



Referendum Information Pamphlet

For the proposed Referendum of Apple Valley Land Use
Ordinance O-2023-20

**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-2023-20

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

Attachments Include:

- A. Signed and Notarized Referendum Applications
- B. Copy of Ordinance O-2023-20 as Published on the Town of Apple Valley Website.

Statements as Required by the Referendum Application form is 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 Vercardo)
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.

Name of Sponsor (please type or print)

1224 N. Rome Way

Residence Address

Walter E Josey

Sponsor's Signature

Apple Valley, UT 84737 435-817-1599

City, State, Zip

Phone Number

Notary Seal

joseywalter@hotmail.com

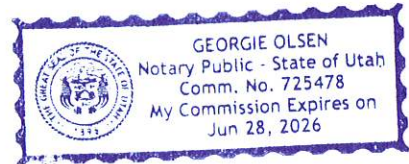
Email

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.

Name of Sponsor (please type or print)

1504 N Rome way

Residence Address

Russell Tomky

Sponsor's Signature

Apple Valley, UT 84737 79.660.0641

City, State, Zip

Phone Number

Notary Seal

rtomky@hotmail.com

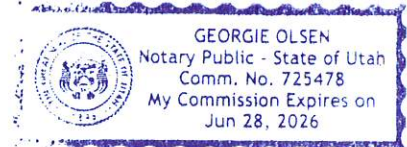
Email

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 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)

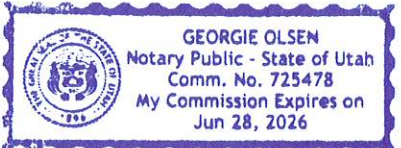
1024 W. Little Piñon Way [Signature]
Residence Address Sponsor's Signature

Apple Valley UT. 84237 (702) 292-4440 Notary Seal
City, State, Zip Phone Number

rcososki357@gmail.com
Email

Subscribed and affirmed before me this 24 day of April 2023

by [Signature]
Notary Public



Sponsor Statement

I, MARGARET 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)

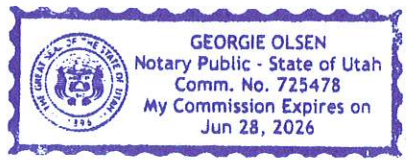
1024 W. LITTLE PINION WAY [Signature]
Residence Address Sponsor's Signature

APPLE VALLEY UT 84737 702-256-6000 Notary Seal
City, State, Zip Phone Number

R44NM53@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, 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 N. MOUNT ZION DR
Residence Address

Kathy Stoker
Sponsor's Signature

APPLE VALLEY, UTAH 84737
City, State, Zip

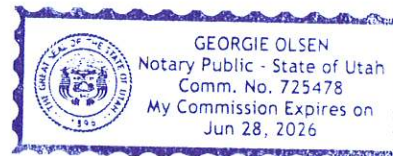
801-589-4606
Phone Number

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.
Residence Address

Joan F. Moses
Sponsor's Signature

Apple Valley, UT 84737 801-615-1584
City, State, Zip Phone Number

Notary Seal

joaniemoses@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 _____
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 [Signature]
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-2023-20**

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

SECTION 1: AMENDMENT “10.28.240 Limitations On Height, Size And Location Of Garages And Other Accessory Buildings In Residential Zones” of the Apple Valley Land Use is hereby *amended* as follows:

A M E N D M E N T

10.28.240 Limitations On Lot Use, Height, Size And Location Of Garages And Other Accessory Buildings In Residential Zones

In an effort to avoid the appearance of commercial style buildings in residential zones, and to protect the character and stability of residential neighborhoods, the following requirements for garages and other accessory buildings located in residential zones are provided:

- A. Maximum Garage Height:
 - 1. No detached garage shall be higher than twenty-five feet , measured from finish grade to the highest point of its roof,
 - 2. No attached garage(s) shall be higher than the highest point of the primary building.
- ~~B. Number Of Garages: A maximum of two attached and one detached garage may be allowed on each lot in association with a primary residential dwelling unit.~~
- C. Maximum Accessory Building Height: No accessory building, with the exception of detached garages, including agricultural use accessory buildings, shall be higher than ~~twenty-five (25) feet (15')~~ fifteen feet (15'), measured from average finished grade, unless a higher finished grade is required by the city for proper drainage, in which case, it will be measured from the finished grade, or a conditional use permit has been obtained.
- D. Size, Lot Coverage, Location and Construction of Attached and Detached Garages and other Accessory Buildings in Residential Zones:
 - ~~1. The total square footage of any attached garage(s) and non-living space shall not be greater than one hundred (100%) of the square footage of the primary structure, excluding the attached garage(s).~~
 - ~~2. The total square footage of any detached garage or other accessory building, including agricultural use accessory buildings, shall not be greater than fifty percent (50%) of the square footage of the primary structure, including the attached garage(s). Note: Bonus/loft space located in the attic areas of detached garages shall be included in the total square footage.~~
 - 3. The cumulative total square footage of the home, any attached garage(s), detached garage, and all other accessory buildings, including agricultural use accessory buildings, shall not be greater than fifty percent (50%) of the ~~lot rear~~

yard. For the purposes of this section, the "rear yard" is defined as the area located behind the rear wall line of the primary structure. Note: Bonus/loft space located in the attic areas of detached garages or other accessory buildings shall be included in the total square footage.

4. All garages and other accessory buildings located within ten feet (10') of the primary building shall be considered attached and part of the primary building and the setback requirements applicable to the primary building shall apply. These shall architecturally blend with the primary residence and be of similar finish and color.
5. No accessory buildings shall be located in any required front yard.

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.

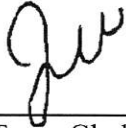
SECTION 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from April 19, 2023.

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

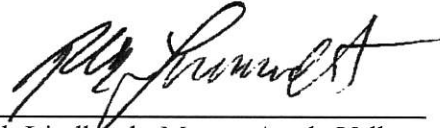
	AYE	NAY	ABSENT	ABSTAIN
Mayor Frank Lindhardt	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Council Member Andy McGinnis	<u> </u>	<u> </u>	<u> X </u>	<u> </u>
Council Member Barratt Nielson	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Council Member Kevin Sair	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Council Member Robin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

Attest

Presiding Officer



Jenna Vizcardo, Town Clerk, Apple Valley



Frank Lindhardt, Mayor, Apple Valley



Jenna
Jenna
Vizzardo
Town Clerk

Argument for the Referendum to repeal Ordinance O-2023-20

Ordinance O-2023-20 removes the code restriction on accessory buildings (i.e. detached garages, shops, etc.). These original codes are now replaced with a general requirement that the limit on accessory building square foot size plus the primary home square foot size, can be equal to 50% of the total lot square footage. In addition, there is a provision to increase the maximum roof height (25ft) by requesting a conditional use permit.

Ordinance O-2023-20 does not limit the number of accessory buildings, only that the total square footage of them plus the primary home not exceed 50% of the total lot square foot size.

Ordinance O-2023-20 should be repealed because it permits potentially excessive accessory building sizes. The extreme square footage and the potential number of accessory buildings 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 and subdivisions within the Town of Apple Valley city limits.

In addition, the permitted accessory building size(s) limits are what are usually seen in Commercial/Industrial zoning. The typical zoning of 1/2 acre and 1 acre lots in Apple Valley are 2 versions of residential zoning called Rural Estates and Single Family Residential. Industrial/Commercial sized buildings are not appropriate for Rural Estates and Single Family Residential zoning, 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.

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:

- 1/2 acre lots.
- Total square feet within a 1/2 acre lot is 21,780 sq-ft
- Average primary home plus garage 2000 sq-ft
- One allowed accessory building size could then be as large as 8,890 sq-ft, Or
- Multiple accessory buildings, 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:

- 1 acre lots.
- Total square feet within a 1 acre lot is 43,560 sq-ft
- Average primary home plus garage 2000 sq-ft
- One allowed accessory building size could then be as large as 19,780 sq-ft,
Or
- Multiple accessory buildings, 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.

