

TOWN OF APPLE VALLEY

ORDINANCE O-2019-09

AN ORDINANCE ADOPTING THE SUBDIVISION CODE, LAND USE CODE, AND MUNICIPAL CODE

WHEREAS, The Town of Apple Valley has changed website vendors and modified many non-substantive elements within Town Code; and,

WHEREAS, The Town desires to now adopt the Town Code and the applicable attachments provided herein; and,

WHEREAS, The Planning Commission held a public hearing regarding this adoption on the 22nd day of May, 2019; and,

WHEREAS, The Planning Commission recommended adoption of the Town code as presented in the attachments; and,

WHEREAS, The Town Council of the Town of Apple Valley adopted these changes in a public meeting held on the 12th, day of June, 2019.

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

SECTION 1: ADOPTION The Subdivision Ordinances, Municipal Code, and Land Use Ordinances attached hereto along with all other attached documents, is hereby adopted in its entirety as provided in Exhibit "A" and incorporated herein by this reference.

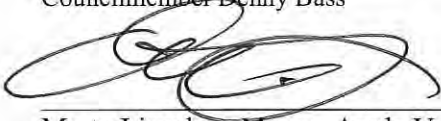
SECTION 2: REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith prior to the date of this Ordinance, are hereby repealed, subsumed, and replaced with the exhibit adopted herein.

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 6.12.2019 and after the required approval and publication according to law.

PASSED AND ADOPTED BY THE TOWN OF APPLE VALLEY COUNCIL.

	AYE	NAY	ABSENT	ABSTAIN
Mayor Marty Lisonbee	<u>X</u>	_____	_____	_____
Councilmember Debbie Kopp	<u>X</u>	_____	_____	_____
Councilmember Michael McLaughlin	<u>X</u>	_____	_____	_____
Councilmember Paul Edwardsen	<u>X</u>	_____	_____	_____
Councilmember Denny Bass	<u>X</u>	_____	_____	_____


Marty Lisonbee, Mayor, Apple Valley

Attest 
Michelle Kinney, Recorder, Apple Valley

EXHIBIT "A"



Apple Valley

Washington County, Utah

Subdivision Ordinances

Compiled: Monday, June 17, 2019

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Preface

In 2019, codification and administration of the Subdivisions Code began in-house under the direction of the Apple Valley Town Recorder and with the assistance of Municipal Code Corporation. This Subdivisions Code shall be cited as the Apple Valley Subdivisions or "AVS" as an acronym.

This Subdivisions Code maintains a structure by subject matter using a decimal numbering system identifying the Chapter, and Section (for example: 1.01.010).

- The First series of numbers (1.01) designates the **Chapter** level
- The last series (1.01.010) designates the **Section** level

This complete set of numbers is designed to aid in searching the Subdivisions Code and to assist in subsequent codification as new ordinances are added to the Subdivisions Code. Vacant titles, chapters, or sections may be designed for future use and may be marked (Reserved) to ease internal expansion.

To outline, give structure, and more granularly reference the legislation herein, the following pattern of ascending alphanumeric characters is used: **A, 1, a, (1), (A), (a)**. Drafting future ordinances and resolutions with this alphanumeric numbering reconciles it with that of the code. An example of a well-written reference would be "AVS 1.01.010 A,1a".

The legislative history beneath a legislation's content identifies the specific legal sources, and may be provided to substantiate the online code.

The Code is supplemented from time to time with amendments and additions made by Apple Valley Town. The specific legal sources that comprise this Code have been adapted during the codification process from the original formatting of the official hard copy. In the event of discrepancies between the online Code and the official hard copy, the official hard copy governs. Municipal Code Corporation, provides a searchable database of the Code for easy reference and convenience.

NOTICE: THE CODE MAY NOT REFLECT ALL OR THE MOST CURRENT VERSION OF LEGISLATION ADOPTED BY THE TOWN COUNCIL THAT HAS YET TO BE UPDATED ONLINE. IN THE EVENT OF CONFLICT BETWEEN THE CODE AND A WRITTEN ORDINANCE, THE ORDINANCE TYPICALLY GOVERNS. ALSO, THE CODE MAY NOT REFLECT RULES OR OTHER REGULATIONS PROMULGATED UNDER THE AUTHORITY OF THE CODE, INCLUDING TECHNICAL SPECIFICATIONS. FOR MORE INFORMATION CONTACT THE TOWN RECORDER AT [435-877-1190](tel:435-877-1190).

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11.02.010 Purpose

- A. The underlying purpose and intent of this title is to promote the health, safety, convenience, and general welfare of the inhabitants of the Town of Apple Valley in the division or subdivision of land and related matters affected by each subdivision.
- B. Any proposed subdivision and its ultimate use shall be in the best interest of the public welfare and shall be in harmony with good neighborhood development of the area concerned, and the subdivider shall present evidence to this effect when requested to do so by the planning commission.
- C. In cases where unusual topographical or other exceptional conditions exist such as sensitive lands, collapsible soils or other conditions necessitating any exceptions from or additional requirements to this title, said exceptions or requirements may be set by Town Council after recommendation by the planning commission and/or the Town engineer.

11.02.020 Scope

- A. No person shall subdivide any tract of land which is wholly or in part within the Town boundaries except in compliance with this title.

- B. No person shall sell or exchange, or offer to sell or exchange, any parcel of land which is a part of a subdivision of a larger tract of land, or offer for recording in the office of the county recorder any deed conveying such a parcel of land, or any interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this title.
- C. All lots, plots, or tracts of land located within a subdivision shall be subject to this title regardless of whether or not the tract is owned by the subdivider or a subsequent purchaser, transferor, or holder of the land.

11.02.030 Definitions

The following words and phrases used in this title, in addition to those listed in AVLU 10.04, shall have the respective meanings hereafter set forth, unless a different meaning clearly appears from the context.

ADJACENT LANDOWNERS: Any property owner of record, according to the records of the county recorder, whose property adjoins or abuts property proposed for subdivision, or any portion thereof.

AFFECTED ENTITY: As stated in statute, a county, municipality, independent special district, local district, school district, interlocal cooperation entity, specified public utility, or the Utah department of transportation, if:

- A. The entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
- B. The entity has filed with the municipality a copy of the entity's general or long range plan; or
- C. The entity's boundaries or facilities are within one mile of land which is the subject of a general plan amendment or land use code change.

BLOCK: The land surrounded by streets and other rights of way other than an alley, or land which is designated as a block on any recorded subdivision plat.

BONA FIDE DIVISION OR PARTITION OF LAND FOR AGRICULTURAL PURPOSES: The division of a parcel of land into two (2) or more lots none of which is less than five (5) acres in an area, and where no dedication of any street is required to serve any such lots or parcels of land so created.

TOWN: Apple Valley Town, Utah.

TOWN COUNCIL: The Town Council of Apple Valley Town, Utah.

TOWN ENGINEER: The Town engineer of Apple Valley Town, Utah, or a consulting engineering firm designated as the Town engineer by the Town Council.

TOWN PLANNER: The professional planner of Apple Valley Town, Utah, or person designated as such by the Apple Valley Town Council.

COMMUNICATIONS EASEMENT: An exterior easement for placement of facilities intended to be used in connection with the delivery of multichannel video programming services, cable services, information services, or telecommunications or telecommunications services.

COMMUNICATIONS INFRASTRUCTURE: Facilities planned to be used in connection with the delivery of multichannel video programming services, cable services, information services, telecommunications or telecommunications services, which term shall include, but not be limited to, conduit.

COUNTY: Washington County, Utah.

CULINARY WATER AUTHORITY: The department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

DEDICATION: Land set aside by an owner for any general and public uses.

EASEMENT: That portion of a lot or lots reserved for present or future use by a person or agency other than the legal owner or owners of said property or properties. The easement may be for use under, on, or above said lot or lots.

FINAL PLAT: The final drawing of the subdivision and dedication prepared for filing of record with the county recorder and in compliance with all the requirements set forth in this title and adopted pursuant thereto.

GENERAL PLAN: A plan, labeled "General Plan of Apple Valley Town", including maps or reports or both, which has been approved by the Town Council as required by law, or such plan as it may be amended from time to time.

JOINT UTILITY COMMITTEE: The representatives of the Town, Big Plains Water and Sewer Special Service district, and other utility companies as may be required by the Town that are authorized to review and sign construction drawings.

LOT: A separately delineated parcel of real property having a number and designation shown on a recorded subdivision plat, or a contiguous quantity of real property defined in a deed by metes and bounds which has a separate property identification number according to the records of the county recorder and is not shown on a recorded subdivision plat.

LOT RIGHT OF WAY: A strip of land of not less than twenty six feet (26') wide connecting a lot to a street for use as private access to that lot.

OFFICIAL ZONING MAP: A zoning map adopted by the Town Council pursuant to the provisions of Utah Code § 10-9a-501, 1953, as amended.

OPEN SPACE: Designated land within the subdivision which shall always remain undeveloped, which shall be included in improved parks and recreational areas, or which shall remain all natural.

PERSON: Any individual, corporation, partnership, limited liability company, or partnership, firm, or association of individuals, however styled or designated.

PLANNING COMMISSION: The Apple Valley Town Planning Commission.

PLAT: A map or depiction of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, and streets, or other divisions and dedications.

SANITARY SEWER AUTHORITY: Big Plains Water and Sewer Special Service district, a public entity with responsibility to review and approve the feasibility of sanitary sewer services or on site wastewater systems within the Town.

SECURITY: An escrow agreement, irrevocable letter of credit, or other security instrument given by the subdivider to ensure the proper installation of public improvements.

STREET: A thoroughfare which has been dedicated or abandoned to the public and accepted by proper public authority, or a thoroughfare not less than twenty six feet (26') wide which has been made public by right of use and which affords the principal access to the abutting property.

STREET, ARTERIAL: A street, existing or proposed, which serves or is intended to serve as a major traffic-way, and is designated on the general plan as a controlled access highway, major street, parkway or other equivalent term to identify those streets comprising the basic structure of the street plan.

STREET, COLLECTOR: A street, existing or proposed, which is the main means of access to an arterial street system.

STREET, CUL-DE-SAC: A street which originates from a designated Town street with no other outlet and forcing a radius turn area, not to exceed six hundred sixty feet (660') in length without the written approval of the Town Council, the Planning Commission and the fire chief.

STREET, PRIVATE: A right of way or easement in private ownership not dedicated or maintained as a public street.

STREET, PRESCRIPTIVE EASEMENT: A road in private ownership, open to public use, not dedicated or maintained as a public road.

STREET, RESIDENTIAL: A street, existing or proposed, which is supplementary to a collector street and which serves or is intended to serve local needs of a neighborhood.

SUBDIVIDER: Any individual, firm, association, syndicate, co-partnership, corporation, trust or other legal entity commencing proceedings under this chapter to effect a subdivision for himself or for another.

SUBDIVISION:

A. Includes:

1. The division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat or other recorded instrument; and
2. Except as provided herein, divisions of land for all residential and nonresidential uses, including land used or to be used for commercial, agricultural and industrial purposes.

B. Does not include:

1. A bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of un-subdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use code;
2. A recorded agreement between owners of adjoining un-subdivided properties adjusting their mutual boundary if no new lot is created and the adjustment does not violate applicable land use code; or
3. A recorded document executed by the owner of record, revising the legal description of more than one contiguous un-subdivided parcel of property into one legal description encompassing all such parcels of property, or joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use code.

The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a "subdivision" as to the un-subdivided parcel of property or subject the un-subdivided parcel to the provisions of this chapter.

11.02.040 Necessity Of Plat; Exemption From Plat Requirements

All subdivisions shall be required to prepare and receive approval of a preliminary and final plat in accordance with the provisions of this chapter, except as follows:

- A. A subdivision creating no more than three new lots may be approved by Town staff without the necessity of preparing and filing a preliminary plat or final plat if:
 1. Notice is provided by Town as required by this title.

2. The proposed subdivision:

- a. Is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes.
- b. Does not impact an existing easement or right of way or, if it does have an impact, evidence is shown that the impact will not impair the use of any such easement or right of way.
- c. Has been approved by the culinary water authority and sanitary sewer authority.
- d. Is located in a zoned area, and conforms to all applicable land use code or has properly received a variance from the requirements of an otherwise conflicting and applicable land use code.

B. A lot or a parcel resulting from a division of agricultural land or land located in an Open Space, Open Space Transitional zones is exempt from the plat requirements of this title if the lot or parcel:

1. Meets the minimum size requirement of applicable zoning; and
2. Is only used for purposes allowed in the Open Space, Open Space Transitional, and Agricultural zones.

C. The creation of a lot under subsection A of this section shall not be approved until a plan for providing utilities and other required improvements to the proposed lot has been reviewed and signed by members of the joint utility committee. No building permit will be issued for said lot until the approved improvements are constructed and accepted.

D. The boundaries of each lot or parcel exempted under subsection A or B of this section shall be described by deed and upon approval of Town staff, shall be recorded with the county recorder.

11.02.050 Notice Requirements

A. Notice of Proposed Multiple-Unit Residential, Commercial, Or Industrial Development: Notice of any public hearing to consider a preliminary plat describing a multiple-unit residential, commercial, or industrial development shall be provided in writing to any affected entity.

B. Notice Of Proposal To Vacate Some Or All Of A Public Street, Right Of Way, Or Easement: The legislative body shall hold a public hearing and give notice of the date, place, and time of the hearing at least ten (10) days before the public hearing by:

1. Mailing notice to the record owner of each parcel that is accessed by the

- public street, right of way, or easement;
- 2. Mailing notice to each affected entity;
- 3. Posting notice on or near the street, right of way, or easement in a manner that is calculated to alert the public;
- 4. Publishing notice in a newspaper of general circulation in the Town; and
- 5. Publishing notice on the Utah public notice website.

11.02.060 Preliminary Plat Process

All applications for preliminary plat approval shall be subject to the following:

- A. Town and/or applicant shall determine whether proposed subdivision is consistent with current zoning of the property.
- B. If proposed subdivision is consistent with zoning designation, the applicant shall meet with planning staff to discuss the proposed project.
- C. Applicant shall obtain a preliminary plat application form and complete the application and have a plat prepared by a licensed engineer or surveyor meeting all the requirements for a preliminary plat.
- D. Applicant shall submit completed application, preliminary plat, subdivider's agreement pursuant to AVS 11.02.120, and required fee to planning department on or before deadline for submissions established by the Town.
- E. Staff shall review application and plat for completeness and obtain comments from joint utility committee.
- F. Zoning administrator shall place the item on an agenda for consideration at a public meeting before the planning commission.
- G. Applicant or applicant's authorized representative shall appear at the scheduled meeting before the planning commission to discuss the preliminary plat, answer questions, and receive recommendation from planning commission.
- H. Planning commission may recommend to the Town council approval, disapproval, or approval with conditions.
- I. Upon receiving a recommendation from the planning commission, the preliminary plat application will be placed on a Town council agenda. Applicant or applicant's authorized representative must appear at the Town council meeting when application is on the agenda. In the event the applicant fails to appear at the Town council meeting, or if applicant fails to obtain approval from the Town council within six (6) months said preliminary plat shall be considered void.
- J. Town Council may approve the plat, approve with conditions, recommend changes, send back to the Planning Commission, or deny the plat, subject to the following:

1. The Town Council shall withhold approval of a preliminary or final plat if the plat contains a communications easement that may have the effect of prohibiting the ability of any person to provide multichannel video programming services, cable services, information services, telecommunications or telecommunications services within the subdivision. An easement including a communications easement that limits the ability of any landowner to access a local utility or franchised cable or telecommunications service provider without payment of a fee to cross the easement violates this section.
 2. The Town Council shall withhold approval of a preliminary or final plat if the property to be dedicated for streets, roads, rights of way or other parcels intended for the use and benefit of the general public is not provided free and clear of any easements, unless the Town Council finds that:
 - a. The subdivider did not create the easement, and could not reasonably be expected to obtain a release of the easement; and
 - b. Acceptance of the easement will not adversely affect the public.
- K. Approval of the preliminary plat by the Town Council shall authorize the subdivider to proceed with the preparation and review of construction drawings and the final plat.
- L. After preliminary plat approval from the Town Council, a complete application for final plat approval must be submitted within one year of the preliminary plat approval date. The Planning Commission may authorize a one-time extension not to exceed one year, provided that a written request for extension is received by the Town before the one year time period has expired.

11.02.070 Preliminary Plat Requirements

The preliminary plat shall include or be accompanied by the following:

- A. Description: In a title block located in the lower right hand corner of the sheet the following is required:
1. The proposed name of the subdivision.
 2. The location of the subdivision, including the address and the section, township and range.
 3. The names and addresses of the owner or subdivider if other than the owner.
 4. Date of preparation and north point.
 5. Scale shall be of sufficient size to adequately describe in legible form all required elements.

B. Existing Conditions: The preliminary plat shall show:

1. The location of the nearest monument.
2. The boundary of the proposed subdivision and the acreage included.
3. All property contiguous to the property to be subdivided and under the control of the subdivider, even though only a portion is being subdivided. (Where the plat submitted covers only a part of the subdivider's tract, a sketch of the prospective street system of the unplatted parts of the subdivider's land shall be submitted, and the street system of the part submitted shall be considered in light of existing master street plan or other commission studies.) And all property contiguous to the proposed subdivision.
4. The location, width and names/numbers of all existing streets within two hundred feet (200') of the subdivision and of all prior streets or other public ways, easements, utility rights of way, parks and other public open spaces, within and adjacent to the tract.
5. The location of all wells and springs or seeps, proposed, active and abandoned, and of all reservoirs or ponds within the tract and at a distance of at least one hundred feet (100') beyond the tract boundaries.
6. Existing ditches, canals, natural drainage channels and open waterways and proposed realignments.
7. Contours at vertical intervals not greater than five feet (5').
8. Identification of potential geotechnical constraints on the project site (such as expansive rock and soil, collapsible soil, shallow bedrock and caliche, gypsiferous rock and soil, potentially unstable rock or soil units including fault lines, shallow ground water, and windblown sand) and recommendations for their mitigation.

C. Proposed Plan: The subdivision plans shall show:

1. The layout of streets, showing location, widths and other dimensions of proposed streets, crosswalks, alleys and easements.
2. The layout, numbers and typical dimensions of lots. Designation of buildable area is required for each lot.
3. Parcels of land intended to be dedicated or temporarily reserved for public use or set aside for use of property owners in the subdivision.
4. Easements for water, sewers, drainage, utilities, lines and other purposes.
5. Typical street cross sections and street grades where required by the Planning Commission.

6. A tentative plan or method by which the subdivider proposes to handle the stormwater drainage for the subdivision.
7. Approximate radius of all centerline curves on highways or streets.
8. Each lot shall abut a street shown on the subdivision plat or on an existing publicly dedicated street, or on a prescriptive easement (Double frontage or flag lots shall be prohibited except where conditions make other design undesirable.)
9. All remnants of lots below minimum size left over after subdividing of a larger tract shall be added to adjacent lots or common areas, rather than allowed to remain as unusable parcels.
10. Where necessary, copies of any agreements with adjacent property owners relevant to the proposed subdivision shall be presented to the planning commission.
11. A letter from both the local sanitary sewer provider and culinary water provider indicating availability of service.
12. If the subdivision is to be built in phases, the plat shall show possible phasing lines.
13. A tentative plan or method for providing nondiscriminatory access to the subdivision for purposes of placement of communications infrastructure, and for purposes of placement of utility infrastructure.

D. Required Copies Of Plans:

1. Two (2) copies of all full scale drawings.
2. One copy of each drawing on eleven inch by seventeen inch (11" x 17") sheets or eight and one-half by eleven (8 1/2 x 11) if the project is small and the plans are legible at that size.

11.02.080 Construction Drawings

After preliminary plat approval by Town council, the applicant shall have construction drawings prepared by a licensed engineer for all on site and required off site improvements in accordance with the following:

A. Final plan and profile must be prepared in accordance with:

1. Current Apple Valley Town standards and specifications;
2. Apple Valley Town drainage manual;
3. Big Plains Water and Sewer Special Service District construction standards;
4. Apple Valley Town power standards and specifications as required;

5. Applicable fire code; and
 6. Rocky Mountain power standards and specifications if applicable.
- B. Specific geotechnical recommendations for the design and construction of the proposed subdivision shall include the following if applicable:
1. A general assessment of the requirements needed to develop on the site.
 2. Site preparation and grading and the suitability of onsite soils for use as structural fill.
 3. Stable cut and fill slopes including recommendations concerning the effects of material removal and the introduction of water.
 4. Recommendations for foundation type and design criteria, including, but not limited to, bearing capacity of natural or compacted soils, provisions to mitigate the effects of expansive, compressible, or collapsible soils, differential settlement and varying soil strength, and the effects of adjacent loads.
 5. Anticipated total and differential settlement.
 6. Special design and construction considerations, as necessary, such as the excavation and replacement of unsuitable materials, excavation difficulties, stabilization, or special foundation provisions for problem soil conditions.
 7. Design criteria for restrained and unrestrained retaining or rockery wall.
 8. Moisture protection and surface drainage.
- C. Eleven (11) sets of complete drawings must be submitted to the public works director. Construction drawings must contain a signature block for all required utility, Town, and Big Plains Water and Sewer Special Service district representatives. Drawings shall be a minimum of twenty two inches by thirty four inches (22" x 34") (full size).
- D. Applicant shall request placement on a joint utility committee agenda for initial review of the plans.
- E. Applicant or applicant's authorized representative shall attend the joint utility committee meeting when the item is on the agenda. Utility, franchisee, Town, and Big Plains Water and Sewer Special Service District will take copies of plans to redline.
- F. All street grades over five percent (5%) shall be noted on the preliminary plat.
- G. When redlines are completed, public works director shall prepare a summary of the needed changes and return redlined plans to applicant.

- H. Applicant shall then submit three (3) copies of the corrected construction drawings, addressing all redlined items, to the Town engineer for review and possible signature. After Town engineer signs, applicant must obtain all required signatures and return signed plans to public works director for final signature.
- I. Construction drawings are valid for twenty four (24) months after final signature. Construction drawings signed more than twenty four (24) months prior to construction of improvements shall be considered expired. For a project where construction has started and all improvements shown on the plan will be constructed, the public works director may permit construction to continue. Construction drawings showing multiple phases of a project are valid only for those improvements constructed within the first twenty four (24) months of approval. New approvals must be obtained and any new standards shall apply for future phases or delayed projects.

11.02.090 Final Plat Approval Process

Application process:

- A. Once construction drawings are approved, applicant shall submit completed final plat application, paper copy of final plat in full size, an electronic copy of the final plat, required fee, and any other required documents to planning department on or before deadline for submissions established by Town.
- B. The Town engineer shall review the electronic copy of plat and notify the applicant or applicant's authorized representative of any required changes. Applicant shall make required changes and resubmit electronic and paper copies of final plat, one full size and one eleven inch by seventeen inch (11" x 17") for second review.
- C. If plat is approved by Town engineer, he shall sign the plat and return to the planning department. If plat is not approved after second submittal, an additional fee must be paid before any subsequent reviews.
- D. Upon signature of approved final plat, the final plat application shall be reviewed by the final plat approval staff.
- E. Once the final plat approval staff has granted approval of a final plat and a bond or other financial security is in place in accordance with AVS 11.02.130, the subdivider may schedule a preconstruction meeting with the Town public works department. Upon receipt of written notice to proceed from Town, construction of the subdivision may proceed. No construction shall be permitted prior to receipt of written notice to proceed.

11.02.100 Final Plat Requirements

- A. Required Information: The final plat shall show:
 - 1. The name or designation of the subdivision that is distinct from any plat

already recorded in the county recorder's office, as approved by the planning commission.

2. The boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for another public use, and whether any such area is reserved or proposed for dedication for a public purpose.
3. The lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage of all parcels, units, lots, and the length and width of the blocks and lots intended for sale.
4. Every existing right of way and easement grant of record for communications infrastructure, for underground facilities as defined in Utah Code § 54-8a-2 and for other utility facilities. Where the same is granted to a specific entity, that entity must be clearly identified.
5. True angles and distances to the nearest established street lines or official monument, which shall be accurately described on the plat and shown by appropriate symbols.
6. All street centerline data must be shown, together with its relationship to the property lines, corners, etc.
7. The accurate location of all monuments shall be shown on the plat, and shall be identified, including all United States, state, county or other official monuments.
8. The dedication to the public of all streets and highways included in the proposed subdivision (except approved private streets).
9. Street monuments to be installed by the subdivider in accordance with the requirements of the Town standards. Locations of said monuments shall be approved by the Town engineer and indicated on the subdivider's plat by the appropriate symbols.
10. Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed or covenant for common uses by all property owners.
11. Where it is proposed that streets be constructed on property controlled by a public agency or utility company, approval for the location, improvement and maintenance of such streets shall be obtained from the public agency or utility company and entered on the final plat in a form approved by the Town attorney.
12. The parent parcel number, as shown on the records of the Washington County recorder in St. George, Utah.

B. Required Forms And Certificates: In addition the final plat shall contain the standard forms for the following:

1. A registered professional land surveyor's signed certificate of survey, together with a statement that: a) the surveyor holds a license in accordance with Utah Code 58-22, professional engineers and professional land surveyors licensing act; b) the surveyor has completed a survey of the property described on the plat in accordance with Apple Valley Town Design Standards and the Utah Code and has verified all measurements; and c) has placed monuments as represented on the plat.
2. The owner's certificate of dedication of all streets, roads, rights of way or other parcels intended for the use and benefit of the general public.
3. Mortgagee or other lienholder's consent to record, if applicable.
4. A notary public's acknowledgment of the signature of the mortgagee or each owner signing the plat.
5. Certificate of approval of Big Plains Water and Sewer Special Service district.
6. Certificate of approval of the Planning Commission, as evidenced by the signature of the Planning Commission chairperson.
7. Certificate of approval of the Town engineer.
8. Certificate of approval as to form executed by the Town attorney.
9. A one and one-half inch by five inch (1 1/2" x 5") space in the lower right hand corner of the drawing for the use of the county recorder.
10. Certificate of approval of the county treasurer.

C. Other Information Required: The following information or documentation shall be submitted with the final plat or prior to recordation:

1. A statement that all taxes or special assessments payable on all property within the limits of the subdivision are paid in full, or a letter stating that a satisfactory bond has been filed to secure such payment.
2. An original copy for staff review of the proposed deed restrictions or CC&Rs in proposed final form with signature lines for all owners of any interest in the subdivision who would sign the final subdivision plat must be submitted with final plat application. After being approved by staff this document shall be signed, acknowledged by a notary public, and recorded in the office of the county recorder along with the final plat.
3. An up to date title or subdivision report for the property being subdivided.
4. A disk of the final plat prepared in "AutoCAD 2004" (or newer format).

5. Mylar of approved final plat submitted and reviewed for substantial conformance with paper final plat.

D. Requirements For Recordation:

1. Final plat approval.
2. Bond or other financial security in place.
3. Payment of HCP impact fee if applicable.
4. Three (3) disks of the final plat prepared in "AutoCAD 2004" format or later format as designated from time to time by Town engineer; one disk for the Town, one for the county recorder, and one for the Big Plains Water and Sewer Special Services District.
5. Final title or subdivision report prepared and submitted to the Town attorney.
6. Proof of satisfaction of payment of water impact fee to Big Plains Water and Sewer Special Services District.
7. All signatures must be on the mylar, including property owners of record according to the title report, Town officials and Big Plains Water and Sewer Special Service district superintendent. The Town attorney shall be the last signer of the mylar just prior to recordation.
8. Preliminary acceptance by Town of all public and private improvements as shown on approved construction drawings.
9. If submitted mylar shows substantial change from the approved paper final plat, applicant shall submit an application for an amended plat and get approval of the amended plat before recordation will be permitted to occur.

E. Recordation Of Plat: Any subdivision plat receiving final approval from the Town council shall be recorded at the office of the Washington County recorder within one year of the date of said final approval, unless said period is extended in writing by the Town council. Any approval for any final plat not recorded within said period or extended period shall be deemed to have been revoked and any such final plat shall require new approval from the Town council before recordation.

11.02.110 Subdivision Streets And Fencing

A. Relation To Adjoining Street Systems:

1. The arrangements of streets in new subdivisions shall make provision for the continuation of the existing streets to adjoining areas insofar as such may be deemed necessary by the planning commission for public

requirements. New streets within subdivisions shall not preclude future access to adjoining properties.

2. Standard residential streets shall approach the arterial or collector streets at an angle of not less than eighty degrees (80°).

B. Fencing:

1. Prevent Nuisance Or Hazard: The Planning Commission may also require the construction or installation of a fence in any subdivision where the Planning Commission determines that the absence of a fence may create a nuisance or hazard to the welfare of the residents of the subdivision or the adjoining property.
2. Agricultural Fencing: Unless otherwise waived by affected agricultural property owners, fencing abutting agricultural property shall be required of subdivider. Fence shall be at a minimum, six feet (6') high with posts spaced at eight feet (8') apart. (The agricultural property owner shall have the option of paying the additional cost to create spacing of the post at 6 feet.) Fencing and post material and design shall be approved with the construction drawings. If there was no existing fence, or the existing fence does not protect the new fence, then the subdivider will be required to install and maintain an electrical fence parallel to the new fence.

11.02.120 Subdivider's Agreement

All applications for a subdivision shall be accompanied by an executed copy of the following agreement, as amended from time to time by the Town council. Said agreement shall be substantially in the following form:

SUBDIVIDER'S AGREEMENT WITH APPLE VALLEY TOWN

This agreement is entered into this day of , , between of , County of , State of , hereinafter referred to as "Subdivider," and the Town of Apple Valley, a municipal corporation of the State of Utah, located in Washington County, hereinafter referred to as the "Town." Subdivider, on behalf of it/himself, its/his heirs, successors and assigns, hereby acknowledges, covenants and agrees that: (1) it/he has received and read a copy of the Apple Valley Town Subdivision Ordinance and design standards of the Land Use Code and shall in all respects comply with the provisions contained therein, (2) all on-site and off-site improvements required to be constructed in connection with said subdivision shall be constructed and installed in accordance with the approved construction plans and drawings, and (3) in the event that legal action is required to be taken by Apple Valley to enforce the terms of this agreement, Subdivider agrees that it/he shall be liable to pay all such legal costs and expenses incurred by Apple Valley, including court costs and a reasonable attorney's fee.

DATED this day of , .

Subdivider Subdivider

Title

STATE OF UTAH)

: ss.

COUNTY OF WASHINGTON)

On the day of , , personally appeared before me , the signer(s) of the above instrument, who duly acknowledged to me that he/she executed the same on behalf of the Subdivider.

(SEAL)

NOTARY PUBLIC

Accepted by:

Apple Valley Town Zoning Administrator or Planning Director

All signatures to this agreement, other than for sole proprietorships, shall be accompanied by documentation acceptable to the Town attesting to the fact that the signer hereof is authorized by the subdivider to enter into this agreement (e.g., a copy of a corporate resolution, copy of a partnership agreement, etc.).

11.02.130 Guarantee Of Completion Of Improvements; Form Of Surety; Release Of Funds

Subdivider shall guarantee improvements in accordance with the following:

- A. Completion Of Improvements Before Recordation: If subdivider desires to construct improvements as shown on approved construction drawings prior to recordation:
 1. Recordation of the plat shall not occur until the improvements required in connection with the subdivision have been completed and conditionally accepted.
 2. Subdivider shall provide guarantee of conditionally accepted improvements in a form acceptable to Town as shown in subsection C of this section in the following amount:

- a. Ten percent (10%) of the total cost of all the required improvements shall be retained by the Town during the twelve (12) month (24 month if applicable) warranty period.
- B. Recordation Before Completion Of Improvements: If the subdivider desires to have a plat recorded prior to construction of improvements subdivider shall guarantee completion, within two (2) years from the date of final plat approval by the Town Council, of installation and construction of the required improvements in compliance with all Town standards.
- C. Form Of Surety: In order to guarantee completion of improvements, subdivider shall provide one of the following types of sureties or guarantees:
1. Escrow: The subdivider shall deposit with any insurance company, bank, or savings and loan institution in an escrow account an amount of money equal to at least one hundred fifteen percent (115%) of the estimated costs of the improvements not constructed or installed by the subdivider plus ten percent (10%) of the cost of all the required improvements of the subdivision as a guarantee amount, as determined by the Town engineer. The escrow agreement shall be subject to approval by the Town attorney and shall be signed by the subdivider, the Town, and the escrow holder, and shall contain substantially the following language:

AGREEMENT

The undersigned hereby promises and warrants that it has on deposit in an escrow account for the benefit of Apple Valley Town Corporation, the sum of (\$), which represents at least one hundred fifteen percent (115%) of the costs of the engineer's estimated costs for improvements not constructed or installed by the subdivider plus ten percent (10%) of the cost of improvements of the subdivision.

The undersigned hereby agrees that the foregoing sum of money shall be used exclusively for the purpose of paying for the costs of materials, construction, and installation of the improvements required by Apple Valley Town Subdivision ordinance and design standards. The undersigned further agrees that the money held in an escrow account shall be paid out to the contractors installing and constructing the required improvements only upon approval of the Town. The subdivider shall not withdraw from the escrow account any amount in excess of 100% of the estimated cost of the improvements, but shall pay from other sources any costs for such improvements which exceed the engineers estimate approved by the Town.

After all improvements are made, completed and preliminarily accepted by the Town, a sum equal to 10% of the estimated costs of improvements shall remain with the escrow holder for a period of 12

months as a warranty that all improvements are installed and inspected to Town specifications, and that all defects occurring within the first 12 months (24 months if applicable) are corrected and approved by the Town.

If, after 12 months (24 months if applicable), all or any part of the required improvements are not installed, constructed, and maintained according to the standards required in the Apple Valley Town Subdivision Ordinance, Apple Valley Town shall notify in writing the subdivider and escrow holder of the defects and shall make demand on the subdivider that the defects be corrected. If the defects are not corrected within 30 days, Apple Valley Town may correct the defects and charge to the escrow holder the costs of correcting the defects.

The escrow holder shall, on receiving reasonable proof from Apple Valley Town of the defect and that Apple Valley Town has incurred the cost of correcting the defect, pay to Apple Valley Town from the escrow account the cost of correcting the defect, and the escrow holder shall be held harmless by the parties by reason of payment to Apple Valley Town.

If, 12 months (24 months if applicable) after preliminary acceptance of the improvements required by Town's standards and specifications and shown on approved construction drawings, the required improvements remain substantially free from latent defects, Apple Valley Town shall certify such fact to the escrow holder, and the escrow holder shall release to the subdivider any money still held in the escrow account, and the escrow holder shall be discharged of its obligations to Apple Valley Town.

(Authorized Signature)

The escrow agreement may contain such additional provisions as the parties deem necessary.

2. Irrevocable Letter Of Credit: The subdivider shall file with Apple Valley Town an irrevocable letter of credit from a duly chartered state or national bank or savings and loan institution, which letter shall contain provisions substantially similar to that required in the escrow agreement.

The form of the irrevocable letter of credit shall be substantially as follows:

Name of Bank:

Address:

IRREVOCABLE LETTER OF CREDIT

To: Apple Valley Town Corporation

Date: Letter of Credit No.:

Gentlemen:

We hereby establish our irrevocable letter of credit in your favor for the account of , , (insert name of subdivider, subdivider's address) up to the aggregate amount of (\$) (insert amount equal to one hundred fifteen percent, i.e., 115% of the estimated costs of the improvements not constructed or installed by the subdivider plus ten percent [10%] of the cost of all improvements of the subdivision as determined by the Engineer) drawn at sight on , , (insert name of bank, address of bank), accompanied by a statement signed by an officer of Apple Valley Town Corporation as follows: "We certify that the improvements related to the (insert name of subdivision) have not been completed and the defects corrected in accordance with Town ordinances and that this drawing represents the amount necessary to complete those improvements."

We hereby agree with drawers, endorsers and bona fide holders that all drafts under and in compliance with the terms of this credit will be duly honored upon presentation and delivery of documents as specified to the drawee or drawn and presented at our bank for negotiation on or before (insert completion date plus 90 days). This Irrevocable Letter of Credit automatically renews for a one year term at the end of every term unless the Authorized Bank Officer provides Apple Valley Town written notice of termination thirty (30) days prior to the end of the term.

Very Truly Yours,

Authorized Bank Officer.

3. Other Guarantee: Such other financial guarantee that may be acceptable to the Town Council.

- D. Release Of Funds: As the required improvements are satisfactorily installed and have been inspected by the Town, funds which have been placed in escrow for those improvements will be authorized to be released for payment of those improvements. Escrow holder is authorized to release funds from this account only after receiving a written release from Town. The Town is not responsible to determine the party to be paid.

After all required improvements have been installed, the subdivider shall notify the Town and request that the subdivision be granted preliminary acceptance and begin the warranty period. The subdivision will then be inspected by Town, and if all improvements have been completed in accordance with Town ordinances and specifications, as built plans have been delivered to the public works department, and a final grading plan has been submitted, the Town will grant preliminary acceptance. The subdivision will then begin the twelve (12) month (24 month if applicable) warranty period. Ten percent (10%) of the total cost of all the required improvements, as specified above, shall be retained by the Town during this warranty period.

All funds in escrow surplus to the warranty amount may then be released by the Town.

The purpose of retaining the ten percent (10%) warranty amount is to guarantee that the improvements have been installed correctly and that they function properly. If any improvements have not been installed correctly or fail to function properly, and the subdivider fails to correct the deficiencies within thirty (30) days of notification thereof, then upon written notice by the Town, escrow shall pay over to the Town the amount necessary to complete, repair, or replace said improvements.

In the event the costs of completing, repairing, or replacing the unsatisfactory improvements exceed the amount remaining in the escrow account, the subdivider shall, within ten (10) days of notice thereof, pay the excess amount to the Town and shall also cause to restore the escrow account or irrevocable letter of credit to the prescribed ten percent (10%) warranty amount. The Town shall not issue any building permits for the subdivision until the above referenced excess costs have been paid to the Town and the warranty amount (10 percent of the total cost of improvements) has been restored.

11.02.140 Warranty Of Completed Improvements

Upon completion of construction and installation of all required improvements, subdivider shall warrant that said improvements shall be and shall remain free from defects in material and workmanship for a period of twelve (12) months after the date of preliminary acceptance by Town, unless said warranty period is extended for a period of up to twenty four (24) months by the Town Council upon a finding that a warranty period of twelve (12) months is inadequate to protect the public health, safety and welfare for any of the following reasons:

- A. The prior poor or substandard performance by the subdivider or contractor responsible for construction and installation of the improvements,
- B. The presence or existence of unstable soil conditions within the subdivision or adjacent area,
- C. Extreme fluctuations in climatic conditions that would or could reasonably prevent the discovery of substandard or defective performance within a twelve (12) month period, or
- D. Any other exceptional reason or circumstances which in good faith is determined by the Town council to require a longer warranty period. The subdivider shall be responsible to make all repairs to and maintain the improvements and every part thereof in good working condition during the guarantee period without cost to the Town.

11.02.150 Enforcement And Permits

In order to enforce compliance with this title, the building official shall not issue any permit for the proposed erection, construction, reconstruction, alteration of any structure, or use of any land unless it fully conforms to all provisions of this title. No Apple Valley Town officer or employee shall issue any permit or license for any building or structure or use when such land is a part of a "subdivision" as defined herein until such subdivision has been approved and recorded in the county recorder's office, and unless the improvements shown on approved construction plans for the subdivision have been installed and preliminarily accepted, and all other provisions of law have been complied with. Any license or permit issued in conflict with this title shall be null and void.

Notwithstanding the above, a building permit for a single model home for the developer of the subdivision for which the final checklist for completion has been issued may be approved by the Town Council. A certificate of occupancy shall not be granted and the model home may not be used or occupied for any reason until the subdivision has been approved and recorded.

11.02.160 Plat Amendments

The procedure for consideration and approval of any addition, alteration, modification, or change to an approved plat shall be substantially the same as is required for initial plat approval unless the zoning administrator determines that such addition, alteration, modification, or other change does not constitute a significant change from the intent or effect of the approved plat.

11.02.170 Fees

The following fees are hereby established:

- A. Preliminary Plat Application Fee: At the time of filing of the preliminary plat, the subdivider shall deposit with the Town a nonrefundable fee made payable to Apple Valley Town. The Town council shall by resolution from time to time prescribe the amount of such fee, which shall be for the purpose of reimbursing the Town for the expense of checking and reviewing such Preliminary subdivision plats.
- B. Final Plat Application Fee: At the time of filing the final plat, the subdivider shall deposit with the Town a nonrefundable fee made payable to Apple Valley Town. The Town council shall by resolution from time to time prescribe the amount of such fee, which shall be for the purpose of reimbursing the Town for the expense of checking and reviewing such final subdivision plats, and inspecting subdivision improvements.
- C. Habitat Conservation Fee: Before plat is released for recordation, subdivider shall pay applicable per acre habitat conservation impact fee to Town, if applicable.
- D. Recording Fee: At the time of recording the final plat, the subdivider shall be responsible for payment of the recording fee.

11.02.180 Penalty; Validity

- A. Penalty: Any subdivider or other person who shall violate or fail to comply with any of the provisions for this title shall be guilty of a class B misdemeanor, and punished as provided by law upon conviction.
- B. Validity: If any section, subsection, sentence, clause, or phrase of this title is, for any reason, held to be invalid, such holding shall not affect the validity of the remaining portion of this title.

11.08 Improvements

[11.08.010 Required Improvements](#)

[11.08.020 Waste Disposal Systems](#)

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11.08.010 Required Improvements

Conditions of this Code and the Town of Apple Valley Standards and Specifications, no final plat of a subdivision of land shall be recorded without having been signed by the Mayor certifying that all conditions of this Code have been met and that the bonds as required by this Code have been posted with the town.

All improvements required to be installed in the Town of Apple Valley along with the specifications for such improvements shall all be installed in accordance to the current Apple Valley Town and Big Plains Water and Sewer Special District Design Standards. The following are some of the required improvements, but refer to the Design Standards for a complete list of requirements;

11.08.020 Waste Disposal Systems

- A. Sanitary sewers, septic tanks, or any other means of waste disposal proposed shall be approved in writing by the Big Plains Water and Sewer Special Service District (BPWSSSD), and possibly the State Department of Environmental Quality, or (DEQ) as designated by the Utah Department of Environmental quality or Southwest Utah public Health Department. If a central collection system is used, it shall be constructed with sufficient capacity to serve all lots in the subdivision and shall be fully constructed at the same time and by the same methods as is required for all other improvements in the subdivision.
- B. The final plans for the sewer system shall be prepared by a licensed engineer and approved by the town engineer. Construction shall not be commenced until all plans have been approved, inspection fees paid, and an inspector has been assigned to the project.
- C. The developer shall identify all potential alternatives to providing for the development of a centralized sewer system, or other similar method of wastewater disposal in the proposed subdivision. In specific drainages areas, the Town Council may require that developers join together to consider alternate methods. Any such proposal shall be reviewed and subject to approval by the

state department of environmental quality and Big Plains Water and Sewer Special Service District (BPWSSSD), after being reviewed by the town engineer. Upon concept approval, a licensed engineer shall prepare plans for the system as required in this Code.

1. A method of financing inspection and maintenance shall be established and implemented by the BPWSSSD for maintenance for the system after construction by the developer is complete.
 2. A Developer may be required to install a dry sewer for future connection to an out fall line.
 3. The town may establish impact fees to assist in raising sufficient money to install a sewer system to take care of the needs of the town as it grows and develops.
- D. If conventional on site wastewater (Septic) systems are determined by the BPWSSSD to be the most feasible in certain circumstances, such systems may be approved subject to the approval of the Southwest Utah public health department and the engineer, subject to the following conditions.
1. On systems service more than one home, the type of onsite system approved shall provide for a method of monitoring the septic tank on a regular basis. Such monitoring shall be the purpose of determining the necessary pumping intervals for the septic tank.
 2. A method of financing the inspections and maintenance of the septic tanks shall be established by the developer and approved by BPWSSSD, which will be implemented by the BPWSSSD upon the construction of the individual onsite waste water system in the subdivision.
 3. A dry sewer system may be required as outlined in section B above.
- E. The type of alternative system shall have prior approval of the state division of water quality for use in the state of Utah. Systems plans must be submitted to and receive written approval by the state division of water quality. Alternative systems are subject to BPWSSSD's wastewater management plan and must comply with such requirements as deemed appropriate by the BPWSSSD.
- F. A monitoring fee will be charged for monitoring all waste disposal systems that serves more than one home in the town.

11.08.030 Storm Drainage

A storm drainage system shall be provided and shall be separate and independent of the sanitary sewage system. The final plans for the drainage system shall be prepared by a licensed engineer and approved by the town engineer prior to any construction-taking place. Such plans and profiles shall include but are not limited to the following: (see Town Subdivision Design Standards):

- A. No ditch or canal shall be approved as suitable for the use of storm drainage water without the written permission of the Town Engineer and Public Utilities director. No ditch or canal shall be used for storm water unless adequately improved to handle such water as might be reasonably expected to flow from canal ditch water, subdivisions runoff water, and other water expected to reach such canal or ditch.
- B. Open ditches or canals shall not be allowed within or adjoining a subdivision. In cases where canals or ditches cross public roads or proposed public roads, specifications and grades for pipes or culverts must be approved by the Engineer.
- C. All open ditches, canals, waterways, non-access street, open reservoirs or bodies of water, and other features judged by the land use authority to be hazardous nature, on crossing, or adjacent to property being subdivided shall be fenced or closed from access in a manner satisfactory to and approved by the land use authority.
- D. All subdivisions shall be required to retain excess water created by the development and construction of home, upon the subdivision property.
- E. All subdivisions shall have either curb or gutter or a borrow ditch to channel rain water and water runoff to the retention areas within the subdivision.

11.08.040 Street Improvements

- A. Prior to start of any work on a subdivision the sub divider shall furnish to the Town Engineer, a complete set of construction plans and profiles of all streets, existing and proposed, within the subdivision. Plans are to be prepared by a licensed Engineer and shall be accompanied by the final plat. If the plans are not approved, they shall be returned to the sub divider with the reasons for non-approval, and upon correction, shall be re-submitted in the same manner as required herein. Such plans and profiles shall include but are not limited to the following; (see Town Subdivision Design Standards):
 - 1. The designation of limits of work to be done.
 - 2. The location of the benchmark and its true elevation according to County datum, all profiles to be referred to that datum.
 - 3. Construction plans which include the details of curb and gutter (if applicable) and street cross sections, locations and elevations of manholes, catch basins and storm sewers, elevations and locations of fire hydrants and any other details necessary to simplify construction.
 - 4. Adequate horizontal and vertical survey control shall be established as required by the engineer; sufficient survey monuments shall be permanently set so that lot boundaries can be established from points within the subdivision.
 - 5. Complete data for field layouts and office checking.

6. On curb returns, at least two additional controls points of curvature. Control points shall be staked in the fields to insure drainage of intersections.
- B. Grades of all streets shall not be in excess of eight percent on major collector's streets or in excess of ten (10) percent on all other streets.

- C. All streets within the town shall be improved in accordance with the Design Standards, rules and regulations adopted by the Town Council. Such plans and profiles shall include but are not limited to (see Town Subdivision Design Standards):

EXHIBIT A. TABLE 1 MINOR, MAJOR & ARTERIAL STREET DESIGN STANDARDS

Street Type	Maximum	Right of way	Pavement Widths	Number of lanes	Lane Widths	Shoulder Widths	Borrow Ditch
Minor Collector (100-200 Units)	10%	60'	34'	2	11'	2'	5'
Major Collector (201-600 Units)	10%	70'	44'	2	12'	2'	5'
Minor Arterial (6,000-20,000)	8%	90'	64'	5	11'	5'	5'
Major Arterial (20,000 Plus)	8%	106'	80'	5	12'	5'	5'

All Minor, Major and Arterial Streets shall be paved as per Apple Valley Town Design Standards, and shall be built as outlined in it and as per Exhibit A, Table 1 above.

Sidewalks may be required instead of Borrow Ditches as required by the Town Council.

EXHIBIT B. Table 1A RESIDENTIAL STREET STANDARDS

Street Type	Maximum Grade	Right of way	Pavement Widths	Number of lanes	Land Widths	Shoulder Widths	Borrow Ditch
Residential Minimum (10 or less Units)	10%	41'	26'	2	11'	2'	5'
Residential Minimum Alternative	10%	49'	26'	2	11'	2'	5'
Residential Local (11-50 Units)	10%	45'	30'	2	10'	5'	5'
Residential Local Alternative	10%	53'	30'	2	10'	5'	5'
Residential Standard (51+ Units)	10%	52'	37'	2	11'	7.5'	5'
Residential Standard Alternative	10%	60'	37'	2	11'	7.5'	5'

In subdivision with 1 acre or larger lots, curb and gutter may be replaced by borrow ditches, as required by the Town Council.

In subdivision with less than 1 acre lots and in all commercially zoned areas of town and roads bordering such areas, curb & gutter shall be installed instead of borrow ditches and pavement shall be required.

- D. 1. No intersections shall be closer than 150 feet, unless otherwise noted in

the standards of the American Association of state highway and transportation official's manual for street and intersection design.

2. If curbs and gutters are required, it shall be of concrete and shall meet the standard and specifications adopted by the town.
 3. If sidewalks are required, it shall be of concrete and shall meet the standard and specifications adopted by the town.
 4. Storm water inlets and catch basins shall be provided within the roadway improvements at points specified by the engineer.
 5. All curb corners shall have a radius of not less than 15 feet and at intersections involving collector or major streets, of not less than 25 feet.
 6. Local streets shall approach collector or arterial streets at as near ninety degrees as possible, not to exceed a fifteen degree variance.
- E. Street name signs, conforming to the design and specifications, and in the number necessary for proper identification of all streets, shall be provided for and installed by the developer.
- F. Traffic control signs including stop or yield right of way sign, shall be installed to ensure a smooth flow of traffic through the town.
- G. No subdivision shall be approved unless the area to be subdivided shall have frontage, with a width as required by the land use code, on a dedicated street, improved to town standards, unless otherwise approved by the Town Council. On cul-de-sac street, the required width of any lot in the cul-de-sac shall be measured at the setback line instead of the street lot line.
- H. Access to a major arterial street may be limited by one of the following means:
1. No lot access shall be provided from the arterial directly to any lot in the subdivision, and screening or fencing may be required in a landscaped strip along or side property line of said lots.
 2. A series of cul-de-sacs of U shaped streets sharing access to such street.
 3. A service road separated from the primary arterial by a planting strip and having access thereto a suitable point.
- I. The arrangement of streets shall provide for continuation of principal streets between adjacent properties when such continuation is in accordance with the master plan of streets. If the adjacent property is undeveloped and the street must be a temporarily a dead end street, the right of way shall be extended to the property line, and a temporary turnaround shall be provided. Dead end streets shall be avoided, and dead-end streets of more than eight hundred (800) feet shall require town approval.

- J. The inspection and written recommendations for approval of streets shall be done by the town engineer. Final acceptance for dedication after (2) years of maintenance shall be accepted by the Town Council following a favorable recommendation from the engineer.
- K. Following the final approval of the subdivision plat by the Town Council; the developer may construct streets and utility systems prior to recording the plat without the necessity of bonding. However, no construction shall begin until the town engineer has approved all construction drawings, the necessary inspection fees have been paid, a Joint Utility meeting has been held and an inspector has been assigned to the project. The inspector shall be notified at least twenty-four (24) hours in advance, wherever any work is proposed to be done.

11.08.050 Private Road Maintenance

Private roads may be approved in the Town of Apple Valley, however, If the Town Council approves a private road with more than 5 homes bordering such road, the Town Council may require such road to be built to town standards with or without Delay Agreement as to some road improvements, and may also require the owner(s) to be able to show a means of perpetual maintenance to the satisfaction of the town, before a private road may be approved.

11.08.060 Street Names

- A. Each street that is a continuation of, and approximate continuation of, any existing dedicated street shall be given the name of such existing street. When any street forms a portion of a proposed street it shall be surveyed, widened, or improved and given the same name.
- B. The names of newly created streets shall not duplicate or nearly duplicate the names of any streets in the town or in the adjacent areas of Washington County.
- C. Any named street shall also have the proper compass direction coordinate as approved by the town engineer.
- D. Subdivides are encouraged to do an investigation of local history regarding the names and references to geological and historical figures located in the subdivision and, wherever possible, incorporate the historical names and references into the names and street designations.

11.08.070 Driveways

- A. All driveways must meet fire code.

- B. Driveways serving single residential dwellings shall be a minimum of twelve (12) feet wide.

Driveways serving three or less residential dwellings shall be a minimum of fifteen (15) feet wide. no driveway shall serve more than three residences, unless approved by the town council.

11.08.080 Water

- A. All subdivisions shall have a supply of culinary water available to each lot in the subdivision.
- B. All water to all lots, shall be supplied by the Big Plains Water and Sewer Special Service District, unless otherwise approved by them.
- C. Minimum Water Pressure. At all lots in Town the water pressure shall meet the following minimum water pressures at points of connection:
 - 1. 20 psi during conditions of fire flows and fire demand experienced during peak day demand.
 - 2. 30 psi during peak instantaneous demand.
 - 3. 40 psi during peak day demand.

If Big Plains Water and Sewer Special Service District is unable to meet these minimum required water pressures, with the existing resources available to them, the subdivision cannot be approved, unless the developer is able to provide the needed resources (storage tanks, etc.) to solve the problem to Big Plains Water and Sewer Special Service District's satisfaction.

11.08.090 Electrical And Telephone Systems

- A. All subdivisions shall be provided with electrical and telephone service. The developer shall submit electrical and telephone plans to the town planning and zoning director prior to final approval of the Subdivision Plat. The use of Cellular phones only shall not constitute an acceptable telephone plan.
- B. The Cost of said systems shall be estimated by the electrical and telephone companies providing service to the subdivision and the amount thereof shall be included in the bond covering all required improvements, unless a copy of a current construction contract, signed by the utility company and the developer, providing for the installation of said facilities within the one year bonding period is submitted to and approved by the town.
- C. Inspections shall be made by the town and the electric and telephone companies on each systems. A final inspection shall be made by the town then final approval given in writing prior to release of the bond.

11.08.100 Fences And Guards

In locations where a land subdivision abuts or is adjacent to public or private grazing land, a fence of material and quality satisfactory to the Town Council shall be erected around the outer limits of the subdivision as it is shown on the subdivision map.

11.08.110 Natural Gas Systems

Subject to availability, all subdivisions shall be provided with natural gas distribution systems. The developer shall submit construction plans to the town prior to final approval of the subdivision plat.

- A. The Cost of said systems shall be estimated by the gas companies providing service to the subdivision and the amount thereof shall be included in the bond covering all required improvements, unless a copy of a current construction contract, signed by the utility company and the developer, providing for the installation of said facilities within the one year bonding period is submitted to and approved by the Town Council.
- B. Inspections shall be made by the town and the gas companies on each system. A final inspection shall be made by the town then final approval given in writing prior to release of the bond.

11.08.120 Lighting

The purpose of this section is to identify appropriate lighting to preserve and enhance the natural environment and aesthetic quality of the town. To enhance the appearance, character and value of all properties. To promote compatibility and continuity between different land uses located in proximity to each other, and to prevent objectionable light sources and light pollution of the night sky.

- A. To protect the night sky, all outside lighting shall be "DOWN LIGHTING" and no lighting shall be allowed to trespass, or spill onto any adjoining properties.
- B. All exterior lighting should provide for the illumination of buildings and grounds for safety purposes, but in an esthetically pleasing manner.
- C. Warm lighting colors are encouraged. Blue white colors of fluorescent and mercury vapor lamps are prohibited.
- D. All exterior lighting shall be reduced to the minimum levels necessary for safety and security purposes. The use of motion sensors and timers is encouraged, and may be required.
- E. All walkway lighting should be provided below eye level to direct light downward onto the walkway surface.
- F. No indoor lighting shall be provided or constructed to provide lighting for any outdoor areas.
- G. Reference to AVLU 10.26 Outdoor Lighting for additional standards.

11.12 Standards

11.12.010 Departmental Standards

11.12.020 Design Standards

11.12.030 Fire Flow And Line Size Standards

11.12.040 Protection Strips

11.12.010 Departmental Standards

Standards for design, construction specifications, and inspection of street improvements, curbs, gutters, sidewalks, storm drainage, flood control facilities, water systems and fire protection systems shall be prepared by the town engineer in accordance with the Town of Apple Valley's Standards and Specifications; standards for water distribution and sewage disposal facilities by Big Plains Water and Sewer Special Service District with the assistance from the Utah State Department of Environmental quality and Southwest Utah Public Health Department.

11.12.020 Design Standards

The design of the preliminary and final plat of a subdivision in relation to streets, blocks, lots, open spaces and other design factors shall be improved in accordance with the Design Standards, rules and regulations adopted by the Town Council. Such plans and profiles shall include but are not limited to (see Town Subdivision Design Standards):

- A. The minimum area and dimensions of all lots shall conform to the requirements of the zone district in which the lot is located.
- B. All lots or parcels created by a subdivision shall have direct access with frontage on a dedicated street improved to standards herein after required, or a private street if approved by the Town Council.
Private streets shall be permitted only as recommended by the planning commission and approved by the Town Council. Land designated as public right of way shall be separate and distinct from lots adjoining such right of ways and shall not be included in the area of such lots.
- C. All subdivisions shall result in the creation of lots that are developable and capable of being built upon. A subdivision shall not create lots and no building permits shall be issued for any lots that would make building or access impractical due to size, shape, steepness of terrain, location of watercourses, problems of sewage or driveway grades, or other physical conditions except where such lots are suitable and dedicated for a common open space, private utility, or public purpose as determined by the planning commission.
- D. The side lines to all lots, so far as possible, shall be right angles to each street on which the lot faces or approximately radial to the center of curvatures. Exceptions may be made to this requirement where considerations for solar orientation are involved.

- E. Corner lots for residential use shall be planned wider than interior lots to permit conformance with the required front setback requirements of both streets.
- F. A city boundary line shall not divide a lot; each boundary line shall be made on a lot line.
- G. Lot numbers shall begin with the number #1 and shall continue consecutively through the subdivision with no omissions or duplications; no block designations shall be used.
- H. Except as specifically authorized by this chapter, not more than one dwelling unit shall occupy any one lot.
 - I. No area needed to meet the minimum width, yard area, parking, or other requirements of this chapter for a lot or building may be sold or leased away from such lot or building for the purpose of installing any kind of structure.
 - J. No portion of a lot may be cut off from another portion of a lot that has been created through a subdivision action.
- K. Blocks shall not exceed approximately eight hundred (800) feet in length.
- L. Blocks shall be wide enough to adequately accommodate two tiers of lots, unless the Land Use Authority, because of topography, approves a modification or other unusual conditions as provided for by this Code.
- M. Access from Major Arterial and Collector Streets. Lots shall not derive access exclusively from a major arterial. Access shall be limited on collector streets except where approved by the Town Council. In such cases driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic.
- N. After determination by the commission that standard lots are not feasible, the commission may, in order to encourage more efficient use of land, allow flag lots to be developed subject to the following conditions:
 - 1. The property cannot be subdivided with Public Street and standard size lots, either at the present or in the future.
 - 2. The staff portion of said lot shall front a dedicated public or private street. The minimum width of the staff portion of the lot shall be 25 feet.
 - 3. No building or construction, except for driveways, shall be allowed on the staff portion of said lot.
 - 4. The front side of the flag lot shall be deemed to be the side nearest the dedicated public or private street up on which the staff portion front.
 - 5. All lot size and set back requirements shall be the same as may be required the zone in which the lot is located.
 - 6. No more than five (5) flag lots may be served by one staff portion of said lot.

7. The land use authority shall specifically approve each flag lot.
8. The twenty five (25) foot access easement shall be improved with an all-weather surface to allow access to emergency vehicles.

11.12.030 Fire Flow And Line Size Standards

The subdivision shall be improved in accordance with the Design Standards, rules and regulations adopted by the town. Such plans and profiles shall include but are not limited to (see Town Subdivision Design Standards) the following:

- A. All fire flow and line size standards shall conform to the international fire code.
- B. In all cases, the water source, water storage and water delivery system shall be engineered and installed to provide the required fire flow during times of peak water usage as if all development within the proposed subdivision were complete, and as may be required by formulas adopted by the state board of environmental quality in connection with the state's approval system. Verification will be at the developer's expense and certified by a licensed engineer.
- C. Water distribution lines in all subdivisions shall be a minimum of eight (8) inches in diameter. The water lines shall be larger if needed to provide for the required fire flow.
- D. Water systems shall be looped when possible and valves shall generally be spaced such that a break in any one length of main will put no more than one block out of service during repairs, subject to a maximum of one thousand (1,000) feet.
- E. Previously approved subdivisions
 1. All new water storage, new water lines and new fire hydrants that are installed to develop a new phase of a previously approved subdivision shall conform to the current requirements.
 2. Any water lines that are intended to be used as future feeder lines to platted phases of a previously approved subdivision shall be engineered and installed to provide adequate fire flow to the anticipated phase in accordance with the current flow standards.
- F. Fire Hydrants specifications:
 1. All fire hydrants shall have one 4.5 inch and two (2) 2.5 inch outlets with NH threads.
 2. A six-inch (6) inch gate valve shall be installed on each fire hydrant to be shut off in case of damage or need of repairs. This gate valve shall be accessible by standard square key from the street or ground level.

3. All fire hydrants shall be properly thrust blocked with poured in place concrete against undisturbed or compacted soil. Rocks and other materials are not acceptable as thrust blocking. Banding and other forms of mechanical restraint may be used only if approved by the Town Council.
4. All hydrants shall be five (5) feet from the back of the curb or borrow ditch. In all cases hydrants shall have a five (5) foot elliptical radius of unobstructed clearance to adjacent obstacles.
5. The lowest hydrant water outlet shall not be less than eighteen (18) inches nor more than thirty (30) inches above the final ground level.

G. Fire hydrant spacing and location:

1. Fire hydrant spacing and location shall be as defined in the international fire code, but not to exceed two hundred and fifty feet (250) from any subdivided lot.
2. Fire hydrants shall be installed on dedicated easements or public right-of-ways and hydrants will be owned and maintained by the town.
3. Dead end streets should be avoided in the water system. If they cannot be avoided, a hydrant or flushing valve shall be installed at the end of each such dead end street.

11.12.040 Protection Strips

Where subdivision street parallels contiguous property of other private property owners, the sub divider may upon approval of the land use authority, retain protection strip no less than one foot in width between the street and adjacent property, provided, that an agreement, approved by the town attorney, has been made by the sub divider, contracting to deed to the then owners of the contiguous property, the one foot or larger protection strip for a consideration named in the agreement, such consideration to be not more than the fair cost of the land in the protection strip, the street improvements properly chargeable to the contiguous property, plus the value of the one-half the land in the street at the time of the agreement, together with interest at a fair rate from the time of agreement until the time of the subdivision of such contiguous property. One copy of the agreement shall be submitted by the town attorney to the land use authority prior to approval of the final plat and recording. Protection strip shall not be permitted at the end of any public street or proposed street.



Apple Valley

Washington County, Utah

Municipal Code

Compiled: Monday, June 17, 2019

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Preface

In 2019, codification and administration of the Municipal Code began in-house under the direction of the Apple Valley Town Recorder and with the assistance of Municipal Code Corporation. This Municipal Code shall be cited as the Apple Valley Municipal Code or "AVMC" as an acronym.

This Municipal Code maintains a structure by subject matter using a decimal numbering system identifying the Chapter, and Section (for example: 1.01.010).

- The first number in the sequence (1.01.010) designates the **Title** level
- The second series of numbers (1.01.010) designates the **Chapter** level
- The last series (1.01.010) designates the **Section** level

This complete set of numbers is designed to aid in searching the Municipal Code and to assist in subsequent codification as new ordinances are added to the Municipal Code. Vacant titles, chapters, or sections may be designed for future use and may be marked (Reserved) to ease internal expansion.

To outline, give structure, and more granularly reference the legislation herein, the following pattern of ascending alphanumeric characters is used: A, 1, a, (1), (A), (a). Drafting future ordinances and resolutions with this alphanumeric numbering reconciles it with that of the code. An example of a well-written reference would be "AVMC 1.01.010 A,1a".

The legislative history beneath a legislation's content identifies the specific legal sources, and may be provided to substantiate the online code.

The Code is supplemented from time to time with amendments and additions made by Apple Valley Town. The specific legal sources that comprise this Code have been adapted during the codification process from the original formatting of the official hard copy. In the event of discrepancies between the online Code and the official hard copy, the official hard copy governs. Municipal Code Corporation, provides a searchable database of the Code for easy reference and convenience.

NOTICE: THE CODE MAY NOT REFLECT ALL OR THE MOST CURRENT VERSION OF LEGISLATION ADOPTED BY THE TOWN COUNCIL THAT HAS YET TO BE UPDATED ONLINE. IN THE EVENT OF CONFLICT BETWEEN THE CODE AND A WRITTEN ORDINANCE, THE ORDINANCE TYPICALLY GOVERNS. ALSO, THE CODE MAY NOT REFLECT RULES OR OTHER REGULATIONS PROMULGATED UNDER THE AUTHORITY OF THE CODE, INCLUDING TECHNICAL SPECIFICATIONS. FOR MORE INFORMATION CONTACT THE TOWN RECORDER AT [435-877-1190](tel:435-877-1190).

1 General Provisions

1.02 Definitions

1.08 General Penalties

1.02 Definitions

1.02.010 Washington County Code Definitions Adopted

1.02.010 Washington County Code Definitions Adopted

Apple Valley Town adopts the following sections of the Washington County Code, as amended, [Title 1, Chapter 3 - Definitions](#).

1.08 General Penalties

1.08.010 Washington County Code General Penalties Adopted

1.08.010 Washington County Code General Penalties Adopted

Apple Valley Town adopts the following sections of the Washington County Code, as amended, [Title 1, Chapter 4 - General Penalty](#).

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2.06.010 Definitions

The following words and terms shall have the meanings ascribed to them in this Chapter:

"Candidate" means any person who files a declaration of candidacy for an elective office of the Town of Apple Valley; or is nominated by a committee or party; or received contributions or made expenditures or consents to another person receiving contributions or making expenditures with a view to bringing about such person's nomination or election to elective office; or causes on the person's behalf, any written material or advertisement to be printed, published, broadcast, distributed or disseminated which indicates an intention to seek elective office.

"Contribution" means monetary and nonmonetary contributions, such as in-kind contributions and contributions of tangible things, but shall not include personal services provided without compensation by individuals volunteering their time on behalf of a candidate for elective office.

"Election" means both the primary election and the general election.

"Expenditures" mean a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any candidate.

2.06.020 Filing Of Campaign Finance Statement

Each candidate for elective office shall file with the town recorder, dated, signed and sworn campaign financial statements which comply with this Chapter.

2.06.030 Time Of Filing

The campaign financial statements required by this Chapter shall be filed at least once seven days before both the primary election, and if the candidate is not eliminated at a primary election, at least seven days before the general election and at least once thirty days after the primary election and, if the candidate is not eliminated at a primary election, at least once thirty days after the general election.

2.06.040 Contents Of Campaign Finance Statement Filed Before Election

The campaign finance statement filed at least once seven days before the primary election and, if applicable, at least once seven days before the general election shall include:

- A. A list of the amount of each contribution of more than fifty dollars received by the candidate, and the name of the donor; and
- B. An aggregate total of all contributions of fifty dollars or less received by the candidate; and
- C. A list of each expenditure for political purposes made during the campaign period, the amount, and the recipient of each expenditure.

2.06.050 Contents Of Campaign Finance Statement Filed After Election

The campaign finance statement filed at least once no later than thirty days after the primary election and, if applicable, at least once no later than thirty days after the general election shall include:

- A. A list of each contribution of more than fifty dollars received after the date of the pre-election campaign :finance statement and the name of the donor;
- B. An aggregate total of all contributions of fifty dollars or less received by the candidate after the date of the pre-election campaign finance statement; and
- C. A list of all expenditures for political purposes made by the candidate after the date of the pre-election campaign finance statement and the recipients of all expenditures.
- D. Candidates who are eliminated at a primary election shall file a post election campaign :financial statement as required herein within thirty days following the primary election at which they are eliminated.

2.06.060 Public Information

The campaign finance statements required by this Chapter shall be public documents and shall be available for public inspection and copying during all regular town business hours.

2.06.070 Penalty For Failure To File Campaign Finance Report

If a candidate fails to file a campaign finance statement before the municipal general election by the deadline specified in AVMC 2.06.030, the town recorder shall inform the appropriate election official who shall:

- A. If practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or
- B. If removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and
- C. Not count any votes for that candidate.

