

**APPLE VALLEY
ORDINANCE O-2022-41**

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

SECTION 1: **AMENDMENT** “10.20.010 Purpose” of the Apple Valley Land Use is hereby *amended* as follows:

BEFORE AMENDMENT

10.20.010 Purpose

The purpose of this chapter is to provide for the regulation of land uses to ensure their compatibility and proper integration into the land use pattern of the town. Certain uses which may be harmonious under special conditions but improper under general conditions are classed as conditional uses and require conditional use permits for approval prior to construction.

AFTER AMENDMENT

10.20.010 Purpose

~~The purpose of this chapter is to provide for the regulation of land uses to ensure their compatibility and proper integration into the land use pattern of the town. Certain uses which may be harmonious under special conditions but improper under general conditions are classed as conditional uses and require conditional use permits for approval prior to construction.~~ 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 town 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.

SECTION 2: **AMENDMENT** “10.20.060 Land Use Authority Action” of the Apple Valley Land Use is hereby *amended* as follows:

BEFORE AMENDMENT

10.20.060 Land Use Authority Action

The planning commission may approve, modify and approve, or deny a conditional use application made to the planning commission. The planning commission shall require regulations and conditions as are necessary to protect the public health, safety, welfare and aesthetics of the area. In approving a conditional use permit, the planning commission shall find:

- A. That the proposed use is necessary or desirable and will contribute to the general well-being of the town.
- B. That the use will not be detrimental to the health, safety, welfare or aesthetics, or detrimental to property or improvements in the area.
- C. That the proposed use will comply with the regulations of this title.
- D. That the proposed use is in harmony with the intent and purpose of the general plan, or that the plan shall have first been amended through public hearing.

AFTER AMENDMENT

10.20.060 Land Use Authority Action

~~The planning commission may approve, modify and approve, or deny a conditional use application made to the planning commission. The planning commission shall require regulations and conditions as are necessary to protect the public health, safety, welfare and aesthetics of the area. In approving a conditional use permit, the planning commission shall find:~~

- ~~A. That the proposed use is necessary or desirable and will contribute to the general well-being of the town.~~
- ~~B. That the use will not be detrimental to the health, safety, welfare or aesthetics, or detrimental to property or improvements in the area.~~
- ~~C. That the proposed use will comply with the regulations of this title.~~
- ~~D. That the proposed use is in harmony with the intent and purpose of the general plan, or that the plan shall have first been amended through public hearing.~~

Conditional Use Standards of Review: When the planning commission acts under its power to hear and decide applications for conditional uses, the conditional use shall be approved if reasonable conditions are proposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with the applicable standards as set forth below. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

The planning commission shall make its decision based upon the facts presented for the record. Expressions of support or opposition shall not constitute the basis of approval or denial.

A. General Review Standards: An applicant for a conditional use in the zone must demonstrate:

1. The use complies with all applicable provisions of town ordinances, state and federal law;

2. The use is not detrimental to the public health, safety and welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity. A proposed use shall be considered detrimental:

a. If it will cause unreasonable risks to the safety of persons or property because of vehicular traffic or parking, or other similar unreasonable risks; or

b. If it will unreasonably interfere with the lawful use of surrounding property.

3. The use is consistent with the characteristics and purposes stated for the zone;

4. Site plan review:

a. Traffic safety conditions are not adversely affected by the use. The existence or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets shall be reviewed;

b. Utility capacity is adequate;

c. Emergency access is adequate;

d. The location and design of parking both on site and off street is adequate;

e. A plan for fencing, screening, and landscaping to separate the use from adjoining uses and mitigate the potential for conflict in uses is adequate;

f. Exterior lighting is adequate and does not unduly disturb the surrounding area;

g. Signage is adequate and in compliance with Chapter 22 of this title.

5. Requirements for the management and maintenance of facilities is adequate;

6. The use shall not result in a situation which will create a need for essential services which cannot be reasonably met by local service providers, including roads and access for emergency vehicles and residents; fire protection; police protection; schools and school busing; drinkable water; sewer; storm drainage; and garbage removal;

B. Specific Review Standards For Certain Conditional Uses: In addition to the general standards of review above, the applicant must also demonstrate compliance with each of the following standards for each of the following conditional uses:

1. Reception Center

a. Hours of operation must be compatible with adjoining uses and comply with town noise regulations.

b. Parking must be provided.

c. 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.

d. The center must have an approved site plan.

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

2. Agricultural Industry

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

b. Applicant must provide a plan for management of manure to prevent it from becoming a nuisance and must follow the plan.

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

d. Animal enclosures used for intensive animal feeding operations must be at least 30 feet from any adjacent parcel that, at the time the applicant first seeks the conditional use, is zoned residential pursuant to Chapter 10 of this title.

3. Public Stable

a. Adequate fencing and/or enclosures must be provided to ensure horses are confined safely and in conformance with acceptable animal husbandry standards.

b. Applicant must provide a plan for management of manure to prevent it from becoming a nuisance and must follow the plan.

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

d. Site must contain adequate off street parking for customers. All trailers must be contained on site.

e. Barns must be located at least 30 feet from any adjacent parcel that, at the time the applicant first seeks a conditional use permit, is zoned residential pursuant to Chapter 10 of this title.

