

**APPLE VALLEY
ORDINANCE O-2023-15**

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

SECTION 1: REPEAL AND REPLACE “10.28.270 Guesthouses Or Casitas” of the Apple Valley Land Use is hereby *repealed and replaced* as follows:

BEFORE REPEAL AND REPLACE

10.28.270 Guesthouses Or Casitas

The purpose and intent of requirements for allowing detached guesthouses or casitas is to provide additional housing opportunity for family members and visiting guests of the owners of the primary dwelling.

- A. Authorized: Guesthouses or casitas may be authorized, provided all requirements of this title, all other land use ordinances and the building code are met.
- B. Maximum Number: A maximum of one guesthouse or casita may be established on each individual, separate legal lot, such lot meeting all requirements, including minimum lot size, for the zoning district in which the lot is located.
- C. Permanent Structure: A guesthouse or casita shall be a permanent structure on the lot. No mobile homes, travel trailers, boats or similar recreational vehicles shall be used as a guesthouse or casita.
- D. Single-Family Dwelling; Lot: The lot proposed for a guesthouse or casita shall have an existing single-family dwelling unit established, or approved, prior to the consideration of the use application to allow a guesthouse or casita.
- E. Square Footage: The square footage of a guesthouse or casita shall not exceed thirty percent (30%) of the footprint of the primary dwelling, excluding the garage, or eight hundred (800) square feet, whichever is smaller. The minimum size of a guesthouse or casita shall be three hundred (300) square feet.
- F. Setbacks: All guesthouses or casitas shall meet and comply with the minimum setbacks required for the primary dwelling by the zoning district in which they are located, except the rear setback may be reduced to match the side setbacks.
- G. Parking: All guesthouses or casitas shall provide a minimum of one off street parking space.
- H. Construction: The construction of all guesthouses or casitas shall meet all requirements of the adopted building code.
- I. Style, Materials, Colors: The architectural style, building materials and colors of all guesthouses or casitas shall be found to be compatible and consistent with the architectural style, materials and color of the primary dwelling unit.
- J. Height and Size Restrictions: All guesthouses or casitas shall be limited to one story,

with a maximum height of fifteen feet (15') for a pitched roof and thirteen feet (13') for a flat roof, but in no event exceeding the height of the existing dwelling. The city council may approve a special exception to the height and size restrictions for guesthouses and casitas.

- K. Occupancy Without Compensation: Guesthouses or casitas shall only be provided for the occupancy of family members of the owner of the primary dwelling, or guests of the owner, without compensation.
- L. Owner May Occupy: The owner, renter or lessee of the primary dwelling may live in the guesthouse or casita, but the primary dwelling shall only be occupied by the family members or guests of the owner, renter or lessee of the primary dwelling, without compensation.
- M. Deed Restriction: As a condition of approval required to establish a guesthouse or casita, the property owner shall record against the deed of the subject property, a deed restriction, in a form approved by the city, running in favor of the city, which shall prohibit the rental, lease or sale of the guesthouse or casita separately from the rental, lease or sale of the primary dwelling unit. Proof that such deed restriction has been recorded shall be provided to the zoning administrator prior to the issuance of the certificate of occupancy for the guesthouse or casita.
- N. Permits Required:
 - 1. The use application approval for a guesthouse or casita shall be received before a building permit is issued.
 - 2. The commission is authorized to approve an application for a guesthouse or casita that is not part of the original construction of the single-family dwelling unit to which it is associated, provided all requirements of this section, and all other applicable requirements of all land use ordinances, and all other regulations are met.
- O. Legalizing Existing Guesthouses and Casitas: Owners of guesthouses or casitas existing on the effective date hereof, and that have not been approved as required herein, shall apply for an approval within one hundred eighty (180) days of the effective date hereof. Illegal guesthouses or casitas existing after that date will subject the owners to all applicable enforcement actions that may be available to the city.

