



# Referendum Information Pamphlet

For the proposed Referendum of Apple Valley Land Use  
Ordinance O-2023-15

**TO BE CIRCULATED WITH REFERENDUM  
PETITION SIGNATURE SHEETS**

Compiled by  
Jenna Vizcardo, Apple Valley Town Recorder

**Town of Apple Valley**

1777 N Meadowlark Dr.  
Apple Valley, UT 84737  
435-877-1190

# APPLICATION FOR A REFERENDUM

To Repeal Ordinance O-2023-15

Filed 04/26/2023 With the Town of Apple Valley, Utah

Attachments Include:

- A. Signed and Notarized Referendum Applications
- B. Copy of Ordinance O-2023-15 as Published on the Town of Apple Valley Website.

Statements as Required by the Referendum Application form are as follows:

No Signature Gatherers Will be Paid for Their Services

Note: This Application pertains to a Local Referendum and is to be Initially Filed at the Local Town Office of the Town of Apple Valley, Utah.

RECEIVED APR 26 2023

JW (Jenna Vizcardo)  
Town Clerk

# Application for an Initiative or Referendum

Utah Code § 20A-7-202



**PLEASE NOTE:** A copy of the law must be attached to this application along with a statement indicating whether or not signature gatherers will be paid for their services.

Please type or print

Application must be completed by five sponsors

## Sponsor Statement

I, WALTER EARL JOSEY affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.

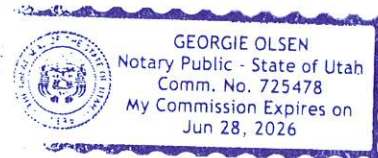
1224 N. Rome Way Residence Address Walter Josey Sponsor's Signature

Apple Valley, UT 84737 City, State, Zip 435-877-1599 Phone Number Notary Seal

josey.walter@hotmail.com Email

Subscribed and affirmed before me this 24th day of April 2023

by Georgie Olsen Notary Public



## Sponsor Statement

I, Russell Tomky affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.

1504 N Rome Way Residence Address Russell Tomky Sponsor's Signature

Apple Valley, UT 84737 City, State, Zip 719-660-0641 Phone Number Notary Seal

rjtomky@hotmail.com Email

Subscribed and affirmed before me this 24th day of April 2023

by Georgie Olsen Notary Public



### To File This Form

Mail or deliver to:  
Lieutenant Governor's Office  
Utah State Capitol  
Suite 220  
Salt Lake City, UT 84114-2325  
Fax (801) 538-1133

### For More Information Call or Visit:

(801) 538-1041  
1-800-995-VOTE (8683)  
elections.utah.gov

# Application for an Initiative or Referendum

Utah Code § 20A-7-202

Name of Organization

## Sponsor Statement

I, Richard Ososki  
Name of Sponsor (please type or print)

affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.

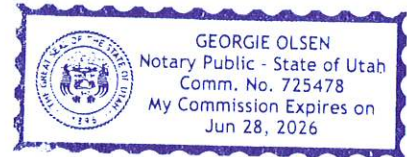
1024 W. Little Pinion Way  
Residence Address

Richard Ososki  
Sponsor's Signature

Apple Valley UT, 84737 (702) 292-4440  
City, State, Zip Phone Number

Notary Seal

free00357@gmail.com  
Email



Subscribed and affirmed before me this 24 day of April 2023

by Georgie Olsen  
Notary Public

## Sponsor Statement

I, MARGARET OSOSKI  
Name of Sponsor (please type or print)

affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.

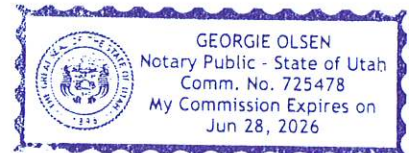
1024 W. LITTLE PINION WAY  
Residence Address

Margaret Ososki  
Sponsor's Signature

APPLE VALLEY UT 84737 (702) 292-6060  
City, State, Zip Phone Number

Notary Seal

R44NM53@GMAIL.COM  
Email



Subscribed and affirmed before me this 24<sup>th</sup> day of April 2023

by Georgie Olsen  
Notary Public

# Application for an Initiative or Referendum

Utah Code § 20A-7-202

Name of Organization

## Sponsor Statement

I, KATHY STOKER affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.  
Name of Sponsor (please type or print)