2.06.080 Inadvertent Omissions, Errors, Or Inaccuracies

Notwithstanding AVMC 2.06.070, a candidate who files a campaign finance statement seven days before a municipal general election is not disqualified if:

- A. The statement details accurately and completely the information required under AVMC 2.06.040, except for inadvertent omissions or insignificant errors or inaccuracies; and
- B. The omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

2.06.090 Timely Filing

A campaign finance statement required under this Chapter is considered filed if it is received in the town recorder's office by 5 p.m. on the date that is it due.

2.06.100 Private Civil Action Allowed:

A private party in interest may bring a civil action in district court to enforce the provisions of this Chapter.

- A. In a civil action under this Section, the court may award costs and attorney fees to the prevailing party.

2.06.110 Criminal Penalty

Any candidate who fails to comply with this Chapter is guilty of an infraction and, upon conviction, subject to penalty as provided in section of this Chapter.

2.10 Town Council

2.10.050 Compensation Schedule

2.10.050 Compensation Schedule

Each member of the Town Council shall be compensated for attendance at Town Council meetings at the rate of \$25.00 per Town Council meeting attended. This compensation shall apply to all regular or special Town Council meetings and to any work meeting where such work meeting is not held immediately before or after a regular or special Town Council meeting. Payment shall be made to members of the Town Council monthly for all meetings attended during the prior month.

2.14 Planning Commission

2.14.010 Purpose

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2.14.030 Establishment Of Municipal Planning Commission

2.14.040 Term Of Office

2.14.050 Filling Vacancies And Removal From Office

2.14.060 Governance Of Planning Commission

2.14.070 Powers And Duties

2.14.010 Purpose

The purpose of this Chapter is to establish a planning commission for Apple Valley Township ("Apple Valley"). This Chapter defines the number and terms of the members, the mode of appointment, the procedures for filling vacancies and removal from office, and other details relating to the organization and procedures of the planning commission.

2.14.020 Findings

- A. The Township of Apple Valley ("Apple Valley") was incorporated by the State of Utah on the 14th day of October, 2004.
- B. Apple Valley has previously adopted the Zoning Ordinance of Washington County (Ordinance No. 2004-1-O), which includes provisions for a countywide planning commission (Title 10, Section 3).
- C. The residents of Apple Valley would benefit from the establishment of a municipal planning commission.
- D. Creation of a municipal planning commission would necessitate repealing Title 10, Section 3 of the Zoning Ordinance of Washington County.
- E. It is in the interest of the public and the residents of Apple Valley that Apple Valley establish a municipal planning commission.

2.14.030 Establishment Of Municipal Planning Commission

Apple Valley hereby establishes a municipal planning commission, which is comprised of five (5) regular members, one of which may be a town council member, and up to three (3) alternate members, which shall be appointed by the mayor, with the advice and consent of the town council. Each planning commissioner shall be a resident of and qualified elector in the township. Not less than three (3) members constitute a quorum. Alternate members may be called to fill a quorum when there are insufficient regular members available. The members of the planning commission, whether regular or alternate members, shall serve without compensation except for the reimbursement of actual expenses incurred as approved by the town council.

2.14.040 Term Of Office

The term of the regular members of the planning commission shall be three (3) years and until their respective successors have been appointed; provided, that the terms of the regular members shall be staggered so that no more than one (1) regular member's term expires each year. The term of the alternate members shall be two (2) years and shall be staggered so that not more than one (1) alternate member's term expires each year.

2.14.050 Filling Vacancies And Removal From Office

The mayor may appoint, with the advice and consent of the town council, members to fill any unexpired terms of any regular or alternate members who vacate their positions for any reason. Planning commission members may be removed from their position for cause by the town council. "Cause" includes, but is not limited to, moving out of the county, failing to attend planning commission meetings, or committing any act inimical to public service.

2.14.060 Governance Of Planning Commission

The regular members of the planning commission shall elect one of their members as chair of the planning commission, whose term shall be for one (1) year. The planning commission may create and fill such other offices as it may determine. The planning commission shall adopt such rules and regulations governing its procedure as it may consider necessary or advisable, and shall keep a record of their proceedings, which record shall be open to inspection by the public at all reasonable times. The planning commission may adopt policies and procedures for the conduct of its meetings, the processing of applications, and for any other purposes considered necessary for the functioning of the planning commission. These policies and procedures shall be submitted to the town council before taking effect.

2.14.070 Powers And Duties

The planning commission shall have the powers and duties outlined in Utah Code § 10-9-204, as amended, including:

- A. Preparing and recommending a general plan and amendments to the general plan to the town council as set forth in Utah Code § 10-9-301 et seq. (as

amended).

- B. Recommending land use ordinances and maps, and amendments to land use ordinances and maps, to the town council as set forth in Utah Code § 10-9-401 et seq. (as amended).
- C. Administering provisions of the land use ordinance, where specifically provided for in the land use ordinance adopted by the town council.
- D. Recommending subdivision regulations and amendments to those regulations to the town council as set forth in Utah Code § 10-9-801 et seq. (as amended).
- E. Recommending approval or denial of subdivision applications as provided in Utah Code § 10-9-801 et seq. (as amended).
- F. Advising the town council on matters as the town council directs.
- G. Hearing or deciding any matters that the town council designates, including the approval or denial of, or recommendations to approve or deny, conditional use permits.
- H. Exercising any other powers:
 - 1. that are necessary to enable it to perform its function; or
 - 2. delegated to it by the town council.

4 General Revenue

4.02 Sales And Use Tax

4.04 Municipal Energy Tax

4.06 Telecommunications Tax

4.08 Transient Room Tax

4.12 Municipal Service Fees

4.02 Sales And Use Tax

4.02.010 Title

4.02.020 Sales And Use Tax

4.02.030 Penalties

4.02.010 Title

This Chapter shall be known as the "Sales and Use Tax Chapter of the Township of Apple Valley."

4.02.020 Sales And Use Tax

- A.
1. From and after the effective date of this Chapter, there is levied and there shall be collected and paid a tax upon every retail sale of tangible personal property, services and meals made within the municipality at the rate of one percent (1%).
 2. An excise tax is hereby imposed on the storage, use, or other consumption in this municipality of tangible personal property from any retailer on or after the operative date of this Chapter at the rate of one percent (1%) of the sales price of the property.
 3. For the purpose of this Chapter all retail sales shall be presumed to have been consummated at the place of business delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has no permanent place of business, the place or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed by and adopted by the State Tax Commission. Public utilities as defined by Utah Code Title 54, 1953, shall not be obligated to determine the place or places within any county or municipality where public utilities services are rendered, but the place of sale or the sales tax revenue arising from such service allocable to the city shall be as determined by the State Tax Commission pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it.
- B.
1. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of the Sales and Use Tax Act, all of the

provisions of Utah Code 59-12, 1953, as amended, and in force and effect on the effective date of this Chapter, insofar as they relate to sales taxes, excepting Utah Code §§ 59-12-101 and 59-12-119 thereof, are hereby adopted and made a part of the Chapter as though fully set forth herein.

2. Wherever, and to the extent that in Utah Code 59-12, 1953, the State of Utah is named or referred to as the taxing agency, the name of this municipality shall be substituted therefore. Nothing in subparagraph (B) shall be deemed to require substitution of the name of the municipality for the word "State" when that word is used as part of the title of the State Tax Commission, or of the Constitution of the State of Utah, nor shall the name of the municipality be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the municipality or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of the Chapter.
3. If an annual license has been issued to a retailer under Utah Code § 59-12-106, 1953, an additional license shall not be required by reason of this section.
4. There shall be excluded from the purchase price paid or changed by which the tax is measured:
 - a. The amount of any sales or use tax imposed by the State of Utah upon a retailer of consumer;
 - b. The gross receipts from the sale of or the cost of storage, use or other consumption of tangible personal property upon which a sales or use tax has become due by reason of the sale transaction to any other municipality and any county in the State of Utah, under the sales or use tax ordinance enacted by that county or municipality in accordance with the Sales and Use Tax Act.

4.02.030 Penalties

Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine in an amount less than \$300.00 or imprisonment for a period of not more than six months, or by both such fine and imprisonment.

4.04 Municipal Energy Tax

[4.04.010 Findings](#)

[4.04.020 Definitions](#)

[4.04.030 Municipal Energy Sales And Use Tax](#)

[4.04.040 Exemptions From The Municipal Energy Sales And Use Tax](#)

[4.04.050 Tax Collection Contract With State Tax Commission](#)

[4.04.060 Incorporation Of Part 2, Chapter 12, Title 59, Utah Code Annotated, Including Amendments](#)

[4.04.070 No Additional License To Collect The Municipal Energy Sales And Use Tax Required - No Additional License Or Reporting Requirements](#)

[4.04.080 Report To Township On Delivered Value Of Taxable Energy And Tax Due](#)

[4.04.090 Attorney's Fees And Costs Of Collection](#)

4.04.010 Findings

- A. Utah Code § 10-1-301 et seq., known as the "Municipal Energy Sales and Use Tax Act", provides the manner in which municipalities may collect revenue from the sale and use of taxable energy.
- B. The Township of Apple Valley must adopt an ordinance which meets the specific requirements of the "Municipal Energy Sales and Use Tax Act" in order for the town to be able to collect municipal energy sales and use tax pursuant to that Act.
- C. The Town Council has determined that it is in the best interest of the Township of Apple Valley to enact an ordinance which complies with the requirements of the "Municipal Energy Sales and Use Tax Act" so as to be able to levy and receive sales and use taxes from energy suppliers and/or providers.

4.04.020 Definitions

"**Consumer**" means a person who acquires taxable energy for any use that is subject to the Municipal Energy Sales and Use Tax.

"**Contractual Franchise Fee**" means:

- A. a fee;
 - 1. provided for in a franchise agreement; and
 - 2. that is consideration for the franchise agreement; or
- B.
 - 1. a fee similar to subsection B,1; or
 - 2. any combination of subsections B,1 or B,2.

"**Delivered Value**" means the fair market value of the taxable energy delivered for sale or use in the municipality and includes:

- A. the value of the energy itself; and

- B. any transportation, freight, customer demand charges, service charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the municipality,

"Delivered Value" does not include the amount of a tax paid under Utah Code 59-12 Part 1 or Part 2.

"Energy Supplier" means a person supplying taxable energy, except for persons supplying a de minimus amount of taxable energy, if such persons are excluded by rule promulgated by the State Tax Commission.

"Franchise Agreement" means a franchise or an ordinance, contract, or agreement granting a franchise.

"Franchise Tax" means:

- A. a franchise tax
- B. a tax similar to a franchise tax; or
- C. any combination of subsections A or B.

"Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

"Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of taxable energy for a consideration. It includes:

- A. installment and credit sales;
- B. any closed transaction constituting a sale;
- C. any transaction under which right to acquire, use or consume taxable energy is granted under a lease or contract and the transfer would be taxable if an outright sale were made.

"Storage" means any keeping or retention of taxable energy in this City/Town for any purpose except sale in the regular course of business.

"Taxable Energy" means gas and electricity.

"Use" means the exercise of any right or power over taxable energy incident to the ownership or the leasing of the taxable energy. "Use" does not include the sale, display, demonstration, or trial of the taxable energy in the regular course of business and held for resale.

4.04.030 Municipal Energy Sales And Use Tax

There is hereby levied, subject to the provisions of this Chapter, a tax on every sale or use of taxable energy made within the Township of Apple Valley equaling one and one-half percent (1½%) of the delivered value of the taxable energy to the consumer. This tax shall be known as the Municipal Energy Sales and Use Tax.

- A. The tax shall be calculated on the delivered value of the taxable energy to the consumer.
- B. The tax shall be in addition to any sales or use tax on taxable energy imposed by the Township of Apple Valley authorized by Utah Code § 59-12 Part 2, The Local Sales and Use Tax Act.

4.04.040 Exemptions From The Municipal Energy Sales And Use Tax

- A. No exemptions are granted from the Municipal Energy Sales and Use Tax except as expressly provided in Utah Code § 10-1-305(2)(b); notwithstanding an exemption granted by Utah Code § 59-1-104.
- B. The following are exempt from the Municipal Energy Sales and Use Tax, pursuant to Utah Code § 10-1-305(2)(b):
 - 1. Sales and use of aviation fuel, motor fuel, and special fuels subject to taxation under Utah Code 59-13;
 - 2. Sales and use of taxable energy that is exempt from taxation under federal law, the United States Constitution, or the Utah Constitution;
 - 3. Sales and use of taxable energy purchased or stored for resale;
 - 4. Sales or use of taxable energy to a person, if the primary use of the taxable energy is for use in compounding or producing taxable energy or a fuel subject to taxation under Utah Code 59-13;
 - 5. Taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the state, except taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase;
 - 6. The sale or use of taxable energy for any purpose other than as a fuel or energy; and
 - 7. The sale of taxable energy for use outside the boundaries of the Township of Apple Valley.
- C. The sale, storage, use, or other consumption of taxable energy is exempt from the Municipal Energy Sales and Use Tax levied by this Chapter, provided:
 - 1. The delivered value of the taxable energy has been subject to a municipal energy sales or use tax levied by another municipality within the state authorized by Utah Code 59-12, Part 3; and

2. Township of Apple Valley is paid the difference between the tax paid to the other municipality and the tax that would otherwise be due under this Chapter, if the tax due under this Chapter exceeds the tax paid to the other municipality.

4.04.050 Tax Collection Contract With State Tax Commission

- A. On or before the effective date of this Ordinance, the Township of Apple Valley shall contract with the State Tax Commission to perform all functions incident to the administration and collection of the Municipal Energy Sales and Use Tax, in accordance with this Chapter. This contract may be a supplement to the contract with the Commission to administer and collect the Local Sales and Use Tax, as provided in AVMC 4.02. The Mayor, with the approval of the Apple Valley Town Attorney, is hereby authorized to enter an agreement with the State Tax Commission that may be necessary to the continued administration and operation of the Municipal Energy Sales and Use Tax Ordinance enacted by this Chapter.
- B. An energy supplier shall pay the Municipal Energy Sales and Use Tax revenues collected from consumers directly to the Township of Apple Valley monthly if:
 1. the Township of Apple Valley is the energy supplier; or
 2.
 - a. the energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah consumers equals \$1,000,000 or more, and
 - b. the energy supplier collects the Municipal Energy Sales and Use Tax.
- C. An energy supplier paying the Municipal Energy Sales and Use Tax directly to the Township of Apple Valley may deduct any contractual franchise fees collected by the energy supplier qualifying as a credit and remit the net tax less any amount the energy supplier retains as authorized by Utah Code § 10-1-307(4).

4.04.060 Incorporation Of Part 2, Chapter 12, Title 59, Utah Code Annotated, Including Amendments

- A. Except as herein provided, and except insofar as they are inconsistent with the provisions of Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, as well as this Chapter, all of the provisions of Utah Code 59-12 Part 1, 1953, as amended, and in force and effect on the effective date of Ordinance 2004-4-O, insofar as they relate to sales and use taxes, excepting Utah Code §§ 59-12-101 and 59-12-119 thereof, and excepting for the amount of the sales and use taxes levied therein, are hereby adopted and made a part of this Chapter as if fully set forth herein.

- B. Wherever, and to the extent that in Utah Code 59-12 Part 1, 1953, as amended, the State of Utah is named or referred to as the "taxing agency," the name of the Township of Apple Valley shall be substituted, insofar as is necessary for the purposes of that part, as well as Utah Code 10-1 Part 3, 1953, as amended. Nothing in this subparagraph (b) shall be deemed to require substitution of the name the Township of Apple Valley for the word "State" when that word is used as part of the title of the State Tax Commission, or of the Constitution of Utah, nor shall the name of the Township of Apple Valley be substituted for that of the State in any section when the result of such a substitution would require action to be taken by or against the Township of Apple Valley or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of this Chapter.
- C. Any amendments made to Utah Code 59-12 Part 1, 1953, as amended, which would be applicable to the Township of Apple Valley for the purposes of carrying out this Chapter are hereby incorporated herein by reference and shall be effective upon the date that they are effective as a Utah statute.

4.04.070 No Additional License To Collect The Municipal Energy Sales And Use Tax Required - No Additional License Or Reporting Requirements

No additional license to collect or report the Municipal Energy Sales and Use Tax levied by this Chapter is required, provided the energy supplier collecting the tax has a license issued under Utah Code § 59-12-106.

4.04.080 Report To Township On Delivered Value Of Taxable Energy And Tax Due

Energy suppliers paying the Municipal Energy Sales and Use Tax directly to the Township of Apple Valley shall, at the time they remit the appropriate tax due to the Township of Apple Valley under the provisions of this Chapter and Utah Code §§ 59-12-107(4) and 59-12-108, (which set forth whether such remittance is to be made on a monthly or quarterly basis), file with the Apple Valley Treasurer a report setting forth the delivered value of the taxable energy sold or used within the Township of Apple Valley, Utah, for such quarter, as well as the appropriate tax due and payable directly to the Township of Apple Valley (less any credits, adjustments, or corrections provided under this Chapter and/or the "Municipal Energy Sales and Use Tax Act"). The records of energy suppliers shall be open for inspection by the Town Council or its duly authorized representatives at all reasonable hours for the purpose of verifying such reports.

4.04.090 Attorney's Fees And Costs Of Collection

Every person obligated to pay the tax levied/imposed under this Chapter shall be required to pay all costs of collection of the tax imposed herein, including reasonable attorney's fees, court costs, and all other costs incident to the collection of the tax, as are or may be incurred by the Township of Apple Valley in the enforcement of this Chapter.

4.06 Telecommunications Tax

- [4.06.010 Findings](#)
- [4.06.020 Definitions](#)
- [4.06.030 Levy Of Tax](#)
- [4.06.040 Rate](#)
- [4.06.050 Rate Limitation And Exemption Therefrom](#)
- [4.06.060 Effective Date Of Tax Levy](#)
- [4.06.070 Changes In Rate Or Repeal Of The Tax](#)
- [4.06.080 Interlocal Agreement For Collection Of The Tax](#)
- [4.06.090 Repeal Of Inconsistent Taxes And Fees](#)

4.06.010 Findings

- A. The Township of Apple Valley, pursuant to Utah Code § 10-1-401 et seq. (1953, as amended), may levy a tax on the gross receipts of telecommunication service providers; and
- B. The Township of Apple Valley has determined that there is a need for such a tax as a source of general fund revenue.

4.06.020 Definitions

As used in this Chapter:

"**Commission**" means the State Tax Commission.

"**Customer**" means:

- A. subject to subsections B and C of this section, the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.
- B. For purposes of this Chapter, "customer" means:
 - 1. the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or
 - 2. if the end user is not the person described in subsection B,1 of this section, the end user of telecommunications service.
- C. "Customer" does not include a reseller:
 - 1. of telecommunications service; or
 - 2. for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.

"**End user**" means the person who uses a telecommunications service.

- A. For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.

"Gross receipts attributed to the municipality" means those gross receipts from a transaction for telecommunications services that is located within the municipality for the purposes of sales and use taxes under Utah Code 59-1.2, Sales and Use Tax Act and determined in accordance with Utah Code § 59-12-207.

"Gross receipts from telecommunications service" means the revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:

- A. a tax, fee, or charge:
 - 1. imposed by a governmental entity;
 - 2. separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and
 - 3. imposed only on a telecommunications provider;
- B. Sales and use taxes collected by the telecommunications provider from a customer under Utah Code 59-12, Sales and Use Tax Act; or
- C. Interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.

"Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

"Municipality" means the Township of Apple Valley.

"Place of primary use":

- A. For telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:
 - 1. the residential street address of the customer; or
 - 2. the primary business street address of the customer; or
- B. For mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

"Service Address", notwithstanding where a call is billed or paid, means:

- A. If the location described in this subsection A is known, the location of the telecommunications equipment:
 - 1. to which a call is charged; and
 - 2. from which the call originates or terminates;
- B. If the location described in subsection A of this section is not known but the location described in this subsection B is known, the location of the origination point of the signal of the telecommunications service first identified by:
 - 1. the telecommunications system of the telecommunications provider; or
 - 2. if the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or
 - 3. If the locations described in subsection A or B of this section are not known, the location of a customer's place of primary use.

"Telecommunications provider" means:

- A. Subject to subsections B and C of this section, "telecommunications provider" means a person that:
 - 1. owns, controls, operates, or manages a telecommunications service; or
 - 2. engages in an activity described in subsection A,1 of this section for the shared use with or resale to any person of the telecommunications service.
- B. A person described in subsection A of this section is a telecommunications provider whether or not the Public Service Commission of Utah regulates:
 - 1. that person; or
 - 2. the telecommunications service that the person owns, controls, operates, or manages.
- C. "Telecommunications provider" does not include an aggregator as defined in Section 54-8b-2 of the Utah Code.

"Telecommunications service" means:

- A. telephone service, as defined in Utah Code § 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state; and
- B. mobile telecommunications service, as defined in Utah Code § 59-12-102:
 - 1. that originates and terminates within the boundaries of one state; and

2. only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

4.06.030 Levy Of Tax

There is hereby levied a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to this municipality.

4.06.040 Rate

The rate of the tax levy shall be four percent (4%) of the telecommunications provider's gross receipts from telecommunications service that are attributed to the municipality subject to the following:

If the location of a transaction is determined to be other than this municipality then the rate imposed on the gross receipts for telecommunications services shall be the lower of (a) the rate imposed by the taxing jurisdiction in which the transaction is located or (b) the rate for nonmobile telecommunications services shall be the rate imposed by the municipality in which the customer's service address is located; or for mobile telecommunications service, the rate imposed by the municipality of the customer's primary place of use.

4.06.050 Rate Limitation And Exemption Therefrom

The rate of this levy shall not exceed four percent (4%) of the telecommunications provider's gross receipts from telecommunications service attributed to the municipality unless a higher rate is approved by a majority vote of the voters in this municipality that vote in:

- A. a municipal general election;
- B. a regular general election; or
- C. a local special election.

4.06.060 Effective Date Of Tax Levy

This tax shall be levied beginning the earlier of January 1, 2005, or the first day of any calendar quarter after a seventy-five-day period beginning on the date the Commission received notice pursuant to Utah Code § 10-1-403 that this municipality has enacted this Chapter.

4.06.070 Changes In Rate Or Repeal Of The Tax

This Chapter is subject to the requirements of Utah Code § 10-1-403. If the tax rate is changed or the tax is repealed, then the appropriate notice shall be given as provided in Utah Code § 10-1-403.

4.06.080 Interlocal Agreement For Collection Of The Tax

On or before the effective date of Ordinance 2004-5-O, the municipality shall enter into the uniform interlocal agreement with the Commission as described in Utah Code § 10-1-405 for the collection, enforcement, and administration of this municipal telecommunications license tax.

4.06.090 Repeal Of Inconsistent Taxes And Fees

Any tax or fee previously enacted by this municipality under authority of Utah Code § 10-1-203 or Utah Code 11-26, Local Taxation of Utilities Limitation is hereby repealed.

Nothing in this Chapter shall be interpreted to repeal any municipal ordinance or fee which provides that the municipality may recover from a telecommunications provider the management costs of the municipality caused by the activities of the telecommunications provider in the rights-of-way of the municipality, if the fee is imposed in accordance with Utah Code § 72-7-102 and is not related to the municipality's loss of use of a highway as a result of the activities of the telecommunications provider in a right-of-way, or increased deterioration of a highway as a result of the activities of the telecommunications provider in a right-of-way, nor does this Chapter limit the municipality's right to charge fees or taxes on persons that are not subject to the municipal telecommunications license tax under this Chapter and locate telecommunications facilities, as defined in Utah Code § 72-7-108, in this municipality.

4.08 Transient Room Tax

4.08.020 Transient Room Tax

4.08.030 Penalties

4.08.020 Transient Room Tax

- A. From and after the effective date of this Chapter, there is hereby imposed a tax upon the charges for the accommodations and services described in Utah Code § 59-12-103(1)(i).
- B. There is hereby imposed a tax upon every transaction listed in Utah Code § 59-12-103(1)(i) made within Apple Valley at the rate of 1% of the charges for the accommodations and services if the location of the transaction is within Apple Valley as determined under Utah Code §§ 59-12-211 through 59-12-215.
- C. The Transient Room Tax shall be administered, collected, and enforced in accordance with the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection; or Part 2, Local Sales and Use Tax Act; and Chapter 1, General Taxation Policies.
- D. Apple Valley shall contract, prior to the effective date of the Chapter, with the Commission to perform all functions incident to the administration or operation of this Chapter.

4.08.030 Penalties

Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine in an amount not less than \$1,000.00 or imprisonment for a period of not more than six months, or by both such fine and imprisonment.

4.12 Municipal Service Fees

4.12.050 Emergency Services

4.12.050 Emergency Services

- A. The Apple Valley Fire Department is authorized and directed to bill to and collect from the Responsible Person, the costs incurred by the Fire Department in responding to vehicle accidents, injuries and incidents in accordance with those fees as set forth on the Town's fee schedule.
- B. The Fire Department is hereby authorized to enlist the assistance of Town staff and the Town Attorney to bill and collect amounts due, as may be necessary from time to time.

5 Business Licenses And Regulations

5.04 Business Licenses Generally

5.10 Alcohol Beverage Control

5.04 Business Licenses Generally

5.04.010 Purpose

5.04.020 Findings

5.04.030 Definitions

5.04.040 Unlawful To Operate Without A License

5.04.050 Double Fee For Failure To Obtain Required License

5.04.060 License Application

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5.04.090 Investigation

5.04.100 Inspections For Code Compliance/Notice Of Infraction License Revocation

5.04.110 License Denial/Revocation

5.04.120 License Issuance Or Denial

5.04.130 Appeals Of License Denial

5.04.140 Issuance Of License Certificate

5.04.150 License Period

5.04.160 Duty To Display License

5.04.170 Branch Establishments

5.04.180 Separate Businesses, Licensed Premises

5.04.190 Business License Fees Imposed

5.04.200 Exceptions To The Business License Fee

5.04.210 License Fees Declared To Be A Debt And May Be Forwarded To A Collection Agency

5.04.220 Fee And Tax Payments, Renewals And Penalty

5.04.230 Renewal Of License Certificate

5.04.010 Purpose

The purpose of this Chapter is to enact a business license fee structure and schedule consistent with state law.

5.04.020 Findings

- A. The state legislature, in its 1997 General Session, passed House Bill 98 to modify the manner in which cities and towns impose and collect business license fees.
- B. To comply with the provisions of the new law, the Town of Apple Valley ("Apple Valley") has evaluated the cost of regulating various businesses within the community, and has determined an average cost of business regulation.

- C. It is the intent of Apple Valley Council to adopt a business license fee schedule, consistent with state law that provides the town full cost recovery in licensing its business.

5.04.030 Definitions

For the purposes of this Chapter, the following terms shall have the following meanings:

"Business". Any enterprise carried on for the purpose of gain or economic profit, except the acts of employees rendering services for employers.

"Person". Any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, business trust, corporation, association, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise.

"Agriculture". Any enterprise carried on for the purpose of raising useful plants and animals for profit, including, forage and sod crops, vegetables, nursery, floral and ornamental stock, livestock animals, including domestic animals, poultry and honeybees. Agriculture also includes land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop land retirement program with an agency of the state or federal government.

5.04.040 Unlawful To Operate Without A License

Unless exempted by state, federal or local law, it shall be unlawful for any person to engage in business within the town, whether on a temporary or permanent basis, without first procuring the license required by this Chapter. All licenses issued under the provisions of this Chapter are non-transferable and expire on December 31st of each year.

5.04.050 Double Fee For Failure To Obtain Required License

Unless exempted by state, federal, or local law, any person who engages in business prior to submitting a completed application and payment of all fees shall pay double the specified fee for said license. The payment of such double fee shall not relieve any person from fully complying with all the requirements of the law, nor from any other prescribed penalties.

5.04.060 License Application

Applications for business licenses shall be made in writing to the Town Clerk, or his or her designee. Each application shall state the name of the applicant, the location of the business, if any, the fee to be paid, the name and address of the business agent residing in the town who is authorized to receive service of process and any communication regarding the applicant's license, state sales tax reporting number, state contractor's license number, if applicable, and state real estate broker's license number, if applicable, and shall contain such additional information as may be needed for the purpose of issuing the license. Any change in the above information furnished by the applicant shall be forwarded in writing, within ten (10) days of the change, to the mayor, or his or her designee.

5.04.070 Application Fee

The applicant must include the fee designated on the Business License Fee Schedule with his or her completed application.

5.04.080 Refund Of Fee

Unless otherwise provided herein, no business license fee is refundable for any reason whatsoever, once the license has been issued. If a license is denied, the applicant shall be entitled to a refund of the amount paid in excess of twenty-five dollars (\$25.00), which shall be retained to offset application processing costs.

5.04.090 Investigation

The town may at any time inspect the business premises during normal business hours or request business documents to verify information offered in a new application or by an existing licensee.

5.04.100 Inspections For Code Compliance/Notice Of Infraction License Revocation

Prior to the issuance of a license to engage in a business not previously licensed at that location, or a business with a change of location, the applicant shall permit inspection of the prospective place of business to ensure compliance with building, fire, and health codes. Businesses licensed within the Town may be inspected periodically for compliance with building, fire, and health codes. Failure to comply with town codes may result in revocation of the business license.

5.04.110 License Denial/Revocation

The Town may deny or revoke a license if the applicant:

- A. Has obtained a license by fraud or deceit;
- B. Has failed to pay personal property taxes or other required taxes or fees imposed by the town; or

- C. Has violated the laws of the State of Utah, the United States Government, or the ordinances of the town governing operation of the business for which the applicant is applying for the license.

5.04.120 License Issuance Or Denial

The town shall notify the applicant of: 1) the denial of a license and the reason for such denial; or 2) the issuance of the license.

5.04.130 Appeals Of License Denial

A license denial may be appealed to the Apple Valley Town Council by filing written notice of appeal with the recorder within ten (10) days of the notice of denial. The Apple Valley Town Council shall hear the appeal within thirty (30) days of notice of appeal.

5.04.140 Issuance Of License Certificate

All license certificates shall be issued under the seal of the town and shall contain the following information:

- A. The name of the person to whom such certificate has been issued;
- B. The name of the business, if applicable;
- C. The type of license; and
- D. The term of the license with commencement and expiration dates.

5.04.150 License Period

Renewed license certificates shall be valid through December 31, of the year of renewal, unless revoked pursuant to this Chapter. New license certificates issued between January 1 and September 30 shall be valid through December 31 of the year of issuance unless revoked. New license certificates issued between October 1 and December 31 may be prorated and issued through December 31 of the year following the year of issuance.

5.04.160 Duty To Display License

Every licensee keep his/her license displayed and exhibited in a conspicuous place within the Business while the license is in force. Every licensee that does not have a fixed place of Business shall carry such license with him at all times while carrying on the Business for which the license is issued and shall produce the license for inspection when requested to do so.

5.04.170 Branch Establishments

A separate license must be obtained for each branch establishment or separate location in which business is engaged in, within the town, as if such branch establishment or location were a separate business. Each license authorizes the licensee to engage only in the business licensed at the location and in the manner designated in such license.

5.04.180 Separate Businesses, Licensed Premises

Where two or more persons conduct separate businesses at the same location, each such person shall obtain a separate license for each such business and must pay the required license fee for such business.

5.04.190 Business License Fees Imposed

There is hereby imposed and levied an annual business license fee on the types of businesses and in the amounts described in the business License Fee Schedule: (See Business License Fee Schedule Table below). All changes to the annual business license fees shall be established at a regular meeting of the Town Council, by resolution of the Town Council.

Business License	\$50.00
One Day Business License not related to the rental of a booth or space in conjunction with a town-sponsored event	\$20.00
Beer License (Consume/Package)	\$500.00

5.04.200 Exceptions To The Business License Fee

No business license fee shall be imposed under this section upon the following persons or businesses:

- A. Any person engaged in business for solely religious, charitable, eleemosynary, or other types of strictly non-profit purposes who is tax exempt in such activities under the laws of the United States and the State of Utah, nor shall any business license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the State of Utah; nor shall any business license fee be imposed on any non-profit corporation duly incorporated according to the provisions of the Utah Non-Profit Corporation and Cooperative Association Act;
- B. Any insurance company or agent, for so long as state law exempts them;
- C. Any contractor holding a valid license issued by the local jurisdiction in which the licensee has its principal place of business, and by the state under Utah Code 58-55 Part 3;
- D. Any alarm company holding a valid business license issued by the local jurisdiction in which the licensee has its principal place of business;

- E. An owner of a building containing two or fewer rental dwellings;
- F. Any tow truck motor carrier holding a valid business license to perform tow truck service issued by the local jurisdiction in which the licensee has its principal place of business unless the tow truck business is also physically located in the town.
- G. Any sales or merchandise damaged by smoke or fire or of bankrupt concerns, where such stocks have been acquired from merchants of the town theretofore, regularly licensed and engaged in business; provided, however, no such stocks or merchandise shall be augmented by other goods;
- H. Any person who sells his/her own property which was not acquired for resale, barter, or exchange and who does conduct such sales or act as a participant by furnishing goods in such a sale more than twice during any calendar year;
- I. Any person selling surplus household goods or furnishings at a private residence in the garage or yard, if such garage sale is held no more frequently than three (3) days in any one calendar quarter at the same residence.
- J. Any business license paid by a person to Washington County for the year 2005, provided that said person provide proof of payment to the Apple Valley Clerk.
- K. Any person engaged in agriculture.
- L. Any person engaged in a business in conjunction with an event sponsored by Apple Valley, where a booth or space is rented from the town. In such case, the business license fee shall be considered included in the booth or space rental fee.

5.04.210 License Fees Declared To Be A Debt And May Be Forwarded To A Collection Agency

Any license or tax due and unpaid under this Chapter and all penalties thereon shall constitute a debt to the town and may be collected by court proceedings in the same manner as any other debt or may be turned over to a collection agency, which remedy shall be in addition to all other existing remedies.

5.04.220 Fee And Tax Payments, Renewals And Penalty

- A. Fees For 2005. The Business License Fee for 2005 is prorated to \$37.50; the Beer License Fee (Consume/Package) for 2005 is prorated to \$375.00. The Business License Fee for a One Day Business License shall not be prorated.

- B. Due Dates And Renewals For Annual Business License. The annual business license fee shall be due and payable to the town on or before the first day of January of each year for license renewals, except for the year 2005, the annual business license fee shall be due on April 1, 2005. If the license renewal fee is not paid on or before January 15 of the year in which the renewal license is due (on or before April 15, 2005 for the year 2005), there shall be a business license enforcement fee imposed of twenty-five percent (25%) of the license fee imposed by this section or Twenty-Five Dollars (\$25.00) whichever is greater. If the license renewal fee is not paid in full on or before February 15th of the year in which the renewal fee is due (May 15th for the year 2005), the business license enforcement fee shall be increased to fifty percent (50%) of the license fee imposed by this Chapter or Twenty-Five Dollars (\$25) whichever is greater. If the renewal license fee is not paid on or before March 1st of the year in which the renewal fee is due, the business license enforcement fee shall be increased to one hundred percent (100%) of the license fee imposed by this Chapter. Previously unlicensed businesses shall be issued a license for the unexpired portion of the calendar year in which issued unless prorated to include the following year.
- C. Due Dates for One Day Business License. The business license fee for a one day license that is not related to the rental of a booth or space in conjunction with a town-sponsored event shall be due and payable at least two (2) days before conducting business within the boundaries of Apple Valley.
- D. Penalties. Any previously licensed business cited for engaging in business in violation of this Chapter shall have five days from the date of citation to comply with this law. Failure of the licensee to comply within five days of the date of citation will subject the business to closure and will subject the licensee to all applicable civil and criminal penalties.
- E. Violation Of Chapter. Engaging in business in violation of this Chapter is a Class B misdemeanor.

5.04.230 Renewal Of License Certificate

Upon receipt of the license fee, the town shall issue a license certificate valid through December 31 of the fee year.

5.10 Alcohol Beverage Control

[5.10.010 Definitions](#)

[5.10.020 Beer Licenses](#)

[5.10.030 Beer Regulations](#)

[5.10.040 Liquor Consumption Licenses](#)

[5.10.050 Liquor Regulations](#)

5.10.010 Definitions

All words and phrases defined in this chapter shall be given such defined meanings wherever used in this Chapter. Any terms not defined herein, but defined in the Utah Alcoholic Beverage Control Act, shall be given the defined meanings as set forth in such Act. For purposes of this Chapter:

"Act" means the Utah Alcoholic Beverage Control Act, as amended from time to time.

"Alcoholic beverages" means and includes "beer" and "liquor" as they are defined in this chapter.

"Bar facility" or "bar facilities" means that area of an establishment in which beer or other alcoholic beverages are mixed or prepared by employees of the establishment and that area in which such alcoholic beverages may be consumed, other than with prepared meals.

"Beer" means a product that contains at least .5% of alcohol by volume, but not more than 4% of alcohol by volume or 3.2% by weight, and is obtained by fermentation, infusion, or decoction of malted grain. Beer may or may not contain hops or other vegetable products. Beer includes a product that contains alcohol in the percentages described above and is referred to as beer, ale, porter, stout, lager, or a malt or malted beverage. "Beer" does not include a flavored malt beverage.

"Licensed premises" means any room, house, building, structure or place occupied by any person licensed to sell beer or to allow the consumption of liquor on such premises under this Chapter. Multiple beer or liquor dispensing facilities located in one building and owned or leased by one licensed applicant shall be deemed to be only one licensed premises, provided that each dispensing point must be designated and the appropriate fee paid and the license prominently displayed at each dispensing point. Multiple beer dispensing facilities located in the separate rooms of one hotel owned or leased by one licensed applicant shall be deemed to be only one licensed premises, provided that each dispensing point is designated and the appropriate fee is paid and the license displayed in the lobby of such hotel. Multiple beer dispensing facilities and/or liquor storage facilities located in the separate privately leased suites or other privately rented rooms of any publicly owned recreation facility or any privately owned sports arena or recreation facility designed to accommodate more than five thousand (5,000) persons, owned or leased by one licensed applicant, shall be deemed to be only one licensed premises, provided that each dispensing point is designated and the appropriate fee is paid and the license is displayed in the main office of such arena or facility.

"Liquor" means and includes alcohol, or any alcoholic, spirituous, vinous, fermented, malt or other liquid or combination of liquids, a part of which is spirituous, vinous or fermented, and all other drinks or drinkable liquids containing more than one-half of one percent (.5%) of alcohol by weight; and all mixtures, compounds or preparations, whether liquid or not, which contain more than one-half of one percent (.5%) of alcohol by weight, and which are suitable to use for beverage purposes; except that the term "liquor" shall not include "beer" as defined in this chapter.

"Nuisance" means any room, house, building, structure, place or licensed premises, where:

- A. Alcoholic beverages are manufactured, sold, kept, bartered, stored, given away or used contrary to the Act or this Chapter, or where persons resort for drinking alcoholic beverages contrary to the Act or this Chapter, or their successors; or
- B. Persons under the age of twenty one (21) are permitted to purchase or drink beer; or
- C. Laws or ordinances are violated by the licensee or the licensee's agents or patrons with the consent or knowledge of the licensee upon such premises which tend to affect the public health, peace or morals; or
- D. Intoxicated persons are permitted to loiter about in such a way as to annoy, injure or endanger the comfort, repose, health or safety of another person or persons, or which loitering in any way renders another person or persons insecure in life or use of property.

"Place of business", as used in connection with the issuance of a liquor consumption license, means and includes cafes, restaurants, public dining rooms, cafeterias, taverns, cabarets and any other place where the general public is invited or admitted for business purposes, and shall also be deemed to include private clubs, corporations and associations operating under charter or otherwise wherein only the members and their guests are invited. Occupied hotel and motel rooms that are not open to the public shall not be deemed to be places of business as defined in this chapter.

"Restaurant", as used in connection with the issuance of class B retail license means premises where a variety of hot food is prepared and served for consumption on the premises.

"Retailer" means any person engaged in the sale or distribution of beer to the consumer.

"Sell" or **"to sell"**, when used in any provision of this Chapter, means and shall be construed to mean to solicit, or to receive any order for, to keep or expose for sale, to deliver for value or gratuitously, to peddle, to possess with intent to sell, to traffic in for any consideration promised or obtained directly or indirectly or under any pretext or by any means whatsoever, or to procure or allow to be procured for any other person . "Sale," when so used, includes every act of selling as above defined.

"Wholesaler" means any person, other than a brewer or retailer, engaged in importation for sale or in the sale of beer in wholesale or jobbing quantities.

5.10.020 Beer Licenses

- A. LICENSE REQUIREMENTS; WHOLESALERS: It is unlawful for any person to engage in the business of selling beer at wholesale within the limits of the Town without meeting the requirements for a wholesale license therefor from the state

alcohol beverage control commission. The Town's license shall be deemed "local consent" as required by Utah Code § 32A-II-102(1)(c), 1953, as amended.

B. LICENSE REQUIREMENTS; RETAIL SALES:

1. It is unlawful for any person to engage in the business of the sale of beer at retail, in bottles, cans or draft, within the corporate limits of the Town without first having procured a license therefor from the Mayor or the Mayor's designee, as hereinafter provided.
2. A separate license shall be required for each place of sale, and the license itself shall identify the specific premises covered thereby. Each license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued.
3. All licensees shall comply with the provisions of the Act, or its successor; the regulations of the alcoholic beverage control commission; and this Chapter. Every license shall recite that it is subject to revocation under this Chapter, or its successor.
4. All licenses shall comply with all land use ordinances and with the location restrictions of this Chapter, or its successor, applicable to the location of the premises for which the license is issued.

C. RETAIL LICENSE CLASSIFICATIONS: Retail licenses issued under the provisions of this chapter shall be classified into the following types, which shall carry the privileges and responsibilities hereinafter set forth in this Chapter:

1. Class A Retail License;
2. Class B Retail License;
3. Class C Retail License;
4. Class D Special Event License;
5. Class E Arena/Facility License;
6. Class F Brewpub and Microbrewery License;
7. Temporary License;
8. Government Owned Facility License.

D. CLASS A RETAIL LICENSES:

1. A Class A Retail License shall entitle the licensee to sell beer on the premises described in such license in original containers for consumption off the premises, in accordance with the Act and this code; provided, however, that it is unlawful for the licensee to sell or distribute beer in any container larger than two (2) liters.

2. It is unlawful for a licensee of a Class A Retail License at any hotel, motel, rooming house or boarding house to sell beer in original containers from multiple beer dispensing facilities located in separate rooms of the hotel, motel, rooming or boarding house, unless such dispensing facilities are securely locked and access to the contents of such facilities is restricted by the licensee to hotel, motel, rooming or boarding house patrons who are twenty one (21) years of age or older and who have duly rented such room in which such dispensing facility is located. For purposes of this section, the consumption of beer in such room duly rented by such patron shall be deemed consumed off the premises of the hotel, motel, rooming or boarding house.
3. It is unlawful for a minor to sell beer on the premises of a Class A licensee for off-premise consumption unless the sale is done under the supervision of a person 21 years of age or older who is on the premises and the minor is at least 16 years of age.
4. Class A licensees shall comply with all requirements of Utah Code § 32A-10-10 2.
5. No person shall sell, offer for sale, or be allowed to sell any beer or alcoholic beverage from the premises of a Class A licensee until they have complied with the requirements of Utah Code § 32A-10-103. The Class A licensee is strictly liable to assure compliance with the provisions of Utah Code § 32A-10-103 and failure by any person to strictly abide by such provisions shall entitle the Town to impose fines and other sanctions as set forth in such section.

E. CLASS B RETAIL LICENSES:

1. A Class B Retail License shall entitle the licensee to sell beer in draft or in the original containers only for consumption on the premises.
2. Only bona fide restaurants, where a variety of hot food is prepared and cooked and complete meals are served to the general public in connection with indoor dining accommodations, and which food sales constitute at least seventy percent (70%) of the gross dollar value of licensee's business during each month of the license period, shall be entitled to Class B Retail Licenses.

3. The holders of Class B Retail Licenses shall maintain records which shall disclose the gross sales of beer and the gross sales of food served for consumption on the licensed premises during each and every month of the year, and shall maintain those records for a minimum of two (2) calendar years from the date such records are made. In those licensed premises which are also licensed to allow consumption of liquor on the premises in accordance with Title or its successor, the sale of carbonated and noncarbonated soft drinks, soda water, water and other mixers shall not constitute the sales of food within the meaning of this chapter. Each licensee shall maintain a separate record which shall disclose the gross sales of such drinks during each and every month of the year. The foregoing sales shall be shown separately in the records and each licensee shall retain all invoices, vouchers, sales slips, receipts and other records of purchases of beer, soft drinks and food from the licensee's suppliers. Such records and supporting data shall be available for inspection and audit by the Town. Failure to maintain or supply the records shall be cause for suspension or revocation of the license. If any audit or inspection discloses that the sales of food served for consumption on any licensed premises under this chapter are less than seventy percent (70%) of the gross dollar volume of business for any month, the Class B Retail License of such licensee may be suspended by the Mayor or the Mayor's designee, after the licensee has been afforded notice and a hearing regarding such license in accordance with the Town's license hearing procedures.
4. It is unlawful for any licensee, operator, manager or any other person in charge of a restaurant holding a Class B Retail License to:
 - a. Sell food for consumption on the premises in an amount which constitutes less than seventy percent (70%) of the restaurant's gross dollar volume of business during any monthly period; or
 - b. Sell beer or liquor, if such establishment is licensed for such, other than in conjunction with the purchase of food menu items; or
 - c. Advertise the sale of beer or liquor, except in compliance with state alcohol beverage commission rules on advertising; or
 - d. Hire or allow or permit any person under twenty one (21) years of age to serve beer or liquor for consumption on the premises.
5. If any audit or inspection discloses that the sales of food served for consumption on any licensed premises under this chapter are less than seventy percent (70%) of the gross dollar volume of business for any month, the Class B Retail License of such licensee shall immediately be suspended and shall not be reinstated until the licensee is able to prove to the satisfaction of the Mayor or the Mayor's designee that in the future the sales of food served for consumption on the licensed premises will exceed seventy percent (70%) of the gross dollar volume of business.

F. CLASS C RETAIL LICENSES: A Class C Retail License shall entitle the licensee to sell beer on draft for consumption on the premises or for consumption off the premises, in containers not larger than two liters, in compliance with the Act, or its successor. Consumption of beer shall not be allowed in parking lots of licensees, nor in any area not within the area of the licensee's premises approved for consumption of beer.

G. CLASS D SPECIAL EVENT LICENSES:

1. Special Events: A Class D Special Event License shall entitle a bona fide corporation, church, political organization, or incorporated association or a subordinate lodge, chapter, or other local unit thereof that is conducting a convention, civic, or community enterprise to sell beer at such event in accordance with the provisions in this section.
2. Application Requirements: In addition to the application requirements set forth in the Town's business licenses Chapter and this Chapter, or their successors, an application for a Class D Special Event License shall include the following:
 - a. The times, dates, location, nature, and purpose of the event;
 - b. A description or floor plan designating:
 - (1) The area in which the applicant proposes that alcohol be stored;
 - (2) The sites from which the applicant proposes that alcohol be sold or served, including all dispensing points. Dispensing points include booths, tables, and other areas set apart for the sale of alcoholic beverages;
 - (3) The areas in which the applicant proposes that alcohol be allowed to be consumed;
 - c. A statement of the purpose of the association, corporation, church, or political organization, or its local lodge, chapter, or other local unit conducting the event;
 - d. A signed consent form stating that any law enforcement officers or representatives of the Town authorized by the Mayor shall have unrestricted right to enter the premises during the event.
3. Operational Restrictions:
 - a. All persons involved in the storage, sale, or serving of alcohol at the event shall do so only under the supervision and direction of the licensee.
 - b. No alcohol, other than that furnished by the licensee, shall be brought by any person onto the premises of the event.

- c. Alcohol purchased for the event may not be stored in any place other than that described in the application as designated on the license.
- d. Alcohol purchased for the event may not be sold or served in any place other than the sites described in the application and designated on the permit.
- e. Alcohol purchased for the event may not be consumed in any area other than that described in the application and designated on the permit.
- f. Class D Special Event Licenses are not transferable.
- g. No Class D Special Event License shall have a duration longer than seven days.
- h. No more than two Class D Special Event Licenses shall be granted in any calendar year to the same association, corporation, church, or political organization, or subordinate lodge, chapter, or other local unit thereof.
- i. No sale of beer or other alcoholic beverage shall exceed a sixteen (16) ounce serving.

H. CLASS E ARENA/FACILITY LICENSES:

1. No beer may be sold or dispensed to the public on or within any publicly owned recreation facility, or any privately owned sports arena, or recreation or convention facility, designed to accommodate more than five thousand (5,000) persons, by any person, corporation or organization except by the holder of a Class E Arena/Facility License for such premises, or by an operator, manager, food service licensee or employee of such holder. For the purposes of this Chapter, "premises" shall not include separately licensed businesses operating within the same arena or facility which businesses may be subject to other beer and/or alcoholic beverage requirements.

2. A Class E Arena/Facility License shall entitle the licensee to sell beer for consumption on publicly owned recreation facilities or on privately owned sports arenas or recreation or convention facilities designed to accommodate more than five thousand (5,000) persons; provided, however, that no such Class E Arena/Facility License shall be issued for the sale of beer for consumption on publicly owned recreation facilities unless such prospective licensee shall first obtain a concession contract from the public body owning the facility involved. Under the Class E Arena/Facility License, no beer shall be dispensed in original containers in areas accessible to the general public nor shall beer in original containers be allowed in areas accessible to the general public, but must first be emptied into suitable temporary containers. No person under the age of twenty one (21) years of age may sell or serve beer. With the exception of privately leased suites, all sales and deliveries under this license shall be made directly to the consumer.
3. For purposes of this Chapter, "privately leased suite" means space within a Class E facility which is leased by the Class E licensee to private individuals twenty one (21) years of age or older for periods of one year or longer and which shall not be open to the general public.
4. All beer or other alcoholic beverages which are dispensed within a Class E facility, except within a "privately leased suite" as defined above, shall be dispensed only by the Class E licensee or its operator, manager, food service licensee or employee. No alcoholic beverages, except for beer, shall be dispensed at any location within a Class E facility other than within privately leased suites as defined above or within other privately rented or privately occupied space which is not open to the general public. No beer or other alcoholic beverage shall be removed from within the building of a publicly owned or privately owned sports arena or recreation or convention facility holding a Class E license except by the Class E licensee or its operator, manager, food service licensee, or employee operating in the course of business under the Class E Arena/Facility License.
5. It is unlawful for a licensee of a Class E Arena/Facility License to sell beer in original containers from multiple beer dispensing facilities located in privately leased suites of the Class E premises or to allow storage of beer or other alcoholic beverages within such dispensing facilities located in privately leased suites of the Class E premises unless such dispensing facilities are securely locked and access to the contents of such facilities is restricted by the licensee to suite lessees twenty one (21) years of age or older who have duly rented such private suites in which such dispensing facility is located.

I. CLASS F BREWPUB AND MICROBREWERY LICENSE:

1. DEFINITIONS. The following definitions are applicable to the provisions of this section through this subsection:

- a. **"Bar area"** means an area of the licensed premises separated from the restaurant service area by a substantial physical barrier.
- b. **"Brewpub"** means a restaurant type establishments that also has a beer brewery, producing beer in batch sizes not less than seven (7) U.S. barrels (31 gallons), on the same property and which produces, except as provided in subsection B of this section, only enough beer for sale and consumption on site or for retail carryout sale in containers holding less than two liters for wholesale as outlined in subsections B,2 and B,5 of this section. Automated bottle or canning production is prohibited. At least fifty percent (50%) of the beer sold shall be brewed on the premises. Revenue from food sales shall constitute at least fifty percent (50%) of the total business revenues, excluding retail carryout sales of beer and the sales allowed pursuant to subsection B of this section. Brewpubs are limited to a total brewing capacity of two thousand five hundred (2,500) barrels per year or one hundred twenty (120) barrels of fermentation at any one time, whichever is less.
- c. **"Major streets"** means those streets identified as major streets on Town maps.
- d. **"Microbrewery"** means a brewpub which, in addition to retail sale and consumption on site, markets beer wholesale in an amount not to exceed sixty thousand (60,000) barrels (31 gallons) per year. Revenue from food sales shall constitute at least fifty percent (50%) of the total business revenues, excluding wholesale and retail carryout sales of beer.

2. PRODUCTION LIMITS. Brewpubs may sell beer in keg (larger than 2 liters) containers for the following purposes and in the following amounts:

- a. An unlimited number of kegs (not to exceed 2,500 barrel capacity) for "brew fests" which, for the purpose of this section, means events, the primary purpose of which is the exposition of beers brewed by brewpubs and microbreweries, which include the participation of at least three (3) such brewers;
- b. No more than one hundred (100) kegs per year (not to exceed 2,500 barrel capacity) to events sponsored by charitable organizations exempt from federal income tax pursuant to 26 USC, section 501(c)(3) or its successor;
- c. No more than one hundred (100) kegs per year (not to exceed 2,500 barrel capacity) to events operating under a single event license from the state and the Town where the purpose of the event is not for commercial profit and where the beer is not wholesaled to the event sponsor but is, instead, dispensed by employees of the brewpub;

- d. Unlimited distribution to other restaurants of same ownership or control (not to exceed 2,500 barrel capacity). "Ownership or control" means more than fifty percent (50%) ownership in the actual business or controlling interest in any management partnership; and
 - e. No more than five hundred (500) barrels for wholesale distribution (not to exceed 2,500 barrel capacity).
3. ALLOWABLE ZONING. Brewpubs and microbreweries may be allowed as conditional uses only in such zones as specified in the Town Land Use Code.
 4. PROXIMITY REQUIREMENTS. The provisions of subsection N of this Section shall apply to Class F licenses.
 5. SPACING. Brewpubs and microbreweries shall be located so as to front on a major street or be within a building the main entrance of which building fronts on a major street. This provision may be waived or modified in the same manner as for Class C and Class B private club licenses. Only one brewpub or microbrewery may be located on either side of a major street between the intersections of two (2) major streets.
 6. OTHER APPLICABLE PROVISIONS. The provisions of subsections E,3 through E,4, except subsection E,4,b of this Section, shall apply to class F licenses.
 7. INTERIOR DESIGN. The application for a Class F license shall provide an interior design drawn to scale showing the restaurant area, the bar area (if any) and describing the physical barrier separating the restaurant area from the bar area.
 8. PERSONS UNDER TWENTY ONE YEARS OF AGE. Any other provision of this Chapter notwithstanding, no person under twenty one (21) years of age, unless accompanied by a person twenty one (21) years of age or older, shall be permitted in Class F licensed establishments subject to the provisions of subsection E,4,d of this Section or its successor.
 9. STATE AND FEDERAL PERMITS REQUIRED. All licensees of brewpubs or microbreweries shall obtain all required state and federal permits prior to opening for business.
 10. CRIMINAL PROVISIONS. It is unlawful and shall constitute an offense of strict liability for a licensee of a Class F license to serve or allow the consumption of beer in single serving containers larger than twenty three (23) fluid ounces except in the bar area of the licensed premises.

J. CLASS G TEMPORARY LICENSES:

1. A temporary license shall be issued as a temporary Class B restaurant

license, a temporary Class B private club license, a temporary Class C private club license, or a temporary Class C beer license.

2. A temporary Class B restaurant licensee shall comply with all requirements of this code relating to a Class B restaurant license.
3. A temporary Class B private club licensee shall comply with all requirements of this code relating to a Class B private club license.
4. A temporary Class C private club licensee shall comply with all requirements of this code relating to a Class C private club license.
5. A temporary Class C beer licensee shall comply with all requirements of this code relating to a Class C retail beer license.
6. A temporary license may be issued for a period not to exceed two hundred ten (210) days.

K. GOVERNMENT OWNED FACILITY LICENSE:

1. A government owned facility license may be issued to state and local governmental units for government operated events. Any such license shall be issued subject to the following terms and conditions:
 - a. Sales of alcohol shall be made only by persons who have been trained for such sale in accordance with state law;
 - b. Dramshop liability insurance shall be obtained and maintained during the period the license is in effect at coverage levels approved by the Town attorney;
 - c. No sale of beer or other alcoholic beverage shall exceed a sixteen (16) ounce serving;
 - d. All applicable business license and other fees shall be paid as set forth in the Town business license Chapter, the Town Consolidated Fee Schedule and this Chapter; and
 - e. All requirements of the Act shall be met.

L. APPLICATION, FILING AND VERIFICATION PROCEDURES:

1. Applications for licenses, for renewal or reissuance of licenses, and for transfer of licenses authorized by this chapter shall be verified and filed with the license officer, addressed to the Mayor or the Mayor's designee, and shall state the applicant's full name and that such applicant has complied with the requirements and possesses the qualifications specified in the Act, or its successor. If the applicant is a partnership, the application shall state the names and addresses of all partners thereof. If the applicant is a corporation, the application shall state the names and addresses of all officers and directors thereof and all stockholders who hold at least twenty percent (20%) of the issued and outstanding stock of

- the corporation. If the applicant is a limited liability company, the application shall state the names and addresses of all managers thereof and all members who have at least a twenty percent (20%) ownership interest therein. If the business is to be operated by a person other than the applicant, such operator shall sign the application and file the same information required of an applicant.
2. If any business required to be licensed by this chapter is operated by a person who has not filed his or her operator's information at the time of renewal of the license, or, if operation is assumed by another person during the license period, at least thirty (30) days prior to assuming operation of the business, such license may be revoked.
 3. The application and operator's information shall be subscribed to by the applicant and operator, who shall state under oath that the information contained therein is true.
 4. In addition to the requirements of the Town business license Chapter, or their successors, the application shall require the applicant to list:
 - a. All criminal convictions or pleas of nolo contendere, except those which have been expunged and except for traffic offenses, which were not alcohol related, and the disposition of all such convictions or pleas of nolo contendere for the applicant, individual or other entity subject to disclosure under this chapter, for ten (10) years prior to the date of the application;
 - b. All alcohol and controlled substance citations and arrests (including alcohol related traffic law citations), for the applicant, individual or other entity subject to disclosure under this chapter, for five (5) years prior to the date of the application;
 - c. All criminal citations issued to, or arrests of, the applicant, individual or other entity subject to disclosure under this chapter which are still pending adjudication, other than non-alcohol related traffic citations or arrests;
 - d. Three (3) character references with addresses and telephone numbers of such references; and
 - e. All business license revocations for businesses in which the applicant had at least a twenty percent (20%) legal or equitable interest.

M. FEES AND RECORDS:

1. Applications provided for in this Chapter shall be accompanied by the fees as set forth in the Town Consolidated Fee Schedule, or its successor, per year or any part thereof, which fees shall be deposited in the Town treasury if the license is granted, and returned to the applicant if denied.

2. Holders of alcohol licenses shall maintain records, which shall disclose the gross sales of alcohol by such holder during each and every year. Such records shall be available for inspection and audit by the Town license officer at any time following the end of each year and for eighteen (18) months thereafter, unless another time is set by ordinance applicable to a specific license class.
3. Failure of a licensee to properly maintain the required records or failure to submit such records for inspection and audit shall be cause for suspension or revocation of an alcohol license.

N. LOCATION RESTRICTIONS:

1. Permissible Locations: The permissible locations of establishment s licensed with either a Class C beer license, a Class B or C private club license, or a temporary Class C beer license or a temporary Class B or C private club license, or any combination thereof, shall be determined by geographical proximity, based upon the following criteria:
 - a. There shall be no more than two (2) licensed establishments located on any linear block. A "linear block" means both sides of a major street between two (2) intersecting major streets. For the purposes of this section, a comer establishment having abutting front footage on two (2) major streets shall be included in the linear block in which the establishment has the greatest number of front footage abutting the major street, or, if such abutting footage is equal, then the address originally filed with the Town shall determine in which linear block the establishment shall be located.
 - b. No licensed establishment shall be located within six hundred feet (600') of another licensed establishment as measured from the nearest point on the property line of one establishment to the nearest point on the property line of the other establishment.
 - c. All major streets will be those designated on official Town maps. All establishments holding a Class C beer or a Class B or C private club license must be located so as to front on a major street or be within a building whose main entrance fronts on a major street.
2. Proximity To Park, School Or Church: No Class C beer establishment and no Class B or C private club may be licensed or operate under the provisions of this code which is in close proximity to a public park, public elementary, junior high or high school, or a church, without having first received approval from the Town Council. Such approval shall be given only after:
 - a. The Town Council has received recommendations regarding such an establishment from the planning commission and law

- enforcement; and
- b. A public hearing has been held, with actual written notice having been given, where applicable, to the director of the public services, to the school superintendent or to the church, and with notice having been given to the Town and the residents thereof by at least one publication in a paper of general circulation in Washington County at least ten (10) days before the hearing, in each case stating the purpose, time, date and location of such hearing; and
 - c. A finding by the Town Council that the proposed location will not materially interfere with the activities and functions of such parks or school, or interfere with church worship or church related activities. For the purposes of this section, a public park or public elementary, junior high or high school or church which is located six hundred (600) or more feet from the proposed establishment shall not be considered to be in close proximity to such establishment and no notices or hearings need be given or held prior to the granting of a Class C beer license or Class B or C private club license. With respect to the six hundred foot (600') limitation, it shall be measured from the nearest entrance of the proposed establishment by following the shortest route of either ordinary pedestrian traffic, or, where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public school, church, public park.
 - d. The applicant shall pay an additional sum asset out in the Town Consolidated Fee Schedule to cover the cost of advertising the hearing. The fee shall be paid before such hearing shall be set or advertised.
 - e. The subsequent location of a school, church or park within the spacing requirements of a licensed establishment subject to proximity requirements shall be deemed to be a waiver of spacing requirements as specified under Town Codes.
3. Exceptions: Class C beer establishments or Class B or C private clubs may be allowed on streets other than those outlined in subsection A of this section, and may be allowed within the interior of a block, upon receiving approval from the Town Council. Such approval shall be given only:
- a. After the Town Council has received recommendation from the planning commission and law enforcement; and
 - b. If the street is at least sixty feet (60') in width, or if, within the interior of the block, the entrance to the establishment is from a courtyard or mall-like area with paved vehicular access and proper lighting; and

- c. If the addition of such requested establishment would not cause the number of such licensed establishments to exceed twelve (12) on the exterior and interior of any block. The foregoing notwithstanding, no more than six (6) such establishments may be located on any street located in the interior of any such block, and no more than six (6) such establishments may be located within the interior of any such block;
 - d. After a public hearing has been held, with actual written notice thereof having been given to the abutting property owners, and public notice thereof having been given to the residents of the Town by at least one publication in a newspaper of general circulation in Washington County at least ten (10) days before the hearing, in each case stating the purpose, time, date and location of such hearing; and
 - e. A finding by the Town Council, after the holding of such hearing, that the proposed location for said establishment will not:
 - (1) Create an undue concentration of Class C beer establishments or Class B or C private clubs;
 - (2) Materially interfere with the free flow of pedestrian or vehicular traffic;
 - (3) Create an undue burden in controlling and policing illegal activities in the vicinity;
 - (4) Create a nuisance to the community; or
 - (5) Adversely affect the health, safety and morals of the residents of the Town.
4. Prior Location: The provisions of this section shall in no way affect the rights of the present licensees to continue their operations, so long as their licenses remain in good standing, and they continue to have their licenses reissued as provided by law until revoked or terminated for any reason.
5. Zoning Restrictions: Notwithstanding any of the provisions of subsection A of this section, all Class C beer or Class B or C private club establishments must be located within the zoning districts as set forth in the Town Land Use Code.

O. APPLICATIONS; REVIEW BYLAW ENFORCEMENT:

- 1. All applications filed in accordance with the provisions of this Chapter shall be referred to appropriate law enforcement and fire authorities for inspection and report. Law enforcement and fire authorities shall, within

thirty (30) days after receiving such application, make report to the Mayor or the Mayor's designee. The report shall include:

- a. The results of a criminal background or other required application verification of the proprietor, partner, or, in the case of a corporation, any man aging agent, officer, director, and any stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of the corporation or, in the case of a limited liability company, any managers and any members with at least a twenty percent (20%) ownership interest in such company;
- b. The result of any law enforcement or fire authority inspection made of the proposed licensed premises; and
- c. A recommendation as to whether or not the application should be granted.

2. No license or renewal of a license shall be issued to any of the following:

- a. A person under the age of twenty one (21) years.
- b. A person convicted of an unexpunged felony, unless a period of not less than ten (10) years shall have elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later;
- c. A person convicted of any violation of any federal or state law concerning the sale, manufacture, distribution, warehousing, adulteration or transportation of alcoholic beverages or controlled substances, unless a period of not less than ten (10) years shall have elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later;
- d. A person convicted of a crime involving moral turpitude, unless a period of not less than ten (10) years shall have elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later; or
- e. A licensee which has three (3) or more violations of local Code in a thirty six (36) month period related to a business involving the sale or distribution of beer or other alcoholic beverages, whether or not by the licensee or by such licensee's employees, unless a period of not less than ten (10) years shall have elapsed since the expiration of said thirty six (36) month period.

- f. In the case of a partnership, a corporation, a limited liability company, or association, the proscription under subsections O,2,b through O,2,e of this section shall apply if any partner, managing agent, manager, officer or director has been so convicted or if any stockholder or member owning at least twenty percent (20%) of the total issued and outstanding stock or having a twenty percent (20%) ownership interest has been so convicted.
- g. Any person who has had a license involving the sale or distribution of alcohol revoked within the three (3) years preceding the date of the application for a license or renewal of a license. In the case of a partnership, a corporation, a limited liability company, or association, this prohibition applies to any partner, managing agent, manager, officer or director and to any stockholder or member who holds at least twenty percent (20%) of the total issued and outstanding stock or has a twenty percent (20%) ownership interest therein.
- h. Any person who has been convicted of driving a vehicle while under the influence of alcohol or a controlled substance, or of being in or about a vehicle while under the influence of alcohol or a controlled substance with the intent of driving such vehicle, within the five (5) years immediately preceding application for a license. In the case of a partnership, a corporation, a limited liability company, or association, this prohibition applies to any partner, managing agent, manager, officer or director and to any stockholder or member who holds at least twenty percent (20%) of the total issued and outstanding stock or has a twenty percent (20%) ownership interest therein.

P. APPLICATIONS; REVIEW BY HEALTH DEPARTMENT: All applications filed in accordance with this Chapter shall be referred to the health department which shall inspect all premises to be licensed to assure sanitary compliance with the laws of the state, the Codes of the Town, and the rules and regulations of the health department. If the premises and all equipment used in the storage, distribution or sale of beer fulfill all such sanitary requirements, the health department shall issue a pennit to the licensee, a copy of which shall be attached to the application for license.

Q. RENEWAL PROCEDURES; FORFEITURE CONDITIONS:

1. Time For Filing Application: All applications to renew licenses shall be filed by the holders of existing licenses with the Town license office at least thirty (30) days prior to the expiration date of the then issued license. To avoid late fees and charges as provided by this Chapter, or its successor, the renewal applications shall state whether or not the business is presently operating and, if not, the date when it ceased daily operation, together with such other information as the license office shall

reasonably require to verify or determine the status of such business. Any person who fails to file such application with the required fees within thirty (30) days after the expiration date of a license shall terminate such person's sale of alcohol on the thirty first day after such expiration, and shall keep the premises closed for the sale of alcohol until the date a new license is issued by order of the Mayor or the Mayor's designee.

2. **Renewal Of License:** A licensee has the right to apply for license renewal annually unless such license has been revoked for cause or until the licensee no longer actively operates the business authorized by such license for a period longer than thirty (30) days.
- R. **LATE FILING FOR RENEWAL; PENALTY:** If any application, notice or petition for renewal is not filed at least thirty (30) days prior to the expiration of the current license, but is filed prior to the expiration of the license, the applicant shall pay a penalty equal to fifty percent (50%) of the license fee. If the application, notice or petition is filed within thirty (30) days after the expiration of the license, a penalty equal to one hundred percent (100%) of the license fee shall be paid. Upon failure to file a timely application, notice or petition required by this Chapter on or before the thirtieth day after the expiration of the current license, the license shall be void on the thirty first day after the expiration date. No business may be conducted thereafter unless and until the Mayor, or the Mayor's designee, approves an application, notice or petition for renewal of a license or for a new license.
- S. **ESTABLISHMENT NAME CHANGE; FEE AND NOTICE TO TOWN:** The licensee shall not change the name of his or her business establishment until such licensee has given written notice to the Town license officer ten (10) days prior to the name change, and has paid the fee as provided in the town Consolidated Fee Schedule, or its successor.
- T. **TRANSFER TO NEW LOCATION; FEE:** Licenses issued pursuant to this Chapter may be transferred to a new proper location upon application to the Mayor or his/her designee, filed with the Town license officer, and upon the payment of the fee as provided in the Town's Consolidated Fee Schedule, or its successor.
- U. **SUBLEASE, TRANSFER OR ASSIGNMENT PROHIBITED:** No license may be transferred, assigned or subleased in any manner. Any violations of this section shall be grounds for revocation of the license or refusal to renew license.

