



Referendum Information Pamphlet

For the proposed Referendum of Apple Valley Land Use
Ordinance O-2023-19

**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-2023-19

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

Attachments Include:

- A. Signed and Notarized Referendum Applications
- B. Copy of Ordinance O-2023-19 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.

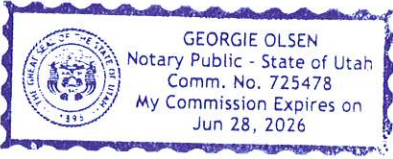
1224 N. Rome Way Residence Address Walter E Josey Sponsor's Signature

Apple Valley, UT 84737 City, State, Zip 435-817-1599 Phone Number Notary Seal

josey.walter@hotmail.com Email

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

by [Signature] 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.

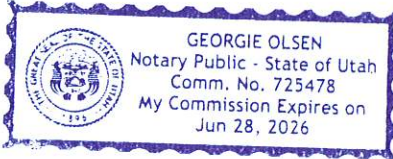
1504 N Rome Way Residence Address Russell Tomky Sponsor's Signature

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 [Signature] 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 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)

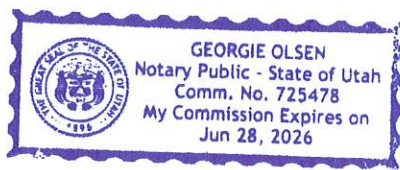
1024 W. Little Pionion way Richard Ososki
Residence Address Sponsor's Signature

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

88800352@g-mail.com
Email

Subscribed and affirmed before me this 24 day of April 2023

by Georgie Olsen
Notary Public



Sponsor Statement

I, MARGARET OSASAKI 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)

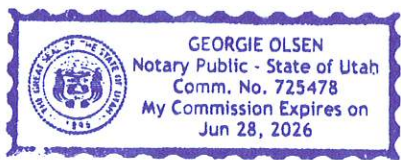
1024 W. LITTLE PIONION WAY _____
Residence Address Sponsor's Signature

APPLE VALLEY UT 84737 702-256-6060 Notary Seal
City, State, Zip Phone Number

R44NM53@GMAIL.COM
Email

Subscribed and affirmed before me this 24th 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
Name of Sponsor (please type or print) general election in Utah within the last three years.

1536 N. MOUNT ZION DR
Residence Address

Kathy Stoker
Sponsor's Signature

APPLE VALLEY, UTAH 84737
City, State, Zip

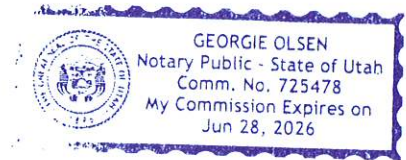
801-589-4626
Phone Number

Notary Seal

kstoker52@gmail.com
Email

Subscribed and affirmed before me this 24th 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, 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 84737 801-615-1584 Notary Seal
City, State, Zip Phone Number

joaniefmoses@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, 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
Residence Address

Tim Farr
Sponsor's Signature

Apple Valley, UT 84737
City, State, Zip

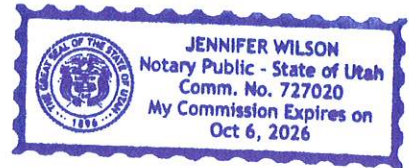
Phone Number

Notary Seal

dustyhills@hotmail.com
Email

Subscribed and affirmed before me this 25th day of April 2023

by [Signature]
Notary Public



Sponsor Statement

I, _____ 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)

Residence Address

Sponsor's Signature

City, State, Zip

Phone Number

Notary Seal

Email

Subscribed and affirmed before me this _____ day of _____ 20____.

by _____
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 general election in Utah within the last three years.
Name of Sponsor (please type or print)

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

johansenhvac@yahoo.com
Email

Subscribed and affirmed before me this 25th day of April 2023.

by [Signature]
Notary Public



**APPLE VALLEY
ORDINANCE O-2023-19**

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

SECTION 1: **AMENDMENT** “10.10.060 SF Single Family Residential Zone” of the Apple Valley Land Use is hereby *amended* as follows:

AMENDMENT

10.10.060 SF Single Family Residential Zone

Purpose: The purpose of this zone is to provide appropriate locations where low density residential neighborhoods may be established, maintained and protected. The regulations also ~~permit~~ permits the establishment, with proper controls, of public and semipublic uses such as churches, schools, libraries, parks and playgrounds which serve the requirements of families. The regulations are intended to prohibit uses that would be harmful to a single-family residential neighborhood.