1536 W MOUNT ZION DR  
Residence Address

Kathy Stoker  
Sponsor's Signature

APPE VALLEY UTAH 84737  
City, State, Zip

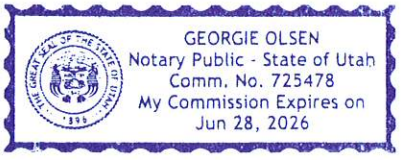
801-589-4626  
Phone Number

Notary Seal

kstoker@gmail.com  
Email

Subscribed and affirmed before me this 24th day of April 2023

by [Signature]  
Notary Public



# Application for an Initiative or Referendum

Utah Code § 20A-7-202

Name of Organization

## Sponsor Statement

I, Joan F. Moses affirm that I am a resident of Utah and I have voted in a regular  
Name of Sponsor (please type or print) general election in Utah within the last three years.

2888 N. Foothill Dr. Joan F. Moses  
Residence Address Sponsor's Signature

Apple Valley UT 84137 801-615-1584 Notary Seal  
City, State, Zip Phone Number

joanie.moses@gmail.com  
Email

Subscribed and affirmed before me this 24<sup>th</sup> day of April 2023.

by [Signature]  
Notary Public



# Application for an Initiative or Referendum

Utah Code § 20A-7-202

Name of Organization

## Sponsor Statement

I, Tim Farr affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.  
Name of Sponsor (please type or print)

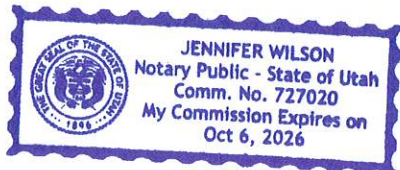
981 W. Smithsonian Way Tim Farr  
Residence Address Sponsor's Signature

Apple Valley, UT 84737 435-619-4257 Notary Seal  
City, State, Zip Phone Number

dustyhills@hotmail.com  
Email

Subscribed and affirmed before me this 25<sup>th</sup> day of April 2023.

by [Signature]  
Notary Public



# Application for an Initiative or Referendum

Utah Code § 20A-7-202

Name of Organization

## Sponsor Statement

I, Sid Johansen affirm that I am a resident of Utah and I have voted in a regular  
Name of Sponsor (please type or print) general election in Utah within the last three years.

2848 N Foothill DR Sid Johansen  
Residence Address Sponsor's Signature

Apple Valley, UT 84737 435-467-4605 Notary Seal  
City, State, Zip Phone Number

johansenhvaca@yahoo.com  
Email

Subscribed and affirmed before me this 25<sup>th</sup> day of April 2023.

by [Signature]  
Notary Public



**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:**        **AMENDMENT** “10.10.050 RE Rural Estates Zone” of the Apple Valley Land Use is hereby *amended* as follows:

A M E N D M E N T

10.10.050 RE Rural Estates Zone

- A. Purpose: The purpose of this zone is to provide permanent area for small farms, hobby farms and limited agricultural development for personal use.
- B. Permitted uses: Uses permitted in this zone, following the issuance of a building permit for a permanent dwelling, are as follows:
  - 1. Single-family dwellings not less than 1,000 sq. ft. on the main floor;
  - 2. Accessory buildings and uses;
  - 3. Home occupations;
  - 4. Raising of crops, gardens, and horticulture;
  - 5. Residential facility for persons with a disability (see AVLU 10.28 for supplementary information); permanent residence not required.
  - 6. Residential facility for the elderly (see AVLU 10.28 for supplementary information); permanent residence not required.
  - 7. Churches; permanent residence not required.
  - 8. Public park or playgrounds;
  - 9. The keeping of animals and fowl for family food production, but not for commercial use.
  - 10. Animal Allowances/Restrictions:
    - a. The number of domesticated animals which may be maintained on the property shall be determined on the basis of a point system. No lot shall exceed one hundred (100) points per acre. All Lots will be apportioned 25 points in 0.25 acre increments up to 250 points or 2.5 acres. (e.g., a 1.20 acre lot is allocated 100 points. A 1.25 acre lot is allocated 125 points). After 5 acres, 25 points per 0.25 acre increments up to 500 points or 7.5 acres. After 10 acres, 25 points per 0.25 acre increments up to 750 points or 12.5 acres. After 15 acres, 25 points per 0.25 acre increments up to 1000 points or 20 acres. (eg. a 12 acre lot is allocated 250 points for the first 5 acres, 250 points for the 2nd 5 acres, plus 200 points for the next 2 acres for a total of 700 points).
    - b. Type of animal or fowl (number of points per animal), further restrictions:

- (1) Cow, horse, donkey, mule, or similar large animal, and potbelly pig 25 points each, but not to exceed the maximum of ten (10) large animals per five (5) acres;
- (2) Miniature horses, sheep, goats, or similar medium-size animals, less than 36 inches in height as measured from the withers, (8 points each), but not to exceed the maximum of twenty (20) medium animals per five (5) acres;
- c. Chickens, ducks, pigeons, doves, rabbits, turkeys, geese, pheasants, and similar small and medium-size fowl are not to exceed twenty three (23) per One (1) acre;
- d. No rooster is permitted on any lot which is less than one (1) acre. Lots 1 acre or larger may have one (1) rooster per thirty (30) chickens.
- e. Only domestic and farm animals including household dogs and pets shall be kept on any lot with in the Rural Estates Zone.
- f. Other than domesticated potbelly pigs allowed under AVLU 10.10.050.B.11.b(1), the keeping of any pigs is not allowed in the Rural Estates Zone.
- g. The following shall be excluded from consideration for the purpose of determining compliance with this section:
  - (1) The unweaned, offspring of a residing animal or fowl, under six (6) months of age.
  - (2) Residents 18 years or younger participating in a 4-H, FFA or similar youth program raising an animal with the intent to sell the animal at auction within twelve (12) months.
- h. Animals shall be contained in proper pens, coups, corals, pasture, paddock, ~~arena~~ arena, or similar exercise area on owners property Animal enclosures shall be cleaned regularly, be kept in good repair, give the animals ample room, and offer the animals shelter and shade.
- i. Noise, safety, pests or smell nuisances that result from improper care of animals or property are strictly prohibited. Property owners must implement a fly mitigation program with deployment of fly traps, fly spray chemicals or fly predators and maintain these devices and methods during the fly season for vector control.
- j. Violation of AVLU 10.10.050.B.11 is an infraction punishable by fine up to \$750 if violation is not corrected within thirty (30) days of initial notice of violation.

~~H. Metal building.~~

- C. Conditional Uses: Uses requiring a conditional use permit in this zone are as follows:
  - 1. Assisted living facility (RE-5, RE-10, RE-20, RE-X only)
  - 2. Accessory use and buildings before a building permit is issued.
  - 3. Raising of crops, gardens, and horticulture before a building permit is issued.
  - 4. The keeping of animals and fowl for family food production, but not for commercial use before a building permit is issued.
- D. Any use not specifically allowed under permitted uses shall be prohibited unless the planning commission determines the use is substantially the same as a permitted or conditional use as provided in subsection 10-7-180-E4 of this title.

E. Height Regulations: No building shall be erected to a height greater than thirty-five (35) feet. No accessory building shall be erected to a height greater than twenty-five (25) feet.

F. Minimum Area, Width, and Yard Regulations

District	Area	Lot Width in Feet	Yard Setbacks in Feet for Primary Residence			Maximum Size of	Maximum Building Coverage
			Front	Side	Rear	Accessory Building	On lot (see 10.28.240 D)
RE-1.0	1.0 acre	100	25	10	10		50%
RE-2.5	2.5 acres	150	25	25	25		50%
RE-5.0	5.0 acres	200	25	25	25		50%
RE-10.0	10.0 acres	300	25	25	25		50%
Re-20.0	20.0 acres	400	25	25	25		50%
RE-X	**Any Size	400	25	25	25		50%

\*\* No more than one (1) Primary home on a property.

G. Modifying Regulations:

- a. Side Yards: The side yard setback on a "street side" yard shall be the same as a front yard setback. Accessory buildings located at least ten (10) feet away from the main building must have a side or rear property setback of at least ten (10) feet on interior lot lines.
- b. Distance Between Buildings: No two (2) buildings on the same property shall be located closer together than ten (10) feet. No building, structure, or pen/corral/coop/ housing animals or fowl shall be constructed closer than fifty (50) feet to a dwelling unit on an adjacent lot, or thirty (30) feet from property line, whichever is further. Animal enclosures shall be behind the main dwelling and shall be no closer than thirty (30) feet to main dwelling.
- c. Prohibited Materials and Storage: No trash, rubbish, weeds, or other combustible material shall be allowed to remain on any lot outside of approved containers in any residential zone. No junk, debris, or junk cars shall be stored or allowed to remain on any lot in any residential zone.
- d. All lighting shall comply with AVLU 10.26 Outdoor Lighting Ordinance.
- e. Permitted and conditional uses set forth in this section shall be deemed to include accessory uses and activities that are necessarily and customarily associated with and incidental and subordinate to such uses.
  - (1) Accessory uses shall be subject to the same regulations that apply to permitted and conditional uses in the same zone except as otherwise expressly provided in this title.
  - (2) No accessory use, building, or structure shall be allowed on a lot

unless a permitted or conditional use has been established.