- V. EXPIRATION DATE: All licenses shall be issued for one year so long as the license is renewed annually without interruption, except that temporary licenses shall be issued for not longer than two hundred ten (210) days and Class D special events licenses shall be issued for not longer than seven (7) days. All licenses involving disproportionate regulatory license fees issued pursuant to this Chapter on or after May 1, 2010, shall date from issuance by the Town and shall expire in the next calendar year on the first day of the same month in which original issuance occurred. The annual base business license for all businesses regulated under this Chapter shall be issued on the same date and shall expire on the same date as the disproportionate regulatory license issued under this Chapter.
- W. FORFEITURE CONDITIONS: If any licensee, licensed to do business under the provisions of this Chapter, sells his or her place of business, together with the entire assets of such business, his or her license shall expire and be forfeited.
- X. CONFORMANCE WITH TOWN LAWS REQUIRED: The licensee shall be responsible for the operation of the business in conformance with the Town Code, and it shall be grounds for revocation of the license if a violation of such Codes occurs through an act of a licensee, operator, employer, agent or person who is allowed to perform for patrons of the licensee's business, whether or not such person is paid by the licensee for the performance, or any person who violates such Codes with the consent or knowledge of licensee or his or her agents or employees or operator of the business.
- Y. SUSPENSION AND REVOCATION:
1. Suspended or Revoked by the Mayor: License s may be suspended or revoked by the Mayor for:
 - a. The violation on the licensed premises of any provision of this Chapter, whether an infraction or a misdemeanor, or of any other applicable Code or law relating to alcoholic beverages;
 - b. If the licensed premises is used for the commission of any illegal act or activity by any person; or
 - c. If the person to whom the license was issued no longer possesses the qualifications required by this code and the statutes of the state.
 2. Suspension Procedure: The procedure for suspension or revocation of a license shall be governed by the provisions of the Town business license Chapter or their successors.

5.10.030 Beer Regulations

- A. BEER SALES; LICENSE REQUIRED; UNLAWFUL ACTIVITIES:
1. It is unlawful and shall constitute an offense of strict liability for any

person to sell beer or to permit the consumption of beer in any premises unless such premises are licensed for such sale or consumption.

2. It is unlawful and shall constitute an offense of strict liability for any licensee to violate the terms of his or her license, and it is unlawful and shall constitute an offense of strict liability for any person, unless such person shall be so licensed, to sell bottled, canned or draft beer to be consumed on the premises.

B. PREMISES; LIGHT AND OPEN SPACE REQUIREMENTS: It is unlawful and shall constitute an offense of strict liability for any person to own or operate any premises licensed for the sale of beer without complying with the following lighting and view requirements:

1. During business hours, a minimum of one candlepower light, measured at a level of five feet (5') above the floor, shall be maintained.
2. No enclosed booths, blinds or stalls shall be erected or maintained.
3. There shall be a clear and unobstructed access to all portions of the interior where patrons are permitted or served.

C. WHOLESALERS AND RETAILERS; WHEN COMMON INTERESTS PROHIBITED: It is unlawful and shall constitute an offense of strict liability for any dealer, brewer or wholesaler to either directly or indirectly supply, give or pay for any furniture, furnishings or fixtures of a retailer, and it is unlawful and shall constitute an offense of strict liability for any dealer or brewer to advance funds or money or pay for any license for a retailer or to be financially interested, either directly or indirectly, in the conduct or operation of the business of any retailer.

D. HOURS OF OPERATION:

1. It is unlawful and shall constitute an offense of strict liability for any holder of a Class B, C, D, E, F, Temporary, or Government Owned Facility license, or of a Class B or C private club license, or of a liquor consumption license, or any employee thereof to sell, dispose, give away or deliver beer, or any other alcoholic beverage, on the licensed premises between the hours of one o'clock (1:00) A.M. and ten o'clock (10:00) A.M. of any day. It is unlawful and shall constitute an offense of strict liability for any licensee of a Class A license, or any employee thereof, to sell, dispose, or give away, or deliver beer between the hours of one o'clock (1:00) AM. and seven o'clock (7:00) A.M. of any day.

2. It is unlawful and shall constitute an offense of strict liability for any holder of a Class B, C, D, E, F, Temporary, or Government Owned Facility license, or of a Class B or C private club license, or of a liquor consumption license or any employee thereof, to permit the possession or consumption of beer, or to permit entertainment, on the licensed premises between the hours of two o'clock (2:00) A.M. and ten o'clock (10:00) A.M. of any day.
 3. It is unlawful for any customer, guest or any other person to possess or consume beer, or any other alcoholic beverage, on premises or at events licensed under this Chapter or under the Town business license Chapter between the hours of two o'clock (2:00) A.M. and ten o'clock (10:00) A.M. of any day.
 4. No Class C beer or temporary Class C beer licensed premises nor any Class B or C private club or temporary Class B or C private club premises shall allow patrons, nor activities such as private parties, on the premises between the hours of two o'clock (2:00) A.M. and ten o'clock (10:00) A.M. of any day.
- E. ADVERTISING AND SIGN RESTRICTIONS: All advertising and signs on any licensed premises shall comply with Town Codes and state laws regulating signs.
- F. ENTERTAINERS AND ENTERTAINMENT LIMITATIONS: All licensees, operators, employers, agents, persons who are allowed on a licensed premise or persons who are allowed to perform for patrons of the licensee's business shall comply with the part of the Act designated as the "Attire, Conduct, and Entertainment Act," Utah Code § 32A-1-601 et seq., or its successor. Failure to comply shall constitute an offense of strict liability.
- G. INTOXICATED PERSONS PROHIBITED ON PREMISES: It is unlawful and shall constitute an offense of strict liability for any person licensed to sell beer, or for any of such person's agents or employees to allow intoxicated persons to remain in or about any licensed premises.
- H. SALES TO INTOXICATED PERSONS PROHIBITED: It is unlawful and shall constitute an offense of strict liability for any person to sell or supply beer, or any alcoholic beverage, to any person under the influence of any intoxicating beverage, or to any person under the age of twenty one (21) years.
- I. PERSONS UNDER TWENTY ONE YEARS OF AGE:
1. Presence In Alcohol Related Establishments: It is unlawful and shall constitute an offense of strict liability for any person under the age of twenty one (21) years to:
 - a. Enter or be in or about any premises licensed as a Class C beer or temporary Class C beer establishment or a Class C or temporary Class C private club establishment; or

- b. Enter or be in or about the bar facilities of a Class B restaurant, Class D licensed premises, Class E licensed premises, Class F brewpub or microbrewery, temporary Class B restaurant, Government Owned Facility licensed premises, Class B private club or temporary Class B private club establishment;
- c. Except as otherwise provided in Chapter or its successor, drink, possess, serve, sell or in any manner distribute beer or any other alcoholic beverage in any Class B private club, temporary Class B private club or in any establishment or at any event licensed under this Chapter.

2. Licensee Responsibilities: It is unlawful and shall constitute an offense of strict liability for:

- a. Any licensee of a Class C beer or a temporary Class C beer licensed premises or a Class C private club or temporary Class C private club licensed premises or any operator, agent or employee of such licensee to permit any person under the age of twenty one (21) years to remain in or about such premises; or
- b. Any licensee of a Class B restaurant, temporary Class B restaurant, Class D licensed premises, Class E licensed premises, Class F brewpub or microbrewery, Government Owned Facility licensed premises, Class B private club, or temporary Class B private club, or licensee of a liquor consumption license, or any operator, agent or employee of said licensee, to serve or have any person under the age of twenty one (21) years in or about the bar facilities of such premises or to hire, allow, or permit any person under twenty one (21) years of age to sell, serve, drink or possess beer or any other alcoholic beverage for consumption on or off the premises.

J. PERSONS UNDER TWENTY ONE YEARS OF AGE; PURCHASE OR POSSESSION OF ALCOHOLIC BEVERAGES:

- 1. It is unlawful and shall constitute an offense of strict liability for any person under the age of twenty one (21) years of age to purchase, accept, consume or have in his or her possession an alcoholic beverage, including beer or intoxicating liquor; provided, however, that this section shall not apply to:
 - a. The acceptance of alcoholic beverages by such person for medicinal purposes supplied only by the parent or guardian of such person, or the administering of such alcoholic beverage by a physician in accordance with the law; or

- b. Persons under twenty one (21) years of age who are bona fide employees in Class A licensed premises, while in the discharge of their employment therein or thereabouts, except that such persons shall not consume an alcoholic beverage.
- K. SALES TO MINORS PROHIBITED: It is unlawful and shall constitute an offense of strict liability for any person to sell, transfer, or give an alcoholic beverage, including beer or intoxicating liquor to any person under the age of twenty one (21) years of age; provided, however, that this section shall not apply to the administering of alcoholic beverages for medicinal purposes by the parent or guardian of such minor, or the administering of such alcoholic beverage by a physician in accordance with the law.
- L. NUISANCE PROHIBITED: It is unlawful and shall constitute an offense of strict liability for any person to keep or maintain a nuisance, as the same is defined in AVMC 5.10.010 "Nuisance" or its successor.

5.10.040 Liquor Consumption Licenses

- A. PERMITTING CONSUMPTION OF LIQUOR WITHOUT LICENSE PROHIBITED: It is unlawful for any owner, operator, manager or lessee, or any agent, partner, associate or employee of such owner, operator, manager or lessee of any "place of business," as in this Chapter defined, knowingly to permit or allow customers, members, guests or any other person to consume "liquor", as defined in this Chapter, without first obtaining a license under this chapter.
- B. LICENSE; APPLICATION: Application for a liquor consumption license shall be upon a form furnished by the Town, signed under oath by the applicant, and addressed to the Mayor. The applicant must meet the qualifications for a restaurant liquor license as contained in the Act or its successor. The form shall require information showing applicant's age, citizenship, and such information as may be required to ensure applicant meets the requirements of state law. If the applicant is a partnership, association, corporation, or a limited liability company, the same information shall be obtained on all corporate officers, or managers, or members having at least a twenty percent (20%) ownership interest therein.
- C. LICENSE; FEE: For initial application and issuance of a liquor consumption license the fee shall be as set forth in the Town Consolidated Fee Schedule, or its successor, for the first year of operation, or any part thereof. For renewal of a liquor consumption license, the fee shall be as set forth in the Town Consolidated Fee Schedule, or its successor, per year, or any part thereof. Said fees shall be deposited in the Town treasury if the license is granted and returned to the applicant if the license is denied.

- D. INVESTIGATION OF APPLICANTS: Appropriate law enforcement agencies shall examine all applications and investigate all applicants for licenses under this chapter. Following such examination and investigation, the recommendations of the law enforcement agency shall be made in writing to the business license officer.
- E. PREMISES; PERIODIC INSPECTION REQUIRED: Appropriate law enforcement agencies and the license officer shall be permitted to have access to all premises licensed or for which a license application is pending under this chapter, at all times when the premises is occupied, and shall make periodic inspections of said premises and report its findings to the Mayor. Except for emergency situations or where consent has been obtained, entrance upon the nonpublic portions of commercial property must be pursuant to a search warrant.
- F. LICENSE; DISPLAY REQUIRED: Each license issued pursuant to this chapter shall be displayed at all times on the licensed premises in a place readily visible to the public.
- G. LICENSE; EXPIRATION DATE: All licenses issued on or after May 1, 2010, shall date from issuance by the Town and shall expire the next calendar year on the first day of the same month as the original issuance.
- H. LICENSE; SUSPENSION AND REVOCATION CONDITIONS:
1. Licenses may be suspended or revoked by the Mayor for the violation on the licensed premises of any provision of this Chapter, or of any other applicable Code or law relating to alcoholic beverages, or for violations or convictions as set forth in the Town business license Chapter, or their successors, or if the person to whom the license was issued no longer possesses the qualifications required by this Chapter and the statutes of the state.
 2. All licenses issued pursuant to this Chapter may be suspended by the Mayor without a prior hearing. Immediately following any suspension order issued without a prior hearing, notice shall be given such licensee, advising the licensee of his or her right to a prompt hearing, and listing the cause or causes for such suspension. Such hearing shall be in accordance with the Town business licenses Chapter and regulations or their successors. If cause for the suspension is established at the hearing, the suspension order may be continued for up to one year. However, no license shall be revoked or suspended beyond the initial hearing without first establishing cause therefor, nor shall any license be revoked without first giving the licensee an opportunity for a hearing on the causes specified for revocation.
 3. It is unlawful for any licensee to permit any person to possess or consume liquor on the licensed premises during the period of suspension or after the revocation of license.
- I. PREMISES; LIGHT AND OPEN SPACE REQUIREMENTS: It is unlawful for any

person to own, operate or manage any premises licensed pursuant to this Chapter without complying with the following lighting and view requirements:

1. During business hours, a minimum of one candlepower light, measured at a level five feet (5') above the floor, shall be maintained.
2. No enclosed booths, blinds or stalls shall be erected or maintained.
3. There shall be clear and unobstructed access to all portions of the interior where patrons are permitted or served.

J. ENTERTAINERS AND ENTERTAINMENT RESTRICTIONS: All licensees, operators, employers, agents, persons who are allowed on a licensed premise or persons who are allowed to perform for patrons of the licensee's business shall comply with the part of the Act designated as the "Attire, Conduct, and Entertainment Act," Utah Code § 32A-1-601 et seq., or its successor. Failure to comply shall constitute an offense of strict liability.

K. STORING LIQUOR ON LICENSED PREMISES PROHIBITED:

1. It is unlawful for any person to store any liquor in or on places of business licensed by this chapter.
2. It is unlawful for any licensee or any operator or employee of a licensee to hold, store or possess liquor on premises licensed by this chapter.
3. Persons other than the licensee or other than the operator or employee of the license may, with the consent of the licensee or operator or employee of either, possess and consume liquor on the licensed premises.

L. CONSUMING LIQUOR PROHIBITED IN UNLICENSED PREMISES: It is unlawful for any person to consume liquor in an unlicensed place of business, as provided herein.

5.10.050 Liquor Regulations

A. .5.010: HOURS FOR LIQUOR CONSUMPTION: It is unlawful and shall constitute an offense of strict liability for any person to permit the consumption of liquor on any business or commercial premises between the hours of two o'clock (2:00) A.M. and ten o'clock (10:00) A.M. of any day.

B. POSSESSION OF LIQUOR WITHOUT PERMIT: It is unlawful, except as authorized by state statute, for any person not holding a permit for the purchase of liquor, as required by the laws of the state, to have any liquor in his or her possession within the Town.

- C. **ILLEGAL SALE, MANUFACTURE, TRANSPORT, STORAGE OR SERVICE OF INTOXICATING LIQUOR:** It is unlawful for any person, except as provided by state statute, to knowingly have in his or her possession any intoxicating liquor, or to manufacture, sell, keep or store for sale, offer or expose for sale, import, carry, transport, advertise, distribute, give away, dispense or serve intoxicating liquor.
- D. **SHIPPING AND TRANSPORTING PROHIBITED WHEN:** It is unlawful for any person to order or purchase or to ship or transport or cause to be transported into the Town, or from one place to another within the Town, any alcoholic beverages or to sell or furnish any alcoholic beverages to any person within the Town when such alcoholic beverages, or any of them, are intended by any person interested therein to be received, possessed, sold or in any manner used, in the original package or otherwise, in violation of law.
- E. **CANVASSING AND SOLICITING ORDERS PROHIBITED:** It is unlawful for any person to canvass or solicit orders for alcoholic beverages by mail, telephone or any other manner, and such persons are hereby prohibited from engaging in such activities except to the extent that such prohibition may be in conflict with the laws of the United States or the state.
- F. **AIDING OR ABETTING UNLAWFUL ACTIVITIES:**
1. It is unlawful for any person to aid, abet, counsel or procure any unlawful sale, unlawful purchase, unlawful gift, or other unlawful disposition of alcoholic beverages, or to act as agent or representative of the seller in procuring or effecting the unlawful sale or purchase of any alcoholic beverages, and if such acts are performed, such person is guilty of a misdemeanor.
 2. Nothing in this Chapter shall be construed as prohibiting any person from purchasing alcoholic beverages contrary to the provisions of this Chapter when acting as the agent of the authorities charged with the enforcement of this Chapter in the detection and conviction of violators thereof.
- G. **POSSESSION OF LIQUOR; LIMITATIONS:** It is unlawful, except as provided by state statute, for any person to have or to keep for sale or possession any liquor which has not been purchased from the state liquor store or package agency.
- H. **TAKING OR ACCEPTING LIQUOR PROHIBITED WHEN:** It is unlawful, except as provided by state statute, for any person within this state, by himself, herself, or his/her clerk, employee or agent, to attempt to purchase, or directly or indirectly or upon any pretense or upon any device, to purchase or in consideration of the sale or transfer of any property, or for any other consideration, or at the time of the transfer of any property, to take or accept any alcoholic beverage from any other person.

- I. SUPPLYING LIQUOR WHEN PERMIT IS SUSPENDED: It is unlawful, except in the case of liquor administered by a physician or dentist or sold upon a prescription in accordance with state statute, for any person to procure or supply or assist directly or indirectly in procuring or supplying liquor for or to any person whose permit is suspended or has been canceled.
- J. SUPPLYING LIQUOR TO PROHIBITED PERSONS: It is unlawful, except in the case of liquor supplied upon the prescription of a physician, or administered by a physician or dentist or hospital, in accordance with state statute, for any person to procure for or sell, or give to any insane or interdicted person, any liquor, nor directly or indirectly assist in procuring or supplying any liquor to any such person.
- K. SELLING OR SUPPLYING ALCOHOLIC BEVERAGES TO INTOXICATED PERSONS: It is unlawful for any person to sell or supply any alcoholic beverage or to permit alcoholic beverages to be sold or supplied to any person under or apparently under the influence of liquor.
- L. PERMITTING DRUNKENNESS: It is unlawful for any person to:
1. Permit drunkenness to take place in any house or on any premises of which such person is the owner, tenant or occupant; or
 2. Permit or suffer any person apparently under the influence of liquor to consume any liquor in any house or on any premises of which the first named person is owner, tenant or occupant; or
 3. Give any liquor to any person apparently under the influence of liquor.
- M. SUPPLYING ALCOHOLIC BEVERAGES TO MINORS: It is unlawful and shall constitute an offense of strict liability for any person to sell, transfer, or give an alcoholic beverage, including beer or intoxicating liquor to any person under the age of twenty one (21) years of age; provided, however, that this section shall not apply to the administering of alcoholic beverages for medicinal purposes by the parent or guardian of such minor, or the administering of such alcoholic beverage by a physician in accordance with the law.
- N. ADULTERATED ALCOHOLIC BEVERAGES PROHIBITED: It is unlawful for any person for any purpose whatsoever to mix or permit or cause to be mixed with any alcoholic beverage offered for sale, sold or supplied by him as a beverage, any drug or any form of methylic alcohol, or any crude, unrectified or impure form of ethylic alcohol, or any other deleterious substance or liquid.
- O. VIOLATION; PENALTIES: Any person violating any provision of this Chapter, or any section thereof, shall be deemed guilty of a class B misdemeanor. In addition, violation of this Chapter shall be grounds for suspension or revocation of the license or licenses of the establishment or of the event where violations occur.

6 Criminal Code

6.04 Nuisances

6.04 Nuisances

6.04.010 Washington County Nuisance Code Adopted

6.04.010 Washington County Nuisance Code Adopted

Apple Valley Town adopts the following sections of the Washington County Code, as amended, [Sections 4-1-1](#) through [4-1-3](#), and [Section 4-1-11 - Nuisances and penalty](#).

7 Public Utilities

7.02 Sewer Services

7.10 Solid Waste

7.02 Sewer Services

7.02.010 Purpose

7.02.020 Definitions

7.02.030 Use Required

7.02.040 Unlawful Activities

7.02.050 Penalty

7.02.060 Application And Permit Required

7.02.070 Connection Fees

7.02.080 Replacement Of Public Ways

7.02.090 Materials And Manner Of Construction

7.02.100 Interceptors/Traps

7.02.110 Shredded Garbage

7.02.120 Disposal Of Private Sewage (New Subdivision Or Additional Phases To Existing Subdivisions)

7.02.130 Sewer Service Charge

7.02.140 Protection From Damage

7.02.150 Summary Of Responsibilities

7.02.160 Powers And Authority Of Inspectors

7.02.170 Occupant Held Harmless For Injury

7.02.180 Annual Review Of Operational Costs

7.02.190 Violation

7.02.200 Criminal Penalty

7.02.010 Purpose

Pursuant to Utah Code § 10-8-38, the Town of Apple Valley declares its intention to acquire, own, construct, equip, operate, and maintain within its municipal limits, a sewage system, sewers, equipment and appurtenances necessary, useful or convenient for a sewer system and disposal area as may necessarily or conveniently be deemed proper by the Town. There is levied and imposed upon all residents within the Town of Apple Valley whose premises are connected with the Town sewer system, or if a public sewer is available to which connection can be made to the premises, as herein provided, just and equitable charges for service, connection, maintenance, operation, extension, and reconstruction.

7.02.020 Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

"**Applicant**" means property owner.

"**ASTM**" means ASTM International, originally known as the American Society for Testing and Materials, that formulates infrastructure design information.

"**Biochemical Oxygen Demand**" (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty degrees centigrade (20°C), expressed in milligrams per liter.

"**Building Drain**" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside and 5 feet beyond the walls of the building and conveys it to the interceptor tank.

"**Building Sewer**" means a sewer constructed in conformance with the provisions hereof, which connects the building drain with the interceptor tank, also called house connection.

"**Cesspool**" means an underground reservoir for liquid waste (as household sewage).

"**Class**" means a classification of volume of use as described hereinafter.

"**Combined Sewer**" means a sewer intended to receive both wastewater and storm or surface water.

"**Commercial**" means all sewer users, except residential.

"**Connection Fee**" means the fee charged by the Town for inspection and connection to the sewage system.

"**Easement**" means an acquired legal right for the specific use of land owned by others.

"**Engineer**" means the Town Engineer.

"**Floatable Oil**" means oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

"**Garbage**" means all waste resulting from residences, commercial trades, or business and institutions. Commercial and industrial waste shall be distinct from domestic or household sanitary wastes.

"**Governing Body**" means the mayor and members of the council of the Town of Apple Valley.

"**Grease Trap**" means a device designed to retain grease from one to a maximum of four fixtures.

"**Heavy and Light Commercial and Industrial Users**" means any industrial or commercial user who discharges waste into the system requiring higher than normal biochemical oxygen demand, or greater than normal total suspended solids.

"Industrial Wastes" mean the liquid wastes from industrial processes, trade, or business as distinct from domestic or sanitary wastes.

"Interceptor" (Clarifier) means a device designed and installed so as to separate and retain deleterious, hazardous, or undesirable matter from normal waste and permit nonnal sewage or liquid waste to discharge into the STEP or STEF interceptor tank.

"Interceptor Tank" (see "STEP" and "STEF" interceptor tank).

"May" is permissive (see "shall" as defined in this Section).

"Natural Outlet" means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or ground water.

"Person" means any individual, firm, partnership, company, association, society, corporation, group, or trust and the heirs, successors, and assigns of any such defined person.

"pH" means the logarithm of the reciprocal of the hydrogen ions concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of seven (7) and a hydrogen ion concentration of 107.

"Plumbing Regulations" means the international plumbing code, as adopted by the state and the Tovm, including appendix chapters, as published by the International Code Council.

"Properly Shredded Garbage" means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in the public sewer, with no particle greater than one-half inch (1/2") (1.27 cm) in any dimension.

"Public Sewer" means a pipe or conduit for carrying sewage, placed or accepted by the Town, consisting of all conduits, interceptor tanks, pumping facilities service lines, system piping and control panels. but not including the building sewer which c01mects the building with the interceptor tank.

"Residential" means one or more rooms designed for occupancy by one family and with not more than one cooking facility.

"Residential Flows" mean the assumed average and/or standard flow expected from a single-family dwelling based on winter time culinary water usage. A residential flow volume is twelve thousand (12,000) gallons per month and its strength is 250 mg/l TSS (total suspended solids, see Suspended Solids) and 200 mg/l BODS (see Biochemical Oxygen Demand). Rates for volume and strength of residential flow are as set out in Addendum A.

"Sanitary Sewer" means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

"Septic Tank" means a tank in which the solid matter of continuous flowing sewage is disintegrated by bacteria.

"Sewage" means water-carried human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments, or other places, together with such groundwater infiltration, surface waters or industrial waste as may be present.

"Sewage Treatment Works" means an arrangement of devices and structures for treating sewage, industrial, wastes and sludge; sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."

"Sewage Facilities" mean the structures, equipment, and processes required to pump, collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

"Sewerage System" as used in this Chapter means the system of sanitary sewers of the Town of Apple Valley, Washington County, Utah.

"Shall" is mandatory (see "may" as defined in this Section).

"Shredded Garbage" means waste from the preparation; cooking, and dispensing of food.

"Slug" means any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen minutes more than five times the average twenty four hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the sewage treatment facility.

"Standard Town Specifications" mean those specifications found in the Town of Apple Valley Standards and Specifications, which are on file in the Town Office, to which all street and sewer construction shall conform.

"STEP Interceptor Tank" (Septic Tank Effluent Pumping) means a septic tank structure, which contains facilities for pumping effluent.

"STEF Interceptor Tank" (Septic Tank Effluent Filter) means a septic tank structure which gravity flows and contains effluent filters.

"Storm Drain" means a drain or sewer for conveying water, ground water, subsurface water, or unpolluted water from any source (sometimes termed "storm sewer").

"Superintendent" means the Town's designee, its representative, responsible for the sewer system.

"**Suspended Solids**" mean solids that float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

"**Town**" means Apple Valley, Washington County, Utah.

"**Unpolluted Water**" means water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

"**Watercourse**" means a natural or artificial channel for the passage of water either continuously or intermittently.

"**WEF Manual of Practice**" means that publication compiled and distributed by the Water Environment Federation.

7.02.030 Use Required

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the Town and abutting on any street, alley, or right of way in which there is now located or may in the future be located a public sanitary or combined sewer of the Town or within three hundred feet (300') of the system is hereby required, at the owner's expense, to install suitable sewer facilities therein, and to connect such facilities directly with the public sewer in accordance with the provisions of this Chapter, within ninety (90) days after date of official notice to do so; provided, that said sewer is within three hundred feet (300') of the owner's property line. The town council may exempt any owner from this requirement for good cause shown. Each individual residential, business, or commercial building shall receive a separate connection.

7.02.040 Unlawful Activities

It shall be unlawful for any person:

- A. To place, deposit or permit to be deposited in any unsanitary manner upon public or private property within the Town's municipal limits, or in any area under the jurisdiction of the Town, any sewage, human or animal excrement, garbage, or other objectionable waste.
- B. To any natural outlet within the Town's municipal limits or in any area under the jurisdiction of the Town, any sanitary sewage, industrial waste, or other polluted waters, except where suitable treatment has been provided in accordance with this Chapter.
- C. To construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage, except as hereinafter provided.

- D. To discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process waters into any sanitary sewer, unless treated in approved septic system. Any existing discharge of such waters into sanitary sewers shall be immediately discontinued.
- E. To discharge or cause to be discharged any of the following described waters or waste into any public sanitary sewer:
1. Raw sewage not first treated through an interceptor tank (unless the sanitary sewer is a conventionally designed sewer system engineered and approved for direct discharge);
 2. Explosive or inflammable liquids and gasses, or any liquid or vapor having a temperature higher than 150° Fahrenheit;
 3. Any water or waste which contains more than 100 parts per million by weight, of fat, oil or grease, oil and sludge from service stations, garages, repair shops, machine shops, cleaning establishments or other industries or establishments;
 4. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, gas, petroleum, coal tar, vegetable and mineral oils and products, and their derivatives and wastes, except sewage as defined in AVMC 7.02.020;
 5. Any garbage, such as ground or unground fruit peelings and cores from canneries or packing plants, cull fruits and vegetables, fruit and vegetable pits and seeds such as those from peaches, apricots, cherries, prunes, pumpkins and squash and cull walnuts and filberts;
 6. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, paunch, stable or barn manure, offal from slaughterhouses; dead animals, or other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;
 7. Any waters or wastes having a ph lower than 5.5, higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works;
 8. Any waters or waste containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment facilities. Among substances that may be toxic to sewer systems, humans and animals are the following: copper, chromium, cyanide, lead, zinc, arsenic, nickel, phenol detergents, wastes from nuclear fission, paints or waste products from paint manufacturers or acids, alkalis or other corrosive liquids, gases or substances of sufficient strength to damage sewers, manholes, pumping stations or treatment plant units;

9. Any water or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment facilities;
- F. To cause or allow any noxious or malodorous gas or substance capable of creating a public nuisance or live steam, exhaust steam, or water having a temperature above 140° Fahrenheit except as hereinafter provided.
- G. To prevent storm water and all other unpolluted drainage to be discharged to such sewers as are specifically designed as storm sewers, or to natural outlet provided by the manager. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the manager, to a storm sewer or natural outlet.

7.02.050 Penalty

To evidence compliance with the requirements of this Chapter, the Town adopts this penalty and compensatory sanctions, the violation of which shall constitute a Class B misdemeanor, under the authority of Utah Code § 10-8-15, the Town exercises a municipality's extraterritorial jurisdiction to protect culinary water systems and their sources from exposure to underground percolation from any ecological injury, pollution or contamination of the watershed or exposure of the system and water-polluting underground percolations influencing the culinary waterworks sources. The Town, under the authority of Utah Code § 10-8-38, declares that all lands (whether inside or outside an incorporated municipality) within three hundred feet (300') on either side of the transmission or interceptor lines and the inlet facilities of each and all of the collection, interception and inlet facilities or one or any combination of the same (the "system"). The Town requires that the owner or occupant of any land upon which any structure is located and on the nearest property line of any kind within three hundred feet (300') of any lateral, interceptor or collection portion of the system shall connect to the system, the failure of which shall constitute a public offense and punishable by law as a Class B misdemeanor, subject to criminal penalty as provided in AVMC 7.02.200.

7.02.060 Application And Permit Required

- A. No person, firm, or corporation shall make a connection to any part of the sanitary sewer system of the Town, without first making an application and securing a permit therefore, and then only by using an approved connection, in accordance with the provisions of this Chapter.
- B. Application for sewer connection permits shall be made in writing to Town Hall in a form prescribed by the Town and shall give the location of the property, street number of the buildings to be connected, name of the person, and statement as to whether or not the premises to be connected were in the past assessed for the construction of a sanitary sewer onto which the applicant desires to connect, and such other information or plans as may be required by the Town.
- C. Application for a permit to connect to the system shall also include an easement

from the lot owner as is required of the initial users for maintenance purposes.

1. All proposed subdivisions shall provide an easement over, across and under each individual lot purposes of installing, maintaining and servicing the sewer system. In the event of a subdivision plat, the subdivision plat shall expressly provide for the sewer easement for each individual lot as well as all other areas necessary to provide a sewer system for the platted area.

D. There shall be three (3) classes of sewer connection permits:

1. Class I for residential and light commercial services, up to four hundred (400) gallons per day;
2. Class II for commercial services, from four hundred (400) gallons to one thousand two hundred (1,200) gallons per day; and
3. Class III for heavy users, commercial, industrial and special, from one thousand two hundred (1,200) gallons per day and over.

7.02.070 Connection Fees

A. All applications for connection to the sanitary sewer system shall be accompanied by a payment of an advance deposit in an estimated amount for all costs, including engineering construction management, excavation, installation, materials, backfill, street repair, and overhead, as determined by the Town for a STEP or STEF system on each lot, connection permit, and inspection fee; the amount of such fees shall be set from time to time by resolution and made a part hereof as though fully set forth herein. In addition to the above, applicant shall obtain a Town plumbing permit.

1. If the property to which the applicant desires to make a sanitary sewer connection has never been assessed for sewer improvements, then, in addition to the service and inspection fee, the applicant shall pay a connection fee, which fee shall also be set by resolution, from time to time, and such resolution shall become a part hereof as though fully set forth herein.

B. The connection fees imposed by this section pertain to sewerage system service to existing buildings and to people who apply, and in the judgment of the Town, who may reasonably be served by such system. Fees for connections of existing buildings to the system shall be due within thirty (30) days of the elate fixed by the Town by motion or resolution as the elate of starting of construction of the system.

1. Applicants for connections to be made after completion of construction of the system shall pay all costs of making the connection plus all fees. When one connection serves a lot with two or more buildings or

residential units, each building or residential unit shall pay a connection fee.

- C. Vacant Lots: Residential connections of tanks and service facilities will only be installed after issuance of a permit for building construction and substantial work has been completed.

7.02.080 Replacement Of Public Ways

Applicant shall agree to pay the cost of replacing streets or alleys excavated for the purpose of making the sewer connections covered by the permit, if not properly renovated during excavation. The Town shall approve all streets and alley cuts. and holds the developer or contractor responsible for maintenance for one year after the line use has begun.

7.02.090 Materials And Manner Of Construction

- A. All building sewer installations shall be constructed to confirm to the provisions of the Plumbing Regulations, Standard Town Specifications, ASTM and the WEF Manual of Practice (if a conflict occurs. the higher standard shall apply).
- B. The size, slope, alignment, materials or construction of all sanitary sewers including building sewers. and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes. or other applicable rules and regulations of the City and the State. In the absence of these code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WEF Manual of Practice.
- C. Whenever possible, the building sewer shall be brought from the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. Where such means are necessary, the owner shall be responsible for all installations, maintenance, and operating costs for their operation.
- D. No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such collection is approved by the City and the Utah State Department of Environmental Quality for purposes of disposal of polluted surface drainage.

- E. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes, or other applicable rules and regulations of the Town and the State, or the procedures set forth in appropriate specifications of nationally recognized publications of what are known as the ASTM and WPCF Manual of Practice. All such connections shall be made gas-tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Town before installation.
- F. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town.
- G. Connections shall be made only by a licensed plumber of the State of Utah and supervised by the Town Inspector. Proof of a valid permit will be required prior to construction.
- H. A separate and independent electrical circuit shall be provided for every STEP interceptor tank.
- I. Existing building sewers and building plumbing may be used in connection with new buildings only when they meet all requirements of the applicable plumbing code.
- J. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the State or Town.
- K. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the interceptor tank, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer and the property owner shall provide a backwater valve to prevent backflow sewage. The Town shall not be liable for any damage caused by backflow.
- L. No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain, which in turn is connected directly or indirectly to a public sanitary sewer.
- M. In those instances where the approved sewer system is a STEP or STEF system, the connection of the building sewer into the interceptor tank shall conform to the requirements of the applicable plumbing code. In all approved sewer systems, connections shall be made gas-tight and watertight and verified by proper testing. The superintendent before installation must approve any deviation from the prescribed procedures and material.

- N. The applicant for the sewer permit shall notify the Inspector when the building sewer is ready for inspection and connection to the sewer system including those systems utilizing an interceptor tank. The connection and testing to the sewer system and/or to the interceptor tank shall be made under the supervision of the Inspector or his or her representative.
- O. All excavations for sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town, County, or State as appropriate.
- P. Plumbing within newly constructed houses, buildings, or structures shall be so oriented unless otherwise approved by the Inspector as to allow the building sewer to stem from the side closest to the system piping.
- Q. Upon sale of a subdivided or partitioned parcel with a house, building or structure utilizing an interceptor tank common to another house, building or structure which was not included in the sale or located on the parcel after division, another interceptor tank, control panel and proper piping shall be installed so that each parcel has independent sewerage facilities.
- R. No backfill shall be placed until the Inspector has inspected the work.

7.02.100 Interceptors/Traps

Oil, grease, and sand interceptors or grease traps shall be provided by eateries, industrial buildings, school kitchens, service stations, laundries, processing plants, and other places when they are necessary for the proper handling of liquid wastes, sand, and other harmful ingredients, except that such interceptors/traps shall not be required for private living quarters or dwelling units.

- A. All interceptors/traps shall be of a type, design and capacity as described by the applicable provisions of the Plumbing Regulations and approved by the Inspector and shall be located so as to be readily and easily accessible for cleaning and inspection.
- B. Grease, oil interceptors and grease traps shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperatures. They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place shall be watertight.
- C. Where installed, all grease, oil, and sand interceptors or grease traps shall be maintained by the owners, at their expense in continuously efficient operation at all times. The manager shall ascertain that all interceptors/traps are cleaned and/or replaced at least once every month, or as needed.

7.02.110 Shredded Garbage

Shredded garbage shall not be placed in the main lines of the public sewer system. Large quantities of such materials should be disposed of otherwise.

7.02.120 Disposal Of Private Sewage (New Subdivision Or Additional Phases To Existing Subdivisions)

- A. The developer shall identify all potential alternatives to providing for the development of a public sewer system, or other similar method of wastewater treatment in the proposed subdivision. The Town may require that developers join together to consider alternate methods.
- B. Where installation of a public sewer system is not, in the opinion of the town council, viable at the time, a "dry" sewer shall be installed for future connection to a future public sewer system outfall line.
- C. If conventional onsite wastewater systems are determined by the town council, after recommendation from the planning commission, to be the most feasible, such systems may be approved subject to approval of the Southwest Utah Public Health Department and the town engineer, and subject to the following conditions:
 - 1. The type of onsite system approved shall provide for a method of monitoring the septic tank on a regular basis. Such monitoring shall be for the purpose of determining the necessary pumping intervals for the septic tank.
 - 2. A method of financing the inspection and maintenance of the septic tanks shall be established by the developer, which will be implemented by the Town upon the construction of individual onsite wastewater systems in the subdivision.
 - 3. A dry sewer system shall be required as outlined in subsection B of this section.
 - 4. The number of individual lots existing on or before November 10, 2006 where septic permits that may be allowed will be 200.
 - 5. The number of individual lots where septic permits may be allowed in any new subdivision, or phases thereof, will be 900. The 900 septic permits will be allocated by region as follows (see attachment for region boundary descriptions):
 - a. The region referred to as Apple Valley South will be allocated 300 septic permits;
 - b. The region referred to as Apple Valley East will be allocated 300 septic permits: and
 - c. The region referred to as Apple Valley West will be allocated 300 septic permits (not taking into account those permits allocated pursuant to subsection C,4 above.
 - d. Septic permits allocated to each region should allow approximately 20 septic permits per 40 acres.

6. Notwithstanding the foregoing, based on public necessity, the town council may reallocate the septic permits on a case by case basis utilizing data from Southwest Public Health Department and other applicable sources of information.
- D. In the event that property is annexed by the Town, additional septic permits may be allocated to the affected region in ratio of one septic permit for every seven acres of privately owned annexed property.
- E. All individual, private sewage disposal systems shall comply with the following requirements:
- F. In determining a suitable location for the system, consideration shall be given to the size and shape of the land area available, type of soils, slope of natural and finished grade, depth of groundwater, proximity to existing or future water supplies, and possible expansion of the system.
- G. The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations of the Utah Department of Environmental Quality. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than one acre. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- H. Plumbing Regulations.
 - I. Southwest Public Health Department regulations.
 - J. The system shall be designed to receive all sewage excluding footing, surface and roof drainage.
 - K. The system shall have adequate capacity to dispose of the maximum daily sewage flow properly.
 - L. Bulldozers, motor vehicles, trucks or any other heavy equipment shall not be driven over the system during or after the construction.
 - M. Upon failure of a conventional septic tank, owners shall be required to obtain a permit for all septic tank replacements. Upon applying for a permit, the manager shall determine whether the owner shall connect to the public sewerage system pursuant to the terms of this Chapter.
 - N. When a public sewer is not available pursuant to this Chapter or this Town Code, the owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the Town.

7.02.130 Sewer Service Charge

Sewer service charges and assessments shall be established by resolution. The monthly rates for sewerage system use shall be billed to each user from the Town. The Town, by motion or resolution, shall fix the date, after completion of the sewerage system, when such rates first become payable.

- A. All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- B. Ordinance and Maintenance services fees will be set by Resolution based upon the engineers' recommendation. Fees may be different according to the type of system and facts and circumstances. In the case of new subdivisions, the developers should be required to enter into an agreement to subsidize the system until the user's fees support the system.
- C. The governing body will, to promote equity in distribution of operation and maintenance costs, and for no other purpose, establish rates based entirely upon metered usage, effluent strength by or solely upon the basis as defined hereinabove or upon an equitable combination of any of those so that the costs of operation and maintenance reflected in rates will be equitably distributed among those based upon their usage of and benefit received from the system.
- D. Sewerage system charges shall become due and payable on the fixed date. If such charges are not paid within thirty days of the due dates thereof, the Town, at its option and after due notice to the user, may discontinue water service to the premises served. Unpaid sewerage system service charges due from users of the sewerage system who are not users of the water system of the Town shall become delinquent thirty (30) days from the elate of mailing or delivery of the notice thereof.
- E. Irrespective of the occupant, user, tenant, cotenant, permissive user, or any other person being in possession of the premises to which a connection is supplied or service made available, the owner of the premises according to the records of the Washington County Recorder shall be legally responsible for the payment of all charges, fees, assessments and any other obligation or liability of a user. If any delinquent sewer connection, sewer user charge, repairs, maintenance or any other obligation is imposed against any premises, property, buildings or structures, the obligation shall be deemed by the Town as a lien upon all of the real property on which any use is made from a sewer connection.
- F. Any overdue sewer charge or fee further may be collected, at the option of the Town, by an action at Jm;v in the name of the Town, including all attorney fees and costs incurred due to the collection of the delinquent charges, fees, assessments and any other obligation or liability.
- G. All payments for utilities, whether water or sewer shall be credited first to sewer assessments, fees or charges.
- H. The governing body may, at its discretion and in circumstances that are equitable, impose interest at the highest legal rate (but not to exceed 2 percent per month) on all past due accounts either for connection fees, user charges, maintenance, repair or any other charge which is provided for, imposed or authorized by this Chapter.

- I. Each user will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services (O&M) versus debt service.
- J. All payments and collections of sewer service charges under this Chapter shall be deposited in the Operation and Maintenance Account of the Sewer Revenue Fund of the Town. The Operation and Maintenance Account also may be used to pay reasonable administration costs and expenses of collection of the charges and connection fees imposed by this Chapter.

7.02.140 Protection From Damage

No person shall break, damage, uncover, deface or tamper with any structure, appurtenance or equipment, which is a part of the sewage works.

7.02.150 Summary Of Responsibilities

For property owners and the Town in provisions of sewer service, each person requesting sewer service, whether a reserved or additional sewer service, must:

- A. apply for service in writing;
- B. grant the Town an easement in advance of installation;
- C. where applicable, pay for a STEP or STEF system on each lot by depositing in advance of installation an estimated amount with the Town for all costs, including engineering construction management, excavation, installation, materials, backfill, street repair, and overhead, as determined by the Town;
- D. pay applicable Town connection permit and inspection fees prior to installation;
- E. provide a permanent electrical "rough-in" at a location designated by the Inspector, if requested;
- F. notify Inspector a minimum of two weeks prior to need for actual installation;
- G. pay monthly user fees; and
- H. maintain sewer line from the building to the interceptor tank, if applicable, or to the sewer trunk line.

The Town shall:

- A. tap sewer main at an appropriate location and
- B. shall maintain sewer lines from the Sewage Treatment Works.

7.02.160 Powers And Authority Of Inspectors

- A. Duly authorized employees or agents of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of

inspection, observation, measurement, sampling and testing pertinent to discharge to the community system in accordance with the provisions of this Chapter.

- B. Duly authorized employees or agents of the Town or its agents bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
- C. Duly authorized employees or agents of the Town are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the sewerage system. Industrial users may withhold information when they have established that the revelation of said information to the public might result in an advantage to competitors.

7.02.170 Occupant Held Harmless For Injury

While performing the necessary work on private properties referred to herein, duly authorized employees or agents of the Town shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the Town employees, and the Town shall indemnify the company against loss or damage to its property by Town employees or agents and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required.

7.02.180 Annual Review Of Operational Costs

- A. The Governing Body shall review the total annual cost of operation and maintenance, long-term debt service relating to the wastewater treatment works, as well as each user's wastewater contribution percentage not less often than every year, and will revise the user charge system as necessary to assure equity of the system established herein and to assure that sufficient funds are obtained from the Town's user charge system to adequately operate and maintain the sewerage treatment works and cover any debt service. The Town will apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year, and adjust this rate accordingly.
- B. The addendum attached to the Chapter and entitled "Town of Apple Valley Service User Charge System" shall be used for calculating rates. The addendum shall be used as a formula for calculating rates, fees, and charges for connection, use and access to the system. The addendum is adopted and made a part of this Chapter.

7.02.190 Violation

- A. Any person found to be violating any provision of this Chapter shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- B. Any person who shall continue any violation beyond the time limit provided for in subsection A of this Section, shall be guilty of a Class B misdemeanor, and upon conviction thereof, shall be subject to penalty as provided in AVMC 7.02.180. Each day in which any such violation shall continue shall be deemed. a separate offense.
- C. Any person violating any of the provisions of this Chapter shall become liable to the Town for any expense, loss or damage incurred by the Town by reason of such violation.

7.02.200 Criminal Penalty

The criminal penalty for the violation of any provision of this Chapter is punishable by a fine not to exceed \$1,000.00 or by a term of imprisonment up to six months, or by both the fine and term of imprisonment.

7.10 Solid Waste

7.10.010 Purpose

7.10.020 Findings

7.10.030 Regulation Of Disposal Of Solid Waste Within Apple Valley Boundaries

7.10.040 Solid Waste Collection And Disposal Services Fees

7.10.050 Criminal Penalty For Violation

7.10.010 Purpose

The purpose of this Chapter is to regulate the disposal of solid waste within the boundaries of the Town of Apple Valley ("Apple Valley"), which it is required to do under the provisions of Paragraph 11 of Apple Valley's Agreement with Washington County Special Service District No. 1 ("District").

7.10.020 Findings

- A. Apple Valley entered into an Agreement with the District whereby the District, by and through Allied Waste Transportation, Inc., dba Red Rock Waste Services ("Allied Waste"), shall provide residential solid waste collection and disposal services within the town limits of Apple Valley (hereinafter "Agreement").
- B. Under the terms of the Agreement, Apple Valley has agreed to adopt by resolution or ordinance such rules and regulations as may be necessary to prevent the dumping or disposal of any solid waste in any area other than the Washington County Landfill, or in any manner which is inconsistent with the Agreement.

- C. The Agreement requires that all residential solid waste within the boundaries of Apple Valley be disposed of through Allied Waste or be taken to the Washington County Landfill for disposal.

7.10.030 Regulation Of Disposal Of Solid Waste Within Apple Valley Boundaries

It shall be unlawful to dispose of solid waste within the boundaries of Apple Valley except by contract with Allied Waste, through the District, or dispose of said waste at the Washington County Landfill.

7.10.040 Solid Waste Collection And Disposal Services Fees

- A. The Apple Valley Town Council estimates that the monthly billing, collection and payment to District, of all residential fees for residential solid waste removal from all residences located within the Apple Valley Town limits, costs the town the amount of \$194.00 per month.
- B. Based on the estimated number of residents within the Apple Valley Town limits of 175, each resident should be assessed the amount of \$12.50 per month for the costs and labor incurred by Apple Valley in providing monthly billing, collection, and payment to District of all residential fees for residential solid waste removal from all residences located within the Apple Valley Town limits.
- C. Enactment Of Fee. Each resident shall be assessed the amount of \$12.50 per month for the costs and labor incurred by Apple Valley in providing monthly billing, collection, and payment to District of all residential fees for the removal of solid waste from all residences located within the Apple Valley Town limits. This amount shall be added to the amounts District requires pursuant to Paragraph 5 (a) through (c) of the Agreement.

7.10.050 Criminal Penalty For Violation

Whoever violates any provision of this Chapter shall be guilty of a class C misdemeanor and, upon conviction, subject to a term of imprisonment, for a term not exceeding ninety (90) days, and a fine not to exceed seven hundred fifty dollars (\$750.00).

8 Public Health And Safety

8.06 Noxious Weeds And Garbage

8.08 Fireworks

8.10 Burning And Burn Permits

8.06 Noxious Weeds And Garbage

8.06.010 Definition Of Noxious Weed

8.06.020 Enforcement Officer

8.06.030 Notice; Proof Of Service

8.06.040 Hearing

8.06.050 Failure To Comply

8.06.010 Definition Of Noxious Weed

Noxious weeds shall include any vegetation commonly referred to as a weed or which shall have been designated a noxious weed by the Utah Commissioner of Agriculture.

8.06.020 Enforcement Officer

- A. Created: The office of enforcement officer is hereby created for the purpose of administering the provisions of this Chapter and the powers delegated to this town by the statutes, subject to such control and review as the town council may from time to time direct.
- B. Assistants: The town council may appoint such assistant enforcement officers and delegate to them such powers and duties as it may from time to time determine by resolution. The powers and duties of the assistants shall be the same as those of the enforcement officer, unless otherwise so specified by resolution.
- C. Powers And Duties:
 1. The enforcement officer is hereby authorized and directed to inspect and examine real property situated within the town for the purpose of determining whether or not it contains injurious or noxious weeds, garbage, refuse or unsightly or deleterious objects or structures, and for the purpose of determining whether or not the existence of the weeds or objects creates a fire hazard or constitutes a source of contamination or other danger to health and safety, or otherwise creates nuisances, as above declared.
 2. If the enforcement officer concludes that such conditions exist in whole or in part, he shall:
 - a. Ascertain the names of the owners and occupants and description of the premises where such objects and conditions exist.

- b. Serve notice in writing upon the owner and occupant of such land, either personally or by mailing notice, postage prepaid, addressed to the owner and occupant at their last known post office addresses, as disclosed by the records of the county assessor, or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate or destroy and remove the same within such time as the enforcement officer may designate, which shall not be less than ten (10) days from the date of service of such notice.
 - c. Inform the owner or occupant, or both, by means of the notice or an attached document, that in the event he disagrees with the determination of the enforcement officer and does not wish to remove the objects or objectionable conditions, he may request in writing a hearing before the town council at a time and place to be set by the town council. A written application for a hearing shall stay the time within which the owner or occupant must conform to the decision of the enforcement officer.
3. In the event the owner or occupant makes such request for a hearing, the town council shall set the time and place for hearing the objections, and the town clerk shall notify the owner or occupant in writing of the time and place at which he may appear and be heard. The hearing shall not be heard within less than five (5) days from the date of service or mailing of the notice.

8.06.030 Notice; Proof Of Service

One notice shall be deemed sufficient on any lot or parcel of property for the entire season of weed growth during that year. The enforcement officer shall make proof of service of such notice under oath, and file the same in the office of the county treasurer.

8.06.040 Hearing

- A. Procedure: At the written request of an owner or occupant ordered to remove or abate the weeds, objectionable conditions, or objects from his real property, the town council shall conduct an informal hearing (which need not be reported) wherein the owner or occupant may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of the objects or conditions is properly within the purview of this Chapter. The town council shall also permit the presentation of evidence and argument by the enforcement officer and other interested parties. Thereafter within not more than ten (10) days, the town council shall, over the signature of the mayor or such other member of the council as it may designate by resolution, render its written decision, a copy of which shall be mailed to or served upon the owner or occupant by the enforcement officer.

B. Decision:

1. Upheld: In the event the decision of the city council upholds the determination of the enforcement officer, the notice originally given by the enforcement officer as above provided shall be deemed to be sufficient to require the owner or occupant to remove or abate the objects or conditions and he shall have up to ten (10) days from the date of notice of the decision within which to conform thereto.
2. Overruled Or Modified: In the event that the decision of the town council either overrules or modifies the determination of the enforcement officer, the written decision of the town council shall apprise him of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the objects or conditions, if any. The owner or occupant shall be required to conform to the decision of the town council within ten (10) days after service or mailing of a copy of the decision, and the decision shall be deemed to be the modified decision of the enforcement officer.
3. File Amended Notice, Proof Of Service: The enforcement officer shall file an amended notice and proof of service of the notice and file the same in the office of the county treasurer.

8.06.050 Failure To Comply

- A. Removal By Town: If any owner or occupant of lands described in such notice or decision shall fail or neglect to conform to the requirements thereof relating to the eradication or destruction or removal of such weeds, garbage, refuse, objects or structures, the enforcement officer shall employ all necessary assistance to cause such materials to be removed or destroyed at the expense of the town.
- B. Itemized Statement: The enforcement officer shall prepare an itemized statement of all expenses incurred in the removal and destruction of the materials and shall mail a copy thereof to the owner or occupant, or both, demanding payment within twenty (20) days of the date of mailing. The notice shall be deemed delivered when mailed by registered mail addressed to the property owner's or occupant's last known address.
- C. Failure To Pay: In the event the owner or occupant fails to make payment of the amount set forth in the statement to the town treasurer within the twenty (20) days, the enforcement officer either may cause suit to be brought in an appropriate court of law or may refer the matter to the county treasurer as provided in this section.
- D. Collection:
 1. Lawsuit: In the event collection of expenses of destruction and removal are pursued through the courts, the town shall sue for and receive judgment for all of the expenses of destruction and removal, together

with reasonable attorney fees, interest and court costs and shall execute upon such judgment in the manner provided by law.

2. Taxes: In the event that the enforcement officer elects to refer the expenses of destruction or removal to the county treasurer for inclusion in the tax notice of the property owner, he shall make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same and shall deliver the three (3) copies of the statement to the county treasurer within ten (10) days after the completion of the work of destroying or removing such weeds, refuse, garbage, objects or structures. Thereupon, the costs of the work shall be pursued by the county treasurer in accordance with the provisions of Utah Code § 10-11-4, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted.

8.08 Fireworks

8.08.030 Fireworks Restrictions

8.08.030 Fireworks Restrictions

Until further notice, the use of fireworks in the Town is prohibited. Violation of this section shall be punishable as a Class B Misdemeanor.

8.10 Burning And Burn Permits

8.10.010 Closed Fire Season

8.10.020 Open Fire Season

8.10.030 Agricultural And Horticultural Exceptions

8.10.040 Other Exceptions

8.10.050 Procedure For Obtaining A Burning Permit

8.10.010 Closed Fire Season

- A. Subject to the exceptions set forth herein, burning is prohibited during the statutorily closed fire season from June 1st through October 31st, and the regulatorily closed fire season from November 16th through the last day of February. Notwithstanding the same, where state statute permits, from June 1st to October 31st, and the person obtains a state issued closed season burning permit prior to burning, persons may burn pursuant to the terms of the state issued permit.
- B. When a person has obtained a closed season burning permit issued by the state, the person shall notify the local fire authority of the approximate time the burn will occur before the burn takes place.
- C. Any violation of this section shall be punishable as a class C misdemeanor.

8.10.020 Open Fire Season

- A. Subject to the exceptions set forth herein, persons shall obtain a town burning permit before starting a fire in the incorporated areas of the town during the open fire season.
- B. Any violation of this section shall be punishable as a class C misdemeanor.

8.10.030 Agricultural And Horticultural Exceptions

- A. The regulatorily closed fire season from November 16th through the last day of February, and above-referenced provisions of the open fire season regarding town burning permits are not applicable to:
 - 1. Burning of prunings from trees, bushes, and plants of dead or diseased trees, bushes and plants, including stubble. This exception does not apply in areas zoned as residential where the regulatorily closed fire season applies and the permit must still be obtained.
 - 2. Burning of weed growth along ditch banks for cleaning these ditches for irrigation purposes.
 - 3. Controlled heating of orchards or other crops during the frost season to lesson the chances of their being frozen so long as the emissions from the heating do not cause or contribute to an exceedance of any national ambient air quality standards and are consistent with the federally approved state implementation plan.
- B. The person conducting any of the above excepted burnings shall notify the local fire authority of the approximate time that the burning will occur before the burn takes place.
- C. Any violation of this section shall be punishable as a class C misdemeanor.

8.10.040 Other Exceptions

- A. The provisions of this Chapter are not applicable to:
 - 1. Devices for the primary purpose of preparing food such as outdoor grills and fireplaces;
 - 2. Campfires and fires used solely for recreational purposes where such fires are under control of a responsible person and the combustible material is clean, dry wood or charcoal; and
 - 3. Indoor fireplaces and indoor residential solid fuel burning devices.

8.10.050 Procedure For Obtaining A Burning Permit

- A. During open fire season, the chief fire officer or official of the Town shall be responsible for signing and issuing a burning permit, on forms provided by the

town. No permits shall be issued during the closed fire season or when the clearing index is below 500.

9 Animal Services And Control

9.02 County Animal Control

9.02 County Animal Control

9.02.010 Washington County Code Adopted

9.02.010 Washington County Code Adopted

Apple Valley Town adopts the following sections of the Washington County Code, as amended, Title 5-3 Article A through Article C - Animal Control.

10 Land Use Regulations

AVLU 10 (Land Use) constituting the Apple Valley Land Use Code is set forth in a separate online code book and can be found at applevalley.municipalcodeonline.com or by clicking here: [APLU \(Land Use\)](#).

11 Subdivisions Regulations

AVS 11 (Subdivisions) constituting the Apple Valley Subdivisions Code is set forth in a separate online code book and can be found at applevalley.municipalcodeonline.com or by clicking here: [APS \(Subdivisions\)](#).

12 Building Standards

12.02 Building Codes

12.02 Building Codes

12.02.010 Washington County Building Code

12.02.010 Washington County Building Code

Apple Valley Town adopts the following sections of the Washington County Code, as amended, Title 9 - Buildings, Land and Construction.

13 Transportation Code

13.02 State Motor Vehicle Act

13.02 State Motor Vehicle Act

the Town Council of the Town of Apple Valley pursuant to Utah Code § 10-8-84, hereby adopts by reference and incorporates into this code all sections of the Utah Code 41 (Motor Vehicle Act), including all amendments, deletions and additions made thereto as of the effective date hereof. Any provisions of these sections are excluded to the extent that they would limit the discretion of the Town attorney to charge an offense as either a misdemeanor or an infraction, as permitted by Utah Code § 10-8-84.

14 Community Development And Public Facilities

14.02 Impact Fee Enactment

14.06 Enroachments And Utility Construction

14.08 Electric Utility Franchise

14.10 Ground Water Protection

14.14 Trees

14.02 Impact Fee Enactment

14.02.010 Purpose

14.02.020 Definitions

14.02.030 Written Impact Fee Analysis

14.02.040 Impact Fee Calculations

14.02.050 Capital Facilities Plan

14.02.060 Endangered Species Impact Fees

14.02.070 Police Impact Fee

14.02.080 Impact Fee Schedules And Formulas

14.02.090 Fee Exceptions And Adjustments

14.02.100 Appeal Procedure

14.02.010 Purpose

This Impact Fee Chapter establishes the Town's impact fee policies and procedures and is promulgated pursuant to the requirements of the Utah Impact Fees Act. This Chapter establishes impact fees for water, wastewater, transportation, storm water, parks, trails and open space and public safety within the Impact Fee Service Area, describes certain capital improvements to be funded by impact fees, provides a schedule of impact fees for differing types of land-use development, and sets forth direction for challenging, modifying and appealing impact fees.

14.02.020 Definitions

Words and phrases that are defined in the Act shall have the same definition in this Impact Fee Chapter. The following words and phrases shall have the following meanings:

“Capital Facilities Plan” means the plan required by Section 11-36-201 of the Act. In Section 11-36-201(2)(e) there is an exception to the Capital Facilities Plan for cities of 5,000 or less in population, based on the latest census. Town meets this exception but has chosen to perform and adopt the Capital Facilities Plan attached hereto.

“Development activity” means any construction or expansion of building, structure or use, any change in use of building or structure, or any change in the use of land that creates additional demand and need for public facilities. Development activity will include residential, commercial, and institutional users who are not currently connected to any of the Town's public facilities systems, but will locate within the Impact Fee Service Area.

“Development approval” means any written authorization from the Town that authorizes the commencement of development activity.

“Town” means the Town of Apple Valley, a local political subdivision of the State of Utah.

“Impact fee” means a payment of money imposed upon development activity as a condition of development approval. “Impact fee” includes development impact fees, but does not include a tax, special assessment, hookup fee, building permit fee, fee for project improvements, or other reasonable permit or application fees.

“Project improvements” means site improvements and facilities that are planned and designed to provide service for development resulting from a development activity and are necessary for the use and convenience of the occupants or users of development resulting from a development activity. “Project improvements” do not include “system improvements” as defined below.

“Proportionate share” of the cost of public facility improvements means an amount that is roughly proportionate and reasonably related to the service demands and needs of a development activity.

“Public facilities” means water, wastewater, transportation, storm water, parks, trails and open space and public safety improvements of the Town for the Impact Fee Service Area.

“Impact Fee Service Area” refers to a geographic area designated by the Town based on sound planning and engineering principles in which a defined set of the Town's public facilities provides service. The Impact Fee Service Area for purposes of this Chapter includes all of the area within the jurisdictional boundaries of the Town.

“System improvements” refers both to existing public facilities designed to provide services within the Impact Fee Service Area and to future public facilities identified in a reasonable plan for capital improvements adopted by the Town that are intended to provide service to the Impact Fee Service Area. “System improvements” do not include “Project improvements” as defined above.

14.02.030 Written Impact Fee Analysis

- A. Executive Summary. A summary of the findings of the written Development Impact Fee Analysis that is designed to be understood by a lay person is attached hereto and has been available for public inspection at least fourteen (14) days prior to the adoption of this Chapter.

- B. Written Impact Fee Analysis. The Town has prepared the written Development Impact Fee Analysis attached hereto that identifies the impacts upon public facilities required by development activities and demonstrates how those impacts on system improvements are reasonably related to the development activity, estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to development activities and identifies how the impact fees are calculated. A copy of the written Development Impact Fee Analysis has been available for public inspection at least fourteen (14) days prior to the adoption of this Chapter.
- C. Proportionate Share Analysis. The Town must prepare a Proportionate Share Analysis which analyzes whether or not the proportionate share of the costs of future public facilities is reasonably related to new development activity. The Proportionate Share Analysis is included in the written Development Impact Fee Analysis and has been available for public inspection at least fourteen (14) days prior to the adoption of this Chapter.

14.02.040 Impact Fee Calculations

- A. Chapter Enacting Impact Fees. The Town Council will, by this Chapter, approve impact fees in accordance with the written Development Impact Fee Analysis attached hereto.
 - 1. Elements. In calculating impact fees, the Town has included the construction costs, land acquisition costs, costs of improvements, fees for planning, surveying, and engineering services provided for and directly related to the construction of system improvements, and debt service charges if the Town might use impact fees as a revenue stream to pay principal and interest on bonds or other obligations to finance the cost of system improvements.
 - 2. Notice and Hearing. Before approving this Ordinance, the Town has held a public hearing on March 6, 2008, and made a copy of this Chapter available at the Town Clerk's Office in the Town Hall at least fourteen (14) days before the date of the hearing, all in conformity with the requirements of Utah Code § 10-9-103(2). After the public hearing, the Town Council may adopt or reject the Impact Fee Chapter as proposed or amend the Chapter and adopt or reject it as amended.

3. Contents of the Chapter. The Ordinance adopting or modifying an impact fee will contain such detail and elements as deemed appropriate by the Town Council, including a designation of the Impact Fee Service Area within which the impact fees are to be calculated and imposed. The Impact Fee Service Area will be the only service area included in this analysis. The Chapter will include (i) a schedule of impact fees to be imposed for water, wastewater, transportation, storm water, parks, trails and open space and public safety, and (ii) the formula to be used by the Town in calculating the impact fees, or both. This requirement is met by the written Development Impact Fee Analysis attached hereto.
 4. Adjustments. The standard impact fee may be adjusted at the time the fee is charged in response to unusual circumstances or to fairly allocate costs associated with impacts created by a development activity or project. The standard impact fee may also be adjusted to ensure that impact fees are imposed fairly for affordable housing projects, in accordance with the local government's affordable housing policy, and other development activities with broad public purposes. The impact fee assessed to a particular development may also be adjusted should the developer supply sufficient written information and/or data to the Town showing a discrepancy between the fee being assessed and the actual impact on the system.
 5. Previously Incurred Costs. To the extent that new growth and development will be served by previously constructed improvements, the Town's impact fees may include public facility costs and outstanding bond costs related to the public facility improvements previously incurred by the Town. Any future debt obligations determined to be necessitated by growth activity may also be included to offset the costs of future capital projects.
- B. Developer Credits. A developer may be allowed a credit against impact fees for any dedication or improvement to land or new construction of system improvements provided by the developer provided that it is (i) identified in the Town's Capital Facilities Plan and (ii) required by the Town as a condition of approving the development activity. Otherwise, no credit may be given.
- C. Impact Fees Accounting. The Town will establish separate interest-bearing ledger accounts for each type of public facility for which an impact fee is promulgated in accordance with the requirements of the Impact Fees Act and deposited in the appropriate ledger account. Interest earned on each fund or account shall be segregated to that account.
1. Reporting. At the end of each fiscal year, the Town shall prepare a report on each fund or account generally showing the source and amount of all monies collected, earned and received by the fund or account and each expenditure from the fund or account.

2. Impact Fee Expenditures. The Town may expend impact fees covered by the Impact Fees Policy only for system improvements that are (i) public facilities identified in the Town's Capital Facilities Plan and (ii) of the specific public facility type for which the fee was collected. Impact fees will be expended on a First-In First-Out ("FIFO") basis.
 3. Time of Expenditure. Impact fees collected pursuant to the requirements of this Impact Fees Chapter are to be expended, dedicated or encumbered for a permissible use within six years of the receipt of those funds by the Town, unless the Town Council directs otherwise. For purposes of this calculation, the first funds received shall be deemed to be the first funds expended.
 4. Extension of Time. The Town may hold previously dedicated or unencumbered fees for longer than six years if it identifies in writing (i) an extraordinary and compelling reason why the fees should be held longer than six years and (ii) an absolute date by which the fees will be expended.
- D. Refunds. The Town shall refund any impact fees paid by a developer plus interest actually earned when (i) the developer does not proceed with the development activity and files a written request for a refund; (ii) the fees have not been spent or encumbered; and (iii) no impact has resulted. An impact that would preclude a developer from a refund from the Town may include any impact reasonably identified by the Town, including, but not limited to, the Town having sized facilities and/or paid for, installed and/or caused the installation of facilities based in whole or in part upon the developer's planned development activity even though that capacity may, at some future time, be utilized by another development.
- E. Other Impact Fees. To the extent allowed by law, the Town Council may negotiate or otherwise impose impact fees and other fees different from those currently charged. Those charges may, at the discretion of the Town Council, include but not be limited to reductions or increases in impact fees, all or part of which may be reimbursed to the developer who installed improvements that service the land to be connected with the Town's system.
- F. Additional Fees and Costs. The impact fees authorized hereby are separate from and in addition to user fees and other charges lawfully imposed by the Town and other fees and costs that may not be included as itemized component parts of the impact fee schedule found in AVMC 14.02.070. In charging any such fees as a condition of development approval, the Town recognizes that the fees must be a reasonable charge for the service provided.
- G. Fees Effective at Time of Payment. Unless the Town is otherwise bound by a contractual requirement, the impact fee shall be determined from the fee schedule in effect at the time of payment in accordance with the provisions of AVMC 14.02.070.

- H. Time of Collection. The Town will collect the impact fees at the time of building permit issuance or at plat recordation as indicated in AVMC 14.02.070. The fees will be calculated by the Town considering the actual development plan and proposed impacts.
- I. Imposition of Additional Fee after Development. Should any developer undertake development activities such that the ultimate density or other impact of the development activity is not revealed to the Town, either through inadvertence, neglect, a change in plans, or any other cause whatsoever, and/or the impact fee is not initially charged against all units or the total density within the development, the Town shall be entitled to charge an additional impact fee to the developer or other appropriate person covering the density for which an impact fee was not previously paid.

14.02.050 Capital Facilities Plan

- A. Capital Facilities Plan. The Town has developed a reasonable Capital Facilities Plan, for the water, wastewater, transportation, storm water, parks, trails and open space and public safety systems. The Capital Facilities Plan has been prepared based on reasonable growth assumptions for the Town and general demand characteristics of current and future users of each system. Furthermore, the Capital Facilities Plan identifies the impact on system improvements created by development activity and estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to new development activity.