- A. Permitted Uses: Uses permitted in this zone, following the issuance of a building permit for a permanent dwelling, are as follows:
1. Single Family dwelling with a minimum of 1000 sq ft. on the main level.
 2. Accessory use and buildings; permitted simultaneously or after obtaining a building permit and construction and occupancy of a residential dwelling.
 3. Home gardens and trees, keeping of household dogs, cats and chickens (up to six (6) per lot). No roosters allowed.
 4. Residential facility for persons with a disability (see AVLU 10.28 for supplementary information).
 5. Residential facility for the elderly (see AVLU 10.28 for supplementary information), no permanent residence required., no permanent residence required.
 6. Churches
 7. Group homes, no permanent residence required.
 8. Home occupation
 9. Parks and playground
 10. Metal building
- B. Conditional Uses: Uses requiring a conditional use permit in this zone are as follows:
1. Assisted living facility (SF-5, SF-10 only)
 2. Accessory use and buildings before a building permit is issued.
- C. Any use not shown in this section 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.

D. Height Regulations: No building shall be erected to a height greater than thirty five (35'). No accessory building shall be erected to a height greater than twenty five (25') feet, unless a conditional permit has been obtained.

E. Area Width and Yard Regulations:

District	Area	Lot Width in Feet	Setbacks for Yards in Feet			Maximum Building Coverage
			Minimum	Front	Rear	On lot (see note 10 & 10.28.240D)
SF-.50	20,000 sq. ft.	80	25	10	50%	
SF-1.0	40,000 sq. ft.	80	25	10	50%	
SF-2.5	2.5 acres	150	25	25	50%	
SF-5.0	5.0 acres	200	25	25	50%	
SF-10.0	10.0 acres	300	25	25	50%	

F. Modifying Regulations:

1. Side Yards: The side yard setback on a "street side" yard shall be fifteen (15) feet
2. Private Garages and Accessory Buildings: Private garages and accessory buildings located at least 10' behind the main dwelling on lots less than ½ acre may have a side yard of three feet (3'), all others must be ten feet (10'), provided that all corner lots shall maintain fifteen feet (15') on the street side.
3. 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.
4. Location of Required Parking: Required parking shall not be located in the front yard setback.
5. All lighting shall comply with AVLU 10.26 Outdoor Lighting Ordinance.
6. For additional restrictions and clarifications in this zone, see AVLU 10.28 Supplementary and Qualifying Regulations for Land Use and Building.
7. 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.
 - a. 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.
 - b. No accessory use, building, or structure shall be allowed on a lot

unless a permitted or conditional use has been established.

8. 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.
9. On large lots 5 Acre and larger the minimum lot size may be smaller than required, by the amount needed for road dedications.
10. Maximum Building Coverage on a lot is defined as: A building or group of buildings including all accessory buildings may not cover more than 50 percent of the area of the lot.
11. 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.

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.

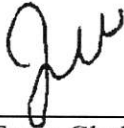
SECTION 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from April 19, 2023.

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

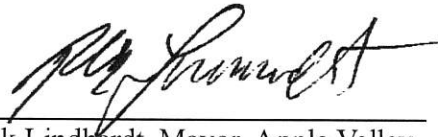
	AYE	NAY	ABSENT	ABSTAIN
Mayor Frank Lindhardt	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Council Member Andy McGinnis	<u> </u>	<u> </u>	<u>X</u>	<u> </u>
Council Member Barratt Nielson	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Council Member Kevin Sair	<u> </u>	<u>X</u>	<u> </u>	<u> </u>
Council Member Robin Whitmore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

Attest

Presiding Officer



Jenna Vizcardo, Town Clerk, Apple Valley



Frank Lindhardt, Mayor, Apple Valley



RECEIVED MAY 10 2023

JV Jenna
Vizcardo
Town Clerk

Argument for the Referendum to repeal Ordinance O-2023-19

Ordinance O-2023-19 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 Single Family Residential Zoning.

Ordinance O-2023-19 adds one column to the Minimum Area, Width, and Yard Regulations chart in Single Family Residential Zoning. The 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-2023-19 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 Single Family Residential Zoning, this would be detrimental to real estate property values.

Ordinance O-2023-19 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 Single Family Residential 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 Single Family Residential 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.



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

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.

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.