- f. Greater size and height: Notwithstanding the height and size limitations shown in this section, a greater building and accessory height and size may be allowed pursuant to a conditional use permit.
  
- g. For additional restrictions and clarifications in this zone, see AVLU 10.28 Supplementary and Qualifying Regulations for Land Use and Building.
- h. All street, drainage, utility and other public improvements shall be installed as required by the applicable town ordinances, standards and regulations. However, upon recommendation by the Planning Commission and approval of the Town Council based upon good cause shown, the requirements for the installation of dry sewer, curb, gutter and asphalt may be waived or delayed, as the Town Council, in its discretion, may determine.
- i. On large lots 2.5 Acre and larger the minimum lot size may be smaller than required, by the amount needed for road dedications.

**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 April 19, 2023.

PASSED AND ADOPTED BY THE APPLE VALLEY COUNCIL APRIL 19, 2023.

	AYE	NAY	ABSENT	ABSTAIN
Mayor   Frank Lindhardt	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Council Member   Andy McGinnis	<u>      </u>	<u>      </u>	<u>  X  </u>	<u>      </u>
Council Member   Barratt Nielson	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Council Member   Kevin Sair	<u>      </u>	<u>  X  </u>	<u>      </u>	<u>      </u>
Council Member   Robin Whitmore	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>

Attest

Presiding Officer



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Jenna Vizcardo, Town Clerk, Apple Valley



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Frank Lindhardt, Mayor, Apple Valley



M Jenna  
Vizcardo  
Town Clerk

## Argument for the Referendum to repeal Ordinance O-2023-15

Ordinance O-2023-15 adds a conditional use provision for the construction and use of an accessory building without the need for a building permit of a primary home in Rural Estates Zoning.

Ordinance O-2023-15 adds two columns to the Minimum Area, Width, and Yard Regulations chart in Rural Estates Zoning. One column is titled Maximum Size of Accessory Building with all column boxes below left blank. The second column is titled Maximum Building Coverage with all column boxes below saying 50%, which is the definition pertaining to the area of a lot size that an accessory building plus primary home square footage can add up to.

Ordinance O-2023-15 should be repealed because the potential can exist to build a Commercial/Industrial size accessory building or multiple large buildings or shipping containers, without the requirement of building a primary home first and no time limit restrictions on when a primary home will be built. Within the 1/2 acre and 1 acre Rural Estates Zoning, this would be detrimental to real estate property values.

Ordinance O-2023-15 should be repealed because the potential accessory building size that could be allowed can be extreme, plus the excessive number of smaller accessory buildings, or shipping containers. This could have a detrimental effect on real estate property values, especially in the cases of lot sizes of 1/2 acre, and 1 acre in established neighborhoods within the Rural Estates Zoning

In addition, the allowable accessory building size(s) limits are what is usually seen in Industrial Zoning, and large numbers of shipping containers are what are normally seen in Shipping Port Zoning, not a residential neighborhood in Rural Estates Zoning and are not appropriate, and could have an adverse effect on the existing way of life that families currently enjoy who live in homes on 1/2 acre and 1 acre lots.

Furthermore, with other ordinance changes that now consider shipping containers as accessory buildings, between 27 to 122 shipping containers could be allowed. They could possibly be stacked. No primary home is required to be built.

See the below examples that illustrate what the maximum allowable accessory buildings size could be for 1/2 acre and 1 acre lots.

Example 1:

- Total square feet within a 1/2 acre lot is 21,780 sq-ft
- One allowed accessory building size could then be as large as 8,890 sq-ft, Or
- Multiple accessory buildings or 27-54 shipping containers, where the total sizes do not exceed 8,890 sq-ft
- 50% of 1/2 acre lot is 10,890 sq-ft
- Subtract Home/Garage of 2000 sq-ft
- Results in 8.890 sq-ft. of accessory building(s).

Example 2:

- Total square feet within a 1 acre lot is 43,560 sq-ft
- One allowed accessory building size could then be as large as 19,780 sq-ft, Or
- Multiple accessory buildings or 61-122 shipping containers, where the total sizes do not exceed 19,780 sq-ft
- 50% of 1 acre lot is 21,708 sq-ft
- Subtract Home/Garage of 2000 sq-ft
- Results in 19,708 sq-ft of accessory building(s).



## **Argument Against Repeal of Ordinances O-2023-15, O-2023-19, O-2023-20, and O-2023-21**

Ordinances O-2023-15, O-2023-19, O-2023-20, and O-2023-21 allow property owners to obtain conditional use permits to build accessory buildings, own animals, raise crops, and perform other conditional uses prior to obtaining a building permit. They also simplify restrictions on the number of buildings permitted on each lot, reduce restrictions on the materials used to build and the architectural styles required for accessory buildings, and allow property owners to apply for conditional use permits to increase building heights above what zoning allows. Along with other minor changes, the amendments also clean up the language of existing land use ordinances and correct typos.

These ordinances seek to balance the need for regulation with the rights of property owners and allow property owners more freedom to use their property as they see fit, without government micromanagement. This goal lends itself well to the overall well being of the Apple Valley community. The repeal of these ordinances would leave property owners without remedy when applying for a permit for a reasonable project that may violate zoning on a technicality. The ordinances seek to allow the Town the most possible flexibility when determining how property owners can use their property. The repeal of these ordinances would not change the homes, accessory units, and other buildings already present in the community. Instead, they could restrict citizens from enjoying the future right to use their property for reasonable causes as they see fit.

Economically, repealing the ordinances could stifle progress and create uncertainty for current and prospective property owners, thus stunting economic growth. If developers desire a particular scheme in a particular area, they may enforce restrictions and limit property rights through private protective covenants (CC&Rs). But the desire to conform to a particular scheme in one area should not dictate development in the rest of the community.

One additional benefit of the ordinances as written is that they clean up typos in previous versions of the ordinances and simplify regulations. Although typos are a minor thing, more clarity is always better for zoning ordinances. Additionally, the simplifications make the law easier to understand and implement.

Residents should vote “No” on this Referendum to protect the rights of property owners.

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**RE: Fiscal and Legal Impacts of Referendum Petitions to Repeal Ordinances O-2023-15, O-2023-19, O-2023-20, and O-2023-21**

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Under Utah Code § 20A-7-602.5, the Town’s “budget officer, together with legal counsel, shall prepare an unbiased, good faith estimate of the fiscal and legal impact of repealing the law” that the referendum proposes to repeal. Utah Code § 20A-7-602.5.

**Explanation of Proposed Impacts**

Section 20A-7-602.5(2)(a)(vii) requires 100-word or less explanation of the estimated fiscal and legal impact of repeal. That explanation is as follows:

- There is no fiscal impact to the proposed repeal of these ordinances. The repeal may adversely impact the property rights property owners who may have acted in reliance on these amendments. But such impact would require these persons to have obtained permits or otherwise expended sums in reliance on these amendments.

**Fiscal Impact Analysis**

Repealing Ordinances O-2023-15, O-2023-19, O-2023-20, and O-2023-21 will not:

- materially increase or decrease taxes; or
- result in the issuance of, or a change in the status of, bonds, notes, or other debt instruments.

**Legal Impact Analysis**

Under Utah Code § 20A-7-602.5(2)(a)(vi), when a referendum is submitted to the Town, the Town’s legal counsel must prepare an unbiased, good faith estimate of the legal impact of repealing the laws the referendum proposes to repeal. The law requires the legal opinion to address the following:

- any significant effects on a person's vested property rights;
- any significant effects on other laws or ordinances;
- any significant legal liability the Town may incur; and
- any other significant legal impact as determined by the budget officer and the legal counsel.

The following is a summary of each.

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**Effect on vested property rights**

Property owners generally hold their property subject to applicable zoning ordinances and have no vested right in existing or anticipated zoning. Repealing Ordinance Nos. O-2023-15, O-2023-19, O-2023-20, and O-2023-21 may, however, adversely impact the property rights of any person who has taken action, such as obtaining a building or other use permits and expended sums in reliance on these amendments.

**Effects on other laws and ordinances**

We are unaware of other laws and ordinances that would be effected by the repeal of one or more of the ordinances at issue.

**Legal liability that Town may incur**

Liability, if any, must be evaluated under the specific facts and circumstances of each situation. But generally, if the amended ordinances are repealed, the Town may be limited in taking adverse actions against persons who have obtained building or other permits and otherwise expended sums in reliance on these amendments.

**Other significant legal impacts.**

We are unaware of any other significant legal impacts related to the repeal of these ordinances.