14.02.060 Endangered Species Impact Fees

- A. There is established a Subdivision Endangered Species Impact Fee of two-hundred and fifty dollars (\$250) per acre payable at the time application is made for final plat approval. This fee shall apply to any new project being subdivided that has not received final plat approval prior to May 4, 2006.
- B. There is further established an Endangered Species Act Impact Fee of two-tenths of one percent (0.02%) of the total value of construction for which a permit is requested, payable at the time application is made for issuance of a building permit on all new residential, commercial, and industrial construction. This shall not apply to building permits for remodeling, add-ons of existing structures, or outbuildings.
- C. The Town Treasurer is directed to collect and deposit these funds in a separate account designated as the "Endangered Species Conservation Fund" and to disburse the funds accumulated quarterly to Washington County on or before the last day of the month following a calendar quarter, together with an appropriate report showing the number of subdivision final plats issued and their acreages, and the number of applicable building permits and their construction values.

D. This Section is in furtherance of the Town's obligations under the Interlocal Agreement executed between the Town and Washington County, a copy of which is attached hereto as Exhibit "A" and incorporated by reference herein.

14.02.070 Police Impact Fee

The Town Council hereby ordains that the impact fee imposed for police under the Town's prior impact fee enactment is rescinded and no impact fee shall be charged for police until such time as the Town Council determines otherwise by the adoption of an appropriate impact fee chapter. All police impact fees collected to date shall be refunded by the Town Treasurer, within a reasonable time, to the person paying such fee. Interest earned on such amounts shall be prorated and paid to the person entitled to receive the impact fee refund.

14.02.080 Impact Fee Schedules And Formulas

Maximum Supportable Impact Fees. The fee schedules included herein represent the maximum impact fees which the Town may impose on development within the defined Impact Fee Service Area and are based upon general demand characteristics and potential demand that can be created by each class of user. The Town reserves the right under the Impact Fees Act (Utah Code § 11-36-202(2)(c,d)) to assess an adjusted fee to respond to unusual circumstances to ensure that fees are equitably assessed.

This adjustment may result in a higher impact fee if the Town determines that a user would create a greater than normal impact on any of the systems. The Town may also decrease the impact fee if the developer can provide documentation that the proposed impact will be less than what could be expected given the type of user (Utah Code § 11-36-202(3)(a)).

Impact Fee Schedules:

CULINARY WATER IMPACT FEES. The impact fees for culinary water as set forth in the attached Table 1, shall be paid at the time of application for a building permit.

Table 1 - Culinary Water Maximum Impact Fees

Land Use	Units	Demand	ERUs	Unadjusted Impact Fee	Adjusted Impact Fee	Adopted Impact Fee
Residential	Dwelling	800	1.000	\$5,631	\$5,677	\$1,000
Multi-unit	Dwelling	800	1.000	\$5,631	\$5,677	\$1,000
High School	Person	15	0.0188	\$106	\$107	\$21
Middle School	Person	15	0.0188	\$106	\$107	\$21
Elementary School	Person	15	0.0188	\$106	\$107	\$21
Hotel	Room	150	0.1875	\$1,056	\$1,064	\$213
Service Station	Pump	250	0.1325	\$1,760	\$1,774	\$355
Restaurant	Seat	35	0.0438	\$247	\$249	\$50
RV Park	Vehicle	100	0.1250	\$704	\$710	\$142
Church	Seat	5	0.0063	\$35	\$36	\$7
Nursing Home	Bed	200	0.25	\$1,480	\$1,420	\$284
Doctor's Office	Patient	10	0.0125	\$70	\$71	\$14
	Staff	35	0.0438	\$247	\$249	\$50
Dentist Office	Chair	200	0.25	\$1,408	\$1,419	\$284
	Staff	35	0.044	\$248	\$250	\$50
Store	Toilet Rm	500	0.625	\$3,519	\$3,548	\$710
	Employee	11	0.014	\$79	\$79	\$16
Commercial	Building	1,600	2.000	\$11,262	\$11,354	\$2,271
Industrial	Building	3,200	4.000	\$22,524	\$22,708	\$4,542

WASTEWATER IMPACT FEES. The impact fees for wastewater facilities as set forth in the attached Table 2, shall be paid at the time of application for a building permit.

Table 2 - Wastewater Maximum Impact Fee

Type	Units	ERUs	Adjusted Impact Fee / Unit	Adopted Impact Fee / Unit
Permanent residence	Residence	1.0000	\$2,875	\$1,500
Hotels & motels	Room	0.3750	\$1,078	\$216
RV parks	Space	0.2500	\$719	\$144
Airports	Passenger	0.0075	\$22	\$4
	Employee	0.0375	\$108	\$22
Boarding houses	Residents	0.1250	\$359	\$72
	Nonresidents	0.0250	\$72	\$14
Bowling alleys w/snack bar	Alley	0.2500	\$719	\$144
Bowling alleys w/o snack bar	Alley	0.2125	\$611	\$122
Churches	Person	0.0125	\$36	\$7
Country clubs	Resident member	0.2500	\$719	\$144
	Non-resident member	0.0625	\$180	\$36
	Employee	0.0375	\$108	\$22
Dentist's office	Chair	0.5000	\$1,438	\$288
	Staff member	0.0875	\$252	\$50
Doctor's office	Patient	0.0250	\$72	\$14
	Staff member	0.0875	\$252	\$50
Fairgrounds	Person	0.0025	\$7	\$1

Fire station w/ food preparation	Full-time employee	0.1750	\$503	\$101
Fire station w/o food preparation	Full-time employee	0.0125	\$36	\$7
Gyms	Participant	0.0625	\$180	\$36
	Spectator	0.0100	\$29	\$6
Hairdresser	Chair	0.1250	\$359	\$72
	Operator	0.0875	\$252	\$50
Hospitals	Bed	0.6250	\$1,797	\$359
Industrial buildings w/ showers (exclusive of industrial waste)	Employee per shift	0.0875	\$252	\$50
Industrial buildings w/o showers (exclusive of industrial waste)	Employee per shift	0.0375	\$108	\$22
Jail facilities	Inmate	0.2875	\$827	\$165
	Employee	0.0250	\$72	\$14
Launderette	Washer	1.4500	\$4,169	\$834
Movie Theaters (auditorium)	Seat	0.0125	\$36	\$7
Movie Theaters (drive-in)	Car	0.0250	\$72	\$14
Nursing Homes	Bed	0.7000	\$2,013	\$403
Office buildings w/ cafeteria	Employee	0.0625	\$180	\$36
Office buildings w/o cafeteria	Employee	0.0375	\$108	\$22
Picnic parks	Person	0.0125	\$36	\$7
Restaurants w/ 24 hour service	Seat	0.1250	\$359	\$72

Restaurants w/o 24 hour service	Seat	0.0875	\$252	\$50
Restaurants – single service utensils	Customer/day	0.0250	\$72	\$14
Rooming house	Person	0.1000	\$288	\$58
Schools – boarding	Person	0.1875	\$539	\$108
Schools w/o cafeteria & showers	Person	0.0375	\$108	\$22
Schools w/ cafeteria w/o showers	Person	0.0500	\$144	\$29
Schools w/ cafeteria & showers	Person	0.0625	\$180	\$36
Service stations	Vehicle/day	0.0250	\$72	\$14
Skating rinks & dance halls w/ kitchen	Person	0.0325	\$93	\$19
Skating rinks & dance halls w/o kitchen	Person	0.0250	\$72	\$14
Ski areas w/o kitchen	Person	0.0250	\$72	\$14
Stores	Toilet stall	1.2500	\$3,594	\$719
	Employee	0.0275	\$79	\$16
Swimming pools & bath houses	Person	0.0250	\$72	\$14
Taverns, bars, cocktail lounges	Seat	0.0500	\$144	\$29
Visitor centers	Visitor day	0.0125	\$36	\$7

STORM WATER IMPACT FEES. The impact fees for storm water as set forth in the attached Table 3, shall be paid at the time of application for a building permit.

Table 3 - Storm Water Maximum Impact Fee

Zoning	Adj. Impact Fee	Adopted Impact Fee
Residential	\$172/acre	\$172/acre
Commercial	\$172/acre	\$172/acre

PARKS, TRAILS AND OPEN SPACE IMPACT FEES. The impact fees for parks, trails and open space as set forth in the attached Table 4, shall be paid at the time of application for a building permit.

Zoning	Adj. Impact Fee	Adopted Impact Fee
Residential	\$1,649/unit	\$141/unit
Commercial	None	None

PUBLIC SAFETY IMPACT FEES. The impact fees for public safety as set forth in the attached Table 5, shall be paid at the time of application for a building permit.

	Zoning	Adj. Impact Fee	Adopted Impact Fee
FIRE	Residential	\$59/unit	\$59/unit
	Commercial	\$852/acre	\$852/acre
POLICE	Residential	\$114/unit	\$114/unit
	Commercial	\$1,844/acre	\$1,844/acre

TRANSPORTATION IMPACT FEES. The impact fees for transportation as set forth in the attached Table 6, shall be paid at the time of application for a building permit.

Type	Units	Trips per day	ERUs	Adj. Impact Fee / Unit	Adopt. Impact Fee / Unit
Residential: Single Family Detached Housing	Lot	9.57	1.00	\$514.00	\$514.00
Auto Parts Store	1,000 S.F.	61.91	6.47	\$3,325.16	\$665.00
Bank: Drive in	1,000 S.F.	265.2 1	27.71	\$14,244.30	\$2,849.00
Bank: Walk in	1,000 S.F.	156.4 8	16.35	\$8,404.46	\$1,681.00
Car Lot	1,000 S.F.	37.5	3.92	\$2,014.11	\$403.00
Church	1,000 S.F.	9.11	0.95	\$489.29	\$98.00
Elementary School	Student	1.02	0.11	\$54.78	\$11.00
Furniture Store	1,000 S.F.	5.06	0.53	\$271.77	\$54.00
Gas or Service Station	Pump	168.5 6	17.61	\$9,053.27	\$1,811.00
Gas or Service Station w/ Convenience Center	Pump	162.7 8	17.01	\$8,742.83	\$1,749.00
Hardware or Paint Store	1,000 S.F.	51.29	5.36	\$2,754.76	\$551.00
High School	Student	1.79	0.19	\$96.14	\$19.00
Hospital	1,000 S.F.	16.78	1.75	\$901.25	\$180.00
Hotel	Room	8.92	0.93	\$479.09	\$96.00
Industrial Park	1,000 S.F.	6.96	0.73	\$373.82	\$75.00
Industrial: General Light	1,000 S.F.	6.97	0.73	\$374.36	\$75.00
Library	1,000 S.F.	54	5.64	\$2,900.31	\$580.00
Lumber Store	1,000 S.F.	39.71	4.15	\$2,132.80	\$427.00
Manufacturing	1,000 S.F.	3.82	0.40	\$205.17	\$41.00
Middle School	Student	1.45	0.15	\$77.88	\$16.00
Mobile home park	Occupied Unit	4.81	0.50	\$258.34	\$258.34
Nursery (Garden Center)	1,000 S.F.	36.08	3.77	\$1,937.84	\$388.00

Nursing Home	Beds	2.61	0.27	\$140.18	\$28.00
Office: General	1,000 S.F.	11.01	1.15	\$591.34	\$118.00
Office: Government	1,000 S.F.	68.93	7.20	\$3,702.20	\$740.00
Office: Medical or Dental	1,000 S.F.	36.13	3.78	\$1,940.52	\$388.00
Pharmacy w/ Drive Through Window	1,000 S.F.	88.16	9.21	\$4,735.03	\$947.00
Residential: Apartment	Unit	6.63	0.69	\$356.09	\$356.09
Residential: PUD	Lot	7.5	0.78	\$402.82	\$402.82
Residential: Townhome	Home	5.86	0.61	\$314.74	\$314.74
Restaurant: Fast-Food w/ Drive Through	1,000 S.F.	496.1 2	51.84	\$26,646.36	\$5,329.00
Restaurant: Fast-Food w/o Drive Through	1,000 S.F.	716	74.82	\$38,456.01	\$7,691.00
Restaurant: High-Turnover Sit Down	1,000 S.F.	130.3 4	13.62	\$7,000.50	\$1,400.00
Restaurant: Quality	1,000 S.F.	89.95	9.40	\$4,831.17	\$966.00
Specialty Retail Center	1,000 S.F.	40.67	4.25	\$2,184.37	\$437.00
Supermarket	1,000 S.F.	111.5 1	11.65	\$5,989.15	\$1,198.00
Tire Store	1,000 S.F.	24.87	2.60	\$1,335.76	\$267.00
Video Rental Store	1,000 S.F.	31.54	3.30	\$1,694.00	\$339.00
Warehouse	1,000 S.F.	4.96	0.52	\$266.40	\$53.00

*Units and Trips per day are found in the 6th edition of *Trip Generation* Published by the Institute of Transportation Engineers.

Fees included in this Section may be adjusted with adequate documentation from the developer that the true impact differs from that shown.

14.02.090 Fee Exceptions And Adjustments

- A. Waiver for "Public Purpose". The Town Council may, on a project by project basis, authorize exceptions or adjustments to the Impact Fee Rate Structure for those projects the Town Council determines to be of such benefit to the community as a whole to justify the exception or adjustment. Such projects may include affordable housing and other development activities with broad public purposes pursuant to Utah Code § 11-36-202(3)(a). The Town Council may elect to waive or adjust impact fees for such projects.

1. Procedures. Applications for exceptions are to be filed with the Town at the time the applicant first requests the extension of service to the applicant's development or property.

14.02.100 Appeal Procedure

- A. Any person or entity that has paid an impact fee pursuant to this Chapter may challenge the impact fee by filing:
 1. An appeal to the Town pursuant to Subsections B, C and D of this Section;
 2. A request for arbitration as provided in Utah Code § 11-36-402(1), as amended; or
 3. An action in state district court as provided in Utah Code § 11-36-401(4)(c)(iii), as amended.
- B. Application. Any person or entity that has paid an impact fee pursuant to this Chapter may challenge or appeal the impact fee by filing a written notice of appeal with the Town Clerk within 30 days of the date that the fee was paid.
- C. Hearing. Upon receiving the written notice of appeal, the Town shall set a hearing date to consider the merits of the challenge or appeal. The person or entity challenging or appealing the fee may appear at the hearing and present any written or oral evidence deemed relevant to the challenge or appeal. Representatives of the Town may also appear and present evidence to support the imposition of the fee.
- D. Decision. The hearing panel, which shall consist of the Town Council or such other body as the Town shall designate, shall hold a hearing and make a decision within 30 days after the date the challenge or appeal is filed.

14.06 Encroachments And Utility Construction

14.06.010 Washington County Adopted

14.06.010 Washington County Adopted

Apple Valley Town adopts the following sections of the Washington County Code, as amended, [Title 7-1 - Encroachments and Utility Construction](#).

14.08 Electric Utility Franchise

14.08.010 Grant To Franchise And General Utility Easement

14.08.020 Term

14.08.030 Acceptance By Company

14.08.040 Non-Exclusive Franchise

14.08.050 Town Regulatory Authority

14.08.060 Indemnification

[14.08.070 Annexation](#)

[14.08.080 Plan, Design, Construction And Installation Of Company Facilities](#)

[14.08.090 Relocations Of Electric Facilities](#)

[14.08.100 Subdivision Plat Notification](#)

[14.08.110 Vegetation Management](#)

[14.08.120 Renewal](#)

[14.08.130 No Waiver](#)

[14.08.140 Transfer Of Franchise](#)

[14.08.150 Amendment](#)

[14.08.160 Notices](#)

14.08.010 Grant To Franchise And General Utility Easement

The Town hereby grants to Rocky Mountain Power the right, privilege and authority to construct, maintain, operate, upgrade, and relocate its electrical distribution and transmission lines and related appurtenances, including underground conduits and structures, poles, towers, wires, guy anchors, vaults, transformers, transmission lines, and communication lines (collectively referred to herein as "Electric Facilities") in, under, along, over and across the present and future streets, alleys, public ways and public places (collectively referred to herein as "Public Ways") within the Town, for the purpose of supplying and transmitting electric power and energy to the inhabitants of the Town and persons and corporations beyond the limits thereof.

14.08.020 Term

The term of this Franchise and General Utility Easement is for ten (10) years commencing on the date of acceptance by the Company as set forth in AVMC 14.08.030.

14.08.030 Acceptance By Company

Within thirty (30) days after the passage of this ordinance by the Town, Rocky Mountain Power shall file an unqualified written acceptance thereof with the Town Recorder, otherwise the ordinance and the rights granted herein shall be null and void.

14.08.040 Non-Exclusive Franchise

The right to use and occupy the Public Ways of the Town shall be nonexclusive and the Town reserves the right to use the Public Ways for itself or any other entity that provides utility services of any kind to the Town or its residents; provided, however, that such use shall not unreasonably interfere with Rocky Mountain Power's Electric Facilities or Rocky Mountain Power's rights as granted herein.

14.08.050 Town Regulatory Authority

In addition to the provision herein contained, the Town reserves the right to adopt such additional ordinances and regulations as may be deemed necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties or exercise any other rights, powers, or duties required or authorized, under the Constitution of the State of Utah, the laws of Utah or Town Code.

14.08.060 Indemnification

The Town shall in no way be liable or responsible for any loss or damage to property or any injury to, or death of, any person that may occur in the construction, operation or maintenance by Rocky Mountain Power of its Electric Facilities or use of the public ways under this Franchise. Rocky Mountain Power shall indemnify, defend and hold the Town harmless from and against claims, demands, liens and all liability or damage of whatsoever kind on account of Rocky Mountain Power's use of the Public Ways within the Town, and shall pay the costs of defense plus reasonable attorneys' fees for any claim, demand or lien brought thereunder. The Town shall:

- A. give prompt written notice to Rocky Mountain Power of any claim, demand or lien with respect to which the Town seeks indemnification hereunder; and
- B. Rocky Mountain Power shall assume the defense of such claim, demand, or lien. Notwithstanding any provision hereof to the contrary, Rocky Mountain Power shall not be obligated to indemnify, defend or hold the Town harmless to the extent any claim, demand or lien arises out of or in connection with any negligent or willful act or failure to act of the Town or any of its officers or employees.

14.08.070 Annexation

- A. Extension of Town Limits. Upon the annexation of any territory to the Town, the rights granted herein shall extend to the annexed territory to the extent the Town has such authority. All Electrical Facilities owned, maintained, or operated by Rocky Mountain Power located within any public ways of the annexed territory shall thereafter be subject to all of the terms hereof.
- B. Notice of Annexation. When any territory is approved for annexation to the Town, the Town shall, not later than ten (10) working days after passage of an ordinance approving the proposed annexation, provide by certified mail to Rocky Mountain Power:
 1. each site address to be annexed as recorded on county assessment and tax rolls;
 2. a legal description of the proposed boundary change; and

3. a copy of the Town's ordinance approving the proposed annexation. The notice shall be mailed to:

Rocky Mountain Power Customer Contact Center
Attn: Annexations
P.O. Box 400
Portland, Oregon 97207-0400

With a copy to:

Rocky Mountain Power
Attn: Office of the General Counsel
201 South Main Street, Suite 2400
Salt Lake Town, UT 84111

14.08.080 Plan, Design, Construction And Installation Of Company Facilities

- A. All Electrical Facilities installed or used under authority of this Franchise shall be used, constructed and maintained in accordance with applicable federal, state and Town laws, codes and regulations.
- B. Except in the case of an emergency, Rocky Mountain Power shall, prior to commencing new construction or major reconstruction work in the public way or street or other public places, apply for a permit from the Town which permit shall not be unreasonably withheld, conditioned, or delayed. Rocky Mountain Power will abide by all applicable ordinances and all rules, regulations and requirements of the Town, and the Town may inspect the manner of such work and require remedies as may be necessary to assure compliance. Notwithstanding the foregoing, Rocky Mountain Power shall not be obligated to obtain a permit to perform emergency repairs.
- C. All Electric Facilities shall be located so as to cause minimum interference with the Public Ways of the Town and shall be constructed, installed, maintained, cleared of vegetation, renovated or replaced in accordance with applicable rules, ordinances and regulations of the Town.
- D. If, during the course of work on its Electrical Facilities, Rocky Mountain Power causes damage to or alters the Public Way or public property, Rocky Mountain Power shall (at its own cost and expense and in a manner approved by the Town) replace and restore it in as good a condition as existed before the work commenced.
- E. In addition to the installation of underground electric distribution lines as provided by applicable state law and regulations, Rocky Mountain Power shall, upon payment of all charges provided in its tariffs or their equivalent, place newly constructed electric distribution lines underground as may be required by Town Code.

- F. The Town shall have the right, without cost, to use all poles and suitable overhead structures owned by Rocky Mountain Power within Public Ways for Town wires used in connection with its fire alarms, police signal systems, or other public safety communication lines or for other governmental purposes; provided, however, any such uses shall be for activities owned, operated or used by the Town for a public purpose and shall not include the provision of CATV, internet, or similar services to the public. Provided further, that Rocky Mountain Power shall assume no liability nor shall it incur, directly or indirectly, any additional expense in connection therewith, and the use of said poles and structures by the Town shall be in such a manner as to prevent safety hazards or interferences with Rocky Mountain Power's use of same. Nothing herein shall be construed to require Rocky Mountain Power to increase pole size, or alter the manner in which Rocky Mountain Power attaches its equipment to poles, or alter the manner in which it operates and maintains its Electric Facilities. Town attachments shall be installed and maintained in accordance with the reasonable requirements of Rocky Mountain Power and the current edition of the National Electrical Safety Code pertaining to such construction. Further, Town attachments shall be attached or installed only after written approval by Rocky Mountain Power, which approval shall not be unreasonably withheld, in conjunction with Rocky Mountain Power's standard pole attachment application process. Rocky Mountain Power shall have the right to inspect such attachments to ensure compliance with this Subsection and to require the Town to remedy any defective attachments.
- G. Rocky Mountain Power shall have the right to excavate the Public Rights of Ways subject to reasonable conditions and the requirements of the Town. Before installing new underground conduits or replacing existing underground conduits, Rocky Mountain Power shall first notify the Town of such work by written notice and shall allow the Town, at its own expense, (to include a pro rata share of the trenching costs), to share the trench of Rocky Mountain Power to lay its own conduit therein, provided that such action by the Town will not unreasonably interfere with Rocky Mountain Power's Electrical Facilities or delay project completion.
- H. Before commencing any street improvements or other work within a Public Way that may affect Rocky Mountain Power's Electric Facilities, the Town shall give written notice to Rocky Mountain Power.

14.08.090 Relocations Of Electric Facilities

- A. The Town reserves the right to require Rocky Mountain Power to relocate its Electric Facilities within the Public Ways in the interest of public convenience, necessity, health, safety or welfare at no cost to the Town. Within a reasonable period of time after written notice, Rocky Mountain Power shall promptly commence the relocation of its Electrical Facilities. Before requiring a relocation of Electric Facilities, the Town shall, with the assistance and consent of Rocky Mountain Power, identify a reasonable alignment for the relocated Electric Facilities within the Public Ways of the Town. In the event that a third-party may

be liable to the Town for the cost of such relocation work, the Town shall assign or otherwise transfer to Company all right it may have to recover the cost for the relocation work and shall support the efforts of Rocky Mountain Power, without cost to the Town, to obtain reimbursement.

- B. Rocky Mountain Power shall not be obligated to pay the cost of any relocation that is required or made a condition of a private development. For purposes of this paragraph a private development shall not include any project or improvement by the Town or any special service district, building authority or other entity created by the Town as allowed by Utah law. If the removal or relocation of facilities is caused directly or otherwise by an identifiable development of property in the area, or is made for the convenience of a customer, Rocky Mountain Power may charge the expense of removal or relocation to the developer or customer. For example, Rocky Mountain Power shall not be required to pay relocation costs in connection with a road widening or realignment where the road project is made a condition of or caused by a private development.

14.08.100 Subdivision Plat Notification

Before the Town approves any new subdivision and before recordation of the plat, the Town shall obtain Rocky Mountain Power's approval of Electrical Facilities, including underground facilities to be installed by the developer, and associated rights of way depicted on the plat. A copy of the plat shall be mailed for approval to Rocky Mountain Power:

Rocky Mountain Power
Attn: Estimating Department
455 N. Old Hwy 91
Hurricane, UT 84737

14.08.110 Vegetation Management

Rocky Mountain Power or its contractor may prune all trees and vegetation which overhang the Public Ways, whether such trees or vegetation originate within or outside the Public Ways to prevent the branches or limbs or other part of such trees or vegetation from interfering with Rocky Mountain Power's Electrical Facilities. Rocky Mountain Power shall give written notice to the Town before pruning any such trees or vegetation. Such pruning shall comply with the *American National Standard for Tree Care Operation (ANSI A300)* and any applicable Town Codes and be conducted under the direction of an arborist certified with the International Society of Arboriculture. A growth inhibitor treatment may be used for trees and vegetation species that are fast-growing and problematic. No pruning, removal or treatment of trees or vegetation shall be done on private property without the consent of the affected property owner, or as allowed by court order. Nothing contained in this Section shall prevent Rocky Mountain Power, when necessary and with the approval of the owner of the property on which they may be located, from cutting down and removing any trees which overhang streets.

14.08.120 Renewal

At least 120 days prior to the expiration of this Franchise, Rocky Mountain Power and the Town either shall agree to extend the term of this Franchise for a mutually acceptable period of time or the parties shall use best faith efforts to renegotiate a replacement Franchise. Rocky Mountain Power shall have the continued right to use the Public Ways of the Town as set forth herein in the event an extension or replacement Franchise is not entered into upon expiration of this Franchise.

14.08.130 No Waiver

Neither the Town nor Rocky Mountain Power shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions.

14.08.140 Transfer Of Franchise

Rocky Mountain Power shall not transfer or assign any rights under this Franchise to another entity, except transfers and assignments by operation of law, or to affiliates, parents or subsidiaries of Rocky Mountain Power which assume all of Rocky Mountain Power's obligations hereunder, unless the Town shall first give its approval in writing, which approval shall not be unreasonably withheld, conditioned or delayed; provided, however, Rocky Mountain Power may assign, mortgage, pledge, hypothecate or otherwise transfer without consent its interest in this Franchise to any financing entity, or agent on behalf of any financing entity to whom Rocky Mountain Power (i) has obligations for borrowed money or in respect of guaranties thereof, (ii) has obligations evidenced by bonds, debentures, notes or similar instruments, or (iii) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof.

14.08.150 Amendment

At any time during the term of this Franchise, the Town through its Town Council, or Rocky Mountain Power may propose amendments to this Franchise by giving thirty (30) days written notice to the other party of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). No amendment or amendments to this Franchise shall be effective until mutually agreed upon by the Town and Rocky Mountain Power and formally adopted as an ordinance amendment, which is accepted in writing by Rocky Mountain Power.

14.08.160 Notices

Unless otherwise specified herein, all notices from Rocky Mountain Power to the Town pursuant to or concerning this Franchise shall be delivered to the Town Recorder's Office. Unless otherwise specified herein, all notices from the Town to Rocky Mountain Power pursuant to or concerning this Franchise shall be delivered to the Customer Services Vice President, Rocky Mountain Power, 201 South Main, Suite 2400, Salt Lake Town, Utah 84111, and such other office as Rocky Mountain Power may advise the Town of by written notice.

14.10 Ground Water Protection

14.10.010 Definitions

14.10.020 Sensitive Ground Water Resource Areas Within Apple Valley

14.10.030 Septic System Densities In Sensitive Ground Water Resource Areas

14.10.040 Septic System Density

14.10.050 Exceptions To Density Requirements

14.10.060 Fees

14.10.070 Enforcement

14.10.080 Appeal

14.10.090 Violation; Penalty

14.10.010 Definitions

The following definitions apply to this Chapter:

"LOT". Any parcel of real property upon which is located or planned to be located a septic system.

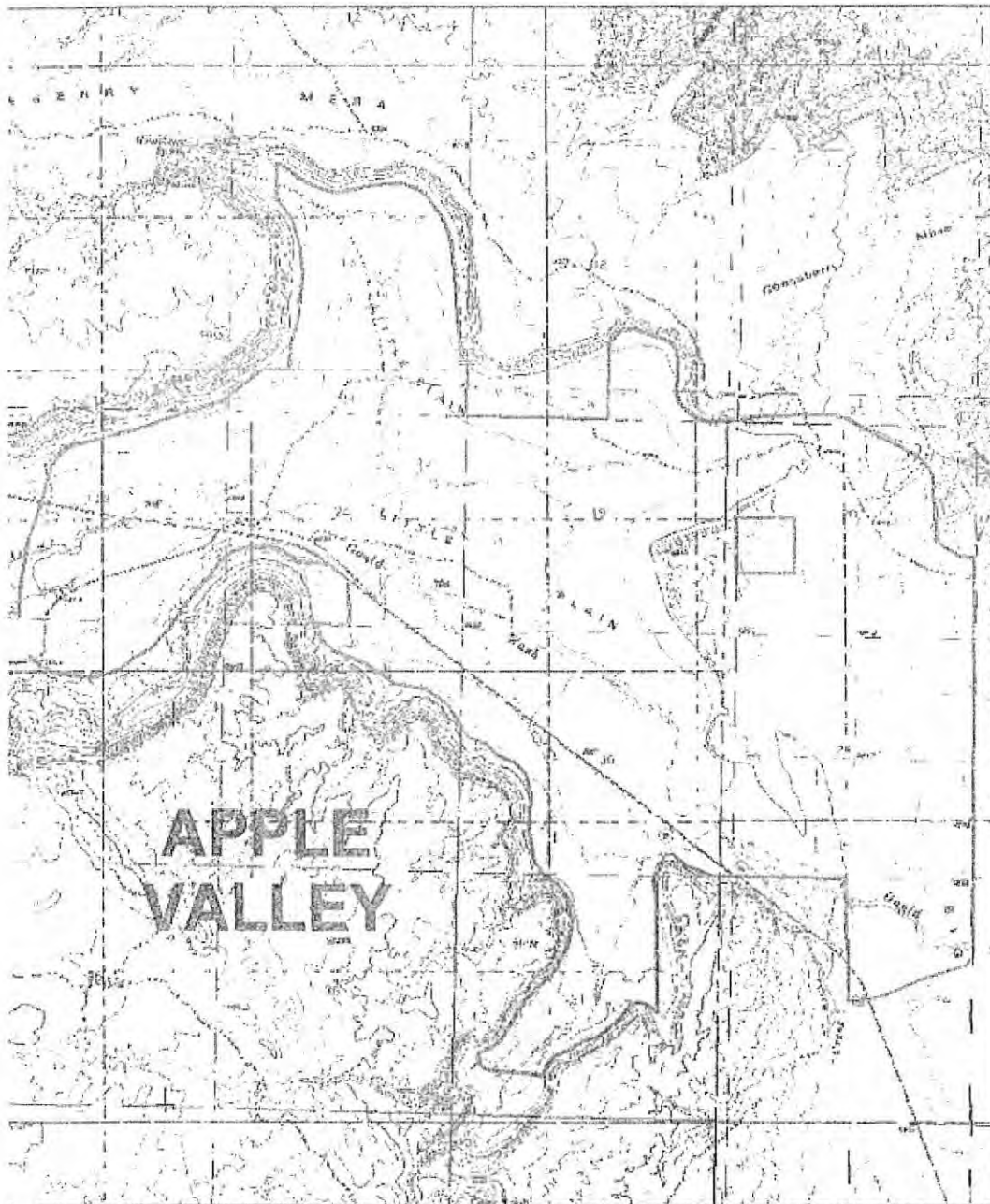
"SENSITIVE GROUND WATER RESOURCE AREAS (SGRAs)". Areas within Apple Valley where ground water drainage basins are located that are: 1) shown on maps prepared by the Apple Valley Planning Commission; and 2) officially designated by this Chapter.

"SEPTIC SYSTEM". Any on site, subsurface wastewater system designed to service a single-dwelling unit, such as a septic tank.

14.10.020 Sensitive Ground Water Resource Areas Within Apple Valley

- A. The area located within Apple Valley, and shown on the map below, is hereby designated as a sensitive ground water resource area.

B. Authority to temporarily designate as sensitive ground water resource areas other developing areas not specifically listed herein is delegated to the Planning Commission. The Planning Commission may make such a designation when it appears in the Planning Commission's best judgment that designating an area as sensitive ground water resource area will protect ground water resources in Apple Valley. The Planning Commission may make a temporary designation at any time. The temporary designation expires after one hundred eighty (180) days unless submitted to and approved by the Apple Valley Town Council for permanent designation as a sensitive ground water resource area after recommendation by the Planning Commission.



14.10.030 Septic System Densities In Sensitive Ground Water Resource Areas

- A. No septic system may be installed in a sensitive ground water resource area unless:
 - 1. The "total number of existing septic systems" in a SGRA where the septic system will be located is less than the "maximum number of septic systems" permitted in the SGRA; and
 - 2. The lot where the septic system will be installed meets the minimum acreage requirement for the SGRA as set forth herein. Lot sizes smaller than the minimum requirement may be approved by the Apple Valley Town Council after recommendation by the Planning Commission if the lot owner or developer permanently dedicates sufficient additional acreage in the SGRA to maintain the overall density requirement.
- B. The "maximum number of septic systems" permitted in a SGRA is determined by dividing the "total number of acres in the SGRA" by the applicable density set forth herein.
- C. The "total number of existing septic systems" located in a SGRA shall be determined by the Planning Commission and shall include: 1) lots with existing septic systems; 2) lots approved for development prior to the enactment of this Chapter whether or not a septic system has yet been installed; and 3) lots with septic systems approved for development after the enactment of this Chapter.
- D. The "total number of acres in the SGRA" is the number determined by the Planning Commission based upon the Commission's maps and calculations of the SGRAs.

14.10.040 Septic System Density

- A. The Septic System Density for the Apple Valley area is one septic system per seven (7) acres.
- B. When the Planning Commission exercises its authority under AVMC 14.10.020 B to temporarily designate other developing areas as sensitive ground water resource areas, the Planning Commission may also establish a temporary density requirement for the temporary SGRA. The temporary density requirement expires after one hundred eighty (180) days unless submitted to and approved by the Apple Valley Town Council after recommendation by the Planning Commission.

14.10.050 Exceptions To Density Requirements

The following lots are exempt from this chapter:

- A. Any lot in an existing platted and recorded residential subdivision that has

received final on site feasibility approval from the southwest Utah public health department before the effective date hereof.

- B. Any lot located in a proposed subdivision development whose application is on file with the Planning Commission before the effective date hereof.
- C. Any lot that is or will be developed with an alternate wastewater system approved by the southwest Utah public health department.
- D. Any lot that is subject to more stringent size requirements than this chapter requires.
- E. Any lot that is or will be served by a central sewer system.

14.10.060 Fees

To defray costs to the general public with regard to the enforcement of this Chapter, the Apple Valley Town Council may from time to time establish reasonable application and inspection fees.

14.10.070 Enforcement

- A. No building permit will be issued nor subdivision approved unless the requirements of this Chapter are met. The Apple Valley Town Council shall designate officials responsible for enforcement of this Chapter. It shall be the duty of all architects, engineers, contractors, subcontractors, builders, developers, property owners, and any other persons having to do with the development of property within the boundaries of Apple Valley, before beginning any work or project, to determine that all provisions of this Chapter are met.
- B. All departments, officials and employees of Apple Valley, and other departments or officials doing work in behalf of the Apple Valley, and having authority to issue permits or licenses, shall conform to the provisions of this Chapter, and shall issue no permit or license for purposes where the same would be in conflict with the provisions of this Chapter. Any such permit, approval or license issued shall be null and void.

14.10.080 Appeal

Any party aggrieved by the action of any town official regarding this Chapter may appeal to the Planning Commission by filing a written notice of appeal with the Planning Commission within thirty (30) calendar days of the action appealed from. Any person dissatisfied with the decision of the Planning Commission may appeal to the Town Council by filing a written notice with the board within thirty (30) calendar days of the decision of the Planning Commission pursuant to the requirements of the Apple Valley Land Use Code and Utah Code Annotated.

14.10.090 Violation; Penalty

- A. Civil Penalty: Any person who installs a septic system in violation of this Chapter

is subject to a civil penalty of up to five hundred dollars (\$500.00) per day until the septic system is removed.

- B. Notice Of Violation: Apple Valley will serve notice of violation on the owner of any property with a septic system installed in violation of this Chapter, personally or by certified mail. If the owner of property on which a septic system is installed in violation of this Chapter does not voluntarily remove the septic system within thirty (30) calendar days of the service of notice, the town, with reasonable notification, may enter the property, without the consent of the owner or the person in possession, and perform any work necessary to remove the septic system.
- C. Recover Expenses: Any expenses incurred by the town in removing the septic system shall be paid by the property owner or the person in possession, as the case may be.
- D. Misdemeanor: Any violation of this Chapter shall be punishable as a class B misdemeanor and, upon conviction, subject to penalty as provided by statute in Utah Code Annotated.

14.14 Trees

[14.14.010 Definitions](#)

[14.14.020 Enforcement Authority](#)

[14.14.030 Permit Required](#)

[14.14.040 Public Trees](#)

[14.14.050 Private Request](#)

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[14.14.070 Interference With Town Employees And Willful Injury To Trees](#)

[14.14.080 Consideration Of Trees In Public Projects](#)

[14.14.090 Penalties And Other Remedies](#)

14.14.010 Definitions

For the purpose of this Chapter the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

"**Town**" is the Town of Apple Valley.

“**Person**” is any person, firm, partnership, association, corporation, company, or organization of any kind.

“**Shade Tree**” or “**Tree**” is a tree in any public place, except where otherwise indicated.

“**Shrub**” is a shrub in any public place, except where otherwise indicated.

“**Tree Planting Strip**” shall mean that area between the curb or place where curb should be and the property line; or an area inside the property line where an easement is given for the purpose of permitting the planting of shade trees; also referred to as the “park strip”.

14.14.020 Enforcement Authority

- A. The Town Council shall execute and enforce the provisions of this Chapter and all other plans, standards, and specifications for the regulation of matters pertaining to trees that may be officially adopted by the Town Council. All problems related to and requests for action on trees and shrubs on any Town property shall be referred to the Public Works Department. The Public Works Department is hereby authorized to conduct such maintenance programs on trees and shrubs on Town property as it may deem appropriate.
- B. If there is a determination of obstruction:
 1. When it is determined that a tree or shrub located on private property overhangs or projects into any way or area and appears to be dead or liable to fall into such Town property or constitutes an obstruction to vision or travel on any Town sidewalk, property or street, the Town is authorized to remove the offending trees or branches or shrubs and to assess the actual costs against the property owner. However, except in case of manifest public danger and immediate necessity, no such trees or shrubs standing on any private property shall be cut down or removed unless ten days' notice shall be given to the owner or occupant of said property. If the owner or occupant of such property shall, within seven days after receiving such notice, file with the Town Clerk his objections, in writing, to such removal, such tree or shrub shall not be cut down or removed unless the Town Council shall give such owner or occupant a reasonable opportunity to be heard in support of such objection and shall thereafter approve in writing the removal of the same, if the objection is not sustained.
 2. Where an emergency exists with regards to a tree, the Public Works Department shall take such prompt and immediate action as is reasonably necessary to remedy the emergency condition. An emergency condition is such that renders life or property in immediate jeopardy.

3. The Public Works Department is hereby given authority to trim or prune or to remove any tree or shrub which has been planted or is maintained, on or within public property, in violation of any Town Code, without serving notice upon the owner of the abutting property.

14.14.030 Permit Required

- A. Other than for minor maintenance, it shall be unlawful to plant, move, spray, trim, prune, cut above or below ground, disturb or alter any tree or shrub on public property or to cause such acts to be done by others without first obtaining a permit from the Town. The Town may issue such permits if, in its judgment, the work is necessary and if the proposed methods of workmanship are satisfactory. A permit fee may be established by Resolution. The person receiving the permit shall abide by the specifications and standards of practice adopted by the Town and/or the specific conditions or methods listed on the permit.
- B. As a condition to any permit to remove any public tree or shrub, the Town shall require that the permittee plant one or more trees or shrubs per Town standards in place of the one removed, so that the equivalent total caliper inch diameter is replaced or exceeded. The provisions of this subsection shall apply to all public agencies including the Town, to the extent allowed by applicable law, as well as to private parties. Whenever such tree or shrub has been removed or destroyed pursuant to any such conditional permit, it shall be a misdemeanor for the permittee to fail, refuse or neglect to plant another tree(s) or shrub(s) of the type, size and at the location specified in the permit within the time specified in the permit.

14.14.040 Public Trees

- A. The Town shall be responsible for relieving the following conditions caused by trees on Town tree planting strips, public parks and other public properties:
 1. Removal of dead trees or limbs, or trees or limbs that, as determined by the Town, appear to be a hazard or are liable to fall;
 2. Removal of trees or limbs from trees or shrubs that have actually fallen across a street, sidewalk or upon Town property;
 3. Removal of diseased or dying trees that are beyond reclamation;
 4. Removal of trees or roots directly in the way of street widening projects or sidewalk and curb repairs and/or installation;
 5. Removal of trees, branches or roots that are found by the Town to be a nuisance such as by constituting obstruction to water or sewage lines, irrigation ditches or street lighting or public signs, that impair good visibility at street intersections or are obstructions to vision or travel on public property;

6. Major pruning, topping and treatment.

14.14.050 Private Request

In cases where an abutting property owner or occupant to Town tree planting strips or other public property requests actions on trees located on Town property, said abutting property owner or occupant shall assume financial responsibility for the following actions:

- A. Removal of trees in the way of house moving or construction projects;
- B. Removal of undesirable species as established in the AVS 11.
- C. Removal of trees or roots or the pruning of branches for the improvement of appearance where no hazard or nuisance is found by the Town;
- D. Removal or pruning where a low-priority hazard or nuisance is found by the Town to exist but where the abutting property owner or occupant desires more rapid action than can, because of a backlog of higher priority work, be furnished by the Public Works Department;
- E. Replanting with approved species in locations approved by the Town.

14.14.060 License Required

- A. It shall be unlawful for any person to engage in the business or occupation of trimming, pruning, topping, treating or removing trees or shrubs within the Town without first obtaining a business license.
- B. Each person desiring such a business license shall show proof of liability and injury insurance of at least \$50,000.00, and worker's compensation insurance which is adequate under the laws of the State and shall indemnify the Town against any claim resulting from the pursuit of such business.

14.14.070 Interference With Town Employees And Willful Injury To Trees

- A. No person shall prevent, delay or interfere with any Town employee in the execution or enforcement of this Chapter.
- B. No person shall willfully injure or destroy any tree or any Town property by any means, including but not limited to the following:
 1. Constructing a concrete, asphalt, brick or gravel sidewalk or otherwise filling up the ground area around any tree so as to shut off air, light or water from the roots except under written permission from the Town;
 2. Piling building material, equipment or other substance around any tree so as to cause injury;

3. Pouring any injurious material on or around any tree or on the ground around it or on any lawn or sidewalk;
 4. Posting any sign on any tree, tree-stake or guard or fastening any guy wire, cable or rope to any tree, tree-stake or guard;
 5. Injuring any tree, tree-stake or guard with any vehicle or animal or in any other manner causing injury to any tree or lawn on public property.
- C. Tree stakes or guards may be placed around trees by abutting property owners provided the same are placed near a tree for the purpose of protecting or training such trees.

14.14.080 Consideration Of Trees In Public Projects

Plans for all lighting, sewer, irrigation, water, street and other public works projects shall be considered with reference to their effect upon trees on public property prior to the beginning of work on such projects. Every effort shall be made to preserve desirable trees and to minimize any damage to trees and shrubs on all projects.

14.14.090 Penalties And Other Remedies

- A. Violation of any of the provisions of this Chapter shall be punishable as a Class "C" misdemeanor or by imposing a civil penalty.
- B. In addition to the penalties and abatement procedures outlined above, the Town may initiate any or all of the following actions: injunctions; mandamus; proceedings to prevent, enjoin, abate, or remove or other such court actions.

15 Comprehensive Planning

15.08 Special Assessment Area

15.08 Special Assessment Area

15.08.010 Approval Of Assessment List

15.08.020 Levy Of Assessments

15.08.030 Amount Of Total Assessments

15.08.040 Method And Rate

15.08.050 Payment Of Assessments

15.08.060 No Debt Service Reserve Fund

15.08.070 Contestability

15.08.080 Notice To Property Owners

15.08.010 Approval Of Assessment List

The Council hereby revises the assessment list attached to the Original Assessment Ordinance and hereby approves a new assessment list, a copy of which is attached hereto as [Exhibit B](#) and incorporated herein by reference (the "Revised Assessment List"). The Town hereby finds that the Revised Assessment List is just and equitable and that no piece of property listed in the assessment list will bear more than its proportionate share of the costs assessed against properties within the Assessment Area.

15.08.020 Levy Of Assessments

The Council does hereby levy an assessment against the real properties identified in the Revised Assessment List. Said assessments levied upon each parcel of property therein described shall be in the amount set forth in the Revised Assessment List.

15.08.030 Amount Of Total Assessments

The assessments to be assessed against property within the Assessment Area do not exceed the costs incurred by the Town with respect to the Assessment Area.

15.08.040 Method And Rate

Assessments levied against the properties located in the Assessment Area will be levied by Zone. Zone I consists of all property within the Cedar Point I and II developments and South Zions Estates. Zone II consists of all property within the Apple Valley Assessment Area located on the southwest side of Highway 59 as follows:

	Improvements	Total Number of Lots	Method of Assessment	Assessment
Zone I	All improvements as hereinabove described	103	Pet Lot	\$734.91 per lot
Zone II	Road improvements along Highway 59	34.85	Per Acre	\$176.15 per acre

15.08.050 Payment Of Assessments

The assessments shall be payable over a period of twenty (20) years from the effective date of the Original Assessment Ordinance of principal payments and interest on the unpaid balance of the assessment at the rate of five percent (5%) per annum (the interest component shall pay the costs of the Town incurred in administering the Apple Valley Assessment Area). The assessments shall be payable annually on March 1 of each year, beginning March 1, 2011, in substantially equal annual payments until the assessment are paid full, provided, however, that since the Town has not submitted to the property owners a notice of assessment payment for March 1, 2009 and March 1, 2010, the March 1, 2011, payment shall cover the first three annual payments

15.08.060 No Debt Service Reserve Fund

Since the Town will not issue its Bonds, it will not establish a reserve fund.

15.08.070 Contestability

No assessment shall be declared invalid or set aside in whole or in part in consequence of any error or irregularity which does not go to the equity or justice of the assessment or proceeding. Any party who has not waived his objections to the same as provided by statute may commence a civil action in the district court with jurisdiction in the Town of Apple Valley against the Town to enjoin the levy or collection of the assessment or to set aside and declare unlawful this Amendment to Assessment Chapter.

Such action must be commenced and summons must be served on the Town not later than thirty (30) days after the effective date of this Amendment to Assessment Chapter. This action shall be the exclusive remedy of any aggrieved party. No court shall entertain any complaint which the party was authorized to make by statute but did not timely make or any complaint that does not go to the equity or justice of the assessment or proceeding.

After the expiration of the 30-day period provided in this section no suit to enjoin the levy, collection, or enforcement of the assessments, or in any other manner attacking or questioning the legality of the assessments may be instituted in this state, and no court shall have authority to inquire into these matters.

15.08.080 Notice To Property Owners

The Town Treasurer is hereby authorized and directed to give notice of assessment by mail to the property owners in the Assessment Area. Said notice shall, among other things, state the amount of the assessment and the terms of payment. A copy of the form of notice of assessment is available for examination upon request at the office of the Town Recorder.

EXHIBIT B
ASSESSMENT LIST

Title Report		Legal					New Owner		Original Owner		Tax-ID	Number of Acres	Assessment Type	Assessment Per Unit	Total Property Assessment
Property Description	Description	Property Address	City	State	Zip Code										
Cedar Point Phase 3 34.85 acres	Parcel 1							1st United Investments, Inc.		A-1366-A-1	34.85	Acre	\$ 176.15	\$ 6,138.83	
South Zion Estate Phase 3 Lot 1	Parcel 4	1123 E BIG PINION	HURRICANE	UT	84737	KUNZE DAN		Cedar Ridge Development LLC		AV-SZE-3-1		Lot	734.91	734.91	
South Zion Estate Phase 3 Lot 2	Parcel 4	2608 W 510 N	HURRICANE	UT	84737	GEMSTONE PROPERTIES INC		Cedar Ridge Development LLC		AV-SZE-3-2		Lot	734.91	734.91	
South Zion Estate Phase 3 Lot 3	Parcel 4	525 W STATE ST S	HURRICANE	UT	847371989	CEDAR RIDGE DEV LLC		Cedar Ridge Development LLC		AV-SZE-3-3		Lot	734.91	734.91	
South Zion Estate Phase 3 Lot 4	Parcel 4	525 W STATE ST S	HURRICANE	UT	847371989	CEDAR RIDGE DEV LLC		Cedar Ridge Development LLC		AV-SZE-3-4		Lot	734.91	734.91	
South Zion Estate Phase 3 Lot 5	Parcel 4	504 E LEMON AVE	MONROVIA	CA	91016-2307	HOWARD MARK E		Cedar Ridge Development LLC		AV-SZE-3-5		Lot	734.91	734.91	
South Zion Estate Phase 3 Lot 6	Parcel 4	4661 CEDAR CT	PARK CITY	UT	84098-5162	EQUITY TRUST CO CUST FBO RIFFLE JANET K IRA		Cedar Ridge Development LLC		AV-SZE-3-6		Lot	734.91	734.91	
South Zion Estate Phase 3 Lot 7	Parcel 4	2795 E PALMA WA'	COTTONWOOD	UT	84121	ZAHARIAS JARRY J		Cedar Ridge Development LLC		AV-SZE-3-7		Lot	734.91	734.91	
South Zion Estate Phase 3 Lot 8	Parcel 4	525 W STATE ST S	HURRICANE	UT	847371989	CEDAR RIDGE DEV LLC		Cedar Ridge Development LLC		AV-SZE-3-8		Lot	734.91	734.91	
South Zion Estate Phase 3 Lot 9	Parcel 4	1123 E BIG PINION	HURRICANE	UT	84737	KUNZE DAN		Cedar Ridge Development LLC		AV-SZE-3-9		Lot	734.91	734.91	
South Zion Estate Phase 3 Lot 10	Parcel 4	1123 E BIG PINION	HURRICANE	UT	84737	KUNZE DAN		Cedar Ridge Development LLC		AV-SZE-3-10		Lot	734.91	734.91	
South Zion Estate Phase 3 Lot 11	Parcel 4	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Cedar Ridge Development LLC		AV-SZE-3-11		Lot	734.91	734.91	
South Zion Estate Phase 3 Lot 12	Parcel 4	525 W STATE ST S	HURRICANE	UT	847371989	CEDAR RIDGE DEV LLC		Cedar Ridge Development LLC		AV-SZE-3-12		Lot	734.91	734.91	
South Zion Estate Phase 3 Lot 13	Parcel 4	525 W STATE ST S	HURRICANE	UT	847371989	CEDAR RIDGE DEV LLC		Cedar Ridge Development LLC		AV-SZE-3-13		Lot	734.91	734.91	
South Zion Estate Phase 3 Lot 14	Parcel 4	1123 E BIG PINION	HURRICANE	UT	84737	KUNZE DAN		Cedar Ridge Development LLC		AV-SZE-3-14		Lot	734.91	734.91	
Cedar Point Phase 1 Lot 1	Parcel 3	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-CDPT-1-1		Lot	734.91	734.91	
Cedar Point Phase 1 Lot 3	Parcel 3	1173 E BIG PINION	HURRICANE	UT	84737	BENNETT BRENTON & KRISTINE		Apple Valley, LLC		AV-CDPT-1-3		Lot	734.91	734.91	
Cedar Point Phase 1 Lot 5	Parcel 3	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-CDPT-1-5		Lot	734.91	734.91	
Cedar Point Phase 1 Lot 6	Parcel 3	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-CDPT-1-6		Lot	734.91	734.91	
Cedar Point Phase 1 Lot 9	Parcel 3	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-CDPT-1-9		Lot	734.91	734.91	
Cedar Point Phase 1 Lot 12	Parcel 3	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-CDPT-1-12		Lot	734.91	734.91	
Cedar Point Phase 1 Lot 13	Parcel 3	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-CDPT-1-13		Lot	734.91	734.91	
Cedar Point Phase 1 Lot 14	Parcel 3	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-CDPT-1-14		Lot	734.91	734.91	
Cedar Point Phase 1 Lot 15	Parcel 3	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-CDPT-1-15		Lot	734.91	734.91	
Cedar Point Phase 1 Lot 16	Parcel 3	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-CDPT-1-16		Lot	734.91	734.91	
Cedar Point Phase 1 Lot 17	Parcel 3	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-CDPT-1-17		Lot	734.91	734.91	
Cedar Point Phase 1 Lot 18	Parcel 3	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-CDPT-1-18		Lot	734.91	734.91	
Cedar Point Phase 1 Lot 19	Parcel 3	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-CDPT-1-19		Lot	734.91	734.91	
Cedar Point Phase 1 Lot 20	Parcel 3	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-CDPT-1-20		Lot	734.91	734.91	
Cedar Point Phase 1 Lot 21	Parcel 3	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-CDPT-1-21		Lot	734.91	734.91	
Cedar Point Phase 1 Lot 22	Parcel 3	1664 S MANZANITA	HURRICANE	UT	84737	KLEINFELDT GAYLEN V;;;MCNAMARA JOHN FRANCIS		Preferred Quality Homes Inc.		AV-CDPT-1-22		Lot	734.91	734.91	
Cedar Point Phase 1 Lot 23	Parcel 3	1644 S MANZANITA	HURRICANE	UT	84737	WEST WILLIAM R		Preferred Quality Homes Inc.		AV-CDPT-1-23		Lot	734.91	734.91	
Cedar Point Phase 2 Lot 1	Parcel 5	20 S 850 W STE 1	HURRICANE	UT	847373393	EVES JERRY G		Jerry G. Eves		AV-1366-A-2		Lot	734.91	734.91	
Cedar Point Phase 2 Lot 2	Parcel 5	20 S 850 W STE 1	HURRICANE	UT	847373393	EVES JERRY G		Jerry G. Eves		AV-1366-A-2		Lot	734.91	734.91	
Cedar Point Phase 2 Lot 3	Parcel 5	20 S 850 W STE 1	HURRICANE	UT	847373393	EVES JERRY G		Jerry G. Eves		AV-1366-A-2		Lot	734.91	734.91	
Cedar Point Phase 2 Lot 4	Parcel 5	20 S 850 W STE 1	HURRICANE	UT	847373393	EVES JERRY G		Jerry G. Eves		AV-1366-A-2		Lot	734.91	734.91	
Cedar Point Phase 2 Lot 5	Parcel 5	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-1366-D		Lot	734.91	734.91	
Cedar Point Phase 2 Lot 6	Parcel 5	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-1366-D		Lot	734.91	734.91	
Cedar Point Phase 2 Lot 7	Parcel 5	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-1366-D		Lot	734.91	734.91	
Cedar Point Phase 2 Lot 8	Parcel 5	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-1366-D		Lot	734.91	734.91	
Cedar Point Phase 2 Lot 9	Parcel 5	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-1366-D		Lot	734.91	734.91	
Cedar Point Phase 2 Lot 10	Parcel 5	20 S 850 W # 1	HURRICANE	UT	84737	APPLE VALLEY LLC		Apple Valley, LLC		AV-1366-D		Lot	734.91	734.91	



Apple Valley

Washington County, Utah

Land Use Ordinances

Compiled: Monday, June 17, 2019

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Preface

In 2019, codification and administration of the Land Use Code began in-house under the direction of the Apple Valley Town Recorder and with the assistance of Municipal Code Corporation. This Land Use Code shall be cited as the Apple Valley Land Use or "AVLU" as an acronym.

This Land Use Code maintains a structure by subject matter using a decimal numbering system identifying the Chapter, and Section (for example: 1.01.010).

- The First series of numbers (1.01) designates the **Chapter** level
- The last series (1.01.010) designates the **Section** level

This complete set of numbers is designed to aid in searching the Land Use Code and to assist in subsequent codification as new ordinances are added to the Land Use Code. Vacant titles, chapters, or sections may be designed for future use and may be marked (Reserved) to ease internal expansion.

To outline, give structure, and more granularly reference the legislation herein, the following pattern of ascending alphanumeric characters is used: A, 1, a, (1), (A), (a). Drafting future ordinances and resolutions with this alphanumeric numbering reconciles it with that of the code. An example of a well-written reference would be "AVLU 1.01.010 A,1,a".

The legislative history beneath a legislation's content identifies the specific legal sources, and may be provided to substantiate the online code.

The Code is supplemented from time to time with amendments and additions made by Apple Valley Town. The specific legal sources that comprise this Code have been adapted during the codification process from the original formatting of the official hard copy. In the event of discrepancies between the online Code and the official hard copy, the official hard copy governs. Municipal Code Corporation, provides a searchable database of the Code for easy reference and convenience.

NOTICE: THE CODE MAY NOT REFLECT ALL OR THE MOST CURRENT VERSION OF LEGISLATION ADOPTED BY THE TOWN COUNCIL THAT HAS YET TO BE UPDATED ONLINE. IN THE EVENT OF CONFLICT BETWEEN THE CODE AND A WRITTEN ORDINANCE, THE ORDINANCE TYPICALLY GOVERNS. ALSO, THE CODE MAY NOT REFLECT RULES OR OTHER REGULATIONS PROMULGATED UNDER THE AUTHORITY OF THE CODE, INCLUDING TECHNICAL SPECIFICATIONS. FOR MORE INFORMATION CONTACT THE TOWN RECORDER AT [435-877-1190](tel:435-877-1190).

10.02 General Provisions

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10.02.010 Short Title

This title shall be known as the LAND USE ORDINANCE OF THE TOWN OF APPLE VALLEY, UTAH, and may be so cited and pleaded.

10.02.020 Purpose

This title is designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the Town of Apple Valley, including among other things, the lessening of congestion in the streets and roads, securing safety from fire and other dangers, providing adequate light and air, classification of land uses and distribution of land development and utilization, protection of the tax base, securing economy in governmental expenditures, fostering the town's commercial and industrial growth, and the protection of both residential and nonresidential development.

10.02.030 Interpretations

In interpreting and applying the provisions of this title, the requirements herein are declared to be the minimum requirements for the purposes set forth.

10.02.040 Conflicts

This title shall not nullify the more restrictive provisions of covenants, agreements, other ordinances or laws, but shall prevail notwithstanding such provisions which are less restrictive.

10.02.050 Building Permit Required

- A. The construction, alteration, repair, removal or moving of any building or structure or any part thereof, as provided or as restricted in this title, shall not be commenced or proceeded with, except after the issuance of a written permit for the same by the building inspector. Buildings under 200 square feet in area and that have no utilities do not require a building permit. Open buildings such as car ports, pergolas, gazebos and pavilions, which have no solid walls, do not require building permits. In addition to buildings or structures, utility systems and other physical improvements on any lot, such as pools, courts, etc., shall be constructed only after receiving a written permit from the building inspector.
- B. All building permits shall be issued in accordance with the general plan of the town, the road plan, the standards and regulations approved by the Town and all boards, commissions, agencies and officials of the town and all other applicable ordinances of the town, including the town subdivision ordinance.
- C. Distance between Buildings: No two (2) buildings on the same or adjacent properties shall be located closer together than ten feet (10'). No building, structure or run housing animals or fowl shall be constructed closer to a dwelling unit on the same or an adjacent lot than fifty feet (50').

10.02.060 Occupancy Permit Required

- A. No land shall be used or occupied and no building hereafter structurally altered or erected shall be used or changed in use, until a certificate of occupancy shall have been issued by the building inspector, stating that the building or the proposed use thereof, or the use of the land, complies with the provisions of this title or for the renewing, changing or extending of a nonconforming use.
- B. Such a permit shall also be issued whenever the character or use of any building or land is proposed to be changed from one use to another use.

10.02.070 Site Plan Required

A detailed site plan, drawn to scale, shall be filed as a part of any application prior to consideration for any building permit. The site plan shall show, where pertinent:

- A. Scale used.
- B. Direction of north point
- C. Lot lines, adjacent streets or rights of way, easements, etc.
- D. Location of all existing structures on the property, including driveway entrances, utility poles, etc.
- E. Location of the proposed construction and improvements, including setbacks, location and dimensions of signs, location of garbage receptacles, etc.

- F. Motor vehicle access, including individual parking stalls, circulation patterns, curb and gutter and sidewalk locations.
- G. Any necessary explanatory notes.
- H. Name, address and telephone number of building contractor and owner.
- I. All other information that may be required as may be determined by the building inspector.

10.02.080 Inspections

The building inspector is hereby authorized to inspect or to cause to be inspected all buildings and structures in the course of construction, modification, moving or repair and to inspect land uses to determine compliance with the provisions of this title, the building code, and the subdivision ordinance. The building inspector or any authorized employee of the Town of Apple Valley shall have the right to enter any building premises for the purpose of determining the use thereof or to enter the premises for the purpose of determining compliance with the provisions of the ordinance; provided, that such right of entry shall be exercised only at reasonable hours and that in no case shall entry be made to any occupied building in the absence of the owner or tenant thereof without written permission of the owner, or the written order of the court of competent jurisdiction.

10.02.090 Permits To Comply

- A. From the time of the effective date hereof, the building inspector shall not grant a permit for the construction or alteration of any building or structure or the moving of a building or structure onto a lot, if such building or structure would be in violation of any of the provisions of this title, nor shall any town official grant, permit or license for the use of any building or land if such use would be in violation of this title.
- B. The Town land use staff or building inspector shall certify that all building permits conform to this title and the subdivision ordinance requirements.

10.02.100 Nuisance And Abatement

Any building or structure erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this title, and any use of any land, building premises established, conducted or maintained contrary to the provisions of this title shall be, and the same hereby, is declared to be unlawful and a public nuisance. The Town attorney shall, upon request of the Town Council, immediately commence action or proceedings for the abatement and removal and enjoinder thereof in the manner provided by law, and shall take other steps and apply to such courts as may have jurisdiction to grant such relief as will abate and remove such building or structure and restrain or enjoin any person using any such building or structure or using property contrary to the provisions of this title. The remedies provided herein shall be cumulative and not exclusive.

10.02.110 Enforcement

The building inspector is hereby designated and authorized as the official charged with the enforcement of this title, but the town council may from time to time entrust such administration, in whole or in part, to any other employee of the Town without amendment to this title.

10.02.120 Responsibility For Violations

It shall be the duty of all contractors, subcontractors, builders and other persons having to do with the establishment of any use of land or the erection, altering, changing or remodeling of any building or structure to see that a proper permit has been issued before beginning any work. Such work without a permit having been issued is in conflict with the requirements of this title and shall be deemed a violation of this title in the same manner and to the same extent that the owner of the premises or the persons for whom the use is established, and shall be subject to the penalties herein prescribed for violation.

10.02.130 Changes And Amendments

This title, including the maps, may be amended from time to time by the Town Council after fourteen (14) days' notice and public hearing; but all proposed amendments shall be first proposed by the planning commission or shall be submitted to the planning commission for its recommendation, which shall be returned to the Town Council for its consideration. The Town Council may overrule the planning commission's recommendation by a majority vote of its members.

10.02.140 Fees

Fees may be charged applicants for building, occupancy and conditional use permits, design review and planned unit development approval, planning commission and land use authority hearings, and such other services as are required by this title to be performed by public officials or agencies. Such fees shall be established by the legislative body and shall be in amounts reasonably necessary to defray costs to the public.

10.02.150 Licensing

All departments, officials and public employees of the Town which are vested with authority to issue permits or licenses shall conform to the provisions of this title and shall issue no permit or license for uses, buildings or purposes where the same would be in conflict with the provisions of this title. Any such permit or license issued shall be null and void.

10.02.160 Stop Work Or RED TAG

- A. An inspector may issue a stop work order "red tag" to any building or structure that is being used, altered or erected in violation of any requirement of this title,

the building code, any state statute governing the construction of a building, the subdivision ordinance, the nuisance ordinance, or any other ordinance for which the building department is responsible for enforcement.

- B. Once in place, the removal of a "red tag" is a violation of this section, unless and until such time as the reason for the violation has been resolved and the removal of said notice has been approved by the building inspector.

10.02.170 Completion Of Improvements

- A. No building permit will be issued until the subject lot has received will serve letters for water, power, and sewer.
- B. Required site improvements such as pavement for parking areas, curb and gutter, privacy walls, storm drainage, culverts, borrow ditches, and all other required improvements, shall be completed prior to the issuance of a certificate of occupancy. In the event that improvements cannot be completed prior to receiving said certificate, due to weather conditions or other unusual circumstances, a financial guarantee in the form of a cashier's check, cash, letter of credit or other financial guarantee acceptable to the town, shall be provided to the town guaranteeing that such required improvements will be fully completed as required.

10.02.180 Reconsideration Of Denied Amendments

- A. In the event that a petition for a zone change, an ordinance amendment or a conditional use permit is denied, the planning commission may not consider the petition, or any other petition for the same zone change, amendment or conditional use permit for a period of one year from the date of the original action of the planning commission, unless the conditions upon which the original denial was based have substantially changed.
- B. A "substantial change" means a reduction in density or land area, a change in the proposed use, or other factors which, in the opinion of the planning commission clearly constitute a significant change.

10.02.090 Penalty

- A. Any firm, corporation, person or persons, or any action in behalf of such person, persons, firms or corporations, violating any of the provisions of this title shall be guilty of a class C misdemeanor.
- B. Each person, persons, firm or corporation found guilty of a separate offense for every day during which any violation of any provision of this title is committed continued or permitted by such person, persons, firm or corporation shall be punishable as provided in this title.

10.04 Definitions

10.04.010 Terms Defined

10.04.010 Terms Defined

For the purpose of this title, certain words and terms are defined as follows: Words used in the present tense include the future; words in the singular number include the plural, and words in the plural include the singular; words not included herein but defined in the building code shall be construed as defined therein.

ADULT DAYCARE FACILITY: Any building or structure furnishing care, supervision and guidance for three (3) or more adults unaccompanied by a guardian for periods of less than twenty four (24) hours per day.

AGRICULTURE: Land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including, forage and sod crops, grain and feed crops, nut and fruit crops, vegetables, nursery, floral and ornamental stock, livestock animals, including domestic animals, poultry and honeybees. "Agricultural land" also includes land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop land retirement program with an agency of the state or federal government.

ANIMAL NUMBERS: The number of animals does not include newborn animals under the age of six (6) months, or newborn animals that are dependent upon their mother for sustenance of life, whichever is greater, that were born by animals kept on the property by the owner of the property, or a tenant of the property.

ANIMAL SIZE: The categorizing of animals based upon a classification of large or small animals. The determination may be made by size of animal, irrespective of species or genetic makeup at the discretion of the planning commission.

ASSISTED LIVING FACILITY: A residential facility, licensed by the state of Utah, with a home like setting that provides an array of coordinated supportive personal and healthcare services, available twenty four (24) hours per day, to residents who have been assessed under rules of the Utah department of health or the Utah department of human services to need any of these services. Each resident shall have a service plan based on the assessment, which may include: a) specified services of intermittent nursing care; b) administration of medication; and c) support services promoting resident's independence and self-sufficiency. Such facility does not include adult daycare provided in conjunction with a residential facility for elderly persons or a residential facility for persons with a disability.

BASEMENT: A story partly underground. A basement shall be counted as a story for purposes of height measurement if its height is one-half (1/2) or more above grade.

BED AND BREAKFAST, HOME: A limited commercial activity within an owner occupied residential structure where not more than four (4) sleeping rooms may be rented to paying guests on a nightly basis and the breakfast meal, if provided, must be provided for in the rental rate. All parking must be off-street. The total number of occupants, including the owners, owner's family, and guests shall not exceed ten (10) people.

BOARDER: A person living in a rented room in a boarding house. The boarding house operator or a member of his or her immediate family who resides on the premises with the operator shall not be considered to be a "boarder".

BOARDING HOUSE: A building or portion thereof where, for compensation, rooms are rented, together with meals for not more than fifteen (15) boarders who generally do not directly utilize kitchen facilities. The operator of a boarding house must reside on the premises of a "boarding house". The word "compensation" shall include compensation in money, services or other things of value. A "boarding house" does not include a residential facility for disabled persons or a residential facility for the elderly. A boarding house does not include a nonresidential facility such as a rehabilitation/treatment facility, where the primary purpose of the facility is to deliver rehabilitation, treatment, counseling, medical, protective or other similar services to the occupants.