4. Assisted Living Facility

a. The facility shall comply with building, safety, and health regulations applicable to similar structures.

b. The facility shall be licensed by the state.

c. A site plan shall be approved for the facility to ensure adequate parking and landscaping are installed.

5. Greater Heights than Permitted by this Code

a. The height may not be greater than two stories or 1.5 times the average height of the immediately adjacent buildings, whichever is greater and the building must be of compatible architecture with immediately adjacent buildings.

b. A greater height conditional use permit may not be issued for a flag lot if the proposed structure is higher than the average height of all residential structures within a 300-foot radius of the proposed structure.

6. Greater Size than Permitted by this Code

a. The greater size building desired must be of compatible architecture with immediately adjacent buildings.

b. At least 50 percent of the lot on which the building is located must remain free of buildings.

c. The building must be for a use permitted in the zone in which it is located.

7. Animals and Fowl for Recreation and Family Food Production

a. Adequate fencing must be provided to ensure animals and fowl are confined safely.

b. Applicant must provide a plan for management of manure to prevent it from becoming a nuisance and must follow the plan.

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

d. The number of fowl will be limited by the applicable zone standards.

e. Livestock numbers may be limited at the planning commission's discretion based on the size of the lot and the facilities available to contain and protect the animals.

8. Metal Buildings

a. The building must meet the following design standards:

(1) Exterior building materials shall be durable, require low maintenance, and be of the same or higher quality as surrounding developments.

(2) Details of proposed colors and materials, including color chips, samples, and colored building elevations, shall be shown on building plans when a development project application is submitted. Colors shall be compatible with surrounding structures.

(3) Reflective surfaces or colors which may produce excessive reflections or glare that may create a potential safety problem are prohibited.

(4) The faces of the building visible from nearby streets must include architectural relief items of non-metal materials including wood, stone, or stucco.

9. Animal Specialties

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

b. Applicant must provide a plan for management of manure to prevent it from becoming a nuisance and must follow the plan.

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

d. Animal enclosures used for intensive animal feeding operations must be at least 30 feet from any adjacent parcel that, at the time the applicant first seeks the conditional use, is zoned residential pursuant to Chapter 10 of this title.

10. Agritourism Activities

a. Hours of operation must be compatible with adjoining uses and comply with town noise regulations.

b. On-site parking must be provided.

c. 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.

d. In agricultural zones, this use must be accessory to an established agricultural use.

11. Kennel, Commercial; Kennel, Residential

a. Adequate fencing must be provided to ensure animals are confined safely.

b. Applicant must provide a plan for management of manure to prevent it from becoming a nuisance and must follow the plan.

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

d. Number of animals may be limited at the planning commission's discretion based on the size of the lot and the facilities available to contain and protect the animals.

SECTION 3: AMENDMENT “10.20.080 Time Limitations” of the Apple Valley Land Use is hereby *amended* as follows:

BEFORE AMENDMENT

10.20.080 Time Limitations

A conditional use permit shall be good for one year after approval. If at the end of one year, construction has not been started, the conditional use permit shall become null and void unless a request is made for extension by the applicant. In granting any request for extension, the planning commission shall find that substantial work shall have been accomplished toward its completion or that through no fault of the applicant, it has been impossible to diligently pursue the completion of the application. Extensions may be granted for periods of time not to exceed one year at each extension. Once completed, the permit shall require no further renewal unless stipulated by the planning commission.

AFTER AMENDMENT

10.20.080 Time ~~Limitations~~ Limitation and Abandonment

A conditional use permit shall be good for one year after approval. If at the end of one year, construction has not been started, the conditional use permit shall become null and void unless a request is made for extension by the applicant. In granting any request for extension, the planning commission shall find that substantial work shall have been accomplished toward its completion or that through no fault of the applicant, it has been impossible to diligently pursue the completion of the application. Extensions may be granted for periods of time not to exceed one year at each extension. Once completed, the permit shall require no further renewal unless stipulated by the planning commission.

If the approved use or activity ceases for any reason for a continuous period of one year, the conditional use permit shall automatically terminate, as having been abandoned. A new conditional use permit must be granted prior to continuance of the conditional use.

SECTION 4: **ADOPTION** “10.20.095 Amendment Or Modification Of Conditional Use” of the Apple Valley Land Use is hereby *added* as follows:

BEFORE ADOPTION

10.20.095 Amendment Or Modification Of Conditional Use (Non-existent)

AFTER ADOPTION

10.20.095 Amendment Or Modification Of Conditional Use(*Added*)

Once granted, a conditional use shall not be enlarged, changed, extended, increased in density or relocated unless a new conditional use application is made and approved by the planning commission, except as provided below:

A. Modification to an approved conditional use permit may only be granted when it can be determined that such changes or modifications are necessary to accommodate special circumstances related to the location or implementation of the approved conditional use, and where such modifications are found to be so insignificant and minor so as not to measurably change the approved conditional use permit or the intent of conditions that may have been imposed. The request for the modification or amendment shall be made in writing and documented on the site plan of the project.

B. Planning staff may review and approve the modification or amendments that are insignificant and minor. But if the modification or amendment significantly changes the conditional use, a new conditional use application shall be filed and approved by the planning commission.

SECTION 5: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 6: **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 7: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from November 16, 2022.

PASSED AND ADOPTED BY THE APPLE VALLEY COUNCIL

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	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