ANN. §10-9a-504 allows a municipality to enact an ordinance establishing a temporary land use regulation for any part or all of the area within a municipality if the legislative body makes a finding of compelling, countervailing public interest; and

**WHEREAS**, a temporary land use regulation under UTAH STATE CODE ANN. §10-9a-504 “may prohibit the erection, construction, reconstruction, or alteration of any building or structure”; and

**WHEREAS**, the Town of Apple Valley is authorized and responsible to ensure that Town culinary water used within the Town and provided to Town residents is being done so in a safe, responsible, and sustainable manner; and

**WHEREAS**, on April 21, 2022, the Governor of the State of Utah, issued Executive Order 2022-04 declaring a state of emergency due to drought conditions throughout the State of Utah; and

**WHEREAS**, the Town’s supply of culinary water is limited, and the Town is experiencing decreased capacity of its water supply; and

**WHEREAS**, the Town is concerned that the current drought conditions will result in critical water shortages and require further drastic curtailment measures that would be detrimental to the entire town and cause significant public harm; and

**WHEREAS**, the Town is undertaking projects to secure additional water sourcing and storage for culinary use, of which will not be integrated into the Town’s water system until approximately 2024; and

**WHEREAS**, the Town believes all development applications should acknowledge that water availability for future buildings and/or uses cannot be guaranteed by the Town; and

**WHEREAS**, UTAH STATE CODE ANN. §10-7-14 allows for enactment of restrictions affecting a municipality’s entire designated water service area to address health, safety, or general welfare need; and

**WHEREAS**, the Town Council finds a compelling, countervailing public interest in placing a temporary land use regulation to enact a restriction prohibiting any person located within the Town’s service area from drilling wells for culinary, irrigation, stock-watering or any other uses.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, UTAH, AS FOLLOWS:**

**SECTION 1: Temporary Land Use Regulation.** Based upon the premises stated above, the Town of Apple Valley Town Council hereby finds a compelling, countervailing public interest to enact the following temporary land use regulations:

- A. Prohibiting any person from drilling a well for culinary, irrigation, stock-watering or any other uses or causing a well to be drilled for culinary, irrigation, stock-watering or any other uses. The Council finds this ordinance and restriction is necessary to protect the health, safety, and general welfare of the Town of Apple Valley residents.
- B. As of the Effective Date, all incomplete and new development applications must submit with the application, an acknowledgment signed by both the applicant developer and the owner(s) of all real property which are part of the application that:
  - 1. Approval of a development application by the Town does not guarantee that sufficient water will be available to serve the zone, project, or permit for which the application is submitted; and
  - 2. Prior to receiving final approval for the application, and/or any building permit, the applicant may be required by the Town of Apple Valley, to provide a guarantee of water service through a “Will Serve” letter from the Big Plains Water and Sewer Special Service District (“District”) which verifies that there is a sufficient water supply and guarantee of water for the application, or proof that another guaranteed source of water is available to the applicant; and
  - 3. For any application which may be approved without the “Will Serve” letter from the District, the applicant assumes the entire risk of water availability for the project and/or application.

**SECTION 2: Duration.** Pursuant to UTAH CODE ANN. §10-9a-504, this ordinance shall be in effect for a period of 180 days.

**SECTION 3: Severability Clause.** If any part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance and all provisions, clauses and words of this Ordinance shall be severable.

**SECTION 4: Effective Date.** The effective date of this Ordinance shall be retroactive to May 1, 2022

**PASSED AND ADOPTED** by the Town Council of the Town of Apple Valley, Utah this 15<sup>th</sup> day of June, 2022.

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By: Frank G. Lindhardt, Mayor

ATTEST:

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By: Jenna Vizcardo, Town Recorder

Mayor Frank Lindhardt	Aye ___	Nay ___	Absent ___
Council Member Kevin Sair	Aye ___	Nay ___	Absent ___
Council Member Robin Whitmore	Aye ___	Nay ___	Absent ___
Council Member Andy McGinnis	Aye ___	Nay ___	Absent ___
Council Member Barratt Nielson	Aye ___	Nay ___	Absent ___