BUILDING: Any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals or chattels.

BUILDING, ACCESSORY: A detached subordinate building clearly incidental to and located upon the same lot occupied by the main building. There shall be a "main" building on the lot before a permit may be issued for any other building to be "accessory".

BUILDING, HEIGHT OF: The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the height of the highest peak of a pitched or hipped roof. The reference datum shall be selected by one of the following, whichever yields the greatest height of building:

- A. The elevation of the highest adjoining sidewalk or ground surface within a five foot (5') horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than ten feet (10') above the lowest grade.
- B. An elevation ten feet (10') higher than the lowest grade when the sidewalk or ground surface described in subsection A of this definition is more than ten feet (10') above grade.
- C. The height of a stepped or terraced building is the maximum height of any segment of the building.

BUILDING, MAIN: The principal building or one of the principal buildings upon a lot, or the building or one of the principal buildings housing the principal use upon a lot.

BUILDING, PUBLIC: A building owned and operated or owned and intended to be operated by the public agency of the United States of America, of the state of Utah, or any of its subdivisions.

BUILDING, FARM, BONA FIDE: A building used for farming operations only.

CABIN: A cabin is a small stick-built or small manufactured home, built or placed on a permanent foundation, and shall be less than 400 sq feet in size. Any cabin that has wheels or skids and not placed on a permanent foundation shall be considered a Recreational Vehicle and may only be placed in a Recreational Vehicle Park Zone.

CARPORT: A private garage not completely enclosed by walls or doors. For the purposes of this title, a carport shall be subject to all of the regulations prescribed for a private garage.

CHILD NURSERY: An establishment for the care and/or instruction, whether or not for compensation, of six (6) or more children other than members of the family residing on the premises.

CLUB, PRIVATE: An organization, group or association supported by the members thereof, the sole purpose of which is to render a service customarily rendered for members and their guests, but shall not include any service, the chief activity of which is customarily carried on as a business, and does not include labor union organizations or similar labor or business organizations.

COMMUNITY CORRECTIONAL FACILITY: A facility licensed by or contracted by the state of Utah to provide temporary occupancy for previously incarcerated persons which assists such persons in making a transition from a correctional institution environment to independent living. Such facility may also provide ancillary, temporary occupancy for individuals placed as part of, or in lieu of, confinement rehabilitation, or treatment in a correctional institution.

CONDITIONAL USE: A use of land for which specific conditions of approval are recommended by the planning commission and approved by the Town Council prior to authorizing a permit.

CONDOMINIUM OR TOWNHOUSE PROJECT: A development where there is ownership of a single unit in a multiple-family development, together with an undivided interest in the common area and facilities, and such project meets all requirements of the condominium ownership act of the state of Utah.

CORRECTIONAL INSTITUTION: A prison, jail, juvenile detention facility or juvenile secure facility.

DAIRY: A commercial establishment for manufacture or processing of dairy products.

DISABILITY: A physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment, or being regarded as having such an impairment. "Disability" does not include current illegal use of Drugs, or addiction to any illegal drugs, any federally controlled substance, as defined in section 102 of the controlled substances act, 21 USC, or successor law.

DOMESTIC ANIMALS:

- A. Animals historically found on farms in Washington County. "Domestic animals" shall not include animals commonly found in zoos and animal preserves and which animals are not historically endemic to the Washington County area.
- B. Exception: Llamas may be considered as domestic animals, subject to the number limitations of the residential estate zone.

DWELLING: Any building or portion thereof containing one or more dwelling units occupied as, or designed or intended for occupancy as, a residence by one or more families.

DWELLING, GROUP: Two (2) or more dwellings located in more than one building placed upon a single lot.

DWELLING, MULTIPLE-FAMILY: A building arranged or designed to be occupied by more than two (2) families.

DWELLING, SINGLE-FAMILY: A building arranged or designed to include only one dwelling unit.

DWELLING, TWO-FAMILY: A building arranged or designed to be occupied by two (2) families, the structure having only two (2) dwelling units.

DWELLING UNIT: Any building or portion thereof designed, occupied, or intended as a residence for a family with complete and independent facilities for living, sleeping, eating, cooking and sanitation.

DWELLING UNIT, ACCESSORY: An accessory building, as defined herein, containing one or more rooms with private bath and/or kitchen facilities for residential use, (i.e. Casitas, Mother-in-law apartments, Guest houses,) which is:

- A. Used for housing of guests without compensation, and
- B. Not rented, leased or sold separately from the rental, lease or sale of the main dwelling unit(s) on the lot and encumbered by a recorded agreement which provides notice of these conditions.

ELDERLY PERSON: A person who is sixty (60) years or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

EXOTIC ANIMALS: Animals not historically found on farms in Washington County. "Exotic animals" shall include animals commonly found in zoos and animal preserves and which animals are not historically endemic to the Washington County area.

FAMILY: One or more persons related by blood, marriage, adoption or guardianship, or a group of not more than five (5) unrelated persons living together as a single nonprofit housekeeping unit, together with any incidental domestic staff who may or may not reside on the premises. "Family" does not exclude the care of foster children.

FENCE (SOLID): A fence of a material that is sight obscuring and made of a solid material such as wood, vinyl or masonry, but not including a chain-link fence with slats inserted into the chain-links or solid corrugated metal roofing or the like. Any questionable material shall be reviewed by the planning commission for determination.

GARAGE, PRIVATE: An accessory building, or space attached to the main building, designed or used for the storage of automobiles owned and used by the occupants of the main building.

GARAGE, PUBLIC: A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, hiring, selling or storing motor driven vehicles.

GRADE: The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five feet (5') from the building, between the building and a line five feet (5') from the building.

HOME OCCUPATION: Any use conducted entirely within a single-family dwelling and carried on by persons residing within the dwelling unit, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof and in connection with which there is not display, nor stock in trade. The home occupation shall not involve the use of any accessory building or yard space or activity outside the main building not normally associated with residential use. There shall be no sign advertising of any kind in connection with the home occupation. There shall be no employees outside of the family residing in the dwelling unit. There shall be no perceivable increase in local traffic. Not more than twenty five percent (25%) of the dwelling unit shall be devoted to the home occupation. A home occupation may include emergency consultation, but shall not be for the general practice of any trade or profession.

HOSPITAL: An institution licensed by the state of Utah which provides diagnostic, therapeutic and rehabilitative services to individuals on both an inpatient and outpatient basis by or under the supervision of one or more physicians. Any medical clinic or professional office which offers any inpatient or overnight care, or operates on a twenty four (24) hour basis shall be considered to be a "hospital". A "hospital" may include integral support services facilities such as laboratories, outpatient units and training and central services, together with staff offices necessary to the operation of the hospital.

HOUSEHOLD PETS: Animals or fowl ordinarily permitted in the house and kept for personal use, such as dogs and cats, but not kept for commercial purposes, as defined in this title.

JAIL: A place of incarceration owned and operated by the county.

JUNK: Any or all worn out, cast off, destroyed or discarded article or material which is ready for destruction or has been collected and stored for salvage or conversion to some other use. Any article or material which, unaltered, unchanged and without further recondition, can be used for its original purpose as readily as when new and shall not be considered "junk".

JUNK CARS: Any used car or motor vehicle not in the process of reconditioning, which has been abandoned for use as a motor vehicle on a public highway and which is in unsafe operating condition and shall have remained in such condition for a period in excess of thirty (30) days; or portions of junk cars, such as hoods, fenders, radiators, rims, motors, hubcaps, etc., not being immediately utilized in the repair of a motor vehicle.

JUNKYARD: Any place, establishment or business maintained, used or operated for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, and includes garbage and sanitary fills.

JUVENILE DETENTION FACILITY: A place of temporary detention for delinquent juveniles, which either is owned and operated by the state of Utah or is under contract with the state of Utah.

JUVENILE SECURE FACILITY: A place of incarceration for delinquent juveniles, which either is owned and operated by the state of Utah or is under contract with the state of Utah.

KENNEL: The land or building used for the keeping of five (5) or more dogs at least six (6) months old and/or eight (8) or more cats at least six (6) months old, which may also be referred to as a "cattery".

LIVESTOCK FEED YARD: A commercial operation on a parcel of land where livestock are kept in corrals or yards for extended periods of time at a density which permits little movement, and where all feed is provided for the purpose of fattening or maintaining the condition of livestock prior to their shipment to a stockyard for sale, etc.

LOT: A parcel of land occupied or to be occupied by a main building, or group of buildings (main and accessory), together with such yards, open spaces, lot width and lot area as are required by this title, and having frontage upon a dedicated and improved town road. Except for multiple-family dwellings, not more than one dwelling structure shall occupy any one lot.

LOT, CORNER: A lot having frontage on two (2) or more improved and dedicated county roads.

MANUFACTURED HOME: A transportable factory built housing unit constructed on or after June 15, 1976, according to the federal home construction and safety standards act of 1974 (HUD code) in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is four hundred (400) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems.

MANUFACTURED HOME PARK: Any area or tract of land used or designed to accommodate two (2) or more manufactured homes for permanent living purposes as opposed to a recreational vehicle park where campers or travel trailers are parked for overnight or short periods of time.

MOBILE HOME: A transportable factory built housing unit built prior to June 15, 1976, in accordance with the state mobile home code which existed prior to the federal manufactured housing and standards act (HUD code).

MOBILE HOME PARK: A parcel of land, approved prior to May 27, 1997, which was planned and improved for the placement of mobile homes for residential use.

MOTEL: Any building or group of buildings containing sleeping rooms, designed for temporary use by automobile tourists or transients, with garage attached or parking space conveniently located to each unit.

NATURAL WATERWAYS: Those areas, varying in width, along streams, creeks, springs, gullies or washes which are natural drainage channels as determined by the building inspector, in which areas no buildings shall be constructed.

NONCONFORMING BUILDING OR STRUCTURE: A building or structure or portion thereof, lawfully existing at the time this ordinance became effective, which does not conform to all regulations herein prescribed in the zone in which it is located.

NONCONFORMING USE: A use which lawfully occupied a building or land at the time this ordinance became effective and which does not conform with the use regulations of the zone in which it is located.

NURSING HOME: An institution providing residence and care for the aged or infirm.

PARKING LOT: An open area other than a street, used for parking.

PARKING SPACE: Space within a building, lot or parking lot for the parking or storage of one automobile.

PLANNED DEVELOPMENT (PD): A development in which the regulations of the zone in which the development is situated are modified to allow flexibility and initiative in site and building design and location in accordance with an approved plan.

PRIVATE ROAD: A privately owned road leading to one (1) home or with Town approval can have up to five (5) homes located on said road, if the required improvements are installed and a maintenance agreement, approved by the town, is created between the home owners and recorded at the Washington County Recorder's Office.

PRIVATE STREET: A private street leading to more than five (5) homes as approved by the Town, and improved to the required town standards and a maintenance agreement, approved by the town, is created between the home owners and recorded at the Washington County Recorder's Office.

PROTECTIVE HOUSING FACILITY: A facility either:

- A. Operated, licensed or contracted by a governmental entity; or
- B. Operated by a charitable, nonprofit organization, where, for no compensation, temporary, protected housing is provided to:
 - 1. Abused or neglected children awaiting placement in foster care;
 - 2. Pregnant or parenting teens;
 - 3. Victims of sexual abuse; or
 - 4. Victims of domestic abuse.

RECREATIONAL VEHICLE: A transportable factory built housing unit of eight feet (8') or less in body width and forty feet (40') or less in overall length, or when placed on site is three hundred ninety nine (399) or less square feet in size, and which is built on a permanent chassis and is designed to be used as a dwelling unit without a permanent foundation, or without being connected to required utilities.

REHABILITATION/TREATMENT FACILITY: A facility licensed by or contracted by the state of Utah to provide temporary occupancy and supervision of individuals (adults/juveniles) in order to provide rehabilitation, treatment or counseling services. Without limitation, such services may include rehabilitation, treatment, counseling or assessment and evaluation services related to delinquent behavior, alcohol and drug abuse, sex offenders, sexual abuse or mental health. Associated educational services may also be provided to juvenile occupants.

RESIDENCE, RESIDENTIAL FACILITY: Any building or portion thereof where an individual is actually living at a given point in time and intends to remain, and not a place of temporary sojourn or transient visit.

RESIDENTIAL FACILITY FOR ELDERLY PERSONS:

- A. A dwelling unit that is either owned by one of the residents or by an immediate family member of one of the residents, or is a facility for which the title has been

placed in trust for a resident; and is occupied on a twenty four (24) hour per day basis by eight (8) or fewer elderly persons in a family type arrangement.

B. A "residential facility for elderly persons" shall not include any facility:

1. Which is operated as a business; provided, that such facility may not be considered to be operated as a business solely because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility;
2. Where persons being treated for alcoholism or drug abuse are placed;
3. Where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;
4. Which is a healthcare facility as defined in Utah Code § 26-21-2; or
5. Which is a residential facility for persons with a disability.

RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY: A residence in which more than one person with a disability resides and which is:

- A. Licensed or certified by the department of human services under Utah Code 62A-2, licensure of programs and facilities; or
- B. Licensed or certified by the department of health under Utah Code 26-21, healthcare facility.

SEXUALLY ORIENTED BUSINESSES: An inclusive term used to describe collectively those businesses for which a sexually oriented business license is required, pursuant to the sexually oriented business license chapter set forth in this code, which types of businesses include, for purposes of this title, adult arcade, adult book store, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort, escort agency, massage parlor, semi-nude modeling studio, sexual encounter establishment, and any other business not described that has a dominant or principal theme that is sexually oriented.

SHORT TERM VACATION RENTAL: A residential unit that is rented, leased, loaned, let or otherwise hired out for a period of thirty (30) days or less.

SITE DEVELOPMENT STANDARDS: Established regulations concerning lot areas, yard setbacks, building height, lot coverage, open green space and any other special regulations deemed necessary to accomplish the purpose of this title.

STABLE, PRIVATE: A detached accessory building for the keeping of the livestock animals owned by the occupants of the premises and not kept for commercial purposes.

STABLE, PUBLIC: A stable other than a private stable.

STORY: The space within a building included between the surface of any floor and the surface of the ceiling next above.

STORY, HALF: A story with at least two (2) of its opposite sides situated in a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor immediately below it.

STREET: A public thoroughfare which affords principal means of access to abutting property and is dedicated and improved to town standards.

STRUCTURAL ALTERATIONS: Any change in supporting members of a building, such as bearing walls, columns, beams or girders.

STRUCTURE: Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground.

SWIMMING POOL, PRIVATE: Any structure intended for swimming, recreational bathing or wading that contains water over twenty four inches (24") (610 mm) deep. This includes in ground, aboveground and on ground pools; hot tubs; spas and fixed in place wading pools for three (3) homes or less.

TENT OR TEEPEE: A collapsible shelter of fabric (such as nylon or canvas) stretched and sustained by poles and used for camping outdoors or as a temporary building.

TINY HOME: A Tiny Home is a stick built or small manufactured home with the structure, built or placed on a permanent foundation, and shall be less than 400 sq. feet in size. Any Tiny home that has wheels or skids and are not placed on a permanent foundation shall be considered a Recreational Vehicle and may only be placed in a Recreational Vehicle Park zone.

UNLICENSED REHABILITATION/TREATMENT FACILITY: A facility providing temporary occupancy for individuals (adult/juvenile) in order to provide rehabilitation, treatment or counseling services, which facility either does not require licensure by the state of Utah or does not operate under contract with the state of Utah. Without limitation, such services may include rehabilitation, treatment or counseling services related to delinquent behavior, alcohol and drug abuse, sex offenders, sexual abuse or mental health.

USE, ACCESSORY: A subordinate use customarily incidental to and located upon the same lot occupied by a main use.

WIDTH OF LOT: The distance between the side lot lines at the distance back from the front lot line required for the depth of the front yard.

YARD, FRONT: A space on the same lot with a building between the front line of the building and the front lot line, and extending across the full width of the lot.

YARD, REAR: A space on the same lot with a building, between the rear line of the building and the rear line of the lot and extending the full width of the lot.

YARD, SIDE: A space on the same lot with a building between the side line of the building and the side line of the lot and extending from the front yard line to the rear yard line.

10.06 Land Use Authority

10.06.010 Statutory Authority

10.06.020 Purpose Of Provisions

10.06.030 Establishment Of Town-Wide Land Use Authority

10.06.040 Term Of Office

10.06.050 Filling Vacancies And Removal From Office

10.06.060 Governance Of Land Use Authority

10.06.070 Powers And Duties

10.06.010 Statutory Authority

The statutory authority for enacting this chapter is Utah Code §§ 17-53-223 and 17-27-201, as amended.

10.06.020 Purpose Of Provisions

The purpose of this title is to establish a Town wide planning commission required by Utah Code § 17-27-201, as amended. The chapter defines the number and terms of the members, the mode of appointment, the procedures for filling vacancies and removal from office, and other details relating to the organization and procedures of the planning commission.

10.06.030 Establishment Of Town-Wide Land Use Authority

The Town of Apple Valley hereby establishes a town wide planning commission, which is comprised of five (5) regular members and up to three (3) alternate members appointed by the Town council. Each planning commissioner shall be a resident of and qualified elector in the Town. Not less than three (3) members constitute a quorum. Alternate members may be called to fill a quorum when there are insufficient regular members available. The members of the planning commission, whether regular or alternate members, shall serve without compensation except for the cost of their monthly solid waste collection on their primary residence and the reimbursement of actual expenses incurred as approved by the Town Council.

10.06.040 Term Of Office

The term of regular members of the planning commission shall be two to four (2-4) years and until their respective successors have been appointed; provided that the terms of the regular members shall be staggered so that at least two (2) regular members' terms expire each year. The term of alternate members shall be two (2) years and shall be staggered so that at least two (2) alternate members' terms expire each year.

10.06.050 Filling Vacancies And Removal From Office

The Town council may appoint members to fill any unexpired terms of any regular or alternate members who vacate their positions for any reason. Planning commission members may be removed from their position for cause by the Town Council. "Cause" includes, but is not limited to, moving out of the town, failing to attend planning commission meetings, or committing any act inimical to public service.

10.06.060 Governance Of Land Use Authority

The regular members of the planning commission shall elect one of their members as chair of the planning commission, whose term shall be for one year. The planning commission may create and fill such other offices as it may determine. The planning commission shall adopt such rules and regulations governing its procedure as it may consider necessary or advisable, and shall keep a record of their proceedings, which record shall be open to inspection by the public at all reasonable times. The planning commission may adopt policies and procedures for the conduct of its meetings, the processing of applications, and for any other purposes considered necessary for the functioning of the planning commission. These policies and procedures shall be submitted to Town council, and shall be adopted by the town council before taking effect.

10.06.070 Powers And Duties

The planning commission shall have the powers and duties outlined in Utah Code § 17-27-204, as amended, including:

- A. Preparing and recommending a general plan and amendments to the general plan to the Town council in compliance with Utah Code 17-27, as amended;
- B. Recommending zoning ordinances and maps, and amendments to zoning ordinances and maps, to the Town Council in compliance with Utah Code 17-27, as amended;
- C. Administering such provisions of this title as provided for in this title;
- D. Recommending subdivision regulations and amendments to those regulations to the Town Council as provided in Utah Code 17-27, as amended;
- E. Recommending approval or denial of subdivision applications to the Town council as provided in Utah Code 17-27, as amended;
- F. Advising the Town Council on such matters as the Town Council directs;
- G. Hearing or deciding any matters that the Town Council designates, including recommendations to approve or deny conditional use permits;
- H. Exercising any other powers delegated to it by the Town Council; and
- I. Exercising any other powers that are necessary to enable it to perform its functions.

10.08 Appeal Authority

10.08.010 Definitions

10.08.020 Appointment

10.08.030 Term

10.08.040 Removal

10.08.050 Duties And Powers

10.08.060 Appeals To The Appeal Authority

10.08.070 Variances

10.08.080 Interpretation Of Land Use Ordinance

10.08.090 Nonconforming Use Of Buildings, Structures, And Land

10.08.100 District Court Review Of Appeal Authority Decisions

10.08.010 Definitions

“**APPEAL AUTHORITY**” means the person appointed by the mayor with the advice and consent of council to hear appeals from person(s) who have been affected by the implementation of the Land Use Ordinances.

“**LAND USE AUTHORITY**” means anyone who has the authority to interpret or implement the city ordinances as defined by the Land Use Ordinance.

“**LAND USE ORDINANCE**” is defined in Utah Code 10-9a.

10.08.020 Appointment

There is hereby created an Appeal Authority of one person to be appointed by the Mayor with the advice and consent of the Town Council. The Appeal Authority may not be a resident of the Town, nor have a financial interest in property within the Town. It is the intent of the Town that the appointed individual will not personally benefit from decisions associated with the interpretation of the ordinances of the Town.

10.08.030 Term

The Appeal Authority shall serve for a term of two (2) years, unless sooner removed as provided herein. Notwithstanding the preceding, the term of office of the initial Appeal Authority shall run from the date of appointment until December 31, 2017. Thereafter all subsequent terms shall commence on January 1st of every other year or until the Appeal Authority position is vacant on account of death, resignation, removal or disqualification. In the event of early vacancy, the position of Appeal Authority shall be filled in the same manner as an original appointment for the expired term.

10.08.040 Removal

The appointed Appeal Authority may be removed for cause by the Town Council upon written charges, which shall be filed with the Mayor, and after public hearing, if such public hearing is requested by the appointed Appeal Authority.

10.08.050 Duties And Powers

- A. The Appeal Authority shall have the following powers and duties:
 - 1. To act in a quasi-judicial manner; and
 - 2. To serve as the final arbiter of issues involving the interpretation or the application of Land Use Ordinances.

- B. The Appeal Authority shall hear and decide the following:
 - 1. Requests for variances from the terms of the Land Use Ordinances;
 - 2. Appeals from decisions applying the Land Use Ordinances;
 - 3. Determinations regarding the existence, expansion, or modification of nonconforming uses;
 - 4. Special exceptions to the terms of the zoning ordinance where the Town Council has granted jurisdiction to the Appeal Authority to do so, and in the manner so provided; and
 - 5. Appeals from a fee charged in accordance with Utah Code § 10-9a-510.

- C. The Appeal Authority may not entertain an appeal of a matter in which the Appeal Authority, or any participating member, had first acted as the Land Use Authority.

- D. The Appeal Authority shall:
 - 1. Comply with the requirements of Utah Code 52-4, Open and Public Meetings.
 - 2. Keep minutes of its proceedings, including a record of the examination of evidence and other official actions.

- E. The records of the Appeal Authority shall be filed in the Town office with the Town Clerk and shall be public records.

10.08.060 Appeals To The Appeal Authority

- A. As a condition precedent to judicial review, each adversely affected person may specifically challenge a Land Use Authority's decision, within ten (10) business days of the land use decision and pay the related fee.

- B. The Appeal Authority shall review the matter de novo and determine the correctness of a decision of the Land Use Authority in its interpretation and application of a Land Use Ordinance.

- C. Only those decisions in which a Land Use Authority has applied a Land Use Ordinance to a particular application, person or parcel may be appealed to the Appeal Authority.

- D. All documents and exhibits constituting the record upon which the action appealed was made shall be presented to the Town Clerk with the application for hearing.
- E. For every appeal, the applicant shall present to the Appeal Authority every theory of relief that it can raise in District Court.
- F. The notice of appeal shall specifically allege the error which was made in the order, requirement, recommendation, decision, or determination made by an official or officials in the administration or interpretation of the land use ordinances. A notice of appeal failing to allege such error or specify the grounds for appeal may be summarily dismissed by the Appeal Authority, with or without prejudice.
- G. The Appeal Authority shall set the appeal hearing to be held within a reasonable time from the date the appeal is received. Written notice of the date set for hearing the appeal shall be mailed to the applicant at least ten (10) days before the appeal hearing date. At the hearing, the party appealing shall appear in person or by agent or by attorney.
- H. After hearing the appeal, the Appeal Authority may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, recommendation, or determination appealed from and may make such order, requirement, decision, recommendation or determination as ought to be made, and to that end shall have all the powers of the officer or body from which the appeal is made.
- I. The filing of an appeal shall stay all proceedings and actions in the furtherance of the matter appealed, pending a decision of the Appeal Authority. The stay shall continue unless the Planning Commission or Town Council certifies to the Appeal Authority, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate, the stay would cause imminent peril to life or property. In such cases proceedings shall not be stayed otherwise than by restraining order issued by the District Court on application, notice and due cause shown.
- J. The Town may not require an adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of the adversely affected party's duty to exhaust administrative remedies.
- K. The Appeal Authority shall conduct each appeal and variance request as described by this Chapter.
- L. The person or entity who filed the appeal has the burden of proving that the Land Use Authority erred.
- M. The Appeal Authority shall respect the due process rights of each of the participants.
- N. The Appeal Authority shall issue a written decision within a reasonable time after the hearing.

- O. Any applicant may withdraw an appeal at any time prior to a decision by the Appeal Authority. No person shall be entitled to claim a refund of costs for any reason.
- P. Land use decisions specified by the Town Council by ordinance, may be appealed directly to the District Court.

10.08.070 Variances

- A. Any person or entity desiring a waiver or modification of the requirements of a Land Use Ordinance as applied to a parcel or property that he owns, leases, or in which he holds some other beneficial interest may apply to the Appeal Authority for a variance from the terms of the ordinance.
- B. The Appeal Authority shall set a hearing to be held within a reasonable time from the date the request is received. Written notice of the date set for hearing the request shall be mailed to the applicant at least ten (10) days before the hearing date. The Town Clerk shall also mail written notice of the date set for the hearing to the parties in interest, including adjoining property owners, at least ten (10) days before the hearing. "Adjoining property owners" shall mean all owners within one hundred fifty feet (150') in each direction from the location for which the variance is requested, as determined from the tax records of the county. The applicant shall furnish the Town Clerk with a complete list containing the names of and last known addresses of such owners at the time the application is filed. Notice shall be posted in a conspicuous place adjacent to and facing the nearest public street and within one hundred feet (100') of the property where the proposed variance will apply at least ten (10) days before the hearing. At the hearing, the requesting party shall appear in person or by agent or by attorney. After the hearing, the Appeal Authority may wholly or partially grant or deny the applicant's request.
- C. The Appeal Authority may grant a variance only if:
 - 1. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Ordinances;
 - 2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - 3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - 4. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - 5. The spirit of the Land Use Ordinance is observed and substantial justice done.
- D. In determining whether or not enforcement of the Land Use Ordinance would

cause unreasonable hardship, the Appeal Authority may not find an unreasonable hardship unless the alleged hardship:

1. Is located on or associated with the property for which the variance is sought; and
2. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
3. Is not self-imposed or economic.

E. In determining whether or not there are special circumstances attached to the property, the Appeal Authority may find that special circumstances exist only if the special circumstances:

1. Relate to the hardship complained of; and
2. Deprive the property of privileges granted to other properties in the same zone.

F. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

G. Variances run with the land.

H. The Appeal Authority may not grant a use variance.

I. In granting a variance, the Appeal Authority may impose additional requirements on the applicant that will:

1. Mitigate any harmful effects of the variance; or
2. Serve the purpose of the standard or requirement that is waived or modified.

J. The Town, or any person adversely affected by any decision of the Appeal Authority, may petition the District Court for a review of the decision, provided the petition is filed with the Court within 30 days after the Appeal Authority has issued its final written decision. In the petition, the appealing party may only allege that the Appeal Authority's decision was arbitrary, capricious, or illegal. The Appeal Authority may, after finding that it is in the best interest of the Town to do so, stay its decision pending District Court review.

K. Unless otherwise specified by the Appeal Authority, any order or decision of the Appeal Authority authorizing a variance shall expire if the applicant fails to obtain a building permit within one year from the date of the decision. Any applicant may withdraw a request for variance at any time prior to a decision by the Appeal Authority. No person shall be entitled to claim a refund of costs for any reason.

10.08.080 Interpretation Of Land Use Ordinance

- A. Any person alleging there was an error in any order, requirement, decision, or determination made by the Land Use Authority in the administration or interpretation of the Land Use Ordinance may request an interpretation and decision from the Appeal Authority in accordance with AVLU 3.6.
- B. The Appeal Authority will overturn decisions of the Land Use Authority only as follows:
 - 1. If the decision or requirement by the Land Use Authority conflicts with the intent or literal interpretation of the Land Use Ordinances; or
 - 2. If the decision or requirement by the Land Use Authority conflicts with state or local laws.
- C. In some instances, the Appeal Authority may not fully understand the intent of an ordinance or requirement placed upon any person(s) by the Land Use Authority. Under these circumstances the Appeal Authority may obtain a decision from the Town Council prior to making a final decision (if applicable).
 - 1. If the Appeal Authority requires an interpretation from the Town Council, the Appeal Authority shall make a final decision within ten (10) days after that interpretation is given.

10.08.090 Nonconforming Use Of Buildings, Structures, And Land

- A. A “nonconforming structure” shall mean a structure that legally existed before its current land use designation and because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulation, excluding those regulations, which govern the use of land. A “nonconforming use” shall mean a use of the land that legally existed before its current land use designation, has been maintained continuously since the time the land use ordinance governing the land changed, and because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land. Upon a determination of the Appeal Authority a nonconforming use or a structure may be continued.
- B. All matters regarding the nonconforming use of buildings and land shall be determined by the Appeal Authority. All requests for determinations shall be made as follows:
 - 1. A written request for determination of a nonconforming use shall be filed with the Town Clerk.
 - 2. The request shall specify the grounds for the request, and circumstances related thereto.
 - 3. A request shall be accompanied by a fee, established by the Town Council, which amount shall be used to defray the cost of notices and other expenses.

4. The Appeal Authority shall set a hearing to be held within a reasonable time from the date the request is received. Written notice of the date set for hearing the request shall be mailed to the applicant at least ten (10) days before the hearing date. Upon the hearing, the requesting party shall appear in person or by agent or by attorney. The property owner has the burden of establishing the legal existence of a nonconforming structure or use. Any 208 person claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment. After the hearing, the Appeal Authority may wholly or partially grant or deny the applicant's request, and may make such order, requirement, decision, recommendation or determination as ought to be made.
 5. The Town, or any person adversely affected by any decision of the Appeal Authority, may petition the District Court for a review of the decision, provided the petition is filed with the Court within 30 days after the Appeal Authority has issued its final written decision. In the petition, the appealing party may only allege that the Appeal Authority's decision was arbitrary, capricious, or illegal. The Appeal Authority may, after finding that it is in the best interest of the Town to do so, stay its decision pending District Court review.
- C. Nonconforming buildings and structures with respect to setbacks or height may be continued. Additions, enlargements or structural alterations may be made to the extent that they comply with all requirements of the Town Code. In addition, the Appeal Authority, after a public hearing, may allow an enlargement or structural alteration provided the change is in harmony with the surrounding neighborhood and in keeping with the intent of the General Plan, the Land Use Ordinance, and this ordinance. The proposed change shall not impose any unreasonable impact or burden upon the land located in the vicinity. Reasonable conditions may be attached to the approval in order to assure neighborhood compatibility. If any such nonconforming building is removed, every future use of the land on which the building was located shall conform to Town ordinances.
- D. A lawfully existing nonconforming use of land may be continued provided such nonconforming use shall not be expanded or extended into any other open land, except as otherwise provided in the Town Code, including the Land Use Ordinance. If the nonconforming use is discontinued for a continuous period of more than one (1) year it shall constitute an abandonment of the use and any future use of such land shall conform to the provisions of the zone in which it is located.

- E. The lawfully existing nonconforming use of a building or structure may be continued and may be expanded or extended throughout such building or structure provided no structural alterations, except those permitted by law, are proposed or made for the purpose of extension. The addition of a solar energy device to a building shall not be considered a structural alteration. If such nonconforming use is discontinued for more than one (1) year it shall constitute an abandonment of the use and any future use of the building or structure shall conform to the provisions of the zone in which it is located.
- F. If a nonconforming use is abandoned, it may be succeeded, upon approval of the Appeal Authority, by an equally restrictive or more restrictive nonconforming use, provided such change is effected within one (1) year from the first day of 209 abandonment. After a change to a less intensive use occurs, the use may not change back to a more intensive use.
- G. A use which has been declared nonconforming shall not be enlarged or moved except as provided herein. The Appeal Authority, after a public hearing, may allow an enlargement or modification provided the change is in harmony with the surrounding neighborhood and in keeping with the intent of the General Plan, the Land Use Ordinance, and this ordinance. The proposed change shall not impose any unreasonable impact or burden upon land located in the vicinity. Reasonable conditions may be attached to the approval in order to assure neighborhood compatibility.
- H. In the event a nonconforming building or structure is damaged or destroyed by calamity or act of nature, the occupancy or use of such building or structure, or part thereof which existed at the time of the destruction, may be continued or resumed provided that such restoration is in compliance with all building codes. Buildings that become nonconforming as to setbacks due to a government action such as a roadway widening can be fully restored at the original setback. Occupancy or use of such building, structure, or part thereof which existed at the time of such partial destruction may be continued subject to all the provisions of this Title.
- I. The Appeal Authority, under authorization of State statute, may provide for the timely modification or removal of a nonconforming structure or use of land. A maximum of a five-year period may be granted in which the nonconforming use shall be modified or removed in order to comply with the General Plan and Zoning Ordinance. The Appeal Authority may provide for a shorter time period by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of any investment in the nonconforming use or structure, if any.

10.08.100 District Court Review Of Appeal Authority Decisions

- A. Any person or entity adversely affected by any decision of the Appeal Authority may petition the District Court for a review of the decision.

- B. In the petition for review, the petitioner may only allege that the Appeal Authority's decision was arbitrary, capricious, or illegal.
- C. The petition is barred unless it is filed within thirty (30) days after the Appeal Authority's decision becomes effective.
- D. The Appeal Authority shall transmit to the reviewing court the record of its proceedings including its minutes, findings, orders, and, if available, a true and correct transcript of its proceedings. If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for purposes of this subsection.
- E. Review of the Appeal Authority's decision shall be done by the court in the manner and upon the standards provided by law.
- F. The appellant has the burden of proving that the Land Use Authority erred.
- G. No person may challenge in District Court the land use decision made under this chapter, until that person has exhausted the person's administrative remedies as provided in this chapter.
- H. Any person adversely affected by a final decision made in the exercise of or in violation of the provisions of this chapter may file a petition for review of the decision with the District Court within thirty (30) days after the local land use decision is final.

10.10 Zones Generally

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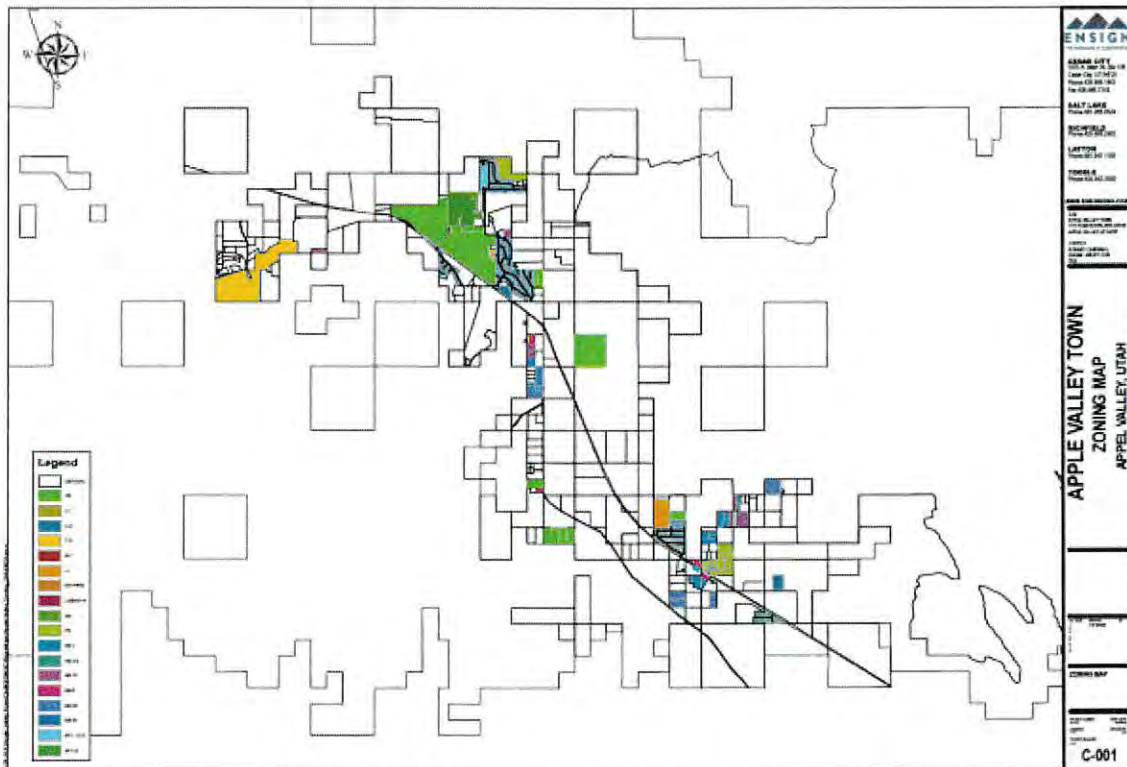
[10.10.100 Recreational Vehicle Park Zone](#)

[10.10.110 Cabins Or Tiny Home Parks Zone](#)

[10.10.120 Planned Development Zone](#)

10.10.010 General Purposes

- A. Purpose: For the purpose of this title, the following zones are created to be applied as necessary to regulate the development of the land in the town of Apple Valley.
- B. Boundaries: Where uncertainty exists as to the boundaries of the districts as shown on the town maps, the following shall apply:
 1. Boundaries indicated as approximately following the center lines of the street, highways, waterways, roads, etc., shall be constructed to follow such center lines and in the event of change in the centerline, shall be constructed as moving with the centerlines.
 2. Boundaries indicated as approximately following platted lot lines shall be constructed to follow such lines.
 3. Boundaries indicated as parallels to or extensions of features indicated in the subsections B,1 and B,2 of this section shall be so constructed. Distance not specifically indicated on the official map shall be determined by the scale of the map.
 4. Boundaries of each of the said zones are hereby established as described herein or as shown on the map entitled zoning map of Apple Valley, which map is on file in the town offices and all boundaries shown thereon are made by their reference as much a part of this title is fully described and detailed herein.



10.10.020 A Agricultural Zone

- A. Purpose: The purpose of this zone is to preserve appropriate areas for permanent agricultural use. Uses normally and necessarily related to agriculture are permitted and uses inimical to the continuance of agricultural activity are not allowed.
- B. Permitted Uses: Uses permitted in this zone are as follows:
 1. Crop production, horticulture and gardening
 2. Farm buildings and uses
 3. Household pets
 4. Farming livestock
 5. Stands for sale of produce grown and sold on premises
 6. Veterinarian
 7. Weaner Pigs
 8. Residential Dwelling

C. Conditional Uses: Uses requiring a conditional use permit in this zone are as follows:

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Any use not specifically allowed under permitted or conditional uses shall be prohibited.

D. Development Standards in Agricultural Zones:

	Zones			
Development Standard	A-40	A-20	A-10	A-5
Lot standards				
Minimum lot area	40 acres	20 acres	10 acres	5 acres
Minimum lot width	400 feet	400 feet	300 feet	300 feet
Building standards				
Maximum height, main building ¹	35 feet	35 feet	35 feet	35 feet
Maximum height, accessory building	35 feet	35 feet	35 feet	35 feet
Setback standards - front yard				
Any building ²	30 feet	30 feet	30 feet	30 feet
Setback standards - rear yard				
Main building	30 feet	30 feet	30 feet	30 feet
Accessory building	No requirement	No requirement	No requirement	No requirement
Setback standards - interior side yard				
Main building	15 feet	15 feet	15 feet	15 feet
Accessory building of 100 square feet or less	No requirement	No requirement	No requirement	No requirement
Accessory building greater than 100 square feet	20 feet	20 feet	20 feet	20 feet
Setback standards - street side yard				
Main building	20 feet	20 feet	20 feet	20 feet
Main building on corner lot with yard that abuts the side yard of another lot	20 feet	20 feet	20 feet	20 feet
Accessory building	Not permitted	Not permitted	Not permitted	Not permitted
ADD Animals permitted				

Notes:

E. Modifying Regulations:

1. Fur farms, solos, fish farms or the keeping of exotic animals may not be approved in the A-5 district.
2. Location of Corral or Stable: No corral or stable shall be located closer than one hundred feet (100') from any dwelling unit in an adjacent zone.
3. Housing Of Weaner Pigs: The housing of weaner pigs may be approved by conditional use permit, subject to the following requirements:
 - a. "Weaner pigs" shall be defined as pigs that will be one year of age or less and do not weigh more than three hundred fifty (350) pounds at the end of the five (5) month period in which the weaner pig is kept.
 - b. All weaner pigs shall be kept only during the months of December through April, or for a different five (5) month period of time if approved by the planning commission.
 - c. Setbacks for pens for weaner pigs shall be the same as required for other animals.
 - d. No weaner pig shall be allowed to run loose (not in a restricted environment, such as a pen) unless attended by the owner or keeper of the pig.
 - e. All pens shall be cleaned regularly, a minimum of three (3) times weekly.
 - f. No mud bogs shall be allowed in the pens. All pens shall have drainage to keep water from pooling within the pen.
4. For additional restrictions and clarifications in this zone, see AVLU 10.28 Supplementary and Qualifying Regulations for Land Use and Building.

10.10.030 C Commercial Zones

A. Purpose:

1. C-1 Convenience Commercial Zone:
 - a. The C-1 convenience commercial zone has been established for the purpose of providing shopping facilities within the various neighborhoods of the town, primarily for the convenience of people living in the neighborhood. The types of goods and services which may be offered for sale have been limited to "convenience goods" such as groceries, drugs, personal services such as hair cutting and hair dressing, distinguished by the fact that the principal patronage of the establishments originates

within the surrounding neighborhood. Consequently, automobiles, furniture, appliances and other stores, the principal patronage of which originates outside the surrounding neighborhood, have been excluded from the C-1 zone.

- b. Inasmuch as this zone is usually surrounded by dwellings, it is intended that residential amenities be maintained as much as possible. Stores, shops or businesses shall be retail establishments only and shall be permitted only under the following conditions:
 - (1) Such businesses shall be conducted wholly within an enclosed building except for the parking of automobiles and service to persons in automobiles, unless otherwise permitted.
 - (2) No entertainment except music shall be permitted in any C-1 zone.
 - (3) All uses must be free from objections because of odor, dust, smoke, noise, vibration or other similar offensive nuisances to adjacent neighborhood areas.

2. C-2 Highway Commercial Zone:

- a. The principal objective in establishing the C-2 highway commercial zone is to provide areas within the town where facilities that serve the traveling public can be most appropriately located.
- b. Other purposes for establishing the C-2 highway commercial zone are to promote safety on the highways, to promote the convenience of the traveling public, to promote beauty in the appearance of intersections and interchanges in the town and to prohibit uses which will tend to be contrary to the use of the land for its primary purposes or which would be unsightly to the traveling public. In general, this zone is located close to freeway interchanges and at the intersections of important transportation routes.

3. C-3 General Commercial Zone:

- a. The objective of the C-3 general commercial zone is to provide space within the town where nearly all types of commercial goods and services may be provided.

Since the zone permits such a wide variety of uses, the protective features which zoning normally affords to adjacent properties are mostly nonexistent. Owners should develop and maintain their property in recognition thereof.

- b. The C-3 general commercial zones should be located principally in existing communities and not along major highways. To maximize traffic safety, property owners should shall provide access in a manner that will minimize the hazard of traffic leaving and entering roadways.

To maximize traffic safety, a traffic impact study must be performed.

As this zone primarily serves the traveling public, all traffic should enter and exit any commercial property in this zone from the highway, major and arterial roads, and not through residential roads if located adjacent to residential areas.

B. Permitted Uses: In the following list of possible uses, those designated as being permitted in a zone will be identified with the letter "P". Uses designated with the letter "N" will not be allowed in that zone. The following list is not intended to be all inclusive, but rather, indicative of uses permitted in the zone. Any uses not specified as permitted shall be prohibited.

	C-1	C-2	C-3
Air conditioning, sales and service	N	N	P
Altering, pressing and repairing of wearing apparel	P	P	P
Amusement enterprises	N	P	P
Animal hospital	N	P	P
All services must be provided and conducted within a completely enclosed building			
Antique, import or souvenir shop	N	P	P
Arcade	N	P	P
Athletic and sporting goods store, excluding sale or repair of motor vehicles, motor boats or motors	N	P	P
Athletic club	P	P	P
Auction establishment (retail goods only)	N	N	P
Automobile, new or used sales and service	N	P	P
Automobile parts sales (new)	N	P	P
Automobile rental	N	P	P
Art Gallery	N	P	P
Automobile repair including paint, body, fender, brake, muffler, upholstery or transmission (completely enclosed building)	N	N	P
Bakery manufacture limited to foods retailed on premises	P	P	P
Bank or financial institution	P	P	P
Barber shop	P	P	P
Beauty shop	P	P	P
Bed and breakfast inn	P	P	N
Bar Pub, Tavern	N	P	P
Billiard parlor	N	P	P
Bicycle sales and service	N	P	P
Boat sales and service	N	N	P
Bookbinding	P	P	P

Bookstore, retail	P	P	P
Bowling alley	N	P	P
Building materials sales	N	N	P
Bus terminal	N	P	P
Cabinet shop	N	N	P
Care or cafeteria	P	P	P
Camera store	P	P	P
Candy store, confectionery	P	P	P
Car wash	N	P	P
Caretakers dwelling, incidental to a commercial use	N	P	P
Carpet and rug cleaning	N	N	P
Catering establishment	N	P	P
Child nursery	P	N	P
Clinics, medical or dental	N	P	P
Clothing and accessory store	N	P	P
Coal and fuel sales office	N	N	P
Convenience markets (including sale of gasoline)	P	P	P
Crematorium	N	N	P
Dairy product store	P	P	P
Dance hall	N	P	P
Delicatessen	P	P	P
Department store	N	P	P
Drapery and curtain store	N	P	P
Drugstore	N	P	P
Educational institutions	N	P	P
Egg and poultry store (retail sales only), no live bird slaughtering permitted	P	P	P
Electrical and heating appliances and fixtures sales and services	N	N	P

Electronic equipment sales and service	N	P	P
Employment agency	N	P	P
Fabric and textile store	N	P	P
Farm implement sales	N	P	P
Fence, sales and service	N	N	P
Florist shop	P	P	P
Fruit store (enclosed)	P	P	P
Furniture sales and repair	N	P	P
Garden supplies and plant material sales	N	P	P
Gift store	P	P	P
Government buildings or uses, no industrial	N	P	P
Greenhouse and nursery, soil and lawn service	N	P	P
Grocery store	P	P	P
Gunsmith	N	P	P
Hardware stores	N	P	P
Health club	P	P	P
Health food store	P	P	P
Hobby and crafts store	N	P	P
Hospitals	N	P	P
Hotel	N	P	P
Household appliance sales and service	N	P	P
Ice cream parlor	P	P	P
Ice manufacture and storage	N	N	P
Ice store or vending station	P	P	P
Insurance agency	N	P	P
Interior decorating and designing establishment	N	P	P
Janitor service and supply	N	N	P
Jewelry store sales and service	N	P	P

Laboratory, dental or medical	N	P	P
Laundry or dry cleaners, Laundromat	P	P	P
Legal office	N	P	P
Library	N	P	P
Liquor store	N	P	P
Locksmith	N	P	P
Lodge or social hall	N	P	P
Lodging Hotel, Motel, (not RV or Cabins) (Short-term)	N	P	P
Lounge	N	P	P
Lumber yard	N	N	P
Manufactured home sales lot and service	N	P	P
Medical office	N	P	P
Monument works and sales	N	N	P
Mortuary	N	P	P
Museum	N	P	P
Music store	N	P	P
Needlework, embroidery or knitting store	N	P	P
Newsstand	P	P	P
Nursery school	P	N	P
Office supply, office machines sales and service	N	P	P
Optometrist, optician or oculist	N	P	P
Paint or wallpaper store	N	P	P
Park and playground	P	P	P
Pawnshop	N	P	P
Pet and pet supply store	N	P	P
Pharmacy	N	P	P
Photographic supplies	N	P	P
Physician or surgeon office clinic	N	P	P

Plumbing shop	N	P	P
Pool hall	N	P	P
Popcorn or nut shop	N	P	P
Post office	N	P	P
Printing, lithographing, publishing or reproduction sales and service	N	P	P
Professional office	N	P	P
Radio and television sales and service	N	P	P
Real estate agency	N	P	P
Reception center or wedding chapel	N	P	P
Recreation center	N	P	P
Rental agency for home and garden equipment	N	P	P
Restaurant	P	P	P
Restaurant, drive-in	P	P	P
Roller skating rink	N	P	P
Secondhand store	N	P	P
Service station, handi-mart	P	P	P
Shoe repair and shoe shine shop	N	P	P
Shoe store	N	P	P
Sign painting	N	P	P
Sign sales	N	P	P
Storage rental units	N	P	P
Supermarket	N	N	P
Theater, indoor	N	P	P
Theater, outdoor	N	P	P
Tire recapping or retreading	N	P	P
Tire sales and service	N	N	P
Toy store, retail	N	P	P
Trailer sales and service	N	P	P

Travel agency	N	P	P
Used car lot	N	P	P
Variety store	N	P	P
Vegetable stand	P	P	P

C. General Requirements:

	C-1	C-2	C-3
Minimum lot area	None	None	None
Maximum zone area	None	None	None
Minimum yard setbacks from property line (in feet)			
Front	25	25	25
Side	10	10	10
Side facing a street on a corner lot	25	25	25
Rear	10	10	10
Building heights (in feet)			
Minimum	8	8	8
Maximum	35	35	35
Heights are maximum unless specifically approved to a greater height by the planning commission			
Minimum distance between buildings	10	10	10

1. Site Plan Approval:

- a. A site plan shall be submitted, drawn to scale, and of sufficient size and detail to show building locations, yard setbacks, ingress and egress drives, parking areas, landscaped areas and such other improvements as may be required relating to the specific use proposed.
- b. The site plan, or an additional plan drawn to the same scale, shall show utility locations, including water, power, drainage, telephone; cable TV, sewer or septic tank location, fire hydrants, street improvements and such other public improvements as may be required.

- c. Planning commission review and Town Council approval shall precede the issuance of any permit for site improvement, or construction permit for utility systems. No building permits shall be issued until all underground site improvements have been installed and construction authorized by the building inspector.

D. Special Provisions:

1. Storage Of Materials And Merchandise: All materials and merchandise, except vehicles in running order, shall be stored in an enclosed building or within an enclosure surrounded by a sight obscuring fence or wall of not less than six (6') feet in height, and no material or merchandise shall be stored to a height greater than that of the enclosing fence or wall.
2. Trash, Combustible Materials, Junk and Debris: No trash, rubbish, weeds or other combustible material shall be allowed to remain on any lot outside of approved containers in any commercial zone. No junk, debris, or similar material shall be stored or allowed to remain on any lot in any commercial zone.
3. Solid Waste Storage Facilities: All solid waste storage facilities shall be located at the rear of the main building or else behind a sight obscuring fence or wall which will prevent the facility from being seen from a public street.
4. Protection Of Adjoining Residential Property: Where a commercial development adjoins any lot or parcel of ground in any residential zone, there shall be provided along the adjoining property line a decorative, sight obscuring fence, or a ten (10') foot wide planting strip, or any combination of fencing and landscaping which adequately protects the adjoining residential property.
5. Residential Dwellings: No residential dwelling of any kind is permitted in any commercial zoning district.
6. Lighting: all lighting shall be directed away from any residential use to protect neighboring properties from light pollution, and shielded from the night sky with no light emitted above a horizontal plane. Reference AVLU 10.26.
7. All lodging located in a commercial zone, shall require an on-site manager.

E. Abandoned, Wrecked, or Junk Vehicles:

1. Abandoned Vehicles Prohibited: It shall be unlawful to park or permit the parking of any licensed or unlicensed motor vehicle or parts thereof in an abandoned condition upon any public or private property within the Town for longer than seventy two (72) hours, except as follows:

- a. In a commercial or industrial zone, the number of such vehicles is determined by permit, and:
 - (1) Such use is authorized in the zone where the use is located, and
 - (2) Vehicles and parts thereof are stored within a building or are completely screened by a six (6) foot high, opaque, sight obscuring fence.
- b. Nuisance: The accumulation and storage of more than the permitted number of vehicles or parts thereof on private or public property except as set forth above shall constitute a nuisance, detrimental to the health, safety, and welfare of the inhabitants of the Town. It shall be the duty of the owner of such vehicle or parts thereof, or lessee, or other person in possession of private property upon which such vehicle or parts thereof is located, to remove the same from such property.

10.10.040 | Industrial Zone

- A. Purpose: The objective in establishing the I-1 zone is to provide space for various types of land uses whose effects, both secondary and direct, are not compatible with uses found in other zones in the town. Any uses not specified as permitted shall be prohibited.
- B. Permitted Uses: Uses permitted in this zone are as follows:
 - 1. Recycling businesses, not including hazardous materials.
- C. Conditional Uses: Uses requiring a conditional use permit in this zone are as follows:
 - 1. Concrete batch plants.
 - 2. Gravel crushing equipment.
 - 3. Gravel pits.
 - 4. Hot mix asphalt plants.
 - 5. Landfill operations.
 - 6. Mining or ore processing operations.
 - 7. Open space or agricultural uses.
 - 8. Sewage lagoons and/or treatment plants.
 - 9. Storage, baling, and processing of wood, glass, paper, and junk.

- 10. Other uses similar to the above and judged to be in harmony with the character and intent of this zone.

D. Site Development Standards:

Minimum Lot Area	0.75 acre
Setbacks (in feet)	
Front	25
Side	25
Rear	25
Minimum Zone Area	30 acres

1. Site Plan Approval:

- a. A site plan shall be submitted, drawn to scale, and of sufficient size and detail to show building locations, yard setbacks, ingress and egress drives, parking areas, landscaped areas, etc., and such other improvements as may be required by the planning commission relating to the specific use proposed.
- b. The site plan, or another plan drawn to scale, shall show utility locations, including water, power, telephone, cable TV, sewer or septic tank locations, fire hydrants, street improvements, site drainage, including holding ponds for runoff, and such other public improvements as may be required.
- c. Planning commission review and approval shall precede the issuance of any building permit for site improvements, or construction permits for utility system installation.

E. Special Provisions:

- 1. Storage of Materials and Merchandise: All storage and merchandise shall be stored in an enclosed building or within an enclosure surrounded by a sight obscuring fence or wall of not less than six feet (6') in height, and no material or merchandise shall be stored to a height greater than that of the enclosing fence or wall.
- 2. Junk: Storage of "junk" or partially or completely dismantled automobiles shall be enclosed within a sight obscuring wall or fence of not less than six feet (6') in height, and material so stored shall be kept below the height of the fence or wall.

3. Solid Waste Storage Facilities: Solid waste storage facilities shall be located at the rear of the main building or else behind a sight obscuring fence or wall which will prevent the facility from being seen from a public street.
4. Parking: Parking shall be as required by AVLU 10.16 or an addendum thereto.
5. Lighting: Lighting shall be as required by AVLU 10.26 or other applicable requirements.
6. Utilities and Fire Protection: All developments shall be served by a source of culinary water, sewer or septic tank, as may be approved by the southwest district public health department, electrical power from a power company whose area of service covers the proposed business site location, and adequate water for fire protection as required by the subdivision ordinance. Where utility companies are involved in providing these services, a letter shall be submitted from each such company along with the site plan required in this chapter.
7. Hours of Operation: The planning commission may establish hours of operation in order to eliminate excess noise, lighting or other nuisances.
8. Manufacturing Zone Uses Excluded: All uses specifically excluded from the town under AVS 11 shall also be excluded from this zone.

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 are as follows:
 1. Single-family dwellings not less than 1250 sq.ft. on the main floor;
 2. Accessory buildings and uses, following issuance of a building permit for a permanent dwelling;
 3. Home occupations;
 4. Traditional household pets (dogs, cats), provided they are not kept, bred, or maintained for any commercial purposes. Pets are expected to be fenced/ leashed, sheltered from the weather, and trained to not be a noise nuisance;
 5. Raising of crops, gardens, and horticulture;
 6. Residential facility for persons with a disability (see AVLU 10.28 for supplementary information);
 7. Residential facility for the elderly (see AVLU 10.28 for supplementary information);

8. Churches;
9. Park or playgrounds;
10. The keeping of animals and fowl for family food production, but not for commercial use.
11. 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 parcel of property shall exceed one hundred (100) points per acre.
 - b. Type of animal or fowl (number of points per animal), further restrictions:
 - (1) Cow, horse, donkey, mule, or similar large animal (50 points each), but not to exceed the maximum of ten (10) large animals on any lot;
 - (2) Miniature horses, sheep, goats, or similar medium-size animals, less than 36 inches in height, (25 points each), but not to exceed the maximum of twenty (20) medium animals on any lot;
 - (3) Turkeys, geese, pheasants, and similar medium-size fowl (15 points each), but not to exceed the maximum of twenty (20) medium fowl on any lot;
 - (4) Chickens, ducks, pigeons, doves, rabbits, or similar small fowl/animal (5 points each), but not to exceed thirty (30) small fowl/animals per five (5) acres.
 - c. No rooster is permitted on any lot which is less than five (5) acres, and then, only one (1) rooster is allowed per thirty (30) chickens.
 - d. No exotic animals shall be kept on any lot within the Rural Estates Zone.
 - e. The keeping of any pigs is not allowed in the Rural Estates Zone.
 - f. The unweaned, offspring of a residing animal or fowl, under six (6) months of age, shall be excluded from consideration for the purpose of determining compliance with this section.
 - g. Animals should be contained on resident's property. Animal enclosures should be cleaned regularly, be in good repair, give the animals ample room, and offer the animals shelter and shade.
 - h. Animals must not be allowed to become a noise or smell nuisance.

12. Any use not specifically allowed under permitted uses shall be prohibited.

C. 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.

D. Minimum Area, Width, and Yard Regulations

District	Area	Width in Feet	Yard Setbacks in Feet for Primary Residence		
			Front	Side	Rear
RE-1.0	1.0 acre	100	25	10	10
RE-2.5	2.5 acres	150	25	25	25
RE-5.0	5.0 acres	200	25	25	25
RE-10.0	10.0 acres	300	25	25	25
Re-20.0	20.0 acres	400	25	25	25
RE-X	**Any Size	400	25	25	25

** No more than one (1) home on property

E. 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/kennel 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 AVL 10.26 Outdoor Lighting Ordinance.
- e. No industrial-looking building such as pre-engineered steel or pole barns are allowed, unless specifically approved by the planning commission.

- f. For additional restrictions and clarifications in this zone, see AVLU 10.28 Supplementary and Qualifying Regulations for Land Use and Building.
- g. 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.

10.10.060 SF Single Family Residential Zone

A. 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 pennit 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.

B. Permitted Uses: Uses permitted in this zone are as follows:

1. Single Family dwelling with a minimum of 1250 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)
6. Churches
7. Group homes
8. Home occupation
9. Parks and playground

Any use not specifically allowed under permitted uses shall be prohibited.

C. 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.

D. Area Width and Yard Regulations:

District	Area	Width in Feet	Yards in Feet		
			Front	Side	Rear
SF-.25	10,000 sq. ft.	80	25	10	10
SF-.50	20,000 sq. ft.	80	25	10	10
SF-1.0	40,000 sq. ft.	80	25	10	10
SF-2.5	2.5 acres	150	25	25	25
SF-5.0	5.0 acres	200	25	25	25
SF-10.0	10.0 acres	300	25	25	25

E. 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. No industrial-looking buildings such as pre-engineered steel or pole barns allowed, unless specifically approved by the planning commission.

Any use not specifically allowed under permitted uses shall be prohibited.

10.10.070 Open Space Zone

- A. Purpose: The purpose of this zone is to provide for protection of undeveloped private land.
- B. Permitted Uses: Uses permitted in this zone are as follows:
 - 1. Raising of crops, horticulture and gardening
 - 2. Undeveloped private land
 - 3. Trails and trail rides, non-motorized
- C. Conditional Uses: Uses requiring a conditional use permit in this zone are as follows:
 - 1. Bona fide farm buildings
 - 2. Public utilities and transmission lines
 - 3. Wireless communications facilities
 - 4. Farming operations
 - 5. Livestock grazing
 - 6. Trails and trail rides, motorized
- D. Height Regulations: No building shall be erected to a height greater than twenty five (25') feet without a conditional use permit.
- E. Area, Width And Yard Regulations:

District	Area	Width in Feet	Yard Setbacks in Feet		
			Front	Side	Rear
OS	20 Acres	400	25	25	25

(25' setback on corner and street side lots)

- F. Modifying Regulations: The following modifying regulations may be established by the land use authority relative to a specific use.
 - 1. Distance of Animal Housing: No corral, stable or kennel may be located within one hundred feet (100') of any adjacent dwelling or residential building lot.
 - 2. Application of Minimum Acreage: The twenty (20) acre minimum applies only to the construction of fann buildings.
 - 3. Trails for motorized ORV shall be no closer than 1000' from any residential dwelling.

10.10.080 Open Space Transition Zone

- A. Purpose: The purpose of this zone is to provide for protection of primarily undeveloped private land.
- B. Permitted Uses: Uses permitted in this zone are as follows:
 - 1. Bona fide farm buildings
 - 2. Farming operations
 - 3. Livestock grazing
 - 4. Raising of crops, horticulture and gardening
 - 5. Undeveloped private land
 - 6. Trails and trail rides

C. Conditional Uses: SPACE LEFT BLANK INTENTIONALLY

Any use not specifically allowed under permitted or conditional uses shall be prohibited.

- D. Height Regulations: No building shall be erected to a height greater than thirty five (35') feet without a conditional use permit.

E. Area Width And Yard Regulations:

District	Area	Width in Feet	Yard Setbacks in Feet		
			Front	Side	Rear
OST	3 Acres	400	25	25	25

(25' setback on corner and street side lots)

- F. Modifying Regulations: As may be established by the land use authority relative to a specific use:
 - 1. Distance of Animal Housing: no corral, stable or kennel may be located within one hundred feet (100') of any dwelling or residential building lot.

10.10.090 MH Manufactured Housing Park Zone

- A. Purpose: The purpose of this zone is to provide for the development of manufactured home parks in a quality environment. Manufactured home parks are not intended for the isolated lot, but shall be for use in areas where larger tracts of land are available for development, and can be developed to a high standard of quality with landscaping, recreation facilities, etc., and are designed

and intended from the beginning of development as manufactured homes only. The minimum zone size shall be approximately five (5) acres.

B. Permitted Uses: Uses permitted in this zone are as follows:

1. Accessory buildings and uses.
2. Horticulture and gardening for personal use.
3. Household pets.
4. Park or playground.
5. Manufactured homes at a minimum of 1,250 square feet on main level.
6. Other uses similar to the above and judged by the planning commission to be in harmony with the intent and character of this zone.
7. Any use not specifically allowed under permitted or conditional uses, shall be prohibited unless the zoning administrator determines the use is substantially the same as a permitted.

C. 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.

D. Manufactured Home Park Development Standards:

1. Density: The maximum density for a manufactured home park shall not exceed six (6) units per acre.
2. Access Roads: Each manufactured home park shall be provided with hard surface (concrete or asphalt) roadways of at least twenty five (25) feet in width to serve each manufactured home space and parking area.
3. Park Access: Access to all manufactured home parks shall be from a dedicated and approved public street at an approved access point or points. No manufactured home space shall have direct access from a public street. Any access road connecting two (2) or more public streets shall be arranged to prohibit or discourage through traffic.
4. Off Street Parking: Parking spaces shall be provided for the parking of motor vehicles in the ratio of at least two (2) parking spaces for each manufactured home space.
5. Recreation Space: Recreation space shall be provided for each manufactured home park. A minimum usable area of five thousand (5,000) square feet shall be set aside and developed for each manufactured home park having at least ten (10) units and one hundred (100) square feet additional space for each unit above ten (10) units.
6. Manufactured Home Space: Each manufactured home space shall have a minimum of five thousand (5,000) square feet and a minimum width of fifty (50) feet.

7. Permanent Foundation: A manufactured home must be put on a permanent foundation and converted to real property.
8. Minimum Yard Clearances for Manufactured Home Park: Each manufactured home shall have the following minimum yard clearances:
 - a. Front or side yard on a public street, twenty five (25) feet.
 - b. Side yard bordering adjacent property, ten (10) feet.
 - c. Rear yard bordering adjacent property, ten (10) feet.
 - d. A six (6) foot sight obscuring fence shall be erected along all side and rear property lines, unless otherwise approved by the planning commission.
9. Minimum Yard Clearances for Manufactured Home Space: Each manufactured home shall have the following minimum yard clearance which may also be included in and a part of the setbacks required in subsection H of this section:
 - a. Front yard on a private street or access road, fifteen (15) feet in back of curb.
 - b. Side yard on main door side of manufactured home, fifteen feet (15).
 - c. Side yard on "no access" side of manufactured home, ten (10) feet.
 - d. Rear yard, ten (10) feet.
 - e. No two (2) manufactured homes shall be closer than twenty (20) feet.
10. Utilities Required: All sewage and water proposals shall be required to have approval from the Utah state department of environmental quality and Big Plains Water and Sewer Special Service District. All buildings, electrical, plumbing and fire protection construction shall comply with state and Town requirements and codes, including applicable standards found in the Town subdivision ordinance (including, but not limited to, fire protection), the building code, and this title.
11. A dwelling proposed to be moved onto a site in the town shall be less than ten (10) years of age at the time of moving unless otherwise approved by the Planning Commission. Rehabilitation of such dwelling limited to a 6 month duration.

E. Modifying Regulations:

1. Perimeter Fence: Unless otherwise approved by the planning commission, each manufactured home park shall be fenced at the

perimeter with a six (6) foot high sight obscuring fence.

2. Building Code; Permit: Installation of any manufactured unit shall be done in conformance with the requirements of the current edition of the building code following approval of the building department, and the issuance of a building permit.
3. Street Construction: All streets in a manufactured home park shall be paved according to the construction standards of the Town and shall be bounded by curb and gutter approved by the planning commission.
4. All lighting shall comply with AVLU 10.26 Outdoor Lighting Ordinance.

F. Subdivision Requirements: Any use approved in the MH zone in which the sale of any lot or parking space is proposed, shall be subject to all applicable requirements of the AVS 11 subdivision ordinance.

10.10.100 Recreational Vehicle Park Zone

A. Purpose: The purpose of this zone is to provide for the development of a Recreational Vehicle Park (RVP) in a quality environment. Recreational Vehicle Parks are not intended for the isolated lot. But shall be for use in areas where larger tracts of land are available for development, and can be developed to a high standard of quality with landscaping, recreation facilities, etc.

The Recreational Vehicle Parks are designed and intended from the beginning to serve the transient or traveling public that travels with their own recreational vehicles, needing a place to hook-up their own recreational vehicles to utilities and services. The Minimum zone size shall be ten (10) Acres.

The primary location for a Recreational Vehicle Park is close to Highway 59 or other major roadways and should not be located immediately next to a residential neighborhood.

B. Permitted Uses: Uses permitted in this zone are as follows:

1. Accessory buildings and uses
2. Household pets
3. Recreational Vehicle rental spaces
4. Park, playground, Swimming Pool and Tennis courts or alike
5. Other uses similar to the above and judged by the Planning Commission to be in harmony with the intent and character of this zone.

C. Conditional Uses: Uses requiring a conditional use permit in this zone are as follows:

1. Clubhouse, sales or registration office, or on-site manager dwelling

2. Other uses approved by the planning commission as being in harmony with the intent of the zone and similar in nature to the above listed uses
- D. Height Regulations: No building shall be erected to a height greater than twenty five (25'). No accessory building shall be erected to a height greater than fifteen (15') feet.
- E. Recreational Vehicle Park Development Standards:
1. Minimum Size: Each recreational vehicle park shall have a minimum size of ten (10) acres.
 2. Roads:
 - a. Width: Each recreational vehicle park shall be provided with roadways of at least twenty five feet (25') in width.
 - b. Construction Specifications: All recreational vehicle parks shall be served by paved roads constructed to Town standards and bounded by curb and gutter approved by the Town.
 3. Park Access: Access to all recreational vehicle parks shall be from a dedicated and approved public street at an approved point or points. No RV space shall have direct access from a public street nor may they exit or enter through a residential neighborhood.
 4. Off Street Parking: Hard surface (concrete or Paved) parking spaces shall be provided for the parking of each recreational vehicle, and two (2) additional spaces for vehicles.
 5. Recreation Space: Recreation space shall be provided for each recreational vehicle park having ten (10) or more units and shall be maintained for such use. A minimum usable area of five thousand (5,000) square feet shall be set aside and developed for each such park and an additional one hundred (100) square feet shall be provided for each unit above ten (10) units.
 6. Density: The maximum density for a recreational vehicle park shall not exceed ten (10) units per gross acre.
 7. Space Width: Each recreational vehicle space shall have a minimum width of thirty feet (30') and all recreational vehicles shall be able to park in designated spaces and no portion of a driveway or roadway may be used for recreational vehicle parking.
 8. Distance of Units: No RV space shall be designed to allow RV units to be parked closer than twenty feet (20'). This requirement shall apply to overnight, extended stay and park model units. No unit in an RV park shall be located closer than the distance required herein.
 9. Minimum Yard Clearances for Recreational Vehicle Park:

- a. Front or side yard on a public street, twenty five feet (25').
 - b. Side yard bordering adjacent property, ten feet (10').
 - c. Rear yard bordering adjacent property, ten feet (10').
 - d. A six foot (6') block wall fence shall be erected along all side and rear property lines unless otherwise approved by the Planning Commission.
10. Utilities Required: Each recreational vehicle parking space shall have connections available for water, sewer and electricity. All utility connections shall be located underground. Water and sewer plans shall be approved by the Big Plains Water and Sewer Special Service District and the Town's Public Works Department.
 11. Outdoor Living Space: Each recreational vehicle parking space shall be provided with a minimum of three hundred (300) square feet of "outdoor living" space located adjacent to the vehicle parking space. Said outdoor living space shall be maintained in a clean and weed free manner and shall be kept free from garbage or debris of any kind.
 12. Landscape Plan: A detailed landscape plan shall be submitted for each recreational vehicle park, and shall be approved by the Planning Commission.

F. Other Requirements:

1. Perimeter Fence: Each Recreational Vehicle Park shall be fenced at the perimeter with a six foot (6') high block wall fence.
2. Building Code; Permit: Installation of infrastructure and any Recreational Vehicle Park structures shall be done in conformance with the requirements of the current edition of the building code following approval of the building department, and the issuance of a building pennit.
3. Street Construction: All streets in a Recreational Vehicle Park shall be paved according to the construction standards of the Town and shall be bounded by curb and gutter.
4. All lighting shall comply with AVU 10.26 Outdoor Lighting Ordinance.
5. No tents of any kind may be used in this zone, unless included in a planned development agreement.
6. All Recreational Vehicle Parks shall require a full time (24/7) on-site manager, who shall be responsible for ensuring compliance with the rules and regulations of the Town and safety of the property.

7. A Recreational Vehicle Park and Tiny Home or Cabin Park may be combined in one park, and the minimum size of park may be smaller than 10 acres with details of such mixed zoning and park size variations being outlined in a Development Agreement.

G. Subdivision Requirements: If the Recreational Vehicle Park is not intended to be in a single ownership, rather intended to be sold as individual lots, the subdivision shall then be subject to all applicable requirements of the Town's subdivision ordinance.

10.10.110 Cabins Or Tiny Home Parks Zone

A. Purpose: The purpose of this zone is to provide for the development of Cabin or Tiny Home Parks (CTP). Cabin or Tiny Home Parks are not intended for the isolated lot, but shall be for use in areas where larger tracts of land are available for development, and can be developed to a high standard of quality with landscaping, recreation facilities, etc.

Cabins or Tiny Homes Parks, are designed and intended from the beginning to serve the transient or traveling public with small cabins or Tiny Homes, placed or built on a permanent foundation with the structure containing sleeping, bathing and kitchen facilities. The Minimum zone size shall be ten (10) Acres.

The primary location for a Cabin or Tiny Home Park is close to Highway 59 or other major roadway or may be located more remotely if utilities and proper road access is available or will be available. It should not be located immediately next to a residential neighborhood.

B. Permitted Uses: Uses permitted in this zone are as follows:

1. Accessory buildings and uses
2. Household pets
3. Cabins or Tiny Homes as defined in AVLU 10.04 or subsection E below
4. Park, playground, swimming pool and tennis courts or alike
5. Other uses similar to the above and judged by the Planning Commission to be in harmony with the intent and character of this zone.

C. Conditional Uses: Uses requiring a conditional use permit in this zone are as follows:

1. Clubhouse, sales or registration office, or on-site managers dwelling.
2. Other uses approved by the planning commission as being in harmony with the intent of the zone and similar in nature to the above listed uses.

D. Height Regulations: No cabins/tiny home shall be erected to a height greater than eighteen (18').

No accessory building shall be erected to a height greater than fifteen (15') feet.

No club house/office may be erected to a height greater than twenty five (25') feet.

E. Cabins or Tiny Home Park Development Standards: Definitions:

A Cab in is a small stick built or small manufactured home, built or placed on a permanent foundation and is less than 400 Sq Feet under roof.

A Tiny Home is a stick built or small manufactured home, built or placed on a permanent foundation, and is less than 400 Sq. Feet under roof.

Any Cabin or Tiny Home that has wheels or skids and not placed on a permanent foundation shall be considered a Recreational Vehicle and may not be placed or used in this zone. But it shall be placed in a Recreational Vehicle Park zone.

1. Minimum Size: Each Cabin or Tiny Home Park shall have a minimum size of ten (10) acres, unless smaller is allowed by a development agreement (see AVLU 10C-6-J).
2. Roads:
 - a. Width: Each Cabin or Tiny Home Park shall have roads of at least twenty five feet (25') in width.
 - b. Construction Specifications: All Units shall be served by paved roads constructed to Town standards and bounded by curb and gutter and approved by the Town.
3. Park Access: Access to all Cabin or Tiny Home Parks shall be from a dedicated and approved public street at an approved point or points. No units shall have direct access from a public street nor may traffic enter or exit through a residential neighborhood.
4. Off Street Parking: Hard surface (Concrete or paved) parking spaces shall be provided for the minimum parking of two (2) vehicles for each unit.

5. Recreation Space: Recreation space shall be provided for each Cabin or Tiny Home Park having ten (10) or more units and shall be maintained for such use. A minimum usable area of five thousand (5,000) square feet shall be set aside and developed for each such park and an additional one hundred (100) square feet shall be provided for each unit above ten (10) units. This is in addition to the outdoor living space mentioned in AVLU 10C-6-G. This recreation space is not the open space behind or between units or streets. It is a separate facility common to all units in the development, such as a clubhouse.
6. Density: The maximum density for a Cabin or Tiny Home Park shall not exceed ten (10) units per gross acre.
7. Unit size: Each unit shall be less than 400 sq ft under roof.
8. Distance of Units: No unit shall be closer than twenty feet (20'). No unit in a Cabin or Tiny Home Park shall be located closer than the distance required herein.
9. Minimum Yard Clearances for each unit:
 - a. Front or side yard on a public street, twenty five feet (25').
 - b. Side yard bordering adjacent property, ten feet (10').
 - c. Rear yard bordering adjacent property, ten feet (10').

F. Other Requirements:

1. Perimeter Fence: A Cabin or Tiny Home park shall be fenced at the perimeter with a six foot (6') high block wall fence.
2. Building Code; Permit: Installation of infrastructure and any Cabin or Tiny Home Park structures shall be done in conformance with the requirements of the current edition of the building code and with approval of the building department, and the issuance of a building permit.
3. Utilities Required: Each unit shall be connected to water, sewer and electricity. All utility connections shall be located underground. Water and sewer plans shall be approved by the Big Plains Water and Sewer Special Service District and the Town's Public Works Department.
4. Street Construction: All streets in a Cabin and Tiny Home Park shall be paved according to the construction standards of the Town and shall be bounded by curb and gutter.
5. All lighting shall comply with AVLU 10.26 Outdoor Lighting Ordinance.
6. Landscape Plan: A detailed landscape plan shall be submitted for each Cabin or Tiny Home Park, and shall be approved by the Planning Commission.

7. Outdoor Living Space: Each Cabin or Tiny Home Park unit shall be provided with a minimum of three hundred (300) square feet of "outdoor living" space located adjacent to each unit. Said outdoor living space shall be maintained in a clean and weed free manner and shall be kept free from garbage or debris of any kind.
 8. No tents of any kind may be used in this zone.
 9. All Cabin or Tiny Home Parks shall require a full time (24/7) on-site manager, who shall be responsible for ensuring compliance with the rules and regulations of the Town and safety of the property.
 10. A Recreational Vehicle Park and Cabin or Tiny Home Park may be combined in one park, and the minimum size of park may be smaller than 10 acres with details of such mixed zoning and park size variations being outlined in a Development Agreement.
- G. Subdivision Requirements: If the Cabin or Tiny Home Park is not intended to be in a single ownership, rather is intended to be sold as individual lots, the subdivision shall then be subject to all applicable requirements of the Town's subdivision ordinance.

10.10.120 Planned Development Zone

- A. Purpose: The overall purpose of the planned development (PD) zone is to allow and encourage flexibility and creativity in the design and development of comprehensively planned projects, including but not limited to, cluster subdivisions that would not be possible under conventional zoning districts. The PD Zone requires creative and efficient subdivision designs that provide areas of open space and other desirable subdivision design features. The PD Zone is provided to promote efficiencies in the delivery of required infrastructure, facilities, and services, and reductions in initial subdivision development costs and long-term maintenance costs.
1. Provide for the planned, orderly, and efficient improvement of large, unique or strategically situated landholdings while protecting the natural open space, ecological, topographical, geological, and/or historic features which may exist, from damage which might occur from development permitted by conventional zoning and subdivision regulations. Such features may include, but are not limited to, steep slopes, soils, streams and other water bodies, and pasturelands, wetlands, floodplains, historic structures or sites, cultural features, and scenic views.
 2. Encourage protected open space to be accumulated into larger contiguous open space tracts that may be linked throughout the community.

3. Allow for a more efficient and imaginative development of a specific property.
4. Permit property to be used in a manner not sanctioned by the existing zoning regulations in harmony with and without detriment to neighboring properties.
5. Provide a review process by the planning commission, which will allow them an opportunity to evaluate whether the proposed development will be in harmony with the character of the neighborhood in which the development is located.
6. Encourage the best possible site plans and building arrangements under a unified plan of development rather than under lot-by-lot regulation. This may permit buildings to be clustered or arranged in an unconventional manner to maximize open space, create a pedestrian scale, and other public benefits.
7. Encourage better land utilization, economy in the provisions of roads and utilities, and flexibility in design.
8. Encourage ingenuity and resourcefulness in project and site planning and to assure the provision of park and recreation land and facilities for the use of the occupants of the development in order to obtain a more desirable environment.
9. Encourage the mixing of uses as appropriate including housing, neighborhood commercial, office, institutional, and other compatible uses.
10. Discourage clearly incompatible land uses and prevent conflicts where such uses cannot be physically separated by the use of buffer strips and open space, gradations in the intensity of use, control of traffic patterns (through the arrangement of streets), the arrangement of uses in relation to topography, and other means.
11. Facilitate more affordable and efficient housing by providing possibilities for cost savings in infrastructure, installation costs, and energy costs through clustering of dwellings and other structures and other means.
12. Encourage pedestrian circulation within the project and connections with adjacent land uses.
13. Provide long-range stability in the planning of public facilities and services for the area through the use of a master plan specifying the arrangement and schedule of the various lands use components and project phases.

B. Types of Planned Development Zones: This section authorizes the following types of planned developments:

PDR Planned development residential zone

PDC Planned development commercial zone

PDO Planned development office zone

Opportunities for mixed use are provided for within each type of planned development zone. See the subsections of this section pertaining to each zone for details relating to mixed-use opportunities.

C. Location and Siting of Planned Development: Planned developments are most appropriately located in developing areas where innovative site planning will have a positive impact on other adjacent developments and accomplish objectives of the city's general plan.

D. Designing a Planned Development Zone: The design of a planned development is a creative exercise that requires the designer to select from an array of elements available to assemble the development. A planned development project may consist of five (5) separate components. The required components will vary depending upon the elements planned for the project.

1. Master Plan: General concept designed to elicit preliminary feedback from staff and planning commission.
2. Final Plan: Final plan for individual phase(s) of the development.
3. Phase Plan: The overall concept plan/zoning plan for the development, locking in land uses, proposed circulation, and other elements.
4. Site Plan: Site plan review of individual lot(s) or parcel(s) within a phase.
5. Construction Drawings: Construction drawings for items requiring review and approval by the Town engineer and/or the building department.

E. Planned Development Residential Zone (PDR)

1. General Purpose and Description: The PDR district allows residential development in a manner open to and advocating innovation in design and layout. The principal uses of land in this district are residential with related recreational, cultural, neighborhood commercial and educational facilities normally required in providing the basic elements of a balanced, orderly, convenient, and attractive residential area.
2. Location of PDR Zones: PDR zones may be located where sufficient land and infrastructure exist or are planned which will allow for a development that meets the standards and requirements of this subsection. Planned developments should not be proposed on vacant lots lying between other single-family dwellings or single family developments.

3. Permitted Uses: No building structure or land shall be used except for one or more of the following:

City facilities, including fire protection facilities, public works facilities, etc.

Detached units, including standard large lot single-family detached residences, zero lot line residences and cluster housing

Townhouses

4. Conditional Uses: The following conditional uses may be approved at time of Master Plan or Phase plan. If a use changes from that approved, an amendment will be necessary.

Assisted living or independent living care

Churches, with attendant educational and recreational buildings

Clubs, private and public, including, but not limited to, golf and country clubs.

Condominiums

Home occupations as defined herein and approved by the planning commission.

Neighborhood commercial uses in PDR zone under the following conditions:

- a. Mixed uses (i.e., commercial, office or residential) within the same building or on the same site. The minimum and maximum component of each use and types of uses within the development to be recommended by planning commission and approved by city council.
- b. Provide sidewalks, at such widths as may be approved by the planning commission, and which will connect the pedestrian system within the project to sidewalks in existing development areas outside the project area.
- c. Residential units above retail space are not included in density count, but layout and numbers must be approved by planning commission, also parking and access issues must be addressed.

Public libraries

Public utility structures, including distribution lines, transformer stations, transmission towers, telephone exchanges and other similar uses and structures; except warehouses, storage buildings, vehicle maintenance,

truck or road equipment storage, radio and television studios and cell towers.

Schools (private or public), offering general educational courses similarly to public elementary schools, high schools and colleges

Timeshares /fractional interests

5. Dimensional Requirements: See table 2 of this section for dimensional requirements.

F. Planned Development Commercial Zone (PDC)

1. General Purpose and Description: The PDC zone provides for primarily commercial development in a manner encouraging innovation in site design and layout. The principal uses of land in this district are commercial with related facilities normally required to provide the basic elements of a balanced, orderly, convenient, functional, and attractive commercial area.
2. Location of PDC Zones: PDC zones should be located adjacent to a major arterial roadway and be centrally located to serve a wide area of the community.
3. Permitted Uses: No building, structure, or land shall be used except for one or more of the following uses:

Bank or other similar financial institution

City facilities, including fire protection facilities, public works facilities, etc.

Convention center, meeting facility or other similar use

Hotel, motel or bed and breakfast

Recreation building or land including theaters

Restaurant, including a dining club or other eating or drinking establishment

Retail sales and the servicing or repair of items sold at retail, not including servicing or repair of automobiles.

Trade shop or service business such as shoe repair, dry cleaning or laundering service, pressing, altering, or tailoring of wearing apparel, radio, TV or appliance repair, watch or jewelry repair, and barber or beauty shop.

4. Conditional Uses: The following conditional uses may be approved at time of Phase Plan or Final Plan. If a use changes from that approved, an amendment will be necessary.

Accessory structure

Ambulance service

Auto repair, completely enclosed.

Daycare facility

Mixed uses (i.e., commercial, office or residential) within the same building or on the same site (The minimum and maximum component of each use and type of uses within the development to be approved by the planning commission. Office and residential uses must clearly be subordinate to the principal commercial use.)

Off street parking facilities

Office, (public or private,) not including a wholesale outlet or storage of commodities

Parking lot or garage as a principal use

Public utility structure and lands

Self-service laundry, laundry or dry cleaning processing facility

5. Dimensional Requirements: See table 2 of this section for general dimensional requirements.

G. Planned Development Office Zone (PDO)

1. General Purpose and Description: The PDO zone provides for primarily office development in a manner encouraging innovation in design layout. The principal uses of land in this district are office with related facilities normally required to provide the basic elements of a balanced, orderly, convenient, functional, and attractive office area.
2. Location of PDO Zone: PDO zones are most suitably located on arterial or nonresidential collector streets between uses of higher and lower intensity or in areas where other office uses are located. PDO zones can serve as an effective transitional area between a more intensive use, such as commercial or light industrial and residential uses. PDO zones should not be located at major street intersections but are more suitably sited in mid-block areas or interior areas of sites.

3. Permitted Uses: No building, structure, or land shall be used except for one or more of the following:

Business service such as photocopying and related services, dental laboratory, or temporary employee service

City facilities, including fire protection facilities, public works facilities, etc.

Daycare facility

Fine arts or performing arts studio or school

Hospital or public health center

Institution of higher education (college)

Library

Medical or dental office or clinic

Museum or art gallery

Office, (public or private,) not including a wholesale outlet or storage of commodities

Veterinary clinic or hospital (small animals only and in a completely enclosed building)

4. Conditional Uses: The following conditional uses may be approved at the time of Phase Plan or Final Plan. If a use changes from that approved, an amendment will be necessary.

Accessory retail uses clearly subordinate to the principal use. Such uses shall be limited to the first floor and may not be established in separate buildings. The minimum and maximum component of each use to be approved by the planning commission. Examples include banks, newsstands, pharmacies, coffee shops, dry cleaners (without on-site cleaning plant), clothing store, and other similar uses approved by the Planning Commission.

Ambulance service as an accessory use

Church or other religious, fraternal, or social organizations

Funeral home or crematorium

Nursing or personal care home

5. Dimensional Requirements: See table 2 of this section for dimensional requirements.

H. Planned Development Standards and Requirements: All planned developments, in addition to meeting the intent of this section, as detailed in subsection A of this section, shall meet the following standards and such other requirements as are set forth with respect to each of the three (3) permitted types of uses. Setback standards specifically may be modified to allow creative development to occur provided a recommendation from the planning commission and motion from city council at the Final Plan stage approving the request for such modifications.

1. General Standards and Requirements:

a. Preservation of Features: The development shall be compatible with existing topography of the land and shall preserve any unusual topography or natural features. Requests to waive this standard must be accompanied by a certified engineering report indicating that the proposed development is a significant community need that transcends the need to preserve the topography and/or features.

b. Design Focus: The development shall utilize design and development features that would not be possible by the application of lot by lot zoning regulations.

c. Land Disturbance: No alteration or disturbance of land in a planned development district or the natural or cultural resources thereon shall be permitted until the Phase Plan has received approval from city council. Any subsequent land disturbance must be consistent with the approval granted by the city council.

d. Subdivision Regulations: Land within a planned development shall be treated in its entirety as a subdivision and thus subject to the provisions of the Town of Apple Valley subdivision regulations, except as follows:

(1) Final plats shall follow the procedures and meet all of the requirements of the Town's subdivision ordinance which shall be supplemented by the requirements of this subsection. Wherever there is a conflict between the provisions of the subdivision ordinance and this ordinance the more restrictive shall apply.

(2) Each planned development project in the approval process will identify how the property is intended to be subdivided, whether it will be a PDR, PDC, PDO, traditional subdivision, condominium or a combination of the above. This information is important, as it will affect the procedures required for formal approval of the project and subdivision of the land.

- e. The Final Plan approved and adopted by the Town council pursuant to this section is intended to be utilized as a final plan in relation to the zoning, regulation, and development of properties designated therein. The design guidelines and standards approved and adopted by the Town council pursuant to its adoption of the planned development Final Plan shall control and regulate the development and construction within the project. To the extent that the Final Plan does not specify the design or other standards applicable to the planned development, the generally adopted Town standards and specifications shall apply.
- f. Interconnectivity of Phases/Development Components: Each phase of the project shall not be isolated from adjacent phases or development components. Each phase shall be served by at least one public roadway that shall connect to all adjacent phases or development components. In addition, each phase or development components adjacent to land outside of the project boundary shall connect to such adjacent land if such a connection is available. If one phase cannot reasonably be connected to another via a public roadway, then a private road or drive shall be required. Such a private road must be open to the public at all times for travel to the adjacent phase area. The project must contain a minimum of two (2) primary access points from the outside. Any deviation from the requirement of two (2) primary access points must be recommended by the planning commission and approved by the town council.
- g. Calculation of Density: Land uses for open space, common areas, and interior streets, drives, sidewalks, and other circulation ways may be included as part of the land area used for determining the number of dwelling units allowed, or the amount of required land. Land characterized by flood way, steep slopes, wetlands, or other un-buildable or sensitive lands may not be included as part of the land area for density calculations, including lands with a slope factor of 20% or greater overall slope, except that a twenty five percent (25%) density provision may be applied to the buildable portion of the development. Therefore, twenty five percent (25%) of the land area of the un-buildable area may be added to the buildable portion of the property to increase net density. Density is calculated for the project and for individual phases. Within phases, density for a specific phase may exceed that permitted provided that the overall density for the project meets the required maximum density. The phase with the highest density may not be the first phase developed. See Table 1.

h. General Private Deed Covenants: The entire planned development district shall be made subject to appropriate covenants, conditions and restrictions that shall be recorded as running with the land to assure the continuance and maintenance of the planned development in accordance with the approved plans and approved uses. See subsection H,2, "Ownership and Management Standards and Requirements", of this subsection for additional requirements and information. A copy of any covenants, conditions and restrictions must be submitted to Town to ensure that there is no conflict with zoning ordinance.

2. Ownership and Management Standards and Requirements:

a. Ownership and Management Control:

(1) Initial Ownership: If the property located in a planned development shall be owned individually or jointly, where the property is not intended to be resold in separate parcels, the property shall be made subject to permanent covenants, conditions and restrictions requiring that the property be built and operated consistent with the approved planned development zone.

(2) Subdivided Properties: Properties in a planned development zone that are intended to be subdivided and sold in separate ownership shall be made subject to covenants, conditions and restrictions which shall require that the property be built and maintained consistent with the requirements of the planned development zone for the property. If the property shall have commonly owned properties, they shall be owned by an appropriate owners' association who shall be responsible for the ownership and maintenance of the project, consistent with the requirements of the zone. In this event, the owners' association shall be separately incorporated as a Utah nonprofit corporation with appropriate articles of incorporation and bylaws, and a declaration of covenants, conditions and restrictions that are subject to the approval of the town attorney of the Town of Apple Valley as being legally sufficient. In the event that the property shall be a condominium project, the property shall be made subject to a declaration of condominium and other documentation prepared pursuant to the requirements of the Utah Condominium Ownership Act and shall include a provision that the owners' association thereof shall manage the property consistent with the requirements of the planned development zone. Any property in a planned development zone that is intended for subdivision shall also comply with the requirements of the Town of Apple Valley subdivision ordinance.

(3) Owner/Developer Responsibilities: Initial owners/developers of PD projects are responsible for the following elements of the project:

(A) Development and Maintenance: Development and maintenance of general common areas (this may be accomplished through the establishment of an owners' association, which the developer shall agree to subsidize until 75 percent of the lots or units are sold, at which point the responsibility will be turned over to the owners).

(a) In the case of condominiumization or subdivision of the property, the developer shall deed the common areas to the owners' association, free and clear of all liens or encumbrances, or in the case of a blanket lien, the lender shall subordinate its security interest in the project to the planned unit development or condominium plan. This shall be reflected in the

declaration of covenants, conditions and restrictions (or declaration of condominium, as the case may be) that shall require this to be accomplished upon completion of construction of the project, provided that if at least forty percent (40%) of the units in the project have been sold, the developer shall also be required to make this conveyance. The Town of Apple Valley shall not be responsible to the unit or lot owners in the event that the conveyance is not actually made, but the documentation shall provide for this requirement, which shall confer upon any purchasing unit owners the right to enforce the deeding of the common areas as required just above.

- (B) Arterials, Roadways, Related Infrastructures: Development of arterial and other major roadways and related infrastructures serving the development including the extension of utilities to serve the development.
- (C) Development of Management Plan: Development of a management plan including management association setup, and related responsibilities to assure that ownership and management standards are met in full.
- (D) Approvals and Conditions: Obtain all approvals and comply with all conditions related to the PD and its elements.
- (E) Landscaping and Open Space: All overall requirements such as landscaping and open space meet PD requirements.
- (F) Change of Ownership: Any conditions attached to an approved PD plan or subdivision plat shall not lapse or be waived as a result of any subsequent change in tenancy or ownership of said land.

- 3. Infrastructure Standards and Requirements: Water, sewerage, street, electric, and other required infrastructure shall be provided according to the requirements of the Town of Apple Valley subdivision ordinance and city construction design standards, or as may be recommended by the planning commission and approved by the Town council for other purposes. Exceptions to Town standards and subdivision requirements

relating exclusively to roadway design standards and layout must be supported by appropriate studies and approved by the Town council pursuant to its adoption of the Phase Plan and shall control and regulate the development and construction within the project as guidelines and standards specific to the project. The following infrastructure requirements are required as a part of all PD developments:

a. Roads/Streets: All interior streets and roads may be owned and maintained by the owners association of the development upon recommendation of the planning commission and approval of the Town council. All interior streets and roads must meet the requirements (Town of Apple Valley standards and specifications) for such facilities for the Town of Apple Valley as well as the following:

- (1) The Town may require interior streets and sidewalks through the development and require that the interior streets and sidewalks connect to existing street and sidewalk infrastructure of the Town.
- (2) The provision and/or design of streets is subject to review by the planning commission and approval of the Town council, which may require or allow modifications to the location, layout, or capacity of roads or attach additional requirements such as turn lanes, traffic circles, wider or narrower right of way, pavement widths, medians, traffic calming features, etc., and provided that such modifications meet generally accepted traffic engineering and planning principles that can be justified by the applicant (based upon appropriate traffic engineering studies) and/or verified by the planning commission.

b. Sidewalks: Sidewalks shall be provided according to the requirements of the Town of Apple Valley's specifications and standards. Sidewalks will be owned and maintained by the owners association.

c. Parking:

- (1) Conflict between Provisions: Wherever there is a conflict between the provisions of AVL 10.16 "Off Street Parking Requirements", and this subsection, the more restrictive shall govern unless otherwise recommended by the planning commission and approved by the Town council.
- (2) Spaces Physically Separated: Spaces calculated for residential units, commercial uses, and other permanent spaces shall be physically separated and dedicated exclusively for that use, excluding mixed use components.

- (3) Shared Parking: A shared parking plan may be submitted which indicates a shared parking formula and supporting information. Up to thirty percent (30%) of the total combined required parking may be waived with an approved plan.
- (4) Location of Parking: Parking for PD developments shall be located to the rear, a mixture of side and rear, or underground.
- (5) Illumination of Parking: All parking areas shall be illuminated with light to be focused down so as to provide appropriate visibility and security during hours of darkness using technology and fixtures that will not create a nuisance to other uses within the PD development nor to uses adjacent or nearby the PD development. Wherever there is a conflict between the provisions of AVL 10.26 "Outdoor Lighting Ordinance," and this subsection, the more restrictive shall govern unless otherwise recommended by the planning commission and approved by the town council.

d. Utilities: All utility lines in a PD project shall be placed underground.

4. Landscaping Standards and Requirements: Minimum standards for landscaping in PD developments are necessary to ensure that higher standards of site planning are realized and to tie the separate elements of the mixed development together.

The City has certain water conservation requirements it is passing on to Builders and individual homeowners. In general, area homeowners in the past have utilized approximately fifty percent of their water consumption outdoors. Non-residential activities also tend to use substantial amounts of water outdoors. For these reasons, landscaping is an important aspect of creating a water-efficient community.

A landscaping concept, which is intended to transform typical landscaping techniques, known as "Zeroscape" is a water-efficient landscape concept that involves landscaping with drought-tolerant plants that are either native to the region or suitable to the climate and then providing irrigation to those plants appropriately. Native plants normally get all or most of their water from rainfall. Thirsty plants from other climates often demand much more water and, therefore, are not suitable for use in this type of landscape.

5. Landscape Concept/Theme:
 - a. A landscaping plan must be submitted as part of the Phase Plan.

The level of detail is general in nature illustrating themes, locations and other elements within the overall project. This can be a separate plan or may be integrated with the Phase Plan requirements as part of the Phase Plan submittal. The Phase Plan shall show landscaping in more detail, but calculations and construction drawings are not required until the final plat has been submitted and approved, or a unit site plan approval has been received, as in the case of areas not platted or subdivided.

- b. Entry points to the development shall be landscaped in an attractive manner using plant specimens utilized throughout the remainder of the development.
 - c. Landscaping shall be provided adjacent to all buildings and structures including solid waste receptacles.
 - d. For commercial developments the area between the curb and the setback line shall be landscaped except for areas where the sidewalk extends from the curb to the front of the building, and is part of the sidewalk plan approved by the planning commission.
 - e. A minimum of forty percent (40%) of the project open space shall be landscaped utilizing Xeriscaping and traditional landscaping, or non-Xeriscaping, may account for ten percent (10%) of the total landscaping. Xeriscaping is encouraged and permitted to be utilized in order to meet the minimum landscape percentage requirement.
 - f. Up to fifty percent (50%) of areas allowing general public access may be used to meet landscaping requirements detailed in this section, this credit must be recommended by the planning commission and approved by the Town council.
 - g. See general open space requirements below for additional landscaping requirements.
 - h. Deviations from these requirements may be approved upon recommendation of the planning commission and approval of the Town council, based upon special circumstances enumerated in the recommendation and approval of the deviation.
6. Open Space Standards and Requirements: Common open space is an important element in any planned development serving to provide resting and gathering places, recreation areas, aesthetic complements, storm water percolation areas, and other purposes. Open space for the purpose of the PDR district shall be defined as a portion of a lot or other area of land associated with and adjacent to a building or group of buildings in relation to which it serves to provide light and air, scenic, recreational, resting, or similar purposes. Such space shall, in general, be available for entry and use by the occupants of the building(s) with which it is associated, and at times to the general public. Open space

may include a limited proportion of space so located and treated as to enhance the amenity of development by providing landscaping features, screening or buffering for the occupants or adjacent landowners, or a general appearance of openness. ROADS ARE NOT PART OF OPEN SPACE CALCULATIONS.

a. General Open Space Requirements:

(1) Naturally Occurring Open Areas:

- (A) Naturally occurring open areas are untouched or undeveloped areas existing in their natural state. Examples include slopes, riparian areas, floodplains, washes, and lava beds. The qualification of lands as naturally occurring areas in proposed developments is through the recommendation of the planning commission and approval of Town council based upon site visits, maps, drawings, pictures, etc. Naturally occurring open areas are excluded from total open space and landscaping requirements of the proposed development.
- (B) If naturally occurring areas are deemed appropriate for development by the Town then landscaping and open space requirements, as defined herein, apply to said area to be developed.

(2) Common Open Space Areas:

- (A) Five percent (5%) of developed area must be dedicated as common open space as defined in this section. Specifically, common open space areas do not include areas where a charge may be made for use, such as a golf course, or access is limited due to runoff, such as retention basins or other areas that may be deemed restrictive as determined by the planning commission and Town council.

(3) Open Space Substitutions: Pedestrian and bicycle amenities may substitute for required open space in the following manner:

- (A) Dedicated bike path connecting to existing or planned bike route.
- (B) Open pedestrian bridge.
- (C) Raised pedestrian deck.

Each amenity may be substituted with a one to one (1:1) ratio related to square feet up to fifty percent (50%) of required open space.

7. Non-residential Standards and Requirements:

- a. Location: Location of commercial phases shall be concentrated for maximum pedestrian convenience and located for easy accessibility by residents of the zones, workers within the zones, and visitors. It is highly preferable that commercial uses maintain a street presence in a traditional storefront configuration. Other acceptable locations include the lobby of a building containing other allowable uses. Strip commercial with front parking is generally not acceptable.
- b. Common Walls: Common walls between residential and nonresidential uses are required to be constructed so as to minimize the transmission of noise.
- c. Nuisances: No commercial use shall be designed or operated so as to expose residential uses to offensive odors, dust, electrical interface, and/or vibration.
- d. Outdoor Lighting: All outdoor lighting associated with commercial uses shall be designed so as not to adversely impact surrounding residential uses, while also providing a sufficient level of illumination for access and security purposes. Such lighting shall not be directed toward residential units and shall not include lighting that blinks, flashes, oscillates, or is of unusual brightness or intensity. Outdoor lighting will be directed - downward unless otherwise approved in order to ensure the integrity of the night sky and preclude negative effects on surrounding property owners.
- e. Finishing Materials: Nonresidential planned development shall utilize masonry or decorative wood exterior finishing materials for, at a minimum, the front and sides of the building. If the rear of a building faces a public street or road, this side shall utilize a masonry or decorative wood exterior finish as well. Acceptable masonry finishing materials include brick, stucco, natural or cultured stone, decorative concrete, or terrazzo tile. Unfinished concrete, cinder block, metal panels, plywood, Masonite, and vinyl siding are not acceptable finishes.

I. Application Procedures and Requirements PD projects have five (5) distinct elements:

1. Master Plan: Master Plan review by staff is required and applicants are strongly encouraged, but not required, to submit the Master Plan for

review by the planning commission. Master Plans provide a general concept of the project. There are no specific requirements for a Master Plan because this step is provided solely for the benefit of the applicant to get an initial review and response to the project by staff and the planning commission. The level of detail is low because the applicant is seeking a general reaction to the concept and does not need to spend large amounts of money on detailed engineering drawings. However, it would be useful for the Master Plan to indicate land use distribution, open space, circulation systems, a summary of residential and nonresidential density, and other major elements.

2. Final Plan: The Final Plan is the plan for the development of the entire planned development. The Final Plan shall identify the proposed general circulation/transportation facilities, land uses and proposed densities, and open spaces and natural site features to be preserved between phase locations. If only one phase of the project is proposed, the project must combine the requirements of the Final and Phase Plans into one submittal. Proposed major streets and other circulation infrastructure along major corridors including sidewalks must be clearly indicated on the plan.

The Final Plan shall consist of a professionally designed schematic plan indicating the layout of the development and appropriate written text. Fifteen (15) copies of each graphic and written text in eleven inch by seventeen inch (11" x 17") format; and two (2) color renderings of the plan on thirty-six inch by forty-eight inch (36" x 48") clay coat or similar heavy-duty paper shall be submitted to the Town for review and approval. This plan shall contain the following elements:

a. Final Plan Elements:

- (1) Identify the boundary of the project property;
- (2) Provide a delineation of phases (if applicable) and acreage associated with each phase;
- (3) Indicate total project site area and area by type of land use (i.e., residential, commercial, industrial, office, open space, utilities and right of way, other);
- (4) Indicate proposed land uses including square footage or acreage and percentage of each component;
- (5) Indicate the number of residential units and/or square footage of floor area of nonresidential uses by type (i.e., commercial and office);
- (6) Indicate the density of uses within each land use component or phase using units per acre for residential uses and floor area ratio (FAR) for nonresidential components;

- (7) Show a proposed vehicular and pedestrian circulation plan including entrances and exits and connections to vehicular and pedestrian facilities external to the project property. The project must have a reasonable mix of public and private roadways to maximize circulation efficiency (proposed right of way width and width of roadway must be shown).
 - (8) Show existing natural features of the site including rivers, lakes, ponds, streams, wetlands, steep slopes, mature trees and tree stands, topography at contour intervals of two feet (2'), and other natural features;
 - (9) Show where proposed open space will be provided by type of open space-landscaping area, community green, plaza, formal or informal garden, natural area set aside. Indicate proposed square footage or acreage and percentage of open space as a part of total project, also indicate where public open space will be provided and limits on accessibility;
 - (10) Indicate location of landscaping and buffers and lighting plan; and
 - (11) Typical elevations.
- b. Rezoning Application: In addition, the applicant shall provide a complete rezoning application and a cover letter requesting review of the Final Plan. The Final Plan shall be reviewed by staff and discussed in an informal meeting with the applicant to examine potential areas of nonconformity. Staff, upon review of the plan, will determine whether the project meets the intent of the district and includes the required elements. If the project does not meet with the intent or lacks required elements, staff may reject the Project Plan and notify developer of where deficiencies exist so corrections may be made. However, should the plan meet the intent and contain the required elements, staff will accept the Final Plan and provide the applicant with suggestions for changes and modifications, if any that will prepare the applicant for the submittal of Phase Plans. While the applicant may ask for more than one Final Plan review, at least one review is mandatory.

- c. Review of Final Plan by Planning Commission: After staff officially accepts the Final Plan (completed application submitted and full review by staff completed), the plan will be placed on the planning commission agenda provided that the date the plan is officially accepted by staff is two (2) full weeks (14 days) prior to the planning commission meeting. The planning commission shall review the Final Plan and make a recommendation on the plan and the rezoning of the property. The planning commission shall review the plan for the following elements: how the proposed project meets the purpose of a planned development as provided in subsection A of this section; how the proposed project meets the purpose of the specific planned development zones; the overall project density as well as the density of land use components; land use mix and percentages; general vehicular and pedestrian circulation including the location and capacity of the facilities and connections internally and externally; and open space type, amount and location. Other site and development design criteria shall be reviewed at the Phase Plan stage.
 - d. Review of Final Plan by Town Council: Upon receiving a recommendation from the planning commission and before enacting an amendment to the zoning ordinance, the city council shall hold a public hearing thereon. If approved, the rezoning becomes effective and the Final Plan becomes the official plan of the district, which will determine how Phase Plans are developed.
3. Phase Plan: The Phase Plan shall serve as the preliminary plat for a specific phase of the project or the project as a whole. Most planned developments will consist of a project plan identifying a number of areas of the site with unique or individual land use types. Each of these areas, if developed separately, will require separate final plat approval. Phase Plans must be consistent with the Final Plan or the Final Plan must be revised and approved by the Town. Phase Plans must show lot subdivision, if proposed, internal site circulation within the phase or land use area, specific open space set aside, as well as the requirements for Phase Plans that are provided below.

After the project Phase Plan has been formally reviewed and accepted by staff, recommended for approval by planning commission and approved by the Town council, the applicant shall submit a Final Plan for the improvement of specific phase(s) of the project. Phase Plans may be submitted concurrently with a Final Plan if desired. Fifteen (15) copies of each graphic and written text on eleven inch by seventeen inch (11" x 17") format, and two (2) color renderings of the plan on thirty-six inch by forty-eight inch (36" x 48") clay coat or heavy-duty paper shall be submitted to the Town for review and approval. The Phase Plan shall meet all requirements for a preliminary plat, as outlined in the Town's

subdivision ordinance and this subsection, and shall be submitted in the following format:

a. Phase Plan Elements:

(1) Site Location Plan: Showing where phase is located in relation to overall project plan. This plan shall identify other proposed phases within the project area. This plan shall be submitted at a scale no greater than one inch equals four hundred feet (1" = 400') and show completed phases and future phases in relation to the phase currently proposed.

(2) Site Development Plan: This plan shall include:

(A) Existing boundary streets and access streets to the project;

(B) The boundaries of the site and boundaries of proposed phases;

(C) The delineation of parcel lines, if subdivision will be a part of the development;

(D) Tabulation of site acreage;

(E) Delineation of the development of the entire site. If only a portion of the site is to be improved in the current project (i.e., development in phases), that portion shall be shown in detail on the plan. Subsequent phases or portions on the project may be shown conceptually except that land use, density, and other dimensional requirements shall be provided for these areas. Failure to provide this information or a proposal to modify the proposed elements of a phase as submitted will require the applicant to file a revised PD Phase Plan;

(F) Common facilities, such as recreation amenities, service buildings, garages, and trash collection stations;

(G) Site amenities such as benches, fountains, outdoor art, waste containers, kiosks, etc;

(H) The location of each proposed new building or structure, together with a plan or statement showing the number of stories, height, number of dwelling or commercial units (including details regarding the square footage and/or number of bedrooms, as applicable), proposed uses, and ground coverage of each building;

- (I) Any adjacent property owned by the applicant and the uses planned for that property;
- (J) The location and type of open space to be provided including landscaped area, community green, plaza, formal or informal garden, or natural area set aside. Indicate proposed square footage or acreage and percentage of open space as a part of total project land by phase, if applicable. Required open space shall be provided as common area and be maintained by a homeowners' or merchants' association.
- (K) The proposed minimum and maximum floor areas of buildings and statements and illustrations of the elevations, design, materials, and floor plans of buildings and their identification on the Phase Plan;
- (L) A narrative including tables delineating the percentages of land uses to be a part of the development;
- (M) A statement on the present and anticipated future ownership and control or management of the development delineating responsibilities of maintenance and upkeep of the buildings, streets, sidewalks, drives, parking areas, utilities, common areas, and common facilities; and
- (N) Typical elevations.

The Phase Plan shall be prepared by a registered land surveyor, licensed architect, or licensed engineer.

b. Reviews and Approval of Phase Plan by Planning Commission:

- (1) After a Phase Plan is submitted, the plan shall be placed on the planning commission agenda for the following month provided that the date the plan is officially accepted by staff is two (2) full weeks (14 days) before the planning commission meeting. The planning commission shall review the Phase Plan and make a decision on the plan as a preliminary plat.

- (2) If the project is to be developed in more than one phase, each phase of the development may be submitted for separate final approval. Any proposed change from the approved preliminary plat shall require approval of a revised preliminary plat, which, except where Town council approval is required, may be concurrent with approval of the phase plat.
- c. Final Plat Approval: If land subdivision was required for a phase or land use area, the applicant shall submit an application for final plat approval using the criteria and procedures required under the Town's subdivision ordinance. Covenants, conditions and restrictions are required to be submitted at this time.
- d. Submittal of Subsequent Phases:
- (1) If the project is phased, each phase subsequent to the initial submittal shall be submitted according to the same requirements as the initial Phase Plan. Phases completed shall be shown with as built site renderings on the project locator map indicating what has been already developed.
- e. Amendments to Phase Plan: The planning commission is authorized to approve amendments to the Phase Plan provided that:
- (1) The applicant submits a revised set of plans detailing the proposed change.
 - (2) The proposed change may not:
 - (A) Involve more than a five percent (5%) increase in residential density.
 - (B) Involve more than a ten percent (10%) increase in nonresidential floor area.
 - (C) Involve more than a five percent (5%) decrease in parking allocated.
 - (D) Involve more than a five percent (5%) modification to a dimension including setbacks, height, or lot width.
 - (E) Involve more than a five percent (5%) modification to any other measurable project criteria.
 - (F) Involve more than five percent (5%) change in landscape requirements.

- (3) The proposed change meets all of the requirements and provisions of this subsection and the applicable subdivision requirements.
- (4) The proposed amendments do not alter any approved site development regulations of the plan and do not materially alter other aspects of the plan, including traffic circulation, mixture of use types, or general physical layout.

Any proposed amendments not conforming to these provisions shall be considered major amendments and resubmitted as a revised Phase Plan.

4. Site Plan: The site plan shows the development plan for an individual building site within a specific phase. If there is to be only one phase to the project and all buildings are to be located on one legal lot, a single site plan for the entire project will be permitted.

Site plans must meet all of the requirements for site plan review submittal. Single-family residential lots are not required to submit a site plan for planning commission review. Site plans shall be submitted for individual lots within a phase. More than one building may be contained on an individual lot. Site plans shall be submitted to the planning commission and shall meet all of the criteria for site plans as required. Site plan submittals for planned developments must also contain the following items:

- a. Provide a landscaping plan;
- b. Provide a plan showing how the lot relates to the approved Phase Plan including previously developed sites in the project, the location, required open space, ingress and egress to the lot from the rest of the phase and other adjacent land;
- c. Location of building(s); and
- d. Typical elevations.

Upon completion of the review process, recommendations shall be forwarded to the Town council for their consideration of the applicant's request for a development order.

5. Construction Drawings: Construction drawings must be reviewed and approved prior to construction.

Town council and the project developer in reviewing the standard requirements for development throughout the Town. Realizing that a specific planned development may vary significantly from these standards, through innovative and creative design, the Town council, upon recommendation from the planning commission, may adopt modifications to the above specifications as they see fit in order to provide harmony within a PD zone and as may be requested by the developer. Items of a life/safety nature (i.e., building separation as per fire code, and building code requirements) may not be modified. However, other elements of the plan may be approved according to the specific development plan, map and text being considered as a part of the PD zone change approval.

TABLE 1:

Base Density 1 Unit per Acre w/ 5% Open Space		
1.5 Units per Acre w/ 10% Open Space		
	2 Units per Acre w/ 20% Open Space	
		3 Units per Acre w/ 20% Open Space and 5% Contributed to Conservation Easement Area
Recreational Credit Items (Bold Items Credited to Open Space)		
100% Density Transfer Credit (Non Fee Public Access)		45% Density Transfer Credit (Recreation Fee Based Items)
Public Parks in excess of 3 acres.		Sports Complexes - such as: Baseball fields, soccer, Camping, equestrian facilities, Skate parks, BMX, water parks, Gun & archery clubs.
Trails; Bike, Pedestrian, Equestrian, ATV Access Trails leading to Public Lands.		
Ground donations for; Town, Churches, Schools, Building & Infrastructure for community benefit. Emergency Services, Fire, Ambulance, Police, Hospital.		Privately operated education center Such as nature center, museums.

TABLE 2: PLANNED DEVELOPMENT ZONE DIMENSIONAL STANDARDS

	Zoning District		
	PDR	PDC	PDO
Project and Phase Dimensions:	None	None	None
Minimum Zone size (acres)	5	3	3
Base density (units/acre)	1	n/a	n/a
Minimum open space	5%	5%	5%
Minimum/maximum landscaped area	50%	50%	50%
Lot Area Dimension:			
Building setbacks, detached residences:			
Front setback	20 feet	-	-
Side setback	10 feet	-	-
Street side setback	20 feet	-	-
Rear setback	10 feet	-	-
Building setbacks, attached residences:			
Front setback	20 feet	-	-
Side setback	10 feet	-	-
Street side setback	20 feet	-	-
Rear setback	20 feet	-	-
Building setbacks, other uses:			
Front setback	20 feet	20 feet	20 feet
Side setback	10 feet	10 feet	10 feet
Street side setback	20 feet	20 feet	20 feet
Rear setback	10 feet	10 feet	10 feet
Minimum lot depth	100 feet	100 feet	100 feet
Principal building height	35 feet	35 feet	35 feet
Accessory building height	20 feet	20 feet	20 feet
Storefront development option:			
Front setback	None	None	None

Side setback	None except 10 feet adjacent to residential districts	None except 10 feet adjacent to residential districts	None except 10 feet adjacent to residential districts
Street side setback	None	None	-
Rear setback	None	None	-
Minimum lot depth	100 feet	100 feet	-
Principal building height	35 feet	35 feet	-
Accessory building height	20 feet	20 feet	-
Minimum distance between buildings	10 feet	10 feet	-

10.12 Nonconforming Buildings And Uses

[10.12.010 Maintenance Permitted](#)

[10.12.020 Repairs And Alterations](#)

[10.12.030 Additions, Enlargements And Moving](#)

[10.12.040 Alterations Where Parking Insufficient](#)

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[10.12.060 One Year Vacancy](#)

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[10.12.090 Change Of Use](#)

[10.12.100 Nonconforming Use Of Land](#)

[10.12.110 Temporary Buildings](#)

[10.12.120 Legal Nonconforming Lots](#)

10.12.010 Maintenance Permitted

A nonconforming building or structure may be maintained subject to the requirements of this chapter.

10.12.020 Repairs And Alterations

Repairs or structural alterations may be made to a nonconforming building or to a building housing a nonconforming use, subject to the limitation of AVLU 10.12.030.

10.12.030 Additions, Enlargements And Moving

- A. Approval Required: A building or structure occupied by a nonconforming use and a building or structure nonconforming as to height, area, yard or zoning regulations shall not be added to, remodeled or enlarged in any manner or moved to another location on the lot unless first approved by the planning commission. In approving such request, it must be determined that the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.
- B. Purpose Considered: A building or structure may be enlarged and/or added to if the enlargement or addition is being done for the purpose of causing such building or structure to be conforming with all regulations of the zone in which it is located. Said improvements may be done following the obtaining of a building permit without planning commission approval.

10.12.040 Alterations Where Parking Insufficient

A building or structure lacking sufficient automobile parking area or space in connection therewith as required by this title may be altered or enlarged, provided additional automobile parking spaces are supplied to meet the requirements of this title for such alteration or enlargement.

10.12.050 Restoration Of Damaged Buildings

A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or is destroyed by fire, flood, wind, earthquake or other calamity or act of God, or the public enemy, may be restored and the occupancy or use of such building, structure or part thereof, which existed at the time of such damage or destruction may be continued or resumed; provided, that such restoration is started within a period of one year and is diligently prosecuted to completion.

10.12.060 One Year Vacancy

A building or structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes vacant and remains unoccupied by a nonconforming use for a continuous period of one year, except for dwellings, shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.

10.12.070 Occupation Within One Year

A vacant building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of one year after the use became nonconforming.

10.12.080 Continuation Of Use

The occupancy of a building or structure by a nonconforming use, existing at the time this ordinance became effective, may be continued.

10.12.090 Change Of Use

The nonconforming use of a building or structure may not be changed except to a conforming use; but where such change is made, the use shall not thereafter be changed back to a nonconforming use.

10.12.100 Nonconforming Use Of Land

The nonconforming use of land, existing at the time this ordinance became effective, may be continued; provided, that no such nonconforming use of land shall in any way be expanded or extended either on the same or on an adjacent property without planning commission approval. If such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of one year or more, any future use of such land shall be in conformity with the provisions of this title.

10.12.110 Temporary Buildings

- A. Authorized: A building nonconforming as to type or location may be approved by the building department for use as a temporary residence, sales office or commercial or industrial building during the construction of permanent facilities. Such temporary approval shall not be made for a period exceeding six (6)

months. Extensions may be granted, for cause, by the planning commission for additional six (6) months extensions up to a maximum of twenty four (24) months or four (4) such extensions.

- B. Permanent Office: A temporary building may be approved as a permanent office for a mobile home or recreational vehicle sales lot or an automobile sales lot, subject to approval of the planning commission.

10.12.120 Legal Nonconforming Lots

Lots that were in existence and shown on the records of the county recorder as separate parcels prior to July 1, 2005, are classified as legal nonconforming lots and permits may be issued for residential construction subject to the following conditions:

- A. Residential development must be an approved or a conditional use in the zone.
- B. The lot shall have the lot area required by the zone in which it is located.
- C. The lot shall have access to a public street, a private street or shall have access across a recorded access easement.
- D. A septic tank permit shall have been issued by the southwest public health department.
- E. A water supply shall be available and approved for culinary use by the department of environmental quality, or the southwest public health department, depending upon the number of parcels being served by the proposed source.
- F. All requirements of AVLU 10.32 and all applicable provisions shall be met.

10.14 Short Term Vacation Rental

10.14.010 Purpose

10.14.020 Rules And Regulations

10.14.010 Purpose

Regulations and restrictions imposed by this section are in recognition of the premise that a vacation rental provides lodging for a transient population that may or may not honor neighborhood mores or exhibit neighborly consideration to the same extent as permanent residents. Separation requirements listed in AVLU 10.14.020 B, and total license limits listed in AVLU 10.14.020 C, are based on a desire to maintain the overall residential character of neighborhoods and the purpose of single family residential zones to promote safe locations for residential uses.

10.14.020 Rules And Regulations

- A. Business License Required: No dwelling in a residential zone shall be occupied or used as a short term vacation rental, or advertised for use as a short term vacation rental, until such time that the owner has obtained a short term vacation rental business license issued in accordance with the provisions of this Section.
- B. Conditions for Issuance of a Business License for a Short Term Vacation Rental: In addition to any other requirement of this Section, a short term vacation rental business license shall be approved by the Town Clerk if:
 - 1. The dwelling unit is located in a single family dwelling that has been issued a certificate of occupancy, or a building permit has been issued for the construction of a single family dwelling unit. If a certificate of occupancy has not yet been issued, the business must be operational within six (6) months of the issuance of the business license. If the business is not operating within this time period, the business license may be revoked to enable another business to license a Short Term Vacation Rental in the area. For purposes of this section, "operational" is defined as accepting reservations and being available at least two weeks per month, including the next full month. Portions of a single family dwelling may not be used as a short term vacation rental unless licensed as a bed and breakfast or residential hosting facility in accordance with the regulations for that use. A short term vacation rental and a bed and breakfast or residential hosting facility may not be located in the same single family dwelling.

2. The owner of a single family dwelling for which a short term vacation business license is sought does not hold a business license to operate another short term vacation rental within the Town of Apple Valley limits. For purposes of this paragraph, "owner" means any individual, corporation, partnership, limited liability company, trust or other entity which has a legal or equitable ownership interest in the single family dwelling, or any individual who has an ownership interest in any corporation, partnership, limited liability company, trust or other entity which has a legal or equitable ownership interest in the single family dwelling,
 3. The property line of another dwelling licensed as a short term vacation rental is not located within 300' (three hundred feet), as measured along the same street or around the corner, of the front property line corners of the property where the proposed short term vacation rental license is being sought. No more than 10% of the homes in any subdivision phase or designated area to be defined by the Town, may be licensed as a short term vacation rental.
 4. The application lists the name, address and phone number of the owner or other person designated by the owner as the property manager who shall be responsible for ensuring compliance with the rules and regulations specified in this section. This person shall be a permanent resident of the Town and be ready and willing to receive phone calls at any hour to promptly deal with complaints, violations, or any other safety or nuisance issues.
 5. The contact information of the responsible individual will be given to all property owners/residents within a 300 ft. radius of the short term vacation rental property in question, so they will be able to make direct contact with the responsible individual in the case of a complaint, violation, or any other safety or nuisance issue.
 6. The application includes a valid Utah State Tax number for remittance of transient lodging taxes.
- C. Parking Regulations: The owner of any property licensed as a short term vacation rental shall provide off street parking for guests in accordance with the following:
1. Off street parking shall be provided on the same lot as the dwelling which is licensed as a short term vacation rental.
 2. Parking shall be provided at one vehicle per bedroom. Tandem spaces on a driveway may be used.
 3. All guest parking shall be contained on the site.
 4. No off street parking space may be located in front of the living area of the dwelling unless there is a circular driveway.

5. The number of vehicles allowed by the occupants of a vacation rental home shall be restricted to the number of off street parking spaces provided by the owner.

D. Maintenance Standards: Any property that contains a dwelling which is licensed as a short term vacation rental shall conform to the following standards:

1. Structures shall be properly maintained, painted and kept in good repair, and grounds and landscaped areas shall be properly maintained and watered in order that the use in no way detracts from the general appearance of the neighborhood;
2. The use of a dwelling as a short term rental shall not in any way change the appearance of the dwelling or property for residential purposes; and
3. Each sleeping room must meet current International Residential Code for egress and be equipped with smoke and CO2 detectors. A fire exiting route plan and maximum occupancy number must be posted in each sleeping room.

E. Prevention of Noise, Nuisance or Trespass: The owner of any dwelling licensed as a short term vacation rental shall be responsible to ensure that guests or occupants of the short term rental do not:

1. Create noises that by reason of time, nature, intensity or duration are out of character with noises customarily heard in the surrounding residential neighborhood.
2. Disturb the peace of surrounding residential property residents by engaging in shouting, fighting, playing of loud music, racing of cars or recreational vehicles on streets, engaging in outside recreational activities after 10 p.m., or other similar activities.
3. Interfere with the privacy of surrounding residents or trespass onto surrounding residential properties.
4. Allow pets or animals to create noise, roam the streets, trespass on neighboring properties, or create a mess that is not cleaned up by the owner or custodian of the pet or animal.
5. Engage in any disorderly or illegal conduct, including illegal consumption of drugs and alcohol.

F. Required Posting: The following information must be posted in a clear, concise, and unambiguous manner and in a conspicuous location inside any dwelling licensed as a short term vacation rental:

1. a copy of the vacation rental business license
2. the name, address, and phone number of the owner or property manager
3. the location of all fire extinguishers

4. a list of all rules applicable for vacation rentals
5. the maximum occupancy of the vacation rental and the maximum number of vehicles allowed.

G. Miscellaneous Rules and Regulations: The following rules and regulations shall apply to any dwelling for which a short term vacation rental business license has been issued:

1. Outdoor pools, hot tubs or spas shall not be used between the hours of eleven o'clock (11:00) p.m. and six o'clock (6:00) a.m.
2. Maximum occupancy in any dwelling licensed as a short term vacation rental shall be ten (10) persons at any one time. If, however, the property has a fire sprinkler system or other fire suppression system acceptable to the Apple Valley Fire Department, a greater occupancy may be approved. Maximum occupancy of the dwelling must be included in the regulations sign.
3. The owner of any property containing a dwelling licensed as a short term vacation rental shall cause to be displayed in a town approved location on the exterior of the property an approved sign containing the name and 24 hour-per-day, 365 day-per-year telephone number of the owner or other party designated by the owner as property manager who will be responsible for receiving and resolving complaints regarding activities on the property and the conduct of its occupants and guests. The sign shall not exceed 12" X 18" and shall be the only sign other than an address permitted on a short term vacation rental property. All neighbors surrounding the property in question shall be furnished the same contact information.
4. The owner or property manager shall provide information on current occupants to police, emergency, or town personnel as requested. The owner or other person designated as the property manager shall respond to complaints and concerns within one (1) hour of any phone call or other notification. Failure of the owner or property manager to respond in a timely manner may result in a violation and possible fines to the business license holder and property owner.
5. The requirements of this section shall be in effect throughout the time a short term vacation rental license is in effect on the property, regardless of whether the property is occupied by the owner, non-paying guests of the owner, or paying guests of the owner. The Town of Apple Valley finds that, given the practical difficulty of determining whether or not the occupants are paying guests, enforcement of the requirements contained in this section shall be based on whether the property is licensed as a short term vacation rental.

6. An inspection of a vacation rental property for compliance with these regulations will be performed at the time of business license issuance and renewal each year. There shall be a fee charged for such inspection, to be set by the Town Council. Additional inspections may be performed with 24 hour notice to the license holder/property manager if deemed necessary by the Town.
7. The owner of any dwelling licensed as a short term vacation rental shall be required to collect and remit on a timely basis transient lodging taxes and all other applicable sales and use taxes to the Utah State Tax Commission.

H. Enforcement Provisions:

1. Any owner of any dwelling in a residential zone within the Town of Apple Valley who allows or permits occupation of said dwelling as a short term vacation rental, as defined herein, without having first obtained a business license in accordance with the provisions of this section shall be guilty of a Class B misdemeanor, which shall be punishable by a fine of up to \$1,000, imprisonment for up to 6 months, or any combination thereof for each such violation.
2. Any owner of any dwelling in a residential zone within the Town of Apple Valley, who, having first obtained a business license for use or occupation of said dwelling as a short term vacation rental, thereafter operates or permits operation of said short term vacation rental in violation of the terms and provisions of this section shall be guilty of an Infraction, and shall be punished by a fine of not less than \$750 for each such violation.
3. Any person who occupies a short term rental as a guest and who violates any local ordinance or state law shall be subject to arrest, issuance of a citation, or other criminal process in accordance with all state, federal or local statutes, rules or ordinances.
4. Violation of any provision of this section regulating short term vacation rentals shall constitute a separate offense for each day said violation occurs or continues.
5. In the event of three (3) or more violations of this ordinance committed by an owner or guest, or any combination of the two, within any 12 month period, the town council may proceed with revocation of the business license for any short term vacation rental property in accordance with the provisions of the general business license ordinance.

10.16 Off Street Parking Requirements

10.16.010 Off Street Parking Required

10.16.020 Sizes

10.16.030 Accesses To Individual Parking Spaces

10.16.040 Parking Spaces Required For Residential Areas

10.16.050 Parking Spaces Required For Non-Residential Areas

10.16.060 Shared Parking Facilities

10.16.070 Parking For Disabled

10.16.080 Parking Lot Lights

10.16.090 Development Standards

10.16.100 Uses Not Specifically Identified

10.16.010 Off Street Parking Required

At the time any building or structure is erected or enlarged or increased in capacity, or any use is established or changed, there shall be provided off street parking spaces for automobiles in accordance with the following requirements.

10.16.020 Sizes

The dimensions of each off street parking space shall be at least nine feet by eighteen feet (9' x 18') for diagonal or ninety degree (90°) spaces; or nine feet by twenty two feet (9' x 22') for parallel spaces, exclusive of access drives and aisles.

10.16.030 Accesses To Individual Parking Spaces

Except for single-family and two-family dwellings, access to each parking space shall be from a private driveway and not from a public street.

- A. One-way driveways shall be a minimum of twelve feet (12') in width.
- B. Two-way driveways shall be a minimum width of the following:
 1. Twelve feet (12') for a single-family dwelling, provided access to the parking spaces is directly off of a street without having to go past another building.
 2. Sixteen feet (16') for a dwelling that must go past another building to access parking spaces. The driveway width may be reduced for a single-family dwelling if the planning commission determines that a lesser width is adequate.
 3. Eighteen feet (18') for a single-family or a two-family dwelling that must go past another building to access parking spaces where there are obstructions (i.e., walls, trees, etc.) adjacent to one or both sides of the driveway. The driveway width may be reduced for a single-family dwelling if the planning commission determines that a lesser width is adequate.

- C. All garage and carport spaces shall be set back a minimum of eighteen feet (18') from the Access Street or drive in multiple-family, modular home or townhome developments. All single-family dwellings shall be set back a minimum of twenty five feet (25') from any private street or drive.
- D. Garage and carport spaces of twelve feet by twenty feet (12' x 20') or more shall be counted as one space regardless of vehicle spaces provided in garage or carport in all except single-family residential zones.

10.16.040 Parking Spaces Required For Residential Areas

- A. Specified: The number of off street parking spaces required for residential development shall be as follows:
 - 1. Single-Family Dwelling: Two (2) parking spaces per single-family dwelling as a minimum and sufficient off street parking space for all motor vehicles, campers, boats, farm equipment, etc.
 - 2. All Other Dwellings: All other dwellings, including two-family, multiple-family and group shall have two (2) parking spaces per unit and sufficient off street parking for all motor vehicles, campers, boats, farm equipment, etc.
- B. Area Prohibited For Parking: No parking area shall be located within the front setback which faces on a public street.

10.16.050 Parking Spaces Required For Non-Residential Areas

- A. The number of off street parking spaces required for all nonresidential developments shall be as follows:

Bowling alleys and Billiard halls	5 spaces for each alley, plus 2 spaces for each billiard table therein
Business or professional offices	1 space for each 250 square feet of gross floor area (outside building measurements)
Churches, sports arenas, auditoriums, theaters, assembly halls, lodge halls, or other meeting rooms	1 space for each 3.5 fixed seats of maximum seating capacity, or 1 space for each 35 square feet of seating area within the main auditorium where there are no fixed seats, 18 linear inches of bench shall be considered a fixed seat.
Day nurseries, including preschool and nursery schools	1 space for each staff member plus 1 space for each 10 children for which said establishment is licensed
Educational uses:	
Elementary	3 spaces for each class room
Senior high schools and Jr. High schools	1 spaces for each faculty member, plus 1 space for each 6 regularly enrolled students
College, Universities, Trade schools etc.	2 spaces for each faculty member, plus 1 space for each 3 students
Schools having an arenas or auditoriums	shall meet the requirements of this section
For Churches, sports arenas whichever is greater	
Furniture stores, appliance stores, lumberyards	1 space for each 600 square feet of floor area
Golf Courses	6 spaces per hole
Golf Driving ranges	1 space per tee
Health studios and spas	1 space for each 250 Sq.FT. of gross floor area or 10 spaces minimum, whichever is greater
Hospitals	2 parking spaces for each bed
Hotels, motels, motor hotels	1 space for each lining of sleeping unit plus 2 spaces for resident manager or owner
Libraries	1 space for each 300 square feet of gross floor area

Manufacturing plants, warehouses, storage buildings or structures especially for storage purposes	1 space for each 1,000 square feet of gross floor area a 1 space for each 250 square feet of office or sales space. Adequate parking shall be providing for all employees and or customers at all times.
Mortuaries and funeral homes	5 spaces plus 1 space for each 25 Sq. Ft. of assembly room floor area.
Motor repair and service commercial vehicle sales, automotive	5 spaces plus 1 space for each 400 square feet of gross floor area
Nursing homes	1 parking space for each 3 beds
Restaurants, taverns, lounges, drive-in, drive through, take out restaurants and other establishments where food or beverages are consumed	10 spaces min. or 1 space for each 100 Sq. Ft. of gross floor area whichever is greater
Retail stores and shops, commercial banks, savings and loan offices, other financial institutions, general retail, stores, food stores, supermarkets, drug stores, and other similar commercial businesses	1 space for each 250 feet of gross floor area. For commercial centers containing 500 or more spaces, spaces in excess of 500 shall be calculated on the basis of 1 space for each 500 square feet of gross floor area
Service commercial businesses - Businesses such as electrical, plumbing, cabinets, printing and other similar shops	1 space for each 250 square feet of retail or office area and 1 space for each 500 square feet of additional building area
Skating rinks, ice or roller	1 space for each 500 square feet of gross floor area
Swimming pools (commercial)	1 space for each 100 square feet of water surface or 10 stalls, whichever is greater
Tennis, handball and racquetball courts (commercial)	6 spaces minimum or 3 spaces per court, whichever is greater
Veterinary hospitals	5 for each doctor

- B. Notwithstanding all provisions of this section, all commercial, industrial and professional developments and all other nonresidential uses of land shall provide sufficient off street parking for all employees, business vehicles and equipment, customers, clients and patients of such business, industry or professionally used property, as may be required by the planning commission in addition to spaces presently required by this title.

10.16.060 Shared Parking Facilities

Shared parking facilities may be used jointly with parking facilities for other uses when operations are not normally conducted during the same hours, or when peak uses vary. Requests for shared parking are subject to the approval of the planning commission. Requests shall be subject to the following guidelines:

- A. Conflict During Peak Demand: Sufficient evidence shall be presented to show that there will be no substantial conflict in the periods of peak demand of uses for which the joint use is proposed.
- B. Distance from Use: Parking facilities should not be located further than two hundred fifty feet (250') from any use proposing to use such parking and should be contiguous to the businesses sharing the lot.
- C. Written Agreement: A written agreement shall be executed by all parties concerned assuring the continued availability of shared parking facilities in the event that one of the uses shall be sold or otherwise change ownership or management.

10.16.070 Parking For Disabled

- A. Required: Any parking area to be used by the general public shall provide parking spaces designated and located to adequately accommodate the disabled, and these shall be clearly marked as such. Parking spaces for the disabled shall be located in close proximity to the principal building. The designation of parking spaces for the disabled shall constitute consent by the property owner to the enforcement of the restricted use of such spaces to disabled motorists by the town. Parking spaces for the disabled shall conform to the standards of the Americans with disabilities act. The number of required parking spaces accessible to the disabled shall be as follows:

Total Parking Lot Spaces	Required Minimum Number Of Accessible Spaces
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2% of total
1,001 and over	20 plus 1 for each 100 over 1,000

B. Accessible Van Space: In addition, for every eight (8) accessible parking spaces, one accessible van space must be provided. The dimensions of a standard accessible parking space shall be at least nine feet by eighteen feet (9' x 18') with a five foot (5') wide access aisle (total of 14' x 18'). The dimensions of an accessible van space shall be at least nine feet by eighteen feet (9' x 18') with an eight foot (8') wide access aisle (total of 17' x 18').

10.16.080 Parking Lot Lights

Shall comply with all requirements of AVLU 10.24.040 E.

10.16.090 Development Standards

Every parcel of land hereafter used as a parking lot shall be paved with an approved surfacing material of asphalt or concrete composition, or some other all weather surfacing material approved by the town, and shall have appropriate bumper guards where needed. Lights used to illuminate lots shall be so arranged as to reflect the light away from the adjoining premises wherever those premises are used for residential purposes, unless otherwise approved by the planning commission.

10.16.100 Uses Not Specifically Identified

For all parking uses not listed in this chapter, the planning commission shall determine the number of spaces required based upon the nearest comparable use standard available.

10.18 Motor Vehicle Access And Loading

10.18.010 Access Requirements

10.18.020 Residential Lots; Access

10.18.030 Non Residential Lots; Access

10.18.040 Screening Of Parking Lots

10.18.050 Maintenance Of Parking Lots

10.18.060 Location Of Gasoline Pumps

10.18.070 Off Street Loading Space

10.18.080 Lighting

10.18.090 Garbage Collection Access

10.18.100 Residential Private Street; Access

10.18.010 Access Requirements

Adequate ingress and egress to and from all uses of land shall be provided as follows herein.

10.18.020 Residential Lots; Access

- A. Borrow Ditch; Pipe Size: All driveway connections from a town road to a residential lot shall be constructed using a pipe with a minimum inside diameter of fifteen inches (15") to provide access through the borrow ditch. Said pipe shall have a minimum length of at least two feet (2') beyond the sides of a paved driveway. Every lot, unless curb and gutter is required, shall have a borrow ditch running across the entire frontage of the lot which the property owner is responsible to maintain. The property owner shall be responsible to keep the borrow ditch and pipe clean of any debris or material that would impede the flow of water through the pipe and/or the borrow ditch.
- B. Inspection Prior To Occupancy Permit: No occupancy permit will be issued by the building department until the lot access has been inspected and approved by the town.
- C. Limited Number of Driveways: No residential lot shall have more than two (2) driveways unless approved by the planning commission.
- D. Distance between Driveways: No driveway shall be closer than sixteen feet (16') to another driveway or be more than twenty eight feet (28') in width unless approved by the building official. In no event shall the combined width of such driveways exceed fifty six feet (56') or fifty percent (50%) of the entire lot frontage, whichever is less.
- E. Corner Lots: In no event shall a driveway be placed on any corner lot within a distance of twenty five feet (25') from the point of curvature of the radius, or forty feet (40') from the intersection of property lines nearest the intersection, whichever is farther from the intersection.

10.18.030 Non Residential Lots; Access

- A. Spacing: Not more than two (2) driveways shall be used for each one hundred feet (100') or fraction thereof of street frontage on any street. Greater spacing may be required by the planning commission on streets designated as having limited access.
- B. Distance between Driveways: No driveway shall be closer than sixteen feet (16'). A single drive may serve businesses on both sides of a common property line.
- C. Width: Each driveway shall be not more than thirty six feet (36') in width, unless otherwise approved by the building official, measured at right angles to the centerline of the driveway, except as increased by permissible return radius. The entire flare of any return radius shall extend across such extended property line.

10.18.040 Screening Of Parking Lots

The sides and rear of any off street parking lot which faces or adjoins a residential district shall be screened from such district by a masonry wall or solid visual barrier fence or earth berm no less than four (4) or more than six feet (6') in height.

10.18.050 Maintenance Of Parking Lots

Each parking lot shall be permanently maintained.

10.18.060 Location Of Gasoline Pumps

Gasoline pumps shall be set back not less than eighteen feet (18') from any street property line to which the pump island is vertical and fourteen feet (14') from any street line to which the pump island is parallel, and not less than twelve feet (12') from a side boundary line. If the pump island is set at an angle on the property, it shall be so located that automobiles stopped for service shall not extend over the property line.

10.18.070 Off Street Loading Space

On the same premises with every building, structure or part thereof, erected and occupied or increased in capacity after the effective date hereof, for manufacturing, storage, warehouse, goods display, department store, grocery store, hotel, hospital, or any similar use involving the receipt or distribution by vehicle of materials or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading and unloading services in order to avoid undue interference with public use of streets or alleys. In no case shall required loading and unloading spaces be part of that area used to satisfy the parking requirement.

10.18.080 Lighting

In nonresidential parking lots identified in section lighting shall be used to illuminate the parking lot during evening business hours. All lights shall be arranged to reflect the light away from adjoining premises used for residential or sleeping purposes, and away from street traffic.

10.18.090 Garbage Collection Access

All projects requiring central garbage collection (dumpsters) shall provide convenient access to collection areas. Collection areas shall be screened from street views and shall be maintained in a clean and sanitary manner.

10.18.100 Residential Private Street; Access

- A. No turnaround or cul-de-sac shall be required on dead end private streets one hundred fifty feet (150') or less in length measured from the centerline of the intersecting road with three (3) units or less fronting the street.
- B. The maximum length of any dead end private street shall be six hundred feet (600') unless otherwise approved by the planning commission.
- C. All turnarounds shall be used solely as a turnaround, and not as a joint use for such things as parking, trash pick up or other streets.

10.20 Conditional Uses

[10.20.010 Purpose](#)

[10.20.020 Permit Required](#)

[10.20.030 Application Process](#)

[10.20.040 Application Fee](#)

[10.20.050 Development Plan](#)

[10.20.060 Land Use Authority Action](#)

[10.20.070 Town Council Action](#)

[10.20.080 Time Limitations](#)

[10.20.090 Approval Of Plan And Inspections](#)

[10.20.100 Revocation](#)

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.

10.20.020 Permit Required

An approved conditional use permit shall be required for each conditional use listed in this title. No building permit or other permit or license shall be issued for a use requiring conditional use approval until a conditional use permit shall first have been approved by the planning commission.

10.20.030 Application Process

Application for a conditional use permit shall be made at the office of the planning commission in the same manner as a request for a zone change, subdivision review or other similar planning request.

10.20.040 Application Fee

The conditional use permit application shall be accompanied by a filing fee in an amount as may be established by the town council from time to time.

10.20.050 Development Plan

- A. The applicant for a conditional use permit shall prepare a site plan and elevations (as may be necessary) for the site development proposed to be developed. The plan shall be drawn to scale and shall show all existing and proposed buildings, fences, general landscape layout, automobile circulation and parking, loading areas, garbage collection areas, lighting, signs, topographic maps for irregular land, soils reports, vicinity map, drainage plan and any other

information that the planning department may deem necessary to properly consider the application.

- B. The planning commission will not consider the conditional use permit without the preparation and submission of an accurate and complete development plan.

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.

10.20.070 Town Council Action

Any person adversely affected by any decision of the planning commission may petition the town council for a review of the decision. Any petition to the town council shall be filed within thirty (30) days after the planning commission decision is final.

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.

10.20.090 Approval Of Plan And Inspections

Upon approval of plans by the town, a copy of the approved plan shall be placed on file in the office of the planning department. The building inspector shall inspect the conditional use site during the course of construction and shall ensure that the development on site complies with the conditions of the use permit as on file in the planning department.

10.20.100 Revocation

A conditional use permit may be revoked upon failure to comply with the conditions imposed with the original approval of the permit and the applicant shall be so notified of revocation by the town. The permit may be reinstated upon determination by the planning commission that the cause for revocation has been corrected and that the applicant intends to complete the project according to the plan approved by the planning commission at the time the permit was originally issued, or as they might have been properly amended by the planning commission from time to time during construction of the conditional use.

10.22 Signs

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10.22.010 Purpose And Objectives

- A. The purpose of these sign regulations is to encourage the effective use of signs as a means of communication in the town; to maintain and enhance the aesthetic environment and the town's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign restrictions. Accordingly, the town adopts these regulations to provide for a healthy business environment considering safety aspects while maintaining those aesthetic qualities reflective of the natural surroundings. This chapter is adopted under the zoning authority of the town in furtherance of the more general purposes set forth in this zoning title. It supersedes all previous ordinances or sections pertaining to the same.
- B. The goals to be achieved by these regulations are:
1. To establish a permit system to allow a variety of types of signs in commercial and industrial zones and a limited variety of signs in other zones, subject to the standards and the permit procedures of this chapter;
 2. To allow certain signs that are small, unobtrusive and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this chapter, but without a requirement for permits;
 3. To provide for temporary signs without commercial messages in limited circumstances in the public right of way;

4. To prohibit the construction of any new off premises signs throughout the town;
5. To prohibit all signs not expressly permitted by this title;
6. To stimulate harmony within the community while allowing for competitive opportunities and protection of property values to preserve a healthy business environment and a sustainable economy;
7. To create a town image that reflects the surrounding natural scenic grandeur;
8. To establish a visual management corridor along our scenic Highways
9. Provision for the safety of pedestrians and motorists and promotion and protection of the public welfare; and
10. To provide for the enforcement of the provisions of this chapter.

10.22.020 General Requirements

- A. A sign may be erected, placed, established, painted, created or maintained in the town only in conformance with the standards, procedures, exemptions and other requirements of this chapter.
- B. Sign Approval: Except as otherwise provided, it shall be unlawful and an infraction to erect or maintain any sign or outdoor advertising structure in the town of Apple Valley without first obtaining the approval of the planning commission for said sign or advertising structure, the giving of which shall be based upon the provisions of this title. Said approval shall not be required for exempt signs that meet the requirements of this title.
- C. Variances: Any person or entity desiring a waiver or modification of the requirements of this chapter as applied to a sign that such person owns, leases, or in which such person holds some other beneficial interest, may apply to the town council for a variance in accordance with this title.
- D. Appeals: Any person aggrieved by a decision of the planning commission may appeal in writing within fifteen (15) days of said decision pursuant to this title.

10.22.030 Definitions

Words and phrases used in this chapter shall have the meanings set forth in this section. Words and phrases not defined in this section but defined in this zoning title shall be given the meanings set forth in such title. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this chapter.

ANIMATED SIGN: Any sign that uses movement or change of lighting to depict action or create a special effect or scene. A sign on which the message changes more than eight (8) times per day.

BANNER: Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business, shall not be considered banners.

BEACON: Any light with one or more beams directed into the atmosphere or directed on one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

BILLBOARD: A freestanding sign that exceeds the maximum allowable dimensions of freestanding signs as set forth in this title.

BUILDING INSPECTOR: The building inspector of the town or his or her designee.

BUILDING MARKER: Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

BUILDING SIGN: Any sign attached to any part of a building, as contrasted to a freestanding sign.

CANOPY SIGN: Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic or structural protective cover over a door, entrance, window, or outdoor service.

CHANGEABLE COPY SIGN: A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign.

COMMERCIAL MESSAGE: Any sign wording, logo, or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service, or other commercial activity.

FLAG: Any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of government, political subdivision or other official entity.

FREESTANDING SIGN: Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

IDENTIFICATION SIGN: Any sign which indicates the business name or official entity.

INCIDENTAL SIGN: A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking", "entrance", "loading only", "telephone" and other similar directives. No sign with a commercial message shall be considered incidental.

LOT: Any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record that is recognized and intended as a unit for the purpose of transfer of ownership.

MARQUEE: Any permanent roof like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

MARQUEE SIGN: Any sign attached to, in any manner, or made a part of a marquee.

NONCONFORMING SIGN: Any sign that does not conform to the requirements of this chapter.

PENNANT: Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind. Individual pennants shall not measure more than eight inches by fifteen inches (8" x 15") triangle.

PERSON: Any association, company, corporation, firm, organization, or partnership, singular or plural, of any kind.

PORTABLE SIGN: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs connected to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right of way, unless said vehicle is used in the normal day to day operations of the business.

PRINCIPAL BUILDING: The building in which is conducted the principal use of the lot on which it is located. Zone lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages and other clearly accessory uses shall not be considered principal buildings.

PROJECTING SIGN: Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches (6") beyond the surface of such building or wall.

RESIDENTIAL SIGN: Any sign located in a district zoned for residential uses that contains no commercial message.

ROOF SIGN: Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure and extending vertically above the highest portion of the roof.

ROOF SIGN, INTEGRAL: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches (6").

SETBACK: The distance from the property line to the nearest part of the applicable building or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

SIGN: Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

STREET: A strip of land or way subject to vehicular or pedestrian traffic that provides direct or indirect access to property, including, but not limited to, alleys, avenues, boulevards, courts, drives, highways, lanes, places, roads, terraces, trails or other thoroughfares.

STREET FRONTAGE: The distance for which a lot line adjoins a public street, from one lot line intersecting said street to the farthest distant lot line intersecting the same street.

SUSPENDED SIGN: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

TEMPORARY SIGN: Any sign that is used only temporarily and is not permanently mounted. The signs shall be removed when the event advertised is complete or within six (6) months of installation.

TIME/TEMPERATURE SIGN: An animated sign on which the only copy that changes is an electronic or mechanical indication of time or temperature.

WALL SIGN: Any sign attached parallel to, but within six inches (6") of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

WINDOW SIGN: Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

ZONE LOT: A parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage and use, and that can provide such yards and other open spaces as required by zoning regulations.

10.22.040 Permit Process

A. Permits In General: The approval of the planning commission shall be evidenced

by a permit issued by the building inspection division. All signs shall be constructed and all permits shall be issued in accordance with the provisions of the uniform building code.

B. Permit Requirements:

1. A permit is required if a sign requiring a permit under the provisions of this chapter is to be placed, constructed, erected, or modified on a zone lot. The owner of the lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a sign in accordance with the requirements of this section.
2. The property owner shall maintain in force, at all times, a sign permit for such sign in accordance with this section.
3. No sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of this chapter.

C. Off Premises Permits: Permits for off premises nonconforming signs shall be renewed on an annual basis. Applications for permits, or for the renewal of permits, shall require the applicant to disclose the owner of the sign and the owner of the property 116 on which the sign is or will be located, all relevant dates in regard to expiration of any lease or lease option, the date and cost of construction of the sign, the date and cost of any modification of the sign, the fair market value as appraised for property tax purposes, the date the sign will be depreciated for federal income tax purposes, the cost of operating the sign, and any other information reasonably required by the planning commission.

D. Revocation: A permit may be revoked and a sign removed pursuant to this code if the applicant for a permit makes a false or misleading statement in the permit application or renewal.

E. Permit Procedures: The following procedures shall govern the application for and the issuance of all sign permits under this chapter:

1. Application for Permit: All applications for sign permits shall be submitted to the building inspector on an application form provided by the building inspector. Any sign requiring a conditional use permit shall make application for planning commission review. Planning commission shall set the conditions for the signage in question. Any appeal of the planning commission decision shall go before city council.
2. Fees: Each application for a sign permit shall be accompanied by the applicable fees set forth in this section, which shall be established by the town council from time to time by resolution.

3. Completeness: Within fifteen (15) days of receiving an application for a sign permit, the building inspector shall review it for completeness. If the building inspector finds that it is complete, the application shall then be processed. If the building inspector finds that it is incomplete, the building inspector shall, within such fifteen (15) day period, send a notice to the applicant of the specific ways in which the application is deficient, with appropriate references to the applicable sections of this chapter.

4. Action on Plan:

a. Approve or Reject: The building inspector shall either:

- (1) Approve the proposed plan if the sign as shown on the plan and the plan itself conforms in every respect with the requirements of this chapter; or
- (2) Reject the proposed plan if the sign as shown on the plan or the plan itself fails in any way to conform to the requirements of this chapter. In the case of a rejection, the building inspector shall specify in the rejection the section or sections of this chapter with which the plan is inconsistent.

b. Permits to Construct or Modify: Signs identified in this chapter as requiring a permit, may be installed or created only in accordance with a duly issued and valid sign construction permit from the building inspector. Such permits shall be issued only in accordance with the following requirements and procedures:

- (1) Permit For New Sign Or Sign Modification: An application for construction, creation or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawings to show the dimensions, design, structure and location of each particular sign then in effect for the zone lot. One application and permit may include multiple signs on the same zone lot.

- (2) Inspection: The building inspector shall cause an inspection of the zone lot for which each permit for a new sign or for modification of an existing sign is issued during the six (6) month period after the issuance of such permit or at such earlier date as the owner may request. If the construction is not substantially complete at the time of inspection, the permit shall lapse and become void. If the construction is substantially complete, but not in full compliance with this chapter and applicable codes, the building inspector shall give the owner or applicant notice of the deficiencies and shall allow an additional thirty (30) days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse. All records on permitted signs shall be kept and maintained at the city offices by the building inspector.
- c. Term of Permit; Renewable: The owner of a zone lot containing signs requiring a permit under this chapter shall at all times maintain in force a sign permit for such property. Sign permits shall be issued for individual zone lots, notwithstanding the fact that a particular zone lot may be included with other zone lots in a common signage plan. Sign permits shall be issued for twelve (12) months. Signs shall be automatically renewed so long as no changes have occurred or the sign permit has not lapsed.
- (1) Initial Sign Permit: An initial sign permit shall be issued by the building inspector covering the period from the date of the inspection of the completed sign installation, construction, or modification through the last day of the calendar year.
 - (2) Lapse Of Sign Permit: A continuing sign permit shall lapse if not renewed or if the business license for the premises lapses, is revoked or is not renewed. A sign permit shall also lapse if the business activity on the premises is discontinued for a period of one hundred eighty (180) days or more and is not renewed within thirty (30) days of a notice from the city to the last permittee, sent to the premises, that the sign permit will lapse if such activity is not renewed.
 - (3) Assignment of Sign Permits: A current and valid sign permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises, subject only to filing such application as the building inspector may require and paying any applicable fee.

- F. Fee Schedule: The fees for sign permits and plans shall be as established by resolution by the town council. This fee schedule may be modified from time to time by resolution.

10.22.050 Classifications Of Sign

Every sign erected or proposed to be erected within the town shall be classified by the planning commission in accordance with the definitions of signs contained in this chapter. Any sign which does not clearly fall within one of the classifications shall be placed in the classification which the sign, in view of its design, location, and purpose, most clearly approximates in the opinion of the planning commission.

10.22.060 Prohibited Signs

In addition to any sign not specifically permitted or allowed in accordance with this chapter, the following signs are prohibited:

- A. Billboards; Off Premises Signs: No outdoor off premises advertising signs shall be constructed or erected after the effective date hereof. Any replacement sign shall conform to all provisions of this chapter. This subsection is not meant to prohibit temporary signs off premises advertising yard sales, open houses, or other similar residential related activities.
- B. Others Specified: All signs not expressly permitted or allowed under this chapter or exempt from regulation hereunder in accordance with this chapter, are prohibited in the town. Such signs include, but are not limited to:
1. Beacons.
 2. Billboards.
 3. Strings of lights not permanently mounted to a rigid background, except those exempt in this chapter.
 4. Inflatable signs and tethered balloons.
 5. Faded, torn or stained flags are prohibited.
 6. Signs designed for emitting sound, smoke, or steam.
 7. Natural object used as a sign. No sign shall be painted on or affixed to any natural object in its natural location such as, but not limited to, a boulder, tree, or cliff face.
 8. Vehicle signs. Signs affixed upon a vehicle, trailer or the like, parked conspicuously so as to attempt to direct attention to a place of business in an effort to circumvent the provisions of this chapter. This shall apply to vehicles parked on either public or private property. This shall not be construed as to prohibit customized automobile license plates.

9. Signs which bear or contain statements, words or pictures of an obscene or pornographic character (as defined by the U.S. supreme court in Miller vs. California, 413 U.S. 15, 24 (1973)), and anything that demeans or otherwise degrades religions, races, sexes or ethnic groups.

10.22.070 Exempt Signs

The following signs shall be exempt from permit regulation under this chapter:

- A. No Permit Required: The following signs shall be allowed without a sign permit under the noted conditions and shall not be included in the determination of type, number or area of signs allowed on premises. Any other signs exceeding the conditions specified in this section (i.e., number, size, type, or area), shall require a permit as prescribed in this chapter. Exempt signs are subject to the provisions of this chapter regarding the safety, maintenance, and repair of signs. Exempt signs shall be compatible with the overall purpose and intent of these regulations.
 1. Public notices; warnings: Any public notice or warning required by a valid and applicable federal, state or local law, regulation or ordinance.
 2. Interior signs: Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet (3') beyond the lot line of the zone lot or parcel on which such sign is located.
 3. Holiday lights, decorations: Holiday lights and decorations with no commercial message.
 4. Traffic control signs: Traffic control signs on private property, such as stop, yield and similar signs, the face of which meet department of transportation standards and which contain no commercial message.
 5. Construction signs: One non-illuminated sign per construction project not to exceed eight (8) square feet in area, nor six feet (6') in height, used to indicate owner, general contractor, architect, and other pertinent construction data. Such signs shall be erected no more than five (5) days prior to the beginning of construction for which a valid building permit has been issued, shall be confined to the construction site, and shall be removed within five (5) days of completion.

6. Directional or instructional signs: Signs not to exceed four (4) square feet in area, used to identify restrooms, public telephones, walkways or signs providing direction such as parking lot entrance and exit signs and those of similar nature. Such signs shall be located entirely on the property to which they pertain and shall not in any way advertise or otherwise mention a business. Such signs shall be either wall mounted or freestanding. If freestanding and such sign is located adjacent to a primary street, it shall be placed at the driveway or sidewalk entrance to the property closest to the item being identified. Freestanding directional signs shall not exceed three feet (3') above grade. If wall mounted, no portion of such sign shall be placed higher than eight feet (8') above grade. Directional or instructional signs visible from the public right of way shall not exceed two (2) such signs per business or business center.
7. Flags:
 - a. Flags flown on a temporary basis for purposes of honoring national or civic holidays.
 - b. Any official flag, pennant, or emblem of any nation, state, city or other political unit, provided all such flags or emblems shall not exceed twenty five feet (25') in height.

10.22.080 Sign Standards

All signs requiring permit approval shall comply with the following standards and regulations and these standards and regulations shall be considered minimum requirements in reviewing all applications for sign permits:

- A. Materials: All signs shall be constructed of permanent materials.
- B. Attachment: All signs shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure except for banners, flags, temporary signs, and window signs.
- C. Visibility: No sign shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision of traffic or create a safety hazard.
- D. Signs on Private Property: Signs shall be allowed on private property in the city in accordance to specifications set forth in this chapter.
- E. Signs in The Public Right of Way: No signs shall be allowed in the public right of way, except as listed hereafter. Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

1. Permanent Signs: Permanent signs, including:

- a. Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information such as chamber of commerce at each city entrance, and direct or regulate pedestrian or vehicular traffic;
 - b. Bus stop signs erected by a public transit company;
 - c. Information signs of a public utility regarding its poles, lines, pipes or facilities; and
 - d. Awning, projecting and suspended signs projecting over a public right of way in conformity with the conditions of this chapter.
2. Temporary Signs: Temporary signs in accordance with this chapter, meeting the following requirements:
- a. No Commercial Message: Such signs shall contain no commercial message; and
 - b. Emergency Signs: Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right of way.
- F. Fire Escapes: No sign shall be erected in such a manner that any portion of the sign or its support, will interfere with the use of any fire escape, exit, or standpipe, or obstruct any required stairway, door, ventilator, or window.
- G. Utility Lines: No sign shall be erected or maintained which has less horizontal or vertical clearance from communication lines and energized electrical power lines than that prescribed by the laws of the state of Utah or rules and regulations duly promulgated by agencies thereof.
- H. Clearance: No sign shall be erected in such a manner that any portion of the sign or its support will extend over a public or private walkway with a minimum clearance of less than twelve feet (12').
- I. School Zones: No sign shall be erected within twenty feet (20') of a school zone except for those signs designated in this section.

10.22.090 Unlawful Signs, Removal, And Indemnification

- A. Compliance with Code: All signs shall be maintained in good structural condition, in compliance with the appropriate detailed provisions of the building code relating to design, structural members, and connections. Signs shall also comply with the provisions of the national electrical code and additional construction standards hereinafter set forth in this section.
- B. Abandoned Signs: Any sign, including all structural, support and other componential elements, which is located on a property, premises or structure which:

1. Becomes vacant and unoccupied for a period of one hundred eighty (180) days or more,
 2. Pertains to a time, event or purpose which no longer applies, or
 3. Pertains to an occupant or business different from the resident occupant or business shall be deemed to have been abandoned. Abandoned signs shall be removed according to the provisions of this section.
- C. Dangerous or Defective Signs: No person shall maintain or permit to be maintained on any premises owned or controlled by him, any sign which is in a dangerous or defective condition. Dangerous or defective signs shall be removed in accordance with this section.
- D. Unlawful Signs:
1. Any sign displayed, erected, installed, suspended, attached, moved, enlarged, replaced, converted or altered after the effective date hereof, which does not comply with the provisions of this title, shall be deemed unlawful. Any work in progress on such sign shall be ordered by the planning commission or designee to cease immediately and said sign shall be removed in accordance with the provisions of this section.
 2. Signs which are not in compliance with this chapter and are therefore considered unlawful according to this section and which continue to be in noncompliance according to the provisions of these sign regulations, shall be deemed unlawful, and shall be removed according to the provisions of this section.
- E. Removal Of Signs: The planning commission or designee shall cause to be removed any sign not in compliance with safety or maintenance standards, abandoned signs, dangerous or defective signs, or unlawful signs. The planning commission or designee shall prepare a notice which shall describe the sign and specify the violation involved and which shall state that if the sign is not removed or the violation is not corrected within fifteen (15) days, the sign shall be removed in accordance with the provisions of this section.
1. Notices: All notices shall be mailed by certified mail to the owner of the property on which the sign is located, the owner of the sign and the occupant of the property. If any such person is unknown or cannot be found, notice shall be mailed to such person's last known address, if any, and shall be posted on said sign or on the premises.
 2. Time Periods: Any time periods provided in this section shall be deemed to commence on the date of the certified mailing. If more than one notice is sent by certified mail, the date of the first notice mailed shall apply. Signs may be required to be removed as a condition of a conditional use permit without further notice.

3. Appeal: The sign owner or property owner on whose property the sign is located may appeal the determination ordering removal or compliance by filing a written notice of appeal with the planning commission within fifteen (15) days after mailing of the notice pursuant to this chapter.
4. Emergency Abatement: Notwithstanding the above, in cases of emergency, the planning commission or designee may cause the immediate removal of a dangerous or defective sign without notice.

10.22.100 Disposal Of Signs

- A. Authority: Any sign removed by abatement by the planning commission or designee pursuant to the provisions of this chapter shall become the property of the town and may be disposed of in any manner deemed appropriate by the town. The cost of removal and disposal shall be considered a debt owed to the town by the owner of the sign and the owner of the property, and may be recovered in an appropriate court action by the town. The cost of removal and disposal shall include all incidental expenses incurred by the town in connection with the sign removal and disposal.
- B. Emergency Removal: When it is determined by the planning commission or designee that said sign would cause an imminent danger to the public safety, and contact cannot be made with the sign owner or property owner, no written notice shall have to be served. In this emergency, the planning commission or designee may correct the danger, all costs being charged to the sign owner and property owner.
- C. Sale of Signs: If it shall be necessary for the planning commission or designee to remove a sign pursuant to the provisions hereof, and it should be practical to sell or salvage any material derived in the aforesaid removal, the planning commission may sell the same at private or public sale at the best price obtainable, and shall keep an account of the proceeds thereof. Such proceeds, if any, shall be used to offset the costs of removal to be charged to the sign owner or property owner. The town may file suit in court to collect any excess over such proceeds and the cost of such removal shall be levied as an assessment against the property on which the sign is located.

10.22.110 Area And Height Computation

The following principles shall control the computation of sign area and sign height:

- A. Single Faced Signs: The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework,

bracing or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

- B. Multifaced Signs: The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two (2) identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than twenty four inches (24") apart, the sign area shall be computed by the measurement of one of the faces.
- C. Height: The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:
1. Existing grade prior to construction; or
 2. The newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for locating the sign.

In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is lower.

- D. Maximum Total Permitted Sign Area For Zone Lot: The permitted sum of the area of all individual signs on a zone lot shall be computed by applying the formulas provided in this chapter to the lot frontage, building frontage, or wall area, as appropriate, for the zoning district in which the lot is located. Lots fronting on two (2) or more streets are allowed the permitted sign area for each street frontage. However, the total sign area that is oriented toward a particular street may not exceed the portion of the lot's total sign area allocation that is derived from the lot, building, or wall area frontage on that street.

10.22.120 Sign Standards Table For Residential, Industrial And Commercial

Sign Type	Residential Zones	Size And Number Allowable	Industrial And Commercial Zones	Size And Number Allowable
Animated	Prohibited	X	Conditional use permit (commercial zones only)	Conditional use permit
Permitted (industrial zone only)	Contact city for size and number			
Banner	Allowed	5 percent wall area 1 per building	Allowed	5 percent wall area 1 per building 12 foot clearance
Beacon	Prohibited	X	Prohibited	X
Billboard	Prohibited	X	Prohibited	X
Building marker	Allowed	4 square feet	Allowed (industrial zone only)	4 square feet
Permitted (commercial zones only)	Contact city for size and number			
Canopy	Prohibited	X	Permitted	25 percent of vertical surface of canopy 12 foot clearance
Changeable copy	Prohibited	X	Permitted	64 square feet
Flag	Allowed	16 foot clearance 18 foot height	Allowed	16 foot clearance 18 foot height
Freestanding	Permitted	32 square feet 5 foot height 10 foot setback	Permitted	64 square feet 25 foot height 10 foot setback
Identification	Allowed	5 percent total wall area	Allowed	20 percent total wall area
Incidental	Allowed	6 square feet		64 square feet

Marquee	Prohibited	X	Conditional use permit (commercial zones only)	Conditional use permit
Permitted (industrial zone only)	Contact city for size and number			
Pennant	Prohibited	X	Allowed	2 per building 12 foot clearance
Portable	Prohibited	20 square feet	Allowed	20 square feet
Projecting	Prohibited	X	Permitted	40 square feet 12 foot clearance
Residential	Allowed	20 square feet	Allowed	20 square feet
Roof	Prohibited	X	Permitted	40 square feet 1 per principal building
Roof/integral	X	X	Permitted	20 square feet 2 per principal building
Suspended	Prohibited	X	Permitted	20 percent total wall area 1 per entrance 12 foot clearance
Temporary	Allowed	32 square feet	Allowed	32 square feet per 50 foot frontage
Time/temperature	X	X	Conditional use permit (commercial zones only)	Conditional use permit
Permitted (industrial zone only)	Contact city for size and number			
Wall	Allowed	1 per building	Allowed	20 percent total wall area
Window, permanent	Allowed	20 percent total area	Allowed	20 percent total area

Window, temporary	Allowed	1 per building 20 percent total area	Allowed	No limitation
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Notes:

A. Total Signage:

1. Residential Zone: Total area of all signs, except building markers and flags, shall not exceed 64 total square feet.
2. Commercial Zone: Total area of all signs, except building markers and flags, not to exceed 300 total square feet; and should be less than 10 percent of ground floor area.
3. Industrial Zone: The total area of all signs, except building markers and flags, shall not exceed 300 square feet. The total sign area shall not exceed 10 percent of ground floor area of the principal building.

B. Typical Setback: Typical setbacks in residential and commercial zones shall be 10 feet unless otherwise specified.

C. Sign Location In Intersections: Signs shall be located such that there is at every street intersection, a clear view between heights of 3 feet and 10 feet within a triangular area formed by the corner and points on the curb 30 feet from the intersection or entranceway.

D. Lots Fronting Two Or More Streets: Lots fronting on 2 or more streets are allowed the permitted signage for each street frontage, but signage cannot be accumulated and used on 1 street in excess of that allowed for lots with only 1 street frontage.

E. Total Wall Area: Total wall area shall be computed without using window area.

10.22.130 Nonconforming Signs

Except as otherwise provided herein, the owner of any zone lot or other premises on which exists a sign that does not conform with the requirements of this chapter or for which there is no current and valid sign permit shall be obligated to remove such sign or, in the case of a nonconforming sign, to bring into conformity with the requirements of this chapter.

A. Signs Existing On Effective Date: For any sign existing in the city on the effective date hereof, an application for a sign permit must be submitted to the building inspector before the expiration of six (6) months from the effective date hereof. For any sign on property annexed later, applications for sign permits shall be submitted within six (6) months of the effective date of the annexation or within such period as may be established in an annexation agreement between the city and the landowner. Signs that are the subject of applications received after the

applicable date set forth in this section shall be subject to all of the terms and conditions of this chapter and shall not be entitled to the protection of this chapter.

B. Nonconforming Existing Signs; Permits and Terms:

1. Permit Issued: A sign that would be permitted under this chapter only with a sign permit, but which was in existence on the effective date hereof or a later date when the property is annexed to the city, and which was constructed in accordance with the ordinances and other applicable laws in effect on the date of its construction, but which by reason of its size, height, location, design or construction is not in conformance with the requirements of this chapter, shall be issued a nonconforming sign permit if an application in accordance with subsection A of this section is filed within six (6) months of the above date or within six (6) months of property annexation.
2. Term: Such permit shall allow the signs subject to such permit, which were made nonconforming by the adoption of this chapter, to remain in place and be maintained for a period ending no later than five (5) years; provided, that no action is taken which increases the degree or extent of the nonconformity. Such signs are also subject to the provisions of subsection B,4 of this section. A change in the information on the face of an existing nonconforming sign is allowed; however, any nonconforming sign shall either be eliminated or made to conform with the requirements of this section when any proposed change, repair or maintenance would constitute an expense of more than twenty five percent (25%) of the lesser of the original value or replacement value of the sign.
3. Lapse of Nonconforming Sign Permit: A nonconforming sign permit shall lapse and become void under the same circumstances as those under which any other sign permit may lapse and become void.
4. Sign Removal Required: A sign that was constructed, painted, installed or maintained in conformance with a permit under this chapter, but for which the permit has lapsed or for which the time allowed for the continuance of a nonconforming sign has expired, shall immediately be removed by the property owner, including the supporting structure, upon the city's request.

10.22.140 Violations And Remedies

- A. Specified Violations: Any of the following shall be a violation of this chapter and shall be subject to the enforcement remedies and penalties provided by this chapter, by this zoning title and by state law:
1. To install, create, erect or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the zone lot on which the sign is located;

2. To install, create, erect, or maintain any sign requiring a permit without such permit;
 3. To fail to remove any sign that is installed, created, erected or maintained in violation of this chapter, or for which the sign permit has lapsed; or
 4. To continue any such violation. Each such day of a continued violation shall be considered a separate violation when applying the penalty portions of this title.
- B. Separate Violation: Each sign installed, created, erected, or maintained in violation of this chapter shall be considered a separate violation when applying the penalty portions of this title.
- C. Specified Remedies For Enforcement: Any violation of this chapter or of any condition or requirement adopted pursuant hereto may be restrained, corrected, or abated, as the case may be, by injunction or other appropriate proceedings pursuant to state law. A violation of this chapter shall be considered a violation of this zoning title. The remedies of the city shall include the following:
1. Issuing a stop work order for any work on any signs on the same zone lot;
 2. Seeking an injunction or other order of restraint or abatement that requires the removal of the sign or the correction of the nonconformity;
 3. Imposing any penalties that can be imposed directly by the city under this zoning title;
 4. Seeking in court the imposition of any penalties that can be imposed by such court under this zoning title; and
 5. In the case of a sign that poses an immediate danger to the public health or safety, taking such measures as are available to the city under the applicable provisions of this zoning title and building code for such circumstances;
 6. Reimbursement of enforcement costs from the property owner, including attorney fees; and
 7. The city shall have such other remedies as are and as may from time to time be provided for or allowed by state law for the violation of this zoning title.
- D. Cumulative Remedies: All such remedies provided herein shall be cumulative. To the extent that state law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

10.22.150 Signs Permitted In The Industrial Zone

A. Permitted signs:

1. Freestanding signs allowed:

- a. Residential freestanding signs are allowed in the industrial zone with a permit, provided that the residential type sign shall contain no commercial message with the exception of a commercial message drawing attention to a legal matter related to the residence.
- b. Incidental signs are allowed without a permit.
- c. Any other type of freestanding sign is allowed in the industrial zone only with a permit.
- d. Number, dimensions and location of freestanding signs provided in the table in AVLU 10.22.160.

2. Wall mounted signs:

- a. Banners are allowed only with a permit, one per building, provided:
 - (1) Vertical clearance from sidewalk or private drive or parking shall be twelve feet (12');
- b. Building markers are allowed without a permit, one per building, provided the building marker may include only the building name, date of construction or historical data on historic site; and must be cut or etched into masonry, bronze or similar material.
- c. Canopy signs are allowed with a permit, one per building, provided:
 - (1) Vertical clearance from sidewalk or private drive or parking shall be twelve feet (12');
 - (2) Vertical clearance from public streets shall be twelve feet (12').
- d. Identification signs are allowed without a permit, one per building.
- e. Incidental signs are allowed without a permit.
- f. Pennant signs are allowed without a permit, two (2) per building, provided:
 - (1) Vertical clearance from sidewalk or private drive or parking shall be twelve feet (12') to sixteen feet (16');
 - (2) Vertical clearance from public streets shall be twelve feet (12').

- g. Projecting signs are allowed only with a permit, one per building, provided:
 - (1) Vertical clearance from sidewalk or private drive or parking shall be twelve feet (12');
 - (2) Vertical clearance from public streets shall be twelve feet (12').
- h. Roof signs are allowed only with a permit, one per principal building.
- i. Roof integral signs are allowed only with a permit, two (2) per principal building.
- j. Suspended signs are allowed only with a permit, one per entrance, provided vertical clearance from sidewalk or private drive or parking shall be twelve feet (12').
- k. Temporary signs are allowed only with a permit, as provided in AVLU 10.22.080.
- l. Wall signs are allowed only with a permit.
- m. Window signs are allowed only with a permit.
- n. Number, dimensions and location of wall mounted signs as provided in the table in AVLU 10.22.160.

3. Miscellaneous signs:

- a. Flags are permitted without a permit, provided that the requirements of this section, AVLU 10.22.070 and the table in AVLU 10.22.160 are met.
- b. Number, dimensions and location of miscellaneous signs as provided in the table in AVLU 10.22.160.
- c. Banners are allowed only with a permit, provided:
 - (1) Vertical clearance from sidewalk or private drive or parking shall be twelve feet (12');
 - (2) Vertical clearance from public streets shall be sixteen feet (16') with a maximum height of not more than eighteen feet (18').

B. Sign characteristics in the industrial zone:

- 1. Animated, changeable copy, and illumination with exposed bulbs or neon is prohibited.

2. Signs with internal illumination and external illumination are permitted.

C. Prohibited signs in the industrial zone:

1. Portable signs.

D. Total sign area in the industrial zone:

1. The total area of all signs, except building markers and flags, shall not exceed two hundred (200) square feet.

2. The total sign area shall not exceed two percent (2%) of ground floor area of the principal building.

10.22.160 Sign Standards Table For Residential And Commercial Zones

Sign Type	Residential Zone	Size And Number Allowable	Commercial Zone	Size And Number Allowable
Animated	Prohibited	X	Conditional use permit	Conditional use permit
Banner	Allowed	5 percent wall area 1 per building	Allowed	5 percent wall area 1 per building 12 foot clearance
Beacon	Prohibited	X	Prohibited	X
Billboard	Prohibited	X	Prohibited	X
Building marker	Allowed	4 square feet	Allowed	4 square feet
Canopy	Prohibited	X	Permitted	25 percent of vertical surface of canopy; 12 foot clearance
Changeable copy	Prohibited	X	Permitted	64 square feet
Flag	Allowed	16 foot clearance 18 foot height	Allowed	16 foot clearance 18 foot height
Freestanding	Permitted	32 square feet, 5 foot height 10 foot setback	Permitted	64 square feet 25 foot height 10 foot setback
Identification	Allowed	5 percent total wall area	Allowed	20 percent total wall area
Incidental	Allowed	6 square feet	Allowed	64 square feet
Marquee	Prohibited	X	Conditional use permit	Conditional use permit
Pennant	Prohibited	X	Allowed	2 per building 12 foot clearance
Portable	Permitted	20 square feet	Allowed	20 square feet
Projecting	Prohibited	X	Permitted	40 square feet 12 foot clearance
Residential	Allowed	20 square feet	Allowed	20 square feet

Roof	Prohibited	X	Permitted	40 square feet 1/principal building
Roof/integral	Prohibited	X	Permitted	40 square feet 2/principal building
Suspended	Prohibited	X	Allowed	20 percent total wall area 1/entrance 12 foot clearance
Temporary	Allowed	32 square feet	Allowed	32 square feet/50 foot frontage
Wall	Allowed	1 per building	Allowed	20 percent total wall area
Window, permanent	Allowed	20 percent total area	Allowed	20 percent total area
Window, temporary	Allowed	1 per building 20 percent total area	Allowed	No limitation
Total Signage	64 square feet	Less than 10 percent of ground floor area not to exceed 300 square feet except building markers/flags		

Notes:

Signs shall be located such that there is at every street intersection, a clear view between heights of 3 feet and 10 feet within a triangular area formed by the corner and points on the curb 30 feet from the intersection or entranceway.

Lots fronting on 2 or more streets are allowed the permitted signage for each street frontage, but signage cannot be accumulated and used on 1 street in excess of that allowed for lots with only 1 street frontage.

Total wall area shall be computed without using window area.

10.22.170 Sign Standards Table For Visual Corridor And Industrial Zones

	Visual Corridor	Industrial
Freestanding:		
Area	36 square feet	80 square feet
Height	12 feet	12 feet
Setback	10 feet	10 feet
Number permitted per feet of street frontage	1 per 100	1 per 200
Building:		
Banner	5 percent of wall area	5 percent of wall area
Building marker	4 square feet	4 square feet
Canopy	25 percent of vertical surface of canopy	25 percent of vertical surface of canopy
Identification	10 percent total wall area	5 percent total wall area
Marquee	10 percent total wall area	5 percent total wall area
Projecting	36 square feet	40 square feet
Roof	36 square feet	40 square feet
Roof integral	36 square feet	40 square feet
Suspended	10 percent total wall area	5 percent total wall area
Temporary	8 square feet	8 square feet
Wall	10 percent total wall area	5 percent total wall area
Window	20 percent total area	20 percent total area
Miscellaneous:		
Flag		60 square feet
Portable	20 square feet	20 square feet

Except as otherwise provided herein, the owner of any zone lot or other premises on which exists a sign that does not conform with the requirements of this chapter or for which there is no current and valid sign permit shall be obligated to remove such sign or, in the case of a nonconforming sign, to bring into conformity with the requirements of this chapter.

- A. Signs Existing On Effective Date: For any sign existing in the city on the effective date hereof, an application for a sign permit must be submitted to the building inspector before the expiration of six (6) months from the effective date hereof.

For any sign on property annexed later, applications for sign permits shall be submitted within six (6) months of the effective date of the annexation or within such period as may be established in an annexation agreement between the city and the landowner. Signs that are the subject of applications received after the applicable date set forth in this section shall be subject to all of the terms and conditions of this chapter and shall not be entitled to the protection of this chapter.

B. Nonconforming Existing Signs; Permits And Terms:

1. Permit Issued: A sign that would be permitted under this chapter only with a sign permit, but which was in existence on the effective date hereof or a later date when the property is annexed to the city, and which was constructed in accordance with the ordinances and other applicable laws in effect on the date of its construction, but which by reason of its size, height, location, design or construction is not in conformance with the requirements of this chapter, shall be issued a nonconforming sign permit if an application in accordance with subsection A of this section is filed within six (6) months of the above date or within six (6) months of property annexation.
2. Term: Such permit shall allow the signs subject to such permit, which were made nonconforming by the adoption of this chapter, to remain in place and be maintained for a period ending no later than five (5) years; provided, that no action is taken which increases the degree or extent of the nonconformity. Such signs are also subject to the provisions of subsection B,4 of this section. A change in the information on the face of an existing nonconforming sign is allowed; however, any nonconforming sign shall either be eliminated or made to conform with the requirements of this section when any proposed change, repair or maintenance would constitute an expense of more than twenty five percent (25%) of the lesser of the original value or replacement value of the sign.
3. Lapse Of Nonconforming Sign Permit: A nonconforming sign permit shall lapse and become void under the same circumstances as those under which any other sign permit may lapse and become void.
4. Sign Removal Required: A sign that was constructed, painted, installed or maintained in conformance with a permit under this chapter, but for which the permit has lapsed or for which the time allowed for the continuance of a nonconforming sign has expired, shall immediately be removed by the property owner, including the supporting structure, upon the city's request.

10.24 Wireless Telecommunications Facilities

10.24.010 Purpose

10.24.020 Authority

10.24.030 Jurisdiction

10.24.040 Enactment

10.24.050 Interpretation, Conflict, And Separability

10.24.060 Amendments

10.24.070 Public Purpose

10.24.080 Enforcement, Violations, And Penalties

10.24.090 Definitions

10.24.100 Wireless Communications Facility Application Procedure And Approval Process

10.24.110 Wireless Communications Facility Performance Standards

10.24.120 Zoning Specific Wireless Communications Facility Performance Standards

10.24.130 Non-Commercial Wireless Facility (Amateur Radio Antenna) Standards

10.24.010 Purpose

- A. To facilitate the provision of wireless telecommunication services to the residents and businesses of the Town of Apple Valley
- B. To minimize adverse visual effects of towers through careful design and siting standards;
- C. To encourage the location of towers in non-residential areas through performance standards and incentives;
- D. To avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and
- E. To provide mechanisms for the mitigation of tower proliferation through tower sharing requirements for all new tower applicants and those existing towers that are physically capable of sharing.

10.24.020 Authority

The Planning Commission of the Town of Apple Valley (hereinafter "Planning Commission") is vested with the authority to review, approve, conditionally approve, and disapprove applications for wireless communication facilities, including sketch, preliminary, and final plans.

10.24.030 Jurisdiction

- A. These regulations apply to all wireless communications facilities, as defined in AVLU 30:9, located within the corporate limits of the Town of Apple Valley or outside the corporate limits as provided by law.

- B. No wireless communication facility may be constructed without an approved and signed site plan from the Planning Commission.

10.24.040 Enactment

In order that wireless communications facilities may be constructed in accordance to these purposes and policies, these regulations are hereby adopted and made effective as of {date}.

10.24.050 Interpretation, Conflict, And Separability

- A. Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the protection of public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.
- B. Conflict. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from any other ordinance, rule or regulation, statute, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.
- C. Separability. If any part or provision of these regulations or the application of these regulations to any service provider or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other service providers or circumstances. The Town of Apple Valley hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

10.24.060 Amendments

For the purpose of protecting the public health safety, and general welfare, the Planning Commission may from time to time propose amendments to these regulations which shall be approved or approved with disapproved by the Town Council at a public meeting following public notice.

10.24.070 Public Purpose

Regulation of the Siting of wireless communication facilities is an exercise of valid police power delegated by the state of Utah and as stipulated in the Federal Telecommunications Act of 1996.

10.24.080 Enforcement, Violations, And Penalties

- A. The enforcement of these regulations shall be the responsibility of the Town Engineer, Planning Commission, and Code Enforcement Officer.
- B. Any person who violates these regulations shall be guilty of an infraction and upon conviction shall be subject to a fine of not more than \$750.00, each 30 day period or portion thereof, of noncompliance shall constitute a separate offense.

10.24.090 Definitions

A. Usage

- 1. For the purpose of these regulations, certain abbreviations, terms, and words shall be used, interpreted, and defined as set forth in this Article.
- 2. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural indicate the singular.

B. Words and Terms Defined

- 1. **Act** - The Communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996, and such future amendments to such acts.
- 2. **Affiliate** - When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator's principal partners, shareholders, or owners of some other ownership interest; and when used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.
- 3. **Alternative Tower Structure** - Man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers (see also Stealth Facility).
- 4. **Analog Technology** - Replicates and amplifies voice messages as they are carried from the transmitting antenna to the receiving antenna.
- 5. **Antenna** - Any exterior apparatus designed for telephonic, radio, or television communications through sending and/or receiving of electromagnetic waves.
- 6. **Antenna Height** - The vertical distance measured from the base of the antenna support structure at finished grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest finished grades shall be used in calculating the antenna height.

7. **Antenna Support Structure** - Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.
8. **Applicant** - A person who applies for a wireless facility Siting. An applicant can be the owner, of the property or someone who is representing the owner, such as a builder, developer, optional purchaser, consultant, or architect.
9. **Broadcast** - To transmit information over the airwaves to two or more receiving devices simultaneously. Information can be transmitted over local television or radio stations, satellite systems or wireless data communications networks.
10. **Cell Site** - A tract or parcel of land that contains a cellular telecommunication antenna, its support structure, accessory building(s), and parking, and may include other uses associated with an ancillary to cellular communications transmission.
11. **Cellular Service** - A telecommunications service that permits customers to use wireless or mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular devices.
12. **Cellular Telecommunications** - A commercial Low Power Mobile Radio Service licensed by the Federal Communications Commission (FCC) to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.
13. **Cellular Telecommunications Facility** - A cellular telecommunications facility consists of the equipment and structures involved in sending or receiving telecommunication or radio signals from mobile telephone and radio communications sources and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines. Or other mobile cellular devices.
14. **Co-location** - Locating wireless communications equipment from more than one provider on a single site.
15. **Common Carrier** - An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated prices.
16. **Communication Tower** - a guyed, monopole, or self-supporting tower, constructed as a free standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

17. **Communications Facility** - A land use facility supporting antennas and / or microwave dishes that sends and/or receives radio frequency signals. Communications facilities include antennas, structures or towers and accessory buildings.
18. **Communications Transmission System or Communications System** - A wired communication transmission system, open video system, or wireless communications transmission system regulated by these regulations.
19. **Comprehensive or Master Plan** - The adopted Comprehensive/Master Plan of the Town of Apple Valley.
20. **C.O.W's** - "Cells on Wheels", see Temporary Wireless Communication Facility.
21. **Digital Technology** - Technology that converts voice and data messages into digits that represent sound intensities at specific points of time and data content.
22. **Directional Antenna** - An antenna or array of antennas designed to concentrate a radio signal in a particular area.
23. **Dish Antenna** - A dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called microwave antenna or microwave dish antenna.
24. **ESMR** - Enhanced Specialized Mobile Radio.
25. **FAA** - The Federal Aviation Administration.
26. **FCC** - The Federal Communications Commission.
27. **Frequency** - The number of cycles completed each second by a sound wave; measured in hertz (Hz).
28. **Governing Authority** - The Town council of Apple Valley.
29. **Grade** - The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the structure and the property line or, when the property line is more than 5 feet from the structure, between the structure and a line 5 feet from the structure.
30. **Guyed Tower** - A communication tower that is supported, in whole or in part, by guy wires and ground anchors.
31. **Lattice Tower** - A guyed or self-supporting three or four sided, open, steel frame structure used to support telecommunications equipment.
32. **License** - The rights and obligations extended by the Town of Apple Valley to an operator to own, construct, maintain, and operate its system within the boundaries of the town of Apple Valley for the sole purpose of providing services to persons or areas within or outside the town of Apple Valley.

33. **MHZ** - Megahertz, or 1,000,000 Hz.
34. **Micro-cell** - A low power mobile radio service telecommunications facility used to provide increased capacity in high call-demand areas or to improve coverage in areas of weak coverage.
35. **Microwave** - Electromagnetic radiation with frequencies higher than 1,000 MHz; highly directional signal used to transmit radio frequencies from point-to-point at a relatively low power level.
36. **Microwave Antenna** - A dish-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.
37. **Monopole Tower** - A communication tower consisting of a single pole, constructed without guy wires and ground anchors.
38. **Omni directional Antenna** - An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it was designed.
39. **Owner** - The owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records in Washington County. Owner also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to the town a copy of a deed or contract of sale showing date, instrument number, and page of recording.
40. **Personal Communications Services or PCS** - Digital wireless telephone technology such as portable phones, pagers, faxes, and computers. Such mobile technology promises to allow each consumer the same telephone number wherever he or she goes. Also known as Personal Communication Network (PCN).
41. **Preexisting Towers and Antennas** - Any tower or antenna on for which a permit has been issued prior to the effective date of these regulations and is exempt from the requirements of these regulations so long as the tower or antennas are not modified or changed.
42. **Public Property** - Any real property, easement, air-space, or other interest in real estate, including a street, owned by or controlled by the town of Apple Valley or any other governmental unit.
43. **Roof and/or Building Mount Facility** - A low power mobile radio service telecommunications facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or building face.
44. **Scenic View** - A scenic view is a view that may be framed, wide angle, or panoramic and may include natural and/or manmade structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be to a far away object, such as a mountain, or a nearby object.

45. **Self-Support Tower** - A communication tower that is constructed without guy wires and ground anchors.
46. **Spectrum** - Relate to any transmissions or reception of electromagnetic waves.
47. **Stealth Facility** - Any communications facility which is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, and antenna structures designed to look like light poles. (See also Alternative Tower Structure).
48. **System** - The communications transmission system operated by a service provider in the municipality.
49. **Telecommunications** - The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.
50. **Temporary Wireless Communication Facility** - Any tower, pole, antenna, etc., designed for use while a permanent wireless facility is under construction or for a special event or conference where a majority of people attending are wireless users.
51. **Tower** - Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.
52. **Wireless Communication Facility** - An all encompassing definition; Any towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or any other spectrum-based transmissions/receptions.
53. **Whip Antenna** - An antenna that transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape and are less than 6 inches in diameter and measure up to 18 inches in height. Also called omnidirectional, stick or pipe antennas.

54. **View Corridor** - A view corridor is a three dimensional area extending out from a viewpoint. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a mountain, which would result in a narrow corridor, or a group of objects, such as a downtown skyline, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360 degree perspective. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights must be limited in order to protect the view.

10.24.100 Wireless Communications Facility Application Procedure And Approval Process

A. General Procedure

1. The submission of applications for wireless communication facilities shall follow the same procedure as detailed in Apple Valley Town's Zoning Ordinance / conditional use permit process.

B. Additional Procedures In addition to the information required elsewhere in Town of Apple Valley's Zoning Ordinance, Subdivision Regulations, Master Plan or other Applicable Ordinances or Regulations, development applications for wireless communication facilities shall include the following supplemental information:

1. A report from a qualified and licensed professional engineer which:
 - a. Describes the tower height and design including a cross section and elevation,
 - b. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;
 - c. Describes the tower's capacity, including the number and type of antennas that it can accommodate;
 - d. Documents what steps the applicant will take to avoid interference with established public safety telecommunications;
 - e. Includes an engineer's stamp and registration number; and,
 - f. Includes other information necessary to evaluate the request.
2. For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

3. Before the issuance of a building permit, the following supplemental information shall be submitted:

- a. A copy of the FAA's response to the submitted "Notice of Proposed Construction or Alteration" (FAA Form 7460-1) shall be submitted to the planning commission.
- b. Proof of compliance with applicable Federal Communications Commission regulations; and,
- c. A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the town's structural and electrical standards.

C. Site Plan Requirements In addition to the Site Plan requirements found elsewhere in the Town of Apple Valley's Zoning Ordinance, Subdivision Regulations, Master Plan or Other Applicable Ordinances or Regulations, site plans for wireless communication facilities shall include the following supplemental information:

1. Location and approximate size and height of all buildings and structures within 500 feet adjacent to the proposed wireless communication facility.
2. Site plan of entire development, indicating all improvements including landscaping and screening.
3. Elevations showing all facades, indicating exterior materials and color of the tower(s) on the proposed site.
4. Plans shall be drawn at the scale of 1 inch equals 50 feet.

D. General Approval Standards Generally, approval of a wireless communication facility can be achieved if the following items are met:

1. The location of any proposed tower is compatible with the town of Apple Valley's Master Plan and Zoning Ordinance.
2. All efforts to locate on an existing tower have not been successful or are legally / physically possible.
3. The submitted site plan complies with the performance criteria set forth in these regulations.
4. The proposed facility/tower will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
5. The lowest six (6) feet of the facility/tower is visually screened by trees, large shrubs, solid walls, or fences and/or nearby buildings.
6. The height and mass of the facility/tower does not exceed that which is essential for its intended use and public safety.

7. The owner of the wireless communication facility has agreed to permit other persons/cellular providers to attach cellular antenna or other communications apparatus which do not interfere with the primary purpose of the facility.
8. There exists no other existing facility/tower that can reasonably serve the needs of the owner of the proposed new facility/tower.
9. The proposed facility/tower is not constructed in such a manner as to result in needless height, mass, and guy-wire supports.
10. The color of the proposed facility/tower will be of a light tone or color (except where required otherwise by the FAA) as to minimize the visual impact and the tower will have a security fence around the tower base or the lot where the tower is located.
11. The facility/tower is in compliance with any other applicable local, state, or federal regulations.

10.24.110 Wireless Communications Facility Performance Standards

- A. Co-Location Requirements: All commercial wireless telecommunication towers erected, constructed, or located within the town of Apple Valley shall comply with the following requirements:
 1. A proposal for a new commercial wireless telecommunication service tower shall not be approved unless the Town Council finds that the telecommunication equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one mile search radius (one half mile search radius for towers under 120 feet in height, one quarter mile search radius for towers under 80 feet in height) of the proposed tower due to one or more of the following reasons:
 - a. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

- c. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
 - d. Other un-foreseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
 2. Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- B. Tower and Antenna Design Requirements: Proposed or modified towers and antennas shall meet the following design requirements:
 1. Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
 2. Commercial wireless telecommunication service towers shall be of a monopole design unless the Town Council determines that an alternative design would better blend in to the surrounding environment.
- C. Tower Heights: The maximum tower heights permitted in the town of Apple Valley are calculated by applying the following:
 1. If the tower is designed to accommodate only one service provider, the maximum height shall be 60 feet from grade.
 2. If the tower is designed to accommodate two service providers, the maximum height shall be 80 feet from grade.
 3. If the tower is designed to accommodate more than two service providers, the maximum height shall be 100 feet from grade.
- D. Accessory Utility Buildings: All utility buildings and structures accessory to a tower shall be architecturally designed to blend with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

- E. Tower Lighting: Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower.
- F. Antennas Mounted on Structures, Roofs, Walls, and Existing Towers: The placement of wireless telecommunication antennas on roofs, walls, and existing towers may be approved by the Town Council provided the antennas meet the requirements of these regulations, after submittal of:
1. A final site and building plan as specified by AVLU 30:10 of these regulations, and;
 2. A report prepared by a qualified and licensed professional engineer indicating the existing structure or tower's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated.
- G. Temporary Wireless Communication Facilities Any facility designed for temporary use as defined in AVLU 30:9 is subject to the following:
1. Use of a temporary facility is allowed only if the owner has received a temporary use permit from the Apple Valley Town Council.
 2. Temporary wireless facilities are permitted for use of no longer than 30 days and while constructing permanent facilities and no longer than 5 days for use during a special event.
 3. The maximum height of a temporary wireless facility is 50 feet from grade.
 4. Temporary facilities are subject to all applicable portions of these regulations, excluding AVLU 30:10B and AVLU 30:10C.
- H. Interference with Public Safety Telecommunications: No new or existing telecommunication service shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the town of Apple Valley at least ten calendar days in advance of such changes and allow the town to monitor interference levels during the testing process.
- I. Abandoned or Unused Towers or Portions of Towers: Abandoned or unused towers or portions of towers shall be removed as follows:
1. The owner of a wireless facility shall file annually a declaration with the Town's Planning Commission, and Code Enforcement Officer, as to the continuing operation of every facility installed subject to these regulations. Failure to do so shall be determined to mean that the facility

is no longer in use and considered abandoned, thus subject to the following:

2. All abandoned or unused towers and associated facilities shall be removed within 180 days of the cessation of operations at the site unless a time extension is approved by the Town's, Planning Commission, or Code Enforcement Officer, A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a tower is not removed within 180 days of the cessation of operations at a site, the tower and associated facilities may be removed by the town and the costs of removal assessed against the property.
3. Unused portions of towers above a manufactured connection shall be removed within 180 days of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new wireless facility permit.

J. Signs and Advertising: The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

10.24.120 Zoning Specific Wireless Communications Facility Performance Standards

- A. Commercial wireless communications facilities are a permitted use in all areas but the following zones.
 1. Historic/Special Districts
 2. Open Space Conservation
- B. Non-commercial wireless facilities (amateur radio antennas) are subject to AVLU 10.24.130 Non-Commercial Wireless Facility Standards.

10.24.130 Non-Commercial Wireless Facility (Amateur Radio Antenna) Standards

- A. Towers supporting amateur radio antennas and conforming to all applicable provisions of these regulations shall be allowed only in the rear yard of residentially zoned parcels.
- B. In accordance with the Federal Communications Commission's preemptive ruling PRB1, towers erected for the primary purpose of supporting amateur radio antennas may exceed 30 feet in height provided that a determination is made by the Town Engineer, Planning Commission, and Code Enforcement Officer, that the proposed tower height is technically necessary to successfully engage in amateur radio communications.

10.26 Outdoor Lighting

10.26.010 Purpose

10.26.020 Scope And Applicability

10.26.030 Conformances With Applicable Codes

10.26.040 Regulations

10.26.050 Effective Date And Nonconforming Luminaries

10.26.060 New Subdivision Constructions

10.26.070 Violations And Legal Action

10.26.080 Definitions

10.26.010 Purpose

Outdoor lighting at night benefits everyone. It increases safety, enhances the Town's nighttime character, and helps provide security, as well as energy efficiency. New technologies have produced lights that are extremely powerful. If installed improperly, such lights create excessive glare, light trespass and pollute the night sky, and higher energy use which in turn may cause safety problems and increased cost for everyone. There is a need for a lighting ordinance that recognizes the benefit of the outdoors lighting and provides clear guidelines for its installation to maintain and complement the Town's character. Appropriately regulated and properly installed outdoor lighting will contribute to the safety and welfare of the residents of the town.

10.26.020 Scope And Applicability

- A. All exterior outdoor lighting installed after the effective date of this ordinance in any and all zones in the town shall conform to the requirements established by this Ordinance and other applicable ordinances unless otherwise exempted. This Ordinance does not apply to indoor lighting.
- B. Law governing conflicts. Should this ordinance be found to be in conflict with any provisions of Federal, State, County, or Town statutes, codes, or other sections of the Town Ordinances, the more restrictive shall govern unless otherwise required by law.

10.26.030 Conformances With Applicable Codes

All outdoor electrically powered illuminating devices shall be installed in conformance with the provisions of the Apple Valley Town Ordinances, including but not limited to the Building Code, the Electrical Code and the Sign Code under appropriate permit and inspection.

10.26.040 Regulations

All public and private outdoor lighting installed in the Town of Apple Valley shall be in conformance with the requirements established by this Ordinance. Including Parking lots and Single Family Homes, All previous language in the Apple Valley Town Codes regarding outdoor lighting is replaced with this Ordinance.

A. Control of Glare / Design Factors

1. Any luminaries with a lamp rated at a total of MORE than 1800 lumens, and all flood or spot luminaries with a lamp or lamps rates a total if MORE than 900 lumens shall not emit any direct light above a horizontal plane through the lowest direct-light-emitting part or the luminaries.
2. Any luminaries with a lamp or lamps rate at a total MORE than 1800 lumens, and all flood or spot luminaries with a lamp or lamps rated at a total of MORE than 900 lumens, shall be mounted at a height equal to or less than the value $3 + (D/3)$, where D is the distance in feet to the nearest property boundary. The maximum height of the luminaries may not exceed 25 feet.

B. Exceptions to Control of Glare

1. Any luminaries with a lamp or lamps rated at a total of 1800 lumens or LESS and all flood spots luminaries with a lamp or lamps rated at 900 lumens or LESS may be used without restriction on light distribution or mounting heights, except that is any spot or flood luminaries rated 900 lumens or LESS is aimed, directed, or focused such as to cause direct light from the luminaries to be directed toward residential buildings or adjacent or nearby land, or creates glare perceptible to persons operating motor vehicles on public right of ways, the luminaries shall be redirected or its light output controlled as necessary to eliminate such conditions.
2. Luminaries used for public roadway illumination may be installed at a maximum height of 34 feet and may be positioned at that height up to the edge of any bordering property.
3. Luminaries used primarily for sign illumination and property illumination may be mounted at any height to a maximum of 25 feet, regardless of the lumen rating.

C. Outdoor Advertising

1. Lighting fixtures used to illuminate an outdoor advertising sign shall be mounted on the top of the sign structure. All such fixtures shall comply with the shielding requirements of subsection B,1 Bottom-mounted outdoor advertising sign lighting shall not be used.
2. Outdoor advertising signs of the type constructed of translucent materials and wholly illuminated for within do not require shielding. Dark backgrounds with light lettering or symbols are preferred to maximize detrimental effects. Unless conforming to the above dark background preference, total lamp wattage per property shall be less that 41 watts.

3. Compliance Limit. Existing outdoor advertising structures shall be brought into conformance with this ordinance when it becomes necessary to make major repairs (NEW PERMIT) to the signage or within 10 years from date of this provision.

D. Recreational Facilities

1. Any light source permitted by this Ordinance may be used for lighting of outdoor recreational facilities (public or private), Such as but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, or show areas, provided all of the following conditions are met:
 - a. All fixtures used for the event lighting shall be fully shielded as defined in subsection B,1 of this Ordinance, or be designed or provided with sharp cut-off capability so as to minimize up-light, spill-light, and glare. Pole height will not exceed 25 feet.
 - b. All events shall be scheduled so as to complete all activity before or as near to 10:30 p.m. as practical, but under no circumstance shall any illumination of the playing field, court, or track be permitted after 11:00 p.m. Except to conclude a scheduled event that was in progress before 11:00 p.m. and circumstances prevented concluding before 11:00 p.m.

E. Parking Area Lighting Low pressure or high pressure sodium light sources are the only allowed light source for Parking Areas with five (5) or more spaces. Lighting fixtures affixed to buildings for the purposes of lighting Parking Areas shall be prohibited. Light levels should be designed with minimum light trespass off site by using cut off Luminaries that are Fully Shielded with no light distributed above the horizontal plane of the Luminaire.

1. Maximum Light Distribution. For uniformity in lighting and prevention of shadows, an average horizontal luminance level of two (2) Foot Candles with a 4:1 Uniformity Ratio over the Site is the Maximum allowed.
2. Pole Height / Wattage / Design. Luminaries mounting height must be measured from the Parking Lot or Driveway surface, in the range of twelve feet (12') to twenty feet (20') as determined by the Planning Commission. The maximum height shall only be allowed at the review and approval with specific findings. The determination shall be based on:
 - a. review of the Site plan,
 - b. proposed land uses,
 - c. surrounding land uses,
 - d. Parking area size,
 - e. Building mass,

- f. Location of the site with respect to other lighting sources,
 - g. Impact on the adjacent properties,
 - h. Topography of the site, and
 - i. Other site features. Light poles higher than sixteen feet (16') are appropriate only for parking areas exceeding two hundred (200) stalls and not in close Proximity to residential areas.
3. Parking Area Wattage / Design Standard.
- a. Luminaries for twelve foot (12') to sixteen foot (16') poles must not exceed fifty (50) watts per fixture or 105 watts per pole.
 - b. Luminaries for eighteen foot (18') and twenty foot (20') poles must not exceed seventy-five (75) watts per fixture or 150 watts per pole.
 - c. All attempts shall be made to place the base of light poles within landscaped areas.
4. Underground Parking Garage entryways. Light sources within the first thirty feet (30') of an open garage entryway must be high pressure sodium light sources with partially shielded fixtures.
5. Submission Requirements. An application for Development with off street parking must contain the following.
- a. Plans indicating the location on the premises, and the type of illumination devices, fixtures, lamps, supports, reflectors, installation and electrical details.
 - b. Description of illuminating devices, fixtures, lamps, supports, reflectors, and other devices, that may include, but is not limited to, manufacture catalog cuts and drawings, including section where required.
 - c. Photometric data, such as that furnished by manufacturers or similar showing the angle of the cut off or light emission. A point by point light plan may be required to determine the adequacy of the lighting over the site.
6. Non-conformance. All operable outdoor light fixtures lawfully installed, that do not meet these lighting requirements, are considered to be non-conforming fixtures. The applicant must bring such fixtures into compliance with the code with any exterior building permit. On residential structures, only new exterior fixtures on remodels or new additions must comply with these requirements.

F. Prohibitions

1. Laser Source Light. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal is prohibited.
2. Flashing, blinking, intermittent or other lights that move or give the impression of movement are prohibited.

G. Exemptions The following shall be exempt form the requirements of this Ordinance.

1. Holiday lighting SOME COMMUNITIES SET A TIME FRAME LIKE OCT 1 - MARCH 1 YOUR CHOICE
2. Traffic control signals and devices
3. Temporary emergency lighting in use by law enforcement, fire departments, government agencies, or other emergency services, including all vehicular luminaries.
4. All hazard warning luminaries required by federal regulatory agencies are exempt form the requirements of this ordinance, except that all luminaries used must be red and must be shown to be as close as possible to the federally required minimum lumen output required for the specific task.

H. Temporary Outdoor Lighting Any temporary outdoor lighting that conforms to the requirements of this Ordinance shall be allowed. The Planning Commission may permit Nonconforming temporary outdoor lighting after considering

1. The public and /or private benefits that will result from the temporary lighting.
2. Any annoyance or safety problems that result from the use of the temporary lighting
3. The duration of the temporary nonconforming lighting.

The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the planning Commission, which shall consider the request at duly called meeting of the planning commission. Prior notice of the meeting of the planning commission shall be given to the applicant. The planning Commission shall render its decision on the temporary lighting request within two weeks of the date of the meeting.

10.26.050 Effective Date And Nonconforming Luminaries

A. This Ordinance shall take place effective immediately upon approval by the Town Council and shall supersede and replace all previous ordinances pertaining to outdoor lighting.

- B. All Luminaries lawfully in place prior to the date of this Ordinance shall be nonconforming. However, any luminaries that replace nonconforming 159 luminaries, or any nonconforming luminaries that is moved, must meet the standard of this ordinance. Advertising signs that are nonconforming only for a period of ten years, as specified in AVLU 10.26.040 C,3
- C. This ordinance does not recognizes permanent nonconforming lights. All operable outdoor light fixtures lawfully installed, that do not meet these lighting requirements, are considered to be non-conforming fixtures. The applicant must bring such fixtures into compliance with the code with any exterior building permit. On residential structures, only new exterior fixtures on remodels or new additions must comply with these requirements.
- D. Nonconforming luminaries that direct light toward streets or parking lots that cause disability glare to motorist or cyclist shall be either shielded or redirected within 90 days of notification of the Property Owner, so that the luminaries do not cause a potential hazard to motorist or cyclists.

10.26.060 New Subdivision Constructions

- A. Submission Content: The applicant for any permit required by any provision of the laws of this jurisdiction in connection with the proposed work involving outdoor lighting fixtures shall submit (as part of the application for permit) evidence that the proposed work will comply with the Ordinance. The submission shall contain but shall not necessarily be limited to the following, all or part of which may be part or in addition to the information required elsewhere in the law of this jurisdiction upon application for the required permit.
 - 1. Plans indicating the location on the premises and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices.
 - 2. Description of the illuminating devices, fixtures, lamp supports, reflectors, and other devices. Submission may include catalog cuts by manufacture and drawing.
 - 3. Photo data, such as the furnished by manufactures, or similar data showing the angle of cut off or light emissions.
- B. Additional Submission: The above required plans; descriptions and data shall be sufficiently complete to enable the plan examiner to readily determine whether compliance with the requirements of this ordinance will be secured. If such plans, descriptions and data cannot enable this ready determination by reason of the nature or configuration of the devices, fixtures, or lamps proposed, the applicant shall 160 additionally submit as evidence of compliance certified reports performed and certified by a recognized laboratory.

- C. Subdivision Plat Certification: If any subdivision proposes to have installed street or other common or public area outdoor lighting, the final plat shall contain a statement certifying compliance with the applicable provisions of the Town of Apple Valley Outdoor Lighting Ordinance.
- D. Lamp or Fixture Substitution: Should any outdoor light fixture or the type of light source therein be changed after the permit has been issued, a change request must be submitted to the building official for approval, together with adequate information to assure compliance with this Ordinance, which must be received prior to substitution.

10.26.070 Violations And Legal Action

If after investigation, the Code Enforcement Officer finds that any provision of the ordinance is being violated, the office may elect to file notice by hand delivery or by certified mail, return receipt requested, of such violation to the owner and/ or the occupant of such premises demanding the violation be abated within thirty (30) days from the date of hand delivery or date of mailing notice. If the violation is not abated within the thirty (30) day period, the Code Enforcement Officer may institute actions and proceeding, either legal or equitable, to enjoin, restrain, or abate any violations of this Ordinance and to collect the penalties for such violations.

10.26.080 Definitions

For the purpose of this Ordinance, terms used shall be defined as follows:

Direct Light: Light emitted directly from the lamp, off the reflector diffuser, or through the refractor or diffuser lens of the luminaries.

Direct Glare: The visual discomfort resulting from insufficiently shielded light source.

Fixture: The assembly that houses the lamp or lamps can include all or some of the following parts: housing, mounting bracket, pole socket, lamp holder, ballast, reflector, mirror, and / or a refractor lens.

Flood or spotlight: Any fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

Fully Shielded Lights: Outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report.

Nonconforming Luminaire: Luminaire not conforming to this ordinance that were in place at the time this ordinance was voted into effect. When an Ordinance "grandfathers" luminaries, it means that such already-existing outdoor lighting doe no need to be changed unless a specified time period is provided for adherence to the ordinance.

Height of Luminaries: The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct light emitting part of the luminaire.

Indirect Light: Direct light that has been reflected or has scattered off other surfaces.

Lamp: The component of the luminaire that produces the actual light.

Light Trespass: Limit the exterior lighting originating on a property to a maximum of 0.5 horizontal foot candles (HFC) at a distance of 25 feet beyond the property lines. (This specification will allow the controlled placement of lighting poles and luminaire adjacent to the property lines).

Lumen: A unit of luminous flux. One foot-candle is one lumen per square foot. For purposes of this Ordinance the lumen-output value shall be the INITIAL lumen output rating of a lamp.

Luminaire: a complete lighting system, including a lamp or lamps and fixture.

Outdoors Electrically Powered Illuminating Devices: Illuminaires utilizing AC and / or DC power.

Outdoor Lighting: the nighttime illumination of a outside area or object by any handmade device located outdoors that produces light by any means for a period of less than 7 days, with at least 180 days passing before being used again.

10.28 Supplementary And Qualifying Regulations

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10.28.010 Purpose

The purpose of supplementary development standards is to further the purposes of the general plan, this chapter, and all other land use ordinances. Supplementary development standards address the use, location, construction, and operation of particular uses and activities. Compliance with supplementary development standards, as applicable, as well as all other requirements of this title and all other land use ordinances, and all other federal, state and local requirements, are required for any land use application approval required by this title, or any other approval, permit or license required by other land use ordinances.

10.28.020 Lots In Separate Ownership

The requirements of this title as to minimum lot area or lot width shall not be construed to prevent the use of a single-family dwelling on any lot or parcel of land in the event that such lot or parcel of land was held in separate ownership as of July 1, 2005.

10.28.030 Separately Owned Lots: Reduced Yards

In any lot under a separate ownership from adjacent lots, and of record as of July 1, 2005, and such lot having a smaller width than required for the zone in which it is located, the width of each of the side yards for a dwelling may be reduced to a width which is not less than the same percentage of the width of the lot as the required side yard would be of the required lot width; provided, that on interior lots, the smaller of the two (2) yards shall in no case be less than five feet (5') or the larger less than eight feet (8'), and for corner lots the side yard on the side street shall be in no case less than fifteen feet (15') or the other side yard be less than five feet (5').

10.28.040 Lot Standards

Except as provided above, every lot, existing or intended to be created, shall have such area, width and depth as is required by this title for the district in which such lot is located and shall have its required frontage upon a dedicated public street approved by the town, unless a private street or right of way has been approved by the land use authority.

10.28.050 Every Dwelling To Be On A Lot; Exceptions

Every dwelling structure shall be located and maintained on a separate lot having no less than a minimum area, width, depth and frontage required by this title for the district in which the dwelling structure is located, except that group dwellings, cluster dwellings, condominiums and townhouses or other multi-structure dwelling complexes under single ownership and management, which are permitted by this title and have approval from the planning commission, may occupy one lot for such multi-structure complex.

10.28.060 Yard Space For One Building Only

No required yard or other open space around an existing building or which is hereinafter provided around any building for the purpose of complying with the provisions of this title shall be considered as providing a yard or open space for any other building, nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected or established.

10.28.070 Sale Or Lease Of Required Space

No space needed to meet the width, yard, area, coverage, parking or other requirements of this title for lot or building may be sold or leased away from such lot or building.

10.28.080 Sale Of Lots Below Minimum Space Required

No parcel of land which has less than the minimum width and area requirements for the district in which it is located may be cut off from the larger parcel of land for the purpose, whether immediate or future, of building or development of a lot, unless approved as a part of a platted and recorded subdivision, and said lot meets all requirements of the subdivision ordinance.

10.28.090 Yards Unobstructed; Exception

Every part of a required yard shall be open to the sky, unobstructed except for accessory buildings in a rear yard, the ordinary projections of skylights, sills, belt courses, cornices, chimneys, flues and other ornamental features which project into a yard not more than four feet (4') and open fire escapes, fireproof outside stairways and balconies opening from fire towers projecting into a yard not more than four feet (4'). The setback shall be measured from the property line to the nearest vertical part of construction. This includes supports for carports, covered patios, etc.

10.28.100 Parking Requirements Of Private Recreational Vehicles In Residential Zones

The location or storage of mobile homes, travel trailers, recreational vehicles, boats, camping trailers and truck campers, and other recreational vehicles and equipment owned by the property owner, may be parked, subject to the following:

- A. Recreational vehicles, including boats, travel trailers, motor homes, horse trailers and similar vehicles kept in reasonable repair and operable condition, may be located in a detached or attached garage, or other accessory building, or parked in the rear yard or side yard and screened from front yards and streets by a wall, fence, gate, landscaping or other suitable screening material.
- B. A mobile home, travel trailer, recreational vehicle, boat, camping trailer or truck camper may be located in the front yard for the purposes of loading and unloading for a period not to exceed forty eight (48) hours.
- C. A recreational vehicle may be occupied temporarily by family members or guests of the owner. However, no boat, trailer, motor home, travel trailer or similar recreational vehicle shall be occupied for a period greater than one hundred twenty (120) days.

10.28.110 Additional Height Allowed

Public and quasi-public buildings, when authorized in a zoning district, may be erected to a height greater than the height allowed by the district subject to conditional use approval of the planning commission and Town Council.

10.28.120 Exceptions To Height Limitations

Subject to conditional use approval of the planning commission, and approval of the town council, penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limit herein prescribed, but no space above the height limit shall be allowed for purposes of providing additional floor space.

10.28.130 Minimum Height Of Main Building

No dwelling shall be erected to a height of less than one story without approval of the planning commission.

10.28.140 Requirements For Bed And Breakfast Inn

A bed and breakfast inn shall be conducted only in a single-family dwelling and only by the owner of the dwelling that complies with the following requirements:

- A. The single-family dwelling proposed as a bed and breakfast inn shall meet all applicable requirements of this title, other land use ordinances, adopted building code, and health code, as applicable.
- B. The maximum number of guestrooms provided shall not exceed eight (8).
- C. The fire chief shall inspect the premises and be satisfied that the dwelling and premises comply with all applicable fire codes, as adopted.
- D. A hard surfaced off street parking area of one parking space for each guest room, in addition to the parking requirements for the single-family dwelling, shall be provided.
- E. No accessory structure, motor home, travel trailer, boat or similar vehicle or facility shall be used as guestrooms.
- F. Primary access to all guestrooms is provided and allowed through the main entrance of the dwelling.
- G. Bed and Breakfast business shall be subject to applicable transient room taxes.

10.28.150 Utility Requirements

- A. In all areas of the town where a building permit is required, connection shall be made to public sewer, water, electrical and telephone services where these services are available. Electric companies shall not provide any electrical connection of any kind until first approved by the building official. All lots shall be served by a water supply approved by the Utah state department of environmental quality, or the southwest public health department in cases of less than fourteen (14) lots, and the town public works department. A waste disposal system approved by the southwest public health department and the town engineer shall also be approved prior to issuing any building permit.

- B. For all building lots not located in platted and recorded subdivisions, all applicable provisions of AVLU Title 11 section 5, shall apply to those lots and shall be required as a condition of obtaining a building permit and shall include, but not be limited to, the following:
1. Water supply and development.
 2. Street improvements.
 3. Electrical and telephone connections.
 4. Fire hydrants and fire flow.
 5. Traffic control and directional signs.
 6. A site drainage plan.
 7. A "dry" sewer line may be required to be installed from the location of any septic tank proposed to be used, and shall be extended to the front property line for future connection to a sewer system.

10.28.160 Moving Dwellings

Any dwelling proposed to be moved onto any parcel of land in the town shall meet the following requirements:

- A. All dwellings moved onto sites in the town shall first be granted a conditional use permit as required by this title.
- B. A dwelling proposed to be moved onto a site in the town shall be less than five (5) years of age at the time of moving unless otherwise approved by the planning commission.
- C. A manufactured home shall be identifiable by the manufacturer's data plat bearing the date the unit was manufactured and a HUD label attached to the exterior of the home certifying that the home was manufactured to HUD standards.
- D. A "stick built" home shall be inspected by the building inspector to determine that it is in compliance with the current edition of the building code or that it is capable of being brought into compliance with said code. Inspection of the dwelling proposed for relocation shall be made prior to planning commission review, and a report shall be submitted along with the application for a conditional use permit requesting the unit to be moved.

10.28.170 Public Right Of Way

Development of any kind on a public right of way by a utility company or a private property owner shall not be undertaken without first having received approval of construction drawings by the town engineer. Following plan approval, and posting of the required bond amount, the planning commission may issue a permit for construction on the public right of way.

10.28.180 Household Pets

The keeping of household pets for noncommercial purposes shall comply with the following requirements:

- A. All household pets shall be kept in such a manner that they do not disturb the peace, comfort, or health of any person or animal.
- B. Yards, shelters, cages, areas, places, and premises where they are kept shall be maintained so that flies or odors do not disturb the peace, comfort, or health of any person or animal.
- C. The keeping and maintenance of all household pets shall be conducted in compliance with all other requirements of this code, as applicable.

10.28.190 Curbs, Gutters And Sidewalks

The installation of curb, gutter and/or sidewalk, of a type approved by the town, may be required on any existing street where such improvements are not already existing, and where upon the recommendation of the public works department, the planning commission and town council determines that such installation is in the best interest of the town. Said installation may be required as a condition of obtaining a building permit, and shall be completed as a part of the building permit prior to occupancy. If it is determined by the town public works department that installation of curb, gutter, and sidewalk is not possible at this time, a letter of non-opposition may be required.

10.28.200 Dumping Or Disposal

- A. The use of land for the dumping or disposal of scrap iron, junk, rubbish or other refuse, or of ashes or other industrial waste or byproduct, shall be prohibited in every zoning district unless otherwise provided in this title.
- B. The dumping of dirt, sand, rock, or other material excavated from the earth shall be permitted in any district; provided, that the surface of such dumped material is graded, leaving the ground surface in a condition suitable for other use permitted in the district; and provided further, that such fill does not increase the susceptibility of the ground to erosion, landslide, flooding, or other dangerous condition. Concrete may be dumped as fill in excavations where it will be buried and not remain on the land surface.

- C. No person, firm, or corporation shall strip, excavate or otherwise remove topsoil for sale or for use other than on the premises from which the same shall be taken, except in connection with the construction or alteration of a building on those premises or where an excavation permit has been issued by the town.
- D. No yard or other open space surrounding an existing building in a residential zone, or which is hereinafter provided around any building in any residential zone, shall be used for the storage of junk, debris or junk cars, except as specifically permitted herein or as provided and regulated in any other applicable ordinance.

10.28.210 Residential Facilities For Persons With A Disability

- A. Conditions For Permit Issuance: The building department shall grant a permit for the establishment of a residential facility for persons with a disability in any zoning area where residential dwellings are allowed if the applicant certifies compliance with subsections A,1, A,2 and A,3 of this section, and the town building department finds the applicant in compliance with subsections A,4, A,5 and A,6 of this section as follows:
 - 1. The residence conforms to all applicable standards and requirements of the state department of human services and, if applicable, the state department of health.
 - 2. No individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others will be a resident.
 - 3. If the residence is a substance abuse facility located within five hundred feet (500') of a school, the residence provides in accordance with rules established by the department of human services:
 - a. A security plan satisfactory to local law enforcement authorities;
 - b. Twenty four (24) hour supervision of residents; and
 - c. Other twenty four (24) hour security measures.
 - 4. The residence conforms to all state and local building, safety, health and zoning requirements applicable to structures that are not residential facilities for persons with a disability, including the number of unrelated persons allowed in a dwelling in the zone where the residence is located.
 - 5. The residence is of a size, scale and design such that it is in harmony with other residential uses in the vicinity. A residential facility for persons with a disability that would likely create a fundamental change in the character of a residential neighborhood may be excluded from the zone.

6. The residence is not located closer than one thousand three hundred twenty feet (1,320') (1/4 mile) to any other residential facility for persons with a disability¹.

B. Transferability; Termination of Permit: Any permit issued pursuant to this section shall be nontransferable and shall terminate if the structure is devoted to a use other than a residential facility for persons with a disability or the structure fails to comply with all building, safety, health and zoning requirements of the town applicable to similar structures.

10.28.220 Residential Facility For Elderly Persons

A. The building department shall grant a permit for the establishment of a residential facility for elderly persons in any zoned area where residential dwellings are permitted, subject to meeting all of the following requirements:

1. The facility must be owned by one of the residents, or be a facility for which the title has been placed in trust for a resident.
2. The residence conforms to all applicable standards and requirements of the state department of human services, and if applicable, the state department of health.
3. The residence conforms to all state and local building, safety, health and zoning requirements applicable to similar structures.
4. The residence is of a size, scale and design such that it is in harmony with other residential uses in the vicinity.
5. There shall be no structural or landscaping requirements that would change the structure's residential character.
6. There must be adequate off street parking.
7. No person who is being treated for alcoholism or drug abuse may be placed in a residential facility for elderly persons.
8. Placement in a residential facility for elderly persons shall be on a strictly voluntary basis and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution.
9. A residential facility for elderly persons may not operate as a business.
10. A residential facility for elderly persons may not be considered a business because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility.
11. A residential facility must be occupied on a twenty four (24) hour per day basis by eight (8) or fewer elderly persons in a family type arrangement.

- B. Any permit issued pursuant to this section shall be nontransferable and shall terminate if the structure is devoted to a use other than a residential facility for the elderly, or the structure fails to comply with all building, safety, health and zoning requirements applicable to similar structures.
- C. No facility for the elderly may be located within three-fourths (3/4) of a mile (3,960 feet) from any other residential facility for elderly persons or for persons with a disability.

10.28.230 Accessory Buildings And Accessory Uses General Requirements

- A. Accessory buildings and accessory uses may be authorized in association with a primary building or primary use.
- B. Accessory buildings and accessory uses shall only be authorized concurrently with, or following, the establishment of the primary building or primary use.
- C. An accessory garage may be attached to, or detached from, the primary building.
 - 1. An accessory garage that is attached to a primary building shall meet all requirements for the location of the primary building.
 - a. 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
 - b. See also AVLU 10.28.240.
- D. An accessory garage that is detached from a primary building shall meet all requirements for the location of a detached accessory building, as provided herein.
 - 1. All garages and other accessory buildings located ten feet (10') or more away from the primary building may be located no less than three feet (3') from the side or rear property line, and no portion of any garage or accessory building, including any roof overhangs, shall be allowed within one foot (1') of any property line.
 - 2. No storm water runoff from any accessory building shall be allowed to run onto adjacent property.
 - 3. See also AVLU 10.28.240.
- E. Accessory buildings, located on corner lots, shall meet the required corner side yard setback, applicable in the zoning district in which the accessory building is located.

- F. Accessory buildings, except for agricultural use accessory buildings, shall be constructed of similar materials and colors and be an architectural style designed to blend with the primary building.
- G. Agricultural use accessory buildings, including barns and stables, shall be constructed of serviceable building materials.
- H. Accessory buildings shall comply with the requirements of the adopted building code, as applicable.
- I. No mobile home, travel trailer, boat or similar recreational vehicle shall be used as an accessory building.
- J. No shipping container, cargo container, shipping crate, box, trailer or similar piece of equipment or object shall be used as an accessory building, unless said container meets the requirements of this section.
- K. No utility connections or meters, separate from the primary building, shall be allowed for accessory buildings. Unless required by code.
- L. No accessory buildings shall be rented, leased or sold separately from the rental, lease or sale of the primary building.
- M. No accessory building shall be used as a permanent dwelling unit.
- N. No accessory building shall be located closer than three feet (3') to any side or rear property line, and no portion of any garage or accessory building, including any roof overhangs, shall be allowed within one foot (1') of any property line.
- O. No storm water runoff from any accessory building shall be allowed to run onto adjacent property.
- P. Accessory buildings used for the housing of domestic livestock or fowl shall comply with the requirements of AVLU 10.10.050 B.

10.28.240 Limitations On 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 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.
- D. Size, 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 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 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.

HISTORY

Amended by Ord. [O-2019-06](#) on [6/5/2019](#)

10.28.250 Smaller Accessory Building Exempt From Building Permit Requirements

An accessory building with a maximum height of ten feet (10') and a maximum size less than two hundred (200) square feet shall not require a building permit, provided all setback requirements for the zoning district in which the accessory building is located are met, no portion of the accessory building is within one foot (1') of any property line, and no storm water runoff from the accessory building is allowed to run onto adjacent property. The accessory building shall be painted and maintained to blend in with the primary structure. The total size of multiple structures allowed without building permits shall not exceed one percent (1%) of the lot size. No power or water shall be included in the building.

10.28.260 Accessory Dwelling Units For An Owner Or Employee

- A. An accessory dwelling unit for an owner or employee shall not be rented, leased or sold separately from the rental, lease or sale of the primary building located on the same lot.
- B. A maximum of one accessory dwelling unit for an owner or employee may be established on each individual, separate lot, such lot meeting all requirements, including minimum lot size, for the zoning district in which the lot is located.
- C. The lot proposed for an accessory dwelling unit for an owner or employee shall already have an existing primary structure provided, or approved, prior to the consideration of an application to allow an accessory dwelling unit.
- D. Accessory dwelling units shall meet the required setbacks for attached or detached accessory buildings and uses as required by the zoning district in which they are located.
- E. An accessory dwelling unit for an owner or employee shall be connected to, and served by, the same water, sewer, electrical, and gas meters that serve the primary building. No separate utility lines, connections or meters shall be allowed for an accessory dwelling unit for an owner or employee. Unless required by building code.
- F. An accessory dwelling unit for an owner or employee shall provide a minimum of two (2) off street parking spaces, located as determined necessary and appropriate for approval of the accessory dwelling unit for an owner or employee.
- G. The construction of an accessory dwelling unit for an owner or employee shall meet all requirements of the adopted building code, as applicable.
- H. The architectural style, building materials and building colors of an accessory dwelling unit for an owner or employee shall be found to be compatible and consistent with the architectural style, materials and color of the primary building.
- I. Mobile homes, travel trailers, boats or similar recreational vehicles shall not be used as an accessory dwelling unit for an owner or employee.
- J. The land use application approval for an accessory dwelling unit for an owner or employee shall be received before a building permit is issued.

- K. As a condition of approval required to establish an accessory dwelling unit for an owner or employee, 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 accessory dwelling unit for an owner or employee separately from the rental, lease or sale of the primary use or building. 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 accessory dwelling unit for an owner or employee.

10.28.270 Guesthouses Or Casitas

The purpose and intent of requirements for allowing 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.

10.30 Hillside Development

10.30.010 Purpose

10.30.020 Definitions

10.30.030 Established

10.30.040 Permit Required

10.30.050 Application Reports

10.30.060 Restoration Bond

10.30.070 Density And Disturbance Standards

10.30.080 Slope And Slope Areas; Determination

10.30.090 Street Design

10.30.100 Building Setbacks And Additional Design Standards

10.30.110 Verification Of Compliance

10.30.120 Violation: Halt Of Construction

10.30.010 Purpose

The town finds that the health, safety and the general public welfare of the residents of the town will be promoted by establishing standards for the development and excavation of hillside and slope areas located in the town so as to minimize soil and slope instability and erosion, to minimize the adverse effects of grading, cut and fill operations, to preserve the character of the city's hillsides, and to otherwise supplement and amplify the town subdivision and zoning titles. The provisions herein are designated to accomplish the following:

- A. Prohibit development of uses which would result in a hazardous situation due to slope instability, rock falls or excessive soil erosion.
- B. Provide for safe vehicular circulation and access.
- C. Require that the location, design and development of building sites will minimize the visual scarring and erosion effects of cutting, filling and grading of hillsides.
- D. Require preservation of open space by clustering or other design techniques to preserve the natural terrain.
- E. Where hillside excavation does occur, require that buildings be located in the cut area to minimize the visual effects of scarring.

10.30.020 Definitions

For the purposes of this article, the following words and phrases shall have the following meanings:

CUESTA: A land form that has a steep ascent in one direction and a gentle descent in the opposite direction. The steep slope is the cuesta face, an erosion escarpment, and the gentle one is the back slope of the cuesta. The crest of the cuesta forms a ridgeline.

CUT: Land surface which is reshaped by man through the removal of soil, rock or other materials.

DEVELOPMENT: The carrying out of any building activity or clearing of land as an adjunct of construction. "Major development" shall be considered to be subdivision platting, including town homes and condominiums, multi-family residential projects, commercial and industrial building.

DEVELOPMENT PARCEL: Any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

EXCAVATION: Any disturbance to the ground, including, but not limited to, clearing, grubbing, rock removal, cutting, tunneling, drilling or any other activity which alters the natural ground. "Minor" excavation shall mean a vertical cut of four feet (4') or less, or a disturbance of less than one acre of surface area. "Major" excavation shall mean a vertical cut of more than four feet (4'), or disturbance of more than one acre of surface area.

FILL: The deposit of soil, rock or other materials placed by man.

GEOTECHNICAL ENGINEER: A person with a four (4) year degree in civil engineering or engineering geology from an accredited university who, through training and experience, is able to assure that geological factors affecting engineering works are recognized, adequately interpreted and presented for use in engineering practice and for the protection of the public.

LEDGE: The first substantial abrupt change in slope along the top edge of a plateau or ridgeline.

PLATEAU: A flat or predominantly flat area of land which is raised sharply above adjacent land on at least one side.

RIDGELINE: The junction of a rising steep slope on one side and a descending slope that may either be gentle or steep on the other side.

SETBACK: An area in which no structure or building is allowed.

SLOPE: A vertical rise in feet measured over a horizontal distance, expressed as a percentage, measured generally at right angles to contour lines.

TABLELAND: Land where the slope in any direction is less than ten percent (10%).

UNDISTURBED: An area that remains in a natural, pristine condition and not subject to grading, excavation, or other similar disturbance.

10.30.030 Established

- A. Conflicts; Annexed Areas: A hillside development overlay zone is established, which shall be an overlay zone of the zoning classifications in this title. In the event of conflict between the provisions, these provisions shall apply. Areas hereafter annexed to the town may be affected by the hillside development overlay zone at the time of annexation in the manner then determined by the building official and/or town engineer and reflected in appropriate amendment to the zone map referred to herein.
- B. Conformance Required: Property within the hillside development overlay zone shall conform to the provisions of this article.
- C. Zone Described; Slope: The hillside development overlay zone shall be described as any hillside within the boundaries of the town with a slope of ten percent (10%) or greater.

10.30.040 Permit Required

- A. Review; Recommendation: All major development on slopes of ten percent (10%) or greater within either the hillside development overlay zone or within a geologic hazard area shall require a hillside development permit granted by the town council prior to any excavation or construction activity. The building official and/or town engineer shall first review all proposed major development for compliance with this and other town ordinances and standards, including the uniform building code, and make a recommendation to the planning commission and town council for approval, conditional approval or denial of the proposed development.
- B. Major Development: Major development shall include subdivision platting, including town homes and condominiums, multi-family residential projects, commercial, industrial building, or excavation which involves a vertical cut greater than four feet (4') or involves excavating a surface area larger than one acre.
- C. Minor Excavations: Minor excavation involves vertical cuts of four feet (4') or less and also disturbs less than one acre of surface area.

10.30.050 Application Reports

Any applicant for a major development on slopes ten percent (10%) or greater, or within either the hillside development overlay zone or within a geologic hazard area shall be required to submit to the building official and/or town engineer the following technical information and reports. Minor excavation shall require a grading permit and must conform to requirements of the uniform building code and the applicant shall also submit an earth moving plan in conformity with subsection B of this section, a restoration bond, if necessary, in the discretion of the building official and/or town engineer, and such other information as may be required by the building official or town engineer, if any, prior to issuance of a grading permit. Any applicant for a zone change on slopes ten percent (10%) or greater, shall submit a geotechnical and soils report.

- A. Site Development Plans: Site development plans prepared by a licensed engineer, architect or licensed landscape architect containing:
1. Grading, Earth Moving Plan: A grading or earth moving plan showing existing and proposed contours and cross sections. Accurate contours extending at least one hundred feet (100') outside of all boundary lines of the site or sufficient to show off site drainage. The slope of proposed cuts and fills shall be shown on the grading plan. The depth of any cut or fill shall not exceed ten feet (10') when measured vertically from the finished grade to the intersection of the slope with the natural undisturbed ground. The combined height of cuts and fills shall not exceed twenty feet (20'), unless otherwise approved by the building official or town engineer. This approval is subject to incorporating retaining, terracing and landscaping or other approved techniques for stabilizing cuts and fills. All excavation and fills shall conform to the uniform building code.
 2. Drainage Systems: Detailed plans of all surface and subsurface drainage systems and facilities, walls, cribbing or other erosion protection devices, to be constructed in connection with or as part of the proposed area and estimated runoff of the area served by any drainage systems or facilities.
 3. Streets, Buildings, Structures: The location of any existing and proposed streets, buildings or structures, easements and drainage channels on the property.
 4. Structure Location: Detailed site plans and elevation drawings showing location of all structures and how and to what extent hillside cuts will be covered and/or retained by proposed development. An earth moving plan shall be prepared by a licensed civil engineer for all major excavations and an earth moving plan for excavations of a minor nature shall be prepared and submitted for approval by the building official or town engineer.
 5. Traffic Study: Traffic study, if deemed necessary by the building official or town engineer.
- B. Earth Moving Plan: An earth moving plan prepared by a licensed professional civil engineer, shall include the following:
1. Topography: Property contours shall be shown at two foot (2') intervals for tableland and five foot (5') intervals for slopes thirty percent (30%) or greater.
 2. Terrain Details: Special notes and details of the existing terrain shall be noted on the required topographic information.
 3. Proposed Earth Moving Details: The dimensions, elevations and contours of any proposed earth moving shall be shown.

4. Material Disposal: A description shall be included of the methods to be employed in disposing of soil and other material removed, including the location of the disposal site.
 5. Timetable: A schedule shall be included showing when each stage of the project will be completed, including the estimated starting and completion dates.
- C. Drainage Control Plan And Report: A drainage control plan and report prepared by a licensed professional civil engineer registered in the state shall be submitted with each application. The design of the drainage control system shall be based upon the following criteria:
1. All drainage systems shall be separate and independent from the sanitary sewer system.
 2. Drainage and flood control shall be designed in conformance with the town flood control master plan where applicable.
 3. Property development shall not cause a natural drainage channel to be filled in, obstructed or diverted. When modification to a natural drainage channel is proposed within the development, such changes will be addressed in the drainage study and shown on the improvement plans, and the developer may be required to dedicate right of way or record drainage easements for structures and/or improvements needed to carry storm runoff in the event approval is given for the proposed modification.
 4. The point of location where the natural drainage channel enters and leaves the property may not be changed without approval of the public works director or town engineer.
 5. All of the drainage basin upstream of the development shall be considered to be fully developed in conformance with the city's current land use master plan. Effects on the downstream property owners relative to increased flood potential and nuisance water shall also be considered in the design, including acquisition of easements or agreements where necessary, or construction or modification of improvements where needed.
 6. The developer shall provide the necessary means to assure drainage within the property being developed by making use of existing facilities or natural washes or channels.
 7. It shall be required that each new development handle the storm water runoff in such manner that no net increase in storm runoff above the natural state will occur on the downstream properties. In other words, the preproject flows must not be exceeded by the postproject flows.

8. Streets are significant and important in urban drainage and full use shall be made of streets for storm runoff up to reasonable limits, recognizing that the primary purpose of streets is for traffic. Reasonable limits of the use of streets for transportation of storm runoff shall be governed by the below listed design criteria:

Street Classification	Maximum Encroachment
Hillside access/hillside local	No curb overtopping. Flow may spread to crown.
Local road	No curb overtopping. Flow spread must leave at least one lane free of water.
Minor collector	No curb overtopping. Flow spread must leave one lane free of water in each direction.

When the above encroachment is exceeded, an independent storm water system shall be designed and constructed based on a 50-year frequency storm.

9. The storm water from a 100-year frequency storm shall be adequately conveyed either within the limits of the street right of way or in storm drain easements without creating flood hazards to dwellings.
10. When an underground pipe system is required, it shall be designed to carry a 50-year frequency storm. Major hydraulic structures shall be designed to carry a 50-year frequency storm, the minimum storm drain size shall be eighteen inches (18").
11. Detention shall be allowed where it is compatible with all required reports. Detention basins shall be used for the purpose of eliminating the effects of the peak runoff of storms and releasing water flow at the preproject or approved rate.
12. Cross gutter drains on streets shall be avoided wherever possible. They shall not be allowed on collector and higher order streets.
13. Drainage plans must be consistent with all other reports, i.e., geotechnical, soils, landscaping, etc.
14. When springs or other ground water sources are found on the developer's property, the construction of an underground pipe system to eliminate the nuisance of this water will be required. Minimum pipe size shall be eighteen inches (18"). Overland flow will not be allowed for water that is continuously present.
15. Necessary measures shall be taken to prevent erosion and scour at all points throughout the development. It shall be mitigated at all points of discharge and at the face of any cut or fill slope throughout the development.

16. During grading or construction on any property (including off site construction), the developer shall control both water used for construction and storm runoff in such a manner as to not affect any adjoining properties, nor add silt or debris to any existing storm drain, wash, channel or roadway.
- D. Drainage Control Plan Approval: The drainage plan shall be approved by the public works director or city engineer prior to final plan approval and issuance of a building permit. The plan shall be prepared in conformance with guidelines available in the town office.
 - E. Geology And Soils Report: A geology and soils report shall be prepared by a licensed professional engineer trained and experienced in the practice of geotechnical engineering, and shall contain at least the following information:
 1. Slope stability analysis; conclusions and recommendations concerning the effects of material removal, introduction of water, ground shaking and erosion on slope stability.
 2. Foundation investigation; conclusions and recommendations concerning the effects of soil conditions on foundation and structural stability, including bearing capacity, sheer strength and shrink/swell potential of soils.
 3. The location and yield of springs and seeps which shall be shown on the site plan.
 4. Structural features, including any geological limitations.
 5. Existence of surface hazards, including potential for rock falls and toppling failures to cliffs, slopes and overhangs above the subject property.
 6. Conclusions and recommendations regarding the effect of geologic conditions on the proposed development, together with recommendations identifying the means proposed to minimize any hazard to life or property, or adverse impact on the natural environment.
 - F. Landscape And Vegetation Plan: Prior to final plat or site plan approval of a project, a landscape plan, prepared by a licensed landscape contractor or a landscape architect, in conjunction with the overall site plan, must be submitted for approval. The plan shall outline areas being excavated and filled and describe in detail how the developer will restore or replant these areas. The plan shall specify types of retention being used, together with sprinkler plans and water usage methods suitable to the soils of the project.

10.30.060 Restoration Bond

A surety bond or letter of credit to assure hillside restoration shall be provided prior to issuance of a hillside development permit for projects disturbing one acre or more, or where determined necessary by the building official or town engineer on projects involving less than one acre. Such financial guarantee shall be provided in an amount sufficient to ensure necessary soil stabilization, including grading, planting and maintenance, in the event the developer fails to complete the hillside restoration in accordance with the approved plan within one year from the issuance of the permit; provided, that the town council may grant such additional time extension as may be necessary to allow completion of the restoration work in the event significant progress toward completion of the project is underway. The surety bond or letter of credit shall cover the cost, as estimated by an approved landscape architect or qualified contractor, or a geotechnical engineer and approved by the town council, to restore the hillside to an acceptable level of appearance and stability. In the case of a dispute over what constitutes an acceptable level of restoration, the decision of the mayor shall be determinative.

10.30.070 Density And Disturbance Standards

- A. Schedule: In furtherance of the purposes set forth above, density and site disturbance within the hillside development overlay zone shall comply with the following schedule. Any portion of a development parcel having a slope greater than thirty percent (30%) shall not be included in the calculation of the area of such parcel for the purposes of determining conformity with the density requirements below:

Percent Natural Slope	Dwelling Units (DU)/Acre
0 – 10	See underlying zone.
11 – 19	1 DU/acre, provided the units are clustered on 30 percent or less of the land area within this slope category. 70 percent of this slope category shall remain undisturbed. The 70 percent area is based upon the overall area/development rather than per lot. Also see subsections A,1, A,2, and A,3 of this section.
20 – 29	1 DU/10 acres, provided no more than 5 percent of the site is disturbed, and 95 percent of the site remains undisturbed. If the cumulative area is at least 1 acre but less than 10 acres, the cumulative area shall be allowed 1 DU.
30	Development is not permitted.

- 1. A "steep slope protection bonus" provides that each dwelling unit (DU) transferred from the eleven percent (11%) to twenty nine percent (29%) slope area to areas with ten percent (10%) or less slope, either within the same parcel or to an adjacent parcel under the same ownership is

entitled to a transfer bonus of 1.0 DU for each DU transferred from the eleven percent (11%) to the nineteen percent (19%) slope area, and a density transfer bonus of 2.0 DU for each DU transferred from the twenty percent (20%) to twenty nine percent (29%) slope area. The density transfer shall be indicated on a preliminary plat. Density transfers may occur without a zone change to the receiving parcel even though the resulting lot sizes or density exceed the limits of the underlying zone, provided the use in the receiving parcel is consistent with the receiving parcel's zoning. Lot sizes may vary, but single-family zoning districts only allow single-family detached dwellings.

2. Dwelling units constructed within the eleven percent (11%) to twenty nine percent (29%) slope area shall be subject to design review by the planning commission and town council. Site development standards (excluding density and disturbance standards) are generally flexible in order to provide design options which will blend the DU with the natural setting. The design plan, including grading plan, site plan and elevation drawings approved by the town council, shall be the development standards for the project.
 3. Nonresidential construction within the eleven percent (11%) to twenty nine percent (29%) slope area shall be subject to design review by the planning commission and town council. Only thirty percent (30%) of the eleven (11) to nineteen percent (19%) slope category area may be disturbed. Seventy percent (70%) of this slope category is to remain undisturbed. Only ten percent (10%) of the twenty (20) to twenty nine percent (29%) slope area may be disturbed.
- B. Single-Family Lots: Where more than two-thirds (2/3) of a single-family lot is within a particular slope category, the entire lot shall be considered as being within that particular slope category for the purpose of determining minimum lot size.
- C. Preparation Of Reports By Professional: The contour intervals, maps and calculations required by AVLU 10.30.080 shall be prepared in a report by a professional civil engineer which shall be submitted with applications for permits or subdivision approvals. Each report shall bear said engineer's certification as to the accuracy of the report.

10.30.080 Slope And Slope Areas; Determination

- A. Density Limitations: Slope shall be determined on an individual development parcel basis as an average percent natural slope for purposes of density limitations. All property with a slope greater than thirty percent (30%) shall be excluded from the calculation of the development parcel area for purposes of determining density limitations.
- B. Procedure For Determining: The location of the natural ten percent (10%), twenty percent (20%) and thirty percent (30%) slopes for the purposes of this

article shall be determined using the following procedure:

1. Preparation Of Contour Maps: Current contour maps shall be prepared by a licensed engineer or surveyor showing contours at intervals no greater than five feet (5') or as required by the building official and/or city engineer, drawn at one inch equals two hundred feet (1" = 200') scale maximum.
2. Verification Through Field Surveys: Field surveys shall be required of the applicant by the building official and/or city engineer to verify the accuracy of the contour lines shown on the contour map. The contour map shall identify profile lines which shall be used for performing the field survey. Profile lines shall be perpendicular to contour lines and in no case occur at intervals greater than one hundred fifty feet (150') apart or seventy five feet (75') from a property line.
3. Determination of Slope Areas for Density Calculations: Using the contour maps, slopes shall be calculated in intervals no greater than forty feet (40') along profile lines. Points identified as slopes of ten percent (10%), twenty percent (20%) and thirty percent (30%) shall be located on the contour map and connected by a continuous line. That area bounded by said lines and intersecting property lines shall be used for determining dwelling unit density. Small washes or rock outcrops which have slopes distinctly different from surrounding property and not part of the contiguous topography may be excluded from slope determination if, in the opinion of the hillside review board, the exclusion of such small areas from slope determination will not be contrary to the overall purpose of this article. For the purpose of determining developable areas and allowable densities, previously disturbed hillside areas shall be considered on a predisturbance natural slope basis, where feasible, as proposed by the applicant's engineer and approved by the hillside review board. Where a property owner restores a previously disturbed area to a natural or near natural condition, the area may be included within a required no disturbance area.

10.30.090 Street Design

The following standards apply to public and private streets:

- A. Street Grades: All street grades shall be a maximum of ten percent (10%); however, when conditions can be made more desirable by exceeding ten percent (10%) and produce less disturbance to the existing terrain, along with improvement in safety features, the town engineer may allow grades to a maximum twelve percent (12%) based on the merits of each case.

- B. Intersections: All intersections shall be ninety degree (90°) angles. In the event an acute angle intersection is required, it can be mitigated by realigning to achieve a ninety degree (90°) intersection using a fifty foot (50') section prior to the point of curvature of the curve or a landing area design in which a vehicle is brought ninety degrees (90°) to the intersecting road. Acute angle intersections will only be allowed at T-intersections.
- C. Intersection Spacing: Intersections should be spaced far enough apart so that the traffic stopped to make left turns at one intersection does not interfere with traffic movements at the adjacent intersections. On low volume streets such as access roads to sub-collectors or sub-collectors to sub-collectors, the minimum distance should be one hundred twenty five feet (125'); for the sub-collectors to collectors, the minimum distance should be two hundred fifty feet (250').

General Note: Street and construction standards and pavement and component thickness shall conform to current town standards.

10.30.100 Building Setbacks And Additional Design Standards

- A. Front Setback along Public Streets: The front setback along public streets where the slope of the adjacent property to the street is over ten percent (10%) a minimum setback of forty feet (40') from property line is allowed.
- B. Setbacks:
 - 1. Ridgelines & Plateaus: All ridgelines shall be subject to the setback provisions contained herein. On mesa plateaus or ridgelines, the setback from the ridgeline shall be a minimum of seventy five feet (75') or greater as recommended in the geotechnical report. Ridgelines shall remain undisturbed.
 - 2. Cuesta: Where a ridgeline occurs on a cuesta, the minimum setback shall be one hundred feet (100') measured normal (perpendicular) to the closest point of the ridge, unless a greater setback is recommended in the geotechnical report)
- C. Additional Design Standards:
 - 1. Retaining walls shall be colored to match the surrounding natural landscaping. Retaining wall height shall be limited to the heights set forth in section 16 of the Apple Valley Land Use Ordinance.
 - 2. Building exterior colors shall be earth tone and blend with the surrounding natural landscape.

3. In residential zones, "no disturbance" areas shall not be included within lots (unless approved by the planning commission and town council) but should be part of the "common area" of a project. Common areas shall be owned and maintained by the project's homeowners' association or may be deeded to the city when accepted by the city. In nonresidential zones, the "no disturbance" area shall be identified on the final site plan or final plat, whichever is applicable. Any required no disturbance area shall be identified on the ground with temporary fencing or other approved means to prevent accidental disturbance of the area during construction and such fencing shall be installed prior to issuance of a grading permit.
4. The building site shall be located on the flattest portion of the parcel unless otherwise approved by the town council.

10.30.110 Verification Of Compliance

For developments on a development parcel of one acre or more, containing slopes of ten percent (10%) or greater, certification by a Utah registered engineer that the development has been completed in compliance with the approved hillside development permit, including satisfaction of any conditions contained in the permit, shall be required. Restoration bonds shall not be released and certificates of occupancy shall be withheld for such a development, until such certification has been received by the building official and/or town engineer.

In the event that the town engineer or building official makes requirements which are not acceptable to the developer, the developer may request a hearing of the matter by the town council. The applicant shall make a request in writing to the town council. The town council shall then hear and make final determination of the issue, subject in any event to an appeal to the board of adjustment as permitted by Utah Code Annotated.

10.30.120 Violation: Halt Of Construction

The building official or town engineer shall have the right to order a halt to construction of any improvements within a hillside development overlay zone where, in his discretion, there exists a condition which violates or threatens to violate any of the provisions of this article. Such suspension of construction activities shall continue until the building official or town engineer is satisfied that measures have been implemented for substantial compliance with this article.

10.32 Annexation Policy Plan

10.32.010 General Criteria

10.32.020 Procedures For Submission

10.32.030 Extension Of Needed Municipal Services

10.32.010 General Criteria

In accordance with the provisions of Utah Code § 10-2-401.5, the Town of Apple Valley hereby adopts the following criteria for consideration of possible future annexations. This annexation policy declaration is intended to incorporate all of the criteria required and suggested by Utah Code § 10-2-401.5 et seq.

- A. As part of its ongoing effort to plan and prepare for responsible growth, the Town of Apple Valley has identified territory adjacent to its present town boundaries that could at some time in the future be a part of Apple Valley. The areas proposed for future annexation is both bordered and non-bordered by other municipalities. Areas to be annexed must fall within the areas designated for future annexation in the Annexation Policy Plan of Apple Valley and shown on the attached expansion area map. Even though property proposed for annexation is located within the annexation expansion area, there is no guarantee that Town of Apple Valley will approve the annexation request.
- B. The character of the community is mixed residential, commercial, light manufacturing, and agricultural. Areas to be annexed should be compatible with this character.
- C. Areas to be annexed must be contiguous to the corporate limits of the Town of Apple Valley at the time of submission of an annexation request.
- D. Areas to be annexed shall not be located within the corporate limits of another incorporated town or be part of a previously filed annexation petition that has not been denied, accepted, or approved.
- E. Apple Valley is concerned about the interests of all affected entities and has considered written comments from affected entities in finalizing this document. When feasible, the town favors annexation in consideration of future boundaries of water, sewer improvements, special service districts, school districts, or other taxing entities in Washington County to notify the municipality that has interest in said area to allow for the opportunity of objection.
- F. The town also favors
 - 1. eliminating and/or not creating islands and peninsulas of unincorporated territory;
 - 2. consolidating overlapping functions of government such as Ash Creek and /or Washington County Water Conservancy District;
 - 3. promoting efficient delivery of services;

4. encouraging the equitable distribution of community resources and obligations; and
5. giving consideration to the tax consequences to property owners within the area to be annexed, as well as the property owners within the municipality in order to prevent double taxation and to ascertain that the annexation will not be a tax liability to the taxpayers within the municipality.

The town does not favor the annexation of areas for which it does not have the capability or the intention to provide municipal services.

- G. It is not Apple Valley's intent to annex territory for the sole purpose of acquiring revenue.
- H. There has been no exclusion of urban development within this policy plan. No urban developments, as defined in Utah Code § 10-2-401(1)(i), exist within 2 mile of the municipalities boundary.
- I. The annexation petition must comply with the requirements of Utah Code § 10-2-403.

10.32.020 Procedures For Submission

The following steps reflect a general summary of the requirements and procedures for processing an annexation request in the Town of Apple Valley:

- A. An annexation petition accompanied by an annexation plat must be submitted to the Town Recorder. Said petition shall:
 1. Be signed by private property owners of record, which cover a majority of the area to be annexed. Said owners shall also represent at least one-third (1/3) of the assessed valuation of the private aggregate properties to be annexed, as reflected on the last assessment roles.
 2. Represent an area contiguous to the existing corporate limits of the Town of Apple Valley and shown to be within the areas designated for annexation in the Annexation Policy Plan of Apple Valley.
 3. Include an annexation plat prepared by a surveyor licensed in the State of Utah.
 4. Designate up to five (5) of the signers of the petition as sponsors, one of who shall be designated as the contact sponsor. Each sponsor's mailing address shall be included.
 5. Comply with any other applicable provision of Utah Code § 10-2-403, not stated within.

- B. The Town Recorder, upon receipt of a properly prepared annexation petition accompanied by the proper plat shall impose such fees to recover the costs of processing said petition, as have been established by the Town Council; and at that time shall place the petition on the agenda for consideration at a regular Town Council meeting within fourteen days of its receipt.
- C. The Town Council shall review the annexation petition and accept or deny the petition.
- D. If accepted, the Town Recorder shall within 30 days, certify that it meets the above requirements and send the required notices, including a written notice to the Town Council. If denied, the Town Recorder shall send the required notices.
- E. The Town Council, within ten (10) days after receipt of the recorder's notice of certification, shall publish a notice of the proposed annexation at least once a week for three (3) consecutive weeks. Within twenty (20) days after the receipt of the recorder's notice of certification, the Town Council must mail written notice of the proposed annexation to each affected entity as defined in state law. (Attached is a list of the affected entities to be notified.) The notice shall explain how a written protest is to be filed within thirty (30) days after the date of the Town Councils' receipt of the certification notice.
- F. If no protest is filed during the designated protest period, the Town Council may set a public hearing, after a minimum 7-day notice, and consider an ordinance to grant the proposed annexation. If a protest is filed, the County Boundary Commission shall hold a hearing on the protest within thirty (30) days. The Town Council may deny the proposed annexation at its next regularly scheduled meeting. Required notices will be sent if the petition is denied.
- G. Upon receipt of the County Boundary Commission's decision, the Town Council may deny or approve the proposed annexation subject to the Boundary Commission's decision.

10.32.030 Extension Of Needed Municipal Services

- A. In areas where municipal services are not presently extended, services will be extended on an as-needed basis at the cost of the developer. All extensions of municipal services must comply with all town ordinance and policy criteria and will be paid for by the individual developer or property owner.
- B. An annexation agreement will be prepared between the town and future developers outlining specific circumstances relating to water, sewer, streets, electricity, telecommunications, fiber optic/broadband, and other specific improvements prior to annexation approval. Consideration and agreements will also be made prior to annexing property that has already been developed and being serviced by Ash Creek and or the Washington County Water Conservancy District.

- C. Water rights, of the type and quantity acceptable to the Town of Apple Valley, that can be utilized for underground water rights (culinary, secondary) shall be required to be conveyed to the town approved water provider as a condition of development, subdivision approval or issuance of a building permit on property annexed into the Apple Valley limits. It is the intent that land annexed to the Town of Apple Valley be accompanied by water rights sufficient to accommodate the needs of the existing and potential occupants of said land when development occurs. The water rights conveyance requirements of development shall be in addition to any requirement that may be imposed upon development of the land after annexation and in addition to appropriate Apple Valley impact fees. Water requirements, as referenced by the previous paragraph, will be established on a case-by-case basis utilizing, among other things, Division of Drinking Water standards.
- D. The annexation will allow developers of the annexed property access to culinary water, sewer, and other services, as developed provided all developments meet Town specifications and comply with all applicable development ordinances and all improvements are installed pursuant to Town of Apple Valley Standards.
- E. The manner in which these amenities are developed will have a bearing on how they will be financed. Property taxes with increased valuation of property and sales tax will contribute to the general fund to help defray the added expenses the town may incur by annexing these properties. In summary, the newly annexed developing areas shall finance the extension of needed municipal services, such as new utilities, streets, curb and gutters, sidewalks, and other capital improvements as development occurs.
- F. Upon annexation, the newly annexed areas shall receive the following services:
1. Fire Protection
 2. Police Protection, if/when available
 3. Planning and Zoning
 4. Snow removal and Street maintenance on deeded dedicated streets
 5. Curb side garbage collection
 6. Other Services provided by the Town
- G. It is not anticipated that the annexation will cause any adverse consequences to the residents in the town or in the area annexed, except there may be a slight reduction in general services to the town residents in the present town limits as general services are expanded into the newly annexed territory.

- H. It is anticipated that the residents in the territory to be annexed will experience an increase in their property tax because of the difference in the certified tax rates in the County and the Town of Apple Valley. It is further anticipated that as the town receives newly annexed territory property taxes, the town will increase the total level of services within the total community. Additionally, persons in the newly annexed territory may experience reductions in their fire insurance rates and property insurance rates.
- I. As areas grow and become more populated, the demand and need for services increase. Once this policy plan is adopted and areas begin to develop, continual planning by the Town of Apple Valley will allow development to occur in an economical manner, since homes, buildings, streets, and other amenities will be developed in accord with Apple Valley specifications. The plan and time frame for the extension of municipal services will be determined by the interest of the property owners to subdivide and develop their property.

10.34 Water Source Protection Areas

10.34.010 Statutory Authority

10.34.020 Short Title And Purpose

10.34.030 Definitions

10.34.040 Filing, Recording And Drinking Water Source Protection Zones

10.34.050 Establishment Of Drinking Water Source Protection Zones

10.34.060 Prohibited Uses

10.34.070 Substances Not Subject To Provisions

10.34.080 Overly Protective Management Areas And Protection Zones

10.34.090 Preexisting Uses

10.34.100 Administration

10.34.010 Statutory Authority

The statutory authority for enacting this chapter is Utah Code §§ 17-27-102 and 17-53-223, as amended.

10.34.020 Short Title And Purpose

- A. Title: This chapter shall be known as THE DRINKING WATER SOURCE PROTECTION ORDINANCE.
- B. Purpose: The purpose of this chapter is to ensure the provision of a safe and sanitary drinking water supply for the town by the establishment of drinking water source protection zones surrounding the wellheads for all wells which are the supply sources for any public water supply agency (PWSA) water system and by the designation and regulation of property uses and conditions which may be maintained within such zones and to meet the requirements of a preliminary evaluation report according to the state drinking water source protection rule (R309-600 Utah administrative code).
- C. Conflict: This chapter is designed to supplement, but not replace, other ordinances and regulations governing the use of property within the town, such as other regulations in this title. In case of conflict between this title and any other applicable ordinance or regulation, the more restrictive requirement shall prevail.
- D. Degree Of Protection; Limitation of Liability: The degree of protection afforded by this chapter is considered adequate for regulatory purposes. This chapter does not ensure that public drinking water sources will not be subject to accidental or intentional contamination, nor does it create liability on the part of the town, or an officer or employee thereof, for any damages to the public water supplies from reliance on this chapter, nor any administrative order lawfully made hereunder.

- E. Owner Liability: A notice to cease or an exemption issued under this chapter shall not relieve the owner of the obligation to comply with any other applicable federal, state, regional or local regulations, rules, ordinances or requirements, nor shall said notice or exemption relieve any owner of any liability for violation of such regulations, rules, ordinances or requirements.

10.34.030 Definitions

When used in this chapter, the following words and phrases shall have the meanings given in this section:

BEST MANAGEMENT PRACTICES (BMPs): A practice or combination of practices that reduces the potential for spills and leaks at a site to occur and enter ground water. "BMPs" shall be construed within the context of this chapter to include, but not be limited to, structural and nonstructural practices, conservation practices, and operation and maintenance procedures identified by the state department of environmental quality and the U.S. environmental protection agency. "BMPs" should be the most effective practicable (including technological, economic and institutional considerations) means of preventing pollution sources from entering ground water. "BMPs" may include, but not be limited to, those practices outlined in the state department of environmental quality pollution prevention fact sheets.

DESIGN STANDARD: A standard applied to the design, construction and ongoing operation of various land use activities that imposes specific physical requirements and that is implemented by a potential contamination source to prevent discharges to the ground water. Examples of design standards include, but are not limited to, facilities for segregating wastes for recovery and separating hazardous and nonhazardous wastes to prevent cross contamination; eliminating sources of leaks and spills; physical barriers, such as a berm or dike, which will hold spills or leaks; use of double walled tanks to store chemicals; locating storage and mixing areas away from floor drains, and waste disposal procedures.

LANDFILL: A disposal site where solid wastes, including putrescible wastes or hazardous wastes, are disposed of on land by placing earth cover thereon.

POLLUTION SOURCE: Point source discharges of contaminants to ground water or potential discharges of the liquid forms of "extremely hazardous substances" which are 164 stored in containers in excess of "applicable threshold planning quantities" as specified in SARA title III (42 USC 11002). Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, land filling of sludge and septage, manure piles, salt piles, pit privies, and animal feeding operations with more than ten (10) animal units. The following clarify the definition of "pollution source":

- A. Animal Feeding Operation: A lot or facility where the following conditions are met: 1) animals have been or will be stabled or confined and fed or maintained

for a total of forty five (45) days or more in any twelve (12) month period; and 2) crops, vegetation forage growth, or post harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two (2) or more animal feeding operations under common ownership are considered to be a single feeding operation: 1) if they adjoin each other; 2) if they use a common area; or 3) if they use a common system for the disposal of wastes.

- B. Animal Unit: A unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over fifty five (55) pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.
- C. Extremely Hazardous Substances: Those substances which are identified in the section 302(EHS) column of the "Title III List Of Lists - Consolidated List Of Chemicals Subject To Reporting Under SARA Title III", (EPA 560/4-91-011).

POTENTIAL CONTAMINATION SOURCE: Any facility or site which employs an activity or procedure which may potentially contaminate ground water as listed on exhibit A of the EPA potential sources of drinking water contamination index. A pollution source is also a potential contamination source.

SEPTIC TANK/DRAIN FIELD SYSTEMS: A system that is comprised of a septic tank and a drain field which accepts domestic wastewater from buildings or facilities for subsurface treatment and disposal. By their design, "septic tank/drain field system discharges" cannot be controlled with design standards.

WELLHEAD: The upper terminal of a well, including adapters, ports, seals, valves and other attachments.

10.34.040 Filing, Recording And Drinking Water Source Protection Zones

Each water source protection area covered by this chapter shall be shown on a map which shall include the boundaries of all zones. The PWSA shall pay for and cause a map to be prepared by a licensed civil engineer or a licensed professional geologist, which map shall be filed with the planning office and recorded by the county at the county recorder's office. The map may be revised from time to time. Notice of the filing of the map shall be given to each property owner within the boundaries of the zones by deposit in the United States mail, certified or registered, postage prepaid, addressed to the owner shown on the records of the county recorder, which cost shall be paid by the PWSA.

10.34.050 Establishment Of Drinking Water Source Protection Zones

There are hereby established use districts to be known as zone one and zone two of the drinking water source protection area identified and described as follows:

- A. Zone One: Zone one is the area within a one hundred foot (100') radius from the

wellhead.

- B. Zone Two: Zone two is the area within a two hundred fifty (250) day ground water time of travel to the wellhead, the boundary of the aquifer which supplies water to the ground water source, or the ground water divide, whichever is closer.

10.34.060 Prohibited Uses

The following uses or conditions shall be and are hereby prohibited within drinking water source protection zones, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under AVLU 10.34.070:

- A. Zone One: The location of "potential contamination sources", as defined in AVLU 10.34.070, unless they are controlled with design standards.
- B. Zone Two: The location of "pollution sources", as defined in AVLU 10.34.070, unless their contaminated discharges are controlled with design standards; provided, however, that a person may use or store a pollution source or potential contamination source within zone two under the following conditions:
 - 1. No Reportable Quantities: If the pollution source or potential contamination source is a hazardous substance, the amount of the pollution source or potential contamination source does not exceed the reportable quantity for that substance listed in 40 CFR 302.4, as amended; and
 - 2. Management Plan: The person implements a management plan that incorporates best management practices approved by the PWSA that is designed to ensure that the pollution source and/or potential contamination source will not be spilled or released in a manner that may potentially contaminate ground water.

10.34.070 Substances Not Subject To Provisions

The following substances are not subject to the zone prohibitions and restrictions set forth herein; provided, that these substances are handled, stored and disposed of in a manner that does not result in an unauthorized release or cause contamination of the ground water:

- A. Normal Household Storage: Regulated substances stored at residences that do not exceed ten (10) pounds or five (5) gallons and are used for personal, family or household purposes.
- B. Janitorial Products for Commercial Sites: Products intended for use at a commercial site and solely for office or janitorial purposes. Such products must be stored in total quantities of less than twenty (20) pounds or ten (10) gallons.

- C. Prepackaged Consumer Products: Prepackaged consumer products available through retail sale to individuals for personal, family or household use that are properly stored.
- D. Latex Paint: Water based latex paint.
- E. Fertilizers and Treated Seed: Fertilizers and treated seed, when stored and applied in accordance with manufacturer's instructions, label directions and nationally recognized standards.
- F. Pesticides: Pesticide products and materials intended for use in weed abatement, pest control, erosion control, soil amendment or similar applications, when applied in accordance with manufacturer's instructions, label directions and nationally recognized standards.
- G. Compressed Gases: Compressed gases.
- H. Commercial Products: Substances or mixtures which may pose a hazard but are labeled pursuant to the federal food, drug, and cosmetic act.
- I. Fuel And Lubricant Use: The use of any petroleum product solely as an operational fuel in a vehicle, or as an operational fuel in a landscaping or garden tool or device, or as a lubricant in any such vehicle, tool or device; provided, however, that these spent products shall be properly disposed of in compliance with applicable federal, state and local regulations.

10.34.080 Overly Protective Management Areas And Protection Zones

If protection zones appear to be excessively large, changes to the protection zones may be considered according to the following procedure:

- A. Written Comments For Reconsideration: Submit written comments to the PWSA stating the reasons that the delineated protection zones should be reconsidered.
- B. Investigation; Appeal: If the PWSA concurs, it may conduct a new hydrogeologic investigation to address the issues raised by the entity requesting changes to the delineated protection zones. If the PWSA does not agree to conduct a new investigation, the entity requesting changes may appeal to the county pursuant to the requirements set forth in this title. In the event the county orders a new investigation, it shall be paid for by the entity requesting the changes.
- C. Findings; New Map: Based upon the results of the new investigation, the planning department may make a determination that the new hydrogeologic investigation is or is not protective. In the alternative, the new hydrogeologic investigation may, in the county's discretion, be submitted to the state division of drinking water for its review. If either the planning department or the division of drinking water finds that the new hydrogeologic investigation is protective, a new map shall be filed showing the smaller protection zones.

10.34.090 Preexisting Uses

Uses or conditions in place prior to July 26, 1993, are not subject to the zone prohibitions and restrictions set forth herein.

10.34.100 Administration

The policies and procedures for administration of any source protection zone established under this chapter, including, without limitation, those applicable to nonconforming uses, exceptions, enforcement, penalties and appeals, shall be the same as provided in this title.

10.36 Walls, Fences And Hedges

10.36.010 Setback Area Defined

10.36.020 Interior Lot Requirements

10.36.030 Corner Lot Requirements

10.36.040 Fences On Public Right Of Way

10.36.050 Fences For Recreation Use

10.36.060 Fences Required In Certain Areas

10.36.070 Fences Surrounding Developments

10.36.080 Barbed Wire

10.36.090 Fences Not Otherwise Identified

10.36.010 Setback Area Defined

The term "front setback area" shall refer to the setback area (as required by this title) along any street frontage whatsoever, whether it is the side or front yard of a property.

10.36.020 Interior Lot Requirements

- A. Side and Rear Property Lines: On all interior lots, a fence, not to exceed six feet (6') in height, may be erected along all side and rear property lines, but not in the front yard setback area.
- B. Front Setback Area: In any front setback area, no wall, fence or hedge shall exceed three feet (3').
- C. Grade Difference: Where a fence, wall or hedge is located along an interior property line separating two (2) lots and there is a difference in grade of the two (2) properties, the fence, wall or hedge may be erected or allowed to the maximum height permitted on either side of the property line. However, in no case shall the fence height, including retaining walls or berms, exceed a maximum of ten feet (10') on either side of the property line. Height shall be measured from the finished grade on either side of the fence. The fence may not be bermed for the purpose of increasing height.

10.36.030 Corner Lot Requirements

- A. Height: On all corner lots, a fence, not to exceed six feet (6') in height, may be erected along the rear and interior side lot line, but a sight obscuring fence or wall shall not be erected in the front yard or street side yard setback areas to a height in excess of three feet (3').
- B. Clear View: In all zones requiring a front yard setback, no obstruction to view in excess of three feet (3') in height shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at points thirty feet (30') from the intersection of the property line.

- C. Fence with No obstructing View: Notwithstanding any other provisions herein, a fence which does not obstruct view (e.g., chain link fence) may be erected to a height of six feet (6') in any yard abutting a street within the setback area. The fence shall in no way be closed in with adjacent plant materials or strips of material inserted into the fence so as to obstruct vision.
- D. Exceptions To Corner Lot Requirements: Fences or walls erected along the property line separating two (2) adjacent corner lots shall be allowed to extend beyond the building setback line out to the property line at a maximum height of six feet (6'); provided, that the property line separating the two (2) corner lots represents the rear or side property lines of both lots, and both structures on said lots front in opposite directions; and provided, that no driveway entrance is located within thirty feet (30') of said fence, wall or similar structure.

10.36.040 Fences On Public Right Of Way

No fence approved under this chapter shall be erected beyond the property line on the public right of way, without the approval of the planning commission. Approval of a fence on the public right of way shall be subject to the following conditions.

- A. Right of Removal: The town shall retain the right to remove any fence on the public right of way for any purpose it deems necessary. Removal shall be at the sole expense of the property owner.
- B. Distance to Sidewalk or Fire Hydrant: No fence shall be erected within one foot (1') of an existing or future sidewalk, or within a five foot (5') radius of a fire hydrant.

10.36.050 Fences For Recreation Use

- A. Maximum Height: On rear or interior side property lines, a chain-link fence may be erected to a height of twelve feet (12') for the purpose of enclosing a tennis court, swimming pool or other court game area. Said fence may not be located within the setback area of yards abutting a front or street side yard.
- B. Pools and Jacuzzis: An impassible fence of a minimum of five feet (5') in height, or as approved by the planning commission, shall be erected around all swimming pools, jacuzzis or other similar pools not otherwise enclosed or covered.
- C. Ponds, Canals, Ditches : Fences of a minimum of six feet (6') in height shall be erected around all ponds, canals or ditches, where, in the opinion of the planning commission, there is determined to be a potential hazard to the health and safety of surrounding areas.

10.36.060 Fences Required In Certain Areas

In all commercial, industrial, manufacturing, multiple-family or planned development zones having a common lot line with a single-family or duplex residential development zone, a six foot (6') high sight obscuring fence shall be erected along the zone boundary line unless otherwise approved by the planning commission. Said fence shall be reduced to three feet (3') in height inside the front yard setback area of the single-family residential zone, unless otherwise approved by the planning commission. As an alternative, there may be a ten foot (10') wide planting strip, or any combination of fencing and landscaping, which, in the opinion of the planning commission, adequately protects the adjoining residential property.

10.36.070 Fences Surrounding Developments

Fences surrounding developments having no individual lot frontage such as in RV parks, subdivisions on limited access streets and planned developments larger than one acre in size, may have a solid fence in the front setback area to a height of six feet (6'), except that such fence shall be reduced to three feet (3') at driveway entrances in the same manner as required for intersections in subsection of this chapter.

10.36.080 Barbed Wire

Barbed wire, razor ribbon and similar fencing material shall be prohibited in all zones except agricultural zones allowing the keeping of large livestock animals, unless otherwise approved by the planning commission. The use of the above named wires shall conform to the following restrictions:

- A. Barbed wire, razor ribbon or similar material shall be pulled straight and rolled or coiled.
- B. Straight strands of barbed wire and similar material on top of fences or walls shall not exceed a total height of seven feet (7').

10.36.090 Fences Not Otherwise Identified

The planning commission shall review all requests for any type of fence not specifically identified in this chapter and may approve said fence if, in the opinion of the planning commission, the fence does not impair the intent and purpose of this title.

10.38 Construction Subject To Geologic, Flood, Or Other Natural Hazards

10.38.010 Purpose

10.38.020 Requirements

10.38.030 Hazardous Wastes

10.38.040 Well Protection

10.38.010 Purpose

The purpose of this chapter is to protect the general public from geologic, flood or other natural hazards that might be detrimental to the health, safety and general welfare of the residents of the Town. Any application for a conditional use or building permit which has, in the opinion of the building official, potential soils, earthquake, flood or other discernable hazards or adverse environmental impacts may be required to provide a report addressing such hazards or impacts.

10.38.020 Requirements

- A. Report Preparation: The report shall be prepared by a licensed civil engineer and shall make recommendations for the suitability of the property to accommodate the proposed construction.
- B. Special Conditions: Whenever a report indicates a parcel may be subject to potential or actual hazards or impacts, the applicant shall meet the special conditions required by said report and/or the planning commission. If such conditions cannot be met, or will not be met, the application shall be denied.
- C. Applicability of Flood Control Ordinance: All requests for permits in potential flood areas shall be subject to all provisions of the town flood control ordinance.
 1. In any area which, in the opinion of the planning or building department, is subject to possible flood hazard, an engineer's report certifying the mitigating measures to be undertaken to remove the building from the flood area.
 2. The engineering report shall be reviewed and approved by the planning commission.

10.38.030 Hazardous Wastes

No hazardous waste of any type shall be disposed of in the town. Such material shall be transported to sites specifically approved for that purpose.

10.38.040 Well Protection

All wells used for culinary purposes shall meet all requirements of the department of environmental quality for well protection, and the provisions of AVLU 10.34 water source protection.