AFTER REPEAL AND REPLACE

10.28.270 ~~Guesthouses Or Casitas~~ Accessory Dwelling Unit (ADU)

~~The purpose and intent of requirements for allowing detached guesthouses or casitas is to provide additional housing opportunity for family members and visiting guests of the owners of the primary dwelling.~~

- ~~A. Authorized: Guesthouses or casitas may be authorized, provided all requirements of this title, all other land use ordinances and the building code are met.~~
- ~~B. Maximum Number: A maximum of one guesthouse or casita may be established on each individual, separate legal lot, such lot meeting all requirements, including minimum lot size, for the zoning district in which the lot is located.~~
- ~~C. Permanent Structure: A guesthouse or casita shall be a permanent structure on the lot.~~

~~No mobile homes, travel trailers, boats or similar recreational vehicles shall be used as a guesthouse or easita.~~

- ~~D. Single-Family Dwelling; Lot: The lot proposed for a guesthouse or easita shall have an existing single-family dwelling unit established, or approved, prior to the consideration of the use application to allow a guesthouse or easita.~~
- ~~E. Square Footage: The square footage of a guesthouse or easita shall not exceed thirty percent (30%) of the footprint of the primary dwelling, excluding the garage, or eight hundred (800) square feet, whichever is smaller. The minimum size of a guesthouse or easita shall be three hundred (300) square feet.~~
- ~~F. Setbacks: All guesthouses or easitas shall meet and comply with the minimum setbacks required for the primary dwelling by the zoning district in which they are located, except the rear setback may be reduced to match the side setbacks.~~
- ~~G. Parking: All guesthouses or easitas shall provide a minimum of one off street parking space.~~
- ~~H. Construction: The construction of all guesthouses or easitas shall meet all requirements of the adopted building code.~~
- ~~I. Style, Materials, Colors: The architectural style, building materials and colors of all guesthouses or easitas shall be found to be compatible and consistent with the architectural style, materials and color of the primary dwelling unit.~~
- ~~J. Height and Size Restrictions: All guesthouses or easitas shall be limited to one story, with a maximum height of fifteen feet (15') for a pitched roof and thirteen feet (13') for a flat roof, but in no event exceeding the height of the existing dwelling. The city council may approve a special exception to the height and size restrictions for guesthouses and easitas.~~
- ~~K. Occupancy Without Compensation: Guesthouses or easitas shall only be provided for the occupancy of family members of the owner of the primary dwelling, or guests of the owner, without compensation.~~
- ~~L. Owner May Occupy: The owner, renter or lessee of the primary dwelling may live in the guesthouse or easita, but the primary dwelling shall only be occupied by the family members or guests of the owner, renter or lessee of the primary dwelling, without compensation.~~
- ~~M. Deed Restriction: As a condition of approval required to establish a guesthouse or easita, the property owner shall record against the deed of the subject property, a deed restriction, in a form approved by the city, running in favor of the city, which shall prohibit the rental, lease or sale of the guesthouse or easita separately from the rental, lease or sale of the primary dwelling unit. Proof that such deed restriction has been recorded shall be provided to the zoning administrator prior to the issuance of the certificate of occupancy for the guesthouse or easita.~~
- ~~N. Permits Required:
 - ~~1. The use application approval for a guesthouse or easita shall be received before a building permit is issued.~~
 - ~~2. The commission is authorized to approve an application for a guesthouse or easita that is not part of the original construction of the single-family dwelling unit to which it is associated, provided all requirements of this section, and all other applicable requirements of all land use ordinances, and all other~~~~

regulations are met.

~~Θ. Legalizing Existing Guesthouses and Casitas: Owners of guesthouses or casitas existing on the effective date hereof, and that have not been approved as required herein, shall apply for an approval within one hundred eighty (180) days of the effective date hereof. Illegal guesthouses or casitas existing after that date will subject the owners to all applicable enforcement actions that may be available to the city.~~

A. Purpose and Intent: The purpose of this chapter is to provide regulations for accessory dwelling units (ADU) that are incidental and accessory to a single-family dwelling, where permitted in the zone. ADU's are intended to assist in providing housing types that meet the needs of populations of various income levels, ages, and stages of life. In accordance with the goals of the general plan, and state law, providing tools and methods for the creation of moderate-income housing is necessary. ADU's created in accordance with this section will assist in providing for this need.

B. General Provisions:

1. Number of ADU's Per Parcel. An ADU shall only be permitted on a parcel with a single-family dwelling. Only one ADU is permitted on a lot that is zoned less than five (5), ten (10), acres. On a lot or parcel that is zoned five (5), ten (10), acres or more, one additional accessory dwelling unit may be approved for each additional five (5) acres above the base five (5) acres, in the sole discretion of the town. No more than four (4), two (2), other accessory dwellings shall be allowed on a lot or parcel, except when zoned and approved in a planned development that complies with all applicable town ordinances. Only one ADU on the property may be rented.
2. Amenities. An ADU shall contain sufficient amenities to be defined as a dwelling. An ADU shall not have more than one kitchen.
3. Parking. Two parking spaces shall be provided on site for each ADU, and it shall be on a hard-surface area. Only one parking space is required for an internal ADU, and it shall be on a hard-surface area.
4. Occupancy. Either the ADU or the single-family dwelling shall be owner-occupied and be the primary residence of the owner-occupant with the primary residential exemption as determined by the Washington County Assessor's office, to utilize the other dwelling as a long-term rental dwelling. The non-owner-occupied unit is limited to no more than one family. For the purposes of this subsection "owner-occupied dwelling unit" means a unit that is occupied by the owner for a minimum of one hundred eighty-three (183) consecutive calendar days during the calendar year, except temporary leave for religious, military, or other legitimate purposes qualified as owner occupancy if not exceeding two years. While away, the owner shall not offer the owner-occupied dwelling unit for rent separately from the ADU.
5. Short Term Rentals Not Permitted. Neither the single-family dwelling unit, nor the accessory dwelling unit, shall be used or licensed as a short-term rental unless specifically permitted in accordance with Title 10, Chapter 14.
6. Relevant Authority Approvals. The ADU shall comply with regulations,

ordinances and building codes for a single-family dwelling. Approval is required from all utility and service providers and the Building Official.

C. Standards And Requirements:

1. Standards Same as Single Family Dwelling. If new construction for an ADU is proposed or will occur, the standards for single family dwellings shall apply. An ADU shall comply with the same permit standards, lot development standards, and setbacks as required in the respective zone. No travel trailer, boat, recreational vehicle, or similar item shall be used as an ADU.
2. Size and Height. The size and height regulations for an ADU are as follows:
 - a. Eight hundred (800) sq. ft. maximum, _____ sq. ft maximum: For all lots, the ADU shall not exceed eight hundred (800) sq. ft. or be less than four hundred (400) sq. ft. The height shall not exceed twenty-five (25) ft.
 - b. For an internal ADU, the ADU shall not exceed the size permitted in state law (10-9a-530), or the height in section 10.28.270.C.2.a, b and c.
 - c. For an internal ADU located entirely within the basement of a single-family dwelling, it may include the entire basement area regardless of square footage.
3. Relationship to the Single-Family Dwelling; Appearance. The exterior design of an accessory dwelling unit, or the building that contains an ADU, shall compliment the single-family dwelling in a manner that preserves the appearance of the lot's single family use.
 - a. The exterior of the accessory dwelling unit shall either:
 - (1) Conform to the single-family dwelling in architectural style and materials on all sides of the building and roof; or
 - (2) Be designed by a licensed architect in a manner that gives the appearance of a barn or other similarly styled agricultural outbuilding; or
 - (3) Be designed by a licensed architect in a manner that provides the architectural features of historic buildings from the general area.
 - b. An ADU located in a building that is only connected to the single-family dwelling by means of a continuous roofline, such as a breezeway, shall not be determined to be an internal ADU if the distance between them is fifteen (15) feet or greater.
4. Access. The main access into an internal ADU shall be on the side or rear of the primary dwelling, as viewed from the front lot line. Each ADU shall have direct access to the exterior of the building in a manner that does not require passage through any other part of a building.
5. Undivided Ownership. Ownership of an ADU shall not be transferred separately from the single-family dwelling to which it is an accessory, unless the transfer is part of a lawfully platted subdivision that complies with all applicable town ordinances. The primary residence and the ADU(s) shall have the same physical and mailing address.
6. Site Layout Approval. The accessory dwelling unit shall be constructed at a

location on the lot or parcel approved by the town and service providers to take into account drainage, topography, setbacks, parking, utilities, easements and all other applicable standards.

7. Utilities. All utilities shall be sized and constructed to accommodate the primary dwelling and the ADU, as well as any other structures or uses on the lot or parcel.
8. Building Department Compliance. No ADU shall be constructed, converted or remodeled without a building permit issued at the time of the act. No permit shall be issued if there is an outstanding code violation on the parcel. If no building permit was issued at the time of construction, conversion or remodeling, the applicant shall apply for a building permit and pay all applicable fees to the town and applicable utility service providers. It is the applicant's responsibility to provide a certification of compliance from a qualified and licensed engineer to the Building Official that the ADU complies with all regulations, ordinances and building codes, and the town shall make a determination of adequacy of the certification of compliance, in its sole discretion.

D. Application Procedure: Approval of an accessory dwelling unit requires a building permit. The application and review procedure for a building permit is as follows:

1. Application Submittal Requirements.
 - a. A completed building permit application signed by the owner or assigned agent.
 - b. An application fee. The payment of a partial application fee, or the submittal of plans for a pre-submittal review, does not constitute a complete application.
 - c. A site plan drawn accurately to scale that shows property lines and dimensions, setbacks, the location of existing buildings and building entrances, any proposed building and its dimensions from buildings and property lines, and the location of parking stalls.
 - d. Detailed floor plans, including elevations, draw to scale with labels on rooms indicating proposed uses.
 - e. Detailed utility plans, drawn to scale showing the location of private and public utility infrastructure on the lot or parcel, and the connections to any public utilities.
2. Review Procedure.
 - a. Upon submittal of a complete ADU application, Planning staff will review the application to verify compliance with this chapter and any other relevant component of town ordinances.
 - b. If the building permit application complies with relevant land use laws, and receives all required department and agency approvals, a building permit shall be issued. The ADU shall maintain compliance with the approved permit.
 - c. If the application does not comply, Planning staff shall notify the applicant in writing, using the notification method typical for similar

- correspondence. The applicant shall be given the opportunity to revise the application to bring it into compliance. If the application cannot be brought into compliance, the application shall be denied. A denial by the Planning staff is an administrative decision. Alternatively, the applicant may withdraw the application, forfeiting the fee.
- d. If the ADU is rented, a business license is required. License renewal requires owner's proof of continued compliance with the requirements in this section.
3. Use as a long-term rental dwelling. The primary dwelling or the ADU may be long term rented on the parcel or lot if the owner provides proof that the property has the primary residential exemption as determined by the Washington County Assessor's office, and that the primary residence or the ADU is owner-occupied. A deed restriction, recorded against the property on a form acceptable to the town, acknowledging that the lot or parcel will remain owner-occupied, is required for one ADU on the property to be long term rented.
- E. Enforcement: Violations of this chapter are subject to enforcement and penalties as outlined in AVLU 10.02.190. Noncompliance with the standards of this section shall be just cause for the denial of a business license application or renewal, or revocation of an existing business license, if the original conditions are not maintained that allowed the ADU.

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 March 15, 